The Regular Meeting of the Board of Zoning Appeals Was Held in the Massey Building, 4100 Chain Bridge Road, on Tuesday, November 29, 1977. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; Tyler Swetnam; George Barnes; and John DiGiulian.

The meeting began at 10:15 A.M. with a prayer by Mr. Barnes.

Scheduled case for
10:00 A.M. - GERALD VRICELLA appl. under Sec. 30-6.6 of the Ord. to permit subd. of lot with both lots having less than required lot width, (Lot 2-A, 100.08' requested, 150' required; Lot 2-B, 83.79' requested, 150' required), 2925 & 2927 West Ox Road, 25-4((3))2; (10.041 ac. total), Centreville Dist., RE-1, V-274-77.

Mrs. Magoffin, real estate agent for the sell of the subject property and agent for the applicant and owner of the property, submitted the required proof of notice to property owners. The notices were in order.

Mrs. Magoffin stated that the applicant has owned the property for several years and has tried to sell it, but no one wants to buy that large lot with only a three bedroom house on it. Therefore, they wish to divide the property and sell the house and barn as one lot and the cottage and some adjoining land as another lot. They are unable to do this because they do not have the required frontage, even though they do have the required land area. She stated that there is an error in the amount of frontage on Lot 2-B. It is more than 83.79, but still is not enough to meet the requirements of the Code. The curve data was not included in the computation.

Mr. Swetnam stated that he objected to allowing this hodge-podged type of lot line to go around the existing barn. In answer to his inquiry, Mrs. Magoffin stated that they wished to keep the barn where it is so that it could be sold with the house. They have a contract purchaser of this property if division is allowed. That contract purchaser is aware of the proposed lot lines and has no objection to the way it is proposed.
Mr. Swetnam stated that the problem arises sometimes when there is an extreme narrowness between two lot lines when someone wants to get back into the back property.

There was no one to speak in opposition to this application and no one else to speak in favor.

R E S O L U T I O N

Mr. Swetnam made the following motion to grant, seconded by Mr. DiGiulian and passed unanimously with all members present and voting.

WHEREAS, Application V-274-77 by GERALD VRICELLA under Sec. 30-6.6 of the Ordinance to permit subdivision of lot with both lots having less than required lot width (Lot 2-A, 100.08' requested and Lot 2-B, 83.79' requested, 150' required), 2925 and 2927 West Ox Road, 25-4((3))2, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 29, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 10.041 acres, total.
4. That the applicant's property is exceptionally irregular in shape,

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

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire 1 year from this date unless this subdivision has been recorded among the land records of Fairfax County.
Mr. DiGiulian seconded the motion. The motion passed unanimously.

10:20 A.M. - VIRGINIA L. ROBINSON appl. under Sec. 30-6.6 of the Ord. to permit addition 25.50' from the front property line (35' required), 3308 Campbell Drive, Burgundy Village Subd., 82-2((13))153, (7,828 sq.ft.), Lee District, R-10, V-275-77.

002

(The hearing began at 10:35 A.M.)

Mrs. Robinson submitted the required proof of notice to property owners to the Board. The notices were in order.

Mrs. Robinson stated that she has lived on the property for 25 years. It is a very small house. This addition will enhance the property and will be compatible with the existing structure. It will have a gable roof. There is no other place on the property to place an addition to this house that will be practical and meet the setback requirements of the Ordinance. The lot is very narrow and shallow.

There was no one else to speak in favor and no one to speak in opposition to the request.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application V-275-77 by VIRGINIA L. ROBINSON under Sec. 30-6.6 of the Ordinance to permit addition 25.50' from front property line, 3308 Campbell Drive, 82-2((13))153, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 29, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 7,828 sq.ft.
4. That the applicant's property is exceptionally narrow in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

Page 3, November 29, 1977, Scheduled case for
10:20 A.M. - WILFRED S. TEMPLETON app. under Sec. 30-6.6 of the Ord. to permit canopy 42' from front property line (50' required), 8550 Tyco Road, 29-1((1))17B, (128,815 sq.ft.), Dranesville Dist., I-L, V-276-77.

(Began at 10:45 A.M.)

Mr. Robert Kinsey with the engineering firm of Phillips Engineering, submitted the required proof of notice to property owners of this hearing. The notices were in order.

Mr. Kinsey stated that customers when bringing their cars in for service at this automobile dealership line up in front of the existing service bays in order that the service manager may write up their work orders. In order to provide protection during bad weather it is desired to construct a 6' x 9' service booth with a 14'8" by 33' canopy overhead. The service booth will be within the required building restriction line, however, the canopy, in order to cover two cars, will project 8' beyond the building restriction line. Because of the narrowness of the lot it is not possible to construct this booth and canopy in another location and at the same time provide stacking of automobiles on the site off of the public street and be convenient to the service area.

There was no one else to speak in favor and no one to speak in opposition to this request.

Page 3, November 29, 1977 R E S O L U T I O N Bd. of Zoning Appeals
Mr. DiGiulian made the following motion:
WHEREAS, Application V-276-77 by WILFRED S. TEMPLETON, ET AL under Sec. 30-6.6 of the Ordinance to permit canopy 42' from front property line, 8550 Tyco Road, 29-1((1))17B, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 29, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is I-L.
3. That the area of the lot is 128,815 sq.ft.
4. That the applicant's property is exceptionally narrow in shape.

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

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Swetnam seconded the motion.

The motion passed unanimously with all members present and voting.

10:40 - MELVIN AND BONNIE BERG appl. under Sec. 30-6.6.5.4 of the Zoning Ord.
A.M. to permit open porch to continue to be covered with canvas awning 6' from side property line, 9430 Braddock Road, Surrey Square Subd., 69-3((4))6, (10,571 sq.ft.), Annandale Dist., R-17 Cluster, V-277-77.

004

Mr. Gregory N. Harney, attorney for the applicant, represented the applicant and he submitted the required proof of notice to property owners of this hearing. The notices were in order.

Mr. Harney explained that this error was no fault of the applicant. They purchased the property from Mr. and Mrs. Patton who had constructed this addition without a building permit. This was not discovered until settlement on the property when a survey showed that this construction did constitute a technical violation of the Zoning Ordinance. The shape of the lot does prohibit constructing any additions any place else on the property. The structure does provide for more safe access to the kitchen door of the property. The structure has been constructed in a manner which blends into the surrounding environment insofar as its color and design are concerned. He stated that he feels that this porch with its canopy could not be offensive to any of the parties in the neighborhood. He requested that the variance be granted to permit the canopy and the porch to remain as it is constructed.

At the request of the Chairman, Mr. Harney submitted a copy of the deed for the transfer of this property from the Patton's to the Berg's.

There was no one else to speak in favor and no one to speak in opposition.

Page 4, November 29, 1977 R E S O L U T I O N Bd. of Zoning Appeals

Mr. Swetnam made the following motion:

WHEREAS, Application V-277-77 by MELVIN AND BONNIE BERG under Sec. 30-6.6.5.4 of the Ordinance to permit open porch to continue to be covered with canvas awning, 9430 Braddock Road, 69-3((4))6, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, and a public hearing held by the Board on November 29, 1977; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17 Cluster.
3. That the area of the lot is 10,571 sq.ft.
4. That the applicant's property is exceptionally irregular in shape;and
5. That non-compliance was no fault of the applicant.

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

1. 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.

2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 strcutres on the same land.

2. That this granting does not constitute an exemption from all other State and County Codes.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

10:50 A.M. - JOHN & LUCILLE FOLKS appl. under Sec. 30-6.6 of the Ord. to permit buildable lot with less lot width at bldg. setback line (50' requested, 150' required), 10239 Zion Drive, 68-4((4))Outlot A, (3 acres), Annandale District, RE-1, V-278-77.

005

Mr. John Gum, Rehabilitation Specialist, Dept. of Housing and Community Development, submitted the required proof of notice to the Board on behalf of the applicants.

Mr. Gum stated that his office was notified of the conditions under which Mr. and Mrs. Folks were living and they were asked to help them obtain a better house or rehabilite the house in which they were living. They found that the house in which the Folks were living could not be rehabilitated. A developer down the road from this property has agreed to give the Folks a house, if it can be moved to the subject property. That house can be rehabilitated. There is no house on the subject property at the present time. The lot is recorded as an outlot and is restricted against issuance of a building permit for dwellings because its pipestem type access to Zion Drive produces a lot width of 50 feet when 150 feet is required. The applicants have owned the property for 13 years.

In answer to Mr. Durrer's question, Mr. Gum stated that if this variance is granted, the financing institution will finance the renovation.

Mr. James Goins, president of the Sideburn Citizens Association, 10133 Zion Drive, spoke in support of the application. He stated that their association is striving to upgrade the community. This certainly will help the applicants and the community.

There was no one else to speak in favor and no one to speak in opposition.

Page 5, November 29, 1977 R E S O L U T I O N Bd. of Zoning Appeals

Mr. Durrer made the following motion:
WHEREAS, Application V-278-77 by JOHN & LUCILLE FOLKS under Sec. 30-6.6 of the Ordinance to permit buildable lot with less lot width than required by the Ordinance (50' requested, 150' required), 10239 Zion Drive, County of Fairfax, Virginia, has been properly filed in accordance with all application requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 29, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 3.796 acres.
4. That the applicant's property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

Page 6, November 29, 1977, Scheduled case for
11:00 - MARTIN D. KIEFER appl. under Sec. 30-6.6 of the Ord. to permit enclosure
A.M. of carport into garage 15.4' from side property line (20' required), 4322 Neptune Drive, Yacht Haven Estates, 110-3((4))(D)13, (24,570 sq.ft.), Mt. Vernon Dist., RE-0.5, V-279-77.

The applicant's wife, Mrs. Carole Kiefer, submitted the required proof of notice to property owners. The notices were in order.

The justification for the need for this variance was the narrowness of the lot.

There was no one to speak in opposition to this application and no one else to speak in favor.

Page 6 Bd. of Zoning Appeals
November 29, 1977 R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-279-77 by MARTIN D. KIEFER under Sec. 30-6.6 of the Zoning Ordinance to permit enclosure of carport into garage 15.4' from side property line (20' required), 4322 Neptune Drive, 110-3((4))(D)13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 29, 1977; and

WHEREAS, the Board 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 24,591 sq. ft.
4. The Board finds that the applicant's property is exceptionally irregular in shape (too narrow).

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

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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.

The motion was seconded by Mr. Swetnam and passed unanimously.

Page 6, November 29, 1977, Scheduled case for
11:10 - CHARLES A. BOHRER appl. under Sec. 30-6.6 of the Ord. to permit additi-
A.M. tion 35.8' from front property line (45' required), 7325 Rebecca Drive, Hollin Hills Subd., 93-3((4))170, (27,082 sq.ft.), Mt. Vernon Dist., R-17, V-280-77.

(The hearing began at 11:13 A.M.)

Mr. Bernard Fagelson, attorney for the applicant, with offices in Alexandria, submitted the required proof of notice to property owners. The notices were in order.

Mr. Fagelson stated that Mr. Bohrer is requesting that he be permitted to construct a wooden walkway deck from the front of the existing structure over the driveway to an existing terrace located on the northern side of the existing dwelling. The proposed additon will be constructed 35.8' from the front property line. He stated that this variance is justified due to the extremely rugged topography surrounding the house. The terrace is inaccessible from the

007

front of the dwelling without circumventing the structure and traversing gradient differentials of up to eight feet. The terrace would be evenly connected to the front of the building by means of the open wooden deck passing over the drive. The addition would have no apparent visual impact or physical impact on any adjoining lots. The dwelling itself is barely visible from Rebecca Drive, Mr. Fagelson stated.

Mr. Fagelson stated that the applicant has lived on this property for twenty years. He submitted letters from adjoining property owners indicating their approval of this request.

There was no one else to speak in favor and no one to speak in opposition to this application. Mr. Fagelson stated that Mr. Carlyn was present to speak in support, however, the Board did not feel that would be necessary.

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-280-77 by CHARLES A. BOHRER under Sec. 30-6.6 of the Ordinance to permit addition 35.8' from front property line (45' required) 7325 Rebecca Drive, 93-3((4))170, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 29, 1977; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 27,082 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property and has exceptional topographic problems; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

Page 7, November 29, 1977, Scheduled case for
11:20 A.M. - JOHN J. MULHERN appl. under Sec. 30-6.6.5.4 of the Ord. to permit house to remain (38.7' total side yard setback, 40' required), 3212 Dominy Court, Foxwood Subd., 46-2((17))16, (20,805 sq.ft.), Centreville Dist., RE-1 Cluster, V-281-77.

Harold Miller, attorney for the applicant, requested that this case be deferred until a later date in order that he might amend the application in accordance with the staff recommendation and also that he might send notices to property owners of the hearing.

The Board rescheduled this case for January 10, 1978.

//

Page 8, November 29, 1977, Scheduled case for
11:30 A.M. - GULF RESTON, INC. appl. under Sec. 30-3.2.1.1 of the Ord. to permit commercial entrance across residential land in conjunction with Special Exception for car service center, Sunset Hills Road, 330' w. of Route 675, 17((1))5, (1.1900 ac.), Centreville Dist., C-G and RE-1, S-282-77.

Mr. Dick Bonar submitted the required proof of notice to property owners on behalf of the applicant. The notices were in order.

Mr. Bonar stated that just yesterday the Board of Supervisors heard the Special Exception application. The public hearing was closed and the decision on that application was deferred for two weeks for additional information regarding the storm drainage. Mrs. Pennino, Supervisor from the Centreville District, wanted to call a meeting of all parties.

Mr. Smith questioned whether or not this application should be heard by this Board prior to the Board of Supervisors decision on the Special Exception.

Mr. DiGiulian stated that he felt the Board should hear the case since everyone is present and perhaps defer decision until after the Board of Supervisors has made its decision.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Mr. Bonar stated that the new location of Sunset Hills Road creates a triangular piece of land that is RE-1. This piece of land is adjacent to the C-G portion. This triangular piece of land, zoned RE-1, has to be crossed in order to gain access to the C-G portion of land. The only proposed commercial development at the present time will be the car service center. At some future time, this access will serve the middle lot also. The proposed access driveway will be 26' which is adequate for access to both parcels.

The Board was in receipt of a letter from the Reston Community Association, Inc. stating that their assocation has no objection to either this application or the application for special exception. They would object to this service facility becoming a "graveyard" of wrecked cars. However, the letter stated that it was their understanding that the applicant, Tom Rosamond, has no intention of hauling wrecks to this location.

Mr. Bonar stated that Tom Rosamond operates another gas station in Reston at Lake Anne Center.

There was no one else to speak in favor and no one to speak in opposition to this application.

The Board deferred decision on this case until January 10, 1977, after the regular scheduled agenda items.

//

Page 8, November 29, 1977, Scheduled case for 11:40 A.M., 11:45 A.M. & 11:50 A.M.
11:40 A.M. ROBERT A. McGINNIS appl. under Sec. 30-6.6 of the Ord. to permit sub. of parcel with proposed lot 18B having 10' lot width (80' required), 7619 Center Street, 39-4((7))11 & 18 * 18A, (17,183 sq. ft.), Providence Dist., R-12.5, V-283-77.

11:45 A.M. ROBERT A. MCGINNIS, proposed lot 11C, V-284-77.

11:50 A.M. ROBERT A. McGINNIS, proposed lot 11B, V-285-77.

Mr. Charles Runyon, with the engineering firm of Runyon Associates, 152 Hillwood Avenue, Falls Church, Virginia, submitted the required proof of notices to property owners for these three cases.

Mr. Runyon stated that this property is zoned R-12.5 and in order to obtain the R-12.5 density, it is necessary to subdivide the property in the way proposed on the plat submitted with the applications. All of the proposed lots are in excess of the required average for R-12.5. The applicant feels that because of the narrowness of the two existing lots, this proposed subdivision is reasonable.

Mr. Swetnam stated that Center Street has not been accepted into the state system yet. It might be better to pipestem the lots out to Virginia Avenue.

009

Mr. Barnes inquired if the applicant was aware of the comments from the Office of Preliminary Engineering which stated:

"Virginia Avenue is in the Virginia Department of Highways and Transportation secondary road system. Center Street is not in the State system. This office will not recommend to the County Executive that a variance to the Subdivision Ordinance be granted for four lots without frontage on a State maintained road. A favorable recommendation for a subdivision variance would set an unwanted precedent for present and future public who would use Center Street in its present condition. No additional traffic should impact Center Street until such time as Center Street is dedicated and constructed for its full length to a standard acceptable to the VDH&T for maintenance."

Mr. Runyon stated that he was aware of that position of Preliminary Engineering, but the applicant still wishes to go this route. The applicant's daughter and son-in-law plan to build a house on proposed lot 11A.

Mr. Durrer stated that he was concerned about this type subdivision. This is a worse situation than the application the Board had several weeks ago in Stratford Landing. This property is much too narrow to put five lots on.

Mr. Smith agreed that this was a poor arrangement for a subdivision. There is a lot of property in Fairfax County where it is not practical or reasonable to develop the property into the zoning category with the density of that zoning, he stated.

Mr. Swetnam stated that what he would prefer to see would be four lots split on the existing lot line with two of the lots on Center Street and two on Virginia Avenue. That would be a much nicer development.

There were several people to speak in opposition to this application: Mr. Collett, 76627 Center Street; Frances Phillips who lives on Helena Street, Both of these speakers stated that the average lot in that existing subdivision is much more than the proposed subdivision lot sizes, even though the zoning is R-12.5 Mrs. Phillips stated that her lot is 1.1 acres.

Mr. Smith read into the record a letter from Arnold J. Bradford, 2419 Hurst Street, in opposition to these applications. He stated that no one who lives on Center Street want that road improved. He stated that the granting of these applications would benefit one individual financially at the expense of the public welfare.

Mr. Runyon in rebuttal stated that this is a transitional neighborhood because of the proposed Route 66 that will come across the corner of one of these lots on Virginia Avenue. Route 66 will cause a great impact on this neighborhood. He stated that none of the speakers arguments speak to the ordinance. It is a questions of what is fair and equitable.

Mr. Swetnam moved that this case be recessed until December 6, 1977, to give the applicant an opportunity to consider revising the plans to four lots with two having access on Virginia Avenue.

Mr. DiGiulian seconded the motion.

Mr. Smith stated that if the plats are changed, it will require new advertising and posting.

The motion passed 3 to 0. Messrs. Smith and Durrer abstained.

//

The meeting adjourned at 12:25 P.M. for lunch and returned at 1:35 P.M. to take up the remainder of the scheduled agenda items and the after agenda items.

//

010

DEFERRED CASE: ROSE HILL BAPTIST CHURCH appl. under Sec. 30-7.2.6.1.11 of the Zoning Ordinance to permit a church addition* and additional parking, 4905 Franconia Road, 82-3((1))4B and 5, (3.0288 ac.), Lee Dist., R-12.5, S-233-77. (Deferred from October 26, 1977 for proper notices and to allow the applicant additional time to solve the subdivision question.)

Rev. Pat Upshaw stated that they have worked out the subdivision problem by buying the entire piece of property. He submitted the required proof of notice to property owners. The notices were in order.

He requested that the request for the addition be withdrawn because the church has decided that it cannot afford to construct this addition for several years. He stated that the church acquired the property next door in order to put in additional parking. This is the only changes that will be made at this time.

There was no one else to speak in favor and no one to speak in opposition.

R E S O L U T I O N

Mr. Swetnam made the following motion:
WHEREAS, Application No. S-233-77 by ROSE HILL BAPTIST CHURCH under Section 30-7.2.6.1.11 of the Ordinance to permit additional parking, 4905 Franconia Road, 82-3((1))4 and 5, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 29, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 3.0 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board.(other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The minimum number of parking spaces shall be 103.

Mr. DiGiulian seconded the motion and the motion passed unanimously with all members present and voting.

Page 11, November 29, 1977
AFTER AGENDA ITEM -- NORTHERN VIRGINIA CHRISTIAN REFORM CHURCH, 9800 Burke Lake Road, Granted October 26, 1977.

The Board required the church to dedicate a certain amount of property. By making this dedication, this caused the proposed church building to come too close to the front property line. The ordinance permits a 20 percent reduction in setback when dedication is made. However, the building is still five feet too close to the front property line. The applicants requested that they be allowed to keep the building at that location.

The Board discussed this at length. It was the Board's decision to defer this question for one week. Mr. Swetnam stated that moving the building back five feet might become complicated, if the test boring holes for the foundations have already been made.

There was also a question on the proposed canopy over the entrance to the building. The Board would also discuss this question next week. The Board asked the Clerk to ask the Permittee to be present to answer some questions.

//

Page 11, November 29, 1977
AFTER AGENDA ITEM -- SAINT ANDREWS EPISCOPAL CHURCH, S-286-76; 9221 Old Keene Mill Road, Map 88-2, Request for Extension to Special Use Permit. Granted December 21, 1976.

The Board was in receipt of a letter from Randall Prior from the church requesting the extension because the construction plans had not yet been approved by the County.

Mr. Barnes moved that the extension be granted for 180 days from December 21, 1977.

Mr. Durrer seconded the motion.

The motion passed unanimously.

//

APPROVAL OF MINUTES

Mr. Swetnam moved that the Board of Zoning Appeals Minutes for October 12, 18 and 26 and November 1, 1977 be approved with minor corrections.

Mr. Barnes seconded the motion.

The motion passed unanimously.

//

Jane C. Kelsey

BY: Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Submitted to the BZA on 12-13-77.

Submitted to Bd. of Supervisors, Planning Commission and other Depts. on 12-28-77.

Daniel Smith

DANIEL SMITH, CHAIRMAN

APPROVED: January 31, 1978
DATE

The Regular Meeting of the Board of Zoning Appeals Was Held in the Board Room of the Massey Building on Tuesday, December 6, 1977. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; Tyler Swetnam and John DiGiulian.

The meeting begin at 10:15 A.M. with a prayer by Mr. Barnes. The Board then took up the 10:00 A.M. scheduled item.

10:00 A.M. - VULCAN MATERIALS COMPANY, INC. appl. under Sec. 30-7.2.1.2 of the Ord. to permit operation of a stone quarry, sales and accessary uses, located near Occoquan Virginia, 106-3, 106-4, 112-1, 112-2, (97,8702 acres), Mt. Vernon Dist., RE-1 and N.R., S-286-77.

Mr. Royce Spence represented the applicant assisted by Lee Fifer. Mr. Spence submitted the required proof of notice to property owners. The notices were in order.

The Board was in receipt of detailed staff reports on this proposed quarry operation. These reports which had been presented to the Board earlier (November 28) can be found in the file. The report from the Restoration Board also contained recommended conditions that should be placed on this Special Use Permit if it was to be granted.

Mr. Spence stated that the owner of the subject property is L. A.Clark & Son Inc. A portion of this property is under negotiation for a lease from the District of Columbia government. There is a letter of intent in the file.

Mr. Spence stated that Mr. Graham, Vulcan's General Manager for this area; Ed Graham who is from Winston Salem, North Carolina, who is the product inventory director; Jack Dwyer from Birmingham, Alabama, who is the regional operations manager; Joe Guderyes, Winston Salem,who is the manager of project research and development; and Mr. Don Robertson, who is the seismologist and sound surveyor; are present if the Board should have any questions these men will try to answer them.

Mr. Spence reviewed the history of this application. He stated that the applicant filed a master plan request to change the master plan about a year ago. There was no opposition to that. The hearing was before the Planning Commission and Board of Supervisors with no opposition and was granted. Subsequent to that, a rezoning request was granted to the Natural Resource Overlay District. Vulcan representatives met with the people from the Town of Occuquan in August and there was no opposition at that time. They also met the closest group of homeowners to this proposed quarry in the Lakeridge community. Those people felt that this would create a minimum disturbance to their properties and that they could live with it. He stated that the distance of this quarry from actual residences is great, being approximately 1,900 feet from the edge of the quarry and 3,400 feet from the plant to the nearest residence. The museum in Occoquan is 3,000 feet from the plant and 2,300 feet from the edge of the quarry pit. This quarry is more isolated than any place else in Fairfax County. It is isolated by distance and also topography. The property is heavily timbered at the present time and Vulcan plans to leave a good many trees on the top, at least 100 feet for buffer. Vulcan profferred to the Board of Supervisors that they would not allow the stock pile to exceed 45 feet in height. They propose to place a berm around that stock pile.

Mr. Spence stated that in his letter to the Board dated December, 1977, a copy of which is in the file, he outlined the problems they have with some of the conditions recommended by the Restoration Board. Specifically, condition No. 15: Since the plant is over 3,000 feet from the nearest residents they feel they can meet the required Pollution standards without the expense of covering the conveyors. Should monitoring show a necessity, they will then cover them.; condition 16: They request to be allowed to drill and crush on Saturdays with the prior approval of the Zoning Administrator. Such requests would be rare and only as necessary to allow production to keep up with demand; condition 18: They request elimination; condition 19: They request that they be allowed to drill and crush on Saturdays with prior approval of the Zoning Administrator; condition no. 26: They would like work on Sundays to be confined to repairs on the processing plant, items of equipment and the operation in general; condition no. 28; they request that if stockpiles prove to be a problem that the Zoning Administrator take steps to insure compliance with conditions.

Mr. Covington stated that he did not agree with the recommended changes to condition No. 16. He stated that it took Vulcan about five years to gain the confidence of the people in Occoquan and the surrounding area and if this condition is lifted, there are sure to be problems and complaints.

Mr. Smith stated that neither did he feel that this condition should be changed or removed. It should be just as the Restoration Board has recommended.

Mr. Don Robertson, consultant in seismology with the firm of Phillips Berger in Bradford Woods, Pa., testified that he had checked the noise level every 500 feet up to 3500 feet and it is his opinion that this use that is proposed for occasional Saturdays, will not cause any noise disturbance within the Lakeridge community.

Mr. Smith stated that the community has adjusted to this operation and has accepted it and it seems this Board should keep faith with them and not permit weekend operations.

In answer to Mr. Swetnam's question, Mr. Spence stated that he did not know the ultimate depth of this quarry. He stated that he felt the bond for restoration of the quarry that is proposed for $2,000 per acre is more than adequate for this restoration.

Mr. Durrer stated that he felt the changes that Mr. Spence has requested to the Restoration Board's proposed conditions are reasonable and should problems arise, those conditions can be changed to be more restrictive. He stated that he was familiar with the complaints in the past, but Vulcan has been very cooperative in working with the County to correct the situations which caused the complaints.

There was no one else to speak in support of the application and there was no one to speak in opposition.

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application S-286-77 by VULCAN MATERIALS COMPANY under Sec. 30-7.2.1.2 of the Zoning Ordinance to permit the operation of a stone quarry, sales and accessary uses, located near Occoquan, Virginia, 106-3, 106-4, 112-1, 112-2, (97.8702 acres), Mt. Vernon Dist., RE-1 and N.R Zoning, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 6, 1977; and

WHEREAS, the Board 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 97.8 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the 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

014

ownership, changes of operator, changes in signs, and changes in screening or fencing, whether or not these additional uses or changes require a Special Permit. They shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. 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. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.

4 (a). All necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.

(The above items 1 through 4 (a) are the Board's conditions in its usual form for items 1 through 6.)

5. This permit is granted for a period of Five (5) years with annual review for compliance with conditions set forth in this permit by this Board.

6. The bond of $2,000 per acre to insure restoration of the property shall be continued for the duration of this operation.

7. The Permittee shall absorb 100 percent of the cost of enforcement services.

8. Blasting vibrations shall be limited to a maximum resultant peak particle velocity of 0.4 inches per second in the earth at any privately-owned 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 0.0092 psi (130) dB at any privately-owned occupied structure not on the quarry property.

10. Earth vibration produced by the quarry from sources other than blasting shall not exceed 0.05 inches per second at any privately-owned occupied structure not on quarry property.

11. Air borne noise produced by the quarry from sources other than blasting shall not exceed at any privately-owned occupied structure not on quarry property, 58 dB(A) in residential areas, or 65dB(A) in commercial areas.

12. At the beginning of the operation, additional air monitoring equipment will be provided by the applicant and installed as necessary and as required by the County to demonstrate that the ambient air quality is maintained at the proper level.

13. Paved roads and other paved areas within the confined 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. The applicant will install, maintain and operate dust control equipment on all portions of its processing plant so as to adequately control dust.

15. All conveyors will continue to be covered, if necessary to meet applicable standards.

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 through Saturday, with Saturday hours to be conditioned as hereinafter set forth. Blasting shall occur only between the hours of 10:00 A.M. and 6:00 P.M., Monday through Friday, 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 privately owned occupied dwellings.

17. All blasting material shall be handled and stored in accordance with standards and regulations established by the United States Bureau of Mines.

18. Saturday work shall generally be confined to sales of materials, between the hours of 7:00 A.M. to 6:00 P.M. and repair work. Crushing, processing and drilling shall not be permitted except with the express prior approval of the Zoning Administrator.

19. (The condition as recommended by the Restoration Board was eliminated and covered by item number 18.)

20. Vulcan Materials Company, Inc. will take all steps appropriate or as required for deadening sounds of vibrating screens and plant operations during all periods of plant operation.

21. 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.

22. Supervision during blasting and discipline of personnel shall be exercised diligently to prevent flying rock.

23. All operations at the quarry shall conform to all applicable performance standards and regulations.

24. The Zoning Administrator, or his agent, shall inspect the premises monthly to determine that the quarry is being operated in compliance with all

Page 15, December 6, 1977
VULCAN (continued)

the foregoing restrictions.
25. These conditions shall be met on the entire operation.
26. Work on Sundays shall be confined to repairs on the processing plant, items of equipment and the operation in general. Watering trucks shall be used from time to time as necessary to control dust.
27. Any expense associated with the operation and maintenance of the seismograph shall be at the expense of the Vulcan Materials Company.
28. If stockpiles prove to be a problem, the Zoning Administrator, or his agent, may require that additional protective steps be taken to insure compliance with conditions.
29. The Restoration Board expects the applicant to conform to the restoration plan as submitted.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No. He stated that there was no unreasonable requests made in the Restoration Board's recommendations and it therefore should have been followed and adopted.

Page 15, December 6, 1977

10:30 A.M. - WILLIAM J. BAROODY, JR., V-288-77
The Board was in receipt of a request for withdrawal of this application by the applicant.

The Board allowed the withdrawal of this application without prejudice.

//

Page 15, December 6, 1977
10:45 A.M. - DAVIS R. HALL appl. under Sec. 30-7.2.10.3.6 of the Ord. to permit amendment to existing Special Use Permit to permit addition to small animal hospital, 7013 Columbia Pike, 60-4((1))21A, (11,677 sq.ft.), Mason Dist., C-N, S-289-77.

11:00 A.M. - DAVIS R. HALL appl. under Sec. 30-6.6 of the Ord. to permit addition 2.3' from side property line (20' required), 7013 Columbia Pike, 60-4((1))21A, (11,677 sq.ft.), Mason Dist., C-N, V-290-77.

(The hearing began at 11:15 A.M.)

Mr. Davis, attorney for the applicant, 10560 Main Street, Fairfax, submitted the required proof of notice to property owners. The notices were in order.

Mr. Davis explained that because of the heavy vandalism, the need arises to house inside some storage items such as lawn mower, etc. The doctor felt that while he was making an addition for storage that he should also add some space for the administrative functions. The variance is necessitated because of an alleyway that the addition abuts on and the fact that this is a corner lot.

Mr. Swetnam stated that it appears to him that there is also an unusual location in the existing building on the property.

Mr. Swetnam in answer to Mr. Smith's question, stated that the plats show that the addition will be 22' x 45.8'.

Mr. Covington stated that the fact that this property is a corner lot causes the applicant to have a double front setback from both streets.

Mr. Mark Yeager with Mr. Davis's firm stated, in answer to Mr. Smith's question, that the property immediately behind the animal hospital is zoned C-N and is occupied by a real estate office. He stated that the photographs that were submitted with the file show this structure. The photographs also show the subject alleyway. He stated that under Sec. 30-6.6.5.1 of the Ordinance one of the reasons the Board can consider for granting a variance is the unusual conditions of the building location on the subject property. One of those unusual conditions is the corner lot aspect and another is the alley way that runs directly behind the proposed addition. He stated that it would be an entirely different situation if the proposed addition would abut someone's residential property that was used for residential purposes.

This would not block any other accesses to other properties.

There was no one else to speak in favor and no one to speak in opposition to this request for Special Use Permit amendment or the variance.

016

R E S O L U T I O N

Mr. Durrer made the following motion:
WHEREAS, Application S-289-77 by DAVIS R. HALL under Sec. 30-7.2.10.3.6 of the Zoning Ordinance to permit amendment to existing Special Use Permit to permit addition to small animal hospital, 7013 Columbia Pike, 60-4((1))21A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 6, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is C-N.
3. That the area of the lot is 11,677 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in theplans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. All conditions of the previously granted Special Use Permit shall remain in full force and effect.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

//
V-290-77, Page 16, December 6, 1977 -- R E S O L U T I O N --
Mr. Durrer made the following motion:
WHEREAS, Application V-290-77 by DAVIS R. HALL under Sec. 30-6.6 of the Ord. to permit addition to animal hospital 2.3' from rear property line (20' required), 7013 Columbia Pike, 60-4((1))21A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 6, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.

Page 17, December 6, 1977
HALL (continued), V-290-77

2. That the present zoning is C-N.
3. That the area of the lot is 11,677 sq.ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property, i.e. corner lot

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

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

Page 17, December 6, 1977
11:20 A.M. - JANE V. GREENSTEIN appl. under Sec. 30-7.2.6.1.3.2 of the Ord. to permit a school of general education, 1326 Calder Road, 30-2((13)) 11, 12, 13, (2.838 ac.), Dranesville Dist., R-17, S-291-77

Mrs. Greenstein submitted the required proof of notice to property owners. The notices were in order.

Mrs. Greenstein stated that she would like to use several classrooms in the McLean Baptist Church for the purpose of tutoring children with learning disabilities. She would have approximately 27 children per day during the school year and 30 per day during the summer. There would be three children with a teacher and perhaps an aid for each session. The age range will be from about the fourth grade through high school. The courses to be tutored will be reading, math and that type class. The classes will be held three afternoons a week. At the present time there is only a verbal agreement with the church. There is a letter in the file giving permission from the church for this use. The children will be transported by the parents.

Mrs. Greenstein stated that she was formerly with the Leary School in Falls Church and was the Director of that school.

There was no one else to speak in favor and no one to speak in opposition to this application.

Mr. Smith stated that the Board would need a copy of the lease agreement before granting for a longer period than one year.

Page 17, December 6, 1977 Bd. of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application S-291-77 by JANE V. GREENSTEIN under Sec. 30-7.2.6.1.3.2 of the Ordinance to permit school of general education (tutoring), 1326 Calder Road (McLean Baptist Church), 30-2((13))11,12,13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 6, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the subject property is Trustee of McLean Baptist Church. The applicant is the lessee.
2. That the present zoning is R-17.
3. That the area of the lot is 32,669 sq. ft.

4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The maximum number of students and the hours of operation shall be 1:00 P.M. to 6:30 P.M., 3 days per week during the school year with a maximum of 27 students in any one day and;
8:00 A.M. to 8:00 P.M., Monday through Friday during the summer months with a maximum of 30 students on any one day; ages 7 to 20.
8. This permit is granted for a period of One (1) year. *This was amended on 12/13/77 to 1 year with 3 one year extension by the Zoning Adm. upon presentation / of valid lease.

Mr. Swetnam seconded the motion.

In answer to Mrs. Greenstein's question, the Board advised her that if she brought in a new lease on December 13, 1977, that they would reconsider the length of time for this Special Use Permit and grant for a great period of time with the appropriate lease.

The motion passed unanimously with all members present and voting.

Page 18, December 6, 1977, Scheduled case for
11:30 A.M. - HOPE & ORVILLE IRVIN appl. under Sec. 30-6.6 of the Ord. to permit subdivision of parcel with proposed lots having less than required average lot size (17,000 average required, 16334 requested), 7732 Oak Street, 39-4((1))174, (32,669 sq.ft.), Providence District, R-17, V-292-77.

(The hearing began at 11:57 A.M.)

Charles Runyon with the engineering firm of Runyon Associates, 152 Hillwood Avenue, Falls Church, Virginia, submitted the required notices to property owners. The notices were in order.

Mr. Runyon stated that this property was rezoned earlier this year to the R-17 category. The Board in granting the R-17 zoning was trying to prevent the division of this property into three lots. This designation was given recognizing that a variance would have to be established for the average lot size. The applicant's property meets the minimum requirement for lot size, but not the average. Mr. and Mrs. Irvin's justification is the configuration of this lot. It has a very odd shape to it. This is an old parcel of land that predates the Zoning Ordinance. This property must have some relief in order to establish a density that fits the surrounding area. The area is

in a transitional stage at the present time because of the Beltway, Route 66 and the Tysons Corner area. There is RM-2G zoning just above this property. This will establish one additional lot on this parcel. The property is under contract to a builder who will build a house on the property and sell it. The Irwins live on the front lot, 174-A, and they plan to continue to live there.

In answer to Mr. Durrer's question, Mr. Runyon stated that the granting of this variance would cause a substandard lot in that those two lots would not have the average lot size.

The comments from the Preliminary Engineering Branch states:

"...Oak Street is proposed to be a 60' right of way. It is suggested that if the requested zoning variance is granted, that the gross area of the subject site take into consideration a further reduction for the dedication of the needed 10 feet along the full frontage of the property along Oak Street, Route 769. Also, it should be noted that a front setback is required from the existing 20' outlet road as per BZA adopted policy."

Mr. Durrer read these comments into the record.

Mr. Runyon stated that the applicant intends and it was stated at the time of the rezoning to have an easement running along the southwest property line for access to lot 174-B, so it will not put these properties further into a more substandard condition than they will be. This really should have been zoned R-12.5 because that is what the neighborhood around it is working into. At the insistence of the staff, the applicant left the zoning change request at R-17, assuming that relief would be available through the Board of Zoning Appeals. It was the staff's suggestion because of the configuration of the property.

In answer to Mr. Swetnam's question, Mr. Runyon stated that the house is already on lot 174-A, the easement road is there, and the permit was issued. He stated that it is his understanding that a house could be constructed on lot 174-B without the need for a variance. The subdivision next to this one has an average lot size of 21,000 sq. ft. The next subdivision over has 11,000 to 15,000 sq. ft. average lot size.

Mr. Smith stated that he objects to granting variances that would set up a substandard lot subdivision. This should have been done through the rezoning process to something less than R-17.

Mr. Runyon stated that the Board of Supervisors did know that a variance would be required from this Board. They were more concerned about this being a three lot subdivision.

There was no opposition to this application.

Page 19, Dec. 6, 1977 Bd. of Zoning Appeals

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-292-77 by HOPE & ORVILLE IRWIN under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision of parcel with proposed lots having less than required average lot size, 7732 Oak Street, 39-4((1))174, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 6, 1977; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 32,669 sq.ft.
4. That the applicant's property is exceptionally irregular in shape, in particular the configuration being pie-shaped with a 20' easement road to the southwest side of the property.

*This was amended at Mr. Smith's suggestion to add:
There is not sufficient lot area to accomodate the subdivision as proposed.)

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

Mr. Durrer inquired if Mr. Swetnam was adding the conditions as suggested by Preliminary Engineering office.

Mr. Swetnam stated that he had spoken with Mr. Runyon about that and there is a designation on the plat about the piece of Oak Street.

Mr. Runyon stated that the applicant is going to give the land through an easement rather than dedicate it because dedication would further reduce the size of the parcel. They told the Board of Supervisors they would do this and they are bound by it. In addition, the proposed house on the back lot will have to meet the requirements for setback from a street or 75' from the center-line of that street which is considered principal access to abutting properties. They will meet that requirement.

Mr. Smith stated that the reason Mr. Swetnam gave for granting of this variance is the narrowness of the lot, that has no effect on this request. The land is there and the shape has no effect on it. He stated that he did not know how this variance could be justified by the irregular shape of the lot. Mr. Swetnam stated that he would change it. He stated that he had no problem with the justification.

Mr. Swetnam stated that the lot is irregular in shape.

Mr. Swetnam stated that he would include in his reason for granting that there is not sufficient lot area to accomodate the subdivision as proposed.

The motion passed 3 to 2. Messrs. Smith and Durrer voted No.

The Board recessed for lunch at 12:30 P.M. Mr. Smith left the meeting for the rest of the day.

The Board returned at 1:40 P.M.

//

Page 20, December 6, 1977, Scheduled case for
11:40 A.M. - HOMER A. BACAS, TRUSTEE appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel with proposed lot no. 2 having 10' lot width (80' required), 8001 Oak Street, 39-4((1))105A, (30,586 sq.ft.), Providence Dist., R-12.5, V-293-77.

(The hearing began at 1:40 P.M.)

Mr. Charles Runyon with the engineering firm of Runyon Associates submitted the required proof of notice to property owners. The notices were in order. These notices covered both V-293-77 and V-294-77.
Mr. Smith stated that the Board would hear the second variance that corresponds with this one. He then called the scheduled 11:45 item.
HOMER A. BACAS, TRUSTEE appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel with proposed lot 3 having 10' lot width (80' required), 8001 Oak Street, 39-4((1))105A, (30,586 sq.ft.), Providence Dist., R-12.5, V-294-77.

Mr. Runyon stated that this is a two acre parcel, zoned R-12.5, which they wish to divide into four lots. There is not enough frontage along Oak Street for all the lots. They wish to place private driveways back to two of the lots. That will cause those two lots to have less than the required lot width and they, therefore, need a variance in order to divide this property into four lots. There is sufficient lot area for four lots. This will not in any way create any disharmony with the existing density of the neighborhood. There is a storm drainage easement across the back two lots. This is why the two lots in the rear have much more land area than the front lots.

Page 21, December 6, 1977
BAC S (continued)

Mr. Runyon stated that the property to the east is zoned R-12.5. There are houses behind this property on lots 106 and 107 which front on Railroad Street.

In answer to Mr. Durrer's question, Mr. Covington stated that one parcel nearby has been recently zoned to the R-5 category which is a new zoning category for five units to the acre, in general.

Mr. Runyon stated that actually the R-5 category is more flexible than just five units per acre. New development concepts can be created with that zoning.

Mr. Covington stated that that type rezoning was made in order to rehabilitate an old area.

There was no one else to speak in favor and no one to speak in opposition to these applications.

Page 21 BD. of ZONING APPEALS
December 6, 1977 R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-293-77 by HOMER A. BACAS, Trustee under Section 30-6.6 of the Ordinance to permit subd. with proposed lot 2 having 10' lot width, 8001 Oak Street, 39-4((1))105A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 6, 1977; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 2.015 acres.
4. That the applicant's property has less frontage than that which would permit four lots fronting on Oak Street.

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

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

//

Page 21, December 6, 1977 BD. OF ZONING APPEALS
R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-294-77 by HOMER A. BACAS, Trustee, under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision of parcel with proposed lot 3 having less than required lot width (10' requested, 80' required), 8001 Oak Street, 39-4((17))105A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 6, 1977; and

021B

WHEREAS, the Board 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 2.015 acres.
4. That the applicant's property has less frontage than that which would permit four lots fronting on Oak Street.

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

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

Page 22, December 6, 1977, Scheduled case for

1:00 P.M. - RICHARD J. POLSON appl. under Sec. 30-6.6.5.4 of the Ord. to permit wood deck to remain on both side property lines, (14' required), 1909 Rhode Island Avenue, 41-1((13))(7)17A, (10,851 sq.ft.), Franklin Park Subd., Dranesville Dist., RE-0.5, V-295-77.

(The hearing began at 1:55 P.M.)

Mr. Charles Runyon with the engineering firm of Runyon Associates, 152 Hillwood Avenue, Falls Church, Virginia submitted the required proof of notice to property owners. The notices were in order.

Mr. Runyon stated that because of the topography of the land and the fact that it does not drain properly and the back yard remains almost constantly like a swamp, Mr. Polson constructed a deck on the first floor level of the existing house instead of a patio. Mr. Runyon stated that there used to be a stream along the back property line and a storm sewer system was constructed along the back property line. He stated that since the deck is over a portion of the storm sewer easement, that the applicant should be asked to furnish the County with a Hold Harmless Agreement in case any repairs have to be made to the storm sewer.

There was no one else to speak in favor of the application.

Mr. Thomas F. Strunck, adjacent property owner, 1930 Rockingham Street, Lot 1A, spoke in opposition to the application. He submitted a statement of opposition which can be found in the file on this case. He submitted a statement from the Markman family who reside and own the property at 1929 Rockingham Street.

Mr. Durrer stated that the Board is also in receipt of two letters in opposition. One letter is from Melvin Sonne, 1938 Rockingham Street and Solomon H. Smith, 1915 Rhode Island Avenue, McLean.

In rebuttal, Mr. Runyon stressed that the applicant does have physical hardships of the land that prevent the reasonable use of the land. That being the topography feature, the drainage problems because of that topography and the odd shape of the subject lot.

Mr. Covington told the Board that the applicant is under violation. No building permit had been applied for or received. He stated that he questioned whether or not the building would comply with the requirements of the BOCA Code. He suggested that the Board members also take a look at the property in question.

Mr. DiGiulian moved that this case be deferred until January 18, 1978, for additional information, i.e. a report from the Building Inspections Office, and for an opportunity for the Board members to view the subject property.

Mr. Swetnam seconded the motion.

The motion passed unanimously with the members present.

The case will be called for decision only after 1:00 P.M. January 18, 1978.

//

Page 22, December 6, 1977, Scheduled case for

1:20 P.M. - LESTER R. HENRY appl. under Sec. 30-6.6 of the Ord. to permit construction of house 30' from front property line (50' required), 10718 Oak Place, 47-3((7))85, (8,584 sq.ft.), Fairfax Acres Subd., Providence Dist.,RE-0.5,V-296-77.

Mr. Steve Henry, 3504 Burrows Avenue, Fairfax, representing his father Lester R. Henry, asked for a slight recess of his case in order that he could return home and get the notices to submit to the Board. The Board granted his request and considered the 1:40 case after which the Board returned to this item. The notices were submitted and were in order.

Mr. Steve Henry stated that the subject property is exceptionally irregular shaped and is also very shallow. This was caused by Route 66 cutting off some of the property. The present shape of the lot makes it impossible to build without infringing on the setback requirement. Lot 84, adjacent to Mr. Henry's lot, was owned by Mr. W. R. Simpson. Mr. Simpson, when constructing this house, received a variance from this Board. That variance

permitted the construction of a house 40 feet from the front property line.

There was no one else to speak in favor and no one to speak in opposition to the application.

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application No. V-296-77 by LESTER P. HENRY under Section 30-6.6 of the Zoning Ordinance to permit the construction of a house 30' from the front property (50' required), 10718 Oak Place, 47-3((7))84, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 6, 1977; and

WHEREAS, the Board 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 8,584 sq. ft.
4. That the applicant's property is exceptionally irregular in shape;

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

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with the members present. Mr. Smith was absent. He had left the meeting earlier in the day.

Page 23, December 6, 1977, Scheduled case for (*AMENDED TO CASELARO)
1:40 P.M. - DONALD D. CONKLIN*appl. under Sec. 30-6.6 of the Ord. to permit subd. of lot, one lot having 132' lot width (150' required), 11626 Pine Tree Drive, Fairfax Farms Subd., 46-4((2))65, (2.6217 ac.), Centreville Dist., RE-1, V-225-77. (Deferred case from 10-18-77 for proper notices.)

The Board was in receipt of a request from Mr. Conklin to amend the application to J. Daniel and Terrill Casolaro* the present owners of the property. The property had changed title since the application was made. The application was so amended by the Board.
Mr. Casolaro submitted the required proof of notice to property owners to the Board. The notices were in order.

Mr. Casolaro stated that this request pertains to a total piece of property that is more than 2 1/2 acres in size and more than 325 feet of total lot width. Since 150 feet of lot width fulfills the lot requirement, there is ample land and lot width for two lots. There is, however, an existing dwelling on the proposed Lot 65A1 that would be less than four feet away from the Lot 65A2 if the applicant applied the 150 foot requirement. This requirement would deprive the applicant of the reasonable use of the land and would be detrimental and injurious to both lots because of the proximity of the house to the lot line. The variance, if granted, would allow a lot width of 132 feet on Lot 65A2 and would make the lot twenty-one and one half feet from the existing dwelling and provide the applicant with the reasonable use of the land and building involved.

There was no one else to speak in favor and no one to speak in opposition.

024

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application V-225-77 by J. DANIEL AND TERRILL CASOLARO under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision of lot with one lot having 132' lot width (150' required), 11626 Pine Tree Drive, 46-4((2))65, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 6, 1977; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of thelot is 2.6217 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Swetnam seconded the motion.

The motion passed unanimously with the members present. Mr. Smith had left the meeting earlier.

Page 24, December 6, 1977, Scheduled case for
1:50 P.M. - ROBERT F. STAUFFER appl. under Sec. 30-6.6.5.4 of the Ord. to permit enclosure of carport 11.1' from the side property line and total of 26.6'*(10' and total of 30' required), 1730 Creek Crossing Road, 28-4((15))3, (15,027 sq. ft.), Wexford Subd., Centreville District, RE-0.5 Cluster, V-287-77. (Amended to 28.0')

Notices were in order.
Mr. Stauffer stated that he had begun this enclosure without a building permit because he did not know that one was needed to enclose something that was already there. All he lacks having it completely enclosed is the garage door. He became aware of the need for the permit when an inspector came by and informed him of it. The house is not set squarely on the lot, he stated, and it, therefore, would be impossible to conform to the 30 foot setback requirement for the total side yard distances. He stated that he has now had a new survey done which shows a total of 28' for the side yards. He asked that that plat be entered into the file on this case.

There was no one else to speak infavor and no one to speak in opposition.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application V-287-77 by ROBERT F. STAUFFER under Sec. 30-6.6.5.4 of the Zoning Ordinance to permit enclosure of carport 11.1' from side property line, 1730 Creek Crossing Road, 28-4((15))3, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 6, 1977; and

Page 25, December 6, 1977
STAUFFER (continued)

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

1. That the non-compliance was no fault of the applicant.

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

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 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.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Smith was absent because he left the meeting earlier.

Page 25
December 6, 1977

DEFERRED CASE: Scheduled for 2:10 P.M.

NORTHERN VIRGINIA BUILDERS, INC. appl. under Sec. 30-6.6 of the Ord. to permit subdivision of land with proposed Lot 7 having 12' lot width (150' required) 9944 Lawyers Road, 38-1((1))5B & 5C, (41,200 sq. ft.), proposed lot 7), Centreville District, RE-1, V-270-77. (Deferred from November 15, 1977 for proper notices.)

Mr. Donald D. Conklin representing the applicant submitted the required notices to the Board. The notices were in order.

Mr. Conklin stated that he is proposing seven lots in this subdivision. Proposed Lot 7 does not meet the required 150' lot width. It has only 12 feet, which is the pipestem access to the cul-de-sac. The width of the pipestem becomes the width of that lot.

Mr. Swetnam stated that this lot is way back in the back corner. There is no way the applicant could use the land without this variance.

There was no one else to speak in favor and no one to speak in opposition to this application.

Page 25 Bd. of Zoning Appeals
December 6, 1977 R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-270-77 by NORTHERN VIRGINIA BUILDERS, INC. under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision of land with proposed Lot 7 having 12' lot width (150' required), 9944 Lawyers Road, 38-1((1)) 5B and 5C, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 15, 1977 and deferred to December 6, 1977 for proper notices; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 41,200 sq. ft.
4. That the applicant's property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions exist which under a strict interpretation of the Zoning Ordinance would result in

026

practical difficulty or unnecessary hardship that would deprive the user of the reasonable use of the land;and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with the members present. Mr. Smith had left the meeting earlier.

Page 26, December 6, 1977
2:20 - ROBERT A. McGINNIS appl. under Sec. 30-6.6 of the Ord. to permit subdivision of parcel with proposed lot 18 B having 10' lot width (80' required), 7619 Center Street, 39-4((7))11 & 18 & 18A, (17,183 sq. ft.), Providence District, R-12.5, V-283-77.

ROBERT A. McGINNIS (same as above except for proposed lot 11 C), V-284-77.

ROBERT A. McGINNIS (same as above except for proposed lot 11 B), V-285-77 .

(Deferred from 11-29-77 to permit applicant to revise plats if he chooses.)
Mr. Charles Runyon with the engineering firm of Runyon Associates represented the applicant.

Mr. Runyon asked that they be allowed to withdraw the request for a variance on proposed lot 11 C, V-284-77. He stated that they will reapportion the land area that is now in proposed lot 11 C to the other lots. He stated that he would provide the Board with new plats.

Mr. DiGiulian moved that the Board allow the applicant to withdraw V-284-77 at this time.

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

Kevin Knolls one of the neighbors who opposed these applications came forward to the Board for an explanation as to what had been changed with the withdrawal of the application for a variance for proposed lot 11 C. Several other members of the audience came forward also. After looking at the plats and hearing the explanation, Mr. Knolls stated that he still feels that the applicant is overcrowding that particular parcel of land. He stated that he also felt that access should not be given to Center Street.

Page 26 Bd. of Zoning Appeals
December 6, 1977 R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-283-77 by ROBERT A. McGINNIS under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision of parcel with proposed lot 18B having 10' lot width (80' required), 7619 Center Street, 39-4((7))11 & 18 & 18A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 29, 1977 and deferred to December 6, 1977; and

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

1. That the owner of the property is the applicant.
2. That the area of the lot is 1.7367 acres.
3. That the present zoning is R-12.5.
4. That the applicant's property is exceptionally narrow; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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 theland involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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.

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. This granting is subject to the submittal of new plats.
Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Smith left the meeting earlier in the day.

//

Mr. Swetnam made the following motion on V-285-77:

WHEREAS, Application V-285-77 by ROBERT A. McGINNIS under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision of parcel with proposed Lot 11 B having 10' lot width (80' required), 7619 Center Street, 39-4((7))11 and 18 & 18A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 29, 1977 and deferred to December 6, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 1.7367 acres.
4. That the applicant's property is exceptionally narrow; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This approval is subject to the submittal of new plats showing the parcel being divided into four lots instead of five.
3. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Smith had left the meeting earlier in the day.

Page 27, December 6, 1977
DEFERRED CASE OF GULF RESTON, INC. appl. under Sec. 30-3.2.1.1 of the Ord. to permit commercial entrance across residential land in conjunction with Special Exception for Car Service Center, Sunset Hills Road, 330' west of Route 675, 17-3((1))5, (1.1900 acres), Centreville District, C-G and RE-1, S-282-77. (Deferred for final decision of Board of Supervisors on Special Exception request) The Board of Supervisors granted that request 12/5/77. Mr. Dick Bonar was present representing the applicant.

Mr. Durrer indicated that the Board was in receipt of some correspondence from the Clerk to the Board of Supervisors indicating that the Special Exception for the Car Service Center had been granted. This Board can now make a decision on the Special Permit for commercial access.

Mr. DiGiulian made the following motion:

WHEREAS, Application S-282-77 by GULF RESTON, INC. under Sec. 30-3.2.1.1 of the Zoning Ordinance to permit commercial entrance across residential land in conjunction with Special Exception for Car Service Center, Sunset Hills Road, 330' west of Route 675, 17-3((1))5, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on November 29, 1977 and deferred to December 6, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the subject property is John Hancock Life Insurance Company.
2. That the present zoning is C-G and RE-1.
3. That the area of the lot is 1.19 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.

Mr. Swetnam seconded the motion.

The motion passed 4 to 0. Mr. Smith had left the meeting earlier in the day.

AFTER AGENDA ITEM - Page 28, December 6, 1977

NORTHERN VIRGINIA CHRISTIAN REFORM CHURCH, 9800 Burke Lake Road, Granted October 26, 1977. (Request for building to be permitted to remain at the original proposed location and at the location as shown on the plats approved by the Board of Zoning Appeals at the time of the public hearing and to permit canopy over entrance to building.).

The Board of Zoning Appeals placed on the Special Use Permit a condition requiring the church to dedicate a certain amount of property from the center line of the road. This dedication moved the property line back and therefore placed the building restriction line further back.

Mr. DiGiulian stated that as he understood it, the building and the canopy both meet the required setbacks based on where the right-of-way is now. This is something the Board did. He stated that because it was a condition of the Use Permit, the Board should permit the building to remain where it was originally proposed. He stated that he felt this is a minor engineering detail. He moved that the Board approve the amended plats showing the building at its original location and the canopy over the entrance.

Mr. Swetnam seconded the motion and the motion passed unanimously (4 to 0). Mr. Smith had left the meeting earlier in the day.
//

Page 29, December 6, 1977
NORTHERN VIRGINIA CHRISTIAN REFORM CHURCH (continued)

The Board advised the applicant that it could continue through the process of site plan approval without the need for a variance.

//

AFTER AGENDA ITEM, Page 29, December 6, 1977

KING OF KINGS LUTHERAN CHURCH. Request for deletion of six parking spaces from 28 to 22; 20 required, S-128-77.

Mr. Ridenhour, representing the church, stated that the County Arborist required that they enlarge the areas around the existing oak trees to ensure their survival. This reduced the number of parking spaces from 28 to 22. The required number is 20.

Mr. Swetnam moved that the amended plats showing the parking spaces to be 22 be approved.

Mr. DiGiulian seconded the motion.

In answer to Mr. Durrer's question, Mr. Ridenhour stated that this is the only change on the plats submitted.

The motion passed 4 to 0. Mr. Smith was absent. He had left the meeting earlier in the day.

//

OUT OF TURN HEARING REQUEST: LOUIS C. FINCH, V-336-77.

The surveyor inaccurately staked out the house or the builder misinterpreted the stakeout. The owner has stopped construction until the outcome of the hearing. They need the earliest hearing possible because the materials for construction is out in the weather.

Mr. Covington stated that he had talked with the applicant and it was no fault of the owner that this mistake was made. They are quite upset.

Mr. DiGiulian moved that the out of turn hearing be granted for the earliest possible date. He stated that he understood that that date was January 10, 1978.

Mr. Swetnam seconded the motion.

The motion passed unanimously.

//

The meeting adjourned at 3:26 P.M.

//

Jane C. Kelsey
BY JANE C. KELSEY, CLERK TO THE
BOARD OF ZONING APPEALS

Submitted to the BZA on
Jan. 4, 1978

Submitted to Board of Supervisors,
Planning Commission and other Depts.
on Jan. 4, 1978

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: January 31, 1978
(DATE)

The Regular Meeting of the Board of Zoning Appeals Was Held in the Board Room of the Massey Building on Tuesday, December 13, 1977. All members were present: Daniel Smith; William Durrer; George Barnes; Tyler Swetnam and John DiGiulian.

030

The meeting begin at 10:13 A.M. with a prayer by Mr. Barnes. Mr. Daniel Smith, Chairman, then called the scheduled 10:00 A.M. case.

10:00 A.M. - PATRICK & AMBER KEOGH appl. under Sec. 30-7.2.6.1.10 of the Zoning Ordinance to permit home professional real estate brokerage office, 6881 Churchill Road, Beverly Manor Subd., 30-2((4))(A)9-12, Dranesville District, R-12.5, S-297-77.

Mrs. Keogh submitted the required proof of notice to property owners. The notices were in order.

Mrs. Keogh stated that she is currently licensed as a real estate broker and is employed in a Northern Virginia real estate firm. She would like to open her own office in her home. She would not have any employees, nor would she erect a sign, she stated. The expected clients would be from 6 to 8 per month by appointment only. The primary business would be property management. The reasons she stated she wanted her business in her home were that the cost would be prohibitive to open an office in a commercial area and she has children at home that she would like to be with.

Mrs. Keogh then read a letter from Martha Parmelee, 6875 Churchill Road, in support of the application as long as the conditions on the Use Permit are as set forth in the statement are made permanent by the Board.

Mrs. Keogh stated that she would stick with the limitations as set forth in her statement in the file. She stated that she intended to have no signs. Her proposed hours are from 9:00 A.M. to 5:00 P.M. She would only have one customer at a time and by appointment only. The customers would number no more than six to eight per month. After the business gets started, she would move to a commercial area.
Mrs. Jenkins, 6885 Melrose Drive, McLean, representing the Beverly Manor Citizens Association, spoke in opposition to the application. She submitted a petition with seventy signatures in opposition to the application.

Mr. Smith read two letters in opposition to this application. One letter was from Melvin Die, 6801 Churchill and the other was from Mr. and Mrs. Alverado, 6831 Churchill Road.

Mr. Swetnam stated that this application fits precisely his criteria for home professional offices. It is a temporary use to get a business started in the home and after it gets started, the applicant will move to commercial quarters.

Mr. Durrer stated that if the Board grants the use in accordance with the applicant's statement, it still has no assurance that the guidelines will be followed. The applicant just purchased the property in May and she is a real estate broker. If she has been in business for three years, he stated that he felt she could open a business in a commercial area now and make a go of it. He stated that he felt it would have an adverse impact on this old established neighborhood that surrounds this property.

Mr. Swetnam made a motion to grant this application with limitations of 9:00 A.M. to 5:00 P.M. for hours of operation; that the maximum number of parking spaces would be one (1) extra from those regularly used by the family; that the permit would be for one (1) year only; and that there would be no exterior alterations.

Mr. DiGiulian seconded Mr. Swetnam's motion.

The motion failed 3 to 2. Messrs. Smith, Durrer and Barnes voted No.

//

Page 31, December 13, 1977

10:30 A.M. - F.S.M. AND MIMI HODSOLL appl. under Sec. 30-6.6 of the Ord. to permit 10' fence around tennis courts in front yard (4' allowed) and partially in required side yard (7' allowed), 1207 and 1209 Crest Lane, Dranesville District, RE-1, Eagle Acres Subd., 31-2((16))3A and 3B, V-298-77.

Mr. Hodsoll submitted the required proof of notice to property owners. The notices were in order. He also submitted a plat from the Interior Dept. which was approved by that department. The Dept. of Interior was notified as owner of the George Washington Memorial Parkway.

Mr. Hodsoll stated that he wishes to construct a tennis court with a 10' high fence around its perimeter, straddling his two lots, such that it would be in the front yard of a proposed house on Lot 3B and in the side and front yards of a proposed house on Lot 3A. Since the maximum height for a fence in any front yard is 4 feet and in any required side or rear yard is 7 feet, a variance of 6 feet to the maximum height requirement is requested in order to construct as proposed. He stated that this is the most logical place for this tennis court and is generally in the flat area between the two approved septic fields. The property is so contoured that any location of a tennis court and its fence, other than the proposed location, would result in practical difficulty or unnecessary hardship for the applicant. The property comprises a narrow promontory of flat land between relatively steep embankments, particularly to the southeast. The granting of the requested variance would in no way negate the intent of the Ordinance to assure proper site distance for the proposed location of the tennis court fence would not be visible from the public street (Crest Lane) from which its nearest edge would be over 200 feet distant. Such nearest edge would also be more than 10 feet below all of the crest of the strip of land between Crest Lane and the subject property. The court will be located in the heavily wooded area of the property and will be virtually invisible to neighborhood lots. The court is separated on both sides by ravines between it and the nearest neighboring houses which are over 170 feet distant.

Mr. Hodsoll stated that he understood that similar variances have been granted by this Board to permit the construction of tennis court fences in yards, in particular to Mr. Charles Robb of McLean, Virginia.

Mr. Hodsoll stated that the fact that the tennis court fence straddles the property line between the two lots involves only the owners and does not engage any public interest. He assured the Board that they will define and protect, through appropriate easements, their interests and the interests of their assigns or successors in interest to 1207 and/or 1209 Crest Lane in any tennis court they construct on 1207 and 1209 pursuant to a variance of the strict requirements of Section 30-3.5.6.1 of the Zoning Ordinance.

Mr. Durrer inquired if there would still be an acre of land left on Lot 3A if either owner ever decided to make the courts part of Lot 3B.

Mr. Hodsoll answered that there would be still an acre left.

There was no one else present to speak in favor and no one to speak in opposition to the application.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. V-298-77 by F.S.M. & MIMI HODSOLL under Sec. 30-6.6 of the Ord. to permit 10' fence around tennis courts in front yard and partially in required side yard, 1207 and 1209 Crest Lane, 31-2((16))3A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 13, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 3.733 acres.
4. That the applicant's property is exceptionally irregular in shape;

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

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

10:40 - CARRARA, R. M. appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel 37 with proposed lot 37A having 12' lot width (100' required) 2011 Lorraine Avenue, Franklin Forest Subd., 41-1((7))37, (35,640 sq. ft.), Dranesville District, RE-0.5, V-299-77.

Mr. Paciulli submitted the required proof of notice to property owners of this hearing. The notices were in order.

Mr. Paciulli stated that this application involves Lot 37. Lot 38 is owned by Mr. Carrara also. The tract in question exists today as it did at the time the deed was recorded on June 10, 1948. He stated that he had submitted a topography survey because the topography is one of the major reasons for the need for this variance. He also submitted a sketch of the proposed subdivision. He stated that the parcel would be divided into four lots. All of the proposed lots would have the average lot size required by the zone at least. Proposed lot 37C has more than the required average, having 39,860 sq. ft., which is larger than the average lot that exists in that area. The unusual topography of this parcel precludes the installation of a road constructed to state standards. Therefore, they are proposing the pipestem concept.

There was no one else to speak in favor of the application.

Mr. Franklin Michaels, 1947 Lorraine Avenue, an adjoining property owner, spoke in opposition to the request. A copy of his letter is in the file for this case. He also submitted photographs for the record of houses in the area. He stated that he lives on Lot 40. The back of his property adjoins the property on which the existing house is on in the proposed subdivision. He estimated for Mr. Swetnam that the distance from his house to the nearest new house would be 100 to 150 feet.

Mr. Edward Krill, president of the Franklin Area Citizens Association, an area of 700 families consisting of Franklin Park and Franklin Forest, spoke in opposition to the request. A copy of his letter in opposition is in the file.

Mr. William E. Seale, 1936 Franklin Avenue, spoke in opposition. A copy of his letter is in the file. He also agreed with the statements by Mr. Michaels.

Mrs. Graham, 2001 Lorraine Avenue, Lot 34, spoke in opposition. She stated that she was also speaking for the owner of Lot 35, in opposition to the request.

Mrs. Featherstone, 2021 Lorraine Avenue, Lot 28, spoke in opposition to the request.

The opponents main points of opposition were the traffic patterns on their narrow road, the additional driveways coming out onto the road making a hazardous condition, the changes in the topography and drainage that they felt would increase the drainage problems on their property, and the change that they felt this proposed subdivision would cause to the existing neighborhood character which they felt would be adverse to their properties.

Page 33, December 13, 1977
CARRARA (continued)

Mr. Paciulli in rebuttal and in answer to Mr. Barnes' question stated that to put a street into that subdivision built to state standards would require cutting a swath through the trees 90 feet. Mr. Carrara did not purchase this property as a speculative project. He purchased the house for his residence and he has remodeled it. He agreed that the road serving this subdivision is narrow. He stated that that is part of the attractiveness of the neighborhood. He stated that he could not get a 50' street into that subdivision and still meet the setback requirements for the existing house. A retaining wall would be required on the right and left sides of the road which would probably damage the existing house.

Mr. Smith stated that this type development creates four driveways which he felt would be very hazardous. It would also be difficult to get the fire and police department into the properties.

Mr. Paciulli stated that they could put the driveway for lot 38 and 37B together. This would eliminate one driveway.

Mr. Durrer stated that he felt this land should be developed, but to put three or four houses on that hillside would be overdevelopment of the land.

Page 33 Bd. of Zoning Appeals
December 13, 1977 R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. V-299-77 by RM CARRARA under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision of parcel 37 with proposed lot 37A having 12' lot width (100' required), 2011 Lorraine Avenue, 41-1((7))37, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 13, 1977; and

WHEREAS, the Board 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 35,640 sq.ft. for proposed lot 37A and 125,625 sq. ft. for the entire subdivision.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in that the configuration of the lot will not allow development in accordance with the existing zoning of the surrounding area; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from the date unless this subdivision has been recorded among the land records of Fairfax County.

3. No more than two (2) driveways can be used for this development.

Mr. Barnes seconded the motion.

The motion passed 3 to 2. Messrs. Durrer and Smith voted No.

Mr. Smith stated that this property could be developed with possibly a minor variance in connection with the existing house by putting a public street into it, which would only be one driveway. The maintainance of this pipestem could be a problem in the future.

10:45 A.M. - R. M. CARRARA appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel 37 with proposed lot 37C having 6.57' lot width, (100' required), 2011 Lorraine Avenue, 41-1((7))37, (29,860 sq. ft.), Dranesville District, RE-0.5, V-300-77.

Mr. Paciulli, engineer on this project, submitted the required notices to property owners for this application with V-299-77. The notices were in order.

Mr. Smith stated that with the permission of the applicant and the opposition speakers, the Chair will enter the remarks made for V-299-77 application into the record on this case also.

The applicant and opponents agreed.

Mary Dickerson, 2015 Lorraine Avenue, Lot 36, who did not speak regarding the previous application V-299-77, spoke at this time in opposition to this application since she stated that this variance would be the one that would affect her property since the driveway back to proposed lot 37C goes up directly to the side of her property. This will cause a loss of privacy to her property.

Debro Fielki, McLean Citizens Association, spoke as a resident of the area and a member of the Planning and Zoning Committee for the McLean Citizens Association, in opposition to this application.

Mrs. Robert Dougin spoke in opposition to this request because of the flooding condition that exists on the lower portion of her property.

Mr. Smith stated that the petition in opposition would also be entered into the record on this case as it was for V-299-77.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-300-77 by R. M. CARRARA under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision of parcel 37 with proposed lot 37C having 6.57' lot width, 2011 Lorraine Avenue, 41-1((7))37, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 13, 1977; and

WHEREAS, the Board 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 proposed lot 37C is 39,860 sq. ft. the area for the entire subdivision is 125,625 sq. ft.
4. That the applicant's property has exceptional topographic problems; and has an unusual condition in that the configuration of the lot will not allow development in accordance with the existing zoning or the surrounding area.

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

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:
1. This approval is granted for the location indicated in the plats and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. No more than two (2) driveways shall be used for this development.

Mr. Swetnam seconded the motion.

The motion passed 3 to 2. Messrs. Durrer and Smith voted No.

035

Page 35, December 13, 1977, Scheduled case for
10:50 A.M. - R. M. CARRARA appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel 37 with proposed lot 37D having 6.55' lot width, (100' required), 2011 Lorraine Avenue, 41-1((7))37, (28,608 sq.ft.), Dranesville District, RE-0.5, V-301-77.

(The hearing began at 11:08 A.M.)

Mr. Paciulli representing the applicant and the engineer on this project submitted the notices to property owners with V-299-77. The notices were in order. He asked that the record reflect that his comments from the previous cases V-299-77 and V-300-77 be applied to this case also.

Mr. Smith, hearing no objection, entered the remarks from the opposition speakers into the record from the previous cases on this case also.

Mr. Edward Lansdale, 2008 Lorraine Avenue, directly across the street from the subject property, spoke in opposition to the request. He requested clarification regarding the proposed driveways. The Board members explained this to him.

Mrs. Dickerson asked specifically that her previous comments on the previous case, V-299-77, be entered into the record.

All other testimony on the previous two cases, V-299-77 and V-300-77 including the petition in opposition were entered into the record on this case.

Page 35
December 13, 1977 R E S O L U T I O N Bd. of Zoning Appeals

Mr. DiGiulian made the following motion:

WHEREAS, Application V-301-77 by R. M. CARRARA under Section 30-6.6 of the Zoning Ordinance to permit subdivision of parcel 37 with lot 37D having 6.55' lot width, 2011 Lorraine Avenue, 41-1((7))37, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to thepublic and a public hearing by the Board held on December 13, 1977; and

WHEREAS, the Board 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. sq.ft.
3. That the area of the lot is 28,608/for proposed lot 37D. The entire area for the subdivision is 125,625 sq. ft.
4. That the applicant's property has exceptional topographic problems; and has an unusual condition in that the configuration of the lot will not allow development in accordance with existing zoning or the surrounding area.

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

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

3. No more than two (2) driveways shall be used for this development.

Mr. Swetnam seconded the motion.

The motion passed 3 to 2. Messrs. Durrer and Smith voted No.

LUNCH RECESS 12:25 P.M. to 1:40 P.M. Mr. DiGiulian left the meeting.
Page 36, December 13, 1977, Scheduled case for

036

11:00 A.M. - FLOYD & CAROLE SCHWARTZ application under Sec. 30-6.6 of the Ord. to permit construction of carport 7' from side property line (10' required), 2125 Reynolds Street, Dranesville District, Goldleaf Terrace Subd., R-17, 40-2((29))6, (0.56210 ac.), V-302-77.

Mr. Schwartz submitted the required proof of notice to property owners of this hearing. The notices were in order.

Mr. Schwartz stated that the layout of the lot is such that he cannot meet the setback requirements to construct a carport on his property without a variance. The siting of the house does not follow the parallel lines of the property.

There was no one else to speak in favor and no one to speak in opposition to the application.

Page 36
December 13, 1977 R E S O L U T I O N Bd. of Zoning Appeals

Mr. Swetnam made the following motion:

WHEREAS, Application V-302-77 by FLOYD & CAROLE SCHWARTZ under Sec. 30-6.6 of the Zoning Ordinance to permit construction of a carport 7' from the side property line (10' required), 2125 Reynolds Street, 40-2((29))6, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 13, 1977; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 0.56 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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 reasonable use of the land or building involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously with the members present. Mr. DiGiulian had left the meeting earlier.

Page 37, December 13, 1977, Scheduled case for

11:10 A.M. - JOHN & CONSTANCE CAHILL appl. under Sec. 30-6.6 of the Ord. to permit 6' fence in front setback along Hunter Mill Road, (4' permitted by Ordinance) 10401 Hunter Ridge Road, Ridgecrest Subd., Centreville District, 37-4((10))1, (52,981 sq. ft.), V-303-77.
(The hearing began at 1:55 P.M.)

Mr. Cahill submitted the required proof of notice to property owners. The notices were in order.

Mr. Cahill stated that the lot is located on the outside edge of the approach to a curve, on a grade, and immediately adjacent to the only roadside parking area on Hunter Mill Road between Route 123 and Vale Road. The back yard and rear of the house are below road level and in direct view of northbound traffic rounding the curve. This causes traffic noise that is objectionable and a lack of privacy. The plans for widening of Hunter Mill Road does not include acquiring any more right of way in this area. To get adequate sight distance to the left side of the intersection, one has to pull out adjacent to the stop sign now. The proposed fence will not interfere with sight distance. He submitted photographs showing the location of the proposed fence in relation to the roadway.

The Office of Preliminary Engineering suggested that the the requested 6' high fence be located no closer to the existing right of way line than 15'. This setback would help guarantee adequate sight distance at the intersection of Hunter Mill Road and Hunter Ridge Drive. Also, this 15' setback would remove the fence from the utility easement and allow additional room for any future road widening.

Mr. Barnes stated that Mr. Cahill has adequate sight distance.

There was no one else to speak in favor and no one to speak in opposition to the application.

Page 37
December 13, 1977 R E S O L U T I O N Bd. of Zoning Appeals

Mr. Durrer made the following motion:

WHEREAS, Application V-303-77 by JOHN & CONSTANCE CAHILL under Sec. 30-6.6 of the Zoning Ordinance to permit 6' fence in front setback along Hunter Mill Road (4' allowed), 10401 Hunter Ridge Road, 37-4((10))1, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 13, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 52,981 sq. ft.
4. That the applicant's property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:
1. This approval is granted for the location and the specific fence indicated in the plats included with this application only, and is not transferable to other land or to other structures or fences 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 expiration.

Mr. Barnes seconded the motion. The motion passed 3 to 1. Mr. Smith voted No. Mr. DiGiulian left the meeting at Noon.

Mr. Durrer stated that he was convinced by the testimony of Mr. Barnes that there will be adequate sight distance.
Mr. Smith stated that if this is going to be approved, there should be a condition that the fence would be removed at the applicant's expense should the state decide to take additional right-of-way.
Mr. Durrer stated that it is not even in the five year plan for a 4 lane road.
Mr. Barnes stated that it is already staked out and the fence will be all right

---

11:20 A.M. - ENGLESIDE BAPTIST CHURCH appl. under Sec. 30-7.2.6.1.11 and 30-7.2.6.1.3 of the Ord. to permit church and school of general education, located Route 1 near its intersection with Lorton Road, Pohick Historic District, 108-3((1))16, (20.40 acres), Lee Dist., RE-1, S-304-77.

Mr. Bersini, landscape architect from Southbend, Indiana, represented the applicant and submitted the required proof of notice to property owners. The notices were in order.

Mr. Bersini stated that they have provided adequate parking for 790 persons at a ratio of 1 space per 3.5 seats. The county requirement is 1 space per 5 seats. They, therefore, have more than adequate parking.

Mr. Bersini stated that the church is willing to dedicate frontage in accordance with the suggestions of Preliminary Engineering.

They have also met with the Architectural Review Board and that Board has approved their plans. The structure will be constructed of stucco and glass with bronze panels. It is to be built into the hill and will have one to two stories.

In answer to Mr. Durrer's question, Mr. Bersini stated that the sight distance is reasonable for a left turn at that location.

Mr. Durrer stated that if a car is stopped to make a left turn without a storage lane, it will be hazardous. He stated that the suggestions of the office of Preliminary Engineering to build a service drive along the full frontage of the property does not solve this problem. It is a dangerous situation.

Mr. Bersini stated that they are aware of that, but he did not know how to solve that problem unless the road is widened by the state at that location. He stated that they are willing to dedicate the land.

Mr. John W. Hazard, 5809 River Drive, Lorton, Virginia, managing partner of the Gunston Hall Syndicate, which owns this land under consideration, and a member of Pohick Church, spoke in support of this application. There was no one to speak in opposition.

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application S-304-77 by ENGLESIDE BAPTIST CHURCH under Sec. 30-7.2.6.1.3 and 30-7.2.6.1.11 of the Zoning Ordinance to permit church and school of general education on property located at Route 1 near its intersection with Lorton Road, 108-3((1))16, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 13, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is Gunston Hall Syndicate. The applicant is the contract purchaser.
2. That the present zoning is RE-1.
3. That the area of the lot is 20.402 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
1. THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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

Page 39, December 13, 1977
ENGLESIDE BAPTIST CHURCH (continued)

plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of memberships shall be 791.
8. The hours of operation shall be the hours for normal church services and school.
9. The number of parking spaces shall be 226.
10. The church will make the necessary dedication for road widening, i.e. 98' from front property line.

Mr. Barnes seconded the motion.

The motion passed unanimously with the members present. Mr. DiGiulian had left the meeting earlier.

Page 39, December 13, 1977, Scheduled case for
11:40
A.M. - JAMES E. COLLIS appl. under Sec. 30-6.6 of the Ord. to permit addition 6.3' from side property line (12' required), 6304 Thomas Drive, 81-3 ((13))(B)208, Monticello Woods Subd., Lee District, R-12.5, (11,597 sq. ft.), V-305-77.

(The hearing began at 1:35 P.M.)

Mr. Collis submitted the required proof of notice to property owners. The notices were in order.

Mr. Collis stated that there is no place else on the property where he can place an expanded enclosed carport without damaging the appearance of both his property and neighborhood property. The rear lot line is very irregular, and is wooded. There will still be 23' between his house and the house on the adjacent lot.

There was no one else to speak in favor and no one to speak in opposition.

Page 39 Bd. of Zoning Appeals
December 13, 1977 R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application V-305-77 by JAMES E. COLLIS under Section 30-6.6 of the Zoning Ordinance to permit an addition 6.3' from side property (12' required) 6304 Thomas Drive, 31-3((13))(B)208, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 13, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 11,597 sq. ft.
4. That the applicant's property is irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously with the members present. Mr. DiGiulian was absent.

Page 40, December 13, 1977, Scheduled case for
1:00 P.M. - DAVID T. SCHWARTZ appl. under Sec. 30-6.6 of the Ord. to permit dwelling 3' from side property line (15' required) and 8' from front property line (45' required), 615 Chain Bridge Road, 32-1((1))13, Dranesville District, (17,838 sq. ft.), R-17, V-306-77.

Mr. Schwartz submitted the required proof of notice to property owners. The notices were in order.

Mr. Schwartz stated that he wished to construct a one-story brick enclosure around an existing pool and deck and a one-story frame structure to the rear of that to house a "Party Room" facility which would include a lounge, restrooms, maid's apartment and a racquet tennis court. The structure would be seven feet at the nearest point from the front lot line and three feet at the nearest point from a side lot line.

The staff report indicated that the existing pool and deck appear to be closer to the front property line than allowed by the Ordinance. That apparently is because it was not constructed at the location approved by the County in connection with the building permit for the pool which was issued June 7, 1973.

Mr. Schwartz stated that there is a 30 foot grade along the property line. He showed some slides showing the existing terrain and structures. He stated that there is a gulch where they propose to place a structure. That will not require any more fill and will follow the present topography of the land. He stated that without this variance, it will present a hardship and will not allow them the reasonable use of the land and the structure that is on it now. He then showed the Board a model of the proposed structure and the surrounding topography. He stated that the racquet ball court will be deep under the ground. As one drives by on Chain Bridge Road, they would not see the structure at all. It will blend into the natural topography of the land.

Mr. Covington in answer to Mr. Durrer's question stated that he felt that the applicant is overcrowding the parcel of land that he has there. The applicant applied for a building permit. However, the pool was not constructed at the location approved on the building permit.

Mr. Schwartz stated that the pool was constructed in 1973 by National Pool Company. That company obtained the necessary permits and did the construction He stated that he was not aware that the pool was in violation.

Mr. Covington stated that without the setback being shown to the property line from the existing pool, he was not positive that it was in violation. However, it is close and is marginal.

Mr. Smith stated that the Board should require National Pool Company to come in and explain why they did not construct the pool in the location approved on the building permit.

In answer to Mr. Covington's question, Mr. Schwartz stated that he started construction on outdoor tennis courts in 1976, but that was discontinued when it was found that the land contained too much fill.

Mr. Schwartz in answer to Mr. Swetnam's question stated that the cut in back of the pool is 30 feet deep. He stated that he had been advised that the pool will eventually fall down the hill if something is not done.

Page 41, December 13, 1977

Mr. Smith stated that the cover for the pool and the living quarters are one and the same, so it all becomes a dwelling.

There was no one else to speak in favor of the application.

Mr. Griffin T. Garnett, Jr., attorney representing the owners of the land immediately adjacent to the subject property, Mr. Robert Melefant and Robert Minte, spoke in opposition to this request. He stated that if this construction is permitted, there will be a solid wall 30 feet high and running over 100 feet along Mr. Minte's property. That is certainly not in conformity with the existing neighborhood. He stated that the contour that presently exists on the land is not the normal contour of the land. Mr. Schwartz disturbed the normal contour when he started to construct the tennis courts. This is now causing serious damage to Mr. Minte's property. This concluded the public hearing.

Page 41
December 13, 1977 R E S O L U T I O N Bd. of Zoning Appeals

Mr. Durrer made the following motion:

WHEREAS, Application V-306-77 by DAVID T. SCHWARTZ under Sec. 30-6.6 of the Ordinance to permit dwelling 3' from side property line (15' required) and 7' from front property line (45' required), 615 Chain Bridge Road, 32-1((1)) 13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 13, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 17,838 sq. ft.

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

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 building involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is DENIED.

Mr. Barnes seconded the motion.

The motion passed unanimously with the members present. Mr. DiGiulian had left the meeting earlier.

Page 41, December 13, 1977, Scheduled case for
1:20 P.M. - QUEEN OF APOSTLES CHURCH appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit school, grades kindergarten through 8th, 4329 Sano Street, Mason District, 72-2((1))21, (533, 189 sq.ft.), R-12.5, S-307-77.

Mr. William Hazel, attorney for the applicant, submitted the required proof of notice to property owners. The notices were in order.

Mr. Hazel stated that this request is to permit the construction of a building of 27,000 sq. ft. to be used as a school and educational center. There is an existing church on the property at the present time. The number of pupils proposed is 500. The hours are proposed to be from 7:30 A.M. to 10:00 A.M. The property area for the entire property is 533,189 sq. ft. and the proposed school area is 26,821 sq. ft. There are 290 parking spaces which is more than adequate, Mr. Hazel stated.

Mr. Hazel stated that with regard to the comments from Preliminary Engineering regarding the road improvements on Sano Street, they are going to build those improvements. The suggestion regarding a cul-de-sac on Kling Drive would be very expensive both in terms of money and the loss of existing foliage. He stated that he had talked with the staff about this and the applicant has agreed to provide a back-up space to accomodate turnaround. The staff has said that that would be satisfactory.

There was no one else to speak in favor and no one to speak in opposition.

042

RESOLUTION

Mr. Swetnam made the following motion:

WHEREAS, Application S-307-77 by QUEEN OF APOSTLES CHURCH under Sec. 30-7.2.6.1.3 of the Zoning Ordinance to permit school, kindergarten through 8th grades, 4329 Sano Street, 72-2((1))21, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 13, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the Roman Catholic Diocese of Arlington.
2. That the present zoning is R-12.5.
3. That the area of the lot is 533,189 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of students shall be 500, kindergarten through 8th grades.
8. The hours of operation shall be from 7:30 A.M. to 10:00 P.M.
9. The number of parking spaces shall be 290.

Mr. Barnes seconded the motion.

Mr. Hazel reitterated that the applicant has agreed to the suggestions of the office of Preliminary Engineering regarding Sano Street improvements; and that they would work with the staff of Preliminary Engineering regarding a back-up turnaround area on Kline Drive and would move the gate back in accordance with the suggestions of the staff.

The motion passed unanimously with the members present. Mr. DiGiulian was absent.

Page 43, December 13, 1977, Case scheduled for

1:30 P.M. - DEFERRED CASE OF ACHIEL L. RAWOENS appl. under Sec. 30-6.6 of the Ordinance to permit enclosure of existing carport 9.8' from side property line (12' required), 6747 Fern Lane, Sleepy Hollow Woods Subd., 60-4((16))10, (11,506 sq. ft.), Mason District, R-12.5, V-243-77. (Deferred from November 1, 1977 for proper notices.)

Mr. Rawoens submitted the required proof of notice to property owners. The notices were in order.

Mr. Rawoens stated that he has an existing carport and he wishes to enclose it for the protection of his cars.

Mr. Smith stated that that was not a justification under the Ordinance.

In answer to Mr. Durrer's question, Mr. Rawoens stated that the materials to be used in this enclosure would be compatible with the rest of the house.

Mr. Swetnam stated that if the house had been placed in the center of the lot, the variance would not be necessary. The rear lot line is also angled in such a way that construction to the rear of the house would probably also require a variance.

There was no one else to speak in favor and no one to speak in opposition.

Page 43, December 13, 1977 Bd. of Zoning Appeals

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. V-243-77 by ACHIEL L. RAWOENS under Sec. 30-6.6 of the Zoning Ordinance to permit enclosure of existing carport for a garage 9.8' from side property line (12' required), 6747 Fern Lane, 60-4((16))10, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 13, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 11,506 sq. ft.
4. That the Board finds that the applicant's property has an unusual condition in the location of the existing buildings on the subject property and has an irregular rear lot line; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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 building involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously with the members present. Mr. DiGiulian had left the meeting earlier.

RECONSIDERATION OF CONDITION PLACED ON SPECIAL USE PERMIT APPLICATION GRANTED TO MRS. GREENSTEIN LAST WEEK, DECEMBER 6, 1977.

Mrs. Greenstein submitted a letter enclosing a lease agreement between she and the church in which she planned to have a school for tutoring. This lease was for one year with options to renew for twenty years.

Mr. Swetnam stated that he would move to change the condition of the Special Use Permit granted last week to read: This permit is granted for a period of one year from January 1, 1978 through June 10, 1978 and that the extension of the Special Use Permit will be automatic with a submission of a copy of a new lease to the Zoning Administrator. This automatic extension can be for a period of three years. The applicant must present that copy of the lease at least thirty (30) days prior to expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously with the members present. Mr. DiGiulian had left the meeting earlier.

//

AFTER AGENDA ITEM -- Memo from John F. Herrity, Chairman of the Board of Supervisors dated December 9, 1977 transmitting a request from the Board of Supervisors made on November 7, 1977 indicating the Supervisors' dissatisfaction with its response to the Supervisors suggestions and to what was thought to be a mutual understanding resulting from the July, 1977 joint meeting.

The Board of Supervisors recommended in the letter that the Board of Zoning Appeals reconsider formally the following and reply to the Board:

1. A specific format for staff reports relative to each special permit, to include staff input upon each of the items specified under the appropriate standards.
2. All staff reports to include a recommendation by the professional staff.
3. The holding of at least one night meeting per month so as to permit citizens to participate without taking time off from their work.

The letter then enumerated the factors to be taken into consideration before the Board of Zoning Appeals could take a favorable action.

1. Location and size of the proposed use.
2. Site layout and relationship to streets.
3. Projected effect upon pedestrian and vehicular traffic.
4. Relationship to the predominate character of the area.
5. Walls, fences, planting, landscaping, screening, etc.
6. Adjacent uses and development and the effect thereon.
7. Intensity, noise, lights, etc.
8. Relationship of the proposal to the policies in the Comprehensive Plan.

The Board discussed these items in this letter and asked the Chairman to address a reply to the Chairman of the Board of Supervisors regarding these matters. The Board would again take up these items at the next meeting of the Board of Zoning Appeals when all members are present, which would probably be January 18, 1978.

//

DISCUSSION RE APPLICATION S-321-77, BOWL AMERICA, INC., Scheduled for December 20, 1977.

Mr. Durrer brought the above-captioned case to the Board's attention. He stated that it was scheduled to be heard next week and he would not be present He requested the Board consider deferring this case.

Mr. Smith stated that in view of the fact that there will be only four Board members present next week, it would be to the applicant's advantage to request a deferral and we will so inform him.

Mr. Durrer stated that he lives in the area where the bowling alley is proposed to be constructed and he knows the area and he felt his input would be helpful to the Board. He stated that the Planning Commission was holding a hearing on the application tomorrow night and would make a recommendation to this Board.

Page 45, December 13, 1977
AFTER AGENDA ITEM, DISCUSSION RE BOWLING FACILITY

Mr. Smith stated that if the applicant will not request deferral for this reason, the Board can defer it on its own since there is good reason. The Chair can defer a case when there are only four Board members present. The Board can get tied up with only four members, he stated.

Mr. Swetnam stated that he had no problem with deferring the case.

Mr. Barnes stated that he saw no problem with it either.

//

The meeting adjourned at 3:40 P.M.

//

BY Jane C. Kelsey
Jane C. Kelsey, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: January 31, 1978
DATE

Submitted to the BZA on 1/18/78.

Submitted to Bd/Supervisors,
Planning Commission & other Depts. on
Jan. 18, 1978.

The Regular Meeting of the Board of Zoning Appeals Was Held in the Board Room of the Massey Building on Tuesday, December 20, 1977. All members except Mr. Durrer were present: Daniel Smith, Chairman; George Barnes; Tyler Swetnam and John DiGiulian.

The meeting began at 10:40 A.M. with a prayer by Mr. Barnes. Mr. Smith then called the scheduled 10:00 A.M. case.

10:00 A.M. - THOMAS HAMPTON & RAYMOND ROGERS appl. under Sec. 30-6.6 of the Ord. to permit buildable lot with less lot width than required by the Ord., 7719 Old Georgetown Pike, 20-2((1))31 and 20-4((1))34, Dranesville District, (2.36517 acres), RE-1, V-308-77. (Proposed lot 3).

Mr. William Matthews represented the applicant and submitted the required proof of notice to property owners. The notices were in order.

Mr. Brown is the contract owner of this property, Mr. Matthews stated. Mr. Brown wishes to subdivide the property into three two acre parcels. There are three existing parcels on the land now. They want to redesign the lot lines in order to get three good buildable lots. He submitted photographs of the area. He stated that Mr. Brown plans to live in the existing house. Lot No. 1 conforms with the subdivision ordinance, but lots 2 and 3 will have pipestem lots. There is a sketch plan that has been approved for four lots with cluster zoning, but the applicant and the contract owner felt that this proposal would be a better use of the property. They are actually losing one lot with this proposal, but they and the staff felt this was a better plan.

Mr. Matthews stated that they are going to try to use the existing driveway which doesn't follow the property line. That will be done by easement. This proposal does comply with the Public Facilities Manual.

There was no one else to speak in favor of this application and no one to speak in opposition.

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application No. V-308-77 by THOMAS HAMPTON & RAYMOND ROGERS under Section 30-6.6 of the Zoning Ordinance to permit lot with less than required lot width (proposed lot 3), 7719 Old Georgetown Pike, 20-2((1))31 and 34, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 20, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 6.6006 acres total. Proposed lot 3 has 2.36517 acres.
4. The Board finds that the applicant's property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:
1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion. The motion passed unanimously with the members present. Mr. Durrer was absent.

Page 47, December 20, 1977

10:05 A.M. - THOMAS HAMPTON & RAYMOND ROGERS appl. under Sec. 30-6.6 of the Ord. to permit buildable lot with less lot width than required by the Ord. 7719 Old Georgetown Pike, 20-2((1))31, Dranesville District, (2.10381 acres), RE-1, V-309-77. (Proposed lot 2).

Mr. William Matthews represented the applicant. The notices from the previous case also covered this case.

The statements from the previous case were entered into the record on this case.

There was no one else to speak in favor and no one to speak in opposition.

Page 47 Bd. of Zoning Appeals
December 20, 1977 R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application No. V-309-77 by THOMAS HAMPTON & RAYMOND ROGERS under Section 30-6.6 of the Zoning Ord. to permit lot with less than required width (proposed lot 2), 7719 Old Georgetown Pike, 20-2((1))31 & 34, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 20, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 6.6006 acres total. Proposed Lot 2,2.1038 ac.
4. That the applicant's property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with the members present. Mr. Durrer was absent.

Page 47
December 20, 1977, Scheduled case for
10:20 A.M. - JOSE & ADELE LLANEZA appl. under Sec. 30-6.6 of the Ord. to permit addition 5.10' from the side property line (12' required), 2410 Spring Street, 39-4((4))(B)6, Providence District, (20,543 sq.ft.), R-12.5, V-310-77.

Mr. LLanza submitted the required proof of notice to property owners. The notices were in order.

Mr. Llaneza stated that he wishes to make a garage out of the carport and build a storage room addition at the end of the garage. The construction is one-half finished. He did not realize that it would be necessary to get a building permit to enclose something that already existed. There was no place else on the property where he could feasibly construct an addition such as this. The lot is extremely long and narrow and there is no room for a driveway between the property line and the house to get to the rear of the property.

There was no one else to speak in favor and no one to speak in opposition.

048

RESOLUTION

Mr. Swetnam made the following motion:

WHEREAS, Application V-310-77 by JOSE & ADELE LLANEZA under Sec. 30-6.6 of the Zoning Ordinance to permit an addition 5' 10" from side property line (12' required), 2410 Spring Street, 39-4((4))(B)6, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 20, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 20,543 sq. ft.
4. That the applicant's property is exceptionally irregular and narrow in shape;

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

THAT the applicant has 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 building involved, and

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 GRANTED with the following limitations:

1. This approval is granted for the location 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 been completed or unless renewed by action of this Board prior to date of expiration.
3. This variance is subject to obtaining a building permit.

Mr. DiGiulian seconded the motion.

The motion passed 3 to 1, with Mr. Smith voting No. Mr. Durrer was absent.

Page 48
December 20, 1977, Scheduled case for
10:30 A.M. - RICHARD & EDITH FRANZEN appl. under Sec. 30-6.6 of the Ord. to permit addition 25.00' from front property (45' required), 2405 Daphne Lane, 102-1((2))3, (15,638 sq.ft.), R-17, V-311-77.

Hearing began at 11:10 A.M.

Mr. Gilbert C. Fritz, 5004 Barnaby Lane, Oxon Hill, Maryland, represented the applicant. He stated that he is the contract purchaser of the property. He submitted a revised plat showing a lesser variance request and actually eliminating a portion of the request, leaving the request as shown above in the caption.

The Board accepted the amended plats since the application now is for a lesser variance request.

Mr. Fritz stated that the proposed addition is located exactly in an area where there is presently a 5' high privacy wall constructed of brick. This area for this addition has been chosen to blend as harmoniously as is possible with the existing walkway, trees and shrubbery and still be in harmony with the existing house. The lot is quite narrow, less than the minimum width required for the R-17 zone. The house is also located at an angle on the property. Therefore, there is no other suitable place to place an addition on the property. These are unusual houses and about one-half the walls are glass. The glass areas face the back yard instead of the front yards. Therefore, the most practical place to put an addition is the front yard whereas for most house addition, the most practical place would be the rear yard. This addition is in keeping with other additions to other houses in this Hollin Hills subdivision. These houses have no basements.

R E S O L U T I O N

049

Mr. Robert E. Thomas, 2407 Daphne Lane, stated that he felt that this proposed addition would be satisfactory if it is built to conform architecturally with the present house so that the appearance would not be adverse to the rest of the properties in the neighborhood.

Mr. Gromlick, 2406 Daphne Lane, across the street from the subject property, spoke in opposition stating that he felt the proposed addition would impair the atmosphere along their street. He submitted a letter from Irwin and Harriet Schneider, 2402 Daphne Lane, in opposition to the request. They requested that the applicant scale down the proposed structure so that it could be located further up the driveway or possibly divide it into separate sections with only the portion for the garage in front of the house. They would prefer that the addition be to the rear of the house.

Mr. Franzen in rebuttal stated that he believed the concerns of the neighborhood are protected by the Architectural Committee of their subdivision. He stated that he would construct this addition in full compliance with the Architectural Committee. He stated that he had been very careful to design the addition to be in the most natural place on the property. He stated that he felt a 180' driveway to the rear of the house into the back yard would destroy the neighborhood.

R E S O L U T I O N

Mr. DiGiulian made the motion as follows:

WHEREAS, Application V-311-77 by RICHARD & EDITH FRANZEN under Sec. 30-6.6 of the Zoning Ordinance to permit addition 25.00' from front property line (45' required), 2405 Daphne Lane, 102-1((2))3, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 20, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 15,638 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing building on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has 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 building involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.
3. The structure is to be architecturally compatible with the existing dwelling.

Mr. Swetnam seconded the motion.

The motion passed 3 to 1. Mr. Smith voted No. He stated that he felt the addition could be reduced without causing the applicant unreasonable use of his land.

050

10:45 A.M. - W.B.W. BUILDERS, INC. appl. under Sec. 30-6.6.5.4 of the Ord. to permit house to remain 17.6' from side property line, 2108 White Oaks Drive, 93-3((3))605, Mt. Vernon Dist., (26,070 sq.ft.), RE-0.5, V-314-77.

(The hearing began at 11:30 A.M.)

Mr. Ashton L. Wood, partner, Payne Associates, 3461 North Washington Blvd., Arlington, submitted the required proof of notice to property owners to the Board. The notices were in order.

Mr. Wood stated that this was a computation mistake. He stated that he did not know of the mistake until he went out in the field and found it. He stated that there are no other similar mistakes in this subdivision. Only a small triangular portion of the house (one corner) is within the setback zone. The house sits at an angle on the lot and is not set parallel to the side lot lines.

Mr. Gilson, 2110 White Oaks Drive, spoke regarding this application. He stated that his property is most affected by this variance request. The houses are well screened from each other. He stated that he felt some additional screening might be needed along this area, since a lot of the natural woods were removed and more than usual because of the way this house sits on the lot.

There was no one else to speak either in favor or in opposition to this application.

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-314-77 by W.B.W. BUILDERS, INC. under Sec. 30-6.6.5.4 of the Ordinance to permit a house to remain 17.6' from the side property line, 2108 White Oak Drive,93-3((3))605, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, and a public hearing was held by the Board on December 20, 1977; and

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

1. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.

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

1. 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.

2. That the granting of this variance will not create an unsafe condition with respect to other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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.

Mr. DiGiulian seconded the motion.

The motion passed 3 to 1. Mr. Smith voted No. He stated that he felt some additional shrubbery should have been required between the houses, particularly since some was removed in the placement of the house within the setback zone.

Page 51, December 20, 1977, Scheduled case for
11:00- LESTER CHITESTER & ELIZABETH CHITESTER appl. under Sec. 30-6.6.5.4 of
A.M. the Ord. to permit house to remain 28.9' from front property line (30' required), 2884 Crossbow Court, Edgelea Woods Subd., 48-1((7))16, (9,543 sq. ft.), Providence Dist., R-12.5 Cluster, V-315-77.

Mr. Gregory N. Harney, attorney for the applicant with offices at 6592 Springfield Mall, Springfield, Virginia, submitted proof of notice to property owners of this hearing. He stated that the property owner to the rear was notified, but the green receipt was not returned. That property owner is the Fairfax County School Board.

Mr. Swetnam stated that in view of the fact that that is public property, he would move that the Board continue with this hearing.

Mr. Barnes seconded the motion and the motion passed 3 to 1. Mr. Smith voted No.

Mr. Smith advised Mr. Harney to submit the receipt to Mrs. Kelsey, Clerk to the Board, just as soon as it was returned to him. Mr. Harney said that he would.

Mr. Harney stated that this subdivision was developed by Ryland Homes, Inc. They obtained a building permit to construct a home on this property. The site plan with the building permit showed the garage as being set back from the front of the house. The engineer did his survey correctly. However, the garage was constructed flush with the front of the house. They have not been able to determine why the garage was built in this way. The present owners of the property had requested the developer to build an oversized garage, 14' wide. That was not done. The owner got the standard width garage and two feet closer to the property line than is permitted. The property was conveyed to the Chitesters and the deed recorded October 30 of this year. This 1.1' variance is not visible by the eye. The property is located in a court, and, therefore, does not cause any obstruction of view. This variance will not create any problems for any of the adjacent properties.

There was no one to speak in favor and no one to speak in opposition to the application.

Page 51 Bd. of Zoning Appeals
December 20, 1977 R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-315-77 by LESTER & ELIZABETH CHITESTER under Sec. 30-6.6.5.4 of the Zoning Ordinance to permit house to remain 28.9' from front property line (30' required), 2884 Crossbow Court, 48-1((7))16, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 20, 1977; and

WHEREAS, the Board has made the following findings of fact:
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 Board has found that non-compliance was no fault of the applicant.

AND, WHEREAS, the Board has reached the following conclusions of law:
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 GRANTED with the following limitations:
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.

Mr. Swetnam seconded the motion.

The motion passed 3 to 0. Mr. Smith abstained. Mr. Durrer was absent.

11:15 A.M. - LIGHTHOUSE BAPTIST CHURCH appl. under Sec. 30-7.2.6.1.11 of the Ord. to permit church and related facilities, 7136 Telegraph Road, Dewey Park Subd., 91-4((1))12, (21,234 sq. ft.), RE-1, S-316-77.

052

Mr. Harvey Tyndall, 9125 Bramble Place, Annandale, one of the trustees for the church, submitted the required proof of notice to property owners. The notices were in order.

Mr. Tyndall stated that the present facility is used for a school. This applicant is requesting that this property and the building be used as a church from 9:00 A.M. until 1:00 P.M. on Sunday morning and from 7:00 P.M. until 9:00 P.M. on Sunday night and for services on Wednesday evenings. There are twelve parking spaces marked off on the side of the building. Twelve spaces would be sufficient for the church use. They have approximately 55 people at any one service.

Mr. Smith stated that the statement in the file indicates 25 cars. There would be no off-site parking for this use. Any parking in connection with the use must be on site, the 24,234 sq. ft. of land. If you have more cars and more people, they would not be allowed to park on the street or any place other than on the property itself.

In answer to Mr. Swetnam's question, Mr. Tyndall stated that the times that he has indicated are the only times they will use this site.

In answer to Mr. Smith's question, Mr. Tyndall stated that he would hope to move out of this building in one year and relocate in a larger facility.

Mrs. Vera Anderson, next door to the subject property, spoke in support of the application. She volunteered the use of her driveway for parking if it is needed.

Mr. Smith told her that this would not be permissible under the Ordinance. However, if she wished to allow friends to park in her driveway, this was her decision. There can be no agreement for this with the church.

Mr. Clark spoke in support of the application. He stated that he is on the Board of Trustees for the church.

Mr. Dawson, 7021 Roxann Road, spoke in opposition and submitted a petition signed by everyone on Roxann Road, except Mrs. Anderson, in opposition. He stated that they oppose this application because it will put additional traffic on their street. Construction crews have been parking along this street because Mr. Wheeler is building six houses. The road is torn up. They have had the police out about twice a week threatening to tow cars away. The cars that enter the school property, then back out onto the street or into someone else's driveway.

Mrs. Ruby Dawson, 7021 Roxann Road, also spoke in opposition to the application.

Mr. Shaw, another nearby property owner, spoke in opposition to the application, on the basis of traffic hazards and potential growth of the church to a point larger than the subject property can accomodate.

Mr. Glenn Overik, 7912 Telegraph Road, spoke in opposition, based on the narrowness of the road. He asked for a clarification on which lot this request pertained to.

Mr. DiGiulian stated that according to the application and the plats, the request pertains only to Lot 12. He stated that the main problem is not with the proposed church, but with the existing school. The building is much too large for the lot. In obtaining the site plan waiver, the owner of the existing Special Use Permit for the school agreed that he would construct all of the road improvements along Telegraph Road and Roxann Drive as soon as similar improvements were made on the property immediately adjacent to the south. Since the time of that waiver, Mr. Wheeler has acquired the land immediately to the south, Lot 8, which means that he probably will not construct the needed improvements. He stated that other than this problem, he has no opposition to this application.

Mr. Tyndall in rebuttal assured the citizens and the Board that if this Special Use Permit is granted, there will be no parking anyplace except on parking spaces inside the subject property.

Mr. John Furniesen, Zoning Inspector, stated that the use of the school is under investigation which has not been completed because Mr. Wheeler has been out of town. He stated that he had no knowledge of any parking problem, but that he would look into it.

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application S-316-77 by LIGHTHOUSE BAPTIST CHURCH under Sec. 30-7 .2.6.1.11 of the Zoning Ordinance to permit a church and related facilities, 7136 Telegraph Road, 91-4((1))12, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 20, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 21,234 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Use Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The seating capacity shall be 55.
8. The minimum number of parking spaces shall twelve (12).
9. The hours of operation shall be those hours which are usual for church services.
10. This permit is granted for a period of One (1) year.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with 4 members present. Mr. Durrer was absent.

Page 53, December 20, 1977, Scheduled case for
11:30 A.M. - AUGUSTUS & MARTHA CORLEY, JR. appl. under Sec. 30-6.6 of the Ord. to permit garage to be constructed 10' from side property line (15' required), 6914 Jenkins Lane, 40-2((32))15, Dranesville Dist., V-317-77.

This application was amended and now needs an additional variance. The Board deferred this case until January 31, 1978 for readvertising and renotification.

//

1:00 P.M. - CHARLES BESLEY, ET AL appl. under Sec. 30-6.6 of the Ord. to permit subdivision, one lot having 25' lot width (150' required), end of Inglishmill Drive, 12-4((1))part of parcel 14, RE-1, Dranesville District, V-318-77.

Mr. Charles Runyon, engineer representing the applicant, submitted the required proof of notice to property owners. The notices were in order.

Mr. Runyon stated that the present zoning is one acre. Because of the topographic conditions on the property there are several areas that will not perk. Because of those problems, they are requesting pipestem access instead of constructing a public street. The 25' access shown on the plats accompaning this application will be more than sufficient room to get back to this lot. Most of the lots in the subdivision are greater than one acre. One lot has 1.1 acre, which is the smallest lot. Without this variance, they will not be able to get reasonable yield from this land that would be comparable to the surrounding area.

There was no one else to speak in favor and no one to speak in opposition.

R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-318-77 by CHARLES BESLEY, ET AL. under Sec. 30-6.6 of the Ord. to permit subdivision of parcel with one lot having less than required lot width (25', 150' required), property located at the end of Inglishmill Drive, 12-4((1))part of parcel 14, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 20, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 3.0 acres.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has 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, that condition being the 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 this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed 3 to 1. Mr. Smith voted No.

Page 55, December 20, 1977, Scheduled case for
1:10 P.M. - WILLIAM HIGHAM, ET AL appl. under Sec. 30-6.6 of the Ord. to permit subdivision with proposed lot 4 having less lot width than required by Ord. (10' requested, 100' required), 6301 Em Street, 81-4((2)) part of parcel 47, RE-0.5, Lee Dist., V-319-77.

1:15 P.M. - WILLIAM HIGHAM, ET AL appl. under Sec. 30-6.6 of the Ord. to permit subdivision with proposed lot 5 having 10 feet, 100' required, 6301 Em Street, 81-4((2))part of parcel 47, RE-0.5, Lee Dist., V-320-77.

Mr. Charles Runyon, engineer and representative of the applicant, submitted the required notices to property owners. The notices were in order.

Mr. Smith stated that since these two cases relate to each other, the Board would hear them concurrently if that is agreeable. There was no objection to this.

Mr. Runyon stated that this property was recently rezoned by the Board of Supervisors. He stated that a field topography sheet has been submitted for the file. Because of the severe topography of this property, they are unable to develop it to full density without this variance as requested. The property was zoned with a plat showing seven lots, but they were asked to reduce the lots to six. They have reduced the lots to five.

There was no one else to speak in favor and no one to speak in opposition.

Page 55 Bd. of Zoning Appeals
December 20, 1977 R E S O L U T I O N

Mr. Swetnam made the following motion:

WHEREAS, Application V-319-77 by WILLIAM HIGHAM ET AL under Sec. 30-6.6 of the Ordinance to permit proposed lot 4 with less lot width than required by the Ordinance (10' requested, 100' required), 6301 Em Street, 81-4 ((2))part of parcel 47, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 20, 1977; and

WHEREAS, the Board 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 38,500 sq. ft. for proposed lot 4.
4. That the applicant's property has an unusual condition in that the configuration of thelot will not allow development in accordance with existing zoning; and

WHEREAS, the Board has reached the following conclusions of law:

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

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed 3 to 0. Mr. Smith abstained. Mr. Durrer was absent.

056

RESOLUTION

Mr. Swetnam made the following motion:

WHEREAS, Application V-320-77 by WILLIAM HIGHAM, ET AL. under Section 30-6.6 of the Ordinance to permit proposed lot 5 with less than required lot width, 6301 Em Street, 81-4((2))part of 47, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on December 20, 1977; and

WHEREAS, the Board 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 3.3607 acres total, proposed lot 5 has 34,800 sq. ft.
4. That the applicant's property has an unusual condition in that the configuration of the lot will not allow development in accordance with existing zoning.

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

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivison has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed 3 to 0. Mr. Smith abstained. Mr. Durrer was absent.

Page 56
December 20, 1977

1:30 P.M. - BOWL AMERICA, INC. appl. under Sec. 30-7.2.10.7.12 of the Ord. to permit bowling alley, approx. 400' from intersection of Burke Road and Lake Braddock Road, 78-1((1))part of parcels 6 & 7 (3.8 acres), Annandale Dist., I-L , S-321-77.

(Began at 2:30, 100' on Tape No. 6)

Mr. Smith stated that the absent Board member, Mr. Durrer, had requested last week that this case be deferred until such time as it would be possible for him to be present. At the last meeting, the Board took what he thought was an action to show intent to defer this application until January 17.

Mr. Swetnam stated that it was his personal feeling that this case should be heard. He stated that there was no formal action by this Board last week. It was a conversation and at that time, he did not know the momentum of this case.

Page 57, December 20, 1977
BOWL AMERICA (continued)

Mr. Smith stated that since this was the intent of the Board last week, that this Board is sustaining that action.

Mr. Robert Lawrence, attorney for the applicant, stated that he was there to oppose the deferral. They were not given notice that this case would be deferred. He stated that he would like to be heard on the reasons why the case should not be deferred and he would like the Board to reconsider deferring. He stated that Mr. Durrer is personally involved in this case, and to defer because he is not present is not proper.

Mr. Smith stated that he did not know whether or not Mr. Durrer is personally involved in this case, but a question of this nature should be discussed when the absent member is present.

Mr. Lawrence stated that Mr. Durrer's daughter and son-in-law live near the subject site and his son-in-law is a leader of the opposition to this case. Mr. Lawrence stated that he has the proper notices to property owners of this hearing and the applicant has satisfied the notice requirements. He stated that the applicant has spent a considerable amount of time on this case already. The site plan was filed in September and it is now at the bonding stage. He reminded the Board that the State Code requires that these Special Use Permit cases be heard within sixty days from the date of acceptance of the application by the Office of Zoning Enforcement. The suggested deferral date of January 18 will be after that sixty day period.

Mr. Smith stated even though the sixty day limit has expired, he felt that any Board or Commission is entitled to one deferral as long as the deferral is reasonable.

Mr. Lawrence stated that this deferral is certainly not in the best interest of the applicant. He stated that he has expert witnesses present ready to testify.

Mr. Smith checked the notice receipts and determined that they were in order.

The Chairman, Mr. Smith, set the deferral time for 10:00 A.M., January 18, 1978, and asked if the Board members present concurred.

All Board members concurred except Mr. Swetnam.

//

The Board adjourned at 2:47 P.M.

//

Jane C. Kelsey
By Jane C. Kelsey, Clerk to the
Board of Zoning Appeals

Submitted to the BZA on Jan 24, 1978

Submitted to the Bd/Supervisors,
Planning Commission and other Depts. on
Jan. 27, 1978.

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: January 31, 1978
DATE

The Regular Meeting of the Board of Zoning Appeals Was Held on Tuesday, January 10, 1978, in the Board Room of the Massey Building. All members were present except Mr. Durrer. They were: Daniel Smith, Chairman; John DiGiulian; George Barnes and John Yaremchuk, the new Board members.

The meeting began at 10:10 A.M. with a prayer by Mr. Barnes. Mr. Smith welcomed the new Board member, Mr. John Yaremchuk, who replaced Mr. Swetnam who resigned in December.

ELECTION OF OFFICERS FOR THE COMING YEAR, 1978.

CLERK: The Board elected Mrs. Jane Kelsey Clerk for the year 1978.

CHAIRMAN: The Board elected Mr. Daniel Smith Chairman for the year 1978.

VICE-CHAIRMAN: The Board elected Mr. William Durrer Vice-Chairman for the year 1978.

//

Mr. Smith announced that there were only four Board members present today and if any applicant wished to have his case deferred for a full Board he could do so.

//

The Board began to hear its regular cases at 10:35 AM. The first case being scheduled for 10:00 AM.

LOUIS C. FINCH appl. under Sec. 30-6.6.5.4 of the Ord. to permit house to be completed 28.1' from front property line (35' required by variance granted 9/12/66, property located at 1421 Ironwood Drive, 31-2((10))12, (25,484 sq. ft.), Dranesville Dist., Chesterbrook Woods, R-17, V-336-77. OTH.

Mr. Covington located the property. He stated that this Board granted a blanket variance for a number of dwellings in that subdivision, probably 35 or 40 percent, to permit the dwellings 35' from the front property line because of the severe topography in the area. Mr. Finch's builder constructed this house and it was a comedy of errors between the builder and the surveyor and the applicant got caught in the middle. This is a pre-cut home and is partially completed. The engineer claimed that he put a set of stakes at the proper location. The builder claimed that the surveyor actually put in two sets of stakes and the house was constructed according to the wrong set. Neither will admit being wrong.

Mr. Finch comfirmed that this was the problem. He also submitted the proper notices which were in order.
Mr. Yaremchuk stated that usually the surveyor puts the stakes on an off-set. Apparently, these stakes were at a 7 foot off-set.

There was no one else to speak in favor of this application and no one to speak in opposition.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-336-77 by LOUIS C. FINCH under Sec. 30-6.6.5.4 of the Zoning Ordinance to permit house to be completed 28.1' from front property line, 1421 Ironwood Drive, 31-2((10))12, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 10, 1978; and

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

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 non-compliance was no fault of the applicant.

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

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 GRANTED with the following limitations:

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.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Durrer was absent.

Page 59, January 10, 1978, Scheduled case for 10:10 AM.
PINECREST SCHOOL, INC. appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit change of ownership for existing private school of general education, max. 150 children, ages 3-12, 4015 Annandale Road, 60-3((14))2B, (2 acres), Mason Dist., R-10, S-312-77.

Mr. James Brown, 4568 King Edward Court, submitted notices to property owners. The applicant had not notified the required number of property owners.

The Board deferred the case until February 14, 1978 for proper notices.

//

Page 59, January 10, 1978, Scheduled case for
10:20 A.M. - JARVIS A. BOYKIN ET AL, TRUSTEE, appl. under Sec. 30-6.6 of the Ord. to permit subdivision with three lots having less than required lot width, (73' requested, 80' required), 1408 Dade Lane, 102-4 ((1))36 & 36A, Mt. Vernon Dist., (42,204 total ac.) V-322-77.

Mr. Covington located the property. He stated that there is an error in the staff report. The reports says that the minimum requirement is 50 feet and it should be 80 feet. A 7 foot variance is needed.

Mr. Boykin submitted the required proof of notice to property owners of this hearing. The notices were in order. He requested that the Board defer this case until all members are present.

Mr. Norman Burnheimer, attorney representing four homeowners, one of whom is a contiguous owner, requested a qualification on the granting of this variance should the Board decide to grant it. He stated that these homeowners are present and would like their request to be heard. He stated that those homeowners request that if the Board grants this variance that there be a condition that all requirements of the County with regard to drainage be complied with prior to any erection of any buildings on the property. The reason they make this request is because of a previous breakdown in the activities of the section of the County on another property across the street. On that property, drainage solutions were required but because of a property line argument, this solution was never instituted. He stated that he wanted assurances from the County that there will be some guarantees that the water will not run from this subject property onto neighboring properties as it is doing across the street. These homeowners have given to the County, without charge, land on which Dade Lane could be improved and the County was supposed to have put in that road. This would take care of some of the drainage problems.

Mr. Yaremchuk stated that the requirement that the applicant comply with all County requirement as to drainage or anything else does not have to be addressed necessarily by this Board. The applicant has to meet all those requirements under subdivision control section of the County. All drainage problems will be checked by the engineering staff.

Mr. Burnheimer stated that he understood that, but the property across the street came under subdivision control and Environmental Management required that the drainage structures be put in to coincide with the building development on the property. However, the water was thrown onto the neighboring properties. The houses were constructed by Mr. Boykin and people

moved into the houses.

Mr. Smith stated that he felt this is a case where the Board needs additional information from the staff regarding the drainage problems.

Mr. Boykin confirmed that there is a dispute over a property line on the south side of the property across the street. He stated that he has put up the correct amount of money to put in the drainage structures. That money is tied up in First Federal Savings and Loan and cannot be released until the drainage is put in. He stated that his plans for the subdivision of the property across the street was approved by the Division of Design Review. He was told how to grade the land.

The Board deferred this case until February 14, 1978, for additional information from the County staff regarding the drainage problems on the property across the street that Mr. Boykin is developing or has developed.

//

Page 60, January 10, 1978, Scheduled case for
10:40 A.M. - JOHN W. REEVES appl. under Sec. 30-6.6 of the Ord. to permit buildable lot with less lot area (14,468 sq.ft. requested, 15,000 required), and with 71.08' lot width (90' required), 1537 Forest Lane, 31-4 ((1))50, Dranesville District, R-17, V-325-77.

Mr. Frederick Goldbecker, 6817 Tennison Drive, McLean, attorney for the applicant, submitted the required proof of notice to property owners. The notices were in order.

Mr. Reeves wishes to have these variances in order to construct a single family residential house that is compatible with the neighborhood. The required setbacks for the zone can be met for the proposed dwelling. This is not an outlot.

Mr. Goldbecker in answer to Mr. DiGiulian's question stated that Lot 1 is owned by Mr. Martin Willis Reed. Mr. Reed sold to Jack Hanson. There was no subdivision plat submitted when this cut was made of this property into lots 50 and 50A. It was recorded as a lot,first, belonging to Mr. Reed in June, 1974. Prior to that it was all one parcel.

Mr. DiGiulian stated that when that parcel was cut into, that violated the Subdivision Ordinance.

Mr. Goldbecker stated that he had talked previously with Mr. Koons in the Office of Preliminary Engineering and he said that if the applicant could secure the proper variance from this Board and they submit proper plats to the office of Subdivision Control, that their office would process the request.

Mr. Robert E. Elliott, 1535 Forest Lane, spoke in support of the application. He stated that he and his family live in the house that used to belong to the person that owns Lot 28. They (he and his wife) have agreed to purchase the subject property subject to getting this approval, and other County approvals. They are now under contract and anxious to get all the necessary approvals so that they can proceed to build their house. This will enable them to move from the house that they are now renting. This used to be a farm and the farmer lived in the house they are now living in and the son was living about 100 feet away. The land in question is the land between the two houses. The son still lives in the other house. The son's name is Willis Reed.

Mr. Joseph Condor, attorney representing the Elliott's landlord, was a speaker in opposition. He stated that the owner, Mr. and Mrs. Martin, are on temporary assignment. He stated that he had had a telephone call from them requesting that he speak in opposition to this application. He stated that the Martins' purchased this property at 1535 Forest Lane in 1974 from Mr. Hanson. He stated that he believed that Mr. Hanson purchased lots 50 and 50A together and that it was a diagonal cut. Even though the proposed house may meet the required setbacks for the zone, there will still be much less space between the proposed house and the adjacent house than is between the other houses on the street. This will cause a hardship on the Martins and will detract from their property values, he stated.

In answer to Mr. Yaremchuk's question, Mr. Condor stated that he did not know the average lot size for the area. He stated that this lot is not used for neighborhood debris. The owner has used it as a vegetable garden.

Mr. Goldbecker in rebuttal stated that the proposed house will be 15 1/2 feet from Mr. Martin's property line. The other side setback will be 16 feet. He submitted photographs of the property and sketches of how the proposed house would look.

There was no one else to speak in favor or in opposition to the application.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-325-77 by JOHN W. REEVES under Sec. 30-6.6 of the Zoning Ordinance to permit buildable lot with less lot area, 14,468 sq. ft., and less lot width (71.08') than required by the Zoning Ordinance, on property located at 1537 Forest Lane, 31-4((1))50, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 10, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 14,468 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including too narrow and is deficient in area; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. This approval is granted subject to a subdivision plat being approved by Fairfax County prior to the beginning of any construction.

Mr. Barnes seconded the motion.

The motion passed 3 to 0. Mr. Smith abstained. Mr. Durrer was absent.

Page 61, January 10, 1978, Scheduled case for
10:50 A.M. - ZEL & WENDY LIPSEN appl. under Sec. 30-6.6 of the Ord. to permit enclosure of carport to garage 16.9' from side property line (20' required), 1917 Mac Arthur Drive, Kenbargen Subd., 41-1((24))29, (20,215 sq.ft.), Dranesville Dist., RE-0.5, V-326-77.

(The hearing began at 11:35 A.M.

Mr. Lipsen submitted the required proof of notice to property owners. The notices were in order.

It was determined that because of the way the house was constructed on the lot, closer to the west property line than the east property line, the variance was necessary. Mr. Lipsen stated that on both sides of his property the houses already have garages.

There was no one else to speak in favor and no one to speak in opposition to the application.

062

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application V-326-77 by ZEL & WENDY LIPSEN under Sec. 30-6.6 of the Zoning Ordinance to permit enclosure of carport 16.9' from side property line, 1917 MacArthur Drive, 41-1((24))29, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 10, 1977; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE0.5.
3. That the area of the lot is 20,215 sq.ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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 building involved; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. That 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed 3 to 0. Mr. Smith abstained. Mr. Durrer was absent.

Page 62, January 10, 1978, Scheduled case for
11:00
A.M. - PEYTON KLOPFENSTEIN ET AL., Trustee, appl. under Sec. 30-6.6 of the Ord. to permit construction of proposed Vanda Lane closer to existing dwelling than allowed by the Ord. (16'), 8725 Little River Turnpike, 59-3((9))4, (5.28007 ac. in subd.), Annandale Dist., RE-0.5, V-327-77.

Mr. Klopfenstein submitted the required proof of notice to property owners. The notices were in order.

Mr. Covington located the property.

The staff report indicated that the applicant needs a variance of 34 feet to the setback requirement in order to construct the street as proposed. The R-5 zoning was zoned on July 5, 1977 by the Board of Supervisors. In connection with that rezoning there was a committment by the applicant (a proffer) accepted by the Board, that 15' along each side of this R-5 development would be retained as a green strip or buffer strip. This approved proffer is a condition upon the use of the land which cannot be varied. The plat submitted with this application indicates only a five foot buffer, which cannot be approved in light of the proffered conditions. Therefore, the nearest the road could be placed to the existing house would be 16' on the property of that house, plus the proffered fifteen feet of buffer, which totals 31 feet. This would require a variance of 19'.

The Board of Zoning Appeals was also in receipt of the verbatim discussion and action of the Board of Supervisors and of the proffers which were accepted in connection with the rezoning case.

Mr. Klopfenstein stated that when he submitted the original subdivision plan with the rezoning application, they proposed ten lots only on this five acre tract. The road was on the west rather than on the east side which put the road closer to Old Hickory. The staff asked that if they were going to hold the development to ten lots, to make the lots smaller in order to save as many

trees as possible and to make the access to the development a direct access from 236 from both directions and make that access at the present median cut, which is also the median cut for Pineland Street. Because of these staff suggestions, a new subdivision plan was proposed and this is before the Board today. In answer to Mr. Smith's question, he stated that the tennis court was on the development plan at the time of the rezoning and, therefore, does not need a Special Use Permit.

Mr. DiGiulian stated that in the minutes of the Board of Supervisors' hearing, Mrs. Moore specifically asked the question about the 15 foot buffer being left undisturbed green space to which there might be supplemented plantings of pine or evergreen.

Mr. Klopfenstein stated that that was a proffer, but now the staff is requesting dedication. He stated that they were successful in convincing the Highway Department not to insist on the service road in that area because it is not needed. Forty feet will be dedicated from the current edge of pavement along Little River Turnpike. This will align with the front line of Mr. Killion's property. He stated that the plat shows the edge of the road being 5' from the property line. They cannot plant trees in the dedicated area. Therefore, they cannot put in the 15' of buffer. He stated that he would be happy to put the plantings on Mr. Killion's property. The curb line will still be 15' away from the property line, however.
The Board agreed that it could not waive any proffer the Board of Supervisors had accepted.

Mr. Fred Lacey, engineer on this project, testified that the face of the curb would be 31' from the edge of the existing dwelling. Vanda Lane is a 50' right-of-way. The house is 16' from the property line and the curb line is 15' more feet away from the property line. The right of way line is right up to the property line, however, he stated, in answer to Mr. Yaremchuk's question.

The Board discussed at length whether or not it could approve the variance subject to the question being resolved on the proffer, or if it should defer the case until the question has been finally resolved by the Board of Supervisors.

Mr. Killion, the contiguous property owner and the owner of the building that would be 16' from the property line and edge of right-of-way line of the subject road, stated that he was not the person who requested the fifteen feet of buffer. He stated that it was his understanding that there would be a five foot strip in which there would be green trees planted.

Mr. Klopfenstein confirmed that the applicant would do everything in their power to give Mr. Killion the five foot strip, but it actually will be up to the staff and the Board of Supervisors because of the decision for requirement for dedication.

Mr. Harry Detes, 4017 Old Hickory Road, stated that he had no interest in the road on the east side because he is a property owner on the west side. He requested assurances that any variance or any deviation not apply to the property on the west side.

Mr. Leonard Adams, 4021 Old Hickory Road, also expressed his concern about the fifteen feet being left undisturbed on the west side. He stated that the plans show a cul-de-sac at the end of Vanda Lane, which would be in the back of his property. He stated that it appeared that there is not fifteen feet of buffer at that location. In answer to Mr. Yaremchuk's question, Mr. Adams stated that he was assured of that fifteen feet buffer by the Board of Supervisors.

Mr. Klopfenstein urged the Board that it take action on the variance request. He stated that with each hearing, the issue gets more confusing for the neighbors.

Mr. Smith stated that as far as the statements of Mr. Detes and Mr. Adams the road question on the west side is not a question that is before this Board.

Mr. Klopfenstein in answer to Mr. DiGiulian's question if they could move the road over another 10' toward the west, stated that the staff and the Highway Department has said that they wanted the paved portion of the road, Vanda Lane, to be directly across from Pineland Street and the median cut.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application V-327-77 by PEYTON KLOPFENSTEIN ET AL, TRUSTEE, under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of proposed Vanda Lane closer to existing dwelling than allowed by the Ordinance (16'), 8725 Little River Turnpike, 59-3((9))4, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 10, 1978; and

WHEREAS, the Board 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 5.28007 acres.
4. That the applicant's property has an unusual condition in that the applicant was required to align Vanda Lane with Pineland Street which is the street across Little River Turnpike from the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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 is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other 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 expiration.

3. This variance is subject to approval by Fairfax County Board of Supervisors of the location/and proposed screening and dedication.
/of road

Mr. Yaremchuk seconded the motion.

The motion passed 4 to 0. Mr. Durrer was absent.

Page 64, January 10, 1978, Scheduled case for
11:10 A.M. - DONALD BLOM appl. under Sec. 30-6.6 of the Ord. to permit construction of pool 4' from side property line, 15'required, 6039 Franklin Park Road, 31-4((7))19, Country Acres, (27,132 sq. ft.), Dranesville Dist., R-17, V-328-77.

(The hearing began at 2:00 P.M.)

Mr. Blom submitted the required proof of notice to property owners. The notices were in order.

Mr. Blom stated that there is enough room in the rear of the property to build a pool, but the terrain is not level and would require extensive excavation. There will be no permanent cover over the pool itself. There is a large tree in the middle of the property and then it slopes down toward one side of the property, he stated.

Mr. Barnes stated that it would have been good to have had a photograph of that situation.

There was no one else to speak in favor of the application.

Mr. Paul McGaughan, counsel for Mr. and Mrs. Lally who are adjacent property owners, spoke in opposition. The pool will be, if constructed, 25 feet from the dining room and living room of Mr. and Mrs. Lally. There will be noise from the users of the pool and the pump motors which will cause a degradation of property values by a couple of ways. One, it will be only 4' from their property line so that a future purchaser might be very reluctant

Page 65, January 10, 1978
BLOM (continued)

to buy the property. He submitted a petition signed by some neighbors in opposition to the granting of this variance request.

Mr. Blom made no comments in rebuttal, but in answer to Mr. DiGiulian's question as to why he could not build that pool at some other location in the back yard, stated that he would have to cut down a very large tree and do some degree of grading or banking because of the slope. He did not know the extent of the grade. He showed some additional photographs of the subject property.

Mr. DiGiulian stated that it seemed to him that the slope could be balanced better by cutting in the high part of the ground, rather than putting it in the lower part.

Page 65 Bd. of Zoning Appeals
January 10, 1978 R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-328-77 by DONALD BLOM under Sec. 30-6.6 of the Ord. to permit construction of pool 4' from side property line (15' required), 6039 Franklin Park Road, 31-4((7))19, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 10, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 27,132 sq.ft.

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

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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is DENIED.

Mr. Yaremchuk seconded the motion. The motion passed 4 to 0. Mr. Durrer was absent.

Page 65, January 10, 1978, Scheduled case for
11:40 A.M. - RALPH ANDERSON appl. under Sec. 30-6.6 of the Ord. to permit carport to be constructed 25' from front property line (45' required), 2117 Popkins Lane, Mt. Vernon District, Hollin Hills Subd., 93-3((4))90, (14,600 sq. ft.), R-17, V-331-77.

(The hearing began at 2:20 P.M.)

The applicant had not complied with the notice requirement, therefore, the Board deferred this case until February 14, 1978 for proper notices.

//

Page 65, January 10, 1978, Scheduled case for
1:00 P.M. - CHRISTINE & ROBERT BISHTON appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit change in ownership for existing child care facility (50 children), 3106 Juniper Lane, Ravenwood Subd., Mason Dist., 51-3((23))A1, (22,524 sq.ft.), R-12.5, S-332-77.

Mr. Robert Bishton, 3106 Juniper Lane, submitted the required proof of notice to property owners. The notices were in order.

Mr. Bishton stated that this request is for a change in ownership and change in age range from 4 year to 8 years to two years to 8 years. The day is divided up into two,four hour sessions from 8:30 A.M. until 4:30 P.M. They are now operating this school. They did not know until after they had purchased the school that a change in the permit would be necessary. They plan to purchase busses to transport the children. These busses will be properly painted with the proper lights in accordance with the State

Code for school busses. The busses will be parked on the school property. The enrollment for the school is now fourteen, so the purchase of the busses would be at some time in the future.

There were three people in the audience who indicated that they were in favor of the request. They did not speak.

Marla Nell, a resident of Ravenwood, spoke in opposition. She requested that the school remain a school and not a day care center.

Mr. Smith explained that this school has been a day care center all along. The Special Use Permit was granted for 50 children for each session. One in the morning and one in the afternoon. The school has been operating for a long time. Prior to 1975, there were 25 children in each session.

Conrad Luken, president of the Ravenswood Citizens Association, spoke in opposition to the application. He stated that this would have an adverse impact on the property values of the neighbors if this permit is granted as a day care center. He stated that they have no objection to this as it has been operated in the past, as a stable neighborhood school for about 25 children. He felt this is a dangerous situation as far as traffic is concerned.
Mr. Yaremchuk stated that when a person moves into a neighborhood, the first question most people ask is, where are the schools. In that sense, a school would be an asset.

Mr. Luken stated that he would agree with that if the school was a neighborhood school, drawing its membership from the neighborhood, but drawing the membership from outside the neighborhood, which this school is apt to do, is not an asset.

Mr. Donald West, 3268 Juniper Lane, Ravenwood Subdivision, spoke in opposition to the application. He objected to the school being enlarged and also to the age change to permit 2 years olds. He reminded the Board as one earlier speaker had that the present capacity load for Juniper Lane is 1700 cars per 24 hour period. People park cars all along the sides of that street. He stated that he felt the Board should allow the school to have a bus because that would be less traffic impact than the parents bringing the children to and from the school. He stated that he also had noticed that the circular driveway has been blocked so that one cannot pull all the way in. The visibility is very poor at this location looking toward Lord & Taylor.

Mr. Yaremchuk stated that he remembered when the Lord and Taylor property was zoned, which was some time ago when he was Director of Planning for Fairfax County, the citizens in the area wanted the ridge line left there and did not want it cut and that is the reason for the poor visibility.

Mrs. Huntley, 3158 Juniper Lane, spoke in support of the application and said that she wished to clarify one of the statements made by the opposition concerning the delivery and pick-up of children. She stated that her child goes to this school and she is impressed with the quality of education and care she receives. In addition, she had to agree that she would take her child to the door and pick the child up at the door. The regulations of the school dictate this. She stated that she is there daily and has never seen a traffic jam, nor has she seen a child cross that street by himself.

Mr. McMoore, 3110 Juniper Lane, the next house to the school, stated that he had lived next door for sixteen years. He stated that he was retired and works outside a lot and since he is next to the school is very familiar with the school operation and the traffic. The traffic is much better than it used to be. He stated that he certainly had no objection to this school.

Mr. Bishton stated that he is operating the school at the present time and plans to continue to operate it in the same fashion that he has been. He stated that he has all the proper permits from the health department and other departments except for this Board's approval and he will operate within those permits' limits and within this Board's limitations.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application S-332-77 by CHRISTINE & ROBERT BISHTON under Sec. 30-7.2.6.1.3 of the Zoning Ordinance to permit change in ownership for existing child care facility, 3106 Juniper Lane, 51-3((23))A1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 10, 1978; and

WHEREAS, the Board has made the following findings of fact;
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 20,805 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be Monday through Friday, 8:30 A.M. through 4:30 P.M.
8. The ages of the children shall be 2 through 8 years.
9. All busses shall be equipped with proper equipment for school busses in accordance with the requirements of the State Code.
10. All other requirements of Permit S-107-75 shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed ~~unanimously~~ 4 to 0 with the members present. Mr. Durrer was absent. Mr. Yaremchuk abstained / Correction to Minutes made Feb 22 1978

Page 67, January 10, 1978, Deferred Case Scheduled for
1:20 P.M. - JOHN J. MULHERN appl. under Sec. 30-6.6.5.4 of the Ord. to permit house to remain (38.7' total side yard setback, 40' required), 3212 Dominy Court, Foxwood Subd., 46-2((17))16, (20,805 sq.ft.), Centreville Dist., RE-1 Cluster, V-281-77. (Deferred for notices and amended application and new plats.)

Mr. Robert D. Roadman, attorney for the applicant with offices at 11250 Roger Bacon Drive in Reston, Virginia, submitted the required proof of notice to property owners. The notices were in order.

Mr. Roadman in answer to the Board members' questions stated that the engineer and the developer are not in agreement as to whose fault this error is. The deck was constructed after settlement by Mr. Mulhern. He felt that he was building a patio type structure, but the Zoning Administrator

068

has classified this structure as a deck which is 17.8' from the side property line and, therefore, needs a variance, because the total side setbacks total less than 40 feet.
Mr. Covington stated that both an open porch or carport can go 5' into the setback.

Mr. DiGiulian stated that since the deck is 17.8' and it is RE-1 cluster they would require 40'. If the applicant can build 5' into the required setback, then he would only need a 3.7' variance.

Mr. Covington stated that the lot has an unusual shape. This causes the applicant to need a variance.

Mr. DiGiulian stated that this application is under the mistake section of the Ordinance.

There was no one else to speak in favor and no one to speak in opposition to the application.

Page 68, January 10, 1978 Bd. of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. V-281-77 by JOHN J. MULHERN under Sec. 30-6.6.5.4 of the Zoning Ordinance to permit house to remain 31.3' total side yards (40' required), 3212 Dominy Court; 46-2((17))16, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 10, 1978; and

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

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

WHEREAS, the Board has reached the following conclusions of law:

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 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 is not valid until a building permit is obtained for the deck.

Mr. Barnes seconded the motion.

The motion passed 3 to 0. Mr. Smith abstained.

The meeting adjourned at 3:50 P.M.

BY Jane C. Kelsey
Jane C. Kelsey, Clerk to the
Board of Zoning Appeals

Submitted to the BZA on Feb. 14, 1978

Submitted to Bd. of Supervisors, Planning Commission and other Depts. on Feb. 15, 1978

W. Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: February 22, 1978
DATE

The Regular Meeting of the Board of Zoning Appeals
Was Held in the Board Room of the Massey Building
on January 18, 1978. All members were present:
Daniel Smith, Chairman; William Durrer, Vice-Chairman;
George Barnes; John DiGiulian and John Yaremchuk.

The meeting opened with a prayer by Mr. Barnes. The meeting began at 10:10 A.M. with the scheduled case for

10:00 A.M. - BOWL AMERICA, INC. appl. under Sec. 30-7.2.10.7.12 of the Zoning Ord. to permit bowling alley, approx. 400' from intersection of Burke Rd. and Lake Braddock Road, 78-1((1))part of parcels 6 & 7, (3.8 acres), Annandale Dist., I-L, S-321-77. (Deferred from 12/20/77 for full Board, FULL HEARING).

Robert A. Lawrence, attorney for the applicant, submitted the required proof of notice to property owners at the original hearing. The notices had been in order and since this case was deferred to a specific time, date and place, renotification was not necessary.

Mr. Smith inquired if Mr. Lawrence had provided the opposition with a copy of a letter from him dated January 17, 1978 regarding this case.

Mr. Lawrence stated that he had not provided the opposition with a copy of his letter, but that he would do so.

Mr. Durrer stated that he was not present when this case was called on December 20, 1977 and since he knew that he would not be present, he requested the Board to defer the case until he could be present. He stated that upon his return to the area, he read in the newspaper that Mr. Lawrence, at that meeting, had said that he should disqualify himself. He asked Mr. Lawrence if that was true and if he still made that request.

Mr. Lawrence stated that that statement was true and he would request Mr. Durrer to disqualify himself from the decision in this case because Mr. Durrer's son-in-law lives near the property and is opposed to the application. He stated that he knew that they have talked together.

Mr. Durrer stated that if he disqualified himself from every case that there was that involves people that he knows or is related to he would not be able to participate in any case. He stated that he would refuse to disqualify himself.

(SEE VERBATIM TRANSCRIPT FOR TESTIMONY MADE DURING HEARING)

Mr. DiGiulian made the following motion:
WHEREAS, Application S-321-77 by BOWL AMERICA, INC. under Sec. 30-7.2.10.7.12 of the Zoning Ordinance to permit bowling alley in industrial district approx. 400' from intersection of Burke Road and Lake Braddock Road, 78-1((1)) part of Parcels 6 & 7, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on 12/20/77 and deferred to 1/18/77; and

WHEREAS, the Board has made the following findings of fact:
1. That the applicant is the contract purchaser of the subject property.
2. That the present zoning is I-L and I-P.
3. That the area of the lot is 4.9 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C or I Districts as contained in Sec. 30-7.1.2 in the Zoning Ordinance; and
NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this

Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.

7. The hours of operation shall be 9:00 A.M. to 1:00 A.M.

8. The number of parking spaces shall be 224.

9. The effects of all lighting shall be confined to the site.

10. There will be no free standing sign. The building sign will be limited to an area of 120 square feet and will not protrude above the top of the building.

11. The applicant is to provide a stand of 30 evergreen trees 6'-8' in height planted in a double row in the eastern side of the right-of-way of Burke Road opposite Noblin Drive, subject to an easement being made available to them to plant such trees.

12. The front of the building shall have an architectural masonry facade with a mansard roof.

Mr. Barnes seconded the motion.

Mr. Durrer stated that he felt the citizens had made a good case in opposition to this application based on traffic and the narrow two-lane road. He urged the other Board members to vote against this motion to grant.

Mr. Smith stated that he felt a great concern is the railroad crossing in such close proximity to this site. He also expressed concern about the hours of operation and stated that if there was some way the hours of operation could be cut down to daylight hours such as for any industrial operation without impairing the stability or feasibility of this proposed project, he could support the resolution. Keeping the facility open until 1:00 A.M. is not compatible with the surrounding residential community. He also expressed concern about the alcoholic beverages that were proposed to be served in this facility with its close proximity to the residential neighborhood.

Mr. Yaremchuk expressed concern about the access to the site. He stated that the C-D area has not been developed in this area yet because there is no market for the uses. He stated that he felt this use is somewhat premature and he, therefore, could not support the motion.

The motion failed by a vote of 3 to 2. Messrs. Smith, Durrer and Yaremchuk voted No. Messrs. DiGiulian and Barnes voted Aye.

The application was, therefore, denied.

SPEAKERS IN SUPPORT
Mr. Leslie Goldberg, president of Bowl America.

SPEAKERS IN OPPOSITION AND MR. FOREMAN WHO EXPRESSED CONCERN.

1. Aubrey Moore, Supervisor, Annandale District.
2. Bob Foreman, Administrative Assistant to the Chairman of the Fairfax County Board of Supervisors, expressed concern and stated that he was speaking for Mr. Herrity who is not in opposition to this at the moment
3. Mrs. Kidd, 5119 Hartford Lane
4. Robert Taft, 5536 Crossrail Court, secretary of the Greenfield Homeowners Association, read a statement on that association's behalf.
5. James Dooley, 5526 Hollins Lane
6. Mrs. Bowsman, 9528 Barndale Court.
7. Mrs. DuMell, 5550 Kendrick Lane.
8. Mrs. Pellettieri, representative from the Annandale District on the Planning Commission.
9. Ms.Lu Wright, 5825 Crowfoot Street, member of the Planning Commission, but speaking on her own behalf

070

10:30 A.M. - KARMICHAEL CONSTRUCTION COMPANY appl. under Sec. 30-6.6.5.4 of the Ord. to permit house to remain 22.55' from the rear property line, (25' required), 38-3((40))10, (10,756 sq.ft.), Vienna Oaks Subd., Providence Dist., R-12.5, V-334-77.

(The hearing began at 1:40 P.M. -- 163' on Tape No. 5)

Mr. Klein, President of the company, submitted the required proof of notice to property owners. The notices were in order.

Mr. Klein read his letter of justification which stated:

"The house being constructed on lot 10, Vienna Oaks, Sec. III, is one of 39 homes being built in the subdivision. All of the houses have a garage with a 3 foot offset in the front and a 1 foot offset in the rear, save lot 10, which has the opposite offsets. This modification was discussed two and one half years ago at the time of conception of this subdivision, but was only depicted by a scaled drawing on the grading plan with no dimensions shown. The application for the building permit was requested and granted with this modification included. During the passing of time, the lack of notation on the plans, and the lack of notice from the engineer, the contractor constructed the house the same way as all of the others; identical to the standard plan. It was only after the house was under roof and a wall check was made that this error was discovered. This error resulted in a 2.45 foot encroachment of the setback requirements for the rear outside corner of the garage."

"With the garage situated as is, it proves no hardship or detriment to any of the surrounding properties, as there is no encroachment to either side and the rear of the lot is wooded. The property directly behind the lot in question, has recently been rezoned with one of the provisions being to keep this wooded barrier between the two properties."

"The requested variance will create no unsafe conditions to either neighboring properties or public facilities. Furthermore, it will not impair the intent or purpose of the setback requirements."

"If this requested variance is not granted, it would cause severe financial hardship to the contractor. It would impair the aesthetic quality of the home as well as the surrounding homes."

/s/ Bernard Klein.

In answer to Mr. Durrer's question, Mr. Klein stated that the house is now under roof and is basically framed in. They are trying to protect it from the weather while awaiting this Board's decision.

There was no one else to speak in favor and no one to speak in opposition.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application V-334-77 by KARMICHAEL CONSTRUCTION COMPANY under Sec. 30-6.6 of the Zoning Ordinance to permit a house to remain 22.55' from the rear property line (25' required), Lot 10, Vienna Oaks Subd., 38-3 ((40))10, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 18, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 10,756 sq. ft.
4. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.

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

1. 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.

072

2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force complinace with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

Page 72, January 18, 1978, Scheduled case for
10:45 A.M. - NATIONAL AMUSEMENTS, INC. appl. under Sec. 30-7.2.10.6.10 of the Zoning Ordinance to permit changes to existing open air theatre, 7940 Richmond Hwy., 101-2((6))A, (12.282 ac.), Lee Dist., C-G, S-335-77.

Ms. Minerva Andrews, attorney for the applicant, submitted the required proof of notice to property owners. The notices were in order.

The staff report stated:
"This is an existing non-conforming drive-in theatre location on the west side of Route 1 opposite its intersection with Sherwood Hall Lane. The address being 7940 Richmond Highway. This request to modernize an old existing non-conforming drive-in theatre. The traffic impact should be reduced because they are reducing the vehicle occupancy load by converting from a single drive-in theatre to a twin drive-in theatre and they will be operating during staggered opening hours. There will be no additional land area added just a general rearrangement and modernization."
"The Master Plan states "On the west side of Route 1, Oak Grove and Mt. Vernon Trailer Parks and the drive-in theatre site are recommended for a well buffered RMHP mobile home park, well screened from Route 1 and Ladson Lane. A well-planned interior street pattern is required with no more than one access each to Route 1 and Ladson Lane."

Ms. Andrews stated that The expected hours of operation are Sunday through Thursday, 7:30 P.M. to 12 A.M. and on Friday and Saturdays, 7:00 P.M. to 1:00 P.M. The total motor vehicle occupancy load will be 982; 630 for Screen I and 353 for Screen II. The total number of employees and attendants will be 10.

She stated that National Amusements, Inc. owns and operates over 150 theatres throughout the northeast section of the United States and has been in business for 35 years. The new screen will be oversized as to prevent any leakage of light from the projection ray along the perimeter of the movie screen. The new screen will be located at the top of an existing 10' to 12' embankment, which with the existing screen fence circumventing the drive-in theatre, will prevent any disturbance from headlight penetration into adjacent residential zoned area. A new projection room will be added to the northwest corner of the existing building, and shall be constructed of the same material as the existing structure, which consists of painted concrete masonry units bearing walls with 12" deep wood fascia at edge of roof overhangs.

Mr. Feldman, a representative from National Amusements, Inc., explained the present operation.

There was no one else to speak in favor and no one to speak in opposition to the application.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application S-335-77 by NATIONAL AMUSEMENTS, INC. Under Sec. 30-7.2.10.6.10 of the Zoning Ordinance to permit changes to existing open air theatre, 7940 Richmond Hwy., 101-2((6))A, County of Fairax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 18, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is C-G.
3. That the area of the lot is 12.282 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 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 plans submitted with this application. Any additional structures of any kind, chances in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of theDirector of Environmental Management.
7. The hours of operation shall be from Sunday through Thursday, 7:30 P.M. to 12:00 A.M. and on Fridays and Saturday from 7:00 P.M. to 1:00 A.M.
8. The number of vehicle spaces shall be 982.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

Page 73, January 18, 1978, Scheduled case for
11:00 A.M. - KENNARD UNDERWOOD, JR. appl. under Sec. 30-6.6 of the Ord. to permit erection of addition 17.5' from rear property line (25' required), 9310 St. Marks Place, 58-2((9))46, (22,498 sq.ft.), Mantua Hills Subd., Providence Dist., RE-0.5, V-337-77.

(The hearing began at 2:20 P.M.)

Mr. Underwood presented the proof of notice to property owners. The notices were in order.

Mr. Underwood stated that in 1971, the Board granted a similar variance, but due to the fact that he was unable to obtain financing, the addition was not constructed. They are now ready to go forward. The construction will be compatible with the rest of the house.

074

Mr. Underwood's justification for the need for this variance was the unusually shallow pie-shape of the lot and the placement of the existing building.

There was no one else to speak in favor and no one to speak in opposition.

RESOLUTION

Mr. Durrer made the following motion:

WHEREAS, Application V-337-77 by KENNARD UNDERWOOD, JR. under Sec. 30-6.6 of the Fairfax County Zoning Ordinance to permit erection of addition 17.5' from rear property line (25' required), 9310 St. Marks Place, 58-2((9))46, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 18, 1978; and

WHEREAS, the Board 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 22,498 sq. ft.
4. That the applicant's property is exceptionally irregular in shape; i.e. pie shape.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has 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.

AND. NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

Page 74, January 18, 1978, Scheduled for
11:15 A.M. - RBA ASSOCIATES, A LIMITED PARTNERSHIP appl. under Sec. 30-7.2.10.7.12 of the Ord. to permit bowling facility located at the end of Michael Faraday Court, 18-3((5))8, (3.0871 acres), Centreville Dist., I-L, S-338-77.

Mr. Robert Lawrence, attorney for the applicant, submitted the required proof of notice to property owners. The notices were in order.

Mr. Lawrence stated that this property is location in the industrial complex of Reston, which is immediately off Sunset Hills Road. There are two roads on either side of the cul-de-sac. Two of the industrial lots are not being used at this time and the other lot contains the Reston Racquet Club. The size of the proposed structure is 158' by 187' with a height of 14' in the front and up to 24' at its peak. The traffic generation will not be at the peak rush hour times. The height of the proposed lights for the parking lot are 15 feet. If the lights were higher, this number of standards would not be needed, but the light would carry further. There are 32 alleys proposed for this facility with an option for 6 additional.

The Board discussed the master plan for the area to the back of the property which is now zoned RE-2. Mr. Smith stated that that property had been in the plan for industrial.

Mr. Lawrence stated that the land on the other side of is planned for residential, five to ten units per acre.

The report from the Comprehensive Plans Branch stated that the subject property is located in the UP5 Sector of the Upper Potomac Planning Area of Area III. The plan calls for industrial use on land already zoned I-L. The Area III Plan has no specific language, but the adjacent uses, especially the Racquet Club, make this a highly compatible use with surrounding planned and existing development. To the west and east of the subject property is vacant land planned for industrial use and directly south is the Reston Racquet Club. Other uses in the area include plumbing supplies and the U. S. Post Office.

The report further suggested that because of this application's proximity to the Racquet Club, it provides an excellent location for this type of recreational facility and is in conformance with the Reston new Town concept, including the provision of varied and accessible active recreation.

The Office of Preliminary Engineering stated that the Zoning Administrator's office has in the past, determined that the parking requirement for a bowling alley is five spaces per lane. The plat indicated that there will be 180 spaces. The applicant gave 32 as the number of alleys that they would start with initially. Therefore, the plat reflected ample parking for the use.

Mr. Lawrence stated that the building would be constructed of pebbled cement finish over a steel structure.

The Board was in receipt of a letter from Joanne Brownsword, president of the Reston Community Association, stating that they have no objection to the issuance of a special use permit for a bowling alley and look forward to the development of a sports complex along Sunset Hills Road.

There was no one else to speak in favor and no one to speak in opposition.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application S-338-77 by RBA ASSOCIATES, A LTD. PARTNERSHIP, under Section 30-7.2.10.7.12 of the Zoning Ordinance to permit bowling facility on property located at end of Michael Faraday Court, 18-3((5))8, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 18, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the applicant is the contract purchaser of the land.
2. That the present zoning is I-L.
3. That the area of the lot is 3.0871 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

076

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be 24 hours per day, 7 days a week.
8. The minimum number of parking spaces shall be 180.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously with all members present and voting.

Page 76, January 18, 1978, Scheduled case for
11:30 A.M. - ANDREW J. SMITH appl. under Sec. 30-6.6 of the Ord. to permit subd. with three lots having less lot width than required by Ord., (parcel B-20 feet, Lot A1, 10 feet and Lot A2, 10 feet), 9034 Leesburg Pike, 19-4((1))24 and 24A, (5.0006 ac.), Dranesville Dist., RE-1, V-339-77.

(The hearing began at 2:35 P.M.)

Mr. Charles Runyon,engineer for this project, submitted the required proof of notice to property owners. The notices were in order.

Mr. Runyon stated that this property is long and narrow and in order to have reasonable development of the property a variance is necessary. Parcel B is already subdivided under an earlier provision of the subdivision ordinance and there is a house under construction on that parcel. That house is shown on the pictures in the file, Mr. Runyon stated. The lots that are being created with this subdivision are large enough to meet the lot area requirements of the ordinance.

Mr. Durrer called Mr. Runyon's attention to the comments of Preliminary Engineering which stated:

"On November 8, 1976 the County Executive granted a deferment of service drive and construction and dedication along the frontage of the subject property on Route 7.

Parcel B exists as a lot of record. Parcel "A" (Par. A-1, A-2, & A-3) is the principle subject of this variance request. Because of this present proposal to further subdivide Parcel "A", this office has determined that the service drive waiver must be renegotiated and re-approved prior to the approval of ths subdivision. In consonance with this decision it has been determined that the dedication for the future service drive be made at this time with the proposed subdivision. Therefore, it is strongly suggested that the owner dedicate to 65' from the existing edge of pavement of Route 7 for the full frontage of the property, for the future construction of service drive.

Furthermore, before the proposed subdivision may be approved by this office the County Executive must approve an additional waiver to the County Code to allow these lots of less than 80,000 sq. ft. each to be created without the requirement to provide public water."

Mr. Yaremchuk inquired if this would not be required anyway under subdivision control.

Mr. Covington stated that it would be and perhaps they are just reminding the applicant.

There was no one else to speak in favor of the application and no one to speak in opposition to the application.

RESOLUTION

Mr. Durrer made the following motion:

WHEREAS, Application V-339-77 by ANDREW J. SMITH under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision with three lots having less lot width than required by the Ordinance (Parcel B, 20', Lot A-1, 10 feet, Lot A-2, 10 feet), 9034 Leesburg Pike, 19-4((1))24 & 24A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 18, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.0006 acres.
4. That the applicant's property is exceptionally narrow; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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.
NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained. He stated that he was not convinced that there is a hardship in this case.

In answer to Mr. Smith's question on whether a variance is required for parcel B, Mr. Covington stated that the applicant is reducing the frontage by subdividing that lot and using part of that lot for the other two lots. He has reduced the minimum required lot width on that lot.

Mr. Runyon stated that a building permit was obtained before the subdivision ever took place.

Page 77, January 18, 1978, Scheduled case for
11:45 A.M. - ARTHUR SYMONS appl. under Sec. 30-6.6 of the Ord. to permit subdivision with two lots having less lot width than required by the ordinance, 500 Utterback Store Road, 7-1((1))9 & 3, (6.1286 ac.), Symon Subd., Dranesville Dist., RE-2, V-340-77.

(The hearing began at 2:47 P.M.)

Jo Ann Crichton, agent for the owners,submitted the required proof of notice to property owners. The notices were in order.

Ms. Crichton stated that the owner would like to subdivide these lots to make two buildable lots. Each of the two proposed lots would have 2 feet less than required by the zoning ordinance.

There was no one to speak in opposition to this request and no one else to speak in favor.

Mr. Barnes stated that this seems to be a very minimum variance request.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application V-340-77 by ARTHUR SYMONS under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision with two lots having less lot width than required, 500 Utterback Store Road, 7-1((1))9 & 3, County of Fairfax, has been properly filed in accordance with all applicable requirements;and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 18, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 6.1286 acres.
4. That the applicant's property is exceptionally narrow; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously with all members present and voting.

Page 78, January 18, 1978, Scheduled case for
1:00 P.M. - THOMAS HANTON appl. under Sec. 30-6.6 of the Ord. to permit addition 7.0' from north property line (12' required), 2523 Drexel Street, 49-1((9))(G)18, (11,022 sq. ft.), Dunn Loring Woods Subd., Providence Dist., R-12.5, V-341-77.

(The hearing began at 2:50 P.M.) Mr. Hanton submitted the required proof of notice to property owners of this hearing. The notices were in order. Mr. Hanton stated that he would at this time submit letters from each of the property owners notified indicating their approval of this request.

Mr. Hanton stated that the purpose of the variance request is to allow the construction of an enclosed storage space and screened porch behind the planned new carport. The enclosed portion which requires a variance will be in line with the edge of the proposed new carport and therefore allow a uniform roof line for the combination of the carport and proposed addition. The edge of the carport and addition will remain seven feet off the property line. Construction to the rear of the lot is restricted because of the large grade change which extends to the rear of the lot. Construction on the south side of the lot is restricted due to the placement of the existing structure. This size carport is necessary because of the entrance that goes into the house which takes up several feet.

Mr. Covington stated that the applicant could enclose a 4 foot area to the back of the carport by right without the need for a variance.

There was no one else to speak in favor of the application and no one to speak in opposition.

RESOLUTION

Mr. Durrer made the following motion:

WHEREAS, Application V-341-77 by THOMAS HANTON under Section 30-6.6 of the Ordinance to permit addition 7.0' from the north property line (12' required), 2523 Drexel Street, 49-1((9))(G)18, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 18, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 11,022 sq. ft.
4. That the applicant's property has topographic problems and an unusual location in the location of the existing building on the property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

Page 79, January 18, 1978, Scheduled case for
1:20 P.M. - T. M. BAKER COMPANY, INC. appl. under Sec. 30-6.6 of the Ord. to permit construction of house 7.7' from rear property line (25' required), 6721 LaSalle Avenue, Hunting Ridge Subd., 30-3((2))160, (3,875 sq. ft.), Dranesville Dist., R-12.5, V-341-77.

(Began at 3:03 P.M.)

Mr. Baker submitted the required proof of notice to property owners. The notices were in order.

Mr. Baker stated that this is an exceptionally small lot. At one time it had 100' lot width, but at some time there was a sizeable piece taken off with the dedication of the Dulles Access Road. This request is to build within 7.7' on one corner of the rear property line in order to build a more normal house on the lot and something more conventional in terms of sales value. He stated that he did not own the property when the access road was developed. There was approximately 1300 sq. ft. taken off the back of the lot. The property is an odd shape. The proposed house is 26' x 26'. He stated that he had owned the property for seven months.

Mr. Smith stated that he felt the variance request is reasonable because he did not see how the house could be constructed any smaller than this one proposed.

Mr. Yaremchuk stated that he would prefer to see the applicant move the house closer to the property line in front because of the noise from the Dulles Access Road when it is constructed.

Mr. Smith stated that he was sure that the Dulles Access Road will be at least 25' from the house.

Mr. Donald Loranger, 1643 LaSalle Avenue, McLean, spoke in opposition of the request on behalf of himself, Mr. and Mrs. Manchehr Emami, 1633 LaSalle Avenue and Mr. Vaughn, neighbor in the back of of his property. He object to the style house that the applicant might place on this lot and the compatibility with the rest of the houses in the neighborhood.

Mr. Smith read two letters into the record in opposition to this variance. One letter was from Mrs. Emami, 1633 LaSalle Street and William H. Morris, 1650 LaSalle Street.

Mr. Baker stated that Dulles Access Road took 3200 sq. ft. from the property leaving 3800 sq. ft..

Mr. Yaremchuk stated that he was sure that damages were paid to the owner for this loss of property. One of the objectors has stated that the applicant owns four lots at this location and he could take the four lots and put three houses on them and not need a variance.

Mr. Smith stated that this is a lot of record and the applicant is entitled to build on it, if he chooses.

Mr. Yaremchuk stated that he did not agree. The applicant doesn't meet the minimum lot width requirements for R-12.5 zoning.

Mr. Covington stated that the applicant could get a building permit to build a house that would be 12 feet at one end and 20 feet at the other.

Mr. Baker stated that there is no question about the buildability of the lot. It is a buildable lot within the current zoning regulations. He stated that to build four houses on the four lots is the only way that makes economic sense. He stated that he paid $15,000 for each of the lots even though he knew that he would have to go to the BZA and request a variance. In answer to Mr. Durrer's question, he stated that the houses would have driveways for two parking spaces on each site.

Mr. Vaugh, 1552 LaSalle, spoke in opposition to the request because he felt this construction would cause an adverse environmental and economic impact on his property.

Mr. Baker made no further comments.

Page 80, January 18, 1978 Bd. of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-342-77 by T. M. BAKER COMPANY, INC. under Sec. 30-6.6 of the Ordinance to permit construction of house 7.7' from rear property line, 6721 LaSalle Avenue, 30-3((2))160, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 18, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 3.875 sq. ft.
4. That the applicant's property is exceptionally shallow because of highway taking.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 has started or unless renewed by action of this Board prior to expiration.

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

Page 81, January 18, 1978

DEFERRED CASE Scheduled for 1:30 P.M. - RICHARD J. POLSON, V-295-77. (Def. from 12/6/77 for additional info. and decision only.)

The Board was in receipt of correspondence from the building inspections department stating that in order for the applicant to comply with the requirements of the Building Inspections Office that it would be necessary for him to submit either certification from a certified engineer or detailed plans for approval of their office.

The Board again deferred this case until February 22, 1978 for this additional information.

//

AFTER AGENDA ITEMS - Page 81, January 18, 1978 - MILEAGE REIMBURSEMENT REQUEST.
Mr. Durrer moved that the staff check into whether or not there is any money in the budget for mileage for Board members to use their own cars for viewing of properties under application before this Board.

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

//

AFTER AGENDA ITEM - Page 81, January 18, 1978 - STAFF REPORT CRITERIA

The Board members discussed at length the items that they would like to see in the staff report. It was agreed that they did want full staff reports on all applications that would possibly cause impact to the neighborhood in which those applications were located. However, it was not agreed by all members that they wanted a staff recommendation for several reasons. Mr. DiGiulian felt that it was not necessary and if the staff gave factual information regarding all aspects of the case, traffic, roads, whether it was a solid residential area or transitional area, and what the plan is for the area, that the Board would know what the staff is recommending without an actual recommendation. Mr. Smith stated that the reason he did not want a staff report is because of the legal ramifications in case the Board did not go along with the staff recommendation. Mr. Yaremchuk stated that a recommendation would not bother him, that he would vote according to how he felt about that particular application in that particular area according to the fact that were before the Board. Mr. Durrer stated that he felt it would be helpful if the staff makes a complete and independent study of the area and the property in question and goes to the site to know what is actually there. Mr. Barnes stated that he could see both sides of the problem, but that he would vote the way he saw it after hearing all sides of the matter.

Mr. Covington agreed to give the Board a complete staff report on all land use cases and any variance cases which would cause an impact to the neighborhood. He stated that most of the time he could give the Board information concerning the plan for the area, but for some cases, he would also request input from the Office of Comprehensive Planning.

It was the Board's concensus that it is up to the staff to contact the proper departments so as to get all the proper information for the particular application, and that the Board does expect to get a comprehensive report from all parties involved on controversal land use cases.

//

AFTER AGENDA ITEM - Page 81, January 18, 1978 - NIGHT MEETINGS

The Board again discussed this subject and deferred it until a later meeting.

//
AFTER AGENDA ITEM - Page 81, January 18, 1978 - ZONING SECTION SHEETS.
Mr. Yaremchuk moved, Mr. DiGiulian seconded and the motion passed unanimously that there be 5 zoning section sheets with each applications.
//

BY Jane C. Kelsey
JANE C. KELSEY, CLERK TO BZA

DANIEL SMITH, CHAIRMAN

Submitted to BZA _____

APPROVED _____
DATE

The Regular Meeting of the Board of Zoning Appeals Was Held on January 31, 1978, Tuesday. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian; and John Yaremchuk.

The meeting began at 10:15 A.M. with a prayer by Mr. Barnes.

Scheduled case for
10:00 - COUCH & COUCH, S-329-77 and V-330-77.

The Chairman called the case. The Ed Garvey, agent for the applicant, submitted proof of notice to property owners. The Chairman ruled that the notices were not in order because he said that the letter was not specific enough as to the details of the reason for the hearings on these two cases.

The Board deferred the case until February 22, 1978, for proper notices.

//

10:30 A.M. - Advertised case of CHARLES BERMAN (AMENDED TO WINDSOR DEVELOPMENT CORPORATION) appl. under Sec. 30-6.6.5.4 of the Ord. to permit house to be completed 29' from front property line (30' required), 8900 Marianna Court, 78-4((8))229, (10,986 sq.ft.), Burke Station --------- Square Subd., Springfield Dist., R-12.5 Cluster, V-343-77.

Mr. John T. Monaghan with the engineering firm of Dewberry, Nealon & Davis, 8411 Arlington Blvd., submitted the required proof of notice to property owners. The notices were in order.

Mr. Monaghan stated that when his firm computed the stake-out for the house on Lot 229, Burke Station Square, Section 2-B, the three foot overhang of the second story was not taken into consideration causing the encroachment ------- over the front building restriction line by slightly less than one ------- foot (0.98). He stated that he had staked several of these type houses before and after this one, correctly. Therefore, the mistake was due to an oversight and should not happen again.

There was no one else to speak in favor and no one to speak in opposition.

WINDSOR DEVELOPMENT CORP. R E S O L U T I O N

Mr. DiGiulian made the following motion to grant the above-captioned application.

WHEREAS, Application V-343-77 by WINDSOR DEVELOPMENT CORPORATION under Sec. 30-6.6.5.4 of the Zoning Ordinance to permit house to be completed 29' from front property line (30' required), 8900 Marianna Court, 78-4((8))229, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, and a public hearing that was held by the Board on January 31, 1978; and

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

THAT non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit; and

WHEREAS, the Board has reached the following conclusions of law:

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.

THAT the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED for the location and the specific structure indicated in theplats included with this application only, and is not transferable to other land or to other structures on the same land.
Mr. Yaremchuk seconded the motion and the motion passed unanimously.

Page 83, January 31, 1978

Scheduled case for
10:40 A.M. - SHELL OIL COMPANY appl. under Sec. 30-6.6 of the Ord. to permit two canopies to be located 13' and 11' from front property lines (22' required), and to permit building to remain 64' and 71' from front property lines (75' required), and to permit pumps 23' and 21' from front property lines on property located at 6660 Arlington Blvd., 50-4((1))25, (0.5499 acres), Providence District, C-N, V-333-77. (To be heard in conjunction with Special Exception permit to be heard by the Board of Supervisors on January 23, 1978.)

(The hearing began at 10:40 A.M.)

Mr. William Hansbarger, attorney for the applicant with offices at 10523 Main Street, Fairfax, submitted the required proof of notice to property owners which were in order.

Mr. Hansbarger stated that the Special Exception for this use was heard by the Board of Supervisors and approved on January 23, 1978. The staff report indicated the same. He asked that the application be amended to include the name of Mr. Robert J. McCandlish, Jr., Administrator, of the property. There was a letter in the file dated January 25, 1978 from Mr. Robert J. McCandlish, Jr. in response to an inquiry from the staff regarding the record owner of the property. Mr. McCandlish explained in his letter that Ollie W. Tinner resigned as Executor of the subject property and he was appointed in his place as Administrator by the Circuit Court on September 23, 1960. The County tax bills have been sent to Shell Oil Co. which has always paid the same. The land should be assessed to him as Administrator, with the will annexed, and the tax bills sent to the Shell Oil Company for payment.
The Board so amended the application to include Mr. McCandlish, Adm.
Mr. Smith stated that Shell Oil Company has been before the Board many times previously for additions to the subject building. Therefore, variances have been granted to allow the building at its present location. He, therefore, questioned the need for the building variance request.

Mr. Hansbarger explained that the two canopies are to go over the existing pump islands. The pump islands will be shifted over a few feet, but will not go any closer to the property line than they already are.

Mr. Smith stated that the Board would take action on all the requests since the Zoning Administrator has ruled that it is needed in all of these instances even though the building has been there for thirty years.

Mr. Hansbarger stated in answer to Mr. Smith's question that the style of the canopies will be compatible with the building. The overall height will be 16' 4". The number of pumps will not be increased and neither will the pump islands. This is still a full service station.

Mr. Hansbarger stated for the record that there has been no backup of traffic from this use on Arlington Blvd. or Annandale Road.

There was no one else to speak in favor and no one to speak in opposition.

Page 83 Bd. of Zoning Appeals
SHELL OIL COMPANY R E S O L U T I O N

Mr. Durrer made the following motion to grant:

WHEREAS, Application V-333-77 by ROBERT J. McCANDLISH, JR. ADMINISTRATOR, and SHELL OIL COMPANY under Sec. 30-6.6 of the Zoning Ordinance to permit two canopies to be located 13' and 11' from front property lines (22' required) and to permit building to remain 64' and 71' from front property lines (75' required) and to permit pumps 23' and 21' from front property lines, property located at 6660 Arlington Blvd., 50-4((1))25, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 31, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is Robert J. McCandlish, Jr., Adm.
2. That the present zoning is C-N.
3. That the area of the lot is 0.5499 acres.
4. That the Board finds that the applicant's property has an unusual condition in the location of the existing building on the property; and

D84

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously. AND GRANTED
(ALSO SEE SPECIAL EXCEPTION FILE HEARD BY BOARD OF SUPERVISORS 1/23/78)

Page 84, January 31, 1978
Scheduled case for
10:50 A.M. - KEYSTONE FINANCIAL & SERVICE CORP. appl. under Sec. 30-6.6 of the Ord. to permit tennis courts 12' from front property line (30' required), 2015 Hunter Mill Road, 27-4((1))pt. of parcel 7, (5.92173 ac.), Cedar Run Subd., Centreville District, RE-2 Cluster, V-345-77.

10:50 A.M. - KEYSTONE FINANCIAL & SERVICE CORP. appl. under Sec. 30-7.2.6.1.1 of the Ord. to permit two tennis courts for Cedar Run Subd., 2015 Hunter Mill Road, 27-4((1))pt. of parcel 7, (5.92173 ac.), Cedar Run Subd., Centreville Dist., RE-2 Cluster, S-346-77.

(Hearing began at 11:00 A.M.)

Mr. Ronald Fayette, 12303 Delevan Drive, Herndon, represented the applicant before the Board. He submitted the required proof of notice to property owners which were in order.

Mr. Fayette stated that this corporation is both a service corporation and the developer of this property. They plan to erect these two tennis courts for the sole use of the residents of this subdivision. The land will be under the ownership and control of the homeowners. There are no lights proposed for these courts. There will be a total of 37 dwelling units eventually in this subdivision. The maximum distance from the furtherest structure would be about 1700 feet. They have provided no parking spaces because of the close proximity of the homes to the courts and because of the terrain of the property. The terrain is such that to add parking spaces would be almost impossible and also impractical. The space there is very limited. On the right, it is impossible to put parking spaces because of the slopes and the close proximity to the lot lines. The only possibility at all is on the left hand side and there are already existing sewer lines there and also that is very close to the flood plain area. This would also cause the destruction of some trees.

Mr. Smith stated that two parking spaces should be provided.

Mr. DiGiulian stated that the office of Preliminary Engineering has commented on the site distance. He asked the type of fence that is proposed to be used.

Mr. Fayette stated that it would be the normal wire fence that is usually put around tennis courts.

Mr. DiGiulian stated that it would then be an open fence and site distance would be no problem in his opinion.

Mr. Yaremchuk asked how these courts could cause a site distance problem or impair the site distance. He stated that he was concerned about that.

Mr. Smith stated that it would be possible that the applicants might place a canvas on the end which would cut down the wind and might also impair the site distance.

Page 85, January 31, 1978
(KEYSTONE (continued)

Mr. Yaremchuk stated that he would like to know for sure if there is a sight distance problem. He stated that he felt this type potential problem should be checked out in the field by the staff.
There was no one else to speak in favor and no one to speak in opposition.

Page 85 Bd. of Zoning Appeals
January 31, 1978 R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-345-77 by KEYSTONE FINANCIAL & SERVICE CORP. under Section 30-6.6 of the Ordinance to permit tennis courts 12' from front property line (30' required), 2015 Hunter Mill Road, 27-4((1))pt of parcel 7, (5.92173 ac.), Cedar Run Subd., County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 31, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-2 Cluster.
3. That the area of the lot is 5.92173 acres.
4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic problems; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

//

SPECIAL USE PERMIT R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-346-77 by KEYSTONE FINANCIAL & SERVICE CORP. under Sec. 30-7.2.6.1.1 of the Zoning Ordinance to permit two tennis courts for Cedar Run Subd., 2015 Hunter Mill Road, 27-4((1))part of parcel 7, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 31, 1978; and

WHEREAS, the Board 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 Cluster.
3. That the area of the lot is 5.92173 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The membership shall be families from the Cedar Run Subdivision.
8. The hours of operation shall be daylight hours.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

Page 86, January 31, 1978, Scheduled case for
11:10 A.M. - ROJAC INC. appl. under Sec. 30-6.6.5.4 of the Ord. to permit house to remain 48.3' from front property line (50' required), (26,221 sq. ft.), 12521 Kings Lake Drive, Stratton Woods Sec. 2 Subd., RE-0.5, V-347-77.

(The hearing began at 11:23 A.M.)

Mr. Veach with the firm of Greenhorne and O'Mara, 7115 Leesburg Pike, submitted the proof of notices to property owners. However, the notices were not in order.

The Board deferred the case until Feb 14, 1978 for proper notices.

//

Page 86, January 31, 1978, Scheduled case for
11:20 A.M. - AUGUSTUS & MARTHA CORLEY, JR. appl. under Sec. 30-6.6 of the Ord. to permit addition 10' from side property line (15' required), and 40' from the front property line (45' required), 6914 Jenkins Lane, 40-2((32))15, Dranesville Dist., R-17, V-317-77, Revised.

(The hearing began at 11:30 A.M.)

Mr. Robert Fitzgerald, attorney for the applicant, 10560 Main Street, Fairfax, submitted the required proof of notice to property owners. The notices were in order.

Mr. Fitzgerald stated that the shape of the lot is triangular which, therefore, poses a problem. He stated that when the application was first filed, it was not realized that the front variance would be needed. However, due to the curvature of the road, they need a 5' variance in the front yard. Only fifteen percent of the proposed addition actually lies within the setback area. He submitted a plat which showed the area of the addition that was within the setback area. He stated that the corner of the addition is actually 40' from the nearest point to the front property line.

There was no one else to speak in favor and no one to speak in opposition.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-317-77 by AUGUSTUS & MARTHA CORLEY,JR. under Sec. 30-6.6 of the Zoning Ordinance to permit garage 10' from side property line (15' required) and 40' from front property line (45' required), 6914 Jenkins Lane, 40-2((32))15, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 31, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 16,916 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

Page 87, January 31, 1978 - AFTER AGENDA ITEM

APPROVAL OF MINUTES

Mr. Durrer moved that the Board approve the Minutes of November 8, 15 and 29, 1977; December 6 and 13, 1977. He stated that he was not present on December 20, 1977. He added that these should be approved subject to minor corrections.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

Mr. Barnes moved that the minutes for December 20, 1977 be approved with minor corrections.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

//
Page 87, January 31, 1978
AFTER AGENDA ITEM - DEHARD B. JOHNSON, Variance granted October 12, 1977. V-185-77.
The Board was in receipt of a letter dated January 25, 1978 from Mr. Johnson requested the Board approve revised plans showing the proposed building closer to the property line than had originally been approved. He stated that the engineer who is working on the building plans advises that the southeast corner of the building may be as much as 4½ feet closer to the south property line than is shown on the approved variance plat.
The Board after considerable discussion and after discussion with the applicant and by motion of Mr. Durrer decided that it would be necessary for Mr. Johnson to file a new application. Mr. Barnes seconded the motion and the motion passed unanimously.

Page 88, January 31, 1978, AFTER AGENDA ITEM OF
ACCOTINK ACADEMY, 8519 Tuttle Road, S-108-71

Mr. Smith read a letter from the applicant requesting that they be permitted to put a temporary trailer on the property to use in conjunction with their existing school.

Mr. Smith stated and the board members agreed that the Board does not have the authority to grant this temporary use without a public hearing.

Mrs. McConnell, director of the school, stated that Fairfax County is under the new law that requires that they provide adequate educational facilities for any handicapped child thirty days after that child's application is put in. She stated that all their classrooms are limited to eight. She stated that she is under contract with Fairfax County. She stated that even though Fairfax County has some extra classrooms, they do not want to move the children from their classes to another location for therapy or guidance sessions with the counsellors. She stated that she now uses the school's offices for their sessions.

The Board members sympathized and suggested that Mrs. McConnell get her application for Special Use Permit in promptly and the Board would hear the case just as soon as it possibly could.

//

Page 88, January 31, 1978, AFTER AGENDA ITEM OF
CLAUDE WHEELER T/A PROCTOR HATSELL SCHOOL, S-100-76.

The Board was in receipt of a letter from Mr. Dexter Odin, attorney for the applicant, requesting that the Board permit the Permittee to change the age group of the children to: 3 months through 7 years and to change the name of the Permittee to Proctor Hatsell School, Inc. The school will still be operated by Mr. and Mrs. Wheeler, however. Therefore, there will be no actual change in the operation of the school or the ownership of the school, other than on paper in name only.

Mr. Durrer moved that the request be granted.

Mr. Barnes seconded the motion.

The motion passed unanimously.

//

Page 88, January 31, 1978, AFTER AGENDA ITEM OF

NIGHT MEETINGS AND PERSONNEL MATTERS

Mr. Durrer moved that the Board go into Executive Session to discuss internal Board matters relating to personnel provided to the Board and Board policy.

Mr. Barnes seconded the motion.

The motion passed unanimously and the Board went into Executive Session until 1:30 P.M. when it reconvened to adjourn.

Jane C. Kelsey

By Jane C. Kelsey, Clerk to the
Board of Zoning Appeals

Submitted to BZA on 3/7/78.

Submitted to Bd. of Supervisors,
Planning Commission and other
Depts. on _____.

Daniel Smith

DANIEL SMITH, CHAIRMAN

APPROVED April 4, 1978
DATE

The Regular Meeting of the Board of Zoning Appeals Was Held on Tuesday, February 14, 1978 in the Board Room of the Massey Building. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian and John Yaremchuk.

The meeting began at 10:25 A.M. with a prayer by Mr. Barnes.

The Chairman then called the scheduled case for -

10:00 A.M. - AMERICAN HORTICULTURAL SOCIETY appl. under Sec. 30-7.2.5.1.4 of the Ord. to permit amendment to existing Special Use Permit additional structures and parking and relocation of parking and access roads, 7931 East Boulevard Drive, 102-2((1))20, (24.81 acres), Mt. Vernon Dist., RE-0.5, S-348-77.

Mr. Gerald Welsh, attorney for the applicant with office at 1400 North Uhle Street, Arlington, Virginia, submitted the required proof of notice to property owners. The notices were in order.

Mr. Welsh stated that the American Horticulture Society is a non-profit tax exempt organization founded in 1922 with 30,000 members. The purpose of this headquarters was to provide a national headquarters for horticulture interests throughout the United States. They purchased the subject property known as the River Farm in 1973 which consists of 25 acres of rolling terrain with 1,000 feet of frontage on the Potomac River. This is one of five farms that used to constitute Mount Vernon. The original Special Use Permit was granted by this Board in 1973 to permit offices for national benefit association on this property. He explained why the prior condition of the prior Use Permit had not been complied with. That condition was the construction of an access road which was to be completed twelve months after approval of this Use Permit by the Board of Zoning Appeals. He stated that he could not speak for prior management of this association, but Mr. Tom Richards who took over the management of the association in December of 1976 has had that acces road as a first priority item. He hired Glave, Newman & Anderson, an architectural firm in Richmond,to do studies concerning the location of the access. The studies were completed about June 1, 1977 and at that time they submitted a site plan to Design Review to get their reaction to the proposed relocation of the access, which is the access that is before the Board today. This was a service that was provided by Design Review to appraise the environmental aspect and sensitivities of the site and to completely comply with Fairfax policies. The plan was received back from Fairfax County with a green light saying that this relocation did comply with the environmental policy of Fairfax County. In response to that, they prepared and filed the subject application in November of 1977. In answer to Mr. Yaremchuk's question, Mr. Welsh stated that the plan was reviewed in Design Review by Mr. Steve Reynolds. He stated that only the configuration of the building has been changed since that plan was reviewed.

Mr. Welsh stated that the reasons that the proposed entrance that was a conditon of the prior Use Permit did not comply was that there was a swale that runs through that side of the property which provides a storm water runoff for George Washington Memorial Parkway to the Potomac River and in addition, they felt that due to the historic significance of that site and the fact that the residence on the site is the focal point, that conditioned entry was a poor choice for this site. The present entry is on the top of the highest point of the property, giving better sight distance and better environmentally. The other access is very very close to the neighbors that abut the property on the northwest corner of the site. He called the Board's attention to Mr. Knowlton's report which stated that "...the layout of the driveways and parking appears to be well worked out to conform to the topography of the site to assure the minimum amount of grading." He stated that they are also in receipt of a letter from the National Park Service concerning the adverse impacts of the access previously conditioned by this Board.

Mr. Welsh stated that the traffic increase with this additional expansion will not seriously impact the roadways, but any proposals to relocate the entrance some distance away from Mt. Vernon Parkway could create problems on East Boulevard Drive. He stated that the National Park Service has jurisdiction on entry permit onto East Blvd. off the Parkway and the letter mentioned earlier raises some doubt as to whether or not they could get an entry permit on the access road that was previously conditioned.

090

Mr. Welsh stated that this application advocates the addition of 20,000 sq.ft. of additional office space to go with the existing 10,000 sq. ft. They have modified the entry and it is now one lane, and they have modified it with two lanes using the existing lane as a one-way in and constructing along side of it an access way as a one-way out. The neighbors to the south are the Halpins. They use the drive up to a point to where their own drive-way branchs off to their property. Their access is over American Horticulture's property by an easement agreement that was executed some time ago. They plan to add 120 parking spaces with natural screening in a location that is not within sight of the abutting land owners or from East Boulevard. They also will construct new demonstration gardens and a court yard that will provide more scenic value to the property. He stated that they have had many meetings with the citizens in the area and they know of no citizen association in the area that opposes this application. The Mount Vernon Civic Association has endorsed the application. He stated that they have answered all the concerns of the citizens and the conditions as recommended by the Planning Commission covers those concerns.

The first condition was that an appropriate County agency be granted a scenic easement of 200' in depth along East Boulevard and 350' in depth along the Potomac River to exclude building and marina construction. They have provided a scenic easement for review of the National Park Service for the East Boulevard site and along the Potomac River, they have provided an easement to the Virginia Outdoors Foundation for their review. These two easements constitute 10.2 acres which is approximately 40 percent of the site.

The second condition is that all buildings be used for non-profit horticultural related activities or organizations. They agree to all of that.

The third condition that the architecture and facade of all new construction be compatible with Georgian architecture of the existing building. They agree to that.

The fifth condition is that at no time would the employeed personnel on the site exceed 100. They agree to that.

The sixth condition is that at no time will the property be leased or rented for any purpose for which the American Horticulture Society would receive a profit. They agree to that.

The seventh condition is that there be no lighting of the parking lot. They agree to that.

The only condition that gives the applicant trouble, he stated, is condition number 4. The applicant feels very strongly that if they are forced to comply with the condition of the original use permit, it would do irreparable damage to the site and would not be in keeping with their policy to treat an environmentally sensitive site in this fashion. He requested the Board visit the site.

Mr. Welsh stated that the related uses are organizations that are both under the control of the Society and some separate organizations, such as the Herb Society which would take up 500 sq. ft. of office space with one employee, which are horticulture related groups, but not necessarily an arm of the Society. He stated that they added these organizations in their request so that this Board would not be inundated with requests for 150 to 500 sq. ft. for these smaller organizations that might just want to have one person or one office in this facility. They would lease to these organizations.

Mr. Covington, Assistant Zoning Administrator, stated that Mr. Knowlton, the Zoning Administrator, has a recommendation that each one come back with a separate application for a separate Special Use Permit. However, that was not the recommendation of the Planning Commission in its review of the application.

Mr. Ronald Orr of the Mount Vernon Counsel of Civic Associations spoke in support of the application.

Mr. Smith stated that the resolution as adopted by that Counsel would be entered into the record on this case. He stated that he also had a letter from Mr. Richards of the Society dated January 25 agreeing to the points raised in the resolution. That also would be made part of the record.

Page 91, February 14, 1978
AMERICAN HORTICULTURE (continued)

Mrs. Nellie Gallagher, owner of the property immediately to the north of the subject property, spoke in support of the present application. She stated that her family has lived there since 1948. They do oppose the condition as set forth for the road in the 1973 Special Use Permit because that road would be constructed within 50' of their property line and within 75' to 100' from their house. This would cause an adverse impact to their property, she stated. She submitted three letters from other neighbors: Mr. and Mrs. Briar, 7870 Southdown Road, indicating their approval of the new location for the driveway and stating that the new plan is superior to the previous one approved in 1973; Mr. and Mrs. Bennington, 7907 Kent Road, in support of the new application and in particular the new location of the proposed driveway; and from Mary C. Reynolds, 7900 West Boulevard Drive, in support of the application to construct an outgoing driveway along side of the present driveway.

Mr. Lopez, 8107 East Boulevard Drive, requested that he be able to see a copy of the plan that is before the Board. The applicant furnished him with a copy of the plan. He objected to the expansion to allow other organizations to use the property on a rental basis since they are not part of the Horticulture Society, the failure of the Society to put in the required roadway since it was a condition of the granting of the previous Special Permit, the increase in traffic that these additional uses will generate on the public roadway, the parking spaces that were shown to be within the area designated for the scenic easement, and the additional noise and pollution that this increase will bring.

Mr. Smith stated that there should be no parking within the confines of the scenic easement. He asked the applicant to see that these parking spaces were removed from the plat. The applicant agreed to do so.
He also objected
Mr. Lopez also objected to this property being taken off the tax rolls which he stated probably will happen since this is a non-profit organization and can apply for such exemption.

Mr. Peter Halpin, contiguous neighbor to the south, represented his family. He stated that they have sixteen acres of land immediately south extending from East Boulevard Drive down to the river. He stated that his family share an access with the Society. He called the Board's attention to the Planning Commission's recommendation that the Society be required to build the access road where originally approved in 1973. He stated that this violation in not building the access where originally approved and conditioned has been going on for four or five years. He stated that his family intend to continue to utilize this road for many years. In 1973, the Board respected this right and he requested the Board to do the same this time if the applicant is to be allowed to continue his occupancy of the building.

Another lady in the audience spoke from her seat and was off the mike and no audible.

Mr. Jerry Halpin, contiguous property owner and father of Peter Halpin who spoke earlier, residing at 8000 East Boulevard Drive, spoke in opposition to the proposed access using the existing access as part of that road. He stated that the Board of Zoning Appeals should see that the enforcement staff does its job to enforce the conditions that this Board places on these permits.

In answer to Mr. Durrer's question, Mr. Smith stated that this applicant does not have a permit today if it does not have an occupancy permit. There is a question as to whether the permit is valid because of the lack of compliance with the conditions set forth in the original permit. He stated that he felt the lack of enforcement of these conditions was an oversight. This Board certainly was not aware that the applicant had not complied with the original conditions until today.

Mrs. Hulda Russell, 1205 Cedar Dale Lane, stated that their community supported this original application. She asked for a deferral of this decision until the neighborhood and the Society can get together for further study. She inquired about the hours of operation for the proposed use.

Mr. Smith stated that the only changes that would take place are those that are specifically mentioned in the application. The hours and other conditions were remain the same and in force. She questioned the staff's statement that the proposed use would have no appreciable effect on the neighborhood.

Mr. Smith explained that the other thing the Board is considering is the additional buildings and physical changes. It is not considering the

additional uses such as the rental of the facility to the various organizations dealing with horticulture. That will require additional hearings based on the recommendations of the Zoning Administrator.

Mr. Smith questioned the agent for the applicant and Mr. Richards regarding the renting of the property for weddings, etc.

Mr. Richard stated that the fee charged for the weddings, meetings, etc. are for janitorial services and that type of thing. There is no profit involved. They provide this service for the benefit of the members and the community.

The Board deferred the application until March 14, 1978 to give the applicant time to provide new plats and in order for the Board members to view the property.

//

10:30 A.M. - CHILD CARE PROPERTIES, INC./AND KINDER CARE LEARNING CENTERS, INC. appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit a day care center for 120 children, 9328 Braddock Road, 69-4((1))part 5, 1 acre, Annandale Dist., RE-1, S-349-77.

Stephen M. Colangelo, attorney for the applicant with the law firm of Boothe, Prichard and Dudley, 4085 University Drive, Fairfax, submitted the required notices to property owners. The notices were in order.

Mr. Colangelo stated that present in the Board Room should the Board have questions of them are Mr. Max Freeman and Trudie Irwin of Child Care Properties. He stated that a representative from Kinder Care who operate the centers, Mr. Manuel Koversh, is also present.

The Board after some discussion amended the application to include the name of Kinder Care Learning Centers, Inc. since that is the corporation that operates the day care facility.

Mr. Colangelo stated that this property is part of a 2 acre parcel on which the applicants propose to construct and operate a day care facility similar to the centers they presently operate in Fairfax County and Fairfax City. This Board granted a similar Special Use Permit for such a facility on Wolf Trap Road just last year. In answer to the Board members questions, he stated that the entire two acres is under contract to purchase by Child Care Properties who in turn will lease to Kinder Care only the one acre part of the two acres.

Mr. Smith stated that this has been one of the problems with the many applications that have been before this Board for this type facility by these applicants. They do not provide enough land for the use that they propose to make of the land.

Mr. Colangelo stated that there is plenty of room on the site for screening.

He stated that 70 of the 120 children would be dropped off at the facility between 7 and 9 A.M. and picked up between 4 and 6 P.M. Thirty would attend part-time. He stated that he felt this would create no adverse traffic impact on the nearby streets.

Mr. Durrer stated that he felt this would create traffic problems on Braddock Road and that there was no way that he could vote for this application under the present conditions of Braddock Road. He explained the present conditions of Braddock Road at that location. He stated that west of Guinea Road Braddock Road is cut down from a four lane to a two lane road and just west of Olley Lane, it is a three lane road, then beyond Twinbrook it cuts down again to a two lane road. This site is located just west of Guinea Road where Braddock cuts down to two lanes. There is a slight dip in the road there and a traffic light at Olley Lane.

In answer to Mr. Durrer's question, Mr. Colangelo stated that if this permit is approved, the building will be constructed in the spring and will take approximately five months to be completed.

Mr. Durrer stated that he saw in the memo from Mr. Pant in the Office of Transportation that VDH has funded for '79 ti '84 improvements for this road and bids could possibly be let as early as 1979 which is at least a year away. The left turn on Braddock Road at this location will be taken care of then according to the report from Mr. Pant.

Page 93, February 14, 1978
CHILD CARE PROPERTIES, INC. & KINDER CARE...(continued)

Mr. Colangelo stated that they would use one bus for the after school program which consists of keeping up children at their assigned public school and delivering them to the day care facility where they are kept until the parent picks them up. Usually, these children have brothers and sisters in the all-day care facility.

Mr. William Rose, one of the co-owners of the property, spoke in support of the application. He questioned the problem of traffic because he stated that the property down Braddock at the intersection with Twinbrook was recently zoned for a shopping center. He stated that he could not see the proper relationship between these two factors.

Mr. Durrer reminded the speaker that this Board does not rezone anything. This Board considers Special Use Permits and only considers the case that is before the Board at the time. It had nothing to do with the rezoning.

Mr. Freeman from Child Care Properties 12102 Corran Lane, Reston, stated that as far as the size property this facility is placed on, according to State requirements, it could go on a three-fourth acre parcel. He also stated that they anticipate the children that will go to this facility will live within a two-mile radius from this facility. This traffic is already going up and down Braddock Road to and from work and, therefore, will create no additional traffic. The majority of the children will remain in the school all day and even though they are asking for no more than 120 children at any one time and could conceivably accept a child for only several hours, this is not the usual.

Mr. Colangelo stated that in answer to one of the Board members questions they would paint the busses yellow, if the Board makes that a condition of the permit.

OPPOSITION

Stewart Sale, Senior Warden of the Church of the Good Shephard, which is the property to the north of the subject property, spoke concerning the type facility this is to be and the exact layout. He questioned the size of the building in relation to the area of the land that they plan to use, particularly for 120 children. He stated that he was not opposed to the day care center as such, but is concerned about the other aspects.
After some discussion, Mr. DiGiulian stated that if the road is widened on this side of Braddock Road, it would have the same conditions on this piece of property as there is on the church property.

Mr. Colangelo in rebuttal stated that the file contains information regarding the qualifications of the applicant and all the other points that Mr. Sale raised. He stated that the site plan has been on file for several months and this case also went to the Planning Commission at a public hearing. He disagreed that Mr. Sale had not had an opportunity to view and obtain that information. He spoke to the need for this facility in Fairfax County.

Mr. Smith reminded Mr. Colangelo that need is not a requirement as far as criteria for Special Use Permit in residential zones is concerned. The main concern is the impact on the residential area and the safety and welfare of the general public.
The following motion was made but failed by a vote of 3 to 2 against.

Page 93 R E S O L U T I O N Bd. of Zoning Appeals
February 14, 1978
Mr. DiGiulian made the following motion:
WHEREAS, Application S-349-77 by CHILD CARE PROPERTIES, INC. & KINDER CARE LEARNING CENTERS, INC. under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit day care center for 120 children at any one time on property located at 9328 Braddock Road, 69-4((1))part of 5, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on February 14, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is J. H. Watkins and W. D. Rouse.
2. The applicant is the contract purchaser.
3. The present zoning is RE-1.
4. Compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening will be required to the satisfaction of the Director of Environmental Management.
7. The number of students shall be 120, ages 2 to 5.
8. The hours of operation shall be from 7 A.M. to 6 P.M., Monday through Friday.
9. The minimum number of parking spaces shall be 18.
10. Supplemental planting shall be provided to screen this use from the residential subdivision east of the site at the direction of the Director of Environmental Management.
11. The owner shall dedicate to public right-of-way to 50' from the center line of Braddock Road and shall construct standard curb and gutter, road widening and trail for the frontage of the property under this permit.
12. All busses used for this facility shall be painted, and with proper lights and lettering in accordance with State requirements for school busses.

Mr. Barnes seconded the motion.

Mr. Durrer reitterated that he could not support this motion to grant based on the impact of this use on Braddock Road.

Mr. Smith stated that the applicant has had an opportunity to provide additional land area to lessen the impact on the residential community and has chosen not to do so, therefore, he cannot support the resolution to grant this use.

M r. DiGiulian stated that the applicant has agreed to do whatever road widening is necessary and that the staff has suggested. He stated that this is the way we get roads like Braddock Road widened by someone developing the property and widening the road.

The vote was 3 to 2 against the resolutinn to grant. Messrs. Smith, Durrer and Yaremchuk voted No. Messrs. DiGiulian and Barnes voted Aye.

The application was denied.

Page 95, February 14, 1978, Scheduled case for

10:50 A.M. - CHILD CARE PROPERTIES, INC. appl. under Sec. 30-7.2.6.1.3 of the Zoning Ordinance to permit day care center for 120 children, 3427 Buckman Road, 101-2((5))(2)15, (.85 ac.), Lee Dist., R-12.5, S-350-77.

Stephen M. Colangelo, attorney for the applicant with offices at 4085 University Drive, Fairfax, requested that he be allowed to withdraw this application. He stated that the applicant has not had a sufficient amount of time to develop all the information it needs regarding the site.

Mr. Durrer moved that the request be granted without prejudice.

Mr. Barnes seconded the motion.

The motion passed unanimously.

There was no one else in the room interested in the application.

// The Board recessed for lunch at 12:50 and returned at 2:10 P.M.

Page 95, February 14, 1978, Scheduled case for

11:00 A.M. - HENRY FRANKLIN HOOTS ET AL. appl. under Sec. 30-6.6.5.4 of the Ord. to permit house to remain 3.1' from side property line (10' required), 6801 Westcott Road, West Lawn Subd., 50-4((17))73, (7,912 sq. ft.), Mason District, R-10, V-351-77.

The Board was advised by the staff that another variance was necessary on this application and, therefore, the case must be readvertised before it can be heard.

The Board deferred this captioned case and rescheduled it for March 21, 1978.

//

Page 95, February 14, 1978, Scheduled case for

11:15 A.M. - RALPH E. GOODWIN, JR. appl. under Sec. 30-6.6 of the Ord. to permit enclosure of carport into garage such that total side yard would be 34.8' (40' required), 10207 Tamarack Drive, 27-2((3))62, (22,680 sq. ft.), Tamarack Subd., Centreville Dist., RE-1 Cluster, V-1-78.

(The hearing began at 2:15 P.M.)

Bob Beagan with the law firm of Walstad, Wickwire, Peterson & Gavin, 8150 Leesburg Pike, Vienna, Virginia, represented the applicant. He presented notices to property owners which were in order.

Mr. Beagan gave the main justification for the need for this variance as the unusual physical condition of the land. The house in question is placed on the lot in such a way that it is 12.6' from the left property line boundary. The right boundary line is the one where the carport is currently located. The house was constructed in 1973. This garage will be used for that purpose only except for a small storage area in the rear.

He stated that the garage will be constructed of materials compatible with the existing house.

There was no one else to speak in favor of the application and no one to speak in opposition.

In answer to Mr. Smith's question, Mr. Beagan stated that the storage area is needed in the garage in order to get the lawn equipment out of the basement and make a family room in the basement. He stated that most of the other houses in the area already have garages. He stated that he has the garage framed in at the present time, but when he discovered that a permit was necessary, he stopped work on it until he could apply for this variance.

RESOLUTION

Mr. Durrer made the following motion:

WHEREAS, Application V-1-78 by RALPH E. GOODWIN, JR. under Sec. 30-6.6 of the Ord. to permit enclosure of carport into garage such that total side yard would be 34.8' (40' required), 10207 Tamarack Drive, 27-2((3))62, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on February 14, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1 Cluster.
3. That the area of the lot is 22,680 sq. ft.
4. That the applicant's property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Page 96, February 14, 1978, Scheduled for

11:30 A.M. - PINECREST SCHOOL, INC. (Deferred Case from 1-10-78 for proper notices, full hearing) application under Sec. 30-7.2.6.1.3 of the Ord. to permit change of ownership for existing private school of general education, maximum 150 children, ages 3-12, 4015 Annandale Road, 60-3((14))2B, (2 acres), Mason District, R-10, S-312-77.

Gwendolyn Jo Carlberg, attorney for the applicant, 6547 Spring Valley Drive, Alexandria, Virginia, Fairfax County, submitted the required proof of notice to property owners. The notices were in order.

Ms. Carlberg stated that this property has been used as a school for general education purposes since 1971. Mr. Leary who had a Special Use Permit prior to this application leased the land from the Buckleys. She stated that Pinecrest is now subleasing the premises. She stated that Pinecrest does not intent to change any of the structures and plan to continue to operate a private school of general education. Pinecrest has been operating for a number of years at a different location. This subject location was the old Merrydowns location. They plan to have 120 children instead of 150 because of the determination by the Health Department. When Merrydowns was there, the permit was for 225 children. However, the standards have changed.

There was no one else to speak in favor of the application and no one to speak in opposition.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application S-312-77 by PINECREST SCHOOL, INC. under Sec. 30-7.2.6.1.3 of the Zoning Ordinance to permit change of ownership for existing private school, 4015 Annandale Road, 60-3((14))2B ,County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements;and

WHEREAS, following proper notice to the public and a public hearing by the Board held on February 14, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. The applicant is the sublessee from the Leary Corp. who leases from the Buckleys.
2. That the present zoning is R-10.
3. That the area of the lot is 2 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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* has started or unless renewed by action of this Board prior to date of expiration. *or operation
3. This approval is granted for the buildings and uses indicated on the palns submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of students shall be 120,ages 3 through 12 years.
8. The hours of operation shall be from 9 A.M. to 2:30 P.M., five days per week.
9. The number of parking spaces shall be 16.
10. All school busses used for this school shall be painted, lettered and with lights in accordance with the State requirements for school busses.
11. All other requirements of Special Use Permits#4644 and S-264-75 shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

11:45 A.M. - JARVIS A. BOYKIN ET AL, TRUSTEE (Deferred case from 1-10-78 for report regarding drainage and deferred at request of applicant for full Board) FULL HEARING. application under Sec. 30-6.6 of the Ord. to permit subd. with 3 lots having less than required lot width, (73' requested, 80' required), 1408 Dade Lane, 102-4((1)) 36 and 36A, Mt. Vernon Dist., (42,204 total acreage), R-12.5, V-322-77.

(The hearing began at 2:55 P.M.)

Mr. Boykin had presented notices at the time the hearing was called on January 10, 1978. The notices had been in order.

Mr. Smith read a letter from Jack Moore, Jr., Assistant Branch Chief, Plan REview Branch of Design Review, regarding the status of the lots being developed across the street by Mr. Boykin and the drainage problems involving those lots. His memo stated:

"The site development for Lots 38A and 38B, J. C. Henderson property, were approved by the Division of Design Review June 14, 1976. Bonds and Agreements to guarantee construction of the storm drainage requirements and siltation control were approved by the Bonding Committee June 15, 1976. As of this date, the storm drinage system has not been constructed due to a property dispute over the location of the rear lines of Lots 38, 38A and 38B. This adjacent property is presently owned by Mark J. Bishop. A RUP was requested for 38B, which was not approved by the Public Utilities Inspector, however, a RUP was issued to 38A in error. Lot 38B has no RUP. The request for RUP on 38A has also been denied by the Inspector."

"The Zoning Office was notified January 11, 1978 that a RUP has not and will not be issued on Lot 38A until the storm drainage system has been constructed. The construction agreement is in default effective July 3, 1977, therefore, the builder will not be issued any additional building permits for construction until the defaulted agreement has been rectified. The County Attorney has been advised of this default and his guidance requested in connection therewith."

Mr. Moore testified that even though the drainage problems involve the lots across the street from the subject property that is before the Board today, should the Board grant the variance on the subdivision before it, the County still would not issue grading plan permits or building permits until the problems on the lots across the street have been resolved. He stated that he could not answer any questions regarding the development of the subject lots before the Board today because he had not seen the proposed development plan for those lots.

Mr. Norman Burnheimer, attorney representing several homeowners in the area, spoke in opposition to the granting of this variance unless the Board could assure that in granting this variance that there would be no drainage problems caused by this development as there is across the street. He explained the extreme drainage problems that exist on those lots across the street and the adverse impact and effect that these problems are having on the nearby property owners and homeowners that are contiguous to this property.

Mr. Smith and the Board members explained that any variance that is granted is conditioned upon compliance by the applicant of all County and State Codes. The granting of the variance does not waive any of the other requirements and it is the responsibility of the various County agencies to see that all these requirements are complied with.

Mr. Brown, 2914 Dunn Barr Street, Alexandria, president of the Saunders B. Moon Community Action Association and the Gum Springs Civic Association and pastor of the Baptist Mission Church, then explained the purposes of the Saunders B. Moon Community Action Association program and its goals. He spoke in opposition to the subject application and asked the Board to deny the application until such time as the applicant meets all the requirements of the development of the lots across the street.

(Mr. DiGiulian had to leave the meeting at this point.)

Mr. Smith explained to Mr. Brown that the Board is familiar with the problems that have existed in Gum Springs and has worked with those citizens for twenty years. This Board has no jurisdiction in the problems involved with the lots across the street and the only thing this Board can do is consider the current application and the merits of the case. This Board's decision must be made in accordance with State and County Code guidelines for granting variances.

Page 99, February 14, 1978
BOYKIN (continued)

Mrs. Pollard, 1508 Dade Lane, property adjacent to the subject property, spoke in opposition. Her objections were based on the fear that the applicant would not provide adequate drainage for the development thereby causing drainage problems on her land as it is across the street, that the proposed houses are not compatible with the existing houses in the neighborhood and that the applicant does not have a physical hardship with the land in her opinion.

Another lady spoke in opposition who lives at 1409 Dade Lane regarding the drainage problems that exist across the street.

The Board continued to discuss the drainage problems on length, and also the problem of having the road accepted into the State system.
Mr. Boykin in rebuttal stated that he felt his variance should be granted and that he would comply with all State and County Codes. He affirmed that he could not get a building permit on these lots until he has worked out all the problems on the development across the street.

Page 99 Bd. of Zoning Appeals
February 14, 1978 R E S O L U T I O N

Mr. Durrer made the following motion:

IN APPLICATION NO. V-322-77 by JARVIS A. BOYKIN, ET AL, TRUSTEE under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision with 3 lots having less than required lot width, 1408 Dade Lane, 102-4((1))36 and 36A, County of Fairfax, Virginia, 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, and public hearing was held by the Board on February 14, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 42,204 sq. ft.
4. That the applicant's property has an unusual condition in that the configuration of the land will not allow development in conformance with the existing zoning or the surrounding area; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Barnes seconded the motion.

Mr. Durrer stated that he did not place as a condition that the applicant not develop the lots until he had assured the County that the drainage criteria would be met because that is already in the motion in that he must meet all State and County Codes of which proper drainage plans must be submitted and approved and installed.

The motion passed 3 to 0. Messrs. Durrer, Barnes and Smith voted Aye. Mr. DiGiulian had left the room temporarily. Mr. Yaremchuk abstained.

Page 100, February 14, 1978, Scheduled case for

1:00 P.M. - RALPH ANDERSON appl. under Sec. 30-6.6 of the Ord. to permit carport to be constructed 25' from front property line (45' required) 2117 Popkins Lane, 93-3((4))90, (14,600 sq. ft.), Hollin Hills Subd., R-17, Mt. Vernon Dist., V-331-77. (Deferred from 1-10-78 for proper notices, FULL HEARING).

100

(The hearing began at 3:50 P.M.)

Mr. Kerns, architect for the project, submitted the required proof of notice to property owners. The notices were in order.

Mr. Kerns stated that the existing garage will be converted into a guest bedroom and study. The shape of the lot, with the home placed at an angle to the street, makes it impossible to build a carport without a variance. The carport will be a flat roof open wood structure. The curving driveway will be blacktopped and placed to miss the existing trees. The front yard slopes approximately six feet to the street. The existing driveway will be removed to create a patio near the home.

He stated that the addition will be of contemporary design and will utilize wood frame construction to match the existing structure and the other homes in the area. The new roof line will match the existing and will not extend above the existing work. The site is heavily landscaped and the carport will be well screened from the street and neighboring homes.

One neighbor spoke in support of the request.

Mrs. Anderson stated that her family has owned this property for eleven years.

Mr. Smith stated that the entire addition will be in the front setback. It is also very close to the front property line.

There was no one else to speak in favor and no one to speak in opposition.

Page 100 Bd. of Zoning Appeals
February 14, 1978 R E S O L U T I O N

Mr. Durrer made the following motion:

IN APPLICATION NO. V-331-77 by RALPH ANDERSON under Sec. 30-6.6 of the Zoning Ordinance to permit carport to be constructed 25' from front property line, 2117 Popkins Lane, 93-3((4))90, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, and a public hearing held by the Board on February 14, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 14,600 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Barnes seconded the motion and the motion passed 3 to 1. Mr. Smith voted No. Mr. DiGiulian had left the meeting temporarily.

Page 101, February 14, 1978, Scheduled case for

1:20 P.M. - WILLIAM & MARY PAGE & BILL PAGE PONTIAC, INC. & BILL PAGE TOYOTA, INC. APPL. UNDER Sec. 30-6.6 of the Ord. to permit additional building 5' from rear property line (20' required), 2923 Annandale Road, 50-4((12)) 1, 1A, 2, 3, 27A, (98,104 sq.ft.), Providence Dist., C-G, V-313-77. (To be heard in conjunction with Special Exception to be heard by Bd. of Supervisors January 23, 1978.)

101

(The hearing began at 4:10 P.M.)

Mr. Tom Lawson, attorney for the applicant, submitted the required proof of notice to property owners. The notices were in order.

Mr. Lawson stated that the applicants and owner are operating two automobile dealerships known as Bill Page Pontiac , Inc. and Bill Page Toyota, Inc. on the subject property and been so operating for 20 years. In an attempt to modernize and efficiently organize their operations, the applicants seek to locate a paint and body shop on the subject site to serve both agencies.

Prior to the adoption of Amendment No. 304 by the Board of Supervisors on July 11, 1977, the applicants had obtained a variance; however, because of a delay in the completion of their building and remodeling plans, the variance lapsed, thus, necessitating their reapplication at this time for the very same variance. This paint and body shop will not generate any additional traffic to and from the site. The hours of the shop will be from 7:30 a.m. to 5:30 p.m. five days aweek. The maximum number of patrons who are expected to be there at any one time are six and a maximum of twelve employees will be employed.

Mr. Lawson stated that the Board of Supervisors approved the Special Exception on January 23 by a unanimous vote. This requested variance is for 15' rather than the 20' that was previously granted.

There was no one else to speak in favor and no one to speak in opposition.

Page 101 Bd. of Zoning Appeals
February 14, 1978 R E S O L U T I O N

Mr. Durrer made the following motion:

IN APPLICATION V-313-77 by WILLIAM & MARY PAGE & BILL PAGE PONTIAC, INC. & BILL PAGE TOYOTA, INC. under Sec. 30-6.6 of the Ordinance to permit additional building 5' from the rear property line (20' required), 2923 Annandale Road, 50-4((12)) 1, 1A, 2, 3, 27A, (98,104 sq.ft.), Providence District, C-G, V-313-77, (To be heard in conjunction with Special Exception to be heard by the Board of Supervisors on January 23, 1978 and was granted by that Board at that hearing) Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, and a public hearing by the Board held on February 14, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is C-G.
3. That the area of the lot is 98,104 sq.ft.
4. That the applicant's property is exceptionally shallow.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 within one year from this date unless construction has started or unless renewed by this Board prior to expiration.
Mr. Barnes seconded the motion and the motion passed unanimously with the members present. Mr. DiGiulian had left the meeting temporarily.

Page 102, February 14, 1978, Scheduled case for

1:40 P.M. - ROJAC, INC. appl. under Sec. 30-6.6.5.4 of the Zoning Ord. to permit house to remain 48.3' from front property line (50' required), 12521 Kings Lake Drive, 25-2((4))28, County of Fairfax, V-347-77. (Deferred from January 31, 1978.)

102

(The hearing began at 4:30 P.M.)

Mr. John Veach, engineer with Greenhorne & O'Mara, Inc., 7115 Leesburg Pike, Falls Church, submitted the required proof of notice to property owners. The notices were in order.

Mr. Veach stated that this house was staked out in the field by the survey crew incorrectly. The house was constructed according to the stake-out and was, therefore, constructed too close to the front property line. He stated that the particular person who made the mistake has been with the company for 25 years and this is his first mistake.

There was no one else to speak in favor and no one to speak in opposition.

Page 102 Bd. of Zoning Appeals
February 14, 1978 R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application V-347-77 by ROJAC, INC. under Sec. 30-6.6.5.4 of the Zoning Ordinance to permit house to remain 48.3' from front property line (50' required), 12521 Kings Lake Drive, 25-2((4))28, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board on February 14, 1978; and

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

1. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit.

WHEREAS, the Board has reached the following conclusions of law:

1. 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.

2. That the granting of this variance will not create an unsafe condition with respect to both other propeties and public streets and that to force compliance with setback requirements;would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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.

Mr. Barnes seconded the motion.

The motion passed unanimously with the members present. Mr. DiGiulian had left the meeting temporarily.

Mr. DiGiulian returned to the meeting.
Page 102, February 14, 1978, AFTER AGENDA ITEM.

1. ROTONISU INVESTMENT CORPORATION (RAMADA INN), S-14-77, Granted February 23, 1977. (REQUEST FOR EXTENSION)

The Board was in receipt of a letter from Grayson Hanes, attorney for the applicant, explaining that the applicant was not able to begin construction within the one year limitation and requested an extension.

Mr. Barnes moved that the applicant be granted a six month extension.

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

//

2. ST. MARY'S OF SORROW CATHOLIC CHURCH, S-41-77, Granted April 12, 1977, Located 3222 Sideburn Road, 68-4((1))2.

The Board was in receipt of a letter from several contiguous and nearby property owners pointing several alledged discrepancies between the site plan which has been filed (#2643) and the plan as approved by the Board on April 12, 1977. The letter stated that the adjoining property owners on Concordia Street were led to believe that:

1. The parish desired to maximize the preservation of the natural characteristics of the property.
2. Parking would meld into the natural setting and topography.
3. Silhouette of building would be lower than surrounding trees so as not to create an adverse character relating to surrounding residences.
4. Setbacks would be 95'-100' on the west side of the property.
5. A tree/underbrush buffer of at least 50' would be provided by the church. and
6. Existing wooded areas were to be retained where possible.

The letter continued by saying that the site plan indicates that the property will be virtually denuded of all vegetation with the exception of a small strip of trees around the perimeter of the development. This buffer shrinks to 0' behind lots 6 and 7. The parking spaces behind lots 9, 10 and 11 come as close as 30' to the property line leaving only 8' to 10' of vegetation buffer. They asked the Board to consider several remedies to this problem.

Mr. Ken Smith, attorney representing the adjoining landowners, stated that while the Board met on the other cases the church representatives and engineer and the citizens have met and marked out some of the parking spaces in order that additional buffer area might be left between the spaces and the adjacent lots. This is satisfactory to both parties. He asked the Board to approve this substitute plat with this deletion. He stated that the deletion of these parking spaces would still leave enough parking spaces to meet the requirements of the Ordinance.

The Board approved the substitute plat and the Chairman signed the plat indicating the Board's official approval.

Mr. Phil Garman from the Office of Preliminary Engineering, Dept. of Design Review stated that he had reviewed the plat and has no problems with the deletion as noted.

Mr. DiGiulian moved that the substitute plat be accepted. Mr. Yaremchuk seconded the motion and the motion passed unanimously.

//

Mr. Durrer stated that as the Board members knew he had been pushing for night meetings since the middle of last year at the request of the Board of Supervisors. He stated that his previous motions to have night meetings did not even get a second. He stated that he still feels that the maximum number of people who might be interested in a particular case should be present if they so choose. He stated that he wanted to see a better relationship between the two Boards also. He stated that, however, he saw in the Board summary that there was a motion made by a member of the Board of Supervisors to try to get the General Assembly to change the legislature whereby they will be able to appoint the Board of Zoning Appeals members. If that was not possible, they asked to be able to appoint a different Board to hear the Special Permit cases. He stated that this Board has been trying to work with the Board of Supervisors and now they are trying to do away with this Board. That shows that they do not want to get along with anyone. Therefore, he stated that he would not make a motion to have night meetings.

Mr. Smith stated that he felt this Board has tried to react to any helpful suggestions that the Board of Supervisors might have. He stated that he had resisted the night meetings because he felt it would be discriminatory toward some of the applicants because the Board would not be able to hear all the cases at night meetings. It would certainly work a hardship on the Board members that have to work at their normal job from 8 A.M. until 6 or 7 P.M. every night. He stated that he did not feel any person is at his best in the evenings after working all day.

Mr. DiGiulian stated that the purpose of this Board is to grant relief from the Ordinance in certain areas and the Board of Supervisors is the body that enacts the Ordinance. He stated that he did not feel the holding of night

Page 104, February 14, 1978, AFTER AGENDA ITEM -- NIGHT MEETINGS (continued)

meetings would solve the problems that are inherent between the two Boards. He stated that the Board of Supervisors want control over this Board and if they have control, then they really don't need this Board.

Mr. Smith stated that he served under appointment of the Board of Supervisors for some years and the only conversations that he had with the Supervisors were constructive ones and they did not try to put pressure on him to vote the way they wanted. After all, how can they know how to vote before they or anyone has heard the merits of the cases in question. They only point out certain factors that the Board should know. They do that now.

Mr. Yaremchuk stated that regardless of how this Board is appointed, it is an arm of the County and should act accordingly. He stated that he agreed that there should be night meetings to handle controversal cases, particularly land use cases. He moved that this Board begin holding night meetings once a month on controversal land use cases, beginning at 8 P.M. and continue until 10:30 P.M. The cases should be limited to two or three, depending on how controversal they are.

Mr. Durrer stated that he would reluctantly second that motion.

The Board then discussed how they could handle the cut-off time. Mr. Smith stated that at 11:00 P.M. he would close the meeting and defer future cases and further testimony on any present case they were on until the next night meeting, which probably be a month away.

The Board stated that they preferred to meet the 3rd or 4th Tuesday in addition to the regular Tuesday meetings. They would still have three regular day meetings per month. Mr. DiGiulian stated that he had a previous engagement every first Tuesday of the month.

Mrs. Kelsey advised the Board that Tuesday evenings is the only evening in the week that the Board Room is available. The Board of Supervisors has the Board Room on Monday evenings, the Planning Commission on Wednesday and Thursdays and the Board and Planning Commission have already set some meetings for Tuesdays.

The Board ask Mrs. Kelsey to correspond with the Chairman of the Board of Supervisors on behalf of the Board to advise the Chairman that the Board is willing to have night meeting if the Board of Supervisors will arrange a time that this Board can use the Board Room.

Mr. Yaremchuk asked that Mrs. Kelsey pick the cases that the Board should hear for its night meetings and consult with the Chairman and schedule only two to three cases. If she knows in advance that it will be very controversal, then she should only schedule one case.

The Board agreed and further advised Mrs. Kelsey that should an applicant specifically request a night meeting for his case, that she should have him sign a statement to that effect and then she can schedule the case for the next night meeting available without regard for the 60 day limitation of the State Code on hearing the cases.

The vote on Mr. Yaremchuk's motion was 3 to 2. Messrs. Yaremchuk, Smith and Durrer voting Aye and Messrs. Barnes and DiGiulian voting No.

//

Page 104, February 14, 1978, AFTER AGENDA ITEMS, FORM RESOLUTIONS FOR GRANTING SPECIAL USE PERMITS AND VARIANCES.

The majority of the Board members wanted to read a shortened version of the standard resolution form, referring to the standard form and making it a part of the motion, but just not reading it word for word as they had been doing. However, after further discussion, it was decided that the Board would meet with the County Attorney for his opinion on whether or not this would be legal. Mr. Yaremchuk made the motion to defer the matter until after conversation with the County Attorney. Mr. DiGiulian seconded the motion and the motion passed unanimously.

//

Jane C. Kelsey

by Jane C. Kelsey, Clerk

Daniel Smith

DANIEL SMITH, CHAIRMAN

Submitted to the BZA on _____

APPROVED April 4, 1978
DATE

105

The Regular Meeting of the Board of Zoning Appeals Was Held on Wednesday, February 22, 1978. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian; and John Yaremchuk.

The meeting opened at 10:20 A.M. with a prayer by Mr. Barnes. The Chairman called the first case.

10:00 A.M. - THE TOWN AND COUNTRY BANK & TRUST COMPANY, a corp., appl. under Sec. 30-6.6 of the Ord. to permit bldg. to be constructed 35' from the front property line (Ramada Road), 75' required), located at the intersection of Ramada Road and Route 7, 39-2((1))46, (25,286 sq.ft.), Providence District, C-OL, V-2-78.

Mr. Harold Miller represented the applicant. There was a problem with the notices. He had submitted them with the special exception notices that went to the Board of Supervisors, and, of course, the notices were not in the file before the Board.

The Board deferred this case until after the 10:20 case in order for the staff to obtain the special exception file to check for the notices.

The Board again called the case after the 10:20 case had been resolved. The notices had been submitted. However, the variance notices were sent out with the special exception notice and did not give the details of the variance request. After some discussion, the Board did accept the notices as being adequate.

There was a letter in the file from Guy E. Beatty, Suite 1000, Heritage Building, 7617 Little River Turnpike, Annandale stating that he is the owner of the real estate adjacent to the subject property. Their building address is 7777 Leesburg Pike. He stated that he believed the waiver of the building restriction line would be detrimental to his property in that the building would be placed at the most prominent viewpoint of his property on Route 7. He stated that the visibility of his building is important to its rental success. He asked that the application for this variance be denied.

Mr. Covington stated that he felt Mr. Beatty is speaking of the setback on Route 7. The applicant meets the setback from Route 7.

Mr. Miller stated that the proposed building sets further back from the service drive than Mr. Beatty's building.

Mr. Miller stated that a special exception was granted by the Board of Supervisors yesterday for this bank facility to be located on this property. He stated that when the engineers prepared the site plan, they were not aware that Ramada Road,even though it is a private road,requires a front setback. He stated that when the new Ordinance is adopted effective August 1, they would not need the setback variance at all. However, it is important that they begin construction this spring and not wait for the new Ordinance. Therefore, they very much need the variance. The building is a two story building that will almost entirely be occupied by the Town and Country Bank. It will be their headquarters building. They are a local bank operating in Reston at the present time, he stated.

Mr. Miller stated that yesterday before the Board of Supervisors, the neighboring Pimmit Hills Citizens Association sent in a letter supporting the special exception application, the location of the building, the drive-in window and the facilities that go with it.

There was no one else to speak in favor and no one to speak in opposition.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. V-2-78 by THE TOWN AND COUNTRY BANK & TRUST COMPANY under Section 30-6.6 of the Zoning Ordinance to permit building to be constructed 35' from the front property line (Ramada Road), property located at intersection of Ramada Road and Route 7, 39-2((1))46, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on February 22, 1978; and

106

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

1. That the owner of the property is the applicant.
2. That the present zoning is C-OL.
3. That the area of the lot is 41,009 sq. ft.
4. That the applicant's property is exceptionally shallow; and

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

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

3. This variance is granted in conformity with the special exception granted by the Board of Supervisors on February 21, 1978.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

Page 106, Scheduled application for
10:20 - CARL H. RICHMOND ET AL. T/A TELEGRAPH ROAD JOINT VENTURE appl.
A.M. under Sec. 30-7.2.10.4 of the Ord. to permit a motel (2 four story buildings), located at Intersection of I-495 along East Drive and Elmwood Drives, 82-2 & 83-1 ((1))2, 4, 31A and part 30A, (161,426 sq. ft.), Burgundy Village, Lee Dist., C-DM, S-3-78.

CARL H. RICHMOND ET AL. T/A TELEGRAPH ROAD JOINT VENTURE appl. under Sec. 30-6.6 of the Ord. to permit construction of motel closer to interstate right of way line and closer to R District boundary line than permitted by Ordinance (same location as above) V-4-78.

Mr. Bernard Fegelson, attorney for the applicant, with offices at 124 South Royal Street, Alexandria, submitted the required proof of notice to property owners. The notices were in order.

Mr. Fagelson stated that the special exception was granted by the Board of Supervisors for additional parking for this use. This application was supported rather strongly by the citizens in the area. This is the same application for the same motel that the Board granted over a year ago. The special use permit and the variance expired since they were unable to begin construction within the year time limitation. They have now put up the bond money and are ready to ask for a building permit as soon as the site plan is approved. It has been tentatively approved subject to the granting of these two applications. This motel, Mr. Fagelson stated is for 123 units. They are providing more than the actual required number of parking spaces, 237 total.

In answer to Mr. Barnes' question, Mr. Fagelson stated that they have worked out the drainage problems on the site.

There was no one else to speak in favor and no one to speak in opposition.

Mr. Fagelson stated that the motel will be constructed just as previously planned with the previous applications.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application S-3-78 by CARL H. RICHMOND ET AL. T/A TELEGRAPH ROAD JOINT VENTURE under Sec. 30-7.2.10.4 of the Zoning Ordinance to permit a motel (2 four story buildings) 193 units, property located at intersection of I-495 along north side of East Drive and Elmwood Drive, 82-2 & 83-1((1))2, 4, 31A and part of 30A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on February 22, 1978; and

WHEREAS, the Board 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-DM.
3. That the area of the lot is 161,426 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit,
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of parking spaces shall be 237.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously with all members present and voting.

// RESOLUTION FOR V-4-78

Mr. DiGiulian made the following motion:

WHEREAS, Application V-4-78 by CARL H. RICHMOND ET AL., T/A TELEGRAPH ROAD JOINT VENTURE under Sec. 30-6.6 of the Zoning Ordinance to permit construction of motel closer to interstate right of way and closer to R District Zone line than permitted by the Ordinance, property located at intersection of I-495, along North of East Drive and Elmwood Drives, 82-2 & 83-1 ((1)) 2, 4, 31A and part of 30A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on February 22, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is C-DM.
3. That the area of the lot is 161,426 sq. ft.
4. That the applicant's property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously with all the members present.

Page 108, February 22, 1978, Scheduled case for

10:40 A.M. - TYSON'S BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB appl. under Sec. 30-7.2.6.1.1 of the Zoning Ordinance to amend existing Special Use Permit to permit security lights to remain and for change in hours of operation: Tennis to 6 A.M. to 10 P.M. and Pool from 6 A.M. to 9 P.M., 9117 Westerholme Way, 28-4((1))45A, (5.696 acres), Centreville District, RE-1, S-5-78.

(The hearing began at 10:53 A.M.)

Mr. John J. Brandt, 9033 Westerholme Way, Vienna, submitted the required proof of notice to property owners. The notices were in order.

Mr. Brandt explained that the reason they wish to extend the pool hours of operation is in order to allow members of Ed Solotar's swim team to use the pool beginning at 6 A.M. They lease the facility to Mr. Solotar for only the cost of maintenance. They make no profit. Mr. Solotar does permit one of his coaches to coach their swim team, however, which has given their Club a winning swim team for the last couple of seasons. They are very proud to have Mr. Solotar and his coaches with their Club. Mr. Solotar uses the pool for 42 days from mid-June to early August during the weekdays.

Mr. Brandt stated that they wish to extend the hours for the tennis courts in order to give more members the opportunity to use the courts. They actually have been using the pool and the tennis courts from 6 A.M. in the morning for some time with no complaints until this last summer. The security lights already are installed on the property.

Mr. Brandt estimated that there would be a maximum of 20 to 30 cars at the facility in the early morning hours.

In answer to Mr. Smith's question, Mr. Brandt stated that 20 percent of Mr. Solotar's team are members of their Club. His team consists of 100 members. Mr. Solotar chooses his swim team members on the recommendation of the various coaches in the area.

In answer to Mr. Yaremchuk's question, Mr. Brandt stated that there are two or three houses that are within 200 to 300 feet from the pool or courts.

Mr. William Sorensen, 9106 Westholme Way, spoke in support of the application

Page 109, February 22, 1978, TYSON'S BRIAR, INC. (continued)

Mr. Joseph Sistero, a member of the Club, spoke in support of the requests.

Linda Robertson, 1730 Killarney Court, about 200' from the subject property off Westholme Way, spoke in support of the application. She submitted a petition in support of the application. The petition consisted of 194 names, all of whom were members of Cardinal Hills Club. They obtained one name per household. There were a few of these people who signed with conditions which were, for instance, a beginning time of 7 A.M. instead of 6 A.M. There were several signatures from Westerholme Way. There are 600 households in Cardinal Hills Club. There are 44 families in the Wexford Subdivision of which there are 22 to 30 members of Cardinal Hills.

Miss Donna Robertson, a young swim team member, spoke in support of the application.

Mrs. Leah Nash, 9114 Westholme Way, spoke in opposition to the application. Her lot is number 26. Her main points of opposition were the noise and the additional traffic.

The Board members discussed the parking situation and the additional traffic and noise that this additional use to the Solotar Swim Team would cause on the surrounding properties.

Mrs. Gwendolyn Myers, 9113 Westerholme Way, Lot 28, submitted a statement in opposition.

Mrs. McDowell, who lives on the five acre tract of land contiguous to the Club, spoke in opposition.

Mr. Myers, 9113 Westerholme Way, representative of the Wexford Community Association, submitted a statement of opposition to the application.

Mr. Tom Santerson, 9107 Westerholme Way president of the Wexford Community Association, spoke in opposition and answered questions that the Board had raised with Mr. Myers. He stated that members of the Wexford Community are members of the Club. They have one representative on the Board of Directors of the swim club. Prior to this election they had been without a representative for two years. The individual who had been on the Board was out of the area. When Wexford was constructed a membership in the Club came with the home. Forty-two families in the Wexford community still belong to that Club.

Mr. Lenn Koneczny, Senior Zoning Inspector, testified that his office begin receiving complaints about one year ago. These complaints were with regard to parking on private property for the use and the early morning activities. He stated that he brought to the Club's attention the condition of the Special Use Permit under which they were operating that limited the activity from 9 A.M. to 9 P.M. He stated that the Club's representative assured him that they would make some type of arrangement to avoid violating the Special Use Permit. The other activity whereby the Club was leasing their property to outside organizations was determined by the Club that these organizations or organization were considered to be guests of the Club who paid only a guest fee for each person who used the facility and that the Zoning Office had no control over that. He stated that there had also been a complaint regarding the glare of the lights. He checked the lights and they are shielded and he found no violation in that regard. The lights that were originally approved were around the pool. The lights that the applicant is requesting to be allowed to remain today are the security lights around the parking lot. Those lights did not show on the original approved plats. Since the time that he originally checked the lights, there has been some vandalism in the area and the lights have been redirected and are now directed more toward the residential properties. However, there is still no violation as to the glare from those lights.

Mr. Koneczny had no advice or recommendation for the Board as to the disposition of these matters.

Mr. Bryant in rebuttal stated that they had put a mobile gate across the parking lot at the request of the Wexford citizens. When the pool was not in use, the parking lot would be blocked. When the incident occurred where someone parked on someone else's property, it was because the gate had not yet been opened since it was in the early morning hours. Once the Club found that this was a problem, they begin opening the gate earlier in the morning. He stated that this is the first that he had heard about noise complaints today. He reitterated that there were no profits made by the Club from the leasing of the facility to Mr. Solotar.

The Board discussed at length the relationship of the Club with Mr. Solotar.

Mr. Brandt explained that their Club pays for the services of the coach that they obtain from Mr. Solotar. They feel that if Mr. Solotar cannot use their facilities for his swim team that they would loose their swim team coach. Their swim team practices immediately after Mr. Solotar's team, from 9:00 A.M. until 11:30 A.M. Mr. Solotar does not remain on the premises for their team's practice. Each team member of Mr. Solotar's team pays $33.00 every month. Their Club's coach is paid directly by the Club. The Club is paid $3.50 for every guest that is brought in. Therefore, they get about $750 per season from Mr. Solotar's team.

In answer to one of the Board member's questions, Mr. Koneczny stated that he had received personally three complaints. The last complaints was regarding lights. The other two complaints was with regard to noise and parking.

Mr. Brandt stated in response to Mr. Durrer's question that Mr. Solotar begin using their facilities in June of 1976.

Mr. Smith stated that he could understand the citizens concern. Even though the neighbors were aware of the recreational facility when they moved in, the hours were 9 A.M. to 9 P.M. at that time. The Board used to be very firm about these hours. It was only recently that any community facility was permitted to open earlier or stay later than that.

Mr. Durrer had earlier stated that the neighbors should have known that this type use might request expanded operations at a later date.

Mr. DiGiulian stated that he agreed with Mr. Durrer that the neighbors should normally expect that activities might intensify and there might be additional traffic, but anyone that lives adjacent to the use has the right to expect that the facility will operate within the hours set in the motion granting the use and at such time as the facility wishes to change the hours, that they have to come back to this Board in advance of changing those hours.

The public hearing concluded at 12:55 P.M.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application S-5-78 by TYSON'S BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB under Section 30-7.2.6.1.1 of the Zoning Ordinance to permit security lights to remain and for change in hours of operation to: TENNIS from 6 A.M. to 10 P.M.; POOL from 6 A.M. to 9 P.M., 9117 Westerholme Way, 28-4((1))45A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on February 22, 1978; and

WHEREAS, the Board 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 5.696 acres.
4. That the present Special Use Permits are S-74-67 to permit construction and operation of community swimming pool, wading and training pools and tennis courts;
   S-104-71 to allow construction of a 40' x 9' tennis shelter on property; and S-38-73 to permit lighting of two of existing tennis courts.
4. That compliance with the Site Plan Ordinance is required; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.

7. Landscaping and screening shall be required to the satisfaction of the Director of Environmental Management.

8. The hours of operation shall be as requested in the caption.

Mr. Barnes seconded the motion.
*See insert below.
The motion passed 3 to 2. Messrs. Durrer, Yaremchuk and Barnes voted Aye.

Messrs. DiGiulian and Smith voted No.
(THIS IS GRANTED SUBJECT TO THE APPLICANT SUBMITTING NEW PLATS SHOWING LIGHTS.

Mr. Smith stated that he could not support the resolution because he felt that there are factors that should be considered regarding the use of the facility by individuals and groups of individuals who are not part of the immediate community. He stated that he had known Mr. Solotar for a number of years and he is a very capable person, but that is not a reason for granting a use when it affects adversely people who live adjacent to the site. He stated that he would agree to starting at 8 A.M. and he might feel different about the 6 A.M. starting time, if the people who were being served were people from the immediate community and this service was for the benefit of the immediate community.

Mr. DiGiulian inquired if this was granted subject to the Board receiving the new plats.

Mr. Yaremchuk stated that it was. Mr. Barnes accepted that as a condition.

Page 111, February 22, 1978, Scheduled case for
11:00 A.M. - ELSIE LEIGH appl. under Sec. 30-2.2.2 of the Ord. to permit subd. of lot 50 with all four lots having less lot width than required by Ord. (8'requested, 100' required), 1018 Balls Hill Road, 21-3((1))50, (2.9652 ac.), Dranesville Dist., RE-0.5, V-6-78.

The Board deferred this case because it was advertised under the wrong section of the Ordinance. It should have been Section 30-6.6 of the Ordinance. IN addition, the applicant had given on his application both the incorrect section of the Ordinance and an incorrect address. A lady from the audienc stated that 1018 Balls Hill Road is the church property and 1026 is her property. There were four people in the room interested in the application. The lady stated that more people would have been present, but they thought that the application was for the church property.

The Board advised the Staff to readvertise and repost the property for this application and advised the applicant to obtain the correct postal address for the property and renotify the property owners giving the correct address of the property under application.

The Board deferred the case until April 4, 1978.

//

Page 112, February 22, 1978, Scheduled case for
11:10 - FORTSMANN SPORTING ENTERPRISES, INC. appl. under Sec.30-7.2.10.7.12
A.M. of the Ord. to permit skateboard park located at Howard Avenue and Boone Blvd., 29-3((4))6, 7, and 8, (154,094 sq. ft.), Freedom Hill Farms, Providence Dist., C-G, S-7-78.

Mr. John H. Ariail, 2300 Ninth Street, South, Arlington, Virginia, attorney for the applicant, submitted the required proof of notice to property owners. The notices were in order.

The Board discussed at length the staff's recommendation for deferral. The attorney for the applicant, however, did not want the case deferred. The staff had recommended that the case be deferred until after the Board of Supervisors had heard the special exception request for a water slide on the same property.

Mr. Durrer moved that the case be deferred until after the Board of Supervisors has heard the special exception application.

Mr. DiGiulian seconded the motion.

There were people in the audience present prepared to speak in opposition to this application. However, they indicated to the Board that they had no objection to a deferral.

The motion to defer passed unanimously and the Board set the deferral hearing for March 14, 1978.

//

Page 112, February 22, 1978, Scheduled case for
11:30 - ONA & LENA JUDY appl. under Sec. 30-6.6 of the Ord. to permit 1 lot
A.M. with less than required lot width (25' requested, 200' required), 11600 Stuart Mill Road, 36-2((1))9, (4.53310 ac.), Centreville Dist., RE-2, V-8-78.

(The hearing began at 3:00 P.M.)

Mr. Charles Shreve, land surveyor, represented the applicant and submitted the required proof of notice to property owners. The notices were in order.

Mr. Mr. Tudor S. Gourley, Jr., attorney for the applicant, also was present to represent the applicant.

Mr. Gourley stated that the variance is sought because the present zoning ordinance deprives the owners of the usefulness of the approximate rear half (Northern half) of the subject property due to its shape; there is not proper frontage for two lots on Stuart Mill Road, he stated. The applicant does own and live in the existing house that is on the property. The old road bed on the plat would provide the 200' frontage required except the road has been abandoned by the State Highway Department. That road is not part of the legal description of the adjoining tracts. There has been 30' dedicated along the front street for a walkway and bridle path.

Mr. Verlon Smith who lives across the street on the tract of land containing 50 acres. He spoke in favor of the application.

Mr. Daniel Smith stated for the record that he was no relation to Mr. Verlon Smith. He did welcome Mr. Smith before the Board, however, and stated that Mr. Verlon Smith is a former Chairman of this Board.

Mr. Verlon Smith explained the history of the area and on the old roadbed. He stated that, if possible, he would like for that old road to be used for this purpose. He stated that he moved there in 1945 and this old road, #670, was in use and provided ingress and egress over to Lawyers Road to the Bowman Distillery. The road was kept open for years as an alternative access because Difficult Run often floods and prevent access by other means. The neighbors were very upset when the road was abandoned. He stated that after searching the title on this old road, it goes back into the 1800's. This is a chain of title that goes back to Lord Fairfax's ownership.

Mr. Covington stated that the old roadway has no bearing on this application or the requirement for proper frontage on a state maintained road. If the Board grants this variance, the applicant will have satisfied the requirement of the Ordinance. Then, the applicant may use the old road if they wish to. The new road does not have to be developed.

Mr. Gourley stated that they would build a road if it is necessary. The old road is not travelable all the way back to the back lot.
There was no one else to speak in favor and no one to speak in opposition.

Mr. DiGiulian made the following motion:

WHEREAS, Application V-8-78 by ONA & LENA JUDY under Sec. 30-6.6 of the Zoning Ordinance to permit one lot with less than rquired lot width (25' requested, 200' required), 11600 Stuart Mill Road, 36-2((1))9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on February 22, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 4.53310 acres.
4. That the applicant's property has an unusual condition in that the configuration of the property will not allow development in accordance with the existing zoning or the surrounding area.

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

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously with all members present and voting.

Page 113, February 22, 1978, Scheduled case for
11:45 - RICHARD J. POLSON, V-295-77 (Deferred from 12/6/77 and 1/18/78 for
A.M. additional information and decision.))

The Board was in receipt of a letter from the engineer for Mr. Polson stating that because of the inclement weather, his field crew had not been able to inspect Mr. Polson's property in order to submit an engineering report on the status of the structure's construction. He asked for a deferral.

Mr. DiGiulian moved that this case be deferred until the 21st of May, 1978.

Mr. Durrer seconded the motion.

Mr. Durrer stated that it has been brought to his attention that Mr. Polson has sold this property. He asked Mr. Covington to check on this.

Mr. Covington stated that he would.

The motion to defer passed unanimously.

//

Page 113, February 22, 1978, Scheduled case for
1:00 - SPRINGFIELD MART LIMITED PARTNERSHIP appl. under Sec. 30-6.6, V-9-78
P.M. (To be heard in conjunction with SE 214 to be heard by the Board of Supervisors.
(The hearing began at 3:20 P.M.)
Mr. Smith read a letter from the attorney for the applicant, Mr. Bernard Fagelson, requesting that this case be deferred because he had not been able to get the proper notices out to the property owners of this hearing.

Mr. Covington advised the Board that the Board of Supervisors granted the special exception for the use.

Susan Hall, 7092 Spring Garden and Mike Williams, 7081 Spring Garden Drive, were present to speak in opposition to the use. However, the Chairman explained to them that the use had been granted. This application before this Board was only for a variance to permit the building to be closer to a residential zoning boundary line.

The Board deferred the case until March 7, 1978 for proper notices.

//

Page 114, February 22, 1978, Scheduled case for
1:20 P.M. - COUCH AND COUCH appl. under Sec. 30-4.1 (Non-Conforming Uses) in accordance with the provisions of Subsection 30-6.7 (Special Permits) to permit retail business to remain and be enlarged, not to exceed 25 percent in a C-OL zone, 2938 Chain Bridge Road, 47-2((1))93, (40,821 sq. ft.), Centreville Dist., C-OL, S-329-77

COUCH AND COUCH appl. under Sec. 30-6.6 of the Ord. to permit construction of building 2' from Hunter Mill Road to replace existing building, 2938 Chain Bridge Road, 47-2((1))93, (40,821 sq.ft.), Centreville Dist., C-OL, V-330-77.

These cases were deferred from January 31, 1978 for proper notices.

Mr. Ed Garvey, agent for the applicant, submitted the required proof of notice to property owners. The notices were in order.

The staff report stated: (RE: Variance case)
"Applicant wants to construct a new store building and connecting wooden deck, to replace existing store buildings which must be demolished as a result of a VDH & T taking for the widening of Hunter Mill Road, on the captioned property. The proposed new building and deck, like that portion of the existing nonconforming building which will remain after the demolition, would be 2 feet from the new right of way line of Hunter Mill Road, and since the minimum required front setback is 50 feet, applicants need a variance of 48 feet..."

(RE: SUP Case)
(Portion from Office of P.E. relates to SUP & Variance.)
"...This property was downed zoned by the Board of Supervisors on its own motion in May 1971 from C-N to C-OL. A store with retail sales has operated at this location since 1930."

The staff report then quoted Section 30-4.1 "Uses which may be continued and enlarged, and then stated:

"...This addition meets the requirements outlined in this Section, the existing gross floor area is 6,598 feet and the addition will increase the floor area to 7,110 square feet or a percentage increase of 8%. The assessed value of improvements are $90,960."

"The parking requirements for the establishment would be 37 spaces and 23 are provided."

The comments from Mr. Reynolds in the Office of Preliminary Engineering stated:
"It is strongly suggested that careful consideration be given to the proposed request since the proposed building could interfere with adequate sight distance at the entrance from the parking lot to Hunter Mill Road. Also, a parking tabulation should be shown indicating the number of spaces required and how that number was computed, and the number of spaces provided. This tabulation would enable the Board of Zoning Appeals to determine whether there will be sufficient parking to meet the needs of the proposed and existing buildings based on six (6) spaces per 1,000 square feet (net) of building area. All existing and proposed parking spaces, loading spaces, travel aisles, and driveways must be paved in accordance with Sec. 30-3.10.5 of the Zoning Ordinance."

"Construction on the subject site will be under site plan control. Under site plan control, road improvements in addition to those being constructed by the State may be required. These road improvements would consist of curb, gutter and standard sidewalk for the full frontage of the property along Hunter Mill Road, Route 674. There is not sufficient right of way within the area acquired by the State for Project $674-029-173, C501, for the needed curb, gutter and sidewalk. Therefore, some of these

Page 115, February 22, 1978
COUCH & COUCH (continued)

additional improvements would be located on the subject property within that area that the applicant would propose to construct a building and deck."

"It is important that the subject application take into consideration the future public parking and highway needs. It should also be noted that the subject property is not an adopted historic site. If the site were an adopted historic site, approval for alteration of the site would have to be approved by the Board of Supervisors. All necessary landscaping and screening should be provided to the satisfaction of the Director of Environmental Management."

The Board discussed with Mr. Mitchell the status of the non-conforming use section of the Ordinance to try to determine whether or not this is an acceptable application. Mr. Garvey explained that there will be no change in the use of the building. The existing building is used for storage and sales of canoe equipment and the new building will be used for essentially the same thing. In answer to Mr. Durrer's question, however, Mr. Garvey stated that there is no cash register or salesmen in the existing building.

For the record, Mr. Smith stated that hearings were held on September 27, 1977 and again on October 12, 1977 for a variance application that was exactly the same as this one. The Board on October 12 allowed the applicant to withdraw the application at that time in order to try to determine if the buildings could be placed farther back from the property line. The Board was very insistant that this be done and one suggestion was at least 13 feet. Mr. Garvey and his assistant then showed some slides of the existing property.

After considerable more discussion regarding the safety of the intersection at Hunter Mill Road and Route 123, Mr. Garvey stated that they had prepared some alternate plats to submit moving the building 11' from the property line at the closest point and 14' at the fartherest point. He stated that this was as far as they could move the building and still stay away from the existing sanitary sewer line that runs through their property.

The plats that Mr. Garvey submitted did not show any additional parking spaces that the Board members felt would be necessary before these applications could be considered favorably.

Mr. Smith stated that he was concerned still about the building being this close to Hunter Mill Road, because he knew that Hunter Mill Road would become a four-lane road in the reasonably near future. By allowing the applicant to place the building there, will cause the taxpayers to have to pay for that building when it has to be torn down to widen the road.

The Board members agreed, however, that if the applicant will submit new plats showing at least ten additional parking spaces over and above the spaces that have been shown on the alternate plats submitted today, with good circulation, the Board would give favorable consideration to the case at that time.

Mr. DiGuilian so moved and in addition that the case be considered next week, February 28, if the applicant gets the plats in to the staff by Friday, and those plats meet the requirements the Board has just agreed on.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously with all members present and voting.

//

Page 115, February 22, 1978
After Agenda Item -- APPROVAL OF MINUTES FOR JANUARY 10, 1978

Mr. Barnes moved that the Board approve the Minutes for January 10, 1978.

Mr. Yaremchuk seconded the motion. However, he stated that there was one correction. He stated that he had abstained from voting on the resolution granting the school on Valley Lane* and the minutes stated that he voted for the resolution. He asked the Clerk to make that correction.

The motion to approve the Minutes with that correction passed unanimously with all members present and voting.

*Mr. Yaremchuk was referring to the Bishton application, No. S-332-77.

//

DISCUSSION REGARDING THE READING OF THE RESOLUTION ON WHICH THE GRANTING OF SPECIAL USE PERMITS AND VARIANCES ARE BASED.

The Board discussed ways in which this resolution could be shortened.

Mrs. Kelsey had drafted a sample of a shortened resolution whereby the Board could refer to the captioned application that was before it and then grant in accordance with the standard resolution form with specific conditions that the Board might wish to add.

The Board agreed that it would like to start using this shortened version, but would await the opinion from the County Attorney.

The Board asked Mrs. Kelsey to set up a meeting with the County Attorney to discuss this.

//

PROCEDURE FOR STAFF REPORTS:

Mr. Yaremchuk stated that the Board had agreed previously but he did not think it was in resolution form that the zoning section sheet be included with each staff report for each case just like the zoning section sheets are in the reports to the Planning Commission, when one of the Board's cases is pulled for Planning Commission. He stressed that this is the type report he would like the Board to get for each Special Use Permit hearing that has land use impact. He stated that he thought this had been understood previously, but since apparently it had not, he wanted unanimous consent from the Board that this be done.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

//

_____
By Jane C. Kelsey, Clerk to the
Board of Zoning Appeals

Date Submitted to BZA_____

Date Submitted to Bd. of Supervisors,
Planning Commission and other Depts.
_____.

_____
DANIEL SMITH, CHAIRMAN

APPROVED:_____
DATE

The Regular Meeting of the Board of Zoning Appeals Was Held on Tuesday, February 28, 1978 in the Board Room of the Massey Building. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian and John Yaremchuk.

The meeting was called to order by Mr. Smith. Mr. Barnes opened the meeting with a prayer. The meeting began at 10:13 A.M.

The Chairman called the 10:00 A.M. case of

ROBERT J. STENGEL appl. under Sec. 30-6.6 of the Ord. to permit CONSTRUCTION of enclosure to existing carport to double garagesuch that total sideyards would be 22.8' (24' required), 3810 Shelley Lane, Winterset Subd., 59-3((15))104,(10,501 sq.ft.), Providence Dist., R-17 Cl. V-10-78.

Mr. R. J. Stengel, 3810 Cherry Lane, represented the applicant. The notices were certified by the Clerk as being in order.

The applicant's justification was the way the house is set on the lot which prohibits the construction of any addition without the necessity of a variance. He stated that they only need 1.2'.

There was no one else to speak in favor and no one to speak in opposition to this application.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application V-10-78 by ROBERT J. STENGEL . under Section 30-6.6 of the Ord. to permit construction of enclosure to existing carport to double garage such that total sideyards would be 22.8' (24' required), on property located at 3810 Shelly Lane, 59-3((15))104, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on February 28, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17 Cluster.
3. That the area of the lot is 10,501 sq.ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

Page 118, February 28, 1978, Scheduled case for 10:20 AM

DANIEL B. REGISTER, JR. appl. under Sec. 30-6.6 of the Ord. to permit construction of garage 5' from side property line (8' minimum required) and 25.5' from front property line,30' required, 5900 Wivenhoe Court, 91-4((4))608, (10,961 sq. ft.), Lee Dist., R-12.5 Cl., V-11-78.

118

Mr. Register submitted the required proof of notice to property owners. The notices were in order.

Mr. Register's main justification for the need for this variance was the fact that the house was constructed at an angle on the lot. In addition, this is a corner lot which requires two front setbacks. He stated that he could not cut the size of the garage because of a chimney that projects out from the house 18 inches.

There was no one else to speak in favor and no one to speak in opposition.

Page 118 Bd. of Zoning Appeals
February 28, 1978 R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-11-78 by DANIEL B. REGISTER, JR. under Sec. 30-6.6 of the Zoning Ordinance to permit construction of garage 5' from side property line and 25.5' from front property line, 5900 Wivenhoe Court, 91-4((4))608, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on February 28, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 Cluster.
3. That the area of the lot is 10,961 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property and is a corner lot having two front setbacks.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed 3 to 0. Mr. Smith abstained.

Page 118, February 28, 1978, Scheduled case for 10:30 A.M.

OSWIN S. HARRIS appl. under Sec. 30-6.6 of the Ord. to permit conversion of carport into garage such that it will be 7.9' from side property line with total side yard of 17.2' (8' and total of 20' required), 3905 Flagstone Terrace, Stoneybrooke Subd., 92-2((22))233, (8,514 sq. ft.), Lee Dist., R-12.5 Cl., V-12-78.

Mr. Harris submitted the required proof of notice which were in order.

Mr. Harris's main justification for the need for this variance was the irregular shape of his lot which prevented him from having the reasonable use of his lot.

There was no one else to speak in favor and no one to speak in opposition to this application.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, in Application No. V-12-78 by OSWIN S. HARRIS under Sec. 30-6.6 of the Zoning Ordinance to permit conversion of carport into garage 7.9' from side property line with total side yard of 17.2' (8' and total of 20' required), 3905 Flagstone Terrace, Stoneybrooke Subd., 92-2((22))233, (8,514 sq.ft.), Lee Dist., R-12.5 Cl., V-12-78, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on February 28, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 Cluster.
3. That the area of the lot is 8,514 sq. ft.
4. That the applicant's property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

Page 119, February 28, 1978, Scheduled case for
10:40 A.M. - RYAN HOMES, INC. appl. under Sec. 30-6.6.5.4 of the Ord. to permit house to remain 28.4' from Willow Pond Lane (30' required), 5705 Bakersville Lane, Annandale Dist., 78-2((1))Parcels 6 & 38 (Lot 129) Fox Lair Subd., (12,298 sq. ft.), R-12.5 Cluster, V-13-78.

Mr. William Matthews represented the applicant. The notices to property owners of this hearing were in order.

Mr. Matthews stated that Lot 129 of Fox Lair subdivision was staked out with 10' offsets by the survey crew. By some unknown misunderstanding the Fox Lair superintendent shifted the house two feet towards Willow Pond Lane, thereby, crossing the 30 foot building restriction line. This error was not known until a Matthews & Wheatley survey crew did a wall check on the house.

He stated that this variance will not have any detrimental effects on the surrounding properties.

There was no one else to speak in favor and no one to speak in opposition to this application.

R E S O L U T I O N

IN the subject application V-13-78 by RYAN HOMES, INC. under Sec. 30-6.6.5.4 of the Zoning Ordinance to permit house to remain 28.4' from Willow Pond Lane (30' required), 5705 Bakersville Lane, 78-2((1))Parcels 6 & 38 (lot 129), County of Fairfax, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, and a public hearing by the Board held on February 28, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 Cluster.
3. That the area of thelot is 8,514 sq. ft.
4. That the applicant's property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ord. 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 is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

Page 120, February 28, 1978, Scheduled case for
10:50 - CARROLL WRIGHT, JR. appl. under Sec. 30-7.2.9.1.7 (Group 9)
A.M. to permit real estate and appraisal office, 3013 Chain Bridge Road, Oakton, 47-2((1))82, (.877 ac.), Providence Dist., RE-0.5, S-14-78.

Mr. Flory, 3009 Chain Bridge Road, submitted the required proof of notice to property owners on behalf of the applicant. The notices were not in order because he had not notified the property owner directly across the street.

The Board deferred the case until April 4 for proper notices.

//

Page 120, February 28, 1978, Scheduled case for
11:00 - PIONEER BASEBALL LEAGUE appl. under Sec. 30-7.2.6.1.4 of the Ord.
A.M. to permit bingo auditorium, 7520 Richmond Hwy., 92-4((1))66C, (20,672 sq. ft.), Lee Dist., C-G, S-15-78.

Carl Sell, 6601 Cottonwood Drive, immediate past president of Pioneer Baseball represented the applicant before the Board.

The notices had been certified by the Clerk as being in order.

Mr. Sell stated that there are 71 baseball teams that make up this league. The age group is from 6 to 18. This league is not affiliated with Little League or Babe Ruth, but is separate and plays other teams in Fairfax County.

Mr. Sell had no specific information on the United Charities corporation which holds the lease and subleases to Pioneer Baseball. United Charities leases the building from Linco Realty who is the real estate agent for Kenny

Page 121, February 28, 1978
PIONEER BASEBALL LEAGUE (continued)

Shoes.

Mr. Sell stated that they pay $700 a week total or $3,000 per month. United Charities then pays Linco Realty. Mr. Sell stated that Pioneer also pays their share of the utility bills, taxes, insurance and they also hire a guard. The normal expenses on one night is around $200 to $300. The average profit has run about $75 a night. The County audits the books. They are required to send them all to the County. However, they have not done that because their bingo license was issued to Mount Vernon Youth Association. Pioneer began operating last June. Mount Vernon Youth Assoc. had been operating seven night a week. They called Pioneer and asked if Pioneer was interested in operating there since the new County Ordinance precluded them from operating seven nights a week.

Mr. Sell stated that they pay the janitor and the guard directly. They pay United Charities whatever their share of the bill happens to be.

The Board stated that the information pertaining to United Charities should be submitted. In answer to the Board's questions, Mr. Sell stated that Jo Ann Thompson is secretary of United Charities and Arvin Thompson is president. They live in Fort Hunt. Mr. Thompson is a booking agent for entertainers. He is not present during the time of the bingo operations.

There was no one else to speak in favor and no one to speak in opposition to this application.

The Board questioned the parking arrangement and stated that something more definite would have to be done about that.

The Board deferred this case until April 4 for additional information:
(1) Copy of United Charities certification with the State of Virginia as a non profit organization authorized to do business in the state of Virginia;
(2) Name and address of the registered agent;
(3) Copy of the certification from the State of Virginia showing that Linco Realty is certified to do business in the State;
(4) Copy of By-laws of Pioneer Baseball League and United Charities;
(5) The financial records of Pioneer Baseball League.
(6) Certification of license the applicant is operating under
(7) Clarification of parking arrangements
Mr. Sell stated that the financial records have already been submitted to the County's Office of Management and Budget.

Mr. SEll stated that United Charities has never been authorized to operate bingo either under the new or the old ordinance. That is why Mount Vernon Youth Assoc. actually operated the bingo.

Mr. Smith stated that it appears that United Charities has a surplus of $1,000 per month from this operation. They certainly are deriving some benefit from it.

//

Page 121, February 28, 1978, Scheduled case for
11:20 A.M. LEE DISTRICT BASKETBALL appl. under Sec. 30-7.2.6.1.4 of the Ord. to permit bingo auditorium, 7520 Richmond Hwy., 92-4((1))66C, (20,672 sq. ft.), Lee Dist., C-G, S-16-78.

Mr. Carl Sell, 6601 Cottonwood Drive, commissioner for Lee District Basketball, represented the applicant. The notices had been certified by the Clerk as being in order.

The Board again questioned the applicant about the lease holder, United Charities,and asked if there was anyone in the room from United Charities.

Mr. Barry was sitting in the audience but he stated that he was not connected with United Charities but with Mount Vernon Youth Association.

Mr. Lenn Koneczny, Senior Zoning Inspector, testified that he had checked the Clerk's records and those records show that Mr. Barry was one of the directors of United Charities, as well as Mr. and Mrs. Thompson. This was the State Corporation Commission's records of incorporation as a non-profit organization. However, in answer to Mr. Smith's question of Mr. Barry, if he had ever been a director, Mr. Barry answered "No, not to my knowledge." Question,"Did you sign the original application?". Answer from

Mr. Barry, "No, I did not.". Question, "Were you aware of the fact that you were listed as a director?". Answer from Mr. Barry, "No sir".

The Board then again discussed the parking for this use. This is the same property as the Pioneer Baseball League uses for their bingo operation which was just previously heard by the Board.

Mr. Sell stated that they had obtained a site plan waiver August 31, 1977 and the only conditions that were on it were that the maximum number of seats were to be 150 and the parking is to be in designated parking spaces on the site.

Mr. DiGiulian stated that he was confused as to what parking spaces are part of this site. The original site plan covered two lots. One was for Kenny Shoes at 7520 and the other another store at 7516. Both lots were developed under the same site plan.

Mr. Sell stated that the other building is occupied with two stores, retail stores. The original site plan waiver was granted basically for night time activity. It was stated that the stores would be closed during the periods of the bingo games and therefore the stores would not be using the parking spaces.

Mr. DiGiulian stated that he was under the impression that this operation would be from 9 A.M. until 12 Midnight and he was not sure that the site plan waiver would be in effect for an eighteen hour operation.

Mr. Sell stated that the operation is from 6 P.M. until Midnight.

Mr. DiGiulian stated that it would be a very bad arrangement if they lose one-half of the parking spaces.

Mr. Sell stated that they thought they had an arrangement with the bank next door.

Mr. Smith stated that the lease doesn't seem to give the applicant any parking at all. There is no guarantee that the parking next door can be used.

A lady in the audience who lives at 10520 Occasion Lane, Fairfax, spoke in support of the application.

Mr. Yaremchuk moved that the Board defer this application until the applicant has provided the Board with all the same items for Lee District Basketball as was requested for Pioneer Baseball League which were:
(1) Copy of United Charities certification from the State Corporation Commission as to the status of the non-profit organization in the State;
(2) Name and address of the registered agent;
(3) Copy of certification from the State of Virginia showing that Linco Realty is qualified to do business in the State;
(4) Copy of By-Laws for Lee District Basketball;
(5) The financial records of Lee District Basketball; and
(6) Clarification of license the applicant is operating under.
Mr. Durrer seconded the motion.

The Board set the deferral date for April 4, 1978, providing the proper information has been submitted in order for the Board to make a decision.

Mr. Sell stated that the Board of Supervisors granted an extension of time for the operation of the bingo games until March 31, 1978. After that the entire operation has to shut down.

Mr. Yaremchuk stated that he would also need a clarification on the type of parking arrangements that have been worked out, if any. He stated that he did not think the Board could approve any use without proper parking.

The motion passed unanimously with all members present and voting.

//

Page 123, February 28, 1978, Scheduled case for
11:40 - SLEEPY HOLLOW PRESCHOOL, INC. S-17-78.
A.M.
(Began at 12:30 P.M.)

Mr. Fred Welther, attorney for the applicant, stated that it has come to his attention that the notices do not comply with the request of the Board. He asked for a deferral in order to comply with the requirements.

The Board deferred this case until April 4 and instructed the applicant's agent to renotify the people they had not previously notified assuring that all contiguous and across the street property owners were notified.

There was no one else in the room interested in the case.

//

Page 123, February 28, 1978

DEFERRED CASE of COUCH & COUCH (Deferred from last week for new plats in conformity with the resolution) The plats had not been received that were in conformity with the resolution.

Mr. Smith suggested that the case be deferred until the staff receives those plats that are in conformity with the resolution.

Mr. Barnes so moved. Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

//

The meeting adjourned at 12:45 P.M.

Jane C. Kelsey

BY JANE C. KELSEY, CLERK TO THE
BOARD OF ZONING APPEALS

DANIEL SMITH, CHAIRMAN

APPROVED: _____
DATE

Submitted to the BZA on April 4, 1978

Submitted to other Depts and Bd. of
Supervisors on April 5, 1978

The Regular Meeting of the Board of Zoning Appeals Was Held on March 7, 1978. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian and John Yaremchuk.

The meeting opened with a prayer by Mr. Barnes.

The Chairman called the first scheduled case:

10:00 A.M. - THEMIS ENTERPRISES appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel into 7 lots, 5 lots having less than minimum required lot width, 10851 Lawyers Road, 27-3((1))11, (15.003 acres), Holly Glen Subd., Centreville Dist., RE-2, V-19-78.

Ms. Gladys Lee, 926 Seager Road, McLean, Virginia, submitted the required notices which were in order.

The justification for this variance was the shape and the severe topography of the land which would result in practical difficulty and unnecessary hardship that would deprive the applicant of the reasonable use of the land. Ms. Lee stated that Mr. Steve Reynolds from the office of Preliminary Engineering recommended that the road be aligned to match existing intersection of Lawyers Road and Hunter Station Road for necessary visibility and greatest safety. As a result, Lot 7 requires a variance because the lot width is reduced to 156.01 feet; Lot 3 - 179.57 feet, Lot 4 - 127.14 feet, Lot 5 - 150.19 feet and Lot 6 - 164.83 feet. Relocating the street to a less desirable location would serve no useful purpose and variances would still be required. Extending the road beyond the proposed limits would create extremely difficult street grades with considerable cuts resulting in the removal of many trees and creating a lot of fill. Dedication of any more land would result in a loss of a lot.

Ms. Lee stated that by not clustering this development, they are trying to upgrade the subdivision and relieve the homeowners of the problems arising from joint ownership of common land. At present, there are few 2 acre home sites available to individual purchasers. Two acre subdivision presents better marketability and a better environmental situation.

In answer to Mr. Durrer's question, Ms. Lee stated that the applicant is going to dedicate to public right-of-way land to be taken over by the state for public street use.

There was no one else to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

IN APPLICATION V-19-78 by THEMIS ENTERPRISES under Sec. 30-6.6 of the Zoning Ordinance to permit subdivision of parcel into 7 lots, 5 lots having less than minimum required lot width, 10851 Lawyers Road, 27-3((1))11, County of Fairfax, Virginia, Mr. Durrer moved that the Board 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 with the By-Laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public and a public hearing held by the Board on March 7, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 15.003 acres.
4. That the applicant's property has exceptional topographic problems;

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

Page 125, March 7, 1978
THEMIS (continued)

1. This approval is granted for the location and the specific structure indicated in the plats included with this application 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 expiration.
3. In the case of subdivisions, this variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed 4 to 1. Mr. Smith voted No.

Page 125, March 7, 1978

10:20 A.M. - RICHARD LYLE appl. under Sec. 30-6.6 of the Ord. to permit subd. of land with one lot having 170' lot width (200' required), and to permit house to remain 10' from new property line, 532 Walker Road, 7-4((1))3, (9.0 acres), Dranesville Dist., RE-2, V-20-78.

Mr. Charles Runyon with the engineering firm of Runyon Associates submitted the required notices to property owners which were in order.

The justification for the need for this variance was the irregular shape on one point and on the other side to the south the gas transmission line that cuts across this property. In order to obtain four lots, which under the Ordinance is the density permitted, this variance was necessary to be sought. There is an existing house on the property located in such a way that when the property lines dividing the property is brought down it will cause the house to be too close to the line. He submitted photographs of the existing house and the area where the gas line goes through. He stated that they are trying to contain the gas line on one lot rather than two.

There was no one else to speak in favor and no one to speak in opposition.

Page 125, March 7, 1978 Bd. of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-20-78 by RICHARD LYLE under Sec. 30-6.6 of the Ord. to permit subdivision with one lot having less than required lot width (170', 200' required) and to permit house to remain 10' from the new property line, 532 Walker Road, 7-4((1))3, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 7, 1978.

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 8.936 acres.
4. That the applicant's property has an unusual condition in the location of the existing building on the subject property and the location of the gas transmission line across proposed lot 4; and

WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has 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 building involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location 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 this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion. The motion passed unanimously with all members present and voting.

Page 126, March 7,1978, Scheduled case for
10:30 A.M. - ROBERT & LORA RICHMOND appl. under Sec. 30-6.6 of the Ord. to permit house to be constructed 10.2' from rear property line (25' required), 3407 Luttrell Road, 59-2((5))24, Poplar Hill Subd., Providence Subd., (9.449 acres), RE-0.5, V-22-78.

Mr. Clifton R. King represented the applicant. The notices to property owners were in order. Mr. King stated that he is the contract purchaser for the property in question and he is trying to negotiate moving the house from across the street to this lot. He submitted a letter from the applicant authorizing a power of attorney to him to act on his behalf in this variance request. He stated that the state is taking the land where the house now is for a ramp coming off Route 495. This is a variance from the existing ramp. The subject property is grown up with weeds and is a dumping spot for trash. He stated that he felt his proposal will improve the subject property and will definitely not be a detriment to the neighborhood. He submitted photographs of the property.

Mr. Roger Lozennack, 7713 Thor Drive, Annandale, stated that Mr. Richmond applied for the same variance twenty years ago but due to medical circumstances, Mr. Richmond was unable to build on his property.

There was no one else to speak regarding this application.

Page 126 Bd. of Zoning Appeals
March 7, 1978 R E S O L U T I O N

In application V-22-78 by ROBERT R. RICHMOND under Section 30-6.6 of the Ordinance to permit house to be constructed 10.2' from rear property line (25' required), 3407 Luttrell Road, 59-2((5))24, County of Fairfax, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 7, 1978; and

WHEREAS, the Board 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 .43 acre.
4. That the applicant's property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ord. 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 is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

Page 127, March 7, 1978, Scheduled case for
10:40 - JAMES WHITENACK appl. under Sec. 30-6.6 of the Ord. to permit en-
A.M. closure of and extension to existing carport 7.11' from side property line, (12' required), 8449 Thames Street, Springfield Dist., Kings ParkSubd., 70-3((4))120, (13,960 sq.ft.), R-12.5, V-24-78.

Mr. Scher represented the applicant before the Board. His address is 4808 Auburn Avenue, Bethesda, Maryland. He submitted the required notices which were in order.

The applicant proposed to enclose the existing carport and add four feet for additional living space. The variance request is for 3.8 feet.

The justification for the need for this variance was the narrowness of the lot and the fact that the house sits at an angle on the lot.

There was no one else to speak in favor and no one to speak in opposition to the application.

Page 127 Bd. of Zoning Appeals
March 7, 1978 R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application, V-24-78 by JAMES WHITENACK under Sec. 30-6.6 of the Ord. to permit enclosure of and extension to existing carport 7.11' from side property line (12' required), on property located at 8449 Thames Street, 70-3((4))120, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 7, 1978.

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of th elot is 13,960 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and is very narrow.

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

THAT the applicant has 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.

AND, NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously with all members present and voting.

Page 127, March 7, 1978, Scheduled case for
11:00 - BURKE ENTERPRISES, INC. appl. under Sec. 30-6.6 of the Ord. to permit
A.M. construction of building in C District on RE-0.5 zoning boundary line (50' required), 9314 Burke Road, 78-1((1))22, (1.18 ac.), Springfield District, RE-0.5 and C-N, V-26-78.

Mr. Charles Shumate, attorney for the applicant with offices at 10523 Main Street, Fairfax, submitted the required proof of notice to property owners. The notices were in order.

Mr. Shumate stated that the applicant filed in December of 1977 an application for a Special Exception to construct and operate a gasoline service station at the intersection of Burke Road and Burke Lake Road. At the same time they also filed an application for parking on residential land for a commercial

128

parking lot. That residential land is the rear portion of this lot. Both applications were heard by the Planning Commission on February 8, 1978. Due to overwhelming citizen support, the Planning Commission recommended favorably to the Board of Supervisors that both applications be granted. However, they included a limitation that the building be reoriented to the south property line instead of the north property line. This was in accordance with citizen desires. The applicant now requests that a variance be granted to permit the building closer to the residential south boundary line. The Board of Supervisors knew that in taking the action that it did, a new variance would be required. He stated that because of the Board of Supervisor's action, he submitted new plats showing the building in the location as required by the Board of Supervisors action.

Mr. Ronald Saveno, vice-president of the Burke Civic Association, 5831 Parakeet Drive, spoke in support of the application. He stated that the citizens are supporting this change in location of the building because they prefer the bay doors face the commercial side of the community because this will eliminate some of the noise going into the subdivision. This will also be more attractive to the residential community. They are also troubled that commercial zoning might take place along this road and they feel that by putting the rear of the building toward the residential area, this will create the end of the commercial growth. He submitted a letter from the Cardinal Estates Civic Association who joins with the Burke Civic Association in endorsing the limitations set forth on the granting of the Use Permit by the Board of Supervisors.

Lou Wright, 5825 Crossfoot Road, at-large member of the Planning Commission, reitterated the Planning Commission's position in its recommendation that this application be approved with the building in the proposed location with the rear toward the residential community.

There was no opposition to this application.

The report from the Office of Preliminary Engineering, Division of Design Review, stated:

"This use will be under site plan control. Burke Road is proposed to be a 90' right of way. It is suggested that the owner dedicate to 45' from the existing centerline of the right of way for the full frontage of the property on Burke Road for future road widening."

"The 100 year flood plain elevation on the subject property is 249.5'. Therefore, the construction of the parking lot to the rear, the construction of a portion of the building and the construction of a fence within this flood plain area requires the approval of a Special Permit from the Board of Supervisors. We would note that the location of the proposed building along the north property line would create less impact on the flood plain. If the proposed building is relocated to abut the south property line as recommended by the Planning Commission, and as conditioned by the Board of Supervisors in its granting of SE-219, the impact to the flood plain would be greater. It is suggested that any action by the Board of Zoning Appeals on this requested variance be subject to the approval of the aforementioned needed Special Permit."

The Board discussed this problem, but felt that if this variance was granted the applicant would still have to go back to the Board of Supervisors for the flood plain problem. If the building is moved to any location other than what is approved today, the applicant would have to come back with a new application to permit the building in a new location.

The public hearing was closed.

Mr. Durrer stated that he was familiar with the area down there and the station is very much needed. He stated that he felt the Board should do everything possible to expedite this application in order that the applicant might begin construction as soon as possible.

Page 129, March 7, 1978 Bd. of Zoning Appeals

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application V-26-78 by BURKE ENTERPRISES, INC. under Sec. 30-6.6 of the Zoning Ordinance to permit construction of building in C District on R Dist. boundary line RE-0.5, 9314 Burke Road, 78-1((1))22, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 7, 1978; and

WHEREAS, the Board 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 and C-N.
3. That the area of the lot is 1.18244 acres.
4. That the Board finds that the applicant's property is exceptionally narrow and has a requirement for dedication and the C-N portion of the property is exceptionally shallow; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Smith stated that he would support the variance request based on the granting of the Special Exception and the recommendation of the Planning Commission.

Mr. Yaremchuk stated that he would support the resolution to grant becauses the variance request makes sense with the rear of the building toward the residential area. He seconded the motion.

The motion passed unanimously with all members present and voting.

The Board affirmed that this variance was for the south and rear property lines.

Page 129, March 7, 1978, Scheduled case for
11:10 A.M. - CURTIS C. NEAL appl. under Sec. 30-6.5 of the Ord. to permit appeal of Zoning Administrator's decision to Section 30-2.2.2, Col. 1, uses permitted by right, in denying applicant the right to split firewood on premises, 11600 Lee Highway, 5602((1))71, Springfield District, A-23-78.

(The hearing began at 11:25 A.M.)

The Board was in receipt of a letter from the applicant's attorney requesting that this case be deferred until sometime in May because he had trials scheduled up until then.

Mr. Covington stated that he had no problem with that. The applicant is not processing. Mr. Ash gave him a violation notice and he quit splitting firewood.

Mr. Smith stated that there has been a wood yard located at this address for many years and it had not hurt anything.

Mr. Barnes agreed.

Mr. Covington stated that if they allow this applicant to make this use of this C-G property, then they will have to allow this use for all C-G property. There is a house on the adjacent property.

Mr. Smith stated that this application is not to determine the effects of this use on the residential property, but whether or not this is permitted in the C-G zone.
There was no one else in the room interested in the application. The Board deferred the case until May 23, 1978.
//

Page 130, March 7, 1978, Case scheduled for
11:30 A.M. - ALEXANDRIA BIBLE PROTESTANT CHURCH appl. under Sec. 30-7.2.6.1.10 of the Ord. to permit church (renewal of previously granted SUP), 5944 Telegraph Road, Happy Valley Subd., 82-4((1))36, 37, & 38, Lee Dist., (106,963.51 sq. ft.), R-17, S-21-78.

(The hearing began on schedule)

Mr. Jenkins, agent for the applicant, submitted the required proof of notice to property owners to the Board. The notices were in order. He stated that this is the same type application as was previously granted to permit the construction of a church. However, because of costs, they have reduced the project by deleting a portion of the building and reducing the parking area. The reason for the expiration of the permit previously was because of financing. They now are in a position to begin. The material to be used is brick and the style of the architecture is colonial which is the same as previously proposed. The building is the same building except for the deletion of a future section. The seating capacity is 128 and the number of parking spaces is 26.

There was no one to speak in opposition.

Mr. Ed Byers, 6104 Beech Tree Drive, spoke in support. He stated that he is in support although he is not a member of the congregation. He stated that he felt this church would be a credit to the community and would not adversely affect it in any way.

Page 130 Bd. of Zoning Appeals
March 7, 1978 R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application S-21-78 by ALEXANDRIA BIBLE PROTESTANT CHURCH under Section 30-7.2.6.1.10 of the Zoning Ordinance to permit church, 5944 Telegraph Road, 82-4((1))36, 37 & 38, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Boardheld on March 7, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 106,963 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.

7. The maximum seating capacity shall be 128.
8. The hours of operation shall be those hours of normal church activities.
9. The minimum number of parking spaces shall be 26.

Mr. Durrer seconded the motion.

The motion passed unanimously with all members present and voting.

--The application of COUCH & COUCH, V-330-77 taken up at this point.--SeePg. 133

Page 131, March 7, 1978, Scheduled case for
11:45 A.M. - VALE PARK WEST ASSOC. appl. under Sec. 30-7.2.6.1.1 of the Ord. to permit community recreational facility (2 tennis courts), Latigo Lane, Oakton, 36-3((6))F, (158,876 sq.ft.), Centreville District, RE-1 Cluster, S-25-78.

Mr. Gregory Carney represented the applicant. He submitted the required proof of notice to property owners which were in order.

Mr. Carney stated that they do not propose to light the proposed tennis courts at the present time. This property will be turned over to the homeowners association at some time in the near future. In answer to Mr. Barnes' question, Mr. Carney stated that they are proposing four parking spaces as indicated on the plats. They feel this will be sufficient because these courts are located within the subdivision.

In answer to Mr. DiGiulian's question, Mr. Carney stated that the courts will be constructed before the houses that are nearby are finished and sold.

There was no one else to speak in favor and no one to speak in opposition to this application.

Page 131
March 7, 1978 R E S O L U T I O N Bd. of Zoning Appeals

Mr. DiGiulian made the following motion:

WHEREAS, Application S-25-78 by VALE PARK WEST ASSOC. under Sec. 30-7.2.6.1.1 of the Ordinance to permit community recreational facility (2 tennis courts), on property located at Latigo Lane, 36-3((6))F, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 7, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-1 Cluster.
3. That the area of the lot is 158,876 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board approval, shall constitute a violation of the conditions

of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The membership for this facility shall be from the immediate subdivision only.
8. The hours of operation shall be from 9 A.M. to 9 P.M.

The motion passed unanimously with all members present and voting.

Page 132, March 7, 1978, Scheduled case for
1:00 P.M. - SPRINGFIELD MART LIMITED PARTNERSHIP appl. under Sec. 30-6.6 of the Ord. to permit operation of motor cycle agency with service facility, the building being 30' from residential zoned boundary line (50' required), 7240 Spring Garden Drive, Brookfield Plaza Shopping Center, 90-2((1))17, (2.7853 ac.) gross bldg. area 26,545 sq. ft., net area 21,236 sq. ft., Springfield Dist., C-D, V-9-78. (To be heard in conjunction with Special Exception 214 by Board of Supervisors. Rescheduled from 2/22/78 for notices.)

(Began at 1:15 P.M.)

Mr. Bernard Fagelson, attorney with offices at 123 South Royal Street, Alexandria, Virginia, submitted the required proof of notice to property owners. The notices were in order.

Mr. Fagelson stated that the Special Exception was granted by the Board of Supervisors for a trial period of eighteen months. The applicant agreed to certain limitations as to the type of operation. He submitted a letter from Mrs. Virginia McEnearney in which they agreed to the limitations. Mrs. McEnearney supported the application before the Board of Supervisors. The Board of Supervisors indicated that they would be willing to renew the Special Exception if there were no problems.

Mr. Durrer inquired if the request was to allow the building 30' from the residential zoned boundary line because the applicant had to dedicate some land for future street purposes.

Mr. Fagelson stated that that was correct. If it were not for Spring Garden Drive, they would not need the variance.

Mr. Fagelson stated that the biggest objection they had was from the citizens who were worried about the noise factor. He stated that they had an engineer make a study on noise. That study showed that the ordinary ambient (background) noise was 45-58 decibels at the brick wall behind the shop. Thirty feet back from that where the residential houses are, the ambient noise was 45-58 also. In the shop with a large Kawasaki KE 250, the ambient noise was 45-58 and that was for idle. At the maximum RPM, the ambient noise increased to 54-55, but at the houses, it was 46 to 49 which was bareful audible. Driving on the service road at 20 mph, at the wall the ambient noise was 70-73 and at the houses, it was 53. The Kawasaki KE 250 is the largest of the machines and the noisiest. He stated that just about the time that they were making the test a Pepsi Cola truck went by and that got a decibel reading of 74 at the wall, which is more than the motorcycle. An airplane went over which had a reading of 65 to 68 both at the wall and at the houses. He stated that the applicant would make every effort to keep any customer from driving on the residential street for try-outs. This was one of the citizens concerns also. He stated that they would agree to the same conditions on this variance as was placed on the Special Exception.

There was no one else to speak in favor of the application.

Mr. Johnson, abutting property owner, spoke of his concerns about the noise and reitterated that the applicant be required to stay within the rules of Fairfax County. If they do, he has no objection.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application V-9-78 by SPRINGFIELD MART LIMITED PARTNERSHIP under Section 30-6.6 of the Zoning Ordinance to permit operation of motorcycle agency with service facility, the building being 30' from residential zoned boundary line, 7240 Spring Garden Drive, 90-2((1))17, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 7, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is C-D.
3. That the area of the lot is 2.7853 acres.
4. That the applicant's property is shallow.

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

THAT the applicant has 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.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

// ---------- //

Page 133, March 7, 1978, DEFERRED CASE of
COUCH & COUCH appl. under Sec. 30-4.1, S-329-77 and

COUCH & COUCH appl. under Sec. 30-6.6, V-215-77.

(Both cases have been deferred from January 31, 1978, February 22, 1978 and February 28, 1978.)

The case had last been deferred for proper plats showing ten additional parking spaces over and above the ones they presently have with such parking spaces having good circulation.

Mr. DiGiulian stated that the new plats have been submitted and the staff had reviewed them for accuracy and he had reviewed them for compliance with the Board's request. The plats are adequate. He moved that the Board accept these substitute plats as submitted.

Mr. Durrer seconded the motion.

The motion passed unanimously.

March 7, 1978 R E S O L U T I O N Bd. of Zoning Appeals
Page 133
Mr. Durrer made the following motion:
WHEREAS, Application S-329-77 by COUCH & COUCH under Sec. 30-4.1 of the Zoning Ord. to permit a retail non-conforming business to remain and be enlarged on property located at 2938 Chain Bridge Road, 47-2((1))93, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 31, 1978, February 22, 1978 with this decision being made on March 7, 1978.

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is C-OL.
3. That the area of the lot is 40,821 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Sec. 30-7.1.2 in the Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

//
COUCH & COUCH, V-330-77 --- R E S O L U T I O N ---
Mr. Durrer made the following motion:

WHEREAS, Application V-330-77 by COUCH & COUCH under Section 30-6.6 of the Zoning Ordinance to permit construction of building 2'*from Hunter Mill Road to replace existing building, 2938 Chain Bridge Road, 47-2((1))93 , County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on January 31, 1978, February 22, 1978 and March 7, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is C-OL.
3. That the area of the lot is 40,821 sq. ft.
4. That theapplicant's property has an unusual condition in the location of the existing buildings on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is*GRANTED IN PART with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with this application with the proposed building

Do Not Copy This Page.

being 11' from the property line at the closest point and 14' at the furtherest point.

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

Mr. DiGiulian seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

Page 135, March 7, 1978, AFTER AGENDA ITEM

1. CHURCH AT NORTHERN VIRGINIA, S-166-77, Granted July 28, 1977.

The Board was in receipt of a letter from Rev. Topping requesting that the Board approval several minor changes in the original building plan.

The Board was also in receipt of a letter from the Office of Preliminary Engineering. That letter indicated that there were several changes and some of these changes they would not deem to be minor engineering changes. The building has been moved closer to the property line and the height of the building is to be increased from 28 to 40.5 feet. The proposed education wing will now be two stories. The basic outline of the building has had major modification. That office also called the Board's attention to several problems in the sight distance along Vale Road for the entrance to the property.

The Board after a brief discussion decided on motion of Mr. DiGiulian to have a new public hearing with a new application being required.

Mr. Barnes seconded the motion and the motion passed unanimously with all members present and voting.

//

Page 135, March 7, 1978, AFTER AGENDA ITEM

NIGHT MEETINGS: The Clerk told the Board members that night meetings were tentatively set for May 16 (Tuesday Evening at 8:00 P.M.), July 25 and none in June because the Board Room was not available.

Mr. Yaremchuk stated that if the Board of Supervisors wishes the Board of Zoning Appeals to have Night Meetings, then they will have to see that the Board of Zoning Appeals is able to get the Board Room for one night a month.

Mrs. Kelsey reminded the members that the motion to have night meetings stated that those meetings were to be on the 3rd or 4th Tuesdays of the month since the other Tuesdays conflicted with some of the Board Members' previously set meetings on other matters. She stated that the Board Room is available for Tuesday evening, October 31, November 28 and December 26, 1978. She stated that she had reserved the Board Room for those dates.

//

The Board meeting adjourned at 1:52 P.M.

//

Jane C. Kelsey

By Jane C. Kelsey, Clerk to the
Board of Zoning Appeals

DANIEL SMITH, CHAIRMAN

APPROVED: _____
DATE

Submitted to BZA on April 12, 1978.

Submitted to Bd. of Supervisors,
Planning Commission and other Depts. on
April 12, 1978.

//

The Regular Meeting of the Board of Zoning Appeals Was Held in the Board Room of the Massey Building on Tuesday, March 14, 1978. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian and John Yaremchuk.

The meeting opened with a prayer by Mr. Covington. The Chairman called the first scheduled case at 10:15 A.M. It was the scheduled 10:00 A.M. case.

10:00 A.M. - RICHARD & MARY ZILLER appl. under Sec. 30-6.6 of the Ord. to permit extension of and enclosure to existing carport to double garage within 3.2' of side property line (12' required), 9405 Wareham Court, Concord Green Subd., 38-2((39))14, (11,591 sq. ft.), Centreville District, R-12.5, V-33-78.

Mr. Ziller submitted the required proof of notice to property owners which was in order .

Mr. Ziller gave his justification for this need for the variance as being the narrowness of the lot. He stated that had the developer located the house a few feet forward and tilted it slightly on the lot, a double garage could have been constructed. The terrain is sloping in the rear of the house. The proposed construction would be in conformity architecturally with the existing house and other houses in the neighborhood and will enhance the appearance of the property.

In answer to Mr. Durrer's question, Mr. Ziller stated that in Section 3 of this subdivision all of the houses except one or two have garages.

There was no one else to speak in favor and no one to speak in opposition to this application.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, in Application No. V-33-78 by RICHARD & MARY ZILLER under Section 30-6.6 of the Ordinance to permit extension of and enclosure to existing carport to double garage within 3.2' of side property line (12' required), 9405 Wareham Court, 38-2((39))14, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public and a public hearing held by the Board on March 14, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 11,591 sq. ft.
4. That the applicant's property is exceptionally narrow; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 1 year from this date unless construction has started or unless renewed by action of this Board prior to expiration.

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

Page 137, March 14, 1978, Scheduled case for

10:20 A.M. - STEPHEN AND BARBARA ROSENFELD appl. under Sec. 30-6.6 of the Ord., V-34-78.

Mr. Covington advised the Board that the applicant had called and stated that they were going to request a withdrawal. However, the actual formal letter was not in the file as yet.

Mr. DiGiulian moved that the case be deferred until next week to await that letter.

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

//

Page 137, March 14, 1978, Scheduled case for

10:30 A.M. - PET A PET FARM, INC. appl. under Sec. 30-7.2.8.1.4 of the Ord. to permit amendment to existing SUP to add 50 acres, 2 bathrooms in existing building, increase attendance from 250 to 900 a day, sell hay rides, rent and lease animals, 1228 Hunter Mill Road, 12-3 and 18-1((1))pt. of 3 & 4, (59.6766 acres), Dranesville District, RE-1, S-27-78.

Mr. Keith, attorney for the applicant with offices at 815 Connecticut Avenue, N.W., Washington, D. C. submitted the required proof of notice to property owners. The notices were in order.

Mr. Keith stated that since 1975, Pet A Pet Farm, Inc. has been operating on 11.866 acres. Prior to its becoming a petting farm for animals, it was used as a dairy barn. The buildings were converted for these purposes. The 47 acres that is adjacent has been used for grazing purposes for the larger animals such as the buffalo and llama. This operation has been a great success with the public, but has never turned a profit. Mr. Crippen cannot continue to operate at a loss which he has been doing for three years.

Mr. Keith then submitted letters of support from several organizations who had toured this petting farm such as the Loudoun Association of Retarded Citizens.

Mr. Keith stated that the applicant would like to take visitors to this facility out on the 47 acres in truck wagons to see the animals. This would enable the people to get closer to the larger animals such as the buffalo. In addition the applicant would like to have more visitors to the facility. The limitation of 250 was placed on the facility originally because of the toilet facilities which could not accommodate any more. With the addition of two more toilets, they can increase to 900 per day. Mr. Crippen would also like to rent and lease the animals such as he did during Christmas for the Christmas Scene that was on the Elipse in Washington. He submitted a letter from the Department of Interior concerning this.

The only complaint that the applicant is aware of is the cages that are along the property line. Mr. Crippen talked with the neighbor and he will remove these cages just as soon as the ground dries up where he can get a truck in that area.

Mr. Keith stated that the traffic will not become hazardous because of this nor will it conflict with the normal traffic in the area. The traffic does not come during the rush hour period. Lake Fairfax Park is adjacent to this property and they have many more visitors than this facility does. He stated that they have contacted the Clusters Association of Reston that is nearby, but the president of that association stated that they had no opposition. He stressed that this facility is providing recreation to County citizens at no expense to the County. The hours will continue to be the same, 9 A.M. until 9 P.M., but they actually close the facility at 7 P.M. They have 72 parking spaces. They do not propose to increase the parking spaces. If they do have more than 72 cars, they have an area on the grass that can be used in emergency situations.

Mr. Barnes stated that he had visited the facility several times and there had not been a parking problem. He stated that he felt this facility is a great asset to the community.

Mr. Keith stated that Mr. Amity, the Fairfax County Animal Warden, approves all the animals that they obtain for the facility in accordance with the Board's condition. In answer to Mr. Durrer's question, he stated that

the animals such as the buffalo and larger animals stay at the farm during the winter months. The elephants are taken to the south. The only instance of biting was by a chimpanzee. Those animals are now isolated completely in their own round cage with swings. They are kept indoors in the winter. The wagon that the children and adults will ride in around the 47 acres to see the larger animals will be enclosed with big slats. There will be benches inside. The children will sit inside the wagons. There will be supervisors on the wagons in addition to the driver.

Mr. Mike Nagurney, 1313 Hunter Mill Road, spoke in support of the application as long as there is always a review of the operation before the applicant is permitted to further expand.

Mrs. Bowen, resident of Reston, former president of the Reston Community Association, spoke in support of the application.

Mr. Smith stated that the Board is in receipt of two letters in support of the application which would become part of the record.

Mrs. R. A. Bradaman, 8805 Edward Gibbs Road, member of the Virginia Citizens Committee Against Animal Abuse and Director of the Airport Activities of the Washington Humane Society, spoke in opposition to the application.

Mrs. Betty Jane Mackall,
spoke in opposition and gave some information to the Board concerning several incidents that might be considered animal abuse.

Mrs. Nagurney, mother of the previous speaker, Mike Nagurney, who had spoke in support, and contiguous property owner at 1313 Hunter Mill Road, spoke in opposition. She cited the offensive smell that comes from the property, the cages that are on the property and the animals that get loose and come onto their property from Mr. Crippen's property.

Mr. Nagurney, 1313 Hunter Mill Road, spoke in opposition and gave several recommendations that he felt the Board should consider adding as conditions to the amended permit, if the Board grants it. They were: (1) minimum of an 8' chain link fence around the property with a buffer zone between that fence and the existing fence which would prevent some of the runoff from the animal waste coming onto their property; (2) the establishment of sanitary standards; (3) animals to be County licensed and tagged to show ownership in case of injury; (4) all ground to be kept in meadow grass, especially around the border of the property, to prevent erosion and to absorb the animal droppings.

Virgil Duffell, 2905 Mulberry Place, at intersection of Hunter Mill and Route 123, spoke in favor. Mr. Smith called him out of order, however.

Mr. Amity, Animal Warden, stated that he had viewed the property on several occasions and he was favorably impressed with the appearance of the animals and the manner that they were cared for. He stated that he is concerned about the leasing of the animals. He stated that the Fairfax County Ordinance prohibits the leasing of wild or exotic animals. He stated that he questions whether or not this park qualifies as a zoological park. If it does not, Mr. Crippen would not be permitted to display wild or exotic animals away from the park.

Mr. Smith inquired of Mr. Lee Ruck, Fairfax County Attorney, about this question. Mr. Ruck stated that he would like some time to research this issue.

In answer to Mr. Yaremchuk's question, Mr. Crippen stated that there have been three or four bite cases since the park opened in 1975. They have 250 animals, however. This figure is, therefore, not high.

Mr. Amity stated that they have had several complaints about the animals at large. He stated that the fallow deer have been at large several years. They have also had problems with raudads and these have taken quite a few man hours to control. One was shot by the Dulles Park Police because it was running across the Dulles Access Highway. Another was killed by a truck. There have been several running at large over a period of several months.

Mr. Keith, in rebuttal, requested that Mr. Duffell be permitted to use part of his rebuttal time to speak in support. Mr. Smith stated that he would

Page 139, March 14, 1978
PET A PET FARM, INC. (continued)

permit this.

Mr. Duffell stated that he lives six miles from this farm and wishes to speak concerning the excellent care he feels the animals receive since he has been on the property several times and has been able to observe this.

Mr. Keith in rebuttal stated that he felt the expense of a second fence is unreasonable. They will be happy to put some additional screening in, however, on Mr. and Mrs. Nagurney's property to screen their facility.

Page 139 Bd. of Zoning Appeals
March 14, 1978 R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application S-27-78 by PET A PET FARM, INC. under Sec. 30-7.2.8.1.4 of the Zoning Ordinance to permit amendment to existing Special Use Permit to add 50 acres, 2 bathrooms in existing building, increase attendance from 250 to 900 per day, sell hay rides, rent and lease animals, 1228 Hunter Mill Road, 12-3 and 18-1((1))part of 3 & 4, (59.6766 acres), Dranesville District, RE-1, S-27-78, such application has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 14, 1978; and

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

1. That the owners of the property are Mertle W. and Mac Crippen.
2. That the present zoning is RE-1.
3. That the area of the lot is 59.6776 acres.
4. That compliance with the Site Plan Ordinance is required; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 for the bathrooms has started and the expanded operation has started in accordance with the conditions of this permit and the State and County Codes, unless this permit is renewed by action of this Board prior to date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details), whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. This Special Permit IS NOT VALID until a Non-Residential Use Permit is obtained. In this case the Non-Residential Use Permit must be amended for the increased activities.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the user and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required to the satisfaction of the Director of Environmental Management.
SPECIAL EMPHASIS SHALL BE PUT on Landscaping and Screening which SHALL BE REQUIRED. The Staff should work this out in order that there will be proper screening and proper safeguards for the neighbors.
7. The number of visitors shall be from 250 to 900 per day.
8. The hours of operation shall be from 9 a.m. to 9 p.m.
9. The number of parking spaces shall be 72.

Mr. Durrer seconded the motion. The motion passed 4 to 1. Mr. Smith, No.

Mr. Lee Ruck, Fairfax County Attorney, stated for the record that the Board is granting a land use and it is not granting a waiver of any criminal situations. If it is legal to rent or lease wild or exotic animals that will be taken care of in the course of evidence.

//

Page 140, March 14, 1978, Scheduled case for
10:45 A.M. - AMERICAN LEGION POST #176, appl. under Sec. 30-7.2.5.1.4 of the Ord. to permit*lodge for 200 active members with proposed hours until 1:00 A.M., 6538 Backlick Road, 90-2((1))5, (3.74 acres), Springfield Dist., RE-1, S-28-78.
*amendment to existing permit for proposed additions to be added to existing--

Mr. Lee Ruck, Fairfax County Attorney, stated that the case that is before the Board now is appropriately before it for consideration, but there is one problem which has to do with the location of a proposed road. He stated that he did not know what the disposition is going to be, whether the Board will feel the expansion is appropriate, since that is something the Board must consider and decide. However, the staff requests that the Board defer decision, if the Board chooses to hear this case, for thirty (30)days in order for the staff to suggest to the applicant a condition which would have to do with time of the construction and to try to work out negotiations for the location of the new roadway. The applicant has indicated his willingness for this deferral to work out an agreed upon condition.

The Board after considerable discussion agreed to go ahead and hear the merits of the case and defer decision if it is felt advisable after the hearing for a period of 30 days.

The hearing began at 12:15 P.M.

Mr. Royce Spence, attorney for the applicant with offices at 311 Park Avenue, Falls Church, Virginia, submitted the required proof of notice to property owners of this hearing. The notices were in order.

Mr. Spence stated that the applicant is requesting to be allowed to construct two additions. The smaller addition is proposed for the left side of the building which is intended for a storage facility. This is something that is needed immediately and they would like to begin construction as soon as possible on that addition. The larger addition is for future expansion of the Legion. They wish to begin this addition within one or two years at the very most. This larger addition would be for public events such as bingo, etc. The building is now located on the right hand side of the large parcel of land. There are C-D and C-N uses all around it. The portion of the property that abuts residential single family homes is completely away from the existing building by several hundred feet. Therefore, the applicant does not feel that the proposed addition will have an adverse impact on these homes. The master plan shows this present alignment of Amherst Avenue coming right through the existing building and that causes some problems. This project has not been funded by VDH&T. The first funds are cited by VDH&T for 1980. At that time, the initial steps will be taken for Amherst Avenue and construction will be within five years. This first allocation of money in 1980 is for the planning stage, not construction. There are many plans for this type construction that have been in the plans for years. Land is set aside for these roads which are never actually constructed, such as the Monticello Freeway, Route 66 and the Potomac Freeway.

Mr. Smith stated that this particular roadway is part of the adopted circulation plan for the CBD District in Springfield. It has been promoted by the County in all its plans because of the severe traffic problems that exist in Springfield. It has merit.

Mr. Spence stated that he is questioning the possibility that this road will never be constructed. He stated that he would suggest and propose to the Board that the Board give the Legion permission to construct the small addition for storage and defer the decision on the larger addition for a two year time limit. The applicant will agree not to begin construction prior to that time if it looks like this road will be built. They do not want to build a building that will have to be torn down and they will not do so. If the road is not going to be constructed and this becomes apparent within two years, they would like to go forward with the building.

141

Mr. Spence, in answer to Mr. DiGiulian's question, reiterated that the applicant would like the Board to grant the right to build these additions with permission to construct the smaller addition immediately, but as a condition to the granting that the applicant agree not to begin construction for two years and at the end of two years if the applicant feels the road is not going to be built, that they have the right to obtain a building permit and go forward. NOTE

Mr. Spence stated that the reason they wish to go forward with the granting of the entire permit now is because of funds for attorneys' fees, engineering fees and architect's fees. The Legion would like to authorize the funds to the ultimate amount in order to consolidate the loan agreement.

Mr. Charles Caridi, attorney representing Gunterfil, Uphart and Liptau, stated that they are in support with certain qualifications. He informed the Board of the controversy involving the lot lines between the two properties, that of the applicant and his client. He stated that they have no objection to the proposed additions but there are problems with the property line abutting their property.

Mr. Smith stated that the applicant has submitted certified plats indicating the location of the lot line. If the applicant does not own the property, it will not be able to construct. The plans call for the building to be 31' from the property line and that is the distance from the property line that they will have to stay.

Mr. Mitchell, 6501 Terry Drive, Lot 249, stated that he was not exactly speaking in opposition but alerting the Board to some concerns of the neighbors, such as vandalism. At the time the applicant was granted the original Use Permit, they agreed to put in a fence and a buffer zone of trees. It has been twenty-two years and no effort has been made to construct a fence. That fence would cut down on vandalism, he stated.

Mr. Smith stated that the file reflects that that in 1974 the Zoning Inspections Office made an inspection on the screening question. That report revealed:

"1. The natural screening that was shown on the original plats still exist.
2. It is difficult to determine whether or not the evergreen trees were planted in 1959, when it was required.
3. To plant new 8 foot high evergreens 8 feet apart at this time would have an adverse effect to the community.
4. I was unable to find any zoning violations at the above location."

This report was from Mr. L. C. Koneczny, Senior Zoning Inspector and was dated June 7, 1974.

Mr. Mitchell stated that he did not feel this report properly reflects the conditions. The applicant has moved the ball diamond closer to his property and has cut down trees and put in a drainage ditch. More than fifty percent of the trees have come down because of weather conditions. They were old Virginia pine with shallow roots. Therefore, there is no screening.

Mr. Smith stated that the Zoning Administrator would check this out. note

Mr. Ed Newman, 6505 Terry Drive, a neighbor of Mr. Mitchell, whose property also abuts the applicant's property with the largest amount of property abutting American Legion property, 174', spoke in opposition until the original permit's conditions are satisfied.
There was no one else to speak regarding this application.
Mr. Durrer moved that this case be deferred until April 18, 1978 at 10:00 A.M.
Mr. Yaremchuk seconded the motion.

The motion passed unanimously with all members present and voting.

// Copy of staff report, report from Comp. Planning, Office of Transportation, and Preliminary Engineering Branch of Design Review can be found in the file.

The Planning Commission Recommendation on this application is also in the file.

//

The Board recessed at 1:00 P.M. for lunch and returned at 2:15 P.M.

Page 142, March 14, 1978, Scheduled case for
11:00 a.m. - COTTONTAIL SWIM & RACQUET CLUB, INC. appl. under Sec. 30-7.2.6.1.1 of the Ord. to permit community recreation facility (swimming pool and tennis courts), 7113 Gamelord Drive, 88-2 & 88-4((12)) Parcel H, Orange Hunt Estates West Subd., Springfield Dist., R-17, (118,193 sq. ft.), S-29-78.

(The hearing began at 2:15 P.M.)

The notices had been submitted to the Clerk as being correct and were so certified by her.

Mr. Allen E. Brown, 73097 Gamelord Drive, president of the Club, represented both the Board of Directors and the 142 members.

Mr. Brown stated that the Club proposes to operate a non-profit swimming club which will operate between the hours of 9 A.M. and 9 P.M. from June 1 until Labor Day each year and a tennis facility on a year around basis. The Club membership will be composed of residents of Orange Hunt Estates and its surrounding area in West Springfield and will be limited to 350 regular and 50 associate memberships. He estimated that no more than 80 families would be using the Club at one time. This equates to a potential peak usage by approximately 184 to 230 persons using the facilities at any one time. They expect to operate with three full time life guards and two bathhouse attendants. The tennis facility will be self-run by the participants. Overall supervision will be the direct responsibility of the board of directors.

Mr. Brown stated that he felt this facility would cause minimal impact upon current traffic patterns since the public street serving the facility, Cottontail Court, is not heavily traveled and serves as a thoroughfare for only residents and guests of the homes in Orange Hunt Estates West. It is expected that nearby members and children may walk or ride bicycles. The bathhouse building will be in harmony with current architectural standards in Orange Hunt Estates, of brick with a simple design.

Mr. Brown stated that without the facility, these 300-350 residents will have no opportunity to use any local community recreation facility this summer due to the extensive waiting lists for the two established clubs in Orange Hunt Estates.

The Board was in receipt of correspondence from the Planning Commission dated March 9, 1978 indicating that on March 8 the Commission voted unanimously to approve the application of the Park Authority to transfer Parcel 4, Tax Map 88-2((12)) to the Cottontail Swim and Racquet Club, Inc.

Mrs. Brown, 73097 Gamelord Drive, spoke in support of the application.

Another gentleman spoke in support.

Mr. Chambers, 7011 Cottontail Court, spoke in opposition. He stated that he is a member of the Fox Hunt Swim Club which is one-fourth mile from the proposed facility. He questioned the feasibility of have two pools within a one-fourth mile radius. He stated that he lives on the opposite side of the street from the proposed site. He stated that noise is also a concern to him. Fairfax Hunt Swim Club is shielded by woods, but there is a noise problem there too. He recognized that there are waiting lists, but suggested that there might be a better site for this new pool to be placed. He also questioned the adequacy of the parking spaces for the proposed number of members who would be using the pool. He stated that 65 spaces for 400 members equates to 16 percent when the employee parking is subtracted. He stated that he was concerned that there would be parking on the road and there is a sight distance problem at that location. He stated in answer to Mr. Durrer's question that he had lived in his home since August 28, 1975. He was aware that this area was sited as a recreational area, but he did not think another swim facility would be put there.

Mr. Girard Carlan, also residing on Cottontail Court, four houses away from the pool, spoke in opposition supporting what Mr. Chambers had said.

Mr. Ambroziak, 7008 Cottontail Court, 3 houses from the pool site, spoke in opposition and in support of Mr. Chambers' statement. He stated that the only reason a pool was even being considered at this location is because the land was given to the homeowners. If one had to choose a pool site, the subject site would be the last place one would put a pool.

In rebuttal Mr. Brown stated that he recognized that the County would require landscaping and screening and this is included in the site plan process. He stated that if there is a parking problem, they will petition the Park

Authority for overflow parking.

Mr. Durrer stated that he would like to see some more parking spaces added before this is approved.

Mr. Brown stated that in their analysis of the parking, they talked with the presidents of Orange Hunt and Fox Hunt who told them that their parking lot is only about one-half full on the average. Keene Mill has 84 spaces for 600 members. In answer to Mr. DiGiulian's question, Mr. Brown stated that Keene Mill has 445 members at the present time and the number is steadily climbing. Keene Mill opened in August of last year.

R E S O L U T I O N

Mr. DiGiulian made the following motion to GRANT IN PART.

WHEREAS, Application S-29-78 by COTTONTAIL SWIM & RACQUET CLUB, INC. under Sec. 30-7.2.6.1.1 of the Fairfax County Zoning Ordinance to permit community recreation facility (swimming pool and tennis courts) on property located at 7113 Gamelord Drive, 88-2 & 88-4((12))Parcel H, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 14, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 2.7133 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The maximum number of memberships shall be 325, one space for 5 families.
8. The hours of operation shall be from 9 A.M. to 9 P.M. for both swimming and tennis.
9. The minimum number of parking spaces shall be 65.
10. The After-Hours Parties SHALL BE LIMITED to 6 per year with the prior written permission from the Zoning Administrator required for each individual event.

Mr. Barnes seconded the motion and the motion passed unanimously with all members present and voting.

Page 144, March 14, 1978, Scheduled case for
11:15 - EPIPHANY OF OUR LORD BYZANTINE CATHOLIC CHURCH appl. under Sec.
A.M. 30-7.2.6.1.10 of the Ord. to permit amendment to existing SUP to permit One (1) temporary classroom for Sunday School and under Section 30-7.2.6.1.3 of the Ord. to permit SCHOOL FOR SPECIAL EDUCATION for maximum of 25 students, 3410 Woodburn Road, 59-1 ((1))21, (208,256 sq. ft.), Providence Dist., RE-0.5, S-30-78.

144

Mr. Hudock, attorney for the applicant with offices at 8150 Leesburg Pike, submitted the required proof of notice to property owners. The notices were in order.

Mr. Hudock stated that this temporary classroom is for the Sunday School in the Church to be used on Sundays, but there will also be classes for the school there too. One of the classes is a sign language class. He stated that the church received a Special Use Permit in 1973 for Sunday School classes. That permit was extended but now expires at the end of this month. They are filing again for a permit to continue to use the existing structure. This building will be eventually removed from the property when the church continues with the second phase of its building program.

Two people spoke in opposition to the application because the trailer looks like a house trailer on a concrete foundation.

Page 144 Bd of Zoning Appeals
March 14, 1978 R E S O L U T I O N

Mr. Yaremchuk made the following motion to GRANT for 3 YEARS with conditions as follows:

WHEREAS, Application S-30-78 by EPIPHANY OF OUR LORD BYZANTINE CATHOLIC CHURCH under Sections 30-7.2.6.1.10 and 30-7.2.6.1.3 of the Ord. to permit amendment to existing SUP to permit One (1) temporary classroom for Sunday School and temporary classroom for SCHOOL FOR SPECIAL EDUCATION for maximum of 25 students on property location at 3410 Woodburn Road, 59-1((1))21, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 14, 1978; and

WHEREAS, the Board 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 208,256 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board.
2. This permit shall expire one year from this date unless operation has started. (Operation is a continuing use)
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL YOUR NON RESIDENTIAL USE PERMIT HAS BEEN OBTAINED.
5. A copy of these two permits shall be posted in a conspicuous place 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 AND SCREENING SHALL be required to the satisfaction of the Director of Environmental Management.
7. The number of students for the classes shall be a maximum of 25.
8. The hours shall be normal church hours.
9. The permit is granted for a period of THREE years.

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

Page 145, March 14, 1978, Scheduled case for
11:30 - EARLY LEARNING, INC. appl. under Sec. 30-7.2.6.1.10 of the Ord. to
A.M. permit child care center for 120 pupils, 4006 Guinea Road, 58-4((8))
13A, (1.3531 ac.), Annandale Dist., RE-1, S-31-78.

Mr. John Aylor, attorney for the applicant, submitted the required proof of notice to property owners. The notices were in order.

Mr. Aylor stated that this child care center is proposed for 120 children for a preschool program which will be operated from 7:00 A.M. until 6:00 P.M. with approximately 12 employees. He submitted new plats to conform with the suggestions of the staff which showed 18 parking spaces. The play area will be 12,000 sq. ft. That is 100 square feet per student. The minimum square footage recommended by the State is 75 square feet. The traffic generated will be approximately 50 vehicles.

Mr. Laskin, president of Early Learning, spoke to the Board regarding the need for this facility and why they chose this location for the preschool.

Mr. Aylor described the qualifications of the applicant and the operators of the school.

Peggy Annawaugh, vice-president of Early Learning, Inc., gave more details regarding the operation of the school. The ages of the children will be from 3 through 6 with a possibility that they will have Primary through 3rd Grade in the future. They will operate six vans to transport some of the children which will be properly lettered, painted and with proper lights in conformity with the State Code regarding school busses.

Mr. Aylor stated that the proceeds of sale for this property go to the Salvation Army, the owner of the property, who will use the proceeds to finish the facility on Route 123 which was granted a Special Use Permit last year.

Mr. Aylor stated that there are three churches nearby that have preschools connected with them. He stated that the applicant would disagree with the Planning Commission recommendation, point #1, since they feel that is a question of judgment. He stated that the applicant does not feel this will have an adverse impact on the neighboring property. The property is on the fringe of a subdivision called Lee Forest. The property immediately across Guinea Road is unoccupied. Early Learning is connected with a national organization called National Center for Montessori Education.

Capt. James Gallian, officer for Salvation Army, spoke in support of the application on behalf of Salvation Army.

Mrs. Petersen, 8929 Littleton Street, 2½ blocks away from the subject property, spoke in support of the application.

Mr. Frank Eubanks, chairman of the Board of Salvation Army, whose address is 1268 Beverly Road, McLean, spoke in support of the application.

There were six speakers in opposition most of whose statements can be found in the file. They were: James G. Dickinson, 411 Dubell Lane, president of the Lee Forest Civic Association representing 116 households near the site; Bernard Larsen with Rutherford Civic Association, one-half mile from the subject property; Dennis Mitchell, 4100 Hunt Road and president of a nearby preschool; Miriam Pelletier, Planning Commission member who reiterated the recommendation of the Planning Commission that this application be denied; and Audrey Moore, Supervisor of the Annandale District, who spoke regarding the master plan for the area.

Mr. Smith read the Planning Commission recommendation recommending denial of this application. A copy of the detailed reasons can be found in the file.

Mr. Smith also noted for the record a letter from Truro Homes Association in opposition to this application.

Mr. Aylor in rebuttal stated that this use will create less impact than anything except two homes. This center will serve just the residential area that it is in. They did have a meeting with the Lee Forest Civic Assoc. and only 20 people out of the 116 families that were present and the majority of these 20 families were in opposition, but that does not fully represent the entire community. This traffic will not impact the residential community because the property fronts on Route 236. The problem which was cited regarding the size of the lot is not valid because there is ample play area and actually more than is required by the State Code and Health Department. He stated that this will not set a precedent since there are churches on both sides.

R E S O L U T I O N

146

Mr. Durrer made the following motion to deny the application.

WHEREAS, Application No. S-31-78 by EARLY LEARNING, INC. under Sec. 30-7.2.6.1.3 of the Ordinance to permit construction of a private school and day care center for 120 children on property located at 4006 Guinea Road, 58-4((8))13A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 14, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the applicant is the contract purchaser of the property.
2. That the present zoning is RE-1.
3. That the area of the lot is 49,165 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has not presented testimony indicating compliance with Standards for Special 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 is DENIED.

Mr. Yaremchuk seconded the motion and the motion passed unanimously with all members present and voting.

Page 146
March 14, 1978, Scheduled case for
11:45 A.M. - ACCOTINK ACADEMY, INC. appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit temporary trailer for use for therapy and instruction for learning disabled children, 8519 Tuttle Road, 79-3((4))30A and 31A, Fairfax Park Subd., Springfield Dist., RE-1, S-32-78.

Mrs. Elaine McConnell submitted the required proof of notice to property owners. The notices were in order. She also submitted new plats in accordance with the staff suggestions.

Mrs. McConnell stated that this school is for children with specific learning disabilities. There are 105 students in this school coming from three counties and the District of Columbia. This school operates on almost a one to one ratio of teachers per students. The need for space is crucial particularly for the therapists, of which there are four on the staff. They would like to use this trailer for the remainder of this school year and perhaps next year also until they can find suitable alternate facilities. They have a total land area for the school of two acres and an additional twelve acres that adjoins the school.

There was no one else to speak in favor and no one to speak in opposition.

R E S O L U T I O N

Mr. DiGiulian made the following motion to grant:

WHEREAS, Application S-32-78 by ACCOTINK ACADEMY, INC. under Sec. 30-7.2.6.1.3 of the Ordinance to permit temporary trailer for use for therapy and instruction for learning disabled children, property located at 8519 Tuttle Road, 79-3((4))30A and 31A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 14, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the subject property is Warren H. and Elaine N. McConnell.
2. That the present zoning is RE-1.
3. That the area of the lot is 83,505 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

Page 147, March 14, 1978,
ACCOTINK ACADEMY, INC. (continued)

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of parking spaces shall be 16, minimum.
8. The location of this trailer is on the east side of the property as indicated in the plats.
9. This permit is granted for a period of Two (2) years.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

The Board had a brief recess from 4:45 to 4:55 P.M. and then returned to take up the scheduled item for

1:00 P.M. - VIETNAMESE SISTERS OF THE HOLY CROSS appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit Group Day Care Facility for maximum of Nine (9) children, 3310 Chicamuxen Court, 61-2((33))1, (11,762 sq. ft.), Glen Acres Subd., Mason Dist., R-12.5, S-18-78.

William G. McMurtrie represented the applicant. He submitted the required proof of notice to property owners. The notices were in order. He stated that this property is contiguous to the St. Anthony's Catholic Church, which is to the rear of the property. This residence will be used primarily to house three Vietnamese Sisters who will care for Nine children from 7 A.M. until 6 P.M. six days a week. Actually, there will be only six children at the present time. This is a non-profit organization that will operate this facility. He gave the qualifications of the Sister who will actually be in charge of the facility, Sister Phung, who arrived in the United States in 1975 as a refugee. He gave the details of her qualifications, of which stated the documentation of was not available because the papers were left in Vietnam when she escaped. The traffic impact on the surrounding residential community will be negligible because the children will be transported to and from the facility by the sisters in a van-type vehicle. Therefore, there is no need for additional parking spaces. The children who will be kept here are the children of refugee families whose parents must work.

In answer to Mr. Smith's question as to why the existing church could not be used for the care of these children, Mr. McMurtrie stated that there is no space available in the church for this purpose.

Daniel F. Resendes, Deacon and Deputy Director of the Catholic Church Charities affirmed that there was no room in the church for these purposes. He stated that there already is a school in the church building.

148

There was no one else to speak in favor of the application.

Mr. Larry McDermott from Supervisor Magazine's Office stated that Mr. Magazine was unable to attend this meeting in person, therefore, he had a statement from him that he would read. The statement stated that the Glen Forest community has continuously been threatened by commercial development. He stated that his office has received numerous calls regarding this application and not one has been in support. This is a commercial venture in the middle of a stable residential neighborhood. He stated that there is no doubt in his mind that space could be found in the adjacent church for this center for nine children to be cared for. This type of use is not compatible with the land use of the area and is inconsistent with the policies of the County's PLUS program. He stated that he was opposed to the granting of a Special Use Permit for this use at this location.

Mr. Elmer Birdseye, 5928 Merritt Place, president of the Glen Forest Community Association within which the subject property is located, spoke in opposition to the application. He stated that he was speaking for several other people in the community. He asked them to stand. There were twenty-one people who stood. He stated that there were others in the community for whom he also spoke who were unable to be present. He presented a petition signed by 249 residents which he gave to the Chairman for the record. A copy of Mr. Birdseye's statement can be found in the file on this case. He presented a letter from Hudson Nagel, president of the Long Branch Citizens Association in opposition.

Mr. Lester Abrams, 3308 Chicamuxel Court, spoke in opposition. A copy of his statement is in the file.

Winefred A. Clore, 5847 Glen Forest Drive, Falls Church, spoke in opposition. A copy of that statement is in the file. This statement represented the position of the Glen Forest Community Association.

Mr. Frank Klein, 3302 Chicamuxen Court, spoke in opposition. A copy of his statement is in the file.

Mr. Schumann, who stated he was the oldest member of the community, spoke in opposition to the application.

Another resident who resides at 3322 Pinca Drive submitted four more letters from other residents in the area in opposition to this application.

Mr. McMurtrie in rebuttal stated that this is not a commercial use because it does not require commercial zoning. The Zoning Ordinance permits this use in a residential zone with a Special Use Permit.

Mr. Smith stated that this is a use permitted in a residential zone to serve the immediate community. The Courts have established this fact.

Mr. McMurtrie stated that this use will serve the community. The Vietnamese Center in Arlington has only six months to use that facility. This is not a day care center since it is only for six children. Traffic should not be an issue here because one of the Nuns will pick up the children and take them to their homes at night. Any residential residence will have someone going out in the morning and coming home again evenings. The applicants are aware that should they wish to have more children in the home at some future time, it would require another hearing by this Board.

Mons. Frank Hendricks stated that he had tried to work with the citizens and he would apologize for any short answers that he might have given any of the callers he had regarding this, but he had been harassed by some of the neighbors to the point that he was getting phone calls very late at night.

Mr. Yaremchuk stated that he wished to preface his remarks by saying that he has nothing against Vietnamese people or any other people, but in his opinion this use is not in accordance with good planning and good land use and will have an impact on the community.

RESOLUTION

Mr. Yaremchuk made the following motion to deny:

WHEREAS, Application S-18-78 by VIETNAMESE SISTERS OF THE HOLY CROSS appl. under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit day care facility with maximum of Nine (9) children, 3310 Chicamuxen Court, 61-2((33))1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 14, 1978; and

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

1. That the owner of the property is Juliet R. Hill. The applicant is the contract purchaser.
2. That the present zoning is R-12.5.
3. That the area of thelot is 11,762 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has not presented testimony indicating compliance with Standards for Special 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 is DENIED.

Mr. Durrer seconded the motion and the motion passed 3 to 2.

Messrs. Yaremchuk, Smith and Durrer voted Aye.

Messrs. DiGiulian and Barnes voted No.

Page 149, March 14, 1978, Scheduled case for
1:20 - DEFERRED CASE OF AMERICAN HORTICULTURE
P.M.

Mr. Charles Henry Smith, representing the contiguous property owner, the Halpens submitted a package to the Board which he asked to be made a part of the record.

New plats had been submitted to the Board showing the proposed entrance and exit to be adjacent to the existing road, but only one road (two way) instead of two.

Mr. Charles Henry Smith stated that these new plats in no way solve the problems that this entrance at this location will cause. He stated that in the package he has presented to the Board, there is a study that was done by a traffic engineer which he would like for the Board to consider. The present proposal does not comply with any of those minimum safety requirements that that traffic engineer has enumerated.

Mr. Walsh, attorney for the applicant, stated that the applicant has a legal responsibility to provide the access as shown on the plans and that access would, of course, be subject to the approval of the National Park Service and would also required Site Plan approval.

The Board accepted the new plats.

The Board then left the record open for a period of one week for additional written information and then a further deferral of two additional weeks in order for the Board to review all the information that might be submitted in the one week period.

Mr. DiGiulian made that his motion. Mr. Yaremchuk seconded the motion and the motion passed unanimously with all members present and voting.

//

(See page 151 for details of hearing)
Page 150, March 14, 1978, Scheduled 1:45 P.M. Mr. Durrer made the motion: DEFERRED CASE OF - FORTSMANN SPORTING ENTERPRISES, INC. appl. under Sec. 30-7.2.10.7.12 of the Ord. to permit skateboard park on property located at Howard Avenue and Boone Blvd. 29-3((4))6, 7, and 8, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on February 22, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the applicant is the contract purchaser of the property.
2. That the present zoning is C-G.
3. That the area of the lot is 154, 094 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of the Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be from 9 A.M. to 11 P.M.
8. The number of parking spaces shall be 43.

Mr. Barnes seconded the motion and the motion passed unanimously with all members present and voting.

DEFERRED FROM February 22, 1978 for Bd. of Supervisors hearing on SE Mr. Grayson Hanes, attorney for the applicant, presented the case before the Board. Notices had been presented and were in order at the original hearing February 22, 1978. Mr. Hanes office address is 4084 University Drive, Fairfax, Virginia.

Mr. Hanes stated that the Board of Supervisors heard the Special Exception case for a water slide on this property and denied that application by a 4 to 3 vote. The plan before the Board of Zoning Appeals contains only the skateboard park. With the water slide, they were talking about 400 people being on the site, but with the denial of that application, that number has been drastically cut down. This property is located between Route 7, Chain Bridge Road and Howard Avenue. It is down in a valley area well below most of the elevation on the other properties. This property is right up against the interchange of Route 7 and Route 123. The rear of the property abuts Howard Avenue and across the road there is an eight story office building being developed. There is another C-G parcel across the road also. He stated that this is for an interim use which will be about five years. Then they propose to build an office building on this parcel. He stated that they have met with the citizens in the area and there is a letter in the file in support of this application. That letter is from the Westbriar Civic Association. There is also another letter in the file from the Tysons Green/Ankerdale Civic Association in support of

Page 151, March 14, 1978
FORTSMANN (continued)

of the application. Mr. Hanes further stated that the Board of Supervisors adopted a resolution stating that private enterpriseswere to be encouraged to build skateboard parks in Fairfax County. If they don't the County will have to.

Mr. Hanes stated that because of the location of this proposed park, there will be no adverse impact on the surrounding area and it will be compatible with the existing commercial zoning in the area. There is a parking lot behind the proposed facility. He stated that the Board would also find in the file a letter from the Police Department, Art A. Lilje, in support of this application; a letter from Andrew L. Haines, president of the Tysons Green/Ankerdale Civic Association; letter from Arthur C. Weid, property owner in the immediate area (6801 and 6805 Old Courthouse Road); and a letter from Lo Anne Wagner, president of the Wolftrap Citizens Association, all in support of the application.

Mr. Hanes stated that he had submitted for the file a statement from Stephen G. Petersen, traffic planning and engineering consultant, indicating that even though additional development has taken place since 1975 when VDH&T measured traffic volumes, the roadways providing direct access to the site have adequate capacity to accommodate the traffic projected to use the proposed recreational facilities.

Mr. Hanes stated that he also has an acoustical engineer present to speak to the noise question, should the Board wish to hear from him.

Mr. Farnam Johnson, representing an adjacent site, spoke in opposition to this application. He stated that his client feels that this use is inappropriate use at this location because of the number of children that will be using the site. He suggested this type use be placed in a public park.

Mr. Smith stated that the public parks are not in a position to develop these skateboard parks.

Laura Lewis, 1401 Kerington Lane, spoke on behalf of Howard and Boone Associates, developer of the TYCON office center across the street. She read a letter in opposition to this use at this location because of the incompatibility of the project with the existing area development and the recommendation of the Tysons Corner Area Study. The letter also expressed fear of parking infringement, potential vandalism, unneeded vehicular traffic, and potential loss of income to Howard & Boone Associates' office center complex.

In rebuttal, Mr. Hanes reiterated the position of the Board of Supervisors to encourage these private skateboard parks. He stated that the applicant will have full insurance coverage for this facility and only people with experience will be employed here. He stated that this is in the C-G zoning category which is the most intense commercial zone in Fairfax County.

Page 151 Board of Zoning Appeals
March 14, 1978 R E S O L U T I O N

(See Page 150, first portion of this case.)

//

The meeting adjourned at 6:35 P.M.

//

BY JANE C. KELSEY, CLERK TO
THE BOARD OF ZONING APPEALS

DANIEL SMITH, CHAIRMAN

APPROVED: _____
DATE

Submitted to the BZA on
May 2, 1978.

Submitted to the Bd. of Supervisors,
Planning Commission and other Depts.
on May 3, 1978.

The Regular Meeting of the Board of Zoning Appeals Was Held in the Massey Building on Tuesday, March 21, 1978. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian and John Yaremchuk.

The meeting opened at 10:21 with a prayer by Mr. Barnes.

10:00 A.M. - HENRY FRANKLIN HOOTS, ET AL appl. under Sec. 30-6.6.5.4 of the Ord. to permit house to remain 3.1' from side property line (10' required) and 32.8' from front property line (35' required), 6801 Westcott Road, West Lawn Subd., 50-4((17))73, (7,912 sq.ft.), Mason Dist., R-10, V-39-78 (AMENDED APPLICATION)

Mr. Royce Spence, attorney for the applicant with offices at 311 Park Avenue, Falls Church, Virginia, submitted the correct required proof of notice to property owners. The notices were in order.

Mr. Spence stated that at one time this property was owned by Mr. Hoots. He is now deceased and his children, Henry Franklin Hoots, et al. are now the owners of this property. Approximately twenty years ago, Mr. Hoots constructed the small addition on the side of the house that is existing on Parcel 73. This addition is constructed of cinderblock and is substantial. He stated that he drove through the subdivision and found that almost every house on these corner lots in this area has some type of structure like this that has been built on it. None of the other structures are this close to the property line, but the reason this structure is this close to the property line is because of the shape of the lot and the way the house is situated on the lot. He stated that he made calls to several of the neighbors who all say that this structure has been on this house for as long as they can remember. None of the neighbors have indicated any objection to it remaining as it is. The reason this error was brought to light was because these owners may wish to sell this property and when they came into his office, he ordered a survey done and it was after the survey that they discovered that there was a need for this variance.

There was no one else to speak in favor and no one to speak in opposition.

R E S O L U T I O N

Mr. Durrer made the following motion to grant:

WHEREAS, Application No. V-39-78 by HENRY FRANKLIN HOOTS, ET AL appl. under Sec. 30-6.6.5.4 of the Ord. to permit house to remain 3.1' from side property line (10' required) and 32.8' from front property line (35' required), on property located at 6801 Westcott Road, 50-4((17))73, County of Fairfax, has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, and a public hearing by the Board held on March 21, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-10.
3. That the area of the lot is 7,912 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, being a corner lot, and has an unusual condition in the location of the existing buildings on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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. That the granting of this variance will not impair the intent and

Page 153, March 21, 1978
HOOTS (continued)

purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

Mr. Barnes seconded the motion.

Mr. Smith stated that he would support the request based on the fact that the present owners had no part in the construction of this addition and that the addition has been on the property for a very long time.

The motion passed unanimously with all members present and voting.

Page 153, March 21, 1978, Scheduled case for
10:20 A.M. - ROSS & NORMA KEITH appl. under Sec. 30-6.6 of the Ord. to permit building to be constructed 10' from Arlington Blvd. (50' required), and to reduce screening to 25' (35' required), located 6540 Arlington Blvd., 50-4((9))11 and 18B, (23,198 sq.ft.), Birch Subd., Providence Dist., C-OL, V-36-78.

Mr. Thorpe Richards, attorney for the applicant with offices at 117 South Fairfax Street, Alexandria, presented the correct required proof of notice to property owners. He stated that Mr. Will Daniels, architect, is also present today to answer any questions that the Board might have of him.

Mr. Richards stated that this land was originally three different parcels of land, but they are all owned by Mr. Keith. The parcel is bordered by three streets and they must meet front setbacks from all three streets. Because of this, the land becomes unbuildable without a variance. There is not enough room left on the property after setting back the required amount to place a building that is economically feasible. When the Board of Supervisors rezoned this land, they wanted all three parcels to be zoned C-OL to which the applicant agreed. There is a real estate office on one of these three parcels, but that building will be torn down. The land will continue to be used for a real estate office.

There was no one else to speak in favor and no one to speak in opposition.

Mr. Richards stated that the applicant intends to conform to the proffers made at the time of the rezoning and this variance is in conformity with those proffers. (A copy of those proffers can be found attached to the staff report in the file on this case.)

Page 153 Bd. of Zoning Appeals
March 21, 1978 R E S O L U T I O N

Mr. DiGiulian made the following motion to grant:

WHEREAS, In application No. V-36-78 by ROSS AND NORMA KEITH under Section 30-6.6 of the Zoning Ordinance to permit building to be constructed 10' from Arlington Boulevard and reduce the screening to 25', 6540 Arlington Blvd., 50-4((9))11 and 18B, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board adopt the following resolution:

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

WHEREAS, following proper notice to the public, and a public hearing by the Board held on March 21, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is C-OL.
3. That the area of the lot is 23,198 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, and has road frontage on three streets which requires front setbacks; and

WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.
3. This conforms to the proffers made to the Bd./Supervisors at rezoning.
Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

Page 154, March 21, 1978, Scheduled case for
10:30 A.M. - GARY DONALD HETRICK, V-41-78. The notices for this case were not in order. The agent for the applicant requested a deferral in order to comply with the notice requirements. The agent did not know if the applicant had sent notices at all.
Mr. Yaremchuk moved that the case be deferred until May 2, 1978 for full public hearing and proper notification of property owners.

Mr. DiGiulian seconded the motion.

Mr. Durrer stated that in cases such as this when the applicant does not send notices out as they are instructed to do, the applicant should be penalized in some way for the inconvenience and expense they have caused the County and interested citizens.

Mr. Yaremchuk suggested that perhaps a hearing in June would be better, and so changed his motion. Mr. DiGiulian withdrew his second.
There was no one else in the room interested in the appliation.

After further discussion, Mr. Yaremchuk withdrew his motion.

Mr. DiGiulian moved that the case be rescheduled for May 2, 1978.

Mr. Barnes seconded the motion.

The motion passed 3 to 2. Messrs Smith, DiGiulian and Barnes voted Aye.

Messrs. Durrer and Yaremchuk voted No.

//

Page 154, March 21, 1978, Scheduled case for
10:40 A.M. - H. M. BOWMAN appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel 4B into four lots each having less than required lot width, proposed lot 1, 43'; lot 2, 10'; lot 3, 10'; and, lot 4, 38', (200' required), located 309 Lawton Street, 21-2((1))4B, (6.0 ac.), Dranesville Dist., RE-1, V-38-78.

Ann Fritchroff represented the applicant and submitted the correct required proof of notice to property owners. The notices were in order.

The justification for the need for this variance was the exceptionally narrow frontage on Lawton Street as well as the depth and irregular shape of the property.

In answer to Mr. Yaremchuk's question, Ms. Fritchroff stated that they have talked with the owners of Lot 27 about purchasing that lot. She stated that should they be able to purchase that lot, it would only solve half of the problem.

Mr. DiGiulian stated that he felt the applicant has adequate justification for this variance. He stated that he did not think they could get a dedicated street through that property.

Mr. Smith stated that he would like to see the possibility explored.

Page 155, March 21, 1978
BOWMAN (continued)

Mr. Durrer stated that he would like to see a turn around area at the end of the long drive.

Mr. Yaremchuk stated that that could be made a condition of the granting, if the Board decides to grant the application, and that the turn around be designed to the satisfaction of the Director of Environmental Management.

There was no one else to speak in favor of the application.

Mr. Magison, 6907 Lupine Lane, Lot 29A, spoke regarding the notification to property owners of this hearing. He stated that he was not directly notified. He purchased the property in August, but the notice was sent to the previous owner, Mr. and Mrs. Leroy E. Berg, who forwarded the notice on. He voiced his concern about possible drainage problems that might occur should this subdivision be made.

The Board advised Mr. Magison that the applicant meets the density requirements of this zone. He is proposing four lots on six acres and the zoning is one acre. If drainage problems do occur, the division of Design Review in the Department of Environmental Management should be contacted. The grading plan will be reviewed and approved by that department before subdivision is permitted.

There was no one else to speak regarding this application.

Page 155 Bd. of Zoning Appeals
March 21, 1978 R E S O L U T I O N

Mr. Durrer made the following motion to grant with conditions:

IN APPLICATION NO. V-38-78 by H. M. BOWMAN under Section 30-6.6 of the Zoning Ordinance to permit subdivision of parcel 4B into 4 lots each having less than required lot width; proposed lot 1, 43'; lot 2, 10'; lot 3, 10'; and, lot 4, 38' (200' required), 809 Lawton Street, 21-2((1))4B, (6.0 acres), Dranesville District, RE-1, V-38-78, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, and a public hearing by the Board held on March 21, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is 6 acres.
4. That the applicant's property is exceptionally shallow to permit subdivision; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.
3. That the proposed common drives be constructed with a turn-around area near the end of this street which will be a private street, to the satisfaction of the Director of Environmental Management and that the property owners on that street be required to have in their signed and recorded deed an agreement for perpetual maintenance for that driveway.
4. The applicant must meet the setback requirements for this zone from the future right-of-way.

Mr. DiGiulian seconded the motion. The motion passed 4 to 1. Mr. Smith voted No.

Page 156, March 21, 1978, Scheduled case for
11:00 A.M. - DONALD M. REMBERT, TRUSTEE, AND VIVLOW AND COMPANY, A CORP., appl. under Section 30-7.2.6.1.3 of the Ord. to permit change of ownership from Annandale-Springfield Country Day School, Inc. to Donald M. Rembert, Trustee and Vivlow and Company, property located at 7152 Woodland Drive, Leewood Subd., 71-3((7))24A and 25A, (80,000 sq.ft.), Annandale Dist., RE-0.5, S-35-78.

Mr. Robert Lawrence, attorney for the applicant, 4084 University Drive, Fairfax, submitted the required proof of notice to property owners. The notices were in order.

Mr. Lawrence stated that other than a change in the ownership of the property and the school nothing else will change. There will still be 105 students, ages 2 through 12 with hours of operation from 7 A.M. to 6 P.M., Monday through Friday. The director of the school will be Mrs. Mildred Frazer who presently operates Grasshopper Green School which has a Special Use Permit from this Board.

There was no one else to speak in favor of the application and no one to speak in opposition.

Page 156 Bd. of Zoning Appeals
March 21, 1978

R E S O L U T I O N

Mr. DiGiulian made the following motion that the permit be granted with specific conditions:

WHEREAS, Application S-35-78 by DONALD M. REMBERT, TRUSTEE, AND VIVLOW & COMPANY, A CORP., under Sec. 30-7.2.6.1.3 of the Zoning Ordinance to permit change of ownership from Annandale-Springfield Country Day School, Inc. to DONALD M. REMBERT, TRUSTEE AND VIVLOW & COMPANY, property located at 7152 Woodland Drive, 71-3((7))24A and 25A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 21, 1978; and

WHEREAS, the Board 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 80,000 sq. ft.
4. That compliance with the Site Plan Ordinance is required; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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. (This is an existing use.)
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.

Page 157, March 21, 1978
REMBERT & VIVLOW & COMPANY (continued)

7. All other conditions of the previous Special Use Permit, S-83-75, shall remain in effect which were

a. That all busses and/or other vehicles used for transporting children shall comply with County and State standards for color, lettering and lighting standards.

Mr. Yaremchuk seconded the motion. He asked Mr. Lawrence if he had any problems with the condition regarding the painting of the busses.

Mr. Lawrence stated "No, but it has already been declared invalid by the Courts."

Mr. Smith stated that that Court case related to stationwagons, not busses. Mr. Smith also said that that Court case was to only pertain to that particular case, not all cases.

Mr. Lawrence stated that the problem may not manifest itself because there are no busses at the present time.

Mr. Lawrence stated after consulting with his client that they would comply with State and County regulations that apply, if, in fact they do apply.

Mr. Smith stated, "As is in the resolution".

There was no further discussion.

The vote was unanimous in favor of the resolution to grant.

Page 157, March 21, 1978, Scheduled case for
11:20 A.M. - ANNANDALE BOYS CLUB, INC. appl. under Sec. 30-7.2.6.1.4 of the Ord. to permit carnival, 4800 and 4808 North Chamblis Street, 72-2((1)) 44 and 45, (5.10897 ac.), Mason Dist., C-OH, S-40-78.

Mr. Blaine Friedlander, attorney for the applicant, with offices at 2018 North 16th Street, Arlington, Virginia 22201, submitted the required proof of notice to property owners. The Clerk checked the notices and certified that they were in order.

Mr. Friedlander stated that this application is for a carnival that is to be held in April. He stated that he did not even understand why this application is before this Board. Last year when the applicant applied for a carnival license, it was denied without any reason by Mr. Beaver, Zoning Inspector. Upon complaint of that fact to the Zoning Administrator, Mr. Knowlton, Annandale Boys Club was given a letter, which is part of the file, stating that they were granted the permit for last year, but that this year they would have to come before this Board. From that point, Mr. Watson for the Annandale Boys Club filed this application this year predicated on Mr. Knowlton's denial of the application last year.

Mr. Smith explained to Mr. Friedlander that this application was for a Special Use Permit and was not an appeal of the Zoning Administrator's decision and testimony on an appeal at this time would be improper, in his opinion. He said that he would place in the record the full statement that Mr. Friedlander had submitted. He then asked Mr. Knowlton to explain the carnival section of the Ordinance under which this application is filed.

Mr. Knowlton stated that unfortunately there have come to be in this County more and more carnivals each year and fewer places to hold them because of development that has taken away so much of the land. Each year at the beginning of the year, it is the position of the staff to review the carnivals that have received permits the previous year and look at those, particularly where there are complaints and problems and try to ascertain whether it was just an improper act on the part of the applicant or the specific piece of land. He gave an example in Loehman's Plaza Shopping Center where a few years ago they built some stores in the middle of the parking lot and after that point there was no place to hold a carnival without disrupting the shopping there. Consequently, considering the section of the Ordinance under which his office may grant temporary Special Use Permits for these carnivals under those same standards that the Board of Zoning Appeals is empowered to grant Special Use Permits, considerations such as traffic, noise, impact to nearby areas, etc. they must from time to time take certain locations which have proven to be a problem, off the list of available sites

for carnivals. Early last year they discovered that there had been a number of complaints from the adjoining Orleans Village Apartments and from the information from the Zoning Inspectors regarding the traffic problems at this location, his office determined that the subject site was one that was not compatible for this use of a carnival. The applicant was informed of this last year and was initially denied the application as Mr. Friedlander stated. The applicant, however, had already arranged for the carnival and the Zoning Office, therefore, reconsidered and allowed the carnival but on a very limited basis, such as only 15 rides, etc. and informed the applicant at that time that any future plans for a carnival at that site would not be suitable and that they should look for another place for the coming year.

Mr. Watson with Annandale Boys Club testified that he had had a carnival at this location for three or four years and he had never had a complaint. This is an undeveloped piece of property and the carnival improved it. The carnival company was Amusements of America last year and probably will be this year also.

Mr. Knowlton stated that the Ordinance pertaining to these carnivals was written in the early '70's saying basically that the Zoning Administrator could grant certain types of temporary use permits that would not run more than twenty-one days and that they were to be considered under the same standards that apply to other Special Use Permits. The complaints mentioned were complaints about the noise from the music and other activities on the site. The site was inspected and it was found that there was a traffic problem. There is in the file before the Board a statement from the Director of the Office of Transportation which gives the figures for traffic on North Chamblis Street and because of these factors, he felt that this site was no longer a place to have that activity even for a short period of time.

Mr. Watson stated that specifically they would like to hold the carnival from April 12 through 23rd, no more than 12 days.

Mr. Durrer stated that the Zoning Administrator has the right to approve this and he suggested that this Board allow Mr. Knowlton to make a decision and then this Board could hear an appeal of that decision, if there be one.

Mr. Smith stated that now that it has been established that the applicant is not requesting the 32 days that was at first indicated, that Mr. Knowlton does have the right to grant or deny for this period of time, and he should be allowed to make that decision.

Mr. Friedlander stated that that also was his position and that was why he brought this to the Board's attention at the beginning of the hearing.

Mr. Knowlton stated that by the letter sent to the applicant last year, the applicant was informed that no more carnivals would be approved on that particular tract of land. He did leave open, however, the prospect that the BZA could hear and consider this.

Mr. Knowlton in answer to Mr. Smith's question, stated that this application could be treated either as an appeal or a carnival could be granted by a Special Use Permit from this Board.

Mr. Smith stated that in view of the fact that Mr. Knowlton did as a matter of record write a letter last year stating that he no longer approved this site for this use did basically establish a denial of this use for this site for future years.

Mr. Friedlander stated that what Mr. Knowlton said was that any future use of this subject site for carnivals by the Annandale Boys Club would require a Special Use Permit from this Board, which is not a general statement. He agreed that he felt this Board could consider this an appeal from the Zoning Administrator's decision, but he stated that he did not know how to get to that point.

Mr. Smith stated that this Board is not hearing this as an appeal from an administrative decision to that extent. The Board is here to hear and make a decision as to whether or not this is a proper location for a carnival that has been proposed this year and on that basis the Board can resolve this matter.

Mr. Friedlander stated that he objects to any complaints that have been given to the BZA without first being reviewed by he and his client.

Page 159, March 21, 1978
ANNANDALE BOYS CLUB (continued)

Mr. Smith stated that the Board hasn't been made aware of the complaints either, but he assumed that it would be. The Board did not receive the staff report until just this morning, but there were no records of complaints in that report.

Mr. Friedlander stated that he would take the position that there are no complaints at this time that this Board could, in fairness, hear.

Mr. Smith stated that if the Board is going to be asked to make a decision as to the impact of this use, it must have specifics as to the number of rides, etc. in order to know what the impact will be and how the applicant proposes to handle the parking.

Mr. Friedlander stated that the carnival will be held from Monday through Thursday from 5 to 11 P.M. and on Friday from 5 to 12 Midnight; Saturday from 2 P.M. to Midnight and Sunday from 2 P.M. to 11 P.M. They expect to have 200 people at any one time and approximately 50 cars to be parked in the parking lot. The carnival will be licensed by the State of Virginia. The traffic generated will be less than the normal rush hour traffic, but the Club always makes arrangements with the appropriate section of the Police Department to assist with traffic and crowd control. The impact comprises two square miles. The location of the tents and trailers for the employees and equipment are approved by the appropriate departments and are next to the property line that abuts the apartments.

Mr. Friedlander stated that some noise is generated from the motors of the generators that operate the rides. He submitted photographs showing units that will, this year, be enclosed with a noise muffling device. They propose to place the rides on the property in such a manner as to be as compatible with the neighborhood as an operation of this sort could be. The land slopes down and the back area would add as a buffer if they put the trailers, etc. on the back side of the property toward the apartments. They do not have a problem with the required 50 foot setback from the public rights-of-way. The trash is confined to the site and removed 24 hours after the event.

Mr. Smith stated that even though the carnival employees are not supposed to live in the temporary trailers, he suspects that they do. He stated that the carnival people probably make more noise than the young people who go to the carnivals.

Mr. Covington agreed and stated that he gets more complaints as a result of the carnival people's behavior than from the noise of the carnival itself. This noise is generated after the carnival is closed and the carnival workers remain on the site.

Mr. Durrer expressed concern about the "rip-off" type games that are conducted at some, if not most, of the carnivals.

Mr. Watson stated that his games were checked by the Police Department last year and he stopped the games that the Police told him were illegal.

Mr. Smith expressed concern about the low percentage of profit from these carnivals that actually go back into the community for the community.

There was no one else to speak in favor of the application and no one to speak in opposition.

Mr. Friedlander stated that the presence of no opposition says a lot about the alledged complaints.

Mr. Donald Beaver, Senior Zoning Inspector, stated that the setback requirements from property lines and streets were not adhered to in the past. Trash was also a problem. He stated that he personally had not been involved with the noise complaints.

Mr. Lenn Koneczny, Senior Zoning Inspector, stated that there have been complaints in the past about the parking from this carnival on the school board's property. He also stated that should this permit be granted the applicant would have to get variances from the Noise Ordinance.

Mr. Knowlton stated that specifically there were four telephone complaints. Two of the complaints came from the apartment project in the rear. Both were anonymous and both complained about the noise and both came toward the end of the carnival, so they were unable to do anything about them. Another

complaint came from the subdivision to the north concerning the conflict this use caused with the normal traffic on that street. There were no complaints in writing, but the complaints did emphasize to the department that there was a problem which would cause the department to limit or take this location off the permitted locations for carnivals list.

Mr. Smith stated that the plats before the Board do not indicate the parking area and how many cars the area would accomodate.

Mr. Durrer stated that he felt the Board has sufficient information to make a decision on this case.

R E S O L U T I O N

Mr. Durrer made the following motion to deny the application:

WHEREAS, Application S-40-78 by ANNANDALE BOYS CLUB, INC. under Section 30-7.2.6.1.4 of the Zoning Ordinance to permit carnival on property located at 4800 and 4808 North Chamblis Street, 72-2((1))44 and 45, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board held on March 21, 1978; and

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

1. That the owner of the property is E. Brusius and T. B. Chamberlain.
2. That the present zoning is C-OH.
3. That the area of the lot is 5.10897 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has not presented testimony indicating compliance with Standards for Special 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 is DENIED.

Mr. Yaremchuk seconded the motion.

The motion passed 3 to 1 with 1 abstention. Messrs. Yaremchuk, Durrer and Smith voted Aye. Mr. DiGiulian voted No. Mr. Barnes abstained.

Mr. Durrer stated that the Annandale Boys Club is a worthwhile organization but this use is in the wrong place.

Mr. Smith stated that he reluctantly supported the resolution.

//

The Board recessed for lunch at 12:30 P.M. and returned at 1:45 P.M. to continue with the regular agenda items.

//

11:40 A.M. - MOUNT VERNON YOUTH ATHLETIC ASSOCIATION appl. under Sec. 30-7.2.6.1.4 of the Ord. to permit bingo, 7520 Richmond Hwy., 92-4((1))66C, (20,672 sq.ft.), Lee Dist., C-G, S-42-78.

161

The notices were in order. Mr. Moore, Trustee for Mount Vernon Youth Athletic Association testified on behalf of the applicant for a bingo auditorium at the subject property. He explained that the association has a new board of officers that were elected in January of this year. Therefore, he just got into this. The Association was formed in the late '60's to provide sports activities for the Mount Vernon District. These sports include baseball, softball for the girls and soccer. He stated that he could not attest to this personally, but the books show that this has been a registered non-profit organization since 1972. It might have been prior to that time, but he could not attest to that. This bingo operation has been in operation since last April. The proceeds are used to support the youth sports activities. He explained in some detail concerning the age group of the children and the type sports that they participate in, the type and high cost of the equipment and umpires. He stated that Mr. Weekland the business manager was prepared to give the Board figures on costs, etc. but he could not stay because this meeting was so late. Mr. Weekland had done a complete inventory of equipment on hand and equipment needed.

The Board inquired about the lease holder, United Charities.

Mr. Burkhard, 9300 Old Mount Vernon Road, representing United Charities, stated that United Charities is a non-profit organization whose only income is from the conduct of the bingo operations at this address. He presented to the Board the Articles of Incorporation showing that this is a non-profit organization. He stated that the By-Laws provide that no person can get a salary or any income from this operation or for providing the housing of this operation. The excess between the expenses that United Charities incurs remains completely in the County. He submitted letters of appreciation from the Fairfax County School Board for United Charities' donation to the Fort Hunt High School for football helmets and equipment, from Bucknell Football and other such organizations. He stated that the equipment for the bingo operation is owned by the three sponsors, Pioneer Baseball, Lee District Basketball and Mount Vernon Youth Athletic Association. The landlord, gets paid $250.00 per day from Mount Vernon and $300.00 per day from each of the other two sponsors. This amount includes not only the rent for the building but the real estate taxes and insurance. This is the fair market value. This amount includes all expenses and provides a surplus to meet all the other charitable obligations of United Charities.

Mr. Covington, Assistant Zoning Administrator, stated that he had doubts as to whether United Charities can derive any profit from this operation. This is why they could not operate the bingo operation in the first place, because they had not been established in the County for two (2) years.

Mr. Burkhard stated that he was the person who thought up the idea of organizing United Charities and the bingo operation. Mr. Thompson, the Director of the corporation, wanted to find a way to get money to Fort Hunt High School where his son plays football. Mount Vernon Youth Athletic Assoc. was asked to be a sponsor of this bingo operation and then on July 1, the other two organizations were asked to be a sponsor. From the surplus derived from this bingo operation, they have given $1,000 to Fort Hunt High School and a commitment of $500 was made to Bucknell Football and the Girl Scouts. There is no financial gain derived from this operation, he stated. There are no salaries paid to anyone and no consultant fees paid. The only fee that he (Mr. Burkhard) has charged the corporation is $300 to $400 for incorporating. He stated that he is not an officer of the corporation.

Mr. Burkhard stated that United Charities sold the equipment to the three sponsoring organizations mentioned above because of the Code requirements. The sum for the equipment is being paid with the rent money. The three sponsors have a bill of sale saying that the equipment is theirs. He answered Mr. Smith's question, "Does the note draw interest?", No.

Mr. Smith stated that then the three sponsors have no way of knowing how much, if any, of the $250 to $300 per day rent money is going toward the paying off of the note.

Mr. Burkhard stated that the helpers on the parking lot is paid by United Charities. United Charities also pays for the uniformed "Rent A Cop" service.

Mr. Covington stated that all labor is supposed to be provided by a non-paid personnel.

Mr. Burkhard stated that United Charities, however, is not operating the bingo.

Mr. Durrer stated that that is a dodge to get around the law.

Mr. Burkhard vehemently disagreed and stated that this is all done in the open. He submitted copies of his financial records to the Board.

Mr. Smith asked why the loans were made from the directors of United Charities to the sponsor organizations.

Mr. Burkhard stated that the sponsor organizations had to have money to operate. They have a jackpot of $6,000.

Mr. Smith stated that this is putting United Charities in a bad situation. The directors of United Charities are in effect financing the bingo operation of the sponsors.

Mr. Burkhard stated that a bank would not loan them the money, or at least not over $5,000.

Mr. Covington stated that it is his opinion that the prizes should be set within the limits of what the sponsors can draw.

The Board members agreed.

Mr. Burkhard stated that this hall seats 150 people. The property across the street that is being used for another bingo operation can seat 400 to 500 people and pay a prize of $7,000.

Mr. Covington stated that the sponsors across the street are also collecting a $2.00 gate fee per head, which he felt is also illegal.

Mr. Burkhard stated that theirs is the smallest bingo operation in the County and the cleanest he felt.

Mr. Smith stated that the income from this operation was $100,00 and that isn't exactly peanuts.

In answer to Mr. Smith's question, Mr. Burkhard stated that the sponsors handle the money from the bingo. The large jackpots are treated as a single jackpot. The jackpot money is kept in a separate account and treated as one jackpot. The three organizations together handle it. The three sponsors are guaranteed to make money or United Charities will cover it. No matter how many people are playing, only a certain amount goes in the jackpot.

Mr. Moore with Mount Vernon Athletic Association stated that the amount going into the jackpot escrow is a varying amount dependent upon the number of players and the cards they buy for that particular game. The cashier handles this money. There is a manager present from each sponsor on that particular evening.

Mr. Covington stated that he did not feel the intent of the law is being met. This is a seven day a week operation. It is continued each night.

Mr. Durrer moved that this be checked out by the County Attorney's Office and the Internal Audit Division, and have a joint meeting with those departments and the Board members who might wish to attend.
Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

Mr. Lenn Koneczny, Senior Zoning Inspector, stated that even though United Charities say they have no part in the actual operation, he had checked and found that the equipment for this bingo operation was purchased from Larchmont and Sons in Maryland by Mr. George Barry in April of this year. Mr. Barry took title to the equipment in the name of United Charities. He stated that he had spoken with Mr. Barry on two separate occasions down at the bingo operation. Up until the time that one single entity could operate seven days a week, Mr. Barry was the one the zoning office dealt with when they went down to investigate. He stated that he had been down there on several different occasions and he had to close down the day time operation. Mr. Barry has been there every-time he investigated the operation, he stated.

Page 163, March 21, 1978
MT. VERNON YOUTH ATHLETIC ASSOC. (continued)

The Ordinance, Mr. Koneczny stated, specifically says that you can't derive more than the fair market value in rent. Mr. Patteson, Director of Real Estate Assessments, surveyed the premises and came up with a figure of $5.75 per square foot, or $28,348 per year to be the fair market value for this property. This figure does not include the maintenance and upkeep of the property, but is strictly rent for the building itself. The Ordinance also specifically says that the sponsoring organization cannot enter into any other contract to conduct the bingo. The only contract is for the rent of the building.

Mr. DiGiulian stated that he was trying to figure out the $28,000 fair market value vs. the $67,000 that is paid by the sponsoring organizations vs. the $18,000 that United Charities is paying Kenny Shoes for the building, to determine whether that is reasonable when you add the insurance, utilities clean-up and maintenance.

Mr. Durrer stated that this is the type question he would like for the Dept. of Internal Audit to check out, he added this request to his motion.
*
Mr. Koneczny reminded the Board that all parking for any Special Use Permit must be on the site on which the use is conducted.
*
Mr. DiGiulian seconded that amendment to the motion.

The motion passed unanimously.

There was no one else to speak in favor or in opposition to this application.

The Board left the record open for additional information from the County Attorney, Dept. of Internal Audit and other interested departments, or parties.

The case was deferred for a period of 60 days with the option to defer again if necessary.

The Board requested that the Clerk request Lee District Baseball and Pioneer Basketball to provide the Dept. of Internal Audit with their records in order for an audit to be conducted on these two organizations also.

//

Page 163, March 21, 1978, Scheduled case for
1:00 P.M. - JERRY SARDONE appl. under Sec. 30-7.2.10.7.12 of the Ord. to permit Roller Skate Rink, located north of Sunset Hills Road on Michael Farraday Court, 18-3((5))6, (2.3071 acres), Centreville District, I-L, S-37-78.

Mr. Gordon, agent for the applicant, stated that because of a misunderstanding between the applicant and his firm, notices were not sent out the required 15 days prior to the hearing. He sent the notices out 12 days prior to the hearing thinking that the requirement was still 10 days as it used to be. He requested the Board defer this case until a later date in order that he might comply with the new requirements.

The Board deferred the case until May 2, 1978.

//

Page 163, March 21, 1978, AFTER AGENDA ITEM
1. RICHARD J. POLSOM, V-295-78 (Deferred from February 22, 1978 for engineering study.)

Mrs. Strunk, 1930 Rockingham Street, spoke to the Board concerning the fence to which this deck and supporting structures was attached to. The Board advised Mrs. Strunk that this was a private civil legal matter and it could not take a position regarding the ownership of the subject fence.
The certified plat for Mrs. Strunk's property did not show the subject fence being located on it.

The Board further deferred this case until April 4, 1978 for the requested engineering study and further stated that at that time, it would either grant or deny the application. The Board felt the applicant had had sufficient time to obtain the necessary information needed by the Board.

Page 164, March 21, 1978, AFTER AGENDA ITEM - POLSOM, continued

Mr. Yaremchuk so moved that the above be incorporated into his motion.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

//

Page 164, March 21, 1978, AFTER AGENDA ITEM, TYSON'S BRIAR, INC. T/A CARDINAL HILLS SWIM & RACQUET CLUB, S-5-78.

The Board was in receipt of a letter from Mr. Rollins from the Wexford Civic Association requesting a rehearing on the above-captioned Special Use Permit application.

Mr. Yaremchuk stated that he felt the Board should give this further consideration. He moved that the request be deferred until next meeting.

Mr. DiGiulian seconded the motion.

The motion passed unanimously with all members present and voting.

//

Page 164, March 21, 1978, AFTER AGENDA ITEM, ST. MARY'S OF SORROW CATHOLIC CHURCH, S-41-77, Granted April 13, 1977. REQUEST FOR 6 MONTH EXTENSION.

The Board was in receipt of a request for a six month extension because they had not yet been able to begin construction for various reasons as stated in their letter that can be found in the file. It was the Board's decision that the request be granted for a six month extension from 4-13-77.

//

Page 164, March 21, 1978, AFTER AGENDA ITEM, NIGHT MEETINGS -- AMENDMENT TO BY-LAWS.

Mr. Yaremchuk moved that the Board of Zoning Appeals amend its By-Laws as follows: Article III (Meetings) Change 1 to delete: "...and ending no later than 8:00 P.M."

and add

"The Board may hold one (1) Night Meeting per month, preferably on the 3rd or 4th Tuesdays of the month. Such meeting is to begin at 8:00 P.M. and end no later than 10:30 P.M, and such meeting shall not be on the same day as a day meeting."

Mr. Durrer seconded the motion.

The motion passed 3 to 2. Mr. Barnes and Mr. DiGiulian voted No since they had voted No,against having night meetings originally, they stated.

The Board gave the following instructions to the staff:

The Clerk should schedule only controversal land use cases for the evening meetings. When these cases are very controversal, schedule no more than one or two cases. Schedule no later than 9:30 P.M. in order to end the meeting at 10:00 P.M. since the meeting is not to run past 10:30 P.M. If a case hearing runs beyond 10:30 P.M., it is to be recessed and rescheduled for the next evening meeting. Care should be taken, therefore, not to schedule anything so late as to cause that case to run over the 10:30 PM deadline.

Staff should be present no later than 7:30 P.M. in order to prepare the Board Room and to brief the Board members, if necessary, on the pertinent facts of the evening cases.

Should the case be of such a nature that members of other departments should be present, those departments should be notified at the earliest possible time, preferably several days in advance.

// The meeting adjourned at 3:30 P.M.

By Jane C. Kelsey

Jane C. Kelsey, Clerk to the Board of Zoning Appeals

Daniel Smith, Chairman

APPROVED: _____
DATE

Submitted to the BZA on May 2, 1978
Submitted to other Depts., Bd. of Supervisors, and Planning Commission on May 4, 1978.

165

The Regular Meeting of the Board of Zoning Appeals Was Held On April 4, 1978. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian and John Yaremchuk.

The meeting opened at 10:20 A.M. with a prayer by Mr. Barnes.

10:00 A.M. - RAYMOND W. SAUER appl. under Sec. 30-6.6 of the Ord. to permit enclosure of carport with less than required total side yards, 8503 Frost Way, 59-3((15))109, (13,353 sq.ft.), R-17 Cl., Providence Dist., V-43-78.

Mr. Sauer presented notices to property owners, which were in order.

Mr. Sauer's justification for the need for this variance is the odd shape of his lot. Construction had started prior to purchase of the property and the builder had already set the houses back forty feet from the street instead of the required thirty feet. The other homes in the area were built predominantly with enclosed garages. The six homes which can be viewed from the front facing windows of the house on the lot in question all have enclosed garages. Therefore, a garage would more closely conform to the neighborhood norm than the existing carport, he stated.

There was no one to speak in favor or opposition.

R E S O L U T I O N

Mr. Durrer made the following motion:

IN APPLICATION NO. V-43-78 BY RAYMOND W. SAUER under Sec. 30-6.6 of the Ord. to permit enclosure of carport with less than required total side yards (22.1' requested, 8' and total of 24' required) on property located at 8503 Frost Way, 59-3((15))109, 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 4, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-17 Cluster.
3. That the area of the lot is 13,353 sq. ft.
4. That the applicant's property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above 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 building involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

10:20 A.M. - ELSIE LEIGH appl. under Sec. 30-6.6 of the Ord. to permit subdivision of lot 50 with all four lots having less than required lot width (8' requested, 100' required), 1020 Balls Hill Road, 21-3((1)) 50, (2.9652 ac.), Dranesville Dist., RE-0.5, V-6-78. (Deferred from 2/22/78 for readvertising and correction of address)

(The hearing began at 10:25 A.M.)

Mr. Clayborn Leigh, 10 Covingtree Court, Fredericksburg, Virginia 22401 submitted the required proof of notice to property owners of this hearing.

Mr. Leigh stated that the Virginia Dept. of Highways has rejected a request to permit construction of a public street to serve proposed lots on the central and western portion of the property. The rejection was based on the steep topography of the land which is such as to be prohibitive to construction to grade acceptable to the Department. The property has a frontage of only 50 feet on Balls Hill Road. Thus the property is excessively narrow on Balls Hill Road. It is virtually impossible to develop the land and at the same time provide lots with a width of 100 feet as required by the Ordinance.

Mr. Leigh stated that the property is perculiarly shaped in that the only area which can be developed into lots is the central and western portions.

As shown on the plat submitted with the application the applicant proposes to subdivide into four "pipe stem" lots each to be served by its own driveway, similar to a great many such lots which have been developed in the same fashion all over Fairfax County. Each lot will more than meet area requirements in the RE-05 zone. In fact, one lot will contain an area of about 50,000 square feet. The property is steep, it is excessively narrow for a distance of over 300 feet measured back from Balls Hill Road and is perculiar in shape. Therefore, Mr. Leigh stated that he felt that this is a reasonable justification for this variance.

Mr. Leigh submitted letters from Jack Chilton, Deputy Director of Design Review, dated October 17, 1977; from D. E. Keith, Resident Engineer, Dept. of Virginia Highways dated October 13, 1977; from T. J. Halter, Project Engineer, Va. Dept. of Highways, dated November 17, 1977 to Mr. Jack Chilton.

The comments from the Office of Preliminary Engineering, Design Review, dated March 29, 1977, for this case stated:

"Because of vertical grade problems, a State and County standard road cannot be constructed into the subject property to serve four lots. Therefore, this office would have no objection to the proposed variance request. However, it is suggested that a common driveway be constructed from Balls Hill Road to serve the proposed lots. This common driveway should comply with established standards for pipestem lots and driveways as adopted in the Fairfax County Zoning Ordinance and Public Facilities Manual."

Mr. Leigh stated that he was aware of those comments and was prepared to comply with these requirements.

Mr. Durrer inquired if the deeds to these lots would show that the maintenance of the roads would be shared by the property owners.

Mr. Leigh stated that they would.

Mrs. Barbara Sodaquist spoke in opposition to this request. She was concerned that this variance would cause a decrease in her property values. She spoke about the problems she has had with the property that she purchased that is contiguous to the subject property. She stated that no one wants to buy the lot that they have behind their lot because there will be four houses built back there. She also spoke to the problem of getting sewer connections to her lot and to the subject lots.

Mr. DiGiulian stated that the plat shows an existing access easement on the south on Mr. Leigh's property. Whether the water lines are there or not, if this subdivision goes through, the Leighs will have to extend the sewer lines up Balls Hill Road in front of the Sodaquist property. She could then hook onto the sewer.

Mr. Covington stated that this property would not be permitted to develop as requested in the application with septic because of the problem of getting the well 100' from the septic system.

Mr. Durrer stated that he felt Mrs. Sodaquist would be in a better position

Page 167, April 4, 1978
LEIGH (continued)

if the applicant's property is developed with public sewer and water.

Mr. Durrer inquired of Mr. and Mrs. Leigh if they were agreeable to making the easement available to Mrs. Sodaquist for sewer and water.

Mr. Leigh stated that he is agreeable to that, and in answer to Mr. Smith's question stated that that would be at no cost to Mrs. Sodaquist.

The Board continued to discuss this question with Mr. Leigh. There were no further speakers either in favor or in opposition.

Page 167, April 4, 1978 Bd. of Zoning Appeals

R E S O L U T I O N

IN APPLICATION V-6-78 by ELSIE LEIGH under Sec. 30-6.6 of the Ord. to permit subdivision into four lots having less than required lot width, property located at 1020 Balls Hill Road, 21-3((1))50, County of Fairfax, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 4, 1978; and

WHEREAS, the Board 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 2.9552 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow and there is an unusual condition in that the configuration of the land will not allow development in accordance with the existing zoning; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 constructio has started or unless renewed by action of this Board prior to expiration.
3. That a common driveway shall be constructed to serve the lots, said driveway to comply with the standards for pipestem lots and driveways in accordance with the Fairfax County Public Facilities Manual and the Fairfax County Zoning Ordinance.
4. That the developer will grant an easement to lot 50A for sanitary sewer.

Mr. Yaremchuk seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

Page 168, April 4, 1978, Scheduled case for

10:30 A.M. - OAKTON CHURCH OF THE BRETHREN appl. under Sec. 30-6.6 of the Ord. to permit construction of dwelling 65.5' from Domremy Avenue, (75' required), property located southwest corner of Old Courthouse Road and Oakton Drive, 48-1((1))121, (58,144 sq.ft.), Providence District, RE-0.5, V-48-78.

(The hearing began at 11:00 A.M.)

Mr. Elmer Eifelberger, 3021 Chain Briad Road in Oakton, submitted the required proof of notice to property owners. The notices were in order.

Mr. Eifelberger stated that it is because of the odd shape of the property and the rather shallow lot that causes them to need this variance. They were planning on placing the dwelling 50' from the property line, but found that it was required to be 75' from the center line of Domremy Avenue. Putting the house further back on the lot will interfer with the natural drainage on the lot. The land is below the level of the parking lot for the church which is next door. About half of the drainage from the parking lot comes down across this property and to move the house further back will interfer with the natural flow of the water from the course that it has been following for quite a few years. It will also endanger the septic field. The house was designed for a north-south axis with the intention of putting in solar heating at some later date. This dwelling is to be used as a parsonage for the church.

In answer to Mr. Durrer's question, Mr. Eifelberger stated that the house that is shown in the pictures is to be moved across Domremy Avenue onto a triangular piece of ground.

In answer to Mr. Smith's question, Mr. Eifelberger stated that the proposed dwelling could be erected without the need for further variances.

There was no one else to speak either in favor or in opposition to this application.

Page 168 Bd. of Zoning Appeals
April 4, 1978 R E S O L U T I O N

IN APPLICATION No. V-48-78 by OAKTON CHURCH OF THE BRETHREN under Sec.30-6.6 of the Ordinance to permit construction of dwelling 65.5' from Domremy Avenue, property located at southwest corner of Old Courthouse Road and Oakton Drive, 48-1((1))121, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 4, 1978; and

WHEREAS, the Board 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 58,144 sq. ft.
4. That the applicant's property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

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

Page 169, April 4, 1978, Scheduled case for

10:40 A.M. - SANTIAGO MONTEAGUDO appl. under Sec. 30-7.2.6.1.5 of the Ord. to permit Beauty Parlor as Home Occupation, 1609 Sixth Place, 31-3 ((3))(8)2, (13,125 sq. ft.), El Nido Subd., Dranesville District, R-12.5, S-44-78.

Mr. Blair Brown, attorney for the applicant, presented notices to property owners which were in order. He stated that this beauty shop will be operated by Mr. and Mrs. Monteagudo, both of whom are beauticians. The shop will be operated from 9:00 A.M. to 5:00 P.M. and expects to have 20 customers per week, one customer at a time. Neither Mr. or Mrs. Monteagudo works as beauticians at the present time. They have not worked since December of last year.

Mr. Durrer asked the agent for the applicants why they wanted to open a one chair beauty shop in the home now.

Mr. Brown stated that Mr. and Mrs. Monteagudo have a following from prior beauty shops where they have worked which they don't want to lose.

In answer to Mr. Smith's question, Mr. Brown stated that the applicant has been in business in this area for about eight years. Mrs. Monteagudo owned a shop where she operated as a beautician. This shop was on Center Street in McLean. The shop is still in operation.

There was no one else to speak in favor. The following people spoke in opposition to this application:
Mr. Arthur L. Bloomquest, 6506 Hitt Avenue, immediate neighbor to the subject property,main point of opposition: adversely affect the residential community and set a precedent thereby making it easier for other businesses to come into this community. He submitted a petition in opposition to this application; (That petition is in the file.)
Mr. Jay Kelly Wright, 6456 Dryden Drive, McLean, Virginia, property owner on a nearby street, spoke in opposition. His main point of opposition was the fear that this special use permit if granted would completely change the residential character of the area and cause safety and environmental problems. He stated that representations have been made that this is a one chair beauty shop. Those representations may be hard to maintain in view of the circumstances where these people sold out a commercial business and now wants to start one in their home. It would seem only logical that one would try and want to expand the business. (A copy of his full statement is in the file.)
Anthony J. DelPopolo, 1611 Eighth Place, McLean, spoke in opposition. He spoke about the traffic this use would bring to this quiet neighborhood and the inadequacy of parking spaces on the property of the proposed use. He presented a petition signed by fifty of the neighbors who are homeowners in opposition to this application. He read the statement on which this petition was based into the record.

Mr. Brown in rebuttal stated that he did not feel that this use would cause a change in the character of this residential neighborhood. There is parking on the site for two additional cars more than they already own. The applicants will not have more than one customer at a time and there will only be one chair.

In answer to Mr. Durrer's question about the agreement that the owner of a shop must sign when she or he sells a shop that they will not open a shop within a certain proximity to that shop, Mr. Brown stated that Mrs. Monteagudo owned the shop and did sign such an agreement. Mr. Monteagudo made this application and this shop will be in his name.

The public hearing was closed.

Page 169 Bd. of Zoning Appeals
April 4, 1978 R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application S-44-78 by SANTIAGO MONTEAGUDO under Sec. 30-7.2.6.1.5 of the Ord. to permit beauty parlor as home occupation, 1609 Sixth Place, 31-3((3))(8)2, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 4, 1978; and

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

R E S O L U T I O N

continued...
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 13,125 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts;

NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

Page 170, April 4, 1978, Scheduled case for

11:00 A.M. - CHILDREN'S ACHIEVEMENT CENTER appl. under Sec. 30-7.2.6.1.3.2 of the Ord. to permit non-profit school for handicapped children (75 children), ages 5-14; 8 A.M.-5 P.M.),6519 Georgetown Pike, 22-3((1)) 4, (2.3827 ac.), Dranesville District, RE-1, S-45-78. (In McLean Church of Christ)

(The hearing began at 11:32 A.M.)

The notices were not in order. Therefore, the Board deferred this case until May 23, 1978.

//

Page 170, April 4, 1978, Scheduled case for

11:20 A.M. - SOONSUN REGINA, OH appl. under Sec. 30-7.2.6.1.5 of the Ord. to permit Beauty Shop as Home Occupation, 1705 Prelude Drive, 38-1((21))133, (10,500 sq. ft.), Eudoro Subd., Centreville Dist., R-17, S-46-78.

Mrs. Oh, 1705 Prelude Drive, submitted the required proof of notice to property owners. The notices were in order.

Mrs. Oh stated that she is a licensed hairdresser and wishes to have this shop in her home with no more than one customer at any one time and an estimated two to six patrons per week. The hours of the day would vary and she would like to operate on Thursday evenings and Saturdays.

There was no one else to speak in favor and no one to speak in opposition.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-46-78 by SOONSUN REGINA OH under Sec. 30-7.2.6.1.5 of the Ordinance to permit beauty shop as home occupation, 1705 Prelude Drive, 38-1((21))133, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 4, 1978; and

WHEREAS, the Board 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 10,500 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is GRANTED with

Page 171 , April 4, 1978, OH (continued)

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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit. It shall be the duty of the Permittee to apply to this Board for such approval.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening may be required to the satisfaction of the Director of Environmental Management.
*7. (AMENDED ON APRIL 12, 1978 to add No. 7 below.)

Mr. DiGiulian seconded the motion.
7. That there be no lighting of signs, no neon-type sign and that the sign
The motion passed unanimously. /be limited to four (4) square feet.

Page 171, April 4, 1978, Scheduled case for
11:30 A.M. - M. W. DENNIS appl. under Sec. 30-6.6 of the Ord. to permit swimming pool 7' from side property line (15' required), 1121 Buchanan Street, 30-2((20))15 & 16, (15,000 sq. ft.), Walter Heights Subd., Dranesville Dist., R-17, V-47-78.

Mr. Dennis presented the required proof of notice to property owners. The notices were in order.

Mr. Dennis's main justification was the fact that this is a corner lot and required two front setbacks.

There was no one else to speak in favor and no one to speak in opposition.

Page 171 Bd. of Zoning Appeals
April 4, 1978 R E S O L U T I O N

Mr. Durrer made the following motion:

In application V-47-78 by M. W. DENNIS under Sec. 30-6.6 of the Ord. to permit swimming pool 7' from side property line (15' required), 1121 Buchanan Street, 30-2((20))15 & 16, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 4, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 15,000 sq. ft.
4. That the subject property is exceptionally irregular in shape; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditons 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 is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Page 172, April 4, 1978, Scheduled case for
11:45 A.M. - CARROLL WRIGHT, JR. appl. under Sec. 30-7.2.9.1.7 (Group 9, SUP Uses in Older Structures) to permit real estate and appraisal office, 3013 Chain Bridge Road, Oakton, 47-2((1))82, (.877 ac.), Providence District, RE-0.5, S-14-78. (Deferred from 2/28/78 for proper notices.)

(The hearing began at 12:07 P.M.)

Mr. Wright, 6400 Arlington Blvd., Falls Church, Virginia, presented the required proof of notice to property owners. The notices were in order.

Mr. Wright stated that there will be six or seven employees at this property. He plans to operate from 8:00 A.M. to 5:00 P.M. and there will be evening and weekend activities which will be unpredictable as to hours. This property is in an area which on the master plan calls for 8 to 10 units per acre. Across the street from the subject property the land is planned for 3 to 4 units per acre. There is commercial across 123 in that area. To the south, the new AT&T facility is to be constructed. This is a block of older houses that is sandwiched between two commercial areas. He agreed to pave the parking area and driveways.
Mr. Verlon Smith, 11501 Stuart Mill Road, spoke in support of the application

There was no one else to speak in favor and no one to speak in opposition.

Page 172, April 4, 1978 Bd. of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application S-14-78 by CARROLL WRIGHT, JR. under Sec. 30-7.2.9.1.7 of the Zoning Ordinance to permit real estate and appraisal office, 3013 Chain Bridge Road, 47-2((1))82, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 4, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is R. H. & W. E. Puffenberger. The applicant is the contract purchaser.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 0.877 acres.
4. That compliance with the Site Plan Ordinance is not required.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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

Page 173, April 4, 1978

date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The number (maximum) number of employees shall be Seven (7).
8. The number of parking spaces shall be Six (6).

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

Page 173, April 4, 1978

12:00 - PIONEER BASEBALL LEAGUE appl. under Sec. 30-7.2.6.1.4 of the Ord. to permit bingo auditorium, 7520 Richmond Hwy., 92-4((1))66C, (20,672 sq. ft.), Lee District, C-G, S-15-78. (Def. from 2/28/78 for additional information.)

Mr. Smith stated that the Board has requested the applicant to submit additional information to the County's auditor and will defer this case further until that information has been received and processed.

Mr. Joseph McGrail, attorney in Alexandria, spoke on behalf of the Engleside Lions Club, stating that it is their belief that the applicant along with United Charities do not comply with the State bingo laws. He stated that he has information that there are paid employees at the bingo games in opposition to the intent of the bingo laws.

Mr. Durrer stated that the Board should not take testimony on this since the public hearing is closed.

Mr. DiGiulian stated that the Board requested the Clerk to request the applicant to submit information, the same type as was requested of Mount Vernon Athletic Association.

Mrs. Kelsey stated that she had requested that information from the applicant. There is a copy of that request in the file.

Mr. Smith stated that the Board is in receipt of a letter from Mr. Sell representing Pioneer and Lee District objecting to any connection being made by the Board between the three applicants and United Charities.

Mr. Barnes moved that the Board defer this case until such time as the requested information has been submitted and processed and the Board receives some input from the County's auditor and the County Attorney.

Mr. Durrer seconded the motion.

The motion passed unanimously.

Mr. DiGiulian stated that in the letter from Mr. Sell it appears that they are saying that they have given the Board and County all the information that was asked of them. He requested that the request, if it has not been, be put in writing and that the Board not make a decision until that information is received. The Board requested detailed financial information. He stated that he would make that his motion.
Mr. Durrer seconded the motion and the motion passed unanimously.

//

12:05 - LEE DISTRICT BASKETBALL, S-16-78. (Deferred from 2/28/78 for additional information.)

Mr. Barnes moved that the same information be requested of this applicant and that the case be deferred until all this information is in and processed.

Mr. Durrer seconded the motion.

The motion passed unanimously.

//

12:15 P.M. - SLEEPY HOLLOW PRESCHOOL, INC. appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit nursery school (renewal of SUP), 6800 Columbia Pike, Sleepy Hollow Woods Subd., 60-4((1))10, (6.0 ac.), Mason Dist., RE-0.5, S-17-78. (Def. from 2/28/78 for proper notices.)

(The hearing began at 12:30 P.M.)

Mr. Frank Welther, attorney for the applicant, with offices at 801 N. Pitt Street, Alexandria, submitted the required proof of notice to property owners. The notices were in order.

Mr. Welther stated that this is a renewal of the original Special Use Permit granted by this Board March, 1973 for two years with three one year extensions. The extensions have been granted and there have been no problems with this use. This nursery school will have a maximum of 100 pupils with three teachers and one teacher aid. Fifty-six adults will act as classroom assistants on a regular rotating basis. The estimated traffic impact will be a maximum of 21 passenger cars arriving approximately at 9:10 A.M. and again at 12:00 Noon. There will be approximately four evening meetings per year with an expected number of 25 passenger cars.

There was no one to speak in favor or in opposition to this application.

 R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application S-17-78 by SLEEPY HOLLOW PRESCHOOL, INC. under Sec. 30-7.2.6.1.3 of the Zoning Ordinance to permit nursery school, 6800 Columbia Pike, 60-4((1))10, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 4, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is St. Albans Episcopal Church. The applicant is the lessee.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 6 acres.
4. That compliance with the Site Plan Ordinance is required.

WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details)

Page 175, April 4, 1978

without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4 This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.

7. The maximum number of children shall be 100.

8. The hours of operation shall be 9 A.M. to 12 Noon, 5 days per week.

9. All other requirements of the previous Special Use Permit shall remain in effect. *

10. This permit is granted for a period of three (3) years.

* Ages 3 through 5 years.
Any buses and/or vehicles used for transporting students shall comply with standards of the Fairfax County School Board and State of Virginia in color, lights and lettering requirements.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

Page 175, April 4, 1978, DEFERRED CASES:

ROSENFELD, V-34-78, (deferred from March 14, 1978, in order to have before the Board the letter from the applicant requesting withdrawal.) The Board was in receipt of that letter.

Mr. Barnes moved that this application be withdrawn without prejudice.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

//

Page 175, April 4, 1978, DEFERRED CASE:

RICHARD J. POLSON appl. under Sec. 30-6.6.5.4 of the Ord. to permit wood deck to remain on both side property lines (14' required), 1909 Rhode Island Avenue, 41-1((13))(7)17A, (10,851 sq.ft.), Franklin Park Subd., Dranesville District, RE-0.5, V-295-77. (Deferred from 12/6/77 and on subsequest dates for additional engineering information. A sketch was submitted to the Building Inspections Dept., and we have now comments from that department that they will approval those plans, pending the granting of this variance.

Mr. Strunk, the adjacent property owner, stated that the sketch that was submitted is a sketch of a deck that doesn't really exist. The sketch ignores the superstructures that are 30' by 15'. On that basis, he rebutted what had been presented as non responsive to the Board's initial inquiry and request. He stated that the sketch seems to be a completely new piece of construction.

The Board reviewed the sketch that had been submitted and the comments from the Building Inspections office.

Page 175, April 4, 1978 Bd. of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application V-295-77 by RICHARD J. POLSON under Section 30-6.6 of the Zoning Ordinance to permit a wood deck to remain on the property line on property located at 1909 Rhode Island Avenue, 41-1((13))(7)17A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on December 6, 1977 and on subsequent dates with this decision being made on April 4, 1978; and

WHEREAS, the Board 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 10,851 sq. ft.

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

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, THEREFORE, BE IT RESOLVED, that the subject application is DENIED.

Mr. Durrer seconded the motion.

Mr. Smith asked that a time limitation be set to have this structure removed from the site and brought into conplicance. He stated that in the past the Board has set 30 days.

Mr. DiGuilian added as part of his motion that the structure be removed within thirty days.

Mr. Durrer accepted that as part of his motion.

The motion passed unanimously.

Page 176, April 4, 1978, AFTER AGENDA ITEM

TYSONS BRIAR T/A CARDINAL HILLS SWIM & RACQUET CLUB. Request from nearby property owners for a rehearing. The Board was in receipt of a letter from these property owners last week.

Mr. DiGiulian moved that the Board grant the rehearing for reconsideration.

Mr. Barnes seconded the motion.

The motion passed 3 to 2 with Messrs. Yaremchuk and Durrer voting No.

//

Page 176, April 4, 1978, AFTER AGENDA ITEM

KLARE, INC. Request for six (6) month extension because they had not been able to begin construction.

Mr. Barnes so moved that the request be granted.

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

// LUNCH RECESS, 1:25 P.M. to 2:38 P.M.

Page 176, April 4, 1978, DEFERRED CASE

AMERICAN HORTICULTURE SOCIETY appl. under Sec. 30-7.2.5.1.4 (Group 5) to permit amendment to existing SUP for Offices for National Benefit Assoc. to permit additional structures and parking and relocation of parking and access roads, 7931 East Boulevard Drive, 102-2((1))20, (24.81 acres), Mt. Vernon Dist., RE-0.5, S-348-77. (Deferred from March 14, 1978 to permit applicant and opposition to present additional information in writing with a deadline of March 21, 1978 and then for two additional weeks for the Board to review this additional information. That info. was mailed to the Board members)

(Hearing began at 2:38 P.M.)

Mr. Smith stated that the Board is in receipt of correspondence from the County Executive setting forth a resolution adopted by the Board of Supervisors dated March 20, 1978, requesting this Board defer this case for an additional period of 90 days. Mr. Smith stated that he was not sure that the Board was made aware of the fact that this case has already been deferred

for a considerable period of time and the request for ninety (90) additional days is beyond the scope of the Board's jurisdiction. However, if the applicant will agree, the Board would be able to defer for some additional time.

Mr. Walsh on behalf of the applicant stated that he did not feel the deferral would accomplish anything. They know that they have to satisfy the National Park Service with regard to the road and the access. There was not a great deal of citizen input during the hearing with regard to the road. He stated that they would agree to a short deferral if the Board feels that it is necessary.

Mr. Charles Henry Smith representing the contiguous property owners, the Halpens, stated that the request for the deferral was actually made to the Board of Supervisors from the Wellington Citizens Association. They need more than two weeks deferral time because they would like to reconsider a position that was taken. In addition, the National Park Service will be filing its report shortly. He asked the Board to wait until the environmental impact statement has been filed.

Mr. Walsh stated that the applicant is and has been willing to have the Board make the granting subject to the approval of the National Park Service.

Mr. Smith stated that under the State Code, this Board must hear and make a decision of these case within a set time limit. Within the agreement of the applicant, it therefore cannot further defer this case.

The Board after further discussion deferred this case until April 18, 1978. The Board asked for any additional information to be submitted by April 12, 1978.

//

Page 177, April 4, 1978, AFTER AGENDA ITEM, ROTUNDA ASSOC., INC.

The Board was in receipt of a request from Francis A. McDermott, attorney for the applicant, requesting that the Special Use Permit be in the name of the entity providing the automatic bank teller service which is the Dominion National Bank. A Virginia corporation, Richway Rotonda, Inc. will be providing the beauty shop, general store and valet and snack bar serices. He requesting that the name of the applicant for this service also be transferred to this corporation. He submitted an additional copy of the lease which specifically incorporated the Board's resolution of September 20, 1977 and limited the two tenants to the uses permitted under S-203-77.

Mr. DiGiulian moved that this request be granted since this is an RM-2M use.

Mr. Barnes seconded the motion.

The motion passed unanimously.

//

Page 177, April 4, 1978, APPROVAL OF MINUTES

Mr. DiGiulian moved that the Minutes of January 31, 1978 and February 14, 1978 be approved with minor corrections.

Mr. Barnes seconded the motion.

The motion passed unanimously with all members present and voting.

//

The meeting adjourned at 3:00 P.M.

By Jane C. Kelsey
Jane C. Kelsey, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED _____
DATE

Submitted to BZA on 6/6/78

177A

The Regular Meeting of the Board of Zoning Appeals Was Held in the Board Room of the Massey Building on April 12, 1978. Present: Daniel Smith, Chairman; John Yaremchuk and George Barnes. Messrs. Durrer and DiGiulian were absent.

The meeting opened at 10:20 A.M. with a prayer by Mr. Barnes.

Mr. Smith then read a letter from Chairman Herrity commending the Board of Zoning Appeals on its decision to have one night meeting per month.

// The Chairman called the first scheduled case:
10:00 A.M. - JAMES H. LYNCH, JR. ET AL AND B. P. OIL, INC. appl. under Sec. 30-6.6 of the Ord. to permit building 20' from zoning boundary line (50' required), 9200 Lee Highway, 48-4((1))1B and 1A, (24,345 sq. ft.), Providence District, C-G, V-52-78.

The Board was in receipt of a letter from the attorney for the applicant requesting that this case be withdrawn without prejudice.

Mr. Yaremchuk moved that the request be granted.

Mr. Barnes seconded the motion.

The motion passed unanimously with the members present.

//
Page 177, April 12, 1978, Scheduled case for
10:20 A.M. - MONTESSORI SCHOOL OF FRANCONIA, INC. appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit Montessori School for 50 children, ages 2 through 12, property located at 6300 Florence Lane, 82-4((1))17A, (3.3590 ac.), Gatewood Subd., Lee Dist., R-10, S-50-78.

(The hearing began at 10:22 A.M.)

Mr. Bernard Fagelson, attorney for the applicant, with office in Alexandria, Virginia, submitted the required proof of notice to property owners. The notices were in order.

Mr. Fagelson gave the Board the details of the proposed use for the subject property. His statement is in the file. The hours of operation are proposed from 9 A.M. until 3:30 or 4:00 P.M. The children will arrive by bus or carpool around 8:30 A.M. and sometimes as early as 8:00 A.M. The school will be operated from Monday through Saturday but on occasion the parents might come in on Saturdays for a meeting. There will be more than adequate parking on site. They are anticipating using two school busses and there might be as many as 10 to 15 cars on the site at any one time.

Mr. Smith stated that the plats only show twelve parking spaces.

Mr. Fagelson stated that there will be three staff administrators, four teachers and four assistant teachers and two bus drivers at a maximum. The school busses that will be used will be in accordance with the State regulations for school busses, insofar as the lettering, paint and lights are concerned.

There was no one else to speak in favor and no one in opposition to this application.

Page 177 R E S O L U T I O N Bd. of Zoning Appeals
April 12, 1978

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-50-78 by MONTESSORI SCHOOL OF FRANCONIA, INC. under Section 30-7.2.6.1.3 of the Zoning Ordinance to permit Montessori School for 50 children, ages 2 through 12, 6300 Florence Lane, 82-4((1)) 17A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 12, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is Beatrice M. Albertson. The applicant is the contract purchaser.
2. The present zoning is R-10.
3. The area of the lot is 3.3590 acres.
4. That compliance with the Site Plan Ordinance is required.

178

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The maximum number of students shall be 50.
8. The hours of operation shall be from 8:00 A.M. to 4:00 P.M.
9. The minimum number of parking spaces shall be 15.
10. All vehicles used for transporting children to and from school by the school shall require proper lettering, lighting and painting in conformance with State requirements for school busses.

Mr. Barnes seconded the motion.

The motion passed unanimously with the members present. Messrs. DiGiulian and Durrer were absent.

Page 178, April 12, 1978.

10:40 A.M. - FRANCONIA ASSOCIATES & GENERAL CINEMA appl. under Sec. 30-7.2.10.3.4 of the Ordinance to permit two enclosed theatres located 6712 Springfield Mall Shopping Center, 90-2((13))5B, (34.0137 ac.), Lee Dist., C-D, S-51-78.

Mr. Lee Fifer, attorney for the applicant, submitted the required proof of notice to property owners. The notices were in order.

Mr. Fifer stated that there are four theatres existing in Springfield Mall, all of which were granted by this Board. There is ample parking for this additional theatre. The hours will be the same as for the existing theatres: 9:30 A.M. to 1:00 A.M. Some of the longer movies run until 1:30 A.M. The normal hours for the shopping center is 10:00 A.M. to 9:30 P.M. This theatre will not have a separate entrance, but will function from relocated entrance no. 5.

There was no one to speak in favor or in opposition to this application.

Mr. Fifer stated that a copy of the lease agreement is in the file with this case.

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-51-78 by FRANCONIA ASSOCIATES & GENERAL CINEMA appl. under Section 30-7.2.10.3.4 of the Zoning Ordinance to permit two (2) enclosed theatres on property located at 6712 Springfield Mall Shopping Center, 90-2((13))5B, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 12, 1978; and

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

1. That the owner of the property is Arthur Vinter, Trustee. The applicant is the lessee.
2. The present zoning is C-D.
3. The area of the lot is 34.0137 ac.
4. Compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be from 9:00 A.M. to 1:30 A.M.
8. The parking spaces shall be in accordance with the plats submitted with this application.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Page 179, April 12, 1978, 11:00 A.M.

MT. VERNON K OF C CLUB, INC. appl. under Sec. 30-7.2.6.1.4 of the Ord. to permit Bingo Auditorium, 7702 Richmond Highway, 101-2((1))part of lot 12, (20.295 acres), Lee Dist., C-D, S-53-78

Mr. John Tully, attorney for the applicant, submitted the required proof of notice to property owners. The notices were in order.

Mr. Tully stated that the Mt. Vernon K of C Club is a non-stock, non-profit organization in good standing in the State of Virginia. This has been a bingo facility since June, 1977 at the subject location. He stated that he has filed with the appropriate County office a copy of the annual accounting report. He stated that last year's report has not been examined yet.

Mr. Tully stated that this use will afford no additional traffic impact. There have been no problems with traffic since the facility opened last June.

Mr. Tully stated that this facility is in a commercial shopping plaza which is on twenty acres of land. The plaza is open from 9:00 A.M. until late in the evening.

Mr. Frank Barber, 5603 Cornish Way, Alexandria, Virginia, manager of the bingo facility, spoke before the Board. He stated that he is not an officer of the Knights of Columbus at the present time.

Mr. Barber stated that the bingo games are conducted three nights a week, on Wednesday, Fridays and Saturdays. The first game starts at 7:30 P.M. and it is over by 11:15 P.M. All of the people who work with the bingo operation are volunteers. Mr. Barber stated in answer to Mr. Smith's question, that he is not paid for his services. The bingo hall is rented by the owner of the building to other people during the other days and nights of the week. There is no other bingo operation in this building. The people who participate in the bingo games are charged a playing fee in accordance to the amount of cards they buy. He gave an example of one gentleman who comes in and plays 40 cards which costs a fee of $30.00. The price of a regular game is $0.75. Some of the winners get $100.00 in prize money and a jack pot could be $3,000 to $4,500. The jackpot has been hit a couple of times since the operation started last June. The winning prize of winner-take-all is hit about every nine nights on an average. He stated that the jackpot has been up to $5,000 before it was hit. The jackpot money is obtained from money taken in on the floor and set aside. The money taken in on the floor is in addition to the entrance fee.

Mr. Barber stated that the rent they pay for the use of the property is $507 per night or $1,521 per week. The figure is arrived by the amount of the floor space they have. Originally, they paid the rent per chair because they didn't know how much to pay the owner. Now the rental figure is based on the 15,400 sq. ft. at $12 per square feet.

Mr. Barber stated that they have two security guards and a cleaning crew. He stated that they rent the tables and chairs. They do not serve any type of food or drink in the facility. There are individual snack shops on the outside. The K of C do not receive any of the benefits from these food vendors. There is a verbal agreement with the vendors who sell the food that they can do this. The average gross the K of C takes in per night on the bingo operation is $5,000 or $6,000. They have about $5,000 worth of equipment and this equipment remains on the property seven days a week.

Mr. Tully stated that since January they have contracted with an independent business consultant to establish a proper set of books to maintain the records that should be maintained. This is a professional consultant. The report that was filed with the County is essentially correct. He stated that they will be happy to make a supplemental response in any area requested.

Mr. Colango with the law firm of Boothe, Prichard and Dudley with offices in Fairfax City spoke representing the landlord, The Joshcarr Corporation, in favor of the application. He stated that the Joshcarr Corporation owns the shopping center and this particular building in which the bingo games are held was the original Thrift Center and then Drummers Village. Joshcarr rents to D. C. Flea, Inc. That tenant is responsible for the operation of the Peddlers' Market which is divided into different stalls selling antiques and junk.

Mr. Smith stated that junk is not allowed to be sold.

Mr. Colango stated that the owner has no direct contact with the sublessees. There have been no complaints registered regarding the bingo operations. There have been no parking problems. There is ample parking. The rent for the building space is not on a square foot basis. The arrangement is complex. The rental for the first year of operation was on a base of $97,000 plus five percent of the annual gross rental income that D.C. Flea, Inc. receives above $400,000. He stated that he did not know how the Mount Vernon K of Club, Inc.'s rent was determined. He stated that even though the $507 per night seems high, the rent for the stalls in the flea market is also high, $10 or $11 per square foot. He did not know what the subject building was used for prior to the leasing to the Mount Vernon K of C Club, Inc.

Mr. Tully explained to the Board how the rental amount was arrived at.

There was no one else to speak in favor and no one to speak in opposition.

Page 181, April 12, 1978

The Board continued to discuss with the applicant the possibility of lowering the jackpot to a more reasonable amount.

The applicant's agent in answer to the Board's inquiries stated that the Club donates money to worthwhile charitable needs of the community. One example was that they gave a lady $500 to invest in her business when she could not afford to make that investment. They help as many people who come to them and tell them they need help if they can determine that the need is a bonafide need, he stated.

Mr. Smith stated that the applicant should give the Board a rundown on who the Club has helped, the amounts and the reasons for helping. The Board wants to know what is done with the money and how much is taken in and who is hired to work in these games.

The Board informed the applicant that it had set a time limit of 60 days to try to make a decision involving these bingo applications.

Mr. Yaremchuk moved that the case be deferred as the other cases have for a period of 60 days, if the additional information can be obtained and processed.

Mr. Barnes seconded the motion.

The motion passed unanimously.

//

Page 181, April 12, 1978

11:15 A.M. - CHURCH AT NORTHERN VIRGINIA (WHOLE WORD FELLOWSHIP) appl. under Sec. 30-7.2.6.1.11 of the Ord. to amend existing Special Use Permit to change the proposed building and parking, 10922 Vale Road, 37-1((1))17 & 17A, (17.9577 Ac.), Centreville Dist., RE-2, S-55-78.

Mr. Richard Hobson, attorney for the applicant, submitted the required proof of notice to property owners. The notices were in order.

Mr. Hobson explained the reasons why the church and parking area locations are being shifted and changed.

The office of Preliminary Engineering in a memo dated March 7, 1978, had outlined the various changes as noted by their office. One of the recommendations of that office was that the proposed dedication as shown on the plat submitted be provided in conjunction with the proposed development and that a standard deceleration lane be provided at the new entrance to the subject site from Vale Road. This deceleration lane should be constructed to the satisfaction of the V.D.H. & T. and Fairfax County.

Mr. Hobson stated that they will provide the deceleration lane.

There was no one else to speak in favor and no one to speak in opposition.

Page 181, April 12, 1978 Bd. of Zoning Appeals

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application S-55-78 by CHURCH AT NORTHERN VIRGINIA (WHOLE WORD FELLOWSHIP) under Section 30-7.2.6.1.11 of the Zoning Ordinance to permit amendment to existing Special Use Permit for changes in proposed building and parking on property located at 10922 Vale Road, 37-1((1))17 & 17A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 12, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 17.9577 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with

Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details), whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be the hours of normal church activities.
8. The minimum number of parking spaces shall be 127.
9. The maximum number of seats shall be 430.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Page 182, April 12, 1978
11:30 A.M. - WILLIAM E. MOSS appl. under Sec. 30-7.2.10.7.12 of the Ord. to permit skateboard park, end of Michael Faraday Court, 18-3((5))7, (3.4186 ac.), Reston Sect. 909, Centreville Dist., I-L, S-56-78.

(The hearing began at 12:15 P.M.)

Mr. Hank Gordon, engineer for this project, submitted the required notices which were in order.

Mr. Gordon stated that this park will be open from 1:00 P.M. to 9:00 P.M. daily. The estimated number of patrons will be 125, average. The proposed number of employees will be 8. The maximum expected trip generation will be 63 vehicles per day. The building will be constructed of pre-engineered metal with masonry facade similar to the surrounding facilities.
He stated that the applicant owns and operates two public roller rinks.

The Board questioned the number of parking spaces that the applicant proposed.

Mr. Gordon stated that he felt the 25 spaces were more than adequate.

Mr. Gordon submitted a rendering of how the building will look when constructed, but stated that the landscaping will not be the same as the rendering, but that they will comply with whatever landscaping is required by Fairfax County.

Mr. Yaremchuk stated that the memo from the office of Preliminary Engineering states that the parking is not adequate for a facility of this size. That office suggested that the applicant provide a tabulation justifying the parking provided.

183

The Board discussed the parking situation at length and suggested that the applicant and staff work out the parking situation to comply with the Codes and to meet the parking needs.

There was no one else to speak in favor of the application.

Mr. Keiffer, 6003 St. Barnabas Road, Oxon Hill, Maryland, attorney for the Hardwood Plywood Manufacturing Association that just purchased some property on Michael Faraday Court, spoke in opposition to the application.

Mr. Lightner, Chief Executive Officer for the National Association of Biology Teachers, Roger Bacon Drive, Reston, spoke in opposition to this application.

Mr. Moss testified about how his skate board park would be operated. He stated that there would be no type of public address system. No piped-in music. The guard will have a whistle that he will use to get the attention of the skaters.

Mr. Keiffer and Mr. Lightner submitted written statements which can be found in the file.

Mr. Gordon in rebuttal stated that the opposition brought up three major potential problems. The noise question Mr. Moss answered. Mr. Moss has an insurance policy which requires that they operate in specific ways, all designed for safety of the skaters. As to the impact this use will have on the neighborhood, this use will have no more impact than the other four planned recreational facilities, the racquet club, the roller rink, the bowling facility and the skating rink. Much heavier uses can go into this I-L district such as paint and automobile repair garages, or impoundment yard for wrecked automobiles.

Mr. Gordon stated that with regard to parking, Mr. Moss and other people have done considerable studies and are concerned that they are providing adequate parking. He will agree to provide additional parking if it is needed. He stated that a deferral of this case would cause a hardship on the applicant.

The Board after considerable discussion deferred this case until May 2, 1978.

//

Page 183, April 12, 1978, AFTER AGENDA ITEM

RICHARD J. POLSOM, V-295-77. The Board was in receipt of a letter from G. Alan Lakin, new owner of the property which was the subject of this application on property located at 1909 Rhode Island Avenue, McLean, Virginia. This case was decided by denial by the Board at the last meeting April 4, 1978. This is the next scheduled meeting. Mr. Lakin wishes to be present to discuss this case with the Board since he now owns this property.

For the record, Mr. Doug Leigh, Zoning Inspector, visited Mrs. Lakin on January 5, 1978 and informed her of this variance pending before the Board at that time. The Clerk also spoke with her on the phone and explained the procedures to her.

Mr. Leigh stated that he had talked with Mr. Polsom when he was just beginning work on the deck and informed him that the deck was in violation. He finished the deck and made application to this Board to keep the structure.

Mr. A. Lakin, new owner of the subject property, told the Board that it is true that he was told about the pending variance for the deck. However, he was led by Mr. Polsom to believe that the only impediment was that the structure did not meet the engineering Code The statement made by Mr. Polsom that there was money in escrow to remove the deck was true only in part. There was $1,000 held in escrow for the full purpose of obtaining approval of the engineering drawings which they were told by Mr. Polsom at the time of settlement to be the only impediment.

Mr. Smith reminded Mr. Lakin that there was no justification for the variance regardless of the escrow circumstances.

The Board members agreed that there was nothing the Board could do to help Mr. Lakin since the variance as applied for by Mr. Polsom had been denied.

//

Page 184, April 12, 1978, AFTER AGENDA ITEM

CARROLL WRIGHT, JR., real estate and appraisal office, 3013 Chain Bridge Road, S-14-78.

Mr. Barnes moved that this case be reopened for discussion. No objection.So ordered. He stated that the Board just last week granted a real estate office special permits on Chain Bridge Road in Oakton. He stated that there are several houses in that area that might possibly also request special permits. If this occurs, then signs might become a problem. He stated that he felt the Board should make a decision as to the type and size sign that it feels would be appropriate.

Mr. Barnes moved that there be no lighting, no neon type signs and that the sign be limited to two square feet.

That motion died for the lack of a second.

Mr. Barnes revised his motion:that there be no lighting and no neon type signs and that the maximum be four square feet.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

//

Page 184, April 12, 1978, AFTER AGENDA ITEM

WEDGEFIELD CORP., S-80-77, Granted May 24, 1977. REQUEST FOR EXTENSION.

The Board was in receipt of a letter from the agent for the applicant requesting that the Board grant an extension since they have not been able to begin construction due to problems with an off-site easement which is needed for the approval of the site plan.

Mr. Barnes moved that the request be granted for a six month extension. (This is the maximum extension that can be granted and the only extension that can be granted.)

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

//

Page 184, April 12, 1978, AFTER AGENDA ITEM

TRANSPORT LEASING, V-67-77, Granted May 10, 1977, REQUEST FOR EXTENSION. The applicant has not been able to begin construction because the bonding and the building plans are still within the County and should there be any delay administratively, the variance would expire.

Mr. Barnes moved that the extension be granted for a maximum six month period. (The is the only extension that can be granted.)

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

//

Page 184, April 12, 1978, AFTER AGENDA ITEM

THOMAS F. WARNER, V-56-77. Granted April 26, 1977, REQUEST FOR EXTENSION.

The Board was in receipt of a request from the application that this variance be extended since their site plan had not yet been approved.

Mr. Barnes moved that the request be granted.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

//

Page 185, April 12, 1978, APPROVAL OF MINUTES

Mr. Barnes moved that the BOARD'S MINUTES for JANUARY 31 and FEBRUARY 14, 1978 be approved with minor corrections.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

//

Page 185, April 12, 1978, AFTER AGENDA ITEM

MURNAN, Special Use Permit Application for Veterinary Hospital.

The Board was in receipt of a request from the agent for the applicant, Robert Lawrence, requesting that the Board grant an out of turn hearing on this case. The letter contained the time restraints that were on the applicant.

Mr. Yaremchuk moved that the request be denied because he felt the applicant has plenty of time to get everything in order.

Mr. Smith stated that he saw no justification for an out of turn hearing.

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

//

The meeting adjourned at 1:45 P.M.

By Jane C. Kelsey
Jane C. Kelsey, Clerk to the
Board of Zoning Appeals

DANIEL SMITH, CHAIRMAN

Submitted to the BZA on July 11, 1978

APPROVED _____
DATE

Submitted to Bd. of Supervisors,
Planning Commission and other Depts.
on August 1, 1978.

The Regular Meeting of the Board of Zoning Appeals Was Held on Tuesday, April 18, 1978, in the Board Room of the Massey Building. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John Yaremchuk and John DiGiulian.

186

The meeting began at 10:20 A.M. with a prayer by Mr. Barnes.

Scheduled 10:00 A.M. case - AMERICAN LEGION POST #176 appl. under Sec. 30-7.2.5.1.4 of the Ord. to permit lodge for 200 active members with proposed hours until 1:00 A.M., 6538 Backlick Road, 90-2((1))5, (3.74 acres), Springfield Dist., RE-1, S-28-78. (Deferred from 3-14-78 for additional info. from staff & appl. to resolve road problems.)

Mr. Royce Spence, attorney for the applicant, 311 Park Avenue, Falls Church, requested additional deferral time. He stated that he had discussed this with the County Attorney.

Mr. Ciridi, attorney for the adjoining property owner, stated that he has no objection to the deferral as long as the record will be kept open for his client to submit additional material.

Mr. Smith stated that additional written testimony would be taken if it was submitted prior to the 23rd.

Mr. Durrer moved to grant the request for a deferral until May 23, 1978.

Mr. Barnes seconded the motion.

The motion passed unanimously.

//

Page 186, April 18, 1978

10:10 A.M. - ROBERT G. COOKE, appl. under Sec. 30-6.6 of the Ord. to permit construction of pool 7' from side property line (15' required), 1213 Perry William Drive, 31-1((13))112, (18,269 sq. ft.), Evermay Subdivision, Dranesville Dist., R-17, V-54-78.

(The hearing began at 10:25 A.M.)

Notices to contiguous and nearby property owners had been submitted and were correct. Mr. Cook represented himself before the Board.

The justification for the need for this variance was that this was a corner lot. He stated that at the time he purchased this property, he was not aware that the setback was 15 feet from the side property line.

There was no one else to speak in favor and no one to speak in opposition.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

IN APPLICATION V-54-78 by ROBERT G. COOKE under Sec. 30-6.6 of the Zoning Ordinance to permit construction of pool 7' from side property line, 1213 Perry William Drive, 31-1((13))112, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 18, 1978; and

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

1. That the owner of the property is the applicant.
2. That thepresent zoning is R-17.
3. That the area of thelot is 18,269 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, i.e. a corner lot.

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

THAT the applicant has 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, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This approval is granted for thelocation 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Page 187, April 18, 1978, Scheduled case for

10:20 A.M. - JOHN D. BOWDEN appl. under Sec. 30-6.6 of the Ord. to permit addition 13.4' from side property line (15' required), 3925 Ashwood Place, 61-3((11))3, (12,959 sq. ft.), Belvedere Subd., Mason Dist., R-17, V-58-78.

Mr. Bowden presented proof of notice to property owners of this hearing. The notices were in order.

Mr. Bowden stated that the width of his lot is only 69' and the current regulations requires a minimum of 90' in width in that area. Because of that, there is not adequate space on the lot for this addition. The small addition will be an alcove or entrance-way into the home. He stated that he has owned the home for four years and plans to continue to live there.

There was no one else to speak in favor and no one to speak in opposition.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

In Application No. V-58-78 by JOHN D. BOWDEN under Section 30-6.6 of the Zoning Ordinance to permit addition 13.4' from side property line (15' required), 3925 Ashwood Place, 61-3((11))3, County of Fairfax, Virginia Mr. Yaremchuk 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 with the by-laws of the Board; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 18, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is R-17.
3. That the area of the lot is 12,959 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has a substandard width; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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.

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

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

Page 188, April 18, 1978, Scheduled for 10:30 A.M. and began at 10:30 A.M. McVICHAR, JOHN, appl. under Sec. 30-6.6 of the Ord. to permit enclosure of carport 8.24' from side property line (12' required), 9402 Wareham Court, 38-2((39))11, (13,782 sq. ft.), Centreville Dist., R-12.5, V-59-78.

Mr. McVichar submitted the required proof of notice to property owners which were in order.

Mr. McVichar stated that there is a storm sewer easement through the property which bisects the back yard. The house is also placed on the lot at an angle which causes the addition to be too close to the property line. There is only one corner of the enclosure that will be in the setback area.

There was no one else to speak in favor and no one to speak in opposition.

R E S O L U T I O N

IN APPLICATION V-59-78 by JOHN McVICHAR under Section 30-6.6 of the Zoning Ordinance to permit enclosure of carport 8.24' from side property line (12' required), 9402 Wareham Court, 38-2((39))11, County of Fairfax, Mr. Durrer 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 with the by-laws of the Board of Zoning Appeals for Fairfax County; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 18, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 13,783 sq. ft.
4. That the applicant's property is irregular in that there is a storm sewer bisecting the property and there is an unusual condition in the location of the existing building on the subject property; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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 building involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

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

Page 189, April 18, 1978, Scheduled case for

10:40 A.M. - MATTHEW A. CLARY, JR. appl. under Sec. 30-6.6 of the Ord. to permit extension to and enclosure of carport 5.9' from side property line and construct addition on southeast side of house 5.0' from side property line, total side yard to be 10.9', (minimum of 8' and total of 20' required), 5004 Wakefield Chapel Road, 70-3((5))123, (10,721 sq. ft.), Canterbury Woods, Annandale Dist., R-12.5 Cluster, V-60-78.

Mr. Clary submitted the required proof of notice to property owners. The notices were in order.

Mr. Clary stated that his family have owned this property for twelve years. The lot is long and narrow.

There was no one else to speak in favor and no one to speak in opposition.

Page 189 Bd. of Zoning Appeals
April 18, 1978 R E S O L U T I O N

IN APPLICATION NO. V-60-78 by MATTHEW A. CLARY, JR. under Sec. 30-6.6 of the Zoning Ordinance to permit extension and enclosure of carport 5.9' from side property line and construct addition on southeast side of house 5.0' from side property line, 5004 Wakefield Chapel Road, 70-3((5))123, County of Fairfax, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, and a public hearing held by the Board on April 18, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5 Cluster.
3. That the area of the lot is 10,721 sq. ft.
4. That the applicant's property is exceptionally irregular in shape with converging property lines; and

WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

Mr. Yaremchuk moved that the Board recess to discuss legal matters with the County Attorney.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

//

Page 190, April 18, 1978, Scheduled case for

11:00 A.M. - THOMAS C. DOLSON appl. under Sec. 30-6.6 of the Ord. to permit accessory structure in front yard and to permit construction of tennis courts in front yard 55' from center line of Scenic Creek Place (75' required), 7159 Swift Run Trails Drive, 86-4((2)) 20, (5.0 acres), Swift Run Trails Subd., RE-1, V-61-78.

190

(The hearing began at 11:30 A.M.)

Mr. Dolson presented the notices to property owners which were in order.

Mr. Dolson stated that this property fronts on three streets, limiting his ability to construct any accessory structures on the property. The property line extends to the centerline of private roads.

The staff report indicated that the tennis courts will be 56 feet from the centerline of Swift Run Trails Drive when 75 feet is required. The variance required from the centerline of Swift Run Trails Drive would be 19 feet. A 20 foot variance from the centerline of Scenic Creek Place would be required.

Mr. Dolson stated that he had sited the proposed tennis court on the only feasible location remaining on the property. He stated that there are natural limitations to the property also caused by the swale running through the property in the center and the practical limitations caused by the location of the house and septic field.

Mr. Dolson stated and submitted for the record a letter from the Architectural Approval Committee of the Swift Run Trails Subdivision approving the site location as proposed.

There was no one else to speak in favor and no one to speak in opposition to the application.

Page 190, April 18, 1978, Scheduled case for

11:00 A.M. - IN APPLICATION V-61-78, under Sec. 30-6.6 of the Ord. to permit tennis courts to be constructed 55' from center line of Scenic Creek Place and 56' from Swift Run Trails Drive & to permit accessory structure in front yard on property located at 7159 Swift Run Trails Drive, 86-4((2)) 20, County of Fairfax, Mr. Yaremchuk moved that the Board 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 with the By-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 18, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is RE-1.
3. That the area of the lot is five (5) acres.
4. That the applicant's property has exceptional topographic problems; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. DiGiulian seconded the motion and the motion passed 4 to 0. Mr. Smith abstained.

Page 191, April 18, 1978, Scheduled case for
11:10 A.M. - LAWRENCE J. PASCAL appl. under Sec. 30-6.6 of the Ord. to permit addition to be constructed 36.9' from River Drive (50' required) 11813 River Drive, 122-2((2))11, (36,306 sq. ft.), Hallowing Point River Estates Subd., Mt. Vernon Dist., RE-2, V-62-78.

(The hearing began at 11:37 A.M.)

Mr. Pascal presented the required proof of notice to property owners. The notices were in order.

Mr. Pascal stated that the addition will be constructed across the end of the existing house overlooking the river. It will be approximately 25' from the cliff. Beyond the end of the proposed addition is a septic pit. He stated that he could not move the addition back at all because of the entranceway to the house. He showed the Board the building plans showing the location of this entranceway. He stated that the local Board of Directors of the Hallowing Point River Estates Subdivision have approved his proposed plans. That association has the same 50' setback requirement. This proposed addition will be two stories, the same as the existing house. The materials to be used will be identical to that in the existing house and will conform with the other houses in the neighborhood as far as architectural design.

There was no one else to speak in favor and no one to speak in opposition.

Page 191 Bd. of Zoning Appeals
April 18, 1978 R E S O L U T I O N

IN APPLICATION V-63-78 by LAWRENCE J. PASCAL under Sec. 30-6.6 of the Zoning Ordinance to permit addition to be constructed 36.9' from River Drive (50' required), 11813 River Drive, 122-2((2))11, County of Fairfax, Mr. Durrer moved that the Board 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held on April 18, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. That the present zoning is RE-2.
3. That the area of the lot is 36,306 sq. ft.
4. That the applicant's property has topographic problems; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed 4 to 0. Mr. Smith abstained.

Page 192, April 18, 1978, Scheduled case for

11:30 A.M. - TEMPLE BAPTIST CHURCH appl. under Sec. 30-7.2.6.1.10 of the Ord. to permit construction of Church, 1501 Dranesville Road, 10-2((1))7, (6.5461 acres), Dranesville Dist., R-12.5, S-63-78.

Mr. Davis J. Barton, representing the applicant, submitted the required proof of notice to property owners. The notices were in order.

The point of whether or not the applicant had submitted plats in accordance with the Board's instructions and the State Code. The plats had been certified by an engineer certified to do business in another state. The engineer had submitted a letter along with the plats which stated that the engineer's request to be registered by the State of Virginia was pending and that he could do design work in the interim.

Mr. Barton stated that this engineering firm was selected by the Church because that firm has both engineers and architects and have designed many churches in the United States. This firm gives much better service, he stated.

Mr. DiGiulian suggested that the plats be accepted. The Chairman so ruled on the advice of Mr. DiGiulian who is a surveyor.

Mr. Barton stated that this Church is presently meeting in the Herndon High School. This Church will continue to serve the Herndon and surrounding areas.

The Board questioned whether or not the applicant would be willing to comply with the suggestions of the Office of Preliminary Engineering. The applicant's agent agreed that they would comply with the conditions based on the waiver that was granted December 3, 1977.

Mr. Barton stated that the building will be 21' high at the peak. The material will be brick veneer.

There was no one else to speak in favor and no one to speak in opposition.

Page 192 , April 18, 1978 Bd. of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-63-78 by TEMPLE BAPTIST CHURCH under Sec. 30-7.2.6.1.10 of the Fairfax County Zoning Ordinance to permit construction of a church, 1545 Dranesville Road, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 18, 1978; and

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

1. That the owner of the property is Robert Wilson.
2. That the present zoning is R-12.5.
3. That the area of the lot is 6.546 acres.
4. That compliance with theSite Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these

additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.

7. The number of seats shall be 240.

8. The hours of operation shall be the hours of normal church activities.

9. The number of parking spaces shall be 89.

10. All future phases of building shall require amendments to this Special Use Permit.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

Page 193, April 18, 1978, Scheduled case for

11:45 A.M. - ELDON J. MERRITT appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit amendment to existing SUP to allow operation of summer day camp in existing facilities of private school and to permit construction of tennis court, volley ball court and small chapel, 9211 Arlington Blvd., 48-4((1))49, (6.8 acres), Providence District, RE-1, S-64-78.

(The hearing began at 12 Noon)

Mr. John T. Hazel, attorney for the applicant, submitted the required proof of notice to property owners. The notices were in order.

Mr. Hazel stated that the request is just as is stated in the caption for the case. The chapel that is planned to be moved on site is from the old Virginia City site.

Mr. Hazel stated that in accordance with the site plan waiver condition several years ago, they will now construct the service drive in front of this property.

Mr. Hazel stated that the proposed tennis courts will not be lighted. They will be constructed within 10 or 15 feet from the creek.

Mr. Yaremchuk stated that he felt that would be out of the flood plain.

Mr. Smith stated that as he recalled the courts would be constructed in the area where the pond used to be which the Board required to be filled some time ago.

There was no one else to speak in favor and no one to speak in opposition.

Page 193 Bd. of Zoning Appeals
April 18, 1978 R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-64-78 by ELDON J. MERRITT under Section 30-7.2.6.1.3 of the Fairfax County Zoning Ordinance to permit amendment to existing Special Use Permit to allow operation of summer camp in existing facilities of private school and to permit construction of tennis court, volley ball court and small chapel, 9211 Arlington Blvd., 48-4((1))49, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 18, 1978; and

Page 194, April 18, 1978, Scheduled 11:45 A.M. case
ELDON J. MERRITT (continued)

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is ELDON J. MERRITT.
2. That the present zoning is RE-1.
3. That the area of the lot is 6.8 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has reached the following conclusions of law:
THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. All other conditions of the previously granted Special Use Permits shall remain in full force and effect.

Mr. DiGiulian seconded the motion.

The motion passed unanimously.

Page 194, April 18, 1978, Scheduled case

12:00 Noon - CHAUCER'S, INC. appl. under Section 30-7.2.10.3.6 of the Zoning Ord. to permit continued operation of recreation center limited to billiards and ping pong tables with change in operator, 6184B Arlington Blvd., 51-3((18))4, Mason District, Wilston Shopping Center, (5.939 acres in shopping center), C-D, S-65-78.

Mr. Fred Codding, attorney for the applicant, with offices on Main Street in Fairfax, submitted the required proof of notice to property owners. The notices were in order.

Mr. Codding stated that the proposed operator wishes to continue to operate this center as it has been operated for the past 7½ years. That Special Use Permit was also granted by this Board. The proposed hours are the same, 9 A.M. until 2 A.M. The number of employees will remain at four. The traffic for this type use is minimum. There is a substantial amount of patrons from the local neighborhood. There are 108 parking spaces in the center. The site is within the shopping center. There are no proposed improvements or alterations to the existing facility. There is one ping pong table and fifteen billard tables. In addition, there are six pin ball machines which is an accessory use.

Mr. Smith questioned whether this would be permitted. Mr.Covington, however, stated that they have been there and this just is for a change in operator.

There was no one to speak in opposition to this application and no one else to speak in favor.

R E S O L U T I O N

194A

Mr. Durrer made the following motion:

WHEREAS, Application S-65-78 by CHAUCER'S INC. under Section 30-7.2.10.3.6 of the Fairfax County Zoning Ordinance to permit continued operation of recreation center on property located at 6184 B Arlington Blvd. 51-3((18)) 4, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on April 18, 1978; and

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

1. That the owner of the subject property is Horne Properties. The applicant is the lessee.

2. That the present zoning is C-D.

3. That the area of the lot is 5.939 acres.

4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. All of the conditions of the previously granted Special Use Permit other than the above shall remain in full force and effect.

Mr. Barnes seconded the motion.

The motion passed unanimously.

Page 195, April 18, 1978, Scheduled case for 12:20 P.M.

COMMERCIAL CREDIT DEVELOPMENT CORP. appl. under Sec. 30-6.5 of the Ord. to appeal Zoning Administrator's decision as to conditions applied to specific land and placed on that land at the time it was zoned I-I, property located 7519 Lewinsville Road South Side Between Scott's Run Road and Windy Hill Road, 30-1((1))22, (53.4380 acres), Dranesville District, I-I, A-49-78.

Mr. Randolph W. Church, attorney with offices at 4011 Chain Bridge Road with the firm of McCandlish, Lillard, Church & Best, represented the applicant.

Mr. Ruck, Fairfax County Attorney, testified before the Board as to the questions before the Board on this case.

Mr. Gilbert R. Knowlton, Zoning Administrator, explained his reasons for his decision to the Board.

Mr. Church presented his reasons for the appeal.

Mr. Smith, Chairman, requested those in the audience who wished to speak regarding this case to restrict their testimony to the Zoning Ordinance and how it pertains to this case and not to background.

Diane Lehman, representing the McLean Citizens Association, spoke. The Lewinville Citizens Association was represented by Bill Hawkins. Arthur Knopp, citizen from McLean, spoke, representing the closest homeowners to the subject property. Earl Yates read a statement from Myra Huber, Chairman of the PLUS Task Force for the McLean Central Business District. Mr. O'Bryan, 1351 Scotts Run Road, spoke on his own behalf. Lila Richards submitted a statement from the McLean Hamlet Citizens Association. All these speakers were in support of the Zoning Administrator's decision.

After an extended discussion between the Board members, Mr. Ruck and Mr. Knowlton, Mr. Yaremchuk moved that the Board uphold the decision of the Zoning Administrator.

Mr. Barnes seconded the motion.

The motion passed 3 to 1. Mr. Durrer voted No. Mr. Smith abstained.

Page 195, April 18, 1978, Deferred Case scheduled for 12:45 P.M.

AMERICAN HORTICULTURAL SOCIETY, S-348-77. Original hearing held February 14, 1978 and deferred to today for additional information and deferred from April 4 at the request of the Supervisor from the Mt. Vernon District. (Decision only.)

(See verbatim transcript for testimony.)

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-348-77 by AMERICAN HORTICULTURAL SOCIETY under Section 30-7.2.5.1.4 of the Zoning Ordinance to permit amendment to existing Special Use Permit to permit additional structures and parking and relocation of parking and access roads, 7931 East Boulevard Drive, tax map reference 102-2((1))20, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 18, 1978 and deferred from February 14; March 14, 1978 and April 4, 1978; and

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

1. That the owner of the subject property is American Horticultural Society.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 24.81 acres.
4. That compliance with theSite Plan Ordinance is required; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is GRANTED with the following limitations:

THAT is the standard limitations 1 through 6 on the standard resolution form: i.e.

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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of parking spaces shall be 120.
8. This permit is granted for the American Horticultural Society only; and
9. All other conditions of the prior Use Permit shall remain in effect.

Mr. Durrer seconded the motion.

For clarification, Mr. DiGiulian stated that the resolution is based on the substituted plats showing the proposed two-lane road on the south end of the property.

The motion passed unanimously with all members present and voting.

Page 196, April 18, 1978, AFTER AGENDA ITEM
TYSON'S BRIAR T/A CARDINAL HILLS SWIM & RACQUET CLUB, S-5-78

The Board was in receipt of a letter requesting that the Board have a rehearing on the above-captioned case. A copy of the letter is in the file.

Mr. Barnes moved that the Board rescent all previous actions on this case and that the request for a rehearing be granted.

Mr. DiGiulian seconded the motion.

Messrs Smith, DiGiulian and Barnes voted Aye.

Messrs. Yaremchuk and Durrer voted No.

The motion passed 3 to 2.

//

The meeting adjourned at 5:00 P.M.

By Jane C. Kelsey
Clerk to the Board of Zoning Appeals

DANIEL SMITH, CHAIRMAN

Submitted to the BZA on_____

APPROVED_____
DATE

Submitted to Planning Commission,
Board of Supervisors and otherDepts.
on _____

Pags 197-198

Don't appear at

the time of filming

Blank

Blank

Blank

Blank

The Regular Meeting of the Board of Zoning Appeals was Held in the Board Room of the Massey Building on May 2, 1978. Present: Daniel Smith, Chairman; John DiGiulian and John Yaremchuk. Messrs. Durrer and Barnes were absent.

The meeting opened at 10:20 A.M. with a prayer by Mr. Covington.

// The Chairman called the first scheduled case:
10:00 A.M. - KARL H. & RITA M. KRUEGER appl. under Sec. 30-6.6 of the Ord. to permit addition 10' from side property line, 12' required, located 1922 Foxhall Rd., 40-2((3))21A, (11,736 sq. ft.), Foxhall Subd., Dranesville Dist., R-12.5, V-65-78.

Mr. Karl Krueger, 1922 Foxhall Road, McLean, Virginia, submitted the required notices which were in order.

The justification for this variance was that the house was placed on the lot in an awkward way. The Ordinance requires him to stay 12' from the side fence. On the south side of the property, the house has been placed 14' from the side fence and on the other side there is too little space to build a garage. Mr. Krueger stated that the drawing does not show a chimney but if you look at the photographs you can see a chimney on the side of the house. This chimney takes another 2' away from the 24' that is there. Mr. Krueger stated that it would be very inconvenient and impractical to put a garage there that would provide enough safe entry and exit space for passengers inside the garage when they get in and out of the car. It is for that reason that he is requesting the variance.

In answer to Mr. Smith's question as to why the chimney was not shown on the plats, Mr. Krueger replied that he did not know but he could inquire with the surveyor. He further stated that the chimney is shown on the photograph and is quite bulky being 21" x 76".

Mr. Smith stated that a 12' garage would accomodate a car. Mr. Krueger stated that he had an 11' garage in another house and he hardly ever put the car in the garage because it was so inconvenient.

In response to Mr. Smith's question as to how long he had owned the property, Mr. Krueger replied for four years. Mr. Smith asked if Mr. Krueger was aware of this condition when he purchased the house. Mr. Krueger stated he was not. He had only inquired about the zoning regulations when he started thinking about the addition. He stated that in his area, at first, he had thought he would not need a garage but that now it is very desirable for two reasons. One, because of vandalism and two, for protection of the vehicle itself. Mr. Krueger stated that cars are getting more expensive all the time.

Mr. Smith asked how far the chimney protruded from the house. Mr. Krueger replied 21". Mr. Smith replied that Mr. Krueger could cut down his request another 5" or 6" and still have ample space for a garage. Mr. Smith asked if Mr. Krueger could construct the garage 14' from the 10.5' from the property line rather than the 10' and it would give him an additional 5". Mr. Smith stated that he would like to partially support the application because there were only three Board members present and he tries to stick with the Ordinance for as minimum a variance as concerned. He stated the Board would like to afford relief but just for as minimum a variance as is required to grant that relief and not additional relief for matters of convenience.

Mr. Krueger stated he considered it more a matter of safety. He stated that if you have a garage that is not sufficiently wide that there are problems getting in and out of the car and you collide with objects parked in the garage like bicycles. Mr. Krueger stated he felt it was a lot safer to have an adequately wide garage and stated that was his main concern.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Mr. DiGiulian made the following motion:

WHEREAS, Application No. V-65-78 by KARL H. & RITA M. KRUEGER under Section 30-6.6 of the Zoning Ordinance to permit addition 10' from side property line, 12' required, located 1922 Foxhall Rd., 40-2((3))21A, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 2, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 11,736 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Yaremchuk seconded the motion.

*This motion failed by a vote of 2 - 1. Messrs. DiGiulian and Yaremchuk voting AYE and Mr. Smith voting NO.

//
Page 204, May 2, 1978, Scheduled case for
10:10 A.M. - IMMANUEL CHRISTIAN SCHOOL, INC. appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit increase in enrollment to 225 children for existing School of General Education, located 7210 Braddock Rd., 71-3((8))12 & 13, (3.5328 ac.), Leewood Subd., Annandale Dist., RE-1, S-66-78.

(The hearing began at 10:30 A.M.)

Mr. Lester W. Tanner, Dean of Administration, Immanuel Christian School, 7210 Braddock Road, Annandale, Virginia 22003, submitted the required proof of notices to the property owners. The notices were in order.

Mr. Tanner stated that Immanuel Christian School began in the Fall of 1976. He stated that the enrollment has progressively increased. He stated that at the present time based on the number of requests received that they would need to increase the enrollment to a maximum of 225 students. Mr. Tanner stated that all inspections by County agencies had been completed and certified. He further stated that the building and premises were suitable for 225 students.

In response to Mr. Smith's question regarding the ages of the students, Mr. Tanner replied that the ages were 4 - 13, from kindergarten through the eighth grade. Mr. Smith inquired about the length of the school year. He was informed by Mr. Tanner that the school year was the normal nine months. Mr. Smith asked if the school was on public water and sewer and Mr. Tanner replied that it was.

Page 205, May 2, 1978, Continuation of Immanuel Christian School, Inc.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Page 205 RESOLUTION Bd. of Zoning Appeals
May 2, 1978

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-66-78 by IMMANUEL CHRISTIAN SCHOOL, INC. under Section 30-7.2.6.1.3 of the Fairfax County Zoning Ordinance to permit increase in enrollment to 225 children for existing school of general education, located 7210 Braddock Road, 71-3((8))12 & 13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 2, 1978; and

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

1. That the owner of the subject property is Immanuel Baptist Church. The applicant is the lessee.
2. That the present zoning is RE-1.
3. That the area of the lot is 3.4378 ac.
4. That compliance with the Site Plan Ordinance is required.

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

1. THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The maximum number of students shall be 225.
8. All other requirements of the previous Special Permit shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously.

10:20 A.M. - EDWARD A. ANTESBERGER appl. under Sec. 30-6.6 of the Ord. to permit garage 5' from side property line (20' required), located 4008 Hickory Rd., 58-4((11))3, (22,764 sq. ft.), Wakefield Forest Park, Annandale Dist., RE-1, V-67-78.

(The hearing began at 10:35 A.M.)

Mr. Edward A. Antesberger, 4008 Old Hickory Road, Fairfax, Virginia 22032, submitted the required proof of notices to property owners. The notices were in order.

Mr. Antesberger stated that his house sits on a large lot which is 112' across the front but is located in such a way that the only practical place to build a garage is directly over the 16' long driveway that exists now. He stated to build the garage on the other side of the house that had more than adequate room would interfere with drainage especially from the septic field. He stated the location proposed was the only practical place to put a garage that would be attached. Mr. Antesberger stated that since he had the smallest house on the street it would make his house compatible with all the rest of the houses on the street and almost identical to the house across the street. He stated that after the garage was built he would still be 33' from the nearest structure which was the carport attached to the house next door. Mr. Antesberger stated that the lots are very large and very wide. He stated the lots were all double lots on account of the septic fields.

Mr. Smith asked how long he had owned the house. Mr. Antesberger stated he had owned the house since 1962. Mr. Smith asked if he was the original owner. Mr. Antesberger stated that the original owner was a Mrs. Deason. He stated the house was built in 1955.

Mr. Smith inquired if Mr. Antesberger could construct the garage on the opposite side of the house without a variance. Mr. Antesberger stated that because of the slope of the land it would require a great deal of excavation and that it would just look like an add-on. Mr. Antesberger believed that it would not help the appearance of the house at all unless he doubled the size of the house because the roof line would be below the bedroom windows on that side of the house because of the slope. He also stated that because of the storm water drainage there would be a water problem. He stated that it would block the flow of the water the way it drained to the ditches.

Mr. DiGiulian inquired if Mr. Antesberger had anything of a topographic nature to show where the drainage came across the south side of the lot. Mr. Antesberger stated he thought the photographs would show that problem. After examining the photographs, Mr. DiGiulian instructed Mr. Antesberger to mark the drain fields roughly on the photograph submitted.

Mr. Smith suggested that it might be to Mr. Antesberger's advantage to request a deferral in order to locate the septic fields on the plat showing that he could not build a garage at that location. Mr. Smith stated that the Ordinance was very specific that if you have an alternate location on the lot that the Board had no authority to grant a variance. He further stated that if Mr. Antesberger could not construct a garage on that side because of the drain fields then it should have been shown on the plats.

Mr. Smith inquired if Mr. Antesberger still used the drain fields. Mr. Antesberger replied that he did.

Mr. DiGiulian suggested that Mr. Antesberger have the person who drew up the plats to locate the septic fields or the general area and to show the drainage way on that side of the lot. Mr. Antesberger stated that he had one of the original plats when he bought the lot but that it did not show the drainage field. He stated that it did show the well and that by excavating he may interfere with the well. He further stated that the plat showed the elevations and to build anything he would have to add another 75' driveway over a County drainage ditch.

Mr. Smith stated that he could construct a garage in the back yard 12' behind the house and could build it by right without a variance 5' from the property line and still use the same driveway. Mr. Antesberger stated that there was a steep hill there.

Mr. Smith asked if Mr. Antesberger could get new plats showing where the the septic tank was located. Mr. Antesberger stated that he did not know where/ drain tiles go and was not sure how to find out where the drain tiles go. He stated that he knew where the tank was and the well. The septic tank was behind the house but he did not know where the drainage tiles went. Mr. Covington suggested that he contact Mr. Bowman of the Health Department to obtain a copy of where the drainage fields were located.

Page 207, May 2, 1978, Continuation of EDWARD A. ANTESBERGER

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Mr. Antesberger requested a deferral in order to obtain the information requested by the Board.

Mr. DiGiulian moved that Mr. Antesberger be granted a one week deferral but that if he was able to obtain the information before the end of this meeting that if the Board so desired that Mr. Antesberger be allowed to continue the hearing. Mr. Yaremchuk seconded the motion.

//
The Board recessed at 10:50 A.M.

The Board reconvened at 11:00 A.M. Mr. Smith announced that one of the Board members became ill and had to leave the meeting. He stated that the Board now lacked a quorum to continue the scheduled cases. Mr. Smith stated that the secretary had attempted to contact the two Board members who were absent at the beginning of the meeting in order to obtain a quorum to complete the meeting. He stated that Mr. Barnes had been at the dentist office and was not in a condition to appear. He stated that Mr. Durrer had been subpoenaed for Court for a condemnation hearing and that the Courts would not release him.

Therefore, Mr. Smith stated that it was impossible to continue with the scheduled agenda. He stated that all the remaining cases would be deferred to a date and time certain so they would not have to be readvertised.

Following discussion with the applicants involved, the cases were rescheduled as follows:

//
Page 207, May 2, 1978, Scheduled case for
10:20 A.M. - EDWARD A. ANTESBERGER appl. under Sec. 30-6.6 of the Ord. to permit garage 5' from side property line (20' required), located 4008 Hickory Rd., 58-4((11))3, (22,764 sq. ft.), Wakefield Forest Park, Annandale Dist., RE-1, V-67-78.

This case was deferred until May 16, 1978 for lack of a quorum. Mr. Antesberger had partially completed his hearing earlier in the meeting but was requested to submit new plats showing the septic fields. It was requested that Mr. Antesberger explain his case again to a full Board.
//

//
Page 207, May 2, 1978, Scheduled case for
10:30 A.M. - UNITED SERVICES CONSTRUCTION CORP. appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel into 2 lots with widths of 76.35' & 76.22" respectively (80' required), located 9019 & 9021 Backlick Rd., 109-1((1))24, (25,257 sq. ft.), Accotink Subd., Lee Dist., R-12.5, V-68-78.

This case was deferred until June 20, 1978 at 10:20 A.M. for lack of a quorum. As the notices were not in order, it was requested by the Board that new notices be mailed prior to the new hearing date. This was to be a full hearing.
//

//
Page 207, May 2, 1978, Scheduled case for
10:40 A.M. - WILLIS K. DICKSON appl. under Sec. 30-6.6 of the Ord. to permit pool to be constructed 22' from front property line (Lynbrook Dr.) & 10' from south side property line (12' required), located 6009 Augusta Drive, 80-4((3))3, (19,971 sq. ft.), Yates Village Subd., Springfield Dist., R-12.5, V-69-78.

This case was deferred until June 20, 1978 at 10:30 A.M. for lack of a quorum and to be heard as a full hearing.
//

//
Page 207, May 2, 1978, Scheduled case for
10:50 A.M. - GARY DONALD HETRICK appl. under Sec. 30-6.6 of the Ord. to permit subd. into two lots, one of which has 22' lot width (90' required), 8162 Mt. Vernon Hwy., 101-2((1))29, (1.11134 ac.), Mt. Vernon Dist., R-17, V-41-78.

This case was deferred from March 21, 1978 for proper notices. It was deferred again until June 20, 1978 at 10:40 A.M. for lack of a quorum and to be heard as a full hearing.
//

//
Page 208, May 2, 1978, Scheduled case for
11:00 A.M. - JERRY SARDONE appl. under Sec. 30-7.2.10.7.12 of the Ord. to permit Roller Skate Rink, located North of Sunset Hills Rd. on Michael Farraday Court, 18-3((5))6, (2.3071 acres), Centreville Dist., IL, S-37-78.

This case was deferred from March 21, 1978 for proper notices. It was deferred again until June 20, 1978 at 10:00 A.M. for lack of a quorum and for a full hearing.
//

//
Page 208, May 2, 1978, Scheduled case for
11:20 A.M. - BETHESDA CHRISTIAN CENTER, INC. appl. under Sec. 30-7.2.6.1.10 of the Ord. to permit Religious Conference Center with overnight housing of participants, located 12000 Henderson Rd., 95-1((1))20A & 95-3((1))2 & 2A, (26.8 acres), Springfield Dist., RE-1, S-57-78.

This case was deferred until July 11, 1978 at 10:00 A.M. for lack of a quorum and for a full hearing. The Board stated that it would allow the applicant and the opposition one hour each to present its case.
//

//
Page 208, May 2, 1978, Scheduled case for After Agenda Items
WILLIAM E. MOSS appl. under Sec. 30-7.2.10.7.12 of the Ord. to permit Skateboard Park, located at the end of Michael Faraday Ct., 18-3((5))7, (3.4186 ac.), Reston Sect. 909, Centreville Dist., I-L, S-56-78.

This case was deferred from April 12, 1978 for a study on parking. It was deferred again until May 9, 1978 as an after agenda item because of a lack of a quorum.
//

The meeting adjourned at 11:50 A.M. for lack of a quorum.

BY Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to Bd. of Supervisors,
Planning Commission and other Depts.
on OCTOBER 6, 1978.

APPROVED OCTOBER 11, 1978
DATE

Submitted to BZA on OCTOBER 6, 1978

The Regular Meeting of the Board of Zoning Appeals was Held on May 9, 1978. The following members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; and John DiGiulian. Mr. Yaremchuk was absent.

The Chairman called the meeting to order at 10:25 A.M.

As Mr. Barnes did not arrive until 10:40 A.M., the meeting was opened with a prayer by Mr. Covington.

10:00 A.M. - IRVIN & SHIRLEY GRAY appl. under Sec. 30-6.6 of the Ord. to permit addition 22' from front property line (Jarvins Drive), located 4315 Dubois St., 82-3((10))(1)27A, (10,500 sq. ft.), Lee Dist., R-12.5, V-71-78.

Mr. Irvin A. Gray, 4315 Dubois Street, came forward to present his case. Chairman Smith announced that the Board was operating with a quorum of three members and stated that all Board members would have to vote favorably in order to have a case approved. Mr. Smith asked Mr. Gray if he would want his case deferred in view of this fact. Mr. Gray stated that he would proceed with his case.

The notices were certified to being in order by the Clerk.

Mr. Gray stated that he wanted to add a garage with an addition. Since there was no other spot on his property either in the back or the other side yard, the side yard was the only possible place to build the addition.

In response to Mr. Smith's question as to what the proposed addition was to be used for, Mr. Gray replied a garage with a room over top of it. He stated he wanted to extend the whole house.

Mr. Durrer stated that it appeared from the plats that this was a odd shape lot and Mr. Gray stated that was true. Mr. Durrer stated that he could not see any other place where this addition could go and asked if that was the main reason for locating it where it was. Mr. Gray stated that it was. When asked if the addition would be constructed of the same materials as the house, Mr. Gray stated that it would be compatible with the house. He showed the Board a sketch of the addition as it would look when finished.

Mr. Smith suggested that Mr. Gray request a deferral because it was a front yard and the addition was 22' in width. Mr. Smith stated that it was true that this was a small lot but so were thousands of other lots in the County with the same shape and the same condition that Mr. Gray was in here. Mr. Smith stated that this was a garage with a room over it in the front yard. Mr. Yaremchuk stated that it would be the side yard. Mr. Durrer asked to see pictures of the house.

Mr. DiGiulian stated that from looking at the plat it appeared that with the funny shape of the rear lot line and the fact that this was a corner lot with frontage on two streets and the other side line where the house was probably the minimum distance off the line that he did not see where Mr. Gray had any other place to build it. Mr. Smith stated that this was true but still felt that there thousands of other people with the same condition that Mr. Gray was in and this was the front yard.

Mr. Gray stated that it would be more than 22' if you consider that there was a 11' setback with the curb. Mr. Smith stated that there were unusual circumstances but being 22' in width he felt that if it was for a minor addition he would consider the variance. Mr. Smith again suggested that Mr. Gray ask for a deferral or recess the case until the full Board was present.

Mr. Durrer asked the Chairman to look at the photographs. He stated that it was a front yard on a technicality because it was a corner lot. Mr. Smith stated that it was still the front yard. Mr. Gray stated that his neighbors did not have any objection to the addition at all. Mr. Covington informed the Board that Mr. Barnes was due momentarily.

Mr. DiGiulian stated that if he had ever seen an irregular shaped lot this was certainly one of them. Mr. Smith stated that he had no quarrel with the fact that it was an irregularly shaped lot. But it was also a small lot and there wasn't any place to construct an addition of 22' within reason. Mr. Gray stated that after the addition was built there would still be 41' from the house to the street straight out if you added the 11'. He stated that as far as he knew there has never been or will be a sidewalk installed from that 11' setback.

Mr. Durrer stated that he wanted to look out for Mr. Gray's interests in this case and stated that he felt he should be able to build the addition. Mr. Durrer suggested that Mr. Gray ask for a deferral until the full Board was present. Mr. Smith stated that he wanted to be fair to Mr. Gray also but he has never really supported construction in the front yard. Mr. Smith stated that this was a very unusual situation but he was reluctant to support it when the addition was 22' wide. He said that if the addition was only 12' that he might consider it.

Mr. Durrer stated that as the Board had a message from Mr. Barnes that he would be present later in the meeting that maybe the case could be recessed. Mr. Smith stated that the reason the meeting was started late was because the Board was waiting for the fourth Board member to arrive. Mr. Smith stated that he would recess the meeting if Mr. Gray requested it and continue with the case after the arrival of the fourth Board member. Mr. Gray stated that he would prefer that the case be recessed and inquired as to what time the Board could continue with the case. Mr. Covington replied that he believed Mr. Barnes would arrive before 11 o'clock.

Mr. Smith recessed the case with the approval of Mr. Gray.
//

//
Page 201, May 9, 1978, Scheduled case for

10:20 A.M. - EMMANUEL LUTHERAN CHURCH appl. under Sec. 30-7.2.6.1.10 of the Ord. to permit addition of Sanctuary for Worship & Religious Education on existing Church property, located 2586 Chain Bridge Rd., 39-3((1))38 & 40, (4.171 ac.), Providence Dist., RE-1, S-72-78.

The hearing began at 10:35 A.M.

As the notices for this case were not in order, the Board deferred this case until June 20, 1978 at 11:45 A.M.
//

//
Page 201, May 9, 1978
GRAY (Continuation of case after recess)

Mr. Barnes arrived at 10:40 A.M. and was acquainted with the application of Irvin & Shirley Gray for an addition of 22' in the front yard. Mr. Smith stated that the Board now had the fourth Board member present and stated there was not much possibility of getting the fifth Board member present. Mr. Smith requested Mr. Gray to start over with his justification in order for the Board to proceed with the entire hearing to try and resolve the case.

Mr. Gray stated that he wanted to add an addition on to the house with a garage with an addition over the garage. He stated that with the shape of the lot the only possible place to build it was on the side yard. Mr. Gray stated that this was his first house owned in Fairfax County and he was not aware of the 40' setback requirement for corner lots.

Mr. Smith inquired if the Board had any questions. Mr. Durrer repeated his idea for Mr. Barnes' benefit that this was an odd shaped lot. It was a corner lot. The proposed addition was going in the front yard as a technicality because Mr. Gray has two front yards. Mr. Gray stated that the house sits well back off the corner of the lot.

In response to Mr. Barnes' question as to whether he would keep this house as his permanent house, Mr. Gray replied that he hoped so. He stated that he was not selling the house and this was the first house that he and his wife had owned. Mr. Gray stated they planned on keeping the house as it had everything he wanted except for the garage so that was why they planned on constructing it later. Then he found out that this was not possible because of the 40' setback requirement. He was not aware that the side yard was considered a front yard. Mr. Barnes stated that he had seen a lot of these situations.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Mr. Durrer made the following motion:

In Application V-71-78 by IRWIN & SHIRLEY GRAY under Sec. 30-6.6 of the Ord. to permit aqdition 22' from front property line (40' required), on property located at 4315 Dubois Street, 82-3((10))(1)27A, County of Fairfax, Virginia, Mr. Durrer moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 9, 1978; and

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

1. That the owner of the property is the applicant.
2. That the present zoning is R-12.5.
3. That the area of the lot is 10,500 sq. ft.
4. That the subject property is exceptionally irregular in shape; and

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

THAT the applicant has 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,THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure(s) 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 expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0. Mr. Smith abstained.

Page 211, May 9, 1978 Scheduled case for

10:30 A.M. - WALTER A. CULLEN, ET UX, ET AL, appl. under Sec. 30-6.6 of the Ord. to permit subd. into 2 lots with average lot size 12,196 sq. ft. (12,500 sq. ft. required), & one lot having width of 20' (80' required), located 9115 Backlick Rd., 109-1((1))27, (24,382 sq. ft.), Lee Dist., Accotink Village, R-12.5, V-73-78.

(The hearing began at 10:45 A.M.)

Mr. Walter A. Cullen, 7815 Greeley Boulevard, Springfield, Virginia came forward to present his case.

The notices were in order.

Mr. Cullen stated that Accotink Village was a very small enclave within the confines of Ft. Belvoir. He stated it was about one block long made up of older residences. Along Route 1 there is some commercial zoning. At a short distance from Backlick Road and on other streets, there are garden apartments. The house directly across the street from the property at 9120 Backlick Road was recently renovated from an old house and is presently occupied as a family residence. Mr. Cullen stated that on this property, Lot 27, there was an old house that was condemned so he tore it down. He stated that this was the lot that he was proposing to subdivide at this time.

The lot immediately adjacent to this lot had an old house on it and it was torn down. Mr. Cullen stated that he did not own that property. There has been a new house constructed on that lot and it has been sold. That lot has a 50' frontage. There is another lot immediately adjacent to that particular lot which has a 50' frontage that has an older house on it at the present time.

The zoning is R-12.5 in that area but the average lot size for the two lots is only short 309 sq. ft. Mr. Cullen stated that the one lot does meet the 80' requirement but the other one is a pipestem lot. The next denser zoning would be R-10 and the lot exceeds that average by 2,191 sq. ft.

Mr. Cullen stated that he believed that if this variance was approved it would compliment the neighborhood to make it a residential neighborhood for low priced homes which are needed for the people in Ft. Belvoir. The applicant proposes to build on those two subdivided lots. He stated a rambler built on the lots would probably sell in the neighborhood of $42,000 to $48,000. This type action would provide the upgrading that has been necessary for some time for the Accotink Village area.

Mr. Smith stated that one of the lots meets the required 12,500 sq. ft. zoning but is only 20' wide being a pipestem lot. The other lot is 11,882 sq. ft. The applicant stated that was correct. One lot does meet the area requirements. Lot 2 which is the back lot does meet the 12,500 sq. ft. exactly. The front lot, Lot 1, 11,882 sq. ft. has 82.30' frontage. Mr. Smith inquired as to the average lot area for that surrounding area. The applicant stated that it varied. The two lots nearest to this lot have 50' frontage. The applicant was not sure of the area for the lots but stated that they are probably less than the 12,500 sq. ft.

Mr. Durrer inquired that if it were not for the pipestem for Lot 2 that Lot 1 would have enough lot area. Mr. Cullen stated that the way the engineer divided the parcel, Lot 1 allows 11,882 sq. ft. so they could redivide it and put enough into Lot 1 to make the lot area 12,500 sq. ft. but then it would make Lot 2 a little short. He stated that they could do it either way.

Mr. Smith stated that they would have a shortage on one lot or the other and felt it was better to have one lot that meets the requirements at least. He stated that it seemed practical to have the lot in the back a little larger simply because the driveway used up a lot of space for the 20' drive which is not useable other than for that purpose.

In response to how long he had owned the property, Mr. Cullen replied about a year and half. Mr. DiGiulian asked the applicant if he planned on a common driveway or one driveway for each lot. The applicant responded there would be one driveway common to both lots.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

IN APPLICATION V-73-78 by WALTER A. CULLEN, ET UX, ET AL, under Sec. 30-6.6 of the Ord. to permit subdivision into two lots with average lot size of 12,196 sq. ft. on property located at 9115 Backlick Rd., 109-1((1))27, County of Fairfax, Virginia, Mr. DiGiulian 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 with the bylaws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on May 9, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 24,382 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow and has an unusual condition in that it cannot be developed in accordance with the surrounding area without a variance.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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.

RESOLUTION

(Continued)

NOW, THEREFORE BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. That a common driveway shall be constructed to serve the two lots, said driveway to comply with the standards for pipestem lots and driveways in accordance with the Fairfax County Public Facilities Manual and the Fairfax County Zoning Ordinance.

Mr. Barnes seconded the motion.

The motion passed 3 to 0. Mr. Smith abstained.

Page 213, May 9, 1978, Scheduled case for

10:50 A.M. - GEORGE H. RUCKER DEV. CORP. appl. under Sec. 30-6.6 of the Ord. to permit creation of lot with less lot area (10,892 sq. ft.) and less lot width (10') than required by Ord., located northwest corner of intersection of Shreve Rd., Pinecastle Rd. and Buckelew Dr., 40-3((3))B, Falls Hill Subd., Providence Dist., R-12.5, V-74-78.

(The hearing began at 10:55 A.M.)

Mr. Robert McGinnis, attorney for the applicant, requested that the Board consider hearing this variance and the next scheduled variance at the same time as it involved the same facts and circumstances. Mr. McGinnis was informed by Chairman Smith that the Board could not consider this because they were two separate lots and had to be heard separately in accordance with the Code.

Mr. McGinnis stated that the lots in question is known as outlot A of Section 8, Falls Hill Subdivision. He stated that this subdivision was developed about seventeen years ago at which time there was a railroad track immediately adjacent to the property. These outlots did not conform in size nor were they desirable because of the railroad. The applicant stated that since that time the railroad has been removed and the property now faces onto the Vepco right-of-way which is turned into a recreational area.

Mr. McGinnis stated that the subdivision itself in which these lots are contained is a R-12.5 subdivision. He stated that the lots that they are asking for are smaller than the average R-12.5 lot. He called the Board's attention to the fact that this was property immediately across the street from R-10 zoning that has not been developed yet. He further stated that for the most part these lots are derelict lots since the subdivision has been constructed. The lots are overgrown with underbrush and the teenagers in the neighborhood use the land for recreational purposes. No one has taken care of the lots or incorporated the lots into any kind of scenic lots.

The applicant stated that these lots would have the same setbacks from the side yards and the rear yards from the other houses that a R-12.5 zoning lot would have. He stated that on the other side they would have the Vepco right-of-way so that there would not be any confinement of air space or light and would, in effect, be as open and as scenic as any of the other lots in the subdivision. The purpose of the variance is to make this lot useable as a lot and to satisfy the technicalities of the Ordinance. He stated that to deny this application would completely deny the use of the property as a building lot. In addition, there is an excess amount of development costs in these lots because of the storm sewer and drains that have to be run across them into a catch basin in the street. Mr. McGinnis stated that they felt this constituted a hardship and that the application should be granted.

Mr. Smith asked if Mr. McGinnis was referring to Outlot B at this time and his response was yes. Mr. McGinnis stated that Outlot B was the first lot shown on the plat. The notation on the plat that said there was a drainage easement to be vacated was in error. He stated that the drainage easement would not be vacated. Mr. McGinnis stated that they would have to go the County Board of Supervisors to vacate the easement and found it would be far too expensive to justify.

He stated that the house shown on Lot B shows the house where it would be and it does not encroach on or effect the drainage easement. The applicant said that it was in accordance with the setback requirements for R-12.5 zoning.

Mr. Covington was asked by Chairman Smith to examine the plat for Outlot B as the house did not appear to meet the setback requirements. Mr. Smith stated that the rear lot line if it backed up to the dwelling on lot 72 that the distance was only 14'. Mr. Covington replied that the rear lot line would be opposite the street, in this case, Pinecastle Road. Mr. Covington stated that it does meet the setback.

In response to how long the applicant had owned the property, Mr. McGinnis replied that they had owned it since 1961. Mr. Smith stated that these lots were not meant to be developed when the subdivision was platted. He stated that there was an easement area for drainage and that over half of the lot was taken up by the drainage easement. Mr. Smith stated that any one who owned the house there would probably have a flood in the side yard.

Mr. McGinnis stated that the house would not interfere with the drainage easement. He called the Board's attention to the fact that the drainage easement was in anticipation of the same standards that is used in flood plains. He stated that this was not a standing swamp. Mr. Smith stated that he assumed that the easement was needed for drainage purposes to drain that area. Mr. Smith stated that he could see a possibility for the other outlot but he certainly could not for outlot B.

Mr. Smith inquired if the present owners had purchased the land from the original subdivision. Mr. McGinnis replied that they had. Mr. Smith asked how many houses had been built there. Mr. McGinnis replied that the subdivision was fully developed except for outlot A, B and C. Mr. Smith responded that these lots were intended to be outlots as was so indicated on the plats. He stated that the developer had agreed to the outlots and the easements to get the subdivision approved. Mr. McGinnis responded that the motivation behind the outlot designation was the fact that it was immediately adjacent to a railroad track and that in those days no one would buy a house along a railroad track. Mr. Smith stated that he would have to disagree as far as the railroad track was concerned because there were a lot of lots developed right up to the railroad lots in the County. Mr. Smith stated that the easement was the thing that designated them as outlots in his assumption.

Mr. Durrer inquired if Mr. McGinnis knew the square footage of Lots 72 and 33. Mr. McGinnis responded that they were almost 13,000 sq. ft. each. Mr. Durrer asked if the access to outlot B would be through the 10' driveway. Mr. McGinnis responded yes it was, under which they would have the storm sewer pipe.

Mr. DiGiulian inquired as to who owns outlot C. Mr. McGinnis was not sure of the owner of the lot. A lady from the audience stood up and stated that she was the owner of outlot C.

Chairman Smith requested testimony from those in opposition to this application as there was no one to speak in favor of the application. The following persons spoke in opposition.

Charles, D. Phillips, Jr., 7301 Venice Street, Falls Church, Virginia. Mr. Phillips stated that his lot was Lot 33, Section 2, adjacent to Outlots A & B. Mr. Phillips stated that he did not know how the Board could hear the two cases individually as they were related. Chairman Smith replied that that was the only way the Board could hear them because they were two separate parcels of land. Mr. Phillips felt that the applicant's variance would not fall under the hardship category. He further stated that the lots were recorded as outlots and he approached the Board to further describe problems and restrictions on the orignal plats. He showed the Board a plat dated January 23, 1959 which noted the restrictions that stated no building permit for dwellings would be issued for Outlots A, B & C because they did not meet the requirements of the Fairfax County Zoning Office. Mr. Phillips indicated an area on the plat that was developed at a later time that was marked restricted because of the drainage easement. Mr. Phillips stated that he would have no problem with combining the two lots and building one house. He stated that there are other houses built on smaller lots in Falls Hill. There are a 198 lots in the subdivision, none of which have less than 10,500 sq. ft.

Mr. Phillips stated that he was representing other people in respect to presenting the Board with a petition of 273 names from the neighborhood who were opposed to having the driveway in the middle of the Shreve Road intersection. He stated that the proposed driveway was in a dangerous intersection and that other people would address that issue. He submitted photographs to the Board of this area.

Page 215, May 9, 1978
GEORGE H. RUCKER DEV. CORP. (Continued)

The next speaker was Walter Tiedekan, 2431 Inglewood Court, Falls Hill Subdivision, Falls Church, Virginia. He called the Board's attention to the documentation he had presented to the staff on April 28th dealing with the traffic hazard at this intersection. THe material consisted of a plat, and a graphic showing that a driver coming from Falls Hill along Pinecastle in the area of the requested variance trying to make a left-hand turn into Falls Church would be unable to see Shreve Road to Falls Church beyond 150' westward, the road was sunken below the level of the railroad embankment so that cars traveling eastward would not be visible as they disappear from site. Mr. Tiedekan stated that additional driveways coming into the intersection at that point would just add to the problem. Mr. Tiedekan stated that his testimony was supported by photographs which he left with the staff in April. Correspondence from Mr. Scott to the Park Authority and the Highway Department were included in the material submitted by Mr. Tiedekan. The response was that there would be cooperation between the Park Authority and the Highway Department in resolving the problem.

Chairman Smith stated that he could not see how they would permit an entrance at the Shreve Road into the proposed entranceway. He stated that he thought it would have to be on the other side of the lot if there was any curb cut.

Mrs. Nancy Motley, owner of Lot 153 was the next speaker. Mrs. Motley stated that the back of her lot was where the drainage easement was located and that many times during the year there was at least six inches of water lying in the back of her property. Mrs. Motley was concerned about an increase in the water drainage situation. She stated that since the construction of Rt. 66 had begun, she had seen an increase in the water problem. She stated that she had contacted several County and State offices to try and resolve the problem but nothing has been done about it.

A lady from the audience stood up and stated that her yard had the same situation regarding the drainage of water. She stated that she owned Lot 73 and that Lot "C" was her back yard. When asked if she planned to develop the back lot "C", she replied she did not.

During rebuttal, Mr. McGinnis presented the Board with a signed petition of citizens in favor of the application. Mr. McGinnis reminded the Board that even if the variances were granted, he still had to go through Streets & Drains in order to build any houses on the lots in question. He stated that the lady with the problem of water going over her lot did not involve Outlots A & B and that the water in her yard was coming from another direction. He stated that only the water coming from Falls Church goes over Lots A & B. He stated that any drains that would be built would be subject to County regulations. He reminded the Board that the only variance he was asking for was a smaller size lot and stated that he would comply with all the regulations of R-12.5 and would have to comply with the demands of subdivision control regarding the drains. Chairman Smith reminded Mr. McGinnis that this was two separate applications requesting variances, one for frontage and one for land area. Chairman Smith stated that this was originally established as an outlot and was not to be used for construction. He further stated that the applicants were aware of that factor when they developed the property. Mr. McGinnis stated that there has been a lot of changes in this area since the late fifties and that was why there was authority to grant variances.

Mr. DiGiulian stated that the thing that bothered him about these two lots was that the total area of the two lots would be 20,002 sq. ft. so that the average lot area would 10,001 sq. ft. which was the next lower zoning category and felt that it should be subject to a rezoning application.

Chairman Smith stated that he was concerned about this request because it was originally established as an outlot and that in order to develop it, the applicant had to request two variances.

Page 215, May 9, 1978 Board of Zoning Appeals

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. V-74-78 by George H. Rucker Development Corporation, under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit lot with less lot area and less lot width than required on property located at Northwest corner of intersection of Shreve Road, Pinecastle Road and Buckelew Drive, tax map reference 40-3((3))B, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

216

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 9, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 9,660 sq. ft.

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

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, THEREFORE, BE IT RESOLVED, that the subject application is DENIED.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 4 to 0.

Page 216, May 9, 1978, Scheduled case for

10:55 A.M. - GEORGE H. RUCKER DEV. CORP., OWNER, appl. under Sec. 30-6.6 of the Ordinance to permit creation of lot with less land area than required by Ord., 9,110 ft., located N.W. corner of Intersection of Shreve Road, Pinecastle Road and Buckelew Drive, 40-3((3))A1, 9,110 sq. ft.), Falls Hills Subd., Providence Dist., R-12.5, V-75-78.

The hearing began at 11:30 A.M.

Mr. Robert A. McGinnis, attorney for the applicant, requested approval from the Board to withdraw this application without prejudice.

Mr. Durrer moved that Mr. McGinnis be allowed to withdraw the application without prejudice. Mr. Barnes seconded the motion. The motion passed unanimously by a vote of 4 to 0.

// The Board recessed at 11:30 A.M. and returned at 11:40 A.M.

Page 216, May 9, 1978, Scheduled case for

11:15 A.M. - EDWARD & GLORINA BROWN, appl. under Sec. 30-6.6 of the Ord. to permit construction of shed 8 by 12, 17.9' from rear property line (25' required), located 5902 Wivenhoe Court, 91-4((4))607, (9.661 sq. ft.), Hayfield Farm Subd., Lee Dist., R-12.5, Cl., V-76-78.

The hearing began at 11:40 A.M.

Mr. Edward Brown, 5902 Wivenhoe Court, Hayfield Farms Subdvision, presented his case. He proposed to build a storage shed on the end of his carport. Mr. Brown stated that his house was located on an odd-shapped lot on a cul-de-sac. The rear of the house is 25.5' from the rear property line. The storage shed that he proposed to build would be 17.9' from the rear property line. The shed would be 8' x 12'. The reason for the variance was that the house was currently at its minimum at the rear property line and that it was just 2' greater than the minimum required for the front property line. Mr. Brown stated that the house was placed very irregularly on the lot and that to construct anything in the rear of his house would require a variance.

Chairman Smith inquired if the concrete slab was in place now and Mr. Brown replied that it was not. Mr. Brown stated that there was a small concrete slab there that would be removed and then a 10' x 24' patio. Chairman Smith asked if Mr. Brown proposed to construct the shed to the rear of the concrete slab. Mr. Brown stated that it would be constructed to the side of the slab.

There was no one to speak in favor to the application nor was there anyone to speak in opposition to the application.

RESOLUTION

Mr. DiGiulian made the following motion.

IN APPLICATION No. V-76-78 by EDWARD & GLORINA BROWN, under Section 30-6.6 of the Zoning Ordinance to permit construction of shed, 8' x 12', 17.9' from rear property line on property located at 5902 Wivenhoe Court, tax map 91-4((4))607, County of Fairfax, Virginia, Mr. Digiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 9, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5 (C).
3. The area of the lot is 9,661 sq. ft.
4. That the applicant's property is exceptionally irregular in shape,and has an unusual condition in the location of the existing buildings on the subject property,

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure(s) 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 4 to 0.

Page 217, May 9, 1978, Scheduled case for

11:25 A.M. - PAUL ALEXANDER BAITER, appl. under Sec. 30-6.6 of the Ord. to permit carport to be converted to garage 11.3' from side property line (27.3' total sides setbacks, 30' total required), located 2222 Carmichael Dr., 38-1((20))22, (15,278 sq. ft.), Lawyers North Subd., Centreville Dist., RE-0.5, Cl., V-77-78.

The hearing began at 11:45 A.M.

Mr. Paul Alexander Baiter, 2222 Carmichael Drive, Lawyers North Subdivision, Fairfax County, presented his case to the Board.

Mr. Baiter was requesting a variance to enable construction of a garage from an existing carport. Mr. Baiter stated that the minimum setback requirements for sideyards for a carport were met but if he converted the carport into a garage he would need a variance. Mr. Baiter stated that his property is very unusual in that it is a pie-shaped property, narrow in front and wide at the rear. He further stated that the terrain behind the property is very steep so that there was no possibility of shifting the location of the garage further back on the property. Photographs were submitted to support the statement.

Mr. Baiter stated that the distance between the existing carport and the adjacent house was over 70' and that the variance would not change the space in between to a great degree. Mr. Baiter submitted a drawing to the Board to show them what the garage would look like.

There was no one to speak in favor to the application nor was there anyone to speak in opposition to the application.

R E S O L U T I O N

IN APPLICATION NO. V-77-78 BY PAUL ALEXANDER BAITER UNDER SECTION 30-6.6 OF THE FAIRFAX COUNTY ZONING ORDINANCE TO PERMIT CARPORT TO BE CONVERTED TO GARAGE 11.3' FROM SIDE PROPERTY LINE ON PROPERTY LOCATED AT 2222 CARMICHAEL DRIVE, TAX MAP 38-1((20))22, COUNTY OF FAIRFAX, VIRGINIA, MR. DIGIULIAN 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 9, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-0.5(C1).
3. The area of the lot is 15,278 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow,

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structures(s) 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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 4 to 0 as requested.

Page 218, May 9, 1978, Scheduled case for

11:45 A.M. - LIMITLESS WAVE SKATEBOARD PARK, appl. under Sec. 30-7.2.10.7.12 of the Ord. to permit Skateboard Park, 2824 & 2832 Juniper Street, Merrifield, Avondale Subd., 49-1((7))Lot 2 and 49-3((13))Parcel E, (81,947 sq. ft.), Providence Dist., I-L, S-80-78.

The notices were in order for this case.

The hearing began at 11:50 A.M.

Mr. Thomas Lawson, Attorney, City of Fairfax, represented the applicant. Mr. Lawson inquired if the Board had received the latest Site Plan submitted about a week after the initial application was filed.

Mr. Lawson stated that the setback requirement from Juniper Street was 50'. He stated that the original Site Plan they submitted did not meet that requirement so they modified that by putting the parking in that setback, so that the structure would now be in that setback requirement. To the west of the property, it is zoned I-L and does not require any setback variance. The rear of the property to the north, it is zoned RE-1 and to the rear of that RE-1 property it is industrial. Mr. Lawson stated that the RE-1 property was owned by Mr. Earl Schaeffer who had called him regarding the proposed use and stated that he did not have any problem with the use. There was not any written statement from Mr. Schaeffer to that effect for the record.

In the staff report, it was mentioned about the 8' fence in terms of site distance. Cars exiting from the property would have their views blocked by an 8' fence. Mr. Lawson stated that they had modified the location of the fence by proposing to construct the fence around the actual use itself and not in the parking area so that the fence would be beyond the 50' setback. It was for security reasons that the applicant had proposed an 8' fence and particularly because of the nature of the use.

Page 219, May 9, 1978
LIMITLESS WAVE SKATEBOARD PARK (continued)

Chairman Smith inquired of Mr. Covington if in an industrial area an 8' fence would be allowed and was informed that 7' was the maximum allowed without a variance. Mr. Covington stated that an 8' fence would be allowed if they met the setback requirements for the structure but since they were proposing to construct the use on the line, it could only be 7' high. Mr. Lawson stated that 1' did not make that much difference and that perhaps they could work with Site Plan Control Office to work out the details regarding the fence.

Chairman Smith inquired if seventeen parking spaces would be adequate for the proposed use. Mr. Covington informed the Board that he had visited the skateboard park in Springfield and their parking lot was only half full during the peak hours. Mr. Lawson stated that most of the patrons would not be driving themselves and would be of the drop-off type. Chairman Smith inquired if this proposed park was comparable in size with the one in Springfield. Mr. Covington stated that there were only twenty parking spaces for the park in Springfield. On the Sunday afternoon that Mr. Covington visited the site, the parking lot was only half full but the facility was full. Mr. Covington stated that he felt the proposed park was comparable to the one in Springfield.

Chairman Smith stated that the Board had not had that much experience with skateboard parks and was not certain that the proposed parking would be adequate for the use. Mr. Lawson stated that as the applicant's property consisted of two acres, the parking could be expanded at a later date if needed.

There was a recommendation in the staff report regarding a service road to be constructed along Lee Highway. Mr. Lawson stated his client had no problem with dedicating but that it would not be economically feasible for his client to construct the service road at this time. Mr. Lawson requested the Board to waive this requirement but at such time as the property adjacent to the site was developed that the service road be constructed. As far as the staff report recommendation on the widening of Juniper Street, Mr. Lawson felt that this would obviously have to be done.

Mr. Durrer inquired as to the request of the waiver whether it was for construction of the service road or for the widening of Juniper Street. Mr. Lawson stated that they had no problem with the widening of Juniper Street. He stated that the waiver was requested for construction of the service road along Lee Highway. Mr. Lawson further clarified the request by stating that if his client developed the front of the property along Lee Highway then at that time it should be a requirement to construct the service road.

Chairman Smith stated that the Board did not have the right to waive these requirements as they were under Site Plan Control. He stated that the Board would not require the construction but leave the issue up to the Site Plan Control Office as they had all the facts concerning this..

Chairman Smith inquired if the applicant had a contract to purchase the property and Mr. Lawson replied that he did.

There was no one present to speak in favor of the application nor was there anyone present to speak in opposition to the application. The Board was in receipt of a letter in opposition to this use from Mr. Robert S. Reiss. Chairman Smith read the letter into the record. Mr. Reiss was concerned for the safety of children in this area because the area was an industrial area with trucks coming and going a lot. Mr. Reiss felt it would be very unwise to construct a recreational facility in this industrial area.

Page 219, May 9, 1978 Board of Zoning Appeals
LIMITLESS WAVE SKATEBOARD PARK

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. S-80-78 by LIMITLESS WAVE SKATEBOARD PARK, under Section 30-7.2.10.7.12 of the Fairfax County Zoning Ordinance to permit skateboard Park on property located at 2824 & 2832 Juniper Street, tax map reference 49-1((7))Lot 2 and 49-3((13))Parcel E, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning aAppeals on May 9, 1978; and

RESOLUTION

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

1. That the owner of the subject property is Cardwell, Inc. and that the applicant is the contract purchaser.
2. That the present zoning is I-L.
3. That the area of the lot is 81,947 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

1. THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 has started or unless renewed by action of this Board prior to the date of expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.

The motion was seconded by Mr. DiGiulian.

The motion passed unanimously by a vote of 4 to 0 as requested.

Page 220, May 9, 1978, Scheduled case for

12:15 P.M. WILLIAM E. MOSS, appl. under Sec. 30-7.2.10.7.12 of the Ordinance to permit Skateboard Park, located at the end of Michael Faraday Ct., 18-3((5))7, (3.4186 ac.), Reston Sect. 909, Centreville Dist., I-L, S-56-78.

This case had been deferred from April 12, 1978 and May 2, 1978 for a study on the parking and for a hearing before a full Board.

The hearing began at 12:20 P.M.

Mr. William H. Gordon, 1913 Issac Newton Square, Reston, Virginia, represented the applicant.

Chairman Smith informed the applicant that there was still not a full Board present but Mr. Gordon presented the request anyway.

The applicant was requesting a special permit for a recreational facility as a skateboard park. Mr. Gordon stated that there was a bowling alley under construction on that cul-de-sac, a racquet club in existence, and a proposed roller rink. Mr. Gordon felt that the proposed skateboard park would be compatible with these other uses.

Chairman Smith asked Mr. Gordon to review the previous testimony presented at the April 12th hearing for the Board's benefit. Chairman Smith stated that this application had been deferred for a study on parking.

Mr. Gordon stated that they had provided adequate parking for this type of facility. Most of the people utilizing the facility would be walking to the site or be dropped off. A drop-off point had been provided on the Site Plan and parking for twenty-five cars were shown on the plat. Mr. Gordon stated that because this particular use was in Reston that there would not be a need for as many parking spaces because people would either walk or ride bicyles to the facility.

Chairman Smith inquired what use would be made of the 60' x 40' clubhouse. Mr. Gordon stated that the clubhouse would be used for the rental and sale of equipment, toilet facilities, shelter, snack bar, lounge, and lockers for changing of clothing. Chairman Smith inquired as to the type of items sold at the snack bar. Mr. Moss replied that he would sell limited food items and soft drinks. Chairman Smith inquired if food would be prepared on the premises and Mr. Moss stated that some food would be such as popcorn and hot dogs. He stated that he would be selling more snacks than solid food.

Mr. Durrer stated that he was not present for the original hearing and felt that he should abstain because he had not heard the previous testimony. Chairman Smith stated that the Board had held a hearing on the application but was more or less rehearing the application again. The staff had determined that the additional parking shown on the plat was adequate.

Mr. Dick Bonnard of the Gulf-Reston, Inc. spoke in favor of the application. He stated that the area was surrounded by all industrial land that was either zoned or planned for commercial recreation uses for over five years. Mr. Bonnard felt that the park was compatible with the other uses in the area. He stated that the distance between the skateboard park and the closest office use was about 150' from the middle of the park to the building proper. The office building was oriented towards an inner courtyard so that the outer exterior would not even see this adjacent use.

As far as the parking was concerned, Mr. Bonnard stated that the Wiehle Avenue bridge would be completed in August of 1978, and would allow many patrons to come to the proposed site by bicycles. Mr. Bonnard stated that concern should be on the number of bicycle racks provided instead of parking spaces. In addition to that, there was a major trail proposed by the Park Authority that would afford foot access into the recreation areas.

Mr. Bonnard presented the Board with a signed petition from 600 people supporting the use of the skateboard park. Mr. Bonnard stated that less than 5% of the people who signed the petition are 16 years or older which indicates that the people who are interested will be coming by other means than driving themselves.

In summary, Mr. Bonnard stated that this is a commercial recreation area planned that way and held off the market for that use. He stated that they were trying to make this area a concentrated commercial recreational area and did not feel that it would intrude on the industrial use of the area.

Mr. DiGiulian inquired as to the other facilities that would be using the 30' easement. Mr. Bonnard stated that it only served this facility.

Mr. Bonnard stated that he wished to address the Board as a member of the Reston Community Association. He presented a letter to the Board from the Reston Community Association in support of the application subject to a redesign of the driveway, parking, building and entrance to connect to a pathway.

Mr. Robert H. Keiffer, an attorney and a member of the Board of Directors of the Hardwood Plywood Manufacturers Association, spoke in opposition to the application. He stated that the Hardwood Plywood Manufacturers Association had planned to have a laboratory on Michael Faraday Court. They were not aware of the proposed recreational facility. Mr. Keiffer was concerned for the children's safety as he did not feel that this proposed use lent itself to an industrial area. He further stated that they were concerned with the noise factor as the use appeared to be an open park and would have to have some kind of an audio system throughout the park. It was also their understanding that the patrons would be allowed the use of the park for one hour time intervals and then turned out to make room for the next groups. Mr. Keiffer was concerned that children enroute to the park or leaving the park would be riding skateboards amongst the traffic on Michael Faraday Court. They were concerned about accidents, particularly on private property causing individuals' insurance premiums to rise.

Chairman Smith stated there was correspondence in the file from people of the surrounding offices that were in opposition to the application based on the noise and the location of the proposed use.

Mr. Durrer inquired as to the distance of the office building occupied by Hardwood Plywood Manufacturers Association from the skateboard park. Mr. Keiffer replied that the closest point was about 700'.

Chairman Smith was concerned regarding the width of the public road into the facility. He was concerned because it was only 36' wide and had to serve all the recreational facilities on the Court. Mr. DiGiulian stated that it was a public road. Backlick Road in Springfield is only 18' wide and Mr. DiGiulian felt that it serves more traffic than the road in Reston would. He stated that he did not have any problem with the width of Michael Faraday Court because it was set up as an industrial area.

During rebuttal Mr. Gordon clarified a few points brought out by the opposition. He stated that the building occupied by Hardwood Plywood Manufacturers Association was 700' from the proposed park being across Sunset Hills Road. Mr. Gordon stated that the only areas skateboard parks could be located were industrial areas or commercial zones. As far as the noise, he stated that steel wheels would not be allowed on the course. He further stated that there would not be an audio system anywhere in the park.

Mr. Smith inquired as to what controls or monitors would be used by the people operating the park. Mr. Gordon stated that there would monitors in the park and that participants would be allowed to get on the course as soon as they arrive. Mr. Gordon stated that there would not be any lines of children standing around waiting to get on the course. The participants are allowed two hour intervals and at the completion of their time, they would be tapped by the monitors to indicate that their time was up.

Chairman Smith inquired as to how a skater would be informed that he was not obeying the rules if there was not an audio system in the park. Mr. Gordon stated that it would also be by a tap on the shoulder. Mr. Moss informed the Board that the operation would be under strict supervision and that the guards would be on the course at all times. Chairman Smith inquired if the guards would use whistles to bring infractions to the attention of the participants. Mr. Moss stated that there would be guards in the area at different locations throughout the park and they could skate up to the participant and inform him/her of the infraction.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. S-56-78 by WILLIAM S. MOSS under Section 30-7.2.10.7.12 of the Fairfax County Zoning Ordinance to permit a skateboard park on property located at the end of Michael Faraday Court, tax map reference 18-3((5))7, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 9, 1978; and

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

1. That the owner of the subject property is Golf Reston and that the applicant is the contract owner.
2. That the present zoning is I-L.
3. That the area of the lot is 5.4186 acres.
4. That compliance with the Site Plan Ordinance is required.

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

1. THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in I-L Districts as contained in Sect. 30-7.1.2 in the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of the Department of Environmental Management.

The motion was seconded by Mr. DiGiulian.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Smith).

Page 223, May 9, 1978, AFTER AGENDA ITEMS

Letter from HENRY & CLAIRE MEGILL, V-131-77, requesting a six month extension on the variance granted by the Board on July 12, 1977.

Mr. DiGiulian moved that they be granted an extension for a period of 180 days from the expiration date of the variance. Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Smith).

//

AAI, May 9, 1978
Letter from FIRST BAPTIST DAY SCHOOL, S-105-71, requesting an amendment to their existing Special Permit to include children, two years of age.

Mr. Durrer moved that they be granted the amendment to include two year old children. Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 4 to 0.

//

AAI, May 9, 1978
Letter from KARL H. RITA M. KRUEGER, V-65-78, requesting a rehearing on their variance denied by the Board on May 2, 1978.

Chairman Smith informed the Board as to the reasons why he had voted against the variance request. There were only three Board members present at the time of this hearing on May 2, 1978 and Mr. Smith's opposition to the request caused it to be denied. Chairman Smith stated that the request for a variance was greater than what was need to grant minimum relief.

Mr. DiGiulian moved that the Board grant the rehearing. Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Smith).

The rehearing was scheduled for July 5, 1978.

//

AAI, May 9, 1978
Letter from Mr. Gene A. Souter regarding the screening requirements for the Pinecrest Swim & Tennis Club. Chairman Smith requested staff to investigate the matter and prepare a report. The Clerk was asked to call Mr. Souter and advise him that the staff would investigate the matter and respond to his inquiry in the near future.

// The meeting adjourned at 12:57 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman

APPROVED: OCTOBER 11, 78
DATE

Submitted to the BZA on Oct. 3, 1978
Submitted to other Depts., Bd. of Supervisors, and Planning Commission on Sept. 27, 1978.

Blank

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Tuesday evening, May 16, 1978. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian and John Yaremchuk.

The meeting opened at 8:00 P.M. with a prayer by Mr. Covington.

8:00 P.M. - REHEARING: TYSON'S BRIAR, INC., T/A CARDINAL HILL SWIM & RACQUET CLUB, appl. under Sec. 30-7.2.6.1.1 of the Ord. to amend existing Special Use Permit to permit security lights to remain and for change in hours of operation: Tennis from 6 A.M. to 10 P.M. and Pool from 6 A.M. to 9 P.M., located 9117 Westerholme Way, 28-4((1)) 45A, (5.696 ac.), Centreville District, RE-1, S-5-78. Original Hearing was held on February 22, 1978 and granted.

(See verbatim transcript for testimony.)

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-5-78 by TYSON'S BRIAR, INC., T/A CARDINAL HILL SWIM & RACQUET CLUB, under Section 30-7.2.6.1.1 of the Fairfax County Zoning Ordinance to amend existing Special Use Permit to permit security lights to remain and a change in hours of operation, on property located at 9117 Westerholme Way, tax map reference 28-4((1))45A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 16, 1978 and February 22, 1978 (original hearing); and

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

1. That the owner of the subject property is Tyson's Briar, Inc.
2. That the present zoning is RE-1.
3. That the area of the lot is 5.997 acres.
4. That compliance with the Site Plan is not required; and

WHEREAS, the Board has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board)(other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be: Tennis from 7 A.M. to 10 P.M., Monday through Friday and 9 A.M. to 10 P.M., Saturday and Sunday, and Swimming Pool from 7:30 A.M. to 9 P.M. Monday through Friday and 9 A.M. to 9 P.M., Saturday and Sunday, with a maximum of four (4) swim meets per year beginning at 7:30 A.M.

Mr. Barnes seconded the motion.

During discussion of the resolution, the Board restricted use to members and guests of Cardinal Hill Swim & Racquet Club only. Use is to be under complete control of the management of Cardinal Hill at all times and to be in compliance with the original permit.

The motion passed unanimously by a vote of 5 to 0.

Page 226, May 16, 1978, Scheduled case for

8:00 P.M. - DAD ENTERPRISES, INC. appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit Day Care Center for 50 children, ages 2 to 6, from 7 A.M. to 6 P.M., Monday through Friday, located 2345 Chestnut Street, 40-3((22))4 and C-O is on map 40-3((1))107A, (.62 acres), George Mason Heights, R-10 & C-O, S-78-78.

Mr. Sanders represented the applicant. The notices were not in order and this case was deferred until June 20, 1978 at 12:30 P.M.

//

Page 226, May 16, 1978, Scheduled case for

8:00 P.M. - EDWARD A. ANTESBERGER, appl. under Sec. 30-6.6 of the Ord. to permit garage 5' from side property line (20' required), located 4008 Hickory Rd., 58-4((11))3, (22,764 sq. ft.), Wakefield Forest Park Subd., Annandale Dist., RE-1, V-67-78. (This was deferred from May 2, 1978 for plats showing septic fields and for an explanation before the full Board.)

Mr. Antesberger had obtained new plats showing the location of the septic fields on his property.

Chairman Smith informed the Board for those who were not present at the original hearing that this was an application for a garage addition 5' from the property line.

Chairman Smith inquired if the garage would have a room over top of it. Mr. Antesberger replied that he was only constructing a garage. Chairman Smith further explained to the Board that this was a 21' garage to be constructed 5' from the property line.

Mr. Durrer inquired if this was an enclosure of an existing carport. Chairman Smith responded that it was not and that it was an addition to an existing house. Chairman Smith stated that the Board had requested Mr. Antesberger to locate the septic fields.

Mr. DiGiulian inquired as to why Mr. Antesberger could not construct the addition on the other side of the house. Mr. Antesberger replied that that was the only side of the house that does not have an entrance. In addition, there is a 60' drop off with a 4½' retaining wall. Also, the well is located on that side of the property. Mr. Antesberger stated that he already has a water problem in the crawl space under the house and that if he was to construct an addition in that area that it would probably add to the problem.

The Board examined the photographs submitted by Mr. Antesberger. Mr. Barnes stated that there was also a lot of shrubbery on that side of the house that would have to be moved.

Mr. Yaremchuk inquired if Mr. Antesberger had notified the adjoining property owner. Mr. Antesberger replied that he had and that the adjoining owner was present at the hearing. Mr. Yaremchuk asked how long Mr. Antesberger had owned the property and whether he planned to sell the property in the near future. Mr. Antesberger replied that he had owned the house for a year and he did not plan to sell anytime soon.

Mr. Yaremchuk made the following motion:

IN APPLICATION NO. V-67-78 by EDWARD A. ANTESBERGER under Section 30-6.6 of the Zoning Ordinance to permit garage addition 5' from side property line (20' required), on property located at 4008 Hickory Road, tax map 58-4((11))3, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

RESOLUTION

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 2, 1978 and May 16, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-1.
3. The area of the lot is 22,764 sq. ft.
4. That the applicant's property has un unusual condition in the location of the existing buildings on the subject property, or the adjacent properties,

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith) and 1 abstention (Mr. Durrer).

Page 227, May 16, 1978, AAI

Request for an out-of-turn hearing for WILLIS K. DICKSON, appl. under Sec. 30-6.6 of the Ord. to permit pool to be constructed 22' from front property line (lynbrook Dr.) & 10' from south side property line (12' required), located 6009 Augusta Drive, 80-4((3))3, (19,971 sq. ft.), Yates Village Subd., Springfield Dist., R-12.5, V-69-78.

This case was deferred from May 2, 1978 for a lack of a quorum. It had been rescheduled for June 20, 1978.

The Board stated that the date of the hearing could not be changed because the date of June 20, 1978 had been selected on May 2, 1978 as a time and date certain so the new date would not have to be advertised.

//

Page 227, May 16, 1978, AAI

Request for an out-of-turn hearing for FAIRFAX COUNTY BOARD OF SUPERVISORS, appl. under Sec. 30-6.6 of the Ord. to permit construction of addition to existing dwelling 6.8' from side property line, (10' required), located 2208½ Farrington Ave., Huntington Subd., 83-1((14))(A)A, (21,029 sq. ft.), Mt. Vernon Dist., RM-1, V-120-78.

The reason for the request for an out-of-turn hearing was because the project was covered by grant-funded money which had to be committed prior to the expiration date of the grant.

Mr. Durrer moved that the application for FAIRFAX COUNTY BOARD OF SUPERVISORS be granted an out-of-turn hearing at the earliest possible date.

Mr. Yaremchuk seconded the motion.

The out-of-turn hearing was scheduled for July 5, 1978.

//

Page 228, May 16, 1978, AAI

Request for an out-of-turn hearing for THOMAS LEE STAFFORD, appl. under Sec. 30-6.6 of the Ord. to permit construction of inground swimming pool 4' from south side property line, (15' required), located 11212 Bellmont Dr., Lake Fairfax Estates Subd., 67-2((2))3B, (25,625 sq. ft.), Annandale Dist., RE-0.5, V-121-78.

The reason stated for the out-of-turn hearing was in order to have use of the pool before the end of the summer season.

Mr. Yaremchuk moved that the request for an out-of-turn hearing be denied and that the application be scheduled in the normal order.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

The normal order for scheduling was determined to be July 18, 1978.

//

Page 228, May 16, 1978, AAI

Request for extension of Special Use Permit for Mansion House Yacht Club granted June 7, 1977.

Mr. Barnes moved that the Mansion House Yacht Club be granted a 180 day extension from June 7, 1978.

Mr. DiGiulian seconded the motion.

The Motion passed unanimously by a vote of 5 to 0.

//

Page 228, May 16, 1978, AAI

Request for an out-of-turn hearing for Tuckahoe Recreation Club, Inc. in order to amend existing special use permit to construct tennis courts.

Mr. DiGiulian moved that the request for an out-of-turn hearing be denied because of the full schedule of the Board.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

// The meeting adjourned at 10:05 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman

APPROVED: OCTOBER 11, 78
DATE

Submitted to the BZA on Oct. 11, 1978
Submitted to the other departments, Board of Supervisors and Planning Commission on October 3, 1978.

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Tuesday, May 23, 1978. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian and John Yaremchuk.

The meeting opened at 10:25 A.M. led with a prayer by Mr. Barnes.

10:00 A.M. - JAMES H. DODGE, MARTIN R. WEST, JR. & JAMES E. MILLAR, Trustees, appl. under Sec. 30-6.6 of the Ord. to permit tennis court fence 28' from center line of Promontory Drive (60' required) and within 15' of side property line (25' required), location: 3600 Block of Lee Jackson Hwy., 44-2((1))9, (14,400 sq. ft.), Springfield Dist., RM-2, V-79-78.

The notices were in order. Mr. Robert Lawrence, Attorney, represented the applicant.

Mr. Lawrence stated that this was a request for a variance on a variance that was previously issued by the Board of Zoning Appeals on January 22, 1976. He stated that this was an identical application and that there were no changes. Construction had not commenced prior to the expiration date of the previous application.

The request for the variance was to construct two tennis courts for the future residents of the apartment units. Mr. Lawrence stated that the owners were seeking a variance to the 25' setback from the side property line. There would be a chain link fence around the tennis courts which would be 15' from the property line. In addition, the applicants need a variance from the 60' setback from the adjacent street which is Promontory Drive. Mr. Lawrence stated that there were no buildings proposed in the tennis court area, so there should not be any adverse effect to visibility or the surrounding neighborhood.

Mr. Durrer inquired if construction had started. Mr. Lawrence replied that it had not begun. He stated that the project had been almost to the bonding stage but a financial crisis delayed construction.

Mr. Barnes inquired if this was the same application as in 1976. Mr. Lawrence stated that it was the exact application.

There was no one to speak in favor to the application and no one to speak in opposition.

RESOLUTION

Mr. Durrer made the following motion:

WHEREAS, Application No. V-79-78 by JAMES H. DODGE, MARTIN R. WEST, JR. & JAMES E. MILLAR, Trustees, under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit tennis court fence 28' from center line of Promontory Dr. (60' required) and within 15' of side property line (25' required), on property located at 3600 Block of Lee Jackson Highway, tax map reference 44-2((1))9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 23, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RM-2.
3. The area of the lot is 14,400 sq. ft.
4. The Board finds that the applicant's property is exceptionally irregular in shape, including narrow and shallow.

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

THAT the applicant has 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.

R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 has started or unless renewed by action of this Board prior to expiration.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 230, May 23, 1978, Scheduled case for

10:10 A.M. - JOHN R. WADE, appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel 18 into two lots with proposed lot 18B having less lot width than required by the Ordinance (15' requested, 150' required), 8646 Tuttle Road, 79-3((4))18, (2.50 acres), Springfield Dist., RE-1, V-81-78.

The notices were in order.

Mr. John Wade from Burke, Virginia presented the justification to the Board. Mr. Wade stated what he proposed was to subdivide the 2½ acre tract that was originally subdivided in 1935 under RE-1 zoning. He stated it was his intent to subdivide the parcel into two 1.25 acre parcels in order to build two single family residences, four or five bedrooms in size. In order to accomplish this, Mr. Wade was asking for a variance to the frontage requirements of 150'. He stated that he proposed a pipestem to lot 18 which would be the lot in the rear of the property. Mr. Wade stated that the access road or the pipestem would be maintained and dedicated as an easement for both lots to permit egress and ingress and would be maintained by the property owners of lots 18 & 18B.

Mr. Durrer inquired if the lots 3 through 7 were developed with houses on them. Mr. Wade responded that lots 3, 4, 5 & 6 have houses on them. On lot 17, Mr. Wade reported that it was not developed but that Lots 31 & 32 have houses on them also. Mr. Durrer inquired if there was a lot of development around the property. Mr. Wade stated that there was property on Hillside Rd. zoned for townhouses. He stated that what he was trying to do was maintain the single family one acre character of the area set forth in 1935.

Mr. DiGiulian inquired if Tuttle Road was improved in order to drive up to the lots. Mr. Wade reported that from Hillside Rd. to the corner of Lot 18A, that it was improved with a gravel road. Mr. DiGiulian inquired about the front of the property. He was informed by Mr. Wade that it was dedicated and at present was only a rough road and would take some improvement to continue the same type or road from Hillside to lot 18.

Chairman Smith asked Mr. Wade how long he had owned the property. Mr. Wade responded that he had owned the property for approximately two months. Chairmain Smith then inquired if Mr. Wade had owned the property when he made application to the Board. Mr. Wade stated that he was at that time the contract owner of the property. Chairman Smith asked if Mr. Wade had taken title to the property. Mr. Wade replied that he had not, that he was the contract owner.

At this point, Chairman Smith informed Mr. Wade that he was not a proper applicant because he was not a titled owner. Chairman Smith stated that only the titled owner could justify the hardship under the Ordinance. Mr. Wade stated that under his contract, it stated that he could make the application. He stated that he was not informed by the Zoning Office that as the contract owner he could not proceed with the application.

Chairman Smith stated that the staff report indicated that the property owner was Mr. Frank Forbes and that he was the only person who could apply for a variance. Mr. Wade reported that Mr. Forbes was out of town and was unable to attend the hearing.

Chairman Smith suggested that the hearing be delayed until July 5, 1978 in order for Mr. Wade to amend the application to include Mr. Forbes as the property owner.

Page 231, May 23, 1978
JOHN R. WADE (continued)

Mr. DiGiulian stated that he was concerned with the status of Tuttle Road. He stated that there was a gravel road to Lot 3 and that if lot 18 was resubdivided with gravel road improvements that this was a dedicated street that would not meet the State Standards.

Chairman Smith deferred the hearing until July 5, 1978 and asked Mr. Wade to amend his application showing Mr. Forbes as the property owner. He was instructed that new notices would have to be mailed and that the hearing would have to be advertised under Mr. Forbes name but that there would not be an additional cost involved.

Mr. DiGiulian requested a report from Preliminary Engineering by the hearing date as to what type of improvements the County would require on Tuttle Road.

//

Page 231, May 23, 1978, Scheduled case for

10:20 A.M. - STRATTON APPLEMAN appl. under Sec. 30-6.6 of the Ord. to permit garage to be constructed 8' from side property line and 35' from front property line, 5841 Upton Street, 31-4((19))54, (15,610 sq. ft.), Chesterbrook Estates Subd., R-17, Dranesville Dist., V-83-78.

The required notices were in order.

Mr. Stratton Appleman, 5841 Upton Street, McLean, Virginia stated that this was a proposal to have a two car garage where there now exists a one width carport. He stated that because he is proposing to use the rear portion of the existing carport for a dining room that he must project the garage beyond the front line of the house. Mr. Appleman stated that he had notified all of the surrounding property owners and that they had agreed that it would be a great improvement to the area. Mr. Appleman stated that he had a letter from the abutting property owner stating his agreement for the proposed addition.

Mr. Durrer verified that Mr. Appleman had a one car carport and intended to widen that carport. Mr. Appleman replied that he intended to double the present width and that it would protrude about 8' beyond the present line of the house. Durrer inquired if there was any reason to have the garage 21' in width. Mr. Appleman's architect responded that the proposed garage was 22' in width to allow for clearance of the post and to allow for two standard sized cars. The architect stated that most cars are 6½ ft. wide and to allow clearance for the doors, it would require at least a minimum of 10'. Mr. Durrer inquired if there was a chimney or a stairwell or anything of that nature on that side of the house. The architect stated that there were no restrictions on that side of the house but with both walls being closed in they were concerned with adequate room for opening of car doors. Mr. Durrer stated that the reason he was asking these questions was because the Board was concerned with granting minimum relief on variances. Mr. Durrer inquired if the proposed porch on the back of the house required a variance. The architect responded that a variance was not needed for the porch.

Mr. DiGiulian inquired about the side setback on the proposed addition at the front. He inquired if it was 15'. The architect responded that it was at the 15'.

Chairman Smith stated that the length of the garage exceeded the length of any known vehicles that he was aware of and inquired as to the reason for having a garage 36' in length. The architect responded that 12' of the garage would be taken up by an addition to the house to be used as a dining area. He stated that the actual garage would only be 24' in length. The architect reported that he had submitted drawings showing the floorplan of the proposed additions. Chairman Smith stated that there was no mention of an addition to be used as a dining area in the application. The architect stated that was because the dining area was to be within the setback line.

Mr. Barnes inquired as to why the applicant was bringing the new portion of the addition 10' into the front yard and could not remain even with the old carport. The architect stated it was because they proposed to extend the dining room into the area where the carport was at present.

Chairman Smith inquired if the dining room would project out to the complete width of the building. The architect responded that it would not and that it would stay within the setback area.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

232

RESOLUTION

IN Application No. V-83-78 by STRATTON APPLEMAN under Section 30-6.6 of the Zoning Ordinance to permit garage to be constructed 8' from side property line & 35' from front property line, on property located at 5841 Upton Street, tax map 31-4((1))54, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 23, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-17.
3. The area of the lot is 15,610 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property,

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 232, May 23, 1978, Scheduled case for

10:30 A.M. -- THOMAS & SHARON BENZA appl. under Sec. 30-6.6 of the Ord. to permit construction of double carport (21' wide) on east property line, located 7918 Foote Lane, 79-2((3))(19)12, (11,475 sq. ft.), Ravensworth Farm Subd., Anndandale Dist., R-12.5, V-84-78.

The required notices were in order.

Mr. Jerry Davis, 1300 Old Chain Bridge Road, Attorney, represented the applicants. Mr. Davis stated that the applicants were seeking approval for a two car carport which would extend over the property line. He stated that it was not possible to construct the addition in the back of the property because of the size of the lot and the slope of the land. Mr. Davis stated that at the present time, there is an existing driveway and concrete slab in the exact location of the proposed carport. Mr. Davis informed the Board members that the existing shed shown on the plats was to be removed and would not be added on later so as to leave all three sides of the carport open. Mr. Davis stated that there was a letter in the file from the neighbor most affected by this proposal stating her approval of the construction of the carport. In addition, the neighbors across the street and directly behind the applicants have indicated approval.

Mr. Davis stated that he did not want to come to the Board and request a variance all the way to the property line and had tried to cut down the request. request. He stated that in trying to determine just how much of a variance would be necessary that he parked two compact cars on the slab but was unable to open the doors unless the carport was extended all the way to the property line.

Page 233, May 23, 1978
THOMAS & SHARON BENZA

Chairman Smith inquired as to what was the hardship in this particular application. Mr. Davis reponded that the hardship was the shape of the lot. He stated that the applicants wanted to cover the existing concrete slab for their cars. Chairman Smith stated that they did not have enough land to build the carport. Mr. Davis replied that was true but because of the slope of the lot in the back it was impossible to construct the addition.

Mr. DiGiulian inquired of Mr. Mitchell as to what the setback requirement was for a house on R-12.5 zoning. Mr. Mitchell replied that the side setback was 12'.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 233, May 23, 1978 Board of Zoning Appeals

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. V-84-78 by THOMAS & SHARON BENZA under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of double caport (21' wide), on property located at 7918 Foote Lane, tax map reference 79-2((3))(19)12, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 23, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5
3. The area of the lot is 11,475 sq. ft.
4. The Board finds that the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 233, May 23, 1978, Scheduled case for

10:40 A.M. - 101 ENTERPRISES INC. T/A PONDEROSA STEAK HOUSE appl. under Sec. 30-6.6 of the Ord. to permit a second free-standing sign in shopping center as set forth in Sec. 30-16.8.3, 4th paragraph, location: 1651 Reston Avenue, 17-1((1))4, (14.84499 ac.), Centreville Dist., RPC, V-85-78.

Mr. Grayson Hanes represented the applicant. The required notices were not in order. The application was deferred until July 11, 1978 at 12:00 P.M. for proper notication and to amend the application showing the property owner as the applicant.

//

11:00 A.M. - DR. GEORGE MURNAN appl. under Sec. 30-7.2.10.3.9 of the Ord. to permit animal hospital in existing building, location: 6830 Elm Street, 30-2((10))(6)9 & 10, (14,850 sq. ft.), Ingleside Subd., Dranesville Dist., C-D, S-86-78.

Mr. Robert Lawrence, Attorney, represented the applicant, Dr. Murnan. The required notices were in order.

Mr. Lawrence stated that this was an application for a special permit to operate a small animal hospital in McLean. Dr. Murnan is a licensed veterinarian and has lived in the Washington area all his life. The proposed operation is to be located in an existing building on the corner of Elm and Poplar Streets in the central business district in McLean.

Mr. Lawrence stated that there was also an application for a variance from the dustless surface requirement to permit a gravel parking lot on the premises. He stated that the existing building is a two story colonial building containing 2600 sq. ft. of space. The property is zoned C-D and is currently being used as a real estate office. Mr. Lawrence stated that Dr. Murnan does not plan to change the exterior of the building in any way.

Mr. Lawrence read the provisions from the Zoning Ordinance under which the proposed operation would have to comply. In addition, Mr. Lawrence stated that the lease prohibited the keeping of animals overnight except in situations where the animals were [illegible] Mr. Lawrence further stated that the animal hospital would be used only for small, domesticated type animals.

Mr. Lawrence and Dr. Murnan presented their plans to the McLean Planning Committee on April 19, 1978. The committee recommended approval of the application and Mr. Lawrence read the report into the record. On May 10, 1978, the application was reviewed by the Fairfax County Planning Commission. The staff report recommended approval of the proposed use. The Planning Commission also voted to recommend approval of the proposed use to the Board of Zoning Appeals. Mr. Lawrence stated that this application meets the Code requirements and requested the Board to approve the application.

Chairman Smith inquired if the applicant operated an animal hospital in Fairfax County at the present time. Mr. Lawrence responded that Dr. Murnan does not at the present time nor at any time in the past operated an animal hospital in Fairfax County. Chairman Smith then inquired as to the location where Dr. Murnan practices. Dr. Murnan stated that he primarily does business in Virginia working with horses where he goes to the particular location. He stated that he does surgery for a few small animal hospitals in the area such as Commonwealth Animal Hospital in Fairfax, Reston Animal Hospital, etc. Chairman Smith asked Dr. Murnan if he operated out of an office anyway and Dr. Murnan replied that he operated out of his station wagon.

Ms. Maya Huber, President of the McLean Planning Committee, appeared to speak in favor of the application. She stated that she would like to add one thing to the report read into the record by Mr. Lawrence. That was that the street improvements that the applicant had agreed to do be bonded in order for the McLean Planning Commission to be assured that the improvements would be completed at the time they are necessary. Mr. Yaremchuk responded that this would come under Site Plan Control. Chairman Smith replied that the Board of Zoning Appeals could not require a bond as a condition of the granting of the use. Mr. DiGiulian stated that the proper time for bonding was at the time the applicant made an application for a permit for the actual construction.

There was no one present to speak in opposition to the application but the Board was in receipt of a letter from several veterinarians requesting that Dr. Murnan be required to make the same improvements that they were required to do. Chairman Smith stated that the provisions of the Zoning Ordinance required that the building be odor-free and soundproof.

235

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-86-78 by DR. GEORGE MURNAN under Section 30-7.2.10.3.9 of the Fairfax County Zoning Ordinance to permit an animal hospital in an existing building on property located at 6830 Elm Street, tax map reference 30-2((10))(6)9 & 10, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on May 23, 1978; and

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

1. That the owner of the subject property is Charlotte T. Corner and that the applicant is the lessee.
2. That the present zoning is C-D.
3. That the area of the lot is 30,000 sq. ft.
4. That compliance with the Site Plan is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 30-7.1.2 of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The minimum number of parking spaces shall be nineteen (19).

Mr. DiGiulian seconded the motion.

Chairman Smith stated that the requirements from the McLean Planning Committee should be made a part of the conditions in the granting of this use. Mr. Yaremchuk stated that the applicant had already agreed to the widening of the road and did not want to make the report from the McLean Planning Committee a part of the conditions. Mr. DiGiulian inquired of Mr. Lawrence if the applicant had agreed to all of the conditions as set forth in the report from the McLean Planning Committee. Mr. Lawrence replied that the applicant was in agreement. Mr. DiGiulian stated that since the applicant had agreed to the conditions that it should be made a part of the conditions. Mr. Barnes agreed with Mr. DiGiulian.

Mr. Durrer proposed a substitute motion whereby the bond as agreed would be posted by the applicant. Mr. DiGiulian stated that the Board was not talking about the bond but about the dedication of the construction. Mr. Lawrence informed the Board of a problem concerning the dedication. He stated that after the meeting with the McLean Planning Committee he had a meeting with the County staff and informed them of the requirements set forth by the Committee. He informed the County staff that the applicant was willing to commit himself to the construction. The County staff indicated that construction could not

R E S O L U T I O N

begin at the time operation commenced because of the need for an outfall all the way down Elm Street. Mr. Lawrence stated that the staff indicated it would be better to coordinate the construction with the other contiguous property owners down Elm Street otherwise Dr. Murnan would have to build an outfall all the way down Elm Street which would be prohibitive because of the cost. Mr. Lawrence stated that Dr. Murnan was not even improving the property other than the improvements required by the County staff and the Planning Committee in terms of curb and guttering. Mr. Lawrence stated that the staff did not want the applicant to build his parcel without the provision from all of the other property owners for the outfall down Elm Street.

Mr. DiGiulian inquired if it would be proper for the Board to require that the dedication and construction be done when the applicant is requested to by the County. Chairman Smith stated that the report from the McLean Planning Committee setting certain conditions could be worded to take care of the agreements between the applicant, the Committee and the County. Mr. Lawrence stated that his applicant had no problem with the McLean Planning Committee report but that there was no discussion of bonding at the time they met with the McLean Planning Committee. Mr. Lawrence stated that they did agree to construct these improvements and stated that they would do that.

Chairman Smith inquired if in Mr. Durrer's substitute motion it could include the provision that in conjunction with the use permit at the time of the occupancy that Elm Street be dedicated and that widening be in accordance with the VDH & T Standards i.e. paved a total width of 44 ft. in a right-of-way of 60 ft. along the frontage of the property and that a sidewalk be constructed at the same time along the frontage on Elm Street.

Mr. Lawrence stated that he believed the problem to be the curb, guttering and sidewalk and the provision for storm drainage. He stated that until the other properties develop that it would create more problems than it would solve. Mr. Lawrence stated that the applicant was prepared to build his part now if that was what the staff wanted but the problem was with off-site.

Chairman Smith stated that the dedication would take place now and that the applicant would bond to construct at a future date when requested by the County. Mr. Lawrence stated that the applicant would prefer to bond when the County requested construction because that was something not in their control and the money would be tied up for all that time. Chairman Smith inquired of Mr. Lawrence if there was any indication from the staff as to how long this would take. Mr. Lawrence responded that all of the parcels along Elm Street west of the applicant's property which was the direction in which the water drains are either zoned commercial at the present time or have applications in asking for rezoning to commercial which would be in a pending status at the present time. Mr. Lawrence stated that he believed there was only two residential properties left which were pending for rezoning to be heard sometime in July.

Mr. Durrer stated that Chairman Smith just stated his motion that the property be dedicated now and that the property be bonded for construction to take place in coordination with the other construction in the area. Mr. Lawrence again stated that there was no discussion about bonding. He stated that there was a discussion about the construction and that the way the Planning Committee outlined the report was the way the meeting took place. Mr. Lawrence stated that they did agree to construct these items as they are set forth in the Planning Committee recommendation. He stated that the Poplar Street item was agreed upon that at such time as the McLean House completes their committment to build a 22 ft. right-of-way through that the applicant would construct his items. Mr. Lawrence stated that Poplar Street at the present time was not even a road. Chairman Smith stated that he understood the Poplar Street situation. Mr. Mr. Barnes stated that he would not worry about that.

Mr. Barnes seconded Mr. Durrer's motion.

Mr. DiGiulian questioned whether there was anything in the substitute motion that stated the applicant had to be bonded now. Mr. Barnes stated that his thought was that the bonding would take place when the County required him to construct the whole thing. Mr. DiGiulian stated that if the Board grants a use permit subject to these requirements then if the applicant does not bond or does not do the work then that the Board should revoke the use permit. He stated that he did not think the applicant should have to provide a bond that he would have to pay for for five or six years before doing the work.

Page 237, Ma7 23, 1978
DR. GEORGE MURNAN (continued)

RESOLUTION

Mr. Barnes stated that he was not in favor of requiring a bond of the applicant because he would be required to put up a bond at the time of Site Plan Approval.

Mr. Durrer stated that the only thing his substitute motion does would be to say that the applicant will have to be bonded at the proper time. Mr. Barnes and Mr. DiGiulian stated that they were in agreement with that condition.

Chairman Smith stated that the County bonding requirements would have to be met in conformity with the County requirements as it relates to the substitute motion and that there would not be any time factor involved on the bonding.

Mr. Lawrence stated that because of the problem of coordination of construction that his client would have to ask for a Site Plan waiver. He stated that if the waiver was granted then the committment would be that the construction would be completed at such time as the construction takes place along the road. He further stated then that the bonding might not take place at the time that they would begin operation but rather at a later time when the County constructed the whole outfall. Chairman Smith stated that the owner of the property would have to be a party to this agreement since Dr. Murnan was only renting the property.

Mr. Durrer's substitute motion was to grant the use with the conditions as outlined above.

FINAL RESOLUTION

WHEREAS, Application No. S-86-78 by DR. GEORGE MURNAN under Section 30-7.2.10.3.9 of the Fairfax County Zoning Ordinance to permit an animal hospital in an existing building on property located at 6830 Elm Street, tax map reference 30-2((10))(6)9 & 10, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on May 23, 1978; and

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

1. That the owner of the subject property is Charlotte T. Corner and that the applicant is the lessee.
2. That the present zoning is C-D.
3. That the area of the lot is 30,000 sq. ft.
4. That compliance with the Site Plan is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Section 30-7.1.2 of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 rtransferable 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departmentssof the County of Fairfax during the hours of operation of the permitted use.

238

F I N A L R E S O L U T I O N

6. All necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The minimum number of parking spaces shall be nineteen (19).
8. In conjunction with the use permit at the time of occupancy, that Elm Street be dedicated and that widening be in accordance with the VDH&T Standards, i.e. paved a total width of 44' in the right-of-way of 60' along the frontage and that a sidewalk be constructed at the same time along the frontage on Elm Street. The construction is to take place at the time the County requires the applicant to do so.
9. Bonding is to take place in conformity with County requirements at the time of construction.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 238, May 23, 1978, Scheduled case for

11:05 A.M. - CHARLOTTE T. CORNER (IN CONJUNCTION WITH SUP S-86-78, DR. GEORGE MURNAN FOR ANIMAL HOSPITAL IN EXISTING BLDG.) appl. under Sec. 30-6.6 of the Ord. to permit variance from the dustless surface parking lot requirement to permit gravel parking lot, 6830 Elm St., Ingleside Subd., 30-2((10))(6) 9, (14,850 sq. ft.), Dranesville Dist., C-D, V-99-78.

Mr. Robert Lawrence, Attorney, represented the applicant. As the required notices were not in order, the case was deferred until July 11, 1978 at 12:30 P.M. for proper notices.

//

Page 238, May 23, 1978, Scheduled case for

11:20 A.M. - WESTGATE CHILD CENTER CORP. appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit Day Care Center for 60 children, location: 1219 Swinks Mill Road, 29-2((1))15, (5.297449 ac.), Dranesville Dist., RE-0.5, S-90-78.

Ms. Jean Johnson, Administrative Director and Board Member of the Westgate Child Center Corporation, 6727 Whittier Avenue, McLean, Virginia, presented the justification to the Board.

(SEE VERBATIM TRANSCRIPT FOR TESTIMONY PRESENTED AT HEARING.)

Page 238, May 23, 1978 Board of Zoning Appeals
WESTGATE CHILD CENTER CORP.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. S-90-78 by WESTGATE CHILD CENTER CORP. under Section 30-7.2.6.1.3 of the Fairfax County Zoning Ordinance to permit Day Care Center for 60 children on property located at 1219 Swinks Mill Road, tax map reference 29-2((1))15, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 23, 1978; and

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

1. That the owner of the subject property is the William Watters United Methodist Church and that the applicant is the lessee.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 4.7761 acres.
4. That compliance with the Site Plan Ordinance is required;

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

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

Page 239, May 23, 1978
WESTGATE CHILD CENTER CORP.
(continued)

R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL EPERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 epermitted use.
6. Landscaping and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of students shall be 60 children, ages two (2) through twelve (12).
8. The hours of operation shall be five (5) days a week, 7:30 A.M. to 6 P.M.
9. This permit is granted for a period of one year.

Mr. Barnes seconded the motion for the purposes of discussion.

Mr. Barnes stated that he understood how the people in the area felt but he felt that a church was the best location for a day care center. Mr. Barnes stated that there was a preschool for children located next door to his property. He further stated that he would like to see the permit granted for a longer period of time with an annual review.

Mr. DiGiulian stated that the applicant had gone to a lot of expense and he felt that the permit should be granted for at least three years.

Mr. DiGiulian proposed the following substitute motion:

WHEREAS, Application No. S-90-78 by WESTGATE CHILD CENTER CORP. under Section 30-7.2.6.1.3 of the Fairfax County Zoning Ordinance to permit Day Care Center for 60 children on property located at 1219 Swinks Mill Road, tax map reference 29-2((1))15, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 23, 1978; and

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

1. That the owner of the subject property is the William Watters United Methodist Church and that the applicant is the lessee.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 4.7761 acres.
4. That compliance with the Site Plan Ordinance is required;

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

1. THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is GRANTED with the following limitations:

R E S O L U T I O N

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 (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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax curing the hours of operation of the permitted use.
6. Landscaping and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of students shall be 60 children, ages two (2) through twelve (12).
8. The hours of operation shall be five (5) days a week, 7:30 A.M. to 6 P.M.
9. This permit is granted for a period of three years with annual review.

Mr. Barnes seconded the motion.

The substitute motion passed by a vote of 4 to 1 (Mr. Durrer).

The Board recessed for lunch at 1:00 P.M. and returned at 2:15 P.M. to take up the remaining cases. Mr. DiGiulian left the meeting and did not return.

//

Page 240, May 23, 1978, Scheduled case for

12:00 P.M. - CONTINENTAL TELEPHONE CO. OF VIRGINIA appl. under Sec. 30-7.2.2.1.4 of the Ord. to permit Telephone Terminal Bldg., location: 800' East of intersection of Hooes Rd. (Rt. 636 and Silverbrook Road (Rt. 60) on the south side of Silverbrook Road, 97-4((1))part of 21, (.3908 ac.), Springfield Dist., RE-1, S-70-78. (Planning Commission to hear appl. on May 18, 1978 at 8:15 P.M.).

Mr. John Kennedy, Building Engineer from Continental Telephone Co. of Virginia presented the justification to the Board. Mr. Kennedy stated that this was an application for a special use permit for an unmanned terminal station in an RE-1 zone on Silverbrook Road.

Chairman Smith stated that the required notices were in order. He then inquired as to the size of the building proposed. Mr. Kennedy replied that the building would be 1,003 sq. ft. single floor masonry structure. Chairman Smith then inquired if this was a switching station. Mr. Kennedy replied that it would be a switching station housing telephone equipment. He stated that only minor maintenance would be required of this station. Chairman Smith asked about the screening for this structure. Mr. Kennedy replied that there was a natural buffer there being 100' off of Silverbrook Road. He further stated that there was only a 30' narrow entrance to the station. Chairman Smith inquired if the screening was there at the present time. Mr. Kennedy stated that there were large, heavy trees there at the present time. Mr. Kennedy stated that they would try to save as many trees as possible. He further stated that the only neighbor that might have visibility to the structure would be the neighbor to the east of the property. Mr. Kennedy stated that he did not believe the structure would be seen from the road at all.

Chairman Smith inquired if this switching station would cover the Lorton area. Mr. Kennedy replied that it would include that portion of Lorton between the Occuquan River and South Run on the north and from Hooes Road over to the Potomac River. Mr. Durrer stated that this station would improve the service in the Lorton and Woodbridge area, that it was a badly needed service.

Chairman Smith inquired as to the number of service customers that Continental Telephone Company had in that part of the County. Mr. Kennedy replied that Continental had approximately 700 customers but in the foreseeable future they anticipated about 2,200 customers being served. He stated that the building could handle up to 10,000 service customers.

There was no one to speak in favor of the application nor was there anyone to speak in opposition to this application.

Chairman Smith stated that the Planning Commission had recommended approval of this application.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-70-78, by CONTINENTAL TELEPHONE CO. OF VIRGINIA under Section 30-7.2.2.1.4 of the Fairfax County Zoning Ordinance to permit telephone terminal building on property located at 800' East of intersection of Hooes Rd. and Silverbrook Rd., tax map reference 97-4((1))part of 21, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on May 23, 1978; and

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

1. That the owner of the subject property is Paul M. Duvall, Lois D. Flaherty, Shirley D. Lummis and that the applicant is the contract purchaser.
2. That the present zoning is RE-1.
3. That the area of the lot is .3008 ac.
4. That compliance with the Site Plan Ordinance is required;

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 242, May 23, 1978, Scheduled case for

12:20 P.M. - CHILDREN'S ACHIEVEMENT CENTER appl. under Sec. 30-7.2.6.1.3.2 of the Ord. to permit non-profit school for handicapped children (75), ages 5 - 14; 8 A.M. to 5 P.M., located at 6519 Georgetown Pike in the McLean Church of Christ, 22-3((1))4, (2.3827 ac.), Dranesville Dist., RE-1, S-45-78. (Deferred from April 4, 1978 for proper notices.)

Mr. Robert McIntyre presented the required notices to the Board for certification. The notices were in order.

Mr. McIntyre of 6519 Georgetown Pike in McLean presented the justification to the Board. He stated that this application was a request for a renewal of an existing special permit for a non-profit school for handicapped children. Mr. McIntyre stated that approximately 50% of their students were referred by the Fairfax County Public Schools because the schools were unable to provide an appropriate program for the students.

Chairman Smith inquired as to the length of time the school had been at this location. Mr. McIntyre responded that they had been at this location for five years. When asked about the ages of the children, Mr. McIntyre replied that the ages of the children would be from 5 to 14 and the hours of operation from 8 A.M. to 5 P.M. Mr. McIntyre stated that the children would only be at the school from 9 A.M. until 2:30 P.M.

Mr. Durrer inquired if there was any proposed changes in the hours of operation or attendance requirements. Mr. McIntyre replied that there were no changes proposed in this renewal application.

There was no one to speak in favor of the application nor was there anyone to speak in opposition to the application.

Page 242, May 23, 1978 Board of Zoning Appeals
CHILDREN'S ACHIEVEMENT CENTER

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. S-45-78 by CHILDREN'S ACHIEVEMENT CENTER under Section 30-7.2.6.1.3.2 of the Fairfax County Zoning Ordinance to permit non-profit school for handicapped children on property located at 6519 Georgetown Pike, tax map reference 22-3((1))4, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 23, 1978 and deferred from April 4, 1978; and

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

1. That the owner of the subject property is the McLean Church of Christ and that the applicant is the lessee.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.3837 ac.
4. That compliance with the Site Plan Ordinance is not required;

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

1. THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 tother land.
2. This permit shall expire one year from this date unless construction (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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional

R E S O L U T I O N

uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.

7. The maximum number of children shall be 75, the hours of operation shall be from 8 A.M. to 5 P.M., Monday through Friday.

8. All other requirements of the previous permit No. S-124-73 shall remain in effect; that is: (9) That all buses and other vehicles used for transporting students shall comply with County and State Codes in light and color requirements, etc. and (10) That this permit is granted for a period of two years with the Zoning Administrator being empowered to extend for two one-year periods.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 243, May 23, 1978, Scheduled case for

12:30 P.M. - CURTIS C. NEAL appl. under Sec. 30-6.5 of the Ord. to permit appeal of Zoning Administrator's decision to Sec. 30-2.2.2, Col. 1, uses permitted by right, in denying applicant the right to split firewood on premises, 11600 Lee Highway, 56-2((1))71, Springfield Dist., A-23-78. (Deferred from March 7, 1978 at request of applicant.)

This case was deferred until June 6, 1978 at 11:50 P.M. at request of the applicant.

//

Page 243, May 23, 1978, Scheduled case for

12:45 P.M. - AMERICAN LEGION POST #176, appl. under Sec. 30-7.2.5.1.4 of the Ord. to permit lodge for 200 active members with proposed hours until 1:00 A.M., 6538 Backlick Road, 90-2((1))5, (3.74 ac.), Springfield Dist., RE-1, S-28-78.

Mr. T. William Dowdy, Attorney, represented the applicant. The office address was 6901 Old Keene Mill Road, Springfield, Virginia.

Chairman Smith inquired of Mr. Dowdy if he would prefer a further deferral of the case in view of the fact that there were only four Board members present. The Board proceeded to hear the case.

Chairman Smith inquired of Mr. Dowdy of the question on the 15' of land that was included in this application that was in controversy. Mr. Dowdy replied that the controversy went back to the Byrd Act in 1929. He stated that there had been no litigation to determine the deed. He stated that this matter was an engineer's dispute and that both sides had retained engineers to try and resolve the matter out of court. Chairman Smith inquired if they were close to resolving the problem. Mr. Dowdy replied that the controversy had been going on for fifteen years and that it did not appear that it could be resolved anytime soon.

Mr. Durrer stated that as long as this issue was left hanging he did not feel he could vote on the application. Mr. Durrer suggested that a third engineer be considered to study the issue. Mr. Covington stated that the Board did not have the authority to engage an engineer. Mr. Covington stated that this was a matter to be decided by the Courts.

Chairman Smith distributed a letter regarding the extension of Amherst Avenue. He stated that the American Legion had suggested that the Board grant the application with a proviso that construction not be started before 1981 and that the Board have an opportunity to review the Site Plan prior to submission

Mr. Dowdy stated that this agreement dealt with the construction of phase no. 2. He stated that phase no. 1 was basically the storage space. Mr. Dowdy read the three conditions outlined in the letter dated March 17, 1978 from Royce A. Spence to Dwane Hailing. The agreement outlined was that the American Legion would not go forward with their plan to rebuild if the following three conditions were met in 1980: (1) The extension of Amhurst Avenue was still reflected in the adopted Master Plan of Fairfax County. (2) That the money now earmarked in the six year plan to be spent in 1980 was still in the budget and was being spent. (3) That additional money has been allocated in the six year plan for the years 1985 and 1986.

Mr. Dowdy stated that Mr. Symanski of the County Attorney's Office had cleared these conditions through the County Attorney's Office and they had agreed as far as the conditions set forth.

Chairman Smith suggested that if the Board grants this application with these three conditions that prior to submission for Site Plan approval that the American Legion present the Site Plan to the Board for review. Chairman Smith stated that this way it would not delay it when it was reviewed by the Site Plan Office for interpretation.

Mr. Durrer stated that they were requesting approval for construction of the shed at this time. Mr. Dowdy stated that this was only a portable shed and was the only construction considered at this time. The size of the shed as stated by Mr. Dowdy was 14' high masonry addition, 14' wide and 48' long. In response to Mr. Durrer's question, Mr. Dowdy replied that the construction would not take place in any disputed area. Chairman Smith stated it would not be constructed in the proposed roadway either.

The Board decided to defer the decision on this matter until Mr. DiGiulian was present. Chairman Smith stated that the Board would try to render the decision at the June 6th meeting.

//

Page 244, May 23, 1978, After Agenda Items

The Board was in receipt of a Writ of Certiorari for the Commercial Credit Development Corporation. Chairman Smith inquired of Mr. Covington if Mr. Knowlton had responded to Mr. Church's request point by point. To the knowledge of Mr. Covington, there had been no response from Mr. Knowlton.

//

Page 244, May 23, 1978, After Agenda Items

Staff report on the screening for the Pinecrest Swim & Tennis Club was distributed to the Board.

//

Page 244, May 23, 1978, Scheduled case for

12:30 P.M. - CURTIS C. NEAL appl. under Sec. 30-6.5 of the Ord. to permit appeal of Zoning Administrator's decision to Sec. 30-2.2.2, Col. 1, uses permitted by right, in denying applicant the right to split firewood on premises, 11600 Lee Highway, 656-2((1))71, Springfield Dist., A-23-78. (Deferred from March 7, 1978 at request of applicant.)

The attorney requested a further deferral on this matter. The Board granted a further deferral until June 6, 1978.

//

Page 244, May 23, 1978, After Agenda Items

The Tuckahoe Recreation Club submitted a letter to the Board requesting an out-of-turn hearing for the application to construct three additional tennis courts. The reason given for the request was the time element involved with the owner of the property. The normal scheduling date was set for July 18, 1978. It was the consensus ofthe Board that the normal scheduling date remain for the Tuckahoe Recreation Club.

//

Page 245, May 23, 1978, After Agenda Items

The Board was in receipt of a letter from the Mansion House Yacht Club regarding a request for an extension for its use permit due to construction problems. It was the consensus of the Board to grant a six month extension.

//

The Board adjourned at 3:05 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the BZA on OCTOBER 25, 78
Submitted to the other departments, Board of Supervisors and Planning Commission on OCTOBER 25, 80.

APPROVED: OCTOBER 31, 1978
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 6, 1978. The following Board members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes and John Yaremchuk. John DiGiulian was absent due to illness.

The Chairman called the meeting to order at 10:10 A.M. Mr. Barnes opened the meeting with a prayer.

10:00 A.M. - BERNEY THOMPSON appl. under Sec. 30-6.6 of the Ord. to permit enclosure of existing carport 7.97' from prop. line, (12' required), located 4807 Wilby Ct., 82-3((3))(A)4, (14,508 sq. ft.), Fairfax Homes Subd., R-12.5, Lee Dist., V-87-78.

The required notices were in order and in the file. Mr. Berney Thompson presented his justification to the Board.

Mr. Thompson stated that this was an application to permit enclosure of an existing carport into a garage which would not meet the required setback for the zone. The structure would be 7.97' from the side property line. The Code requires a setback of 12' for the zone; therefore, a variance of 4.03' was requested in order to enclose the carport. The total length of the carport was 29.5'. Mr. Thompson stated that there was approximately 26' between the closest part of the carport and the house on Lot 3 due to the different angles of the property lines.

Mr. Durrer inquired if Mr. Thompson was going to enclose both the shed and the carport. Mr. Thompson stated he was only going to enclose the carport as the shed was already enclosed. Mr. Durrer asked if the roof was going to be raised as was stated on the plat. Mr. Thompson stated that the note on the plat referred to the existing height of the carport.

Mr. Smith inquired as to how long the applicant had owned the property. The response from Mr. Thompson was that he had owned the property for approximately ten years and that he planned to continue to live there.

Mr. Barnes inquired as to the type of materials to be used in the construction of the garage. Mr. Thompson stated that the garage would blend in with the materials used in the house.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application V-87-78 by BERNEY THOMPSON under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit enclosure of existing carport 7.97' from property line, on property located at 4807 Wilby Court, tax map reference 82-3((3))(A)4, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 6, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 14,508 sq. ft.
4. The Board finds that the applicant's property is exceptionally irregular in shape, including narrow or shallow;

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

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

R E S O L U T I O N

1. This approval is granted for the location and the specific structure(s) 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 247, June 6, 1978, Scheduled case for

10:10 A.M. - ERIC SELINE appl. under Sec. 30-6.6 of the Ord. to permit cont. of garage addition 10.4' from side prop. line, (20' required), 6733 Benjamin St., 21-4((6))31A, Langley Forest Subd., Dranesville Dist., RE-1, V-91-78. (40,037 sq. ft.)

The required notices were in order and in the file. Mr. Seline of the above address presented the justification to the Board. The shape of the lot was irregular in that it is long and narrow. The Code required a 20' setback from the side property line. Mr. Seline stated that the concrete had already been poured for the slab for the garage approximately one year ago. He stated the slab was about 10.6' from the side property line. Mr. Seline stated that he felt that in order to have a garage to match the style of house he would need a variance.

Chairman Smith inquired as to the dimensions of the proposed garage. The dimensions were given as 21' x 20'. Mr. Seline stated that the dimensions were not shown on the plat. He stated that he had observed other houses in the neighborhood all of the Colonial houses had two car garages of a similar nature as what he had in mind to construct. Chairman Smith inquired if all the homes had two car garages. Mr. Seline stated that all the Colonials had two car garages but that there were other homes of other designs that only had a single car garage. Mr. Seline indicated an example would be the Rambler style.

Mr. Barnes informed Chairman Smith that the dimensions were given on the side of the plat as 27' x 21.4'.

Mr. Seline stated that he had looked over the property very carefully in order to determine if he could locate the garage somewhere else on the property in order to avoid asking for a variance. He stated that behind the house that there was approximately twenty-five trees that would have to be removed and it would block the access to the filler pipe for the fuel oil. He stated that it could be done but it would require the loss of the trees. He further stated that construction there would block the view of the neighbors. He informed the Board that he had approached the neighbors who had stated that they would prefer construction on the end of the house so as not to block the view. To locate the garage in the front of the house would also be a problem because of the setback requirements and also because of the septic field. He stated that the size and shape of the lot would not allow a garage anywhere else.

Mr. Durrer inquired of Mr. Seline if he could get by with any less than what he was proposing to construct. Mr. Seline stated that he could possibly cut it down a couple of feet. Mr. Durrer inquired if there was a chimney or a stairwell located on that side of the house. Mr. Seline stated that there was not. Mr. Durrer informed Mr. Seline that the Board only dealt with minimal variances. Mr. Seline stated he could possibly set the garage back another 3'. Mr. Durrer stated that he could go along with 20' if it suited the applicant.

Chairman Smith was also concerned about only granting minimum relief for the applicant. He stated that a double garage did not need to be 20' and stated that he would be in favor of reducing the garage at least 3' as indicated by the applicant. Mr. Durrer stated that if the applicant wanted the garage that he felt the Board should give him all it could. Mr. Seline stated that this was an expensive neighborhood and that the houses should have a garage. Chairman Smith stated that cost and the neighborhood had no factor when it came to zoning regulations.

In response to Mr. Barnes, Mr. Seline stated that the garage addition would be constructed with the same materials as the house in order to blend in with the existing material.

There was no one to speak in favor of the application. The following person spoke in opposition to the application. Mrs. Ann Bradley of 6801 Benjamin Street in McLean spoke in opposition as her property was situated on the side where the garage was to be constructed. She stated that the Selines are ideal neighbors. Mrs. Bradley informed the Board that Mr. Seline had spoken to them earlier regarding the construction of the garage. She stated that they had informed Mr. Seline that they preferred that he didn't build any garage but that he was going to construct one that it be constructed on the end of the house or in the back. Mrs. Bradley stated that they were concerned about the granting of this variance for several reasons. She stated that one of the reasons people had bought in this subdivision was because of the land around the houses. She stated that it was true for the Selines as well as other lots in the area that the lots were quite narrow but very deep. She further stated that it was probably because of this narrowness that her house had been constructed with only a one car garage instead of a double garage. Mrs. Bradley stated that it was probably the reason why the Selines' house had been constructed with a contained garage.

Chairman Smith inquired as to the statement regarding the garage. Mrs. Bradley stated that there was a garage within the structure of the house that the Selines had converted for other purposes. Mrs. Bradley stated that the proposed two car garage would be very visible from her property. She further stated that the ground sloped down from the Seline house to hers so that the garage wall being 10' from her fence would appear higher and be even more obvious. Mrs. Bradley stated that the Code requirement was reasonable and should be upheld.

Mr. Durrer inquired if Mrs. Bradley had a garage in her house. Mrs. Bradley replied that she had a single car garage built at the end of her house which had been constructed at the time the house was built.

Chairman Smith inquired if Mrs. Bradley's lot was also 125' width. She stated that the lot was very narrow and very deep which was one of the reasons the builder did not build a two car garage because he would have had to request a variance.

Mr. Durrer inquired of the applicant if he had a garage at all at the present time. Mr. Seline stated that he did not as he had converted it about a year and a half ago. He stated that the house did not have a basement so he had converted the garage for storage. He stated that there was no possible way to use it for a garage at the present time. Mr. Durrer asked if the proposed garage would be attached to the house. Mr. Seline replied that it would. He further stated that it would take away from the height of the house on that side in that it would be 13' high. He stated that it would not be visible to the Bradleys as it was on the garage side of their house and that there were no bedroom windows on that side of the house. He stated that the view would not really be hurt.

There was no anyone else to speak in opposition to the application.

Page 248, June 6, 1978 Board of Zoning Appeals
ERIC SELINE

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application V-91-78 by ERIC SELINE under Section 30-6.6 of the * Fairfax County Zoning Ordinance to permit construction of garage addition 10.4' from side property line on property located at 6733 Benjamin Street, tax map reference 21-4((6))31A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 6, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. The area of the lot is 40,037 sq. ft.
3. The present zoning is RE-1.
4. The Board finds that the applicant's property is exceptionally irregular in shape, including narrow and shallow.

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

249

R E S O L U T I O N

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject is GRANTED IN PART*(width of garage to be 20'/instead of 21.4') with the following limitations:
maximum

1. This approval is granted for the location and the specific structures(s) 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Chairman Smith) with Mr. DiGiulian being absent.

Page 249, June 6, 1978, Scheduled case for

10:20 A.M. - ALBERT L. JARRETT appl. under Sec. 30-6.6 of the Ord. to permit 2 car garage with screened porch above 1.0' from side property line (20' required, 19' variance requested), 3700 Highland Place, 46-4((2))43A, Fairfax Farms Subd., (1.2014 Ac.), Centreville Dist., RE-1, V-93-78.

The required notices were in order and in the file.

Mr. Albert Jarrett of the above address presented the justification to the Board. He stated that the house was situated oddly on the property. He stated that the driveway comes into the left side of the house. Mr. Jarrett stated that the other options he had looked into were not feasible. They were to build to the front of the house on the right side which would take away the quality of the building and the appearance of the structure. It would not meet the 50' requirement for the front setback either. There was an easement to the right of the property for water flow and would be a lot of trouble to divert. Mr. Jarrett stated that because of the water flow, there was a lot of vegetation in this area that would have to be removed. If he were to construct the garage to the rear of the house, he would have to bridge the flow of the water in the easement and take out a lot of trees. In addition, the majority of the structure would be sitting on top of the septic fields. It was Mr. Jarrett's feeling that the only logical place to construct the garage would be where he had proposed on the plats submitted.

Chairman Smith inquired as to why he did not locate the garage over across the easement as Mr. Jarrett owned a lot of land. Mr. Jarrett stated that the original owner of the property had approximately 4½ acres and he subdivided the property which put another easement for ingress and egress for a road to the dwelling behind Mr. Jarrett's property. Mr. Jarrett stated that he did own about 50' on the other side of the easement but that would place the garage about 40' from his house. Chairman Smith inquired as to why he did not locate the garage between the easement and the ringress easement. Mr. Jarrett responded that that area was all vegetation and trees. He stated that he would have to move the trees and that it would put the garage too close to the storm drainage.

Mr. Barnes inquired if water actually ran in the storm drainage ditch or whether it was just an easement. Mr. Jarrett replied that there was culvert under the County road and that the water does run down through there. He further stated that on that side there was a buried oil tank, the air conditioning system and the electrical system which would all have to be removed in order to build there. Mr. Yaremchuk inquired if the easement could be relocated to which Mr. Jarrett stated that he did not know. He stated that he had been told by the County at the time he applied for a building permit that he could not divert the flow of the water. Mr. Yaremchuk informed Mr. Harrett that as long as he discharged the water at the same location on the property that he could change the flow anywhere on his own property.

Mr. Barnes inquired if there originally was a two car garage underneath the house. Mr. Jarrett replied that there was not but that there was a house across the street that had a two car garage.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Mr. Yaremchuk stated that he had a problem with this application because the applicant had such a large lot with plenty of room on the other side. Mr. Durrer inquired if the applicant would be willing to settle for a one car garage. Mr. Jarrett stated that it would not do anything for the property. He stated that he had two cars and a truck. Mr. Durrer stated that he thought the applicant might be just asking for a little too much and thought that he might be willing to get by with a one car garage. Mr. Jarrett stated that because of the cost involved he would rather not build a garage if he had to be limited to a one car garage. He stated that he had talked with all of his neighbors and the adjoining neighbor has no problem with the application.

Mr. Yaremchuk stated that if the applicant did not have such a wide lot or if he had had topographic problems then he would have felt better about the application. Mr. Yaremchuk suggested that Mr. Jarrett talk to Preliminary Engineering and the Department of Design Review to try and relocate the easement. He stated that if Mr. Jarrett could build on the other side then he would not need the variance. Mr. Jarrett again stated that the County was not going to move the easement and tear up the County road.

Page 250, June 6, 1978 Board of Zoning Appeals
ALBERT L. JARRETT

R E S O L U T I O N

IN APPLICATION NO. V-93-78 by ALBERT L. JARRETT under Section 30-6.6 of the Zoning Ordinance to permit a two car garage with screened porch 1.0' from side property line (20' required) on property located at 3700 Highland Place, tax map 46-4((2))43A, County of Fairfax, Virginia, 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 6, 1978; and

WHEREAS, the Board has made the following findings of fact:
1. That the owner of the property is the applicant.
2. The present zoning is RE-1.
3. The area of the lot is 1.2014 acres.
4. That the

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

THAT the applicant <u>has not</u> satisfied the Board that physical conditions as listed above 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 is DENIED.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 250, June 6, 1978, Scheduled case for

10:40 A.M. - ENGLESIDE LIONS CLUB appl. under Sec. 30-7.2.6.1.4 of the Ord. to permit Bingo games - auditorium, located 7858 Richmond Highway, 101-2((6))507B, (2,450 sq. ft.), Hybla Twin Cinema Center/Evergreen Farms, Lee Dist., C-D, S-88-78.

The required notices were in order and in the file.

Mr. Joseph McGrail, an attorney whose office address was 632 N. Washington Street, Alexandria, Virginia, was a member of the Engleside Lions Club and presented the justification to the Board.

Page 251, June 6, 1978
ENGLESIDE LIONS CLUB
(continued)

Chairman Smith inquired if the required financial data to establish the non-profit organization had been submitted to the County. Mr. McGrail stated that the data had been submitted around April 4th. Chairman Smith stated that he was of the opinion that the data was to be submitted on January 1st. He was informed by Mr. McGrail that the date had been extended. Chairman Smith stated that the use had been extended but that the financial data, he had not been aware of the extension for that submission. Mr. Covington stated that to his knowledge the time had not been extended. Mr. Paul Morrison of the financial committee for the Engleside Lions Club informed the Board that the financial data had been submitted to the County around the first part of April. Chairman Smith inquired if there had been any response from the County auditors on the data. Mr. Morrison stated that they had had no response. Mr. Covington stated that to his knowledge the audit had not been completed. Chairman Smith inquired of Mr. McGrail and Mr. Morrison if they had been asked to submit any additional information. Mr. Morrison stated that the County had a form which indicates all of the items necessary for a renewal of a license. He further stated that part of the form called for financial data. He stated that when the submission was extended that they were under the impression that the entire situation was extended because of the added requirements this year in defining the financial situation.

Chairman Smith stated that the Board would proceed with the public hearing on the application and that the Board would contact the County Auditor to determine the status of the financial data before making a decision on the application. He stated that the Board would like to have a report from the Auditor in the file.

Mr. McGrail informed the Board that he had been asked by Mr. Covington to bring another statement of income to the hearing and he presented this statement to Chairman Smith. Mr. McGrail stated that this statement was the same as the one submitted to the County Auditor.

Chairman Smith inquired as the length of time the Engleside Lions Club had been holding meetings at this location. Mr. McGrail stated they had been holding meetings at this location since February of 1977. He further stated that they had moved to this location and that prior to February 1977, they had been meeting at the Diplomat Restaurant on Rt. 1. He stated that they conducted their meetings there from November 1974. It was in December of 1975 that they started Bingo at the Diplomat Restaurant. The Diplomat Restaurant was burned down in February 1977 and it was at that time that they moved to the current location. Chairman Smith inquired as to how far the Diplomat Restaurant was from the present location. Mr. McGrail stated that it was about a mile away.

Chairman Smith stated that the Engleside Lions Club had been in existence for a number of years. Mr. McGrail stated that they had been in existence since November 1974. He stated that it was formed as a new club by a number of members from old clubs that had been located in the area for about fifteen years. A number of members of the Mt. Vernon Club and the Edgewater Club had met at the Diplomat Restaurant for a number of years prior to November 1974 when the Engleside Lions Club was started.

Mr. Durrer stated that he had read the papers submitted with the application and it indicated that Bingo was played on Sunday evenings only. Mr. McGrail stated that was correct and that Bingo was played between the hours of 6 P.M. and 11 P.M. Mr. Durrer inquired if the members and thier wives operated the game. Mr. McGrail stated that Bingo was operated completely by the members and their wives and that no outsiders participated in the game. Mr. Durrer inquired about the arrangements with the owners of the Cinema regarding the payment of rent. Mr. McGrail stated that they have a monthly rent. Chairman Smith stated that according to the documents submitted with the financial statement that there was a monthly lease for $714.58 a month signed by Joseph & Rose Miller who apparently were the owners of the shopping center. Mr. Durrer asked if the $750 was for the four Sunday evenings a month. Mr. McGrail stated that the $750 was for the entire month. He stated that they used the cinemas as their meeting hall also. He stated that the meeting hall was also available for other organizations in the community and has been used by the Jaycees, the Lionettes and other various organizations. Mr. Durrer inquired if the $750 covered the custodian fees, the lights, the heat, etc. Mr. McGrail stated that they do all their own cleaning and that the $750 does not cover the utilities. The utilities are in addition to the rental.

Mr. Durrer next inquired as to where the club bought their equipment for the Bingo games. Mr. McGrail stated that he believed they bought the equipment from an outfit in Baltimore called "Bingo King". Mr. Morrison corrected Mr. McGrail by stating that the equipment was purchased from a firm called Blackman in Hyattsville and Bingo King in Chicago. Mr. Durrer inquired if the equipment was purchased directly from them with no middleman. Mr. McGrail stated that there was no middleman involved whatsoever. Mr. Durrer asked how the equipment was delivered. He was informed that the equipment arrived by UPS. Mr. Durrer inquired if the orders were placed by telephone. Mr. McGrail replied they did order by telephone.

Mr. Durrer informed the Chairman that he would like to see the audit report before making a decision on this application. Chairman Smith stated that he would like that report prior to the decision because he did not believe that the Board should get into the financial status or operation of the club. He stated that this was the function of the auditors.

Chairman Smith inquired if the Jaycees paid the Lions Club for using the facility. Mr. McGrail said that the Jaycees paid $25 for the use for an evening meeting. When asked if they participated in the Bingo operations, Mr. McGrail stated that the Jaycees did not participate in the games.

Mr. Barnes inquired as to how the jackpot worked if there was one. He was informed by Mr. McGrail that there was a jackpot. He stated that there were two jackpots, a major jackpot which runs from $500 up to $750 by the time it is won, and then there was a junior jackpot which stays at $500. Mr. McGrail stated that a certain portion of monies was put aside each week towards paying the jackpots when they are won. Mr. Barnes inquired as to how long the $750 jackpot ran. Mr. McGrail stated that it runs about twelve weeks before someone wins it. He further stated that it is raised $10 a week. Chairman Smith asked if the $750 was a maximum. Mr. McGrail stated that the $750 was only an average payoff. He stated that he believed the top amount won by anyone was $780.

Mr. Morrison informed the Board that the jackpot games were designed to raise the numbers. He stated that they start the numbers at fifty. He stated that the junior jackpot pays a $500 prize but that they raise the numbers every week on the game. He stated that the average jackpot game would fifty-eight numbers so that they would pay that out about every eight weeks. Sometimes it would go to sixty numbers but the average was fifty-eight numbers when the junior jackpot was won. On the major jackpot, Mr. Morrison stated that they raised the prize $10 a week but they left the numbers the same and raised them each month. He stated that it could take six to eight months this way for the game to win. He did state they had been hit on a freak night on forty-seven numbers. Chairman Smith inquired if the prize ever went as high as $6,000 to $7,000. Mr. Morrison stated that the prize seldom ever went over $750. He stated that the highest jackpot ever paid which violated all of the national statistics was $800 and it went to sixty-two numbers.

Chairman Smith asked Mr. Morrison to state his address for the record. He replied that he lived at 3909 Laurel Road in Woodley Hills Subdivision of Fairfax County. When asked about role he had with the Lions Club, Mr. Morrison stated that he was a member and Past Chairman of the Bingo Operation and that he had been involved with the Lions Club for fifteen years.

Chairman Smith inquired as to the charities that money from the Bingo operations would be donated to. Mr. Morrison stated that the Lions Club was involved in a lot of charitable operations. He stated that they send money to the Old Dominion Eye Bank in Richmond and that they support the Lions of Virginia State Disaster Fund and the Lions International Disaster Fund. He further informed the Board that they participated in Youth Exchanges, community activities, and that they buy eye glasses and work with several eye doctors in the area. In addition, the Lions Club collects and distributes used hearing aids with the Helen Keller Fund for the Deaf.

As far as the checks and balances of the system, Mr. Morrison informed the Board that the Lions Club change officers every year. Chairman Smith inquired as to the maximum number of people to ever attend a bingo game or the maximum number allowed by the Fire Department. Mr. Morrison stated that they did not have a rating from the Fire Marshal's Office. He informed Chairman Smith that the maximum number of people who ever played in the facility was 140 people but that had been prior to the commercial competition that opened on the highway.

Chairman Smith inquired of Mr. Covington if he had any idea when the Board would receive a report from the County Auditor. Mr. Covington stated that he had talked with Mr. Knowlton and his response was that the Zoning Office did not have any controls over the County Auditor. Mr. Covington stated that the audit report should not have any effect on the Board's decision as it relates to land use.

There was no one to speak in favor of the application and there was no one to speak in opposition.

It was the consensus of the Board that the decision on this application be deferred until receipt of the Audit Report.

Mr. Morrison inquired of the Board if the Lions Club could continue the operation until the final decision. The Board stated that they did not have a problem with that.

//

Page 253, June 6, 1978, Scheduled case for

11:00 A.M. - MESSIAH LUTHERAN CHURCH appl. under Sec. 30-7.2.6.1.10 of the Ord. to permit const. of additional parking lot on a 10,000 sq. ft. separate parcel of land adjacent to existing church, 6511 Bluebill La., 93-1((25))(1)1, 2, 3, 4 & 11, Belle Haven Estates Subd., (55,837 sq. ft.), Mt. Vernon Dist., R-10, S-92-78.

As the required notices were not in order, the Board deferred the case until July 5, 1978 at 12:45 P.M.

//

Page 253, June 6, 1978, Scheduled case for

11:20 A.M. - AMERICAN TELEPHONE & TELEGRAPH COMPANY OF VA. appl. under Sec. 30-6.6 of the Zoning Ord. to permit variance to Sec. 30-3.10.9 to modify requirements as to location of required amount of parking for the handicapped (244' requested, 60' required), 3051 Chain Bridge Road, Oakton, 47-2((1))58 and 47-4((1))17, (34.38 ac.), Providence Dist., I-P, V-94-78.

Mr. Richard Hobson, Attorney with the firm of Boothe, Pritchard & Dudley, represented the applicant.

Mr. Hobson stated that the application was to determine the location for 22 parking spaces for the handicapped persons as required by a recent Zoning Amendment #315 adopted on September 1977 by the Board of Supervisors. Mr. Hobson stated that the property was owned by the applicant. Mr. Hobson stated that a proposed amendment to the Master Plan was submitted to the Board of Supervisors and Planning Commission and adopted by the Planning Commission on July 18, 1977 providing the amended plan to permit a use of a campus type office facility. The rezoning was filed on June 23, 1977 for the AT & T facility. The development plan was submitted and approved along with certain proffers and was adopted by the Board of Supervisors on December 5, 1977.

Mr. Hobson submitted plats to the Board showing the proposed location of the handicapped parking spaces. He stated that the proposed development plan showed future expansion which was part of the proffers adopted by the Board of Supervisors. The parking was shown on the plan but it did not show the parking to be 60' from the door. Mr. Hobson stated that there were spaces 60' from the building. Mr. Hobson stated that their development plan was adopted by the Board of Supervisors after the adoption of the amendment.

Chairman Smith inquired of Mr. Covington that since the Board of Supervisors approved the plan, he questioned why AT & T was before the Board of Zoning Appeals. Mr. Covington stated that the Board of Zoning Appeals could hear the application because AT & T needed a variance to the setback. He stated that it was the opinion of the Zoning Administrator that the Board of Supervisors endorsed the plan and not the Ordinance.

Mr. Hobson stated that at the time of application, no one was aware of the application requirement. He stated that they designed the campus design as was called for in the Master Plan. He stated that the staff was not aware of the applicability of the amendment until they were in the final stages of the Site Plan. Mr. Hobson stated that the applicant had the grading permit and expected to begin the grading at anytime. He stated that the applicant was

under a program to move the employees from Washington into the new facility by January 1980. He stated that the applicant was under a tight building and design schedule.

Mr. Hobson proposed that the applicant put the required spaces in the plan as they were there in order to comply with the Ordinance. He stated that the only problem was that the applicant would need a variance because they were not located 60' from the door.

Mr. Yaremchuk inquired as to the distance from the door that the proposed spaces would be. Mr. Hobson replied that as shown on the plat in the front, the maximum variance required would be 73' and 210' in the rear. Mr. Hobson informed the Board that the Board of Supervisors required them to provide for future expansion of the building. He stated that the future expansion would take place in the back of the building.

Mr. Hobson stated that the Ordinance did not say you had to locate the parking 60' from the door, it stated that the parking had to be 60' from the entrance or the use. Chairman Smith stated that this was a situation where there was a conflict in the Ordinance. He stated that it could be alleviated through a variance and that possibly it could be alleviated in the future expansion but that the applicant had no way of meeting the requirement at this time. Mr. Hobson stated that there were two doors to be used for employees and visitors to the building. He stated that if they clustered the handicapped parking around those two doors that it would obstruct both doors.

In summary, Mr. Hobson submitted a copy of the development plan and the proffers adopted by hthe Board of Supervisors for the record. He stated that the property was irregularly shaped and that the request for a variance was reasonable. He further stated that in the case where the Board of Supervisors has approved the development plan that the variance be granted to permit the location of the parking spaces in the area shown on the enclosed plat.

There was no one to speak in favor and no one to speak in opposition to the application.

Page 254, June 6, 1978 Board of Zoning Appeals

R E S O L U T I O N

IN APPLICATION NO. V-94-78 by AMERICAN TELEPHONE & TELEGRAPH COMPANY OF VA. under Section 30-6.6 of the Zoning Ordinance to permit variance to Sec. 30-3.10.9 to modify requirements as to location of required parking (244' requested, 60' required), on property located at 3501 Chain Bridge Road, Oakton, Virginia, tax map 47-2((1))58 & 47-4((1))17, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 6, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is I-P.
3. The area of the lot is 51.607 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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.

R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure(s) 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 - 0 (Mr. DiGiulian being absent).

Page 255, June 6, 1978, Scheduled case for

11:30 A.M. - TEMPLE BAPTIST CHURCH & ROBERT & EMMA WILSON appl. under Sec. 30-6.6 of the Ord. to permit variance to dustless surface requirement to allow gravel parking lot in conjunction with Church, located 1545 Dranesville Road, 10-2((1))7, (6.546 ac.), Dranesville Dist., R-12.5, V-89-78.

Mr. David J. Barton of 502 N. Alder Avenue of Sterling, Virginia represented the applicant.

Mr. Barton stated that on April 18, 1978, the Board of Zoning Appeals granted the church a special use permit. He stated that the church had a contract with the owners of the proposed property. He submitted a copy of the contract for the record.

Mr. Barton stated that the church wanted to retain the character of the rural area which is why they applied for a variance to the dustless surface requirement. He stated that they would have gravel & heavy grass. He stated that the major property owner surrounding the property in question was the Herndon High School. He stated that the gravel would prevent erosion on the property and the area around it. Mr. Barton stated that this variance would not adversely affect any of the surrounding properties.

Chairman Smith inquired if the church planned to pave the parking area within a year or two. Mr. Barton replied that he was not familiar with the Ordinance and the request was for a permanent variance. Chairman Smith stated that the Board could waive the requirement for approximately two years. Mr. Barton stated that they would prefer to have the waiver for several years because of the financial aspect. Chairman Smith inquired of Mr. Knowlton as to the time limit for temporary waivers. Mr. Knowlton stated that a temporary request was only good for two years according to the Code.

Mr. Barton stated that the comments from Preliminary Engineering were that they had no objection to the request as long as the church paved in 25' from the right-of-way before occupancy of the building. Mr. Barton stated that the church would prefer a permanent waiver. Chairman Smith questioned whether the Board had the authority to grant a temporary waiver. Mr. Knowlton stated that the application did not request a temporary waiver at all. He stated that the application was only requesting the use. However, Mr. Knowlton stated that it was not uncommon for the Board of Zoning Appeals to place conditions on an application and that one of those conditions could be a time limit. Mr. Knowlton stated that the only place in the Ordinance that mentions a temporary use is in the Site Plan Ordinance which states that temporary uses shall not exceed two years.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application.

Mr. & Mrs. Coomber appeared before the Board. They stated that they were the largest property owners in the area nearest to the property in question. They were concerned with the drainage from Herndon High School which comes onto to their property after washing over the church's property. They were concerned that the gravel would wash down onto their property and asked that the gravel be given a two-shot treatment to prevent this. They stated that if this was done that they would have no objection to the church's request.

256

Mr. Barton stated that the church would be in favor of any procedure that would be less expensive. He stated that the Site Plan submitted showed the gravel parking lot on the south end of the subject property and would not affect the property belonging to the Dummers.

There was no one else to speak in opposition to the application.

Board of Zoning Appeals

R E S O L U T I O N

IN APPLICATION NO. V-89-78 by TEMPLE BAPTIST CHURCH under Section 30-6.6 of the Zoning Ordinance to permit dustless surface on parking lot on property located at 1545 Dranesville Road, tax map 10-2((1))7, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 6, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 6.546 acres.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 reasonsable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure(s) 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 expiration.

3. Applicant is to pave 25' of the entrance.

4. This variance is granted for a period of five years effective June 6, 1 1978.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 257, June 6, 1978, Scheduled case for

11:50 A.M. - CURTIS C. NEAL appl. under Sec. 30-6.5 of the Ord. to permit appeal of Zoning Administrator's decision to Sect. 30-2.2.2, Col. 1, uses permitted by right, in denying applicant the right to split firewood on premises, 11600 Lee Highway, 56-2((1))71, Springfield Dist., A-23-78.

Mr. John Burns, 11800 Sunrise Valley Drive, Reston, represented the applicant.

The Zoning Administrator, Mr. Knowlton, stated that Section 30-2.2.1 states that no building shall hereafter be erected, no existing building shall be moved, added to or enlarged, nor shall anyland or building be used, designed or arranged to be used for any purpose other than is included among the uses listed in the following schedule of regulations." Mr. Knowlton stated that the subject property was zoned C-G and that examination of the uses permitted does not include such a use as a woodyard. He stated that it has been interpreted that under Item 23, Retail Sales, Garden Materials, Supplies, Hardware, Building Materials,& Supplies, that woodyards for the sale of wood can be had in this district but that the processing and cutting would not be allowed in this district.

Mr. Durrer stated that he would assume from the Zoning Administrator's statement that Mr. Neal was cutting and splitting wood on the property and that was what the problem was about. Mr. Knowlton stated that was correct. He stated that there wasn't any problem with selling the wood from the property but with the splitting & cutting of the wood to be sold.

Chairman Smith asked the attorney, Mr. Burns,,if the applicant was cutting wood on the property. Mr. Burns stated that the applicant was cutting the wood on the property with portable equipment as there are not any improvements on the property with the exception of a wire to keep people from driving on the property. Mr. Burns stated that wood is brought onto the property already cut and that the applicant uses a portable saw to cut the wood in smaller pieces. He stated that it is then sold from the site. Mr. Burns argued that this was not a processing procedure as described by Mr. Knowlton. He stated that processing was when you end up with a different product at the end that than with what you started with. Mr. Burns stated that it is breaking bulk and coming up with the same item that you started with but only in smaller quantity. Mr. Burns stated that establishments such as Hechinger's take large pallets of wood and break them down for selling. He used gas companies as another example where they receive hugh shipments of a product and then distribute the product in smaller quantities.

Chairman Smith stated that there wasn't any problem with Mr. Neal selling the wood. He stated that he could store the wood & sell it in any quantity he desired but he stated that he didn't have the right to saw up a log in smaller pieces. Chairman Smith stated that he agreed that this particular location would have little impact but that it wasn't the impact they were considering. The Ordinance does not permit this particular use in a C-G zone.

There was no one to speak in favor of the application and no one to speak in opposition.

Mr. Durrer moved that the interpretation of the Zoning Administrator be upheld. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

//

Page 257, June 6, 1978, Scheduled case for

12:10 P.M. - AMERICAN LEGION POST #176, appl. under Sec. 30-7.2.5.1.4 of the Ord. to permit lodge for 200 active members with proposed hours until 1:00 A.M., 6538 Backlick Road, 90-2((1))5, (3.74 ac.), Springfield Dist., RE-1, S-28-78.

The hearing was held on May 23, 1978 and was deferred for decision only. As Mr. DiGiulian was not present for the meeting, the decision was deferred until June 13, 1978 at 11:45 A.M. for a full Board.

//

Page 257, June 6, 1978, After Agenda Items

The Board directed the Clerk to prepare a response to Mr. Gene Souter regarding the screening requirements for Pinecrest Swim & Tennis Club, Inc., S-99-76. It was suggested that the report from Preliminary Engineering be forwarded to Mr. Souter.

//

The Board was in receipt of a letter from J. E. Ash, Zoning Inspector, regarding violation of Special Use Permit for Don's Texaco, 8315 Old Keene Mill Road Springfield, Virginia. The Board requested Mr. Covington to alleviate the problem and if there was still any problems, to bring it to the attention of the Board.

//

The Board was in receipt of a letter from Mr. Frederick E. Webb, Chairman of the Mason District Council of Civic Associations for Fairfax County regarding an appeal of the Zoning Administrator's interpretation of the definition of "family". The letter contained a resolution adopted by the Mason District Council to appeal the action of the Zoning Administrator allowing the use of residentially zoned property in the Ravenwood Park Subdivision to be used as a "half-way" house.

It was the consensus of the Board that the Mason District Council make formal application regarding the appeal.

// The Board adjourned at 12:58 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the BZA on Dec. 1, 78
Submitted to the other departments,
Board of Supervisors and Planning
Commission on December 1, 78.

APPROVED: December 5, 78
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 13, 1978. All Board members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes, John DiGiulian and John Yarmchuk.

The Chairman called the meeting to order at 10:00 A.M. Mr. Barnes opened the meeting with a prayer.

10:00 A.M. - JAMES & ELIZABETH BARKER, JR. appl. under Sec. 30-6.6 of the Ord. to permit addition 16.3' from rear property line (25' required), 6704 Deland Court, West Springfield Subd., 89-2((4))(12)8, (10,536 sq. ft.), Springfield, Dist., R-12.5, V-96-78.

Mr. James Barker, Jr., 6704 Deland Court, Springfield, Virginia, presented the justification to the Board. Mr. Barker stated that he was requesting a variance to the requirement of the Ordinance that requires a 25' setback from the rear property line. Mr. Barker proposed to enclose a patio and to construct an addition at the rear of the house that would extend over to the side. The purpose of the addition was to enlarge the kitchen and to add a den and a screened porch. Mr. Barker stated that a variance was necessary due to the unusual shape of the property. The property is pie-shaped, narrow at the front and wider at the rear.

Mr. Durrer stated that it appeared from the plats that the patio already had a roof over it. He inquired as to what the L-shaped addition would be used for. Mr. Barker stated that the area that was a roofed patio would be used for a family room. He stated that he wanted to extend the kitchen and to build a den. Mr. Barker stated that they have enjoyed the use of their patio and would like to continue something like it. Mr. Durrer asked if the new addition would be constructed of compatible material as the rest of the house. Mr. Barker replied that it was his desire to use the same style windows and the same type of materials in order to build an attractive addition.

Chairman Smith inquired about the construction of the roofed patio that had been built without a building permit. He was concerned that the construction conform to the building codes. Mr. Barker informed Chairman Smith that the existing patio was nothing more than four poles with a roof over it. He stated that he would remove it and build the new structure in its place and that it would be a permanent structure and would be more attractive than the existing patio.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. V-96-78 by JAMES & ELIZABETH BARKER, JR., under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit an addition 16.3' from rear property line, on property located at 6704 Deland Court, tax map reference 89-2((4))(12)8, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 13, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 10,536 sq. ft.
4. The Board finds that the applicant's property is exceptionally irregular in shape, including narrow and pie-shaped;

R E S O L U T I O N

260

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

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 260, June 13, 1978, Scheduled case for

10:10 A.M. - CHARLES UBELHART appl. under Sec. 30-6.6 of the Ord. to permit enclosure of existing carport to garage 6' from side property line, 16' total side yards, (8' and total of 20' required), 7920 St. Dennis Drive, Saratoga Subd., 98-2((6))206, (9,450 sq. ft.), Springfield Dist., R-12.5 Cluster, V-97-78.

Mr. Charles Ubelhart of the above address was seeking a variance in order to enclose an existing carport and convert it into a garage. He stated that it would not change the boundaries of the carport. He was seeking permission from the Board to construct three non-load bearing walls to enclose the carport. He informed the Board that he had sumitted detailed plans of his request to show the Board exactly what this would entail. He further stated that he had discussed the conversion with his neighbors and had received their endorsement.

Chairman Smith asked how long Mr. Ubelhart had owned the property. He stated that he had lived there for four years. When asked by the Chairman if this was a new subdivision, Mr. Ubelhart replied that the subdivision had been in existence for about seven years. He further stated that most of the other homeowners had enclosed their carport and that his request would enhance the neighborhood.

Mr. DiGiulian inquired as to the width of the carport. Mr. Ubelhart stated that it was 24' and that it was a double carport. He stated that he proposed to place two 10' electric doors in the front which would have a brick veneer face that would be compatible with the rest of the house. He indicated that the sides would be of layered board that would be in conformity with the remainder of the house.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

IN APPLICATION NO. V-97-78 BY CHARLES UBELHART under Section 30-6.6 of the Zoning Ordinance to permit enclosure of existing carport to garage 6' from side property line, 16' total side yards, (8' & total of 20' required), on property located at 7920 St. Dennis Drive, tax map 98-2((6))206, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 13, 1978; and

R E S O L U T I O N

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5 Cluster.
3. The area of thelot is 9,450 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, being narrow in shape;

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 has started or unless renewed by action of this Board prior to expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 261, June 13, 1978, Scheduled case for

10:20 A.M. - JAMES R. AND NANCI K. MCKAY, JR. appl. under Sec. 30-6.6.5.4 of the Ord. to permit 6' high fence to remain in front setback, 11-11024 Byrd Dr., Fairfax Villa Subd., 57-3((7))0202, (15,616 sq. ft.), Annandale Dist., R-12.5, V-100-78.

Mr. Ken Bryan, Attorney, 4084 University Drive, Fairfax, Virginia, appeared before the Board to represent the applicant. Mr. Bryan requested a deferral of the hearing as the applicant was out of town on personal business. Mr. Bryan stated that the applicant had not sent out the required notices and asked if the Board could defer the case until early July.

As the required notices were not in order, the hearing was deferred until July 18, 1978 at 12:00 P.M.

//

Page 261, June 13, 1978, Scheduled case for

10:30 A.M. - DONALD Y. AND LOUISE M. SAYLOR appl. under Sec. 30-6.6 of the Ord. to permit const. of garage 15.1' from s. property line with total side yards of 30' (8' and total of 40' required), 1714 Saddle Ridge Ct., Wayside Subd, 27-2((2))45, (20,000 sq. ft.), Centreville Dist., RE-1, V-101-78.

Mr. Ken Bryan, Attorney, 4084 University Drive, Fairfax, Virginia, represented the applicants. The required notices were in order.

Mr. Bryan stated that the applicants were seeking a variance of 10' in order to construct a garage addition, one story in height. Mr. Bryan stated that the house had an existing garage but that the applicants had to make a 90° right angle turn into the garage which was a problem during the winter with ice and snow and due to the conformity of the driveway. Mr. Bryan stated that the applicant could build a one car garage without a variance but that would necessitate the removal of a very large evergreen tree and, also, the removal of a gas post and tearing up part of the sidewalk. He stated that the proposed garage would allow the applicants to drive straight into and out of their garage. Mr. Bryan informed the Board that the present garage was located underneath a bedroom which was felt to be a safety hazard as far as fire and fumes. Mr. Bryan stated that the proposed addition would balance the house from an architectural standpoint.

Mr. Durrer referred to the sketch submitted and inquired as to what the L-shaped space was to be used for. Mr. Bryan replied that it would be an inside storage area to house garden tools, lawn mowers, etc. rather than having an outside storage area. Mr. Durrer inquired if the justification was that the applicants did not want to remove the evergreen at the front of the house. Mr. Bryan stated that they did not want to remove the evergreen or the lamp post. Furthermore, Mr. Bryan informed the Board that the way the driveway was sloped that the applicants would have to drive up a slope and make a 90° right angle turn into the existing garage which could not be done with ease.

Mr. Barnes inquired as to what material the proposed addition would be constructed. Mr. Bryan stated that the applicants would use the same materials as in the existing house.

There was no one to speak in favor and no one to speak in opposition to the application.

Page 262, June 13, 1978 Board of Zoning Appeals
DONALD Y. & LOUISE M. SAYLOR

R E S O L U T I O N

Mr. Durrer made the following resolution:

WHEREAS, Application No. V-101-78 by DONALD Y. & LOUISE M. SAYLOR under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit construction of garage 15.1' from s. property line on property located at 1714 Saddle Ridge Court, tax map reference 27-2((2))45, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 13, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-1.
3. The area of the lot is 20,000 sq. ft.
4. The Board finds that the applicant's property is exceptionally irregular in shape, including narrow and shallow;

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

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is 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 has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

10:40 A.M. - KENNETH MORELAND, ET. AL. appl. under Sec. 30-6.6 of the Ord. to permit subdivision of parcel into 10 lots with proposed lot 8 having 20' width (90' required), 9714 Old Keene Mill Road, Spring Lake Farms Subd., 88-1((2))9, (28,600 sq. ft. for proposed lot 8), Springfield Dist., R-17, V-102-78.

Mr. Kenneth Moreland of 3403 Prince William Drive, Fairfax, Virginia, was one of the owners of the above property and presented the required justification to the Board. Mr. Moreland stated that this application was to permit one lot to have less road frontage than required by the Ordinance. He stated that the Board of Supervisors had approved the rezoning of the property. Originally, the applicant has proposed that three building sites face Old Keene Mill Road but the Planning Commission had recommended that no lot have a driveway exiting onto Old Keene Mill Road. Mr. Moreland stated that they had refigured the lots facing Old Keene Mill Road and lost one lot in the process. Mr. Moreland stated that the loss of this building lot was a hardship that he was asking the Board of Zoning Appeals to correct by granting the variance. Mr. Moreland stated that the average lot size was 22,500 sq. ft. which was considerably larger than that required under R-17 zoning. He stated that he planned to maintain the large lots with their wooded sites.

Mr. Moreland stated that the 20' driveway leading from Spring Lake Drive to Lot 8 was sufficiently wide to provide for emergency equipment or service. Mr. Moreland stated that the development plan meets all the applicable criteria of the Ordinance, reflects all of the recommendations of the Planning Commission and has been generally approved by the Board of Supervisors. Mr. Moreland informed the Board that there was not any objection to this proposal from any of the nearby property owners.

Mr. Durrer inquired if this proposed development plan would be under Site Plan control. He was informed by Mr. Moreland that it would be. When Mr. Durrer asked if Spring Lake Drive was a through street or a dead-end, he was informed by Mr. Moreland that it was a deadend street but that he was providing a deceleration lane on Old Keene Mill Road which would open up that end of Spring Lake Drive. Mr. Durrer inquired if Spring Lake Drive would be a private road. Mr. Moreland stated that it would be an open road. Mr. Durrer asked if Mr. Moreland had received permission for a deceleration lane on Old Keene Mill Road yet. Mr. Moreland stated that he had been directed to do it.

Mr. Yaremchuk asked why the Planning Commission did not want them to exit on Old Keene Mill Road. Mr. Moreland stated that it was the Planning Commission Commission's trend not to have traffic going on what is designated as a major thoroughfare. He further stated that Old Keene Mill Road might become four lanes like it was further down and that it would present less of a safety problem if there were not any driveways exiting onto it. Mr. Yaremchuk stated that he did not care for the way the proposed development plan was drawn up. Mr. Yaremchuk could not see any justified reason for disrupting two other lots by having a 25' driveway coming between them when there was plenty of room for a driveway on Old Keene Mill Road. He stated that if there wasn't any site problem with having the driveway on Old Keene Mill Road that that was the logical place for it for Lot 1.

Chairman Smith stated that there was a problem with this application as Lot 1 had not been advertised as needing a variance for less lot width. Mr. DiGiulian stated that they did not need a variance for Lot 1 as there was plenty of frontage on Old Keene Mill Road and all the applicant was asking for was a variance for Lot 8. Chairman Smith stated that the application only mentioned Lot 8 but that the plat showed Lot 1 as needing a variance for the frontage on Spring Lake Drive.

Mr. Moreland stated that it had been explained to him that under the Ordinance he did not need a variance for Lot 1 as it met the required road frontage on Old Keene Mill Road and that the driveway could be on Spring Lake Drive. Mr. Yaremchuk stated that Mr. Moreland could solve the whole matter of Lot 1 by having the 25' be a part of Lot 2 and using it as an easement for Lot 1. He stated that the driveway could be through the easement which would not require a variance.

Chairman Smith stated that the Board could only take action on Lot 8 as that was the only lot that had been applied for a variance.

There was no one to speak in favor of the application and no one to speak in opposition.

264

RESOLUTION

IN APPLICATION NO. V-102-78 by KENNETH MORELAND, ET. AL. under Section 30-6.6 of the Zoning Ordinance to permit subdivision of parcel into 10 lots with proposed lot 8 having 20' width (90' required), on property located at 9714 Old Keene Mill Road, tax map reference 88-1((2))9, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 13, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-17.
3. The area of the lot is 28,600 sq. ft.
4. The applicant's property has an unusual condition in that the configuration of the land will not allow development (of a reasonable density) in accordance with existing zoning;

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats submitted with this application only, and is not transferable to other land.

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Smith abstained).

Page 264, June 13, 1978, Scheduled case for

10:50 A.M. - LAND ASSOC., LTD. & ROBERT M. CABOT appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel into 18 lots, 4 of which have less than required lot width (lot 8, 10'; lot 9, 10'; lot 10, 10' and lot 11, 110' -- 200' required), located 330 Walker Rd., 7-2((1))4, (40.35 acres), Dranesville Dist., RE-2, V-103-78.

Mr. Charles Runyon, Engineer, appeared on behalf of the applicant to present the required justification. Mr. Runyon stated that they had a problem with the property owner. He stated that the land records indicated the property to be in the name of a trust and not Mr. Cabot as indicated on the application. Land Associates, Ltd. were the contract purchasers. Mr. Runyon submitted an authorization letter from the present property owners stating that Mr. Runyon could request the variance. Mr. Cabot had transferred the property to the trust and so Mr. Runyon amended the application after a motion by Mr. Durrer, seconded by Mr. DiGiulian, and passed by a vote of 4 to 1 (Mr. Smith) allowing Mr. Runyon to do so. The transfer of the property had taken place in December 1977.

Mr. Runyon stated that this application was an to allow a subdivision into lots. He stated that in the original lay-out of the property that he had presented, it was indicated that a street and cul-de-sac would be built that would gently curve to the rear of the property. Mr. Runyon stated that the property did not have a uniform shape and it narrowed towards the back. Originally, he had planned a cul-de-sac to serve all of the proposed lots and to meet the required frontage. However, Mr. Runyon stated that the septic fields need to have additional room because of the topography of the land and because of the extremely large reserve area required. Mr. Runyon stated that in order to

preserve the topography condition and to get around the condition of the soils location, they decided to make a less broad street to serve the last four lots in question in the cul-de-sac. Mr. Runyon felt that lots 8, 9 , 10 could be better served by a pipestem with a private driveway and that the pipestem would better serve the topography. He further stated that this idea would better preserve the beauty of the area. Mr. Runyon also indicated that the maintenance costs of the street that would have to be run back to serve the two lots is not beneficial to the general public as much as it would be to the individual owner so a private driveway seems to serve the purposes better. Mr. Runyon stated that another reason for requesting the variance was the lot layout shown, because of the narrowness of the property in the rear portion, and because of that, the lots in the rear cannot fit as well on the property. Mr. Runyon stated that this was a very desirable development.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Mr. Daniel O'Connell, 323 Hill Street, stated that he was a contiguous land owner but that he had not received any notice. It was determined by the Board that Mr. O'Connell was a recent purchaser of the land and that the previous owner had been notified. Mr. O'Connell stated that he objected to irregularities to the advertising and notification. He also stated that the applicant had not presented a case which meets the requirements of the Ordinance under Section 30-6.6. He stated that lot 66 is quite a large lot. Mr. O'Connell objected to the applicant coming before the Board stating that features of lot 66 present a hardship. Mr. O'Connell did not think the applicant had the right under the Code to build a specified number of houses on lot 66. Mr. Connell stated that there were not sufficient reasons presented for altering the Code. He stated that there were not many undeveloped lots where one could put the maximum number of houses and he did not feel that the applicant's property was unusual or that it presented difficulty or an unnecessary hardship. Mr. O'Connell stated that the applicant could make reasonable use of the land without a variance.

Mr. Durrer inquired of Mr. O'Connell as to, in his opinion, what the reasonable use of the property would be. Mr. O'Connell replied that reasonable use would be to build a number of houses that could be built in accordance with the Code without obtaining a variance. Mr. O'Connell stated that a variance was supposed to be for an unusual situation or something that presents a hardship and he did not see the hardship in this situation. Mr. Durrer stated that the applicant had 40 acres in this proposal and he believed that the density that the applicant showed in the plan was very good for the area. Mr. O'Connell stated that he was not arguing with the density. He stated that there was not sufficient reason in this request to violate the regular rules on lot sizes and dimensions.

Mr. Leonard Mallace, an adjoining property owner, appeared to speak in opposition to the application. He owned lots 63 and 63A. He stated that he had not seen the final plat layout. Mr. Mallace stated that the plat he had seen appeared to be a cluster development and he was not sure that it would be allowed under the Ordinance. Mr. Mallace asked the board if the variance was required. He questioned whether a better layout could be drawn up where a variance was not necessary. Chairman Smith stated that if the applicant continued the Woodlake Drive through the subdivision then it would alleviate the need for a variance.

Mr. Runyon again stated that basically they were only asking for a variance to permit 18 lots. He stated that rather than ask for a public street to serve four lots because of the topography and the septic fields they were asking for private drives. Mr. Runyon stated that the applicant was entitled to subdivide his land into 20 lots based on the size of the parcel. He stated that Land Associates wanted to reduce the number of lots inorder to have larger lots. He stated they were not going for maximum density. He stated that the variance helps the applicant solve the problem of topography and land configurations. Mr. Runyon stated that they felt this was a better development plan and that it would be of benefit to the area.

266

R E S O L U T I O N

IN APPLICATION NO. V-103-78 by LAND ASSOC., LTD. & ROBERT M. CABOT & DHARMA SELF-HALP AND ANALYTICAL CENTER, INC., under Section 30-6.6 of the Zoning Ordinance to permit subdivision of parcel into 18 lots, 4 of which have less than required lot width (lot 8, 10'; lot 9, 10'; lot 10, 10' & lot 11, 110'--200' required), on property located at 330 Walker Rd., tax map reference 7-2((1))4, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 13, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-2.
3. The area of the lot is 40.35 ac.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow, and has exceptional topographic problems;

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Durrer seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 266, June 13, 1978, Scheduled case for

11:10 A.M. - ALZBETA PEPICHOVA T/A PEPICHOVA SCHOOL OF BALLET appl. under Sec. 30-7.2.6.1.3.4 of the Ord. to permit dance school for maximum of 50 students Monday through Saturday in the Charles Wesley United Methodist Church, 6817 Dean Drive, McLean, Devon Park Subd., 30-4((1))26, (3 acres), Dranesville Dist., R-12.5, S-98-78.

Mr. Allen Mintor, Pastor of the Charles Wesley United Methodist Church, spoke as agent for the applicant. He gave his home address as 1639 Great Falls Street in McLean. Mr. Mintor stated that they were one of the few churches in the area that did not have a day program. He stated that they have built a new sanctuary which now opens up the facility for use. The church chose to consider Mrs. Pepichova's request for a ballet school as the church considered itself a patron of the arts. Mrs. Pepichova's school is presently located in a business district which is not conducive to the type of operation she has. In addition, they have gone up on the rent and Mr. Pepichova cannot continue to operate there. Mrs. Pepichova is proposing a small operation which would be compatible with the neighborhood. The proposed hours would be Monday through Thursday and Saturday. Mr. Mintor stated that the latest class held would be at 8 o'clock which he felt would not be incompatible with the neighborhood. He stated there would not be that much traffic generated. He further stated that the classes would be made up of well disciplined students so that there would not be any problems in the neighborhood. Mr. Mintor stated that he felt this use would not interfere with the church's programs as some schools have in the past who have tried to rent the property.

Mr. Mintor stated that another very important reason for why the church was considering Mrs. Pepichova's request was because of vandalism on the church grounds. He stated that vandalism was a real problem in this neighborhood and that most of it takes place at night. By renting the facility to Mrs. Pepichova, the church hoped to discourage this activity. Mr. Mintor stated that at the present time, Mrs. Pepichova has only 30 students but she is applying to the Board for 50 students. He stated that Mrs. Pepichova is interested in continuing the art of ballet and that it has been her livelihood as she is a widow. Mr. Mintor stated that she charged very low rates and that the church would like to help her in any way possible. He further stated that the church would not be making a profit on the rental of their facility.

Mr. Durrer inquired if Mrs. Pepichova was operating the school at the present time. Mr. Mintor stated that she was but that the rent had gone up. Mr. Durrer asked how much she charged per student. He was informed by Mr. Mintor that she charged about $3.80 per hour per student. When Mr. Durrer asked if she would be making a profit, he was informed that she would be. Mr. Durrer read the hours of operation as proposed by the applicant: Winter: 4 P.M. to 8 P.M., Monday through Thursday and 10 A.M. to 1 P.M. on Saturday. Summer: 10 A.M. to noon, two mornings a week, and 6 P.M. to 8 P.M., Monday through Thursday, and no Saturday hours.

Chairman Smith stated that he was unable to locate a lease in the file but he did locate an intent to lease. Mr. Mintor informed Chairman Smith that the church's attorney had been out of town but has now returned and was in the process of drawing up a lease agreement. Chairman Smith inquired as to the length of time for the lease. Mr. Mintor stated that the lease was for two years with the rent to be renegotiated in one year in order to determine if the rent was paying for the utilities used by Mrs. Pepichova. He further stated that there was an option to renew the lease at the end of the two years. Chairman Smith inquired as to the maximum enrollment for a class. Mr. Mintor stated that there would not be more than ten students at any one time.

Mr. Durrer stated that he was not clear as to the length of time the applicant was requesting the use permit. Mr. Mintor stated that the lease was for two years and that it would be renegotiated at that time. He stated the reason there was not a lease at this time was because the church felt they should get clearance from the Board before drawing up a lease and, also, the attorney was out of town. Chairman Smith stated that there was a letter from the Trustees but it did not state a specified period of time. It was suggested that if the Board grants the use that it be conditioned upon a proper lease being submitted.

There was no one to speak in favor of the application. The following persons spoke in opposition or forwarded correspondence of opposition to the proposed application. Mr. Frank Bennett of 1814 Panarama Court was an adjoining property owner on the southeast. He stated that he had 170' of property line between himself and the church yard. He stated that he had lived there on and off for several years. When asked which lot he owned, Mr. Bennett stated that he owned Lot 40. Mr. Bennett stated that there has been a lot of vandalism to the church property and that he was very sympathetic to the church. He stated that the church yard was an attractive nuisance to the youngsters in the area. He stated that when the children want unobserved access to the church property that they cross his lot going through the gate. He stated that he has tried to lock the gate but the lock gets broken or that the children go through the hedge. Mr. Bennett stated that he has no opposition to the establishment of the ballet school and thinks it is a wonderful idea. He stated that for a number of years, the residents have asked the church to construct a fence. He stated that the church yard was a natural corridor for people walking their dogs, walking to the bus stop and etc. and that often people trespassed into his yard. Mr. Bennett stated that the permit should be granted subject to the construction of the fence.

Mr. Durrer inquired if the church was under a use permit? Mr. Mintor stated that the church was constructed in 1960 or 1961 and that a use permit was not necessary at that time. However, the church had to come under a use permit when they proposed to construct a sanctuary last year. Chairman Smith inquired as to why the church did not construct a fence at the time they built the new sanctuary. Mr. Mintor replied that they had not been requested to construct a fence at that time. He further stated that the Board of Trustees would be happy to build a fence because the church is upset with the children vandalisizing the property.

Mr. Durrer inquired of Mr. Mintor that if the Board of Zoning Appeals required the erection of a fence as part of the special use permit for the ballet school, he questioned whether the church would be willing to do it. Mr. Mintor stated that he would like to see the construction of the fence whether the ballet school was allowed or not but that he could not speak for the church.

Chairman Smith stated that the Board of Zoning Appeals was in receipt of a telegram from Mr. and Mrs. Walter A. Wilkins objecting to the use regarding the property. As there were other letters of opposition, Chairman Smith read the names and parts of the letters into the record. The names were: Lester Hook, Alan W. Gates, Milton W. and Margaret T. Jones.

Mr. Mintor stated that one of the neighbors had complained that children from the church had thrown rocks at him while working in his garden. Mr. Mintor stated that the children from the church were not the ones responsible. He stated that the neighborhood children play in the church yard during church services. He further stated that these children go through the vehicles in the parking lot during church services. Neighborhood children ride mini-bikes around on the property in the evening. The church has been broken into on several occasions and it is the belief of the church that if the facility was rented during the evenings that it would help prevent the vandalism taking place on the property. Mr. Mintor also stated that he did not believe that there would be any greater traffic flow because of the use.

Page 268, June 13, 1978 Board of Zoning Appeals
ALZBETA PEPICHOVA T/A PEPICHOVA
SCHOOL OF BALLET

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. S-98-78 by ALZBETA PEPICHOVA T/A PEPICHOVA SCHOOL OF BALLET under Section 30-7.2.6.1.3.4 of the Fairfax County Zoning Ordinance to permit dance school for maximum of 50 students in the Charles Wesley United Methodist Church on property located at 6817 Dean Drive, tax map reference 30-4((1))26, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 13, 1978; and

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

1. That the owner of the subject property is the Charles Wesley United Methodist Church and that the applicant is the lessee.
2. That the present zoning is R-12.5.
3. That the area of the lot is 3 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 (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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

269

RESOLUTION

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of students shall be a maximum of 50.
8. The hours of operation shall be: Winter: 4 P.M. to 8 P.M., Monday through Thursday and 10 A.M. to 1 P.M. on Saturday. Summer: 10 A.M. to noon, two mornings a week, and 6 P.M. to 8 P.M., Monday through Thursday and no Saturday hours.
9. This permit is granted for a period of two years.
10. A copy of the lease is to be provided to the Board.
11. A 6' chain link fence is to be erected along the side of the property and across the back to supplement any existing fence.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Smith abstained).

Page 269, June 13, 1978, Scheduled case for

11:30 A.M. - ILIFF NURSING HOME, INC. and ST. MARY'S MEDICAL CENTER, INC. T/A ILIFF SCHOOL FOR CHILDREN appl. under Sec. 30-7.2.6.1.3 of the Ordinance to permit Day Care Center for 120 Children, 8000 Iliff Drive, Dunn Loring, 39-4((1))135, 135A and 137, Providence Dist., (6.4 ac.), R-12.5, S-95-78.

Mr. William Arnold, Attorney, 4085 Chain Bridge Road, Fairfax, Virginia, represented the applicant. Mr. Arnold presented the Board with a letter that addressed concerns contained in the staff report.

Mr. Arnold informed the Board that the day care center would be located in the Iliff Nursing Home in the walkout-basement. He stated that access to the center would be provided by a drive from Sandburg and that parking would be provided. He stated that the front entrance to the nursing home would be entirely separate from the day care center. Mr. Arnold stated that the applicants were asking for a permit for 120 children. He further stated that the Health Department, at the present time, has limited the use to 60 children based on the toilet facilities available. Mr. Arnold requested that the permit be granted for 120 children so that when the additional toilets are added they would not have to come back before the Board.

Mr. Arnold stated that the day care center was physically separated from the nursing home. It is on an separate level. He stated that there were several inches of concrete and several inches of insulation between the two uses. He stated that there is a great need for this facility because 53% of the women in Fairfax County work. Mr. Arnold stated that this use was going to offer three types of services: (1) Infant Care: age three months to two years. (2) Nursery School: age two to five. (3) Extended Day Care: for school age children.

As far as the traffic impact, Mr. Arnold stated that the center could be reached by travelling down Gallows Road onto Illiff Drive on down to Sandburg. He stated that there was a separate entrance in the back for the day care center and that the parking would also be separate. Mr. Arnold stated that there would be about a 12% absenteeism rate which would affect the number of cars travelling to the site. He stated that experience has shown that for about 100 children there would be approximately 60 automobiles. He stated that the arrival times would be spread between 7 A.M. to 9 A.M. and staggered at night between 3 P.M. and 6 P.M.

As for the effect on the neighborhood, Mr. Arnold stated that the Iliff Nursing Home owns lots 135, 3136A & 136B. In addition, there is a substantial buffer around the facility. He stated that there were several undeveloped parcels on the East and I-495. To the West, Cedar Street is not a through street and is very thickly wooded. There is a park to the North.

Mr. Arnold stated that this would offer a unique opportunity for the old folks in the nursing home to interact with the young children. He further stated that there would not be any interaction unless it was desired because of the separate facilities. He stated that this was a concept that was presently in use in Maine.

Mr. DiGiulian inquired as to the number of parking spaces planned for the use. Mr. Arnold stated that six parking spaces are presently provided on the black top area. He stated that the maximum number of employees anticipated would be six. Mr. Arnold stated that the Code requires two spaces for every three employees. Mr. DiGiulian inquired as to the use of buses to transport the children. Mr. Arnold stated that they did not plan to utilize buses at all. In response to Mr. DiGiulian's questions regarding the total hours of use, Mr. Arnold stated the operation would be from 7 A.M. to 6 P.M., five days a week.

Chairman Smith stated that he did not see how this could be considered a compatible use. He stated that with that great a number of children on the lower level that he just could not believe that it would not have an adverse effect on the elderly located above.

Mr. Durrer stated that he was personally familiar with the facility and the layout of it. He stated that there were two separate entrances and that the topography falls off in the back so they would be two separate installations. He stated that he could not see a problem with it at all. He stated that if he had to pick a place in Fairfax County for this type of operation that he would pick this facility.

Mr. Yaremchuk stated that this was ideal location for this type of use. He stated that the nursing home owned most of the surrounding land. He stated that he had never had a problem with traffic when he visited the facility.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

Mr. DiGiulain made the following motion:

WHEREAS, Application No. S-95-78 by ILIFF NURSING HOME INC. & ST. MARY'S MEDICAL CENTER, INC. T/A ILIFF SCHOOL FOR CHILDREN under Section 30-7.2.6.1.3 of the Fairfax County Zoning Ordinance to permit day care center for 120 children on property located at 8000 Rock Street, tax map reference 39-4((1)) 135, 135A & 137, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

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

1. That the owner of the psubject property is Iliff Nursing Home, Inc.
2. That the present zoning is R-12.5.
3. That the area of the lot is 6.4192 ac.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 (operation) has started or unless renewed by action of this Board prior to date of expiration.

Page 271, June 13, 1978 Board of Zoning Appeals
ILIFF NURSING HOME, INC. & ST. MARY'S
MEDICAL CENTER, INC. T/A ILIFF SCHOOL
FOR CHILDREN
(continued)

R E S O L U T I O N

3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be 7 A.M. to 6 P.M., five days a week.
8. The number of additional parking spaces shall be 6.
9. The maximum number of children shall be 120, ages 3 months through twelve years.
10. All other requirements of the previous use permit shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 271, June 13, 1978, Scheduled case for

11:45 A.M. - AMERICAN LEGION POST #176, appl. under Sec. 30-7.2.5.1.4 of the Ord. to permit* lodge for 200 active members with proposed hours until 1:00 A.M., 6538 Backlick Rd., 90-2((1))5, (3.74 ac.), Springfield Dist., RE-1, S-28-78. (Deferred from March 14, 1978 for decision only.)* amendment to existing permit for proposed additions to be added to existing--

Chairman Smith stated that this application had been deferred for the staff to work out problems regarding a road and the wording of the agreement. Mr. Royce Spence gave the Board a letter which contained the agreement worked out between the County and the American Legion Post. Mr. Spence stated that the applicant, the County and Supervisor Travesky were all in agreement with the conditions set forth in the letter.

Page 271, June 13, 1978 Board of Zoning Appeals
AMERICAN LEGION POST #176

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. S-28-78 by AMERICAN LEGION POST #176 under Section 30-7.2.5.1.4 of the Fairfax County Zoning Ordinance to permit erection of a storage room and a multi-purpose room and to permit lodge for 200 active members with proposed hours until 1:00 A.M., on property located at 6538 Backlick Road, tax map reference 90-2((1))5, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on March 14, 1978 and deferred for decision until April 18, 1978, May 23, 1978 and June 13, 1978; and

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

1. That the owner of the subject property is the American Legion Post #176.
2. That the present zoning is RE-1.
3. That the area of the lot is 166,833 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

RESOLUTION

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 (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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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. Lnadscaping and screening shall be required to the satisfaction of the Director of Environmental Management.
7. Construction to take place as stated by the applicant and agreed upon by the County Attorney's Office and the applicant. The first phase of the construction will not be constructed in any disputed area.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 272, June 13, 1978, Scheduled case for

12:00 P.M. - MT. VERNON K OF C CLUB, INC. appl. under Sec. 30-7.2.6.1.4 of the Ord. to permit Bingo Auditorium located 7702 Richmond Highway, 101-2((1))pt. of 12, (20.295 ac.), Lee Dist., C-D, S-53-78. (Deferred from April 12, 1978 for Audit Report).

Mr. Ken Saunders, Attorney for the applicant, notified the Board that the had talked with Ron Coen and that everything was in order. He stated that the Mt. Vernon K of C were still operating bingo pending the decision of the Board.

Mr. Durrer moved that the Board defer decision until it was in receipt of the Audit Report in writing. He further moved that Mr. Saunders be notified of the time and date it was scheduled for decision after staff received the Audit Report.

//

Page 272, June 13, 1978, After Agenda Items

National Evangelical Free Church, S-106-72, requested the Board of Zoning Appeals to amend the special permit for a day care center by removing the name of the co-applicant, Shell McDonald, Inc. The Board approved this amendment.

//

Page 272, June 13, 1978, After Agenda Items

Board of Zoning Appeals took action to approve the draft notification letter to applicants [illegible] procedure to follow regarding notices to property owners.

//

273

Page 273, June 13, 1978, After Agenda Items

Mr. John W. Kinnally appeared before the Board of Zoning Appeals requesting permission to open a produce stand at 2071 Chain Bridge Road at Tysons Corner. He stated that he has operated a produce stand at this location during the summer months for several years. Mr. Kinnally had been referred to the Board by the counter staff of Zoning because he was requesting a temporary special use permit for the corn stand.

The Board requested that Mr. Kinnally speak to Mr. Knowlton to determine if he needed to submit a formal application for the temporary permit. If not, it was suggested that he submit a letter addressed to the Board stating what his intent was and the hours of use.

//

Page 273, June 13, 1978, After Agenda Items

Creative Country Day School, S-138-77. The Board was in receipt of a letter dated June 8, 1978 from Mr. Vail M. Pischke, Attorney at law, 7700 Leesburg Pike, Suite 218, Falls Church, Virginia 22043 requesting approval from the Board to amend the permit to reflect a change of ownership of the Creative Country Day School to ABC Creative Educational Center, Inc.

Mr. Pischke informed the Board that this request was similar to the one that was granted to EDUCO, Inc. on July 28, 1977, S-174-77, however, that corporate entity did not proceed because of its failure to negotiate a successful purchase of the school.

After discussion, the Board decided that a public hearing would have to be held on this matter. The Board granted an out-of-turn hearing and scheduled the hearing for July 18, 1978 at 12:15 P.M.

// The meeting adjourned at 1:06 P.M.

BY Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the BZA on Dec. 5, 78
Submitted to the other departments,
Board of Supervisors and Planning
Commission on Dec. 5, 78.

APPROVED: December 5, 78
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Tuesday, June 20, 1978. All members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian and John Yaremchuk.

The meeting opened at 10:10 A.M. led with a prayer by Mr. Barnes.

10:00 A.M. - JERRY SARDONE appl. under Sec. 30-7.2.10.7.12 of the Ord. to permit Roller Skate Rink, located north of Sunset Hills Road on Michael Farraday Court, 18-3((5))6, (2.3071 acres), Centreville Dist., I-L, S-37-78. (Deferred from May 2, 1978 for lack of a quorum.)

Mr. William Gordon, 1930 Issac Newton Square, Reston, represented the applicant. He stated that they were requesting a special use permit to operate a roller skating facility in Reston. It would be compatible with other existing facilities on Michael Farraday Court. Mr. Gordon stated that at the present time on Michael Farraday Court, there existed a racquet club, a bowling alley and a proposed skateboard park. Mr. Gordon stated that Mr. Sardone had developed other roller rinks and was very familiar with the operation and the requirements of such a use. There presently exists a facility in Woodbridge owned and operated by Mr. Sardone. Mr. Gordon stated that he could not see any problems with this type of use in this location.

Mr. Durrer inquired if the Board had already held a public hearing on this application and was informed that it had not.

Mr. Yaremchuk inquired as to the number of people living in Reston at the present time. Mr. Gordon stated there were about 31,000 people.

Mr. Durrer inquired if there was only one way in and out of the proposed use. He was informed that Michael Farraday Court was the only ingress and egress to the facility. When asked how wide the road was, Mr. Gordon replied it was 36'.

Chairman Smith inquired as to the other facilities located on Michael Farraday Court. He was informed by Mr. Gordon that there existed a bowling alley, a racquet club and a proposed skateboard park. Chairman Smith informed the Board that Mr. Moss had applied for the skateboard park.

When questioned regarding the proposed hours of use, Mr. Gordon stated the hours as follows: 7:30 P.M. to 10 P.M. and 7:30 P.M. to midnight on Friday & Saturday. Chairman Smith questioned whether the applicant intended to restrict the hours to evening hours only. Mr. Sardone stated they wanted to be able to operate the facility during the day for private lessons. Chairman Smith stated that this would still be operating under the use permit and they should state the hours that they intended to actually be open for use. Mr. Gordon stated that they planned to open at 9 A.M. and close at 2 P.M. in the afternoon and then reopen at 6 P.M. in the evening. Chairman Smith inquired as to the earliest opening time required and the closing time of the use. Mr. Gordon stated that it would be operating from 9 A.M. until midnight.

Mr. Richard Barnard, representing Gulf-Reston, appeared to speak in favor of the application. He stated that the use would be very compatible with the existing approved uses and the proposed construction in the recreational park. He stated that Reston had kept the land only in the market for commercial recreational uses and were trying to create a special park by not hop-scotching the recreational uses with other commercial office uses. He stated that the fact that Michael Farraday Court was a cul-de-sac aided in the circulation of the traffic since it was not a true road where people would be stopping and letting children off in passing traffic. He stated that this would be a safer situation in being a cul-de-sac rather than a through street. He stated that the Reston Community Association was a watchdog for the developer of Reston and had some conditions for the approval of this use.

Chairman Smith asked if Gulf-Reston had accepted the recommendations of the Reston Community Association on this application. Mr. Barnard stated that Gulf-Reston was not the developer of the roller rink. Chairman Smith inquired if Mr. Sardone was in agreement with the conditions that Reston Community Association had proposed. Mr. Sardone stated that the comments dealt mostly with landscaping, pedestrian connections which was partly the responsibility of Gulf-Reston and partly the responsibility of the developer, and he stated they were in concurrence with these recommendations. Another recommendation was to install a bicycle rack which was agreed to and then there was a request for a pedestrian easement to move between the skateboard park and the roller rink which was also acceptable to the builder.

There was no one to speak in opposition to the application.

275

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-37-78 by JERRY SARDONE under Section 30-7.2.10.7.12 of the Fairfax County Zoning Ordinance to permit roller skate rink on property located at north of Sunset Hills Road on Michael Farraday Ct., tax map reference 18-3((5))6, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 20, 1978; and deferred from May 2, 1978; and

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

1. That the owner of the subject property is Gulf-Reston, Inc.
2. That the present zoning is I-L.
3. That the area of the lot is 2.307 ac.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C or I Districts as contained in Sect. 30-7.1.2 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 (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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be 9 A.M. to 12 A.M., seven days a week.
8. The number of parking spaces shall be 62.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Page 275, June 20, 1978, Scheduled case for

10:20 A.M. - UNITED SERVICES CONSTRUCTION CORP. appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel into 2 lots with widths of 76.35' & 76.22' respectively, (80' required), located 9019 & 9021 Backlick Rd., 109-1((1))24, (25,257 sq. ft.), Accotink Subd., Lee Dist., R-12.5, V-68-78.

Mr. Ralph Pasly of 1007 Pennbrook Street in Herndon represented United Service Construction Corporation. He stated that at the present time there were two houses on one lot which were in extremely poor condition. Mr. Pasly stated that these houses were condemned by the Health Department. One house was located 6' from a side lot line. He stated that it would be better to remove these two houses and to construct new houses.

Mr. Pasly stated that they had decided to subdivide the lot with the two lots having equal frontage.

Chairman Smith inquired if the houses were on public water and sewer and he was informed that they were. When he inquired as to how long United Services Construction Corp. had owned the property, Mr. Pasly stated for about five or six years. Chairman Smith asked when was the last time the houses had been occupied and was told a year ago. Chairman Smith stated that the Master Plan called for two to three dwelling units per acre.

Mr. DiGiulian stated that the staff report showed the zoning as R-12.5 and the proposed lots contained at least 12,500 sq. ft. Mr. Covington stated that the zoning did not always concur with the Master Plan.

Chairman Smith inquired if the applicants owned any other land adjacent to the proposed property. Mr. Pasly stated that they had owned a house which they recently sold but that they did not own any contiguous property at this time. Chairman Smith asked if the applicants were planning to remove the existing houses and he was informed they would.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 276, June 20, 1978 Board of Zoning Appeals
UNITED SERVICES CONSTRUCTION CORP.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. V-68-78 by UNITED SERVICES CONSTRUCTION CORP. under Section 30-6.6 of the Fairfax County Zoning Ordinance to permit subdivision of parcel into 2 lots with widths of 76.35' & 76.22' (80' required), on property located at 9019 & 9021 Backlick Rd., tax map reference 109-1((1))24, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 20, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 25,257 sq. ft.
4. The Board finds that the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

THAT the applicant has 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, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations :

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 277, June 20, 1978, Scheduled case for

10:30 A.M. - WILLIS K. DICKSON appl. under Sec. 30-6.6 of the Ord. to permit pool to be constructed 22' from front property line (12' required), located 6009 Augusta Drive, 80-4((3))3, (19,971 aq. ft.), Yates Village Subd., Springfield Dist., R-12.5, V-69-78.

Mr. Dickson stated that he was asking for a variance in order to construct a swimming pool on the property. He stated that the terrain was quite rough with a deep slope and was also heavily wooded. The only suitable area in which to build a pool was the area adjacent to Lynbrook Drive. To construct the pool in any other location would require retaining walls, drainage lines, etc. and would be quite costly and ridiculous.

Mr. Durrer stated that by looking at the photographs, there was only place in which to build the pool. Mr. Yaremchuk stated that it appeared the house was below the street and Mr. Dickson stated that was true.

There was no one to speak in favor and no one to speak in opposition to the application.

Page 277, June 20, 1978 Board of Zoning Appeals
WILLIS K. DICKSON

R E S O L U T I O N

IN APPLICATION NO. V-69-78 by WILLIS K. DICKSON under Section 30-6.6 of the Zoning Ordinance to permit pool to be constructed 22' from front property line, 10' from south side property line, on property located at 6009 Augusta Drive, tax map reference 80-4((3))3, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 20, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 19,971 sq. ft.
4. That the applicant's property has exceptional topographic problems.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

1. This approval is granted for the location and the specific structure(s) 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 byaction of this Board prior to expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Page 277, June 20, 1978, Scheduled case for

10:40 A.M. - GARY DONALD HETRICK appl. under Sec. 30-6.6 of the Ord. to permit subd. into two lots, one of which has 22' lot width (90' required), 8162 Mt. Vernon Hwy., 101-2((1))29, (1.11134 ac.), Mt. Vernon Dist., R-17, V-41-78.

Mr. John Kephart, 510 Montgomery Street, Alexandria, Virginia, represented the applicant. He stated that the applicant proposed to subdivide the property into one standard and one substandard lot without street frontage. Mr. Kephart stated that this would create two lots greater than one-half acre each in an R-17 zone.

Mr. Kephart stated that the reason for dividing the property in this manner was to eliminate the meandering line around the house in which they were going to leave existing on the property.

Mr. Yaremchuk inquired as to what the engineer meant by a meandering line. Mr. Kephart stated that to divide the property with equal frontage that it would necessitate a meandering line around the building.

Chairman Smith inquired as to what type of structure would be built on the new lot. Mr. Kephart stated that they proposed a 24' by 48', two-story dwelling. Mr. Kephart stated that the applicant proposed to leave the existing house and to continue living in it.

There was no one to speak in favor and no one to speak in opposition to the application.

Page 278, June 20, 1978 Board of Zoning Appeals
GARY DONALD HETRICK

R E S O L U T I O N

IN APPLICATION NO. V-41-78 by GARY DONALD HETRICK under Section 30-6.6 of the Zoning Ordinance to permit subdivision into two lots, one of which has 22' lot width (90' required), on property located at 8162 Mt. Vernon Highway, tax map 101-2((1))29, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 20, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-17.
3. The area of the lot is 1.11134 ac.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property,

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 278, June 20, 1978, Scheduled case for

10:50 A.M. - MICHAEL J. KEEFE appl. under Sec. 30-6.6 of the Ord. to permit addition 32' from front property line, (40' required), located 3327 Laurel Ct., Holmes Run Acres Subd., 59-2((8))(4)23, (10,509 sq. ft.), Providence Dist., R-12.5, V-104-78.

Mr. Keefe stated that he was proposing to construct an addition in order to provide a separate entrance area from the carport and to enlarge the dining area. He stated that he had a hardship situation because the house was located on a corner lot and on a hill. He stated that the front entrance of the house faces Hemlock Drive and that the address and driveway is on Hemlock Court. Mr. Keefe stated that the only entrance to the house from the driveway was through the carport and the back door. He stated that there was a problem when the dining room was in use because anyone coming in the door did not

have enough room to step in without moving everyone. Mr. Keefe stated that he proposed to build a walkway and a separate deck around the driveway so that this area could become the main entrance of the house. He stated that he would add a foyer with access to the living room. He stated that he would retain the existing carport and enlarge the dining room.

Mr. Durrer inquired if this would become the primary entrance or if the living room entrance would remain so. Mr. Keefe stated that he would not change the front of the house because it would cost too much but that he would have two entrances. Mr. Keefe stated that he had lived in the house for twelve years and that only three people had ever used the front door of the house. He stated that because the driveway was on the side of the house that people always took the shortest route. He stated that it was very inconvenient.

Mr. Durrer inquired if the new addition would be constructed of the same materials as the rest of the house. Mr. Keefe stated that he would use the same materials.

There was no one to speak in favor or in opposition to the application.

Page 279, June 20, 1978 Board of Zoning Appeals
MICHAEL J. KEEFE

R E S O L U T I O N

IN Application No. V-104-78 by MICHAEL J. KEEFE under Section 30-6.6 of the Zoning Ordinance to permit addition 32' from front property line, (40' required), on property located at 3327 Laurel Ct., tax map reference 59-2((8))(4)23, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 20, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 10,509 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, being a corner lot, including narrow or shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 280, June 20, 1978, Scheduled case for

11:00 A.M. - RONALD L. & JONNIE S. HICKS appl. under Sec. 30-6.6 of the Ord. to permit resubd. of parcel into 3 lots, 2 of which have less lot width than required by Ord., (12' requested; 80' required), located 2039 North Westmoreland St., Merrell Park Subd., 40-2((31))72, (55,416 sq. ft.), Dranesville Dist., R-12.5, V-105-78.

The Board was in receipt of a letter from the applicants requesting permission to withdraw their application.

Mr. Barnes moved, Mr. DiGiulian seconded, that the applicants be allowed to withdraw their application without prejudice, and it was carried unanimously.

//

Page 280, June 20, 1978, Scheduled case for

11:10 A.M. - BEA MAR ASSOC. OF VA., INC. appl. under Sec. 30-6.6.5.4 of the Ord. to permit garage to remain 10.3' from w. property line with total of 35.7' side yards, (12' & total of 40' required), located 12116 Westwood Hills Dr., Folkstone Subd., 36-1((16))82, (22,303 sq. ft.), Centreville Dist, RE-1, V-106-78.

As the required notices were not in order, the case was deferred until July 18, 1978 at 12:40 P.M. in order for the applicant to notify the omitted property owner.

//

Page 280, June 20, 1978, Scheduled case for

11:20 A.M. - RONALD P. RINALDI, ET. AL, appl. under Sec. 30-6.6 of the Ord. to permit building to be constructed 75' from front property line (100' required), located 1949 Gallows Road, Worthington Heights Subd., 39-2((15))14, 16, 18, 20, 22, 24, 26 & 28 (141,073 sq. ft.), Providence Dist., C-O & C-N, V-107-78.

The Board was in receipt of a letter from the applicants requesting permission to withdraw the application.

Mr. Barnes moved, Mr. Durrer seconded and it was unanimously carried to allow the applicants to withdraw the application without prejudice.

//

Page 280, June 20, 1978, Scheduled case for

11:30 A.M. - RAYMOND G. SMITH, appl. under Sec. 30-6.6 of the Ord. to permit construction of garage 30.7' from front property line, (40' required), located 1808 Barbee Street, Grass Ridge Subd., 30-4((8))(4)1, (16,633 sq. ft.), Dranesville Dist., R-12.5, V-108-78.

Mr. Thomas Lawson, an attorney in Fairfax, appeared on behalf of Mr. Smith. Mr. Lawson stated that this was standard request and that there was not anything unusual about it. He stated that Mr. Smith had lived in the house for 16 years. Both Mr. and Mrs. Smith have retired and want to build a garage for working space for various hobbies. Mr. Lawson stated that there was a 8.5' variance in the elevation of the property from the front to the rear. The back yard slopes very sharply to the rear of the lot. Because of the topography, there is not any other place to locate the garage. Mr. Lawson stated that this was a corner lot. None of the neighbors object to the proposed addition and, in fact, they feel it would be an upgrading and would add to the value of the house.

Mr. Barnes inquired if the addition would be constructed of the same materials as the rest of the house. Mr. Lawson stated that the applicant would use the same kind of materials and that the new addition would blend right in.

Mr. DiGiulian stated that the intersection of the two streets was not a 90° angle and that if it had been, the setback would be about 60' instead of 30'.

There was no one to speak in opposition or in favor of the application.

281

RESOLUTION

IN APPLICATION NO. V-108-78 by RAYMOND G. SMITH under Section 30-6.6 of the Zoning Ordinance to permit construction of garage 30.7' from front property line on property located at 1808 Barbee Street, tax map 30-4((8))(4)1, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 20, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 16,633 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, corner lot with converging lot lines, including narrow and shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Page 281, June 20, 1978, Scheduled case for

11:45 A.M. - EMMANUEL LUTHERAN CHURCH appl. under Sec. 30-7.2.6.1.10 of the Ord. to permit addition of sanctuary for worship & religious education on existing church property, located 2586 Chain Bridge Rd., 39-3((1 39-3((1))38 & 40, (4.171 ac.), Providence Dist., RE-1, S-72-78. (Deferred from May 9, 1978 for Notices).

Victor Senechal, 2717 Colt Run Road, Oakton, Virginia, represented the Emmanuel Lutheran Church. He stated that the church proposed to construct an addition which would be used for a sanctuary which would seat about 450 people. The church also proposed to build a new building to be used for educational purposes and for administrative space. Mr. Senechal stated that the church believed the new additions would be an attractive addition to the area and would improve the development in this area.

Chairman Smith inquired if the new additions would be constructed of compatible materials with the existing buildings. Mr. Senechal stated that it would be. Chairman Smith inquired as to the type of material proposed and was informed that the church was planning to use brick.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

282

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-72-78 by EMMANUEL LUTHERAN CHURCH under Section 30-7.2.6.1.10 of the Fairfax County Zoning Ordinance to permit addition of sanctuary for worship & religious education on existing church property, located at 2586 Chain Birdge Rd., tax map reference 38-3((1))38 & 40, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on June 20, 1978 and deferred from May 9, 1978; and

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

1. THAT the owner of the subject property is Emmanuel Lutheran Church.
2. THAT the area of the lot is 3.3438 acres.
3. THAT the present zoning is RE-1.
4. THAT compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be normal church activities.
8. The minimum number of parking spaces shall be 152.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 282, June 20, 1978, Scheduled case for

12:10 P.M. - EDWARD W. WINGO, Appl. under Sec. 30-6.6 of the Ord. to permit garage addition to existing dwelling to 21.1' from Pillow Lane, (40' required), located 5234 Queensberry Ave., Ravensworth Subd., 70-4((8))(13)5, (14,136 sq. ft.), Annandale Dist., R-12.5, V-119-78.

Mr. Carl Hellwig, Springfield Associates, 5700 Hanover Avenue, Springfield, Virginia, represented the applicant. Mr. Hellwig that this was a request for a variance in order to construct an addition 21.1' from Pillow Lane where the Ordinance requires a distance of 40'. Mr. Hellwig stated that there was a fill condition on the property and that this was a corner lot. Mr. Hellwig stated that there existed unusual conditions and special circumstances which necessitated the request for a variance. He submitted a report from Washington Testing to substantiate the soil condition.

Mr. Durrer informed the Board that he knew the property and that this was a corner lot. He stated that there was no way for the applicant to construct a 22' garage without getting a variance.

Mr. Yaremchuk inquired as to why the applicant did not construct the addition on the other side of the property. He was informed that this would not be feasible because of the soil condition and the living room.

Mr. Covington stated that the applicant's main problem was the side lot.

Mr. Hellwig stated that the problem on the other side of the property was that the bedrooms were located on that side of the house.

Mr. Durrer inquired if the new construction would be compatible with the rest of the house and he was informed by Mr. Hellwig that they would use the same type of materials.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 283, June 20, 1978 Board of Zoning Appeals
EDWARD W. WINGO

R E S O L U T I O N

In Application No. V-119-78 by EDWARD W. WINGO under Section 30-6.6 of the Zoning Ordinance to permit construction of garage 21.1' from Pillow Lane (40' required), on property located at 5234 Queensberry Avenue, tax map 70-4((8)) (13)5, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 20, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 14,136 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Page 284, June 20, 1978, Scheduled case for

12:30 P.M. - DAD ENTERPRISES, INC. appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit Day Care Center for 50 children, ages 2 - 6, from 7 A.M. to 6 P.M., Monday - Friday, located 2345 Chestnut St., 40-3((22))4 and C-O on map 40-3((1))107A, (.62 acres), George Mason Heights, R-10 & C-O, S-78-78. (Deferred from May 16, 1978 for Notices.)

284

The Board was in receipt of a letter from the applicant requesting permission to withdraw the application for a day care center.

Mr. Durrer moved, Mr. DiGiulian seconded, and it was unanimously carried to allow DAD ENTERPRISES, INC. to withdraw its application with prejudice.

//

Page 284, June 20, 1978, After Agenda Items

The Board discussed the increasing number of applications being received and the scheduling problem that was starting to develop in that there was a possibility that the Board would soon be exceeding the 60 day requirement to hear all cases.

Mr. Durrer moved and Mr. Barnes seconded that the Clerk set up more cases per meeting, adding an additional four or five cases, and run the meeting through 4 P.M., if necessary. It was suggested that the Clerk do the same thing with the first meetings scheduled in September until the backlog disappears. The motion passed by a vote of 4 to 1 (Mr. Yaremchuk.)

//

The Board was in receipt of a letter from John W. Kinnally T/A Kelly's Corn Stand, requesting approval from the Board for a temporary special use permit to operate a produce stand at 2071 Chain Bridge Road, Tysons Corner, Virginia. Mr. Kinnally standed that the hours of operation would be seven days a week from 10 A.M. to 5 P.M.. He further stated that the stand would be open for a period of 90 days: July 1, 1978 through September 30, 1978.

Mr. DiGiulian moved that Mr. Kinnally be granted a temporary special use permit in order to allow the sale of produce. Mr. Barnes seconded the motion. The motion passed by a vote of 3 to 1 (Mr. Smith) with 1 abstention (Mr. Yaremchuk).

Mr. Durrer stated that he did not think that the applicant should come in at the last moment requesting this type of use. He stated that the applicant should be instructed to let the Board have an official request before the last moment.

Mr. Smith stated that he felt the Board should instruct the applicant to come in with an official formal application and have a public hearing held on the matter. Mr. Covington stated that the applicant could not make the application, that the gas station would have to make the application. Mr. Smith stated that since the applicant had a lease from the gas company that he could make the formal application. Mr. Covington stated that there was not anything that said the applicant had to have a permit to sell corn. Mr. Smith was concerned that if the applicant did not require a permit and the County could allow the use then he could not understand why there was a need for a temporary use permit from the Board. He was informed by Mr. Covington that the reason was because the gas station was under a special use permit.

// The meeting adjourned at 12:32 P.M.

BY Sandra L. Hicks
Sandra L. Hicks, Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the BZA on Dec. 1, 78
Submitted to the other departments, Board of Supervisors and Planning Commission on Dec 1, 78.

APPROVED: December 5, 78
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Wednesday, July 5, 1978. All Board members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian and John Yaremchuk.

The meeting opened at 10:20 A.M. led by a prayer by Mr. Barnes.

10:00 A.M. - FAIRFAX COUNTY BOARD OF SUPERVISORS, appl. under Sec. 30-6.6 of the Ord. to permit construction of addition to existing dwelling 6.8' from side property line, (10' required), located 2208½ Farrington Ave., Huntington Subd., 83-1((14))(A)A, (21,029 sq. ft.), Mt. Vernon Dist., RM-1, V-120-78.

Mr. Martin Cressnor, Assistant Director of Housing & Community Development, represented the Board of Supervisors. Mr. Cressnor stated that the Department of Housing & Community Development had the responsibility of administering the Federal Block Grant for Fairfax County and for the Board of Supervisors. He stated that under this program, the Federal program was trying to improve living conditions in older communities of the County. One of the projects proposed for funding by the citizens was the improvement of the Huntington Community Center. He stated that this project has been before the Planning Commission and the Board of Supervisors on a number of occasions and that it had been approved by both parties.

Chairman Smith inquired if this center was for recreational use and he was informed that it was for community use. When questioned by the Chairman as to the reason for the variance, Mr. Cressnor deferred to Ms. Rounsevell.

Ms. Patti Rounsevell, Associate Planner, Department of Housing & Community Development, stated that the variance was requested in order to come within 6.8' between the Community Center and the adjoining residences. She stated the reason for the variance was to locate two new additions on the east end of the building. She stated that the additions would house a small storage area and an office space. Ms. Rounsevell stated that the additions were best located at this end of the building because it would best serve the interior of the building. In addition, by locating the office at this end of the building would enable the supervisor to view activities outside the building and several locations within the building.

Chairman Smith inquired if this proposed addition could not be constructed in any other area. Ms. Rounsevell stated that they were constrained by the narrowness & strange configuration of the lot. She stated that the other end of the building was raised up and, also, they would not be able to move the play area.

Chairman Smith inquired as to why they could not use the proposed building for the uses indicated in the existing building where the variance was needed. Ms. Rounsevell stated that the meeting room was too small. Chairman Smith inquired about the other building. Ms. Rounsevell stated that it was a lobby and would also store chairs and the pool table. She further stated that the office has to be located where it is in order for the supervisor to look and be able to control what is going on in the building.

Mr. Yaremchuk inquired as to how this center came about. Ms. Rounsevell stated that it had been dedicated by the community and has been in existence since 1962. Mr. Yaremchuk stated that this was a very small piece of land and inquired if the citizens in the area were aware of this proposal. Ms. Rounsevell stated that they were because the center had been meeting with them for three years.

Mr. Durrer inquired as to the citizen reaction and inquired if the center had gotten a petition from the citizens in the area. Ms. Rounsevell stated that they had not received any petition from the citizens but that she had attended almost every meeting with the citizens and they had helped draw up the plans.

Chairman Smith inquired as to the size of the proposed building and was told it was about 4,000 sq. ft. When he inquired about the dimensions, he was informed by Ms. Rounsevell that she did not know the exact size but that it was approximately 30' x 70'. Chairman Smith stated that there would not be much play area left after construction of the proposed building. Ms. Rounsevell stated that there would a large basketball court, a small seating area for people to get away and at the end of the alley is a small tot lot. When Chairman Smith inquired if this center was basically to serve the immediate community he was informed that it was.

286

Mr. Terry Barton, President of the Huntington Community Association, 2222 Farrington Avenue, appeared to speak on behalf of the application. He stated that the back of his lot borders the community center. He stated that he has been working with the community and with the members of the Department of Housing & Community Development and that he very strongly approves the addition to the building and the needed space as outlined by Ms. Rounsevell. He stated that the Huntington Community Association has no objection to the improvement of the building.

Mr. Yaremchuk inquired as to the number of citizens represented by Mr. Barton. Mr. Barton stated that the Huntington Community Association is made up of each member of the community and totals about 2,200 people. Mr. Yaremchuk inquired if meetings had been held on this and inquired if everyone was in favor of the proposal. Mr. Barton replied that numerous meetings had been held, that it had been announced in the community bulletins published once a month, and that it had been a part of the Association's plan to have improvements to the community. Mr. Barton stated that numerous posters had been put up and that everyone had been invited to come and give their ideas as to what was needed.

Mr. Yaremchuk inquired if the people had ever taken a vote on this proposal. Mr. Barton stated that a vote had been taken many times. He stated a committee had been appointed to work with the Housing Office and to work up the plans, drawings, etc. Mr. Yaremchuk inquired if Mr. Barton felt that the majority of the 2,200 people were aware of the proposal. Mr. Barton stated that no opposition had ever been brought up at the meetings.

There was no one to speak in opposition to the application.

Page 286, July 5, 1978 Board of Zoning Appeals
FAIRFAX COUNTY BOARD
OF SUPERVISORS

R E S O L U T I O N

In Application No. V-120-78 by FAIRFAX COUNTY BOARD OF SUPERVISORS under Section 30-6.6 of the Zoning Ordinance to permit construction of addition to existing dwelling 6.8' from side property line, (10' required), on property located at 2208½ Farrington Avenue, tax map 83-1((14))(A)A, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RM-1.
3. The area of the lot is 21,029 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, too narrow;

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 287, July 5, 1978, Scheduled case for

10:10 A.M. - GEORGE F. & JANICE KETTLE, appl. under Sec. 30-6.6 of the Ord. to permit addition within side yard setback, 9' requested, (15' required), located 3803 Bent Branch Rd., Barcroft Woods Subd., 60-4((20))100, (22,174 sq. ft.), Mason Dist., R-17, V-111-78.

Mr. Ken Sanders, an attorney in Fairfax, represented the applicants. The required notices were in order.

Mr. Allen Croft, an attorney in Fairfax, 4084 University Drive, represented the adjoining property owners, Dr. and Mrs. John Burwell.

For testimony during the hearing, please refer to the verbatim transcript in the file.

Page 287, July 5, 1978 Board of Zoning Appeals
GEORGE F. & JANICE KETTLE

R E S O L U T I O N

In Application No. V-111-78 by GEORGE F. & JANICE KETTLE under Section 30-6.6 of the Zoning Ordinance to permit addition within side yard setback, 9' requested, (15' required), on property located at 3803 Bent Branch Road, tax map 60-4((20))100, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-17.
3. The area of the lot is 22,174 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith) with 1 abstention (Mr. Yaremchuk).

Page 287, July 5, 1978, Scheduled case for

10:20 A.M. - MARJORIE V. BOLLINGER, ET. AL., appl. under Sec. 30-6.6 of the Ord. to permit construction of building 15' from rear setback, (25' required), located 6309 Grovedale Dr., Franconia Hills Subd., 81-3((5))13, (51,557 sq. ft.), Lee Dist., C-N & RE-1, V-113-78.

The required notices were in order and in the file.

Mr. Mike Lubeley, 14914 Jefferson Davis Highway, Woodbridge, Virginia, represented the applicants. Mr. Lubeley stated that he represented the heirs of Joseph Bollinger. He stated that the property consisted of 39,000 sq. ft. in the C-N zone and the back portion was zoned RE-1. Mr. Lubeley stated that the applicants proposed to build two one story office buildings within 15' of

the RE-1 zone. He stated that both the C-N & RE-1 zones were owned by the applicants. He stated that the Ordinance requires a setback of 25' from a residential zone. Mr. Lubeley stated that this exact plan had been presented to the Board of Supervisors and had been approved by the Planning Commission. He stated that the Board of Supervisors granted a special exception which allows limited parking on the RE-1 zone for the office building use.

Chairman Smith inquired if the Board of Supervisors was made aware of the fact that a variance was going to be needed. Mr. Lubeley stated that it was during the staff review that the necessity for a variance had been determined. He stated that the special exception had been granted by the Board with them being aware of the fact that a variance was going to be needed. He stated that it had been in the staff report and that it had been discussed at the hearing.

Mr. Lubeley stated that in this instance, the RE-1 zone buffers on commercial property. These lots front on Franconia Road and consist of a Pizza Hut, a 7-11, and a real estate office. Mr. Lubeley stated that the piece of ground zoned RE-1 was too small and irregular in shape to ever be used for residential purposes.

Mr. Lubeley stated that the front portion could only be economically developed if the variance was granted in view of the fact that the front 3,000 sq. ft. is being dedicated for public use. He stated that placing the buildings 15' closer to the residential line would not really affect anyone. He stated that this proposal would improve the area and be a benefit to the area and, therefore, he requested the Board to grant the variance.

Mr. Yaremchuk inquired if the commercial property adjoins the residential on one side and if the applicants proposed any screening along that line. Chairman Smith stated that the only RE zone was the rear of the proposed property and that it belonged to the applicants. Chairman Smith stated that the contiguous property on both sides was C-N zoning. Mr. Yaremchuk stated that the screening would be required for lot 14 at the time of Site Plan approval.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-113-78 by MARJORIE V. BOLLINGER, ET. AL. under Section 30-6.6 of the Zoning Ordinance to permit construction of building 15' from rear setback (25' required), on property located at 6309 Grovedale Drive, tax map 81-3((5))13, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-N & RE-1.
3. The area of the lot is 51,557 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

289

RESOLUTION

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 renewed by action of this Board prior to expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a unanimous vote, 5 to 0.

Page 289, July 5, 1978, Scheduled case for

10:30 A.M. - CHARLES B. HIEP, TR., appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel into two lots, proposed lot 94-A showing 20,032 sq. ft. and lot 94-B showing 21,442 sq. ft. with a total lot area of 41,454 sq. ft., (43,560 sq. ft. required) & to permit construction of dwelling on lot 94-B 12' from rear property line (25' required), located 4901 Virginia St., Southern Villa Subd., 72-3((13))7A, (45,233 sq. ft.), Mason Dist., RE-0.5, V-117-78. and V-164-78.

Mr. Knowlton informed the Board that the application had originally been taken as one application but had been advertised as one application. The required notices were in order.

Mr. Charles Hiep, 2000 South Eads Street, Arlington, Virginia gave the required justification to the Board. He stated that he wanted to subdivide the land but was required to dedicate. Originally, the lots would have been over one-half acre for both. Because he was required to dedicate for public street purposes it made the lots less than the required square footage. He stated that he would like to be able to subdivide in order to build a single unit building on each lot.

Chairman Smith inquired as to the length of time Mr. Hiep had owned the property. He replied that he had owned it for about a year and a-half. Next, Chairman Smith asked when Mr. Hiep had dedicated the property. Mr. Hiep responded that originally it was 40' from the street and that now it is 50'. He stated that when he purchased the property it was listed as over one acre and that now with 25' from the center line he was losing the whole length of the property. Mr. Hiep stated that he doubted that the street would ever really be widened. Chairman Smith stated that then actually the property had not been dedicated but that Mr. Hiep proposed to dedicate. Mr. Hiep stated that was true and that he had proposed to dedicate 5' all around. Chairman Smith inquired as to the proposed square footage of the dedication and was informed that it was 3,779 sq. ft. Mr. Hiep stated that after dedication, the total lot area was only 41, 454 sq. ft.

Mr. Yaremchuk inquired if that was the reason for seeking a variance, because of the dedication. Mr. Hiep responded that it was. He stated that if he did not have to dedicate then he would not need a variance. Mr. Yaremchuk stated that the man should have been given credit for dedicating. Mr. Covington stated that was not the policy of Design Review. Mr. Knowlton stated that the policy had been to grant the 20% reduction when the land was acquired by confiscation.

Chairman Smith stated that these two lots were not established lots. He stated that probably Mr. Hiep could get credit for the first lot but not the second lot. This was a resubdivision.

Mr. Knowlton stated that the Board was talking about two things. Number one, the rear setback on the house on 94-B is 12' where 25' is required. He stated the 5' dedication would not completely solve that problem. Further, as to the subdivision of the two lots, Mr. Knowlton stated that the Code requires the lot area to be a certain number of square foot which was required by the Code to be after any dedication of any kind.

Mr. Yaremchuk stated that he thought it was unfair to take a man's land and then make him ask for a variance. Chairman Smith stated that the applicant was proposing to resubdivide two parcels of land. He stated that the applicant could make reasonable use of the land as he purchased it without any variances at all.

Mr. DiGiulian stated that it appeared to him that the applicant had enough land area to make two lots and meet all requirements of the Zoning Ordinance. Mr. DiGiulian stated that the problem was when the man goes to subdivide the

290

land the County was requiring him to dedicate the 5' strip all around on the front. He stated that it was the requirement to public street purposes that was causing the applicant the problem.

Chairman Smith asked for the history concerning the ownership of the land. He was informed that originally this land was part of lot 93 owned by a Mr. Carter who sold part of the land to Mr. McAllister. Mr. McAllister sold the property to Mr. Hiep. Mr. Hiep stated that the land had been purchased with an existing dwelling on it and that he proposed to build another house.

Chairman Smith inquired about the construction of the house 12' from the property line and asked why a variance was needed. Mr. Hiep stated that after the land was divided that due to the shape of the land and the narrowness that he could not place the house at any other location except 12' from the property line. He stated that to place the house at any other location would require more of a variance. Further, there was a creek that runs through the property on the upper portion of the property.

There was no one to speak in favor of the application nor was there anyone to speak in opposition to the application

---

R E S O L U T I O N

In Application No. V-117-78 by CHARLES B. HIEP, Tr., under Section 30-6.6 of the Zoning Ordinance to permit subdivision of parcel into two lots, proposed lot 94-A showing 20,032 sq. ft. and lot 94-B showing 21,422 sq. ft. with a total lot area of 41,454 sq. ft. (43,560 sq. ft. required), on property located at 4901 Virginia Street, tax map 72-3((13))7A, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-0.5.
3. The area of the lot is 41,454 sq. ft.
4. That the applicant's property is non-conforming due to the requirement of dedication for public street purposes.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

RESOLUTION

In Application No. V-164-78 by CHARLES B. HIEP, TR. under Section 30-6.6 of the Zoning Ordinance to permit construction of house 12' from rear property line (25' required), on property located at 4901 Virginia Street, tax map 72-3((13))7A, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public; a public hearing was held by the Board on July 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-0.5.
3. The area of the lot is 21,422 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, being dog-leg shaped.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in pracitical 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 is 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 expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith.)

Page 291, July 5, 1978, Scheduled case for

10:40 A.M. - CHANSON FINNEY & SIDNEY MASRI, appl. under Sec. 30-6.6 of the Ord. to permit variance of Lot 44B, lot width 15.26' shown, (150' required) & variance to Lot 44A, lot width 137.06' shown, (150' required), located 3530 Morningside Dr., Pine Ridge Subd., 59-1((5)) 44, (72,180 sq. ft.), Providence Dist., RE-1, V-118-78.

Mr. Chanson Finney of 3539 Morningside Drive, Fairfax, appeared before the Board to give the required justification. The required notices were in order.

Chairman Smith informed everyone present for this public hearing that the Board was in receipt of a letter from the Pine Ridge Civic Association requesting a deferral of the hearing. The reason given for the request was because the association did not have meetings planned in the immediate future and also more time was needed to explore the situation in order for the civic association to present its case to the Board of Zoning Appeals.

Chairman Smith inquired of Mr. Finney as to his consideration of the request. Mr. Finney replied that he had been very public about the proposal. He stated that the County has placed a sign announcing the public hearing on the property for over a month. He stated that at no time had he attempted to sneak this application through and that he had been available to answer any questions.

Chairman Smith inquired as the length of time Mr. Finney had owned the property and was informed a little over three years.

Chairman Smith stated that according to the staff report, the applicant did not meet the overall requirements for lot area since the 180% rule does not apply. He stated that a separate application would be required for the lot area. Mr. Finney stated that he was qualified under the provisions of 30-3.4.9 of the Zoning Ordinance.

Chairman Smith stated that the Board could not grant the request without an additional application for the variance for the lot area which had not been advertised. Mr. Finney disagreed with the interpretation and stated that it was merely a matter of tense. As there were no objections, Chairman Smith ruled that the hearing could continue.

Mr. Robert Phillips of 3735 Morningside Drive came forward to make a suggestion. He stated that he was not representing the civic association but had been asked to speak on the matter by a number of residents in the Morningside area. He stated that he would like to recommend that the postponement be granted in order for the civic association to schedule a meeting on this matter. He stated that a majority of the members and officers of the civic association were on vacation and were not aware of the situation. He stated that some of the individuals had just recently returned from vacation but that there was not enough time for them to consider the situation and come up with a formal position.

Chairman Smith stated that he would like to proceed with the hearing as there was a representative from the civic association present at this hearing.

Mr. Ross Bell of 3739 Morningside Drive, Vice-President of the Pine Ridge Civic Association, stated that he had spoken with the President, Mr. Kelso, and they had no objection to the Board considering the proposal at this time.

The Board discussed the matter of proceeding with the hearing even though the applicant was aware of the fact that another variance was necessary. Mr. Covington stated that this was the kind of thing that could only be determined when the background research was done. Chairman Smith stated that the applicant was aware that this application did not meet the area requirements but that he was going to argue this point.

Mr. Finney stated that this was the dominant issue. He stated that he had no desire to get an infraction of the Ordinance and was only asking for a variance within the Zoning. He stated that if he did not qualify for the square footage then he would withdraw his application. Chairman Smith stated that the variances Mr. Finney was requesting would still not allow him to construct a dwelling. Mr. Finney replied that that was based on the County's interpretation and that he was prepared to challenge that decision.

Chairman Smith agreed to proceed with the hearing and to have Mr. Finney debate the matter with the Zoning Administrator.

Mr. Finney stated that he had received a letter from the County stating that the property did not qualify under regulation 30-3.4.9. Mr. Finney stated that it was his contention that the property did qualify. He read an excerpt from the Ordinance which stated that "any parcel of land under one ownership which has an area of at least 180% of the minimum lot area prescribed by this chapter for the district in which such parcel is situated and which has not (past tense) since the adoption of the regulation prescribed such minimum area been reduced below an area of twice such minimum area and is not (present tense) adjoined by any other land of the same ownership may be divided into two lots nearer of which has an area of less than 180%...". Mr. Finney stated that as he reads the Ordinance the tense does not refer to prior owners but only to the present owner. Mr. Finney stated that 30-7.3.4.7 of the Ordinance does differentiate between present and past owners whereas 30-3.4.9 does not as it indicates present tense only. Mr. Finney stated that he did not believe that the interpretation of the staff qualifies under the present and past tense. He stated it was an incorrect use of the present and past tense.

Chairman Smith inquired as to who now owns the lot in question. Mr. Finney replied that he was the owner of the lot. Mr. Durrer inquired as to what would be the access and Mr. Finney replied a pipestem driveway. Mr. Durrer inquired as to the size of lot 43 and was informed that it was about 60,000 sq. ft. Mr. Durrer inquired as to the area lot size of lots 69 & 70. Mr. Finney stated that lot 68 is 48,515 sq. ft.. Mr. Durrer stated that would give an idea as to the average lot size in this neighborhood. Mr. Finney stated that it would not as these lots were slightly larger than the others in the area.

Mr. Finney stated that it was up to the Board to determine whether he could subdivide the property under section 30-3.4.9. Chairman Smith stated that the position of the Zoning Administrator was that he was not entitled to the 180% rule.

Page 293, July 5, 1978
CHANSON FINNEY & SIDNEY MASRI
(continued)

Mr. DiGiulian stated that in looking at the assessment map that it did not appear to him that the back lot would have any room to construct another dwelling because of the floodplain. Mr. Finney replied that there was a very large area in the back that was well out of the floodplain. Mr. Yaremchuk inquired if a floodplain study had been made on the property and was informed that it had. Mr. Finney replied that all the setbacks could be met and still remain out of the floodplain.

Mr. Finney restated his argument to the Zoning Administrator as he had been out of the room earlier. Mr. Knowlton stated that he understood the statement made by Mr. Finney and informed the Board that the staff was in the process of researching the history of this section of the Code. He stated that it goes back to 1959. Mr. Knowlton stated that the problem with this particular application had been noticed by Design Review when it was reviewed for subdivision control. Design Review pointed out the problem because it was not the intent of the Ordinance and had not ever been.

Mr. Knowlton stated that the research of the Ordinance has not as yet been completed. Section 30-1.1 under definitions states that words of the present tense include the future tense. Mr. Knowlton informed the Board that the staff was not in a position to give a definitive answer to the question. Mr. Knowlton stated that the position that he gave earlier has been the policy of his office and the other Zoning Administrators before him.

Mr. Covington stated that he believed the County had heard a case similar to this one ten or twelve years ago down in Wellington by a lady of the name of Stein. Mr. Covington stated that he would have to dig through the record books.

Mr. Durrer questioned the position of the Board in this application. He stated that the Zoning Administrator had determined that this application does not comply with the Zoning Ordinance and Mr. Durrer inquired as to whether the Board has to rule on whether the Zoning Administrator was right or wrong before the hearing could continue. Chairman Smith stated that the Board had agreed to hear this case and leave this issue open until the Board could get an answer to the question. He stated that if the question was not resolved by the Zoning Administrator then the Board might eventually have to resolve the issue based on the statements and testimony given.

The Board continued with the hearing. Mr. Finney stated that the neighborhood contained 51 lots on Morningside Drive and Woohill Place. He stated that there were only five lots in that area larger than his. He stated that he was in the top 10% as to the total area in the neighborhood. Mr. Finney stated that if he was granted the right to subdivide there would still be nine lots smaller than his. He stated that this could not possibly upset the general character of the neighborhood.

As for the front footage which the Board was addressing at this time, Mr. Finney reported that there were only sixteen lots in the neighborhood which meet the required road frontage under the current zoning regulations. He stated that if he subdivided except for the pipestem frontage that this would give him one lot of 137' and one lot of 152'. He further stated that both lots would be larger in terms of total space than 20% of the lots and both would be wider in terms of total width than 80% of the total neighborhood.

Mr. Yaremchuk stated that the Board of Zoning Appeals [redacted] covenants existed for this neighborhood. He was informed by Mr. Finney covenants were established in 1947 or 1949. Mr. Yaremchuk inquired if the covenants would prevent him from subdividing the property. Mr. Finney stated that a lot had been subdivided, that lot being lot 36 in 1957.

[redacted] if any other lots had been subdivided in this area by the pipestem method. Mr. Finney informed the Board that a lot immediately him which faces on Prosperity Drive had been converted into a pipestem drive because of a front floodplain problem. He stated that it had a 20' road frontage on Prosperity Drive and a total square feet of 39,617. Chairman Smith then inquired if there was a house on the front on the lot as well as the rear. Mr. Finney reported that the house that had been located in the front had been torn down and that one was being constructed in the rear. Mr. Finney also reported that lot 74 had also been subdivided into five lots with an average size of 34,000 sq. ft. with each lot having an 8' frontage on Morningside Drive. He stated that this had been done during the last year.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application.

Mr. Robert Phillips, 3735 Morningside Drive stated that he had been asked by a number of residents on Morningside Drive to speak against this application. He stated that he had a petition that had been circulated against the proposed variance. There were 52 signatures on the petition. He stated that all of the property owners immediately adjacent to Mr. Finney's property had signed the petition. He stated that the matter only came to the attention of these people about one week ago. Again, he stated that most of the people had been on vacation and that they had not had adequate time to get together on the matter. However, the consensus of the people was presented to the Board by Mr. Phillips. He stated that the neighborhood is made up of large lots, being at least one acre or larger. Mr. Phillips stated that this was a very complex situation as to whether or not Mr. Finney could subdivide his property with the restrictive covenants. There are at least 13 lots in this area that fall into the same category. Mr. Phillips stated that the consensus of the neighborhood was that they wanted to maintain the rural atmosphere of the large lots. Mr. Phillips stated that the covenants provide that only one house can be built per lot. Mr. Phillips stated that there were not any pipestem driveways anyway in the immediate area surrounding Mr. Finney's property. He stated that lot 74 was really not a pipestem driveway but a variance for a road to go back to the houses in the subdivision behind Pine Ridge known as the Tobin area. The other lot mentioned by Mr. Finney was reported to have an easement through it for convenience. Mr. Phillips reported that the lot did have street access to Chandler Street. Another concern of Mr. Phillips was that by building another house in the rear of the property that it would be invading the privacy of the surrounding neighbors who bought their property because of the rural atmosphere. Also, the pipestem drive would have to cross the creek and the floodplain. This would create an increase in runoff. Mr. Phillips was also concerned about parking on the street. In closing, Mr. Phillips requested the Board to deny the application and requested that a formal consensus was decided by the Board that it be deferred until September in order for them to have a more formal decision from the civic association.

Mr. Yaremchuk inquired if Mr. Phillips believed that the covenants could prevent this subdivision and he stated that he believed it could.

Ms. Sonny Yoger of 3715 Propperity Drive next spoke in opposition. She informed the Board that she had consulted the deed prior to coming and that a copy of the covenants were attached. She stated that she believed strongly in the covenants. She stated that Mr. Finney's proposition was clearly against the specific provisions and general intents of the covenants established when the Pine Ridge subdivision was set up in 1941. She stated that this was a unique area of Fairfax County and strongly urged the Board to deny Mr. Finney's application.

Ms. Peggy Matlack of 3531 Morningside Drive clarified that the pipestem drive referred to Mr. Finney does not run across her property. She stated that she gave an easement to the builder behind them as he had bought floodplain property. Every time there is a storm, Chandler Street floods and then there would not be anyway to get back to the property. She stated that when she and her husband bought their property they gave an easement to him to enable him to get to his house. This easement serves a three acre parcel of land.

During rebuttal, Mr. Finney stated that this application was a proper use of his property. He stated that he was in the top 10% at the present time and that he subdivided then he would be in the top 20%. Again, he stated that there are a number of smaller lots in the area. If the variance is granted it would not set a tremendous precedent.

Mr. DiGiulian moved that the Board defer the ruling on the application until the Board receives a ruling from the Zoning Administrator as to the lot area and until the plats are revised to show the location of the floodplain. Mr. Barnes seconded the motion. The motion passed by a unanimous vote of 5 to 0. It was also suggested that Pine Ridge Civic Association submit their position in writing to the Board. The Board agreed to defer this application for two weeks.

//

Page 295, July 5, 1978, Scheduled case for

10:50 A.M. - MARIA P. CANTONIS, appl. under Sect. 30-6.6 of the Ord. to permit division of parcel into three lots: Lot A showing 83.52' lot width; Lot B showing 5.06' lot width & Lot C showing 5.05' lot width, (150' required), located 11717 Sugarland Rd., 6-4((1)) 74, (5.069 acres), Dranesville Dist., RE-1, V-114-78.

Mr. James Burch, 7916 Wellington Rod, acted as the agent for the applicant. He was also the contract purchaser. He stated that this area is five acres and that he was asking for three lots. He stated that he was not asking for the maximum density allowed by the zoning. He stated that two lots would have 2 acres apiece and that one would contain 3 acres. Mr. Burch showed a video tape of the land and also stated that he wanted to keep the rural character of the land.

Mr. Barnes questioned the use of Sugarland Road. Mr. Burch stated that it was not usable and that they would prefer Stuart Road.

Mr. John W. Russell of 1111 Stuart Road, appeared to speak in favor of the application. He stated that he was in favor of the application because it would reduce some uncertainties in their minds. He stated that he did not want an aceess road next to their property. He stated that he would prefer the lessor of two evils.

There was no one to speak in opposition of the application.

Page 295, July 5, 1978 Board of Zoning Appeals
MARIA P. CANTONIS

R E S O L U T I O N

In Application No. V-114-78 by MARIA P. CANTONIS under Section 30-6.6 of the Zoning Ordinance to permit division of parcel into three lots on property located at 11717 Sugarland Road, tax map 6-4((1))74, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-1.
3. The area of the lot is 5,069 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

The Board recessed for lunch at 1:00 P.M. At 2:10 P.M. the Board reconvened into public session to take up the remainder of the scheduled cases.

//

Page 296, July 5, 1978, Scheduled case for

11:00 A.M. - JAMES E. SWART & JOHN F. SWART, JR., TRS., appl. under Sect. 30-6.6 of the Ord. to permit variance to dustless surface requirement to allow gravel driveway & gravel parking lot in conjunction with home professional office, located 11924 Braddock Rd., 67-1((1))33, (34.9078 ac.), Springfield Dist., RE-1, V-116-78.

11:30 A.M. - JAMES E. SWART & JOHN F. SWART, JR., TRS., appl. under Sect. 30-7.2.6.1.11 of the Ord. to permit home professional office for the practice of veterinary medicine, located 11924 Braddock Rd., 67-1((1))33, (34.9078 ac.), Springfield Dist., RE-1, S-115-78.

The required notices were in order.

Mr. James E. Swart of 11924 Braddock Road, one of the applicants, presented the required justification to the Board. He stated that he was a resident of Fairfax County and that he had grown up in Fairfax. He stated that he had lived at the Braddock Road address for 6 years. Mr. Swart stated that he was a veterinarian and that he would like to have a private practice instead of a group situation. He stated that he would like to continue serving the same people by opening a home professional office. He stated that he was also seeking a variance because the driveway and the parking lot are quite long. He stated that the expense to pave them would prohibit him from opening an office. Mr. Swart stated that he has kept the driveway up with gravel. He further stated that he has maintained a residence in Fairfax County all his life.

Mr. Barnes stated that because the applicant owned 35 acres and because of where he was located on Braddock Road that he did not see much use in paving the driveway or the parking lot either.

Chairman Smith inquired as to what the proposed hours of operation would be. Mr. Swart stated that the hours would be limited to an appointment basis only and, hopefully, that this would limit the traffic in and out. Chairman Smith inquired if Mr. Swart was familiar with the staff report that requested that 25' be paved along Braddock Road. Mr. Swart stated that he was aware of the recommendation and that he was at the mercy of the Board. Chairman Smith stated that the staff recommendation did seem to be a very practical approach. Mr. Yaremchuk stated that he would not need the paving. Mr. Barnes stated that there would not be that much traffic going in and out of the property. Mr. Yaremchuk stated that he could not see paving farms and that he was against the recommendation. He stated that he would rather keep the 35 acres the way they were.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 296, July 5, 1978 Board of Zoning Appeals
JAMES E. SWART & JOHN F. SWART, JR., TRS.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-115-78 by JAMES E. SWART & JOHN F. SWART, JR., TRS., under Section 30-7.2.6.1.11 of the Fairfax County Zoning Ordinance to permit home professional office for the practice of veterinary medicine, on property located at 11924 Braddock Road, tax map reference 67-1((1))33, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals oheld on July 5, 1978; and

WHEREAS, the Board 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 34.9078 acres.
4. That compliance with the Site Plan Ordinance is required.

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

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

R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be by appointment only.

Mr. Yaremchuk seconded the motion.

The motion passed bunanimously by a vote of 5 to 0.

R E S O L U T I O N

In Application No. V-116-78 by JAMES E. SWART & JOHN F. SWART, JR., TRS. under Section 30-6.6 of the Zoning Ordinance to permit variance to dustless surface requirement to allow gravel driveway & gravel parking lot in conjunction with home professional office, on property located at 11924 Braddock Rd., tax map reference 67-1((1))33, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 5, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-1.
3. The area of the lot is 34.9078 acres.
4. That the applicant's property has an unusual condition in the size of the lot and the rural setting.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 has started or unless renewed by action of this Board prior to expiration.

RESOLUTION

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 298, July 5, 1978, Scheduled case for

11:50 A.M. - BURKE COMMUNITY CHURCH, appl. under Sec. 30-7.2.6.1.10 of the Ord. to permit construction of a church and related facilities,*located 6232 Belleair Rd., Belleair Subd., 77-4((2))9 & 10, (4.5 acres), Springfield Dist., RE-1, S-109-78. *seating for 750.

The required notices were in order.

Mr. Charles Michael Dudley, 5273 Pumphrey Drive, Fairfax, represented the church. He stated that he was a member of the Burke Community Church being a deacon and chairman of the building committee. He stated that the church served the areas of Springfield and Burke. Mr. Dudley stated that the church consisted of approximately 75 member families and about 75 families not formally associated with the church. Mr. Dudley stated that the Burke Community Church started in July of 1975 and began meeting in the Burke Elementary School. He stated that in 1976, the church moved to the theater of the Burke Secondary School. Mr. Dudley stated that the building committee was formed in 1976 to locate a new site for a home for the church. He stated that the committee looked at 48 sites and decided to recommend the Belleair site.

Mr. Dudley stated that the Belleair Site was composed of two parcels located at 6228 and 6232 Belleair Road. It is adjacent to the Burke Center. He stated that the church would be accessible by Burke Lake Road, Pohick Road and Old Keene Mill Road. He stated that the site was imediately across Belleair Road from the model homes of the Twinlake Subdivision of Burke Center. The site is undeveloped. It is composed of lots 9 and 10 of the Belleair Subdivision. Lot 9 is clear except for a small number of trees and lot 10 is completely wooded. It totals about 4½ acres.

Mr. Dudley stated that houses are located to the west of Belleair Road and to the north and south of the proposed site. There is 300' of frontage on Belleaire Road and the lot is 283½ wide, 740' long on the southern boundary and is 648' long on the northern boundary.

Mr. Dudley stated that the proposed church building is designed to serve 750 persons. The overall length is 350' and the overall width is 130'. The building will set back 50' from Belleaire and 76' from the northern and southern boundaries. The proposed plan provides for 150 parking spaces. The access roads are 24' wide and are set back about 20' from the two sides and the rear boundary. Water and sewer are available at the front of the site. Exterior lighting will be provided on the perimeter of the building and in the parking area in the rear for security and safety of the attendants of the church.

The property will be used for conducting religious services, religious education and fellowship meetings. It will be used for church offices and meetings of the church's governing bodies also.

The structure will be a brick and frame structure with an 'A' roof. The fellowship, educational, and office sections will be one story in height. The sanctuary will not exceed 35' in height not including the steeple. Mr. Dudley stated that the style of the building will harmonize with the surrounding traditional styled houses.

Mr. Dudley stated that the peak hours of use of the property would be on Sunday mornings between the hours of 9 A.M. and 1 P.M. He stated that the church would also be used on Sunday evenings between 6 P.M. and 8 P.M. for Youth Fellowship Activities. Mr. Dudley stated that the church office would be open from 9 A.M. to 5 P.M. Monday through Friday. Meetings of small groups of people approximately 25 in number would be held during the weekday evenings from 7 P.M. to 10 P.M. Normally these total three meetings per week for choir practice, bible study and church government. Six times a year, pot luck dinners are held on Saturday evenings from 6 P.M. to 9 P.M. Weddings and funeral services will also be held.

299

Mr. Dudley stated that the church would be within walking distance of some of the residences in Burke Center. He stated that the bulk number of persons would arrive by private automobile. Mr. Dudley stated that the 150 parking spaces to be provided should be sufficient to handle the peak number of cars on Sunday mornings. The estimated number of vehicular trips during the weekdays are ten, twenty-five during the evening hours on the three weekdays and on Sunday evenings.

Mr. Dudley stated that the church would have a small number of employees using the facilities on a daily basis. These would consist of a Pastor, an Associate Pastor, a church secretary and a part-time custodian.

The following persons spoke in favor of the application. Mr. Michael Winship, Pastor of the Burke Community Church, 8003 Log Cabin Court,,Springfield, informed the Board of the background of the church. He stated that the dream of the congregation was to have a non-denominal community type church to address the problems, the spiritual and the personal needs of the community. He stated that he was ordained in the Presbyterian Church in 1963 and has also served in the field of corrections where he worked in juvenile and family courts. For two and one-half years he had worked for the Fairfax County Sheriff Department counselling the men in the jail. Mr. Winship stated that he has become aware of the fact that many of the problems people have are family related problems. He stated that one of the major emphasises coming from the Burke Community Church will be to address the family type of problems that people have. It was for that reason that a site was selected in a community setting. He stated that the church was organized three years ago and was rather quiet and conservative with a good reputation.

The next speaker was Margaret Odenhamiker, 9522 Vandola Court in Burke, who appeared to speak in favor of the church's application. She stated that her husband was born and raised in this area. She stated that for several years she and her husband had been looking for a church and they finally found that church in the Burke Community Church.

Colonel Ted Bishop of 8331 Garfield Court in Springfield also spoke in favor of of the application. He stated that he appeared as a citizen and as an elder of the church. He stated that he felt he was speaking for the people who were quite mobile in the community and those who have moved all around the country and the world when he says that the Burke Community Church was Christ centered and family centered. He stated that the church serves families, singles and minorities. He stated that the church can serve the community and serve God's people better if it has a permanent facility and urged the Board to grant the request.

The following persons spoke in opposition to the application. Ms. Mary Simpson of 6224 Bellaire Road, an adjoining property owner, lot 11, stated that Bellaire subdivision was a small six family community of about two or more acres per homesite. She stated that the lots were long and very narrow, some being only 125' wide and others only 150'. Some people in the area had to purchase two lots in order to have them wide enough to locate their homes. She stated that the lots 9 and 10 were the only two lots on Belleair Road that were undeveloped. She further stated that these lots were in the center of the subdivision. Belleair Subdivision is located across the street from Burke Center. Ms. Simpson stated that the covenants of the subdivision requires that any construction be at least 125' from the road. She stated that two of the residents had to get special permission from the seller in order to build closer because of a rock formation that runs through the subdivision. Ms. Simpson stated that a church already exists on the corner of Burke Lake Road and that approximately three more churches are proposed for the Burke Center. She stated that there were a lot more churches in the area on Old Keene Mill Road. She stated that Belleair Road was a deadend street and was a quiet community but was surrounded by high density. As the church was going to divide the community in half and because there would only be one way in and out, Ms. Simpson urged the Board to deny the application for a church. Ms. Simpson also gave the Board a letter from the Burke Community Civic Association which also was in opposition to the application.

Mr. Durrer inquired of Ms. Simpson if any of the new houses going in at Twin Lakes would cut through Burke Lake Center. She stated that the builder did not intend to cut any lots through and that a dul-de-sac would be built which meant that the only way in and out would be on Burke Lake Road.

Mr. Yaremchuk stated that the zoning for Burke Center was RPC and inquired if there was any other vacant land nearby in the RPC zone where the church could build. Ms. Simpson stated that Burke Center would be a good location and that

there was some additional land down on Pohick Road and also on Spring Lake Drive. Mr. Yaremchuk inquired if the local civic association had made any suggestions to the church about choosing another location. Ms. Simpson was not certain whether any such suggestions had been made.

Ms. Lu Wright of the Planning Commission was the next speaker in opposition to the proposed church. She stated that the use should not be allowed because of the possible adverse effects on the surrounding community. Chairman Smith informed Ms. Wright that a church was a community use. He inquired as to why the Planning Commission did not pull the case. Ms. Wright stated that the Planning Commission had considered pulling the application but chose not to do so because there already had been a lot of public hearings for the Belleair area. Ms. Wright requested the Board to defer action on this application so that the community could get together and discuss the issue.

Mr. Yaremchuk inquired of Mr. Dudley as to his feelings regarding a possible deferral. Mr. Dudley stated that he had sent a letter to all ten surrounding property owners explaining the intention of the church. The letter contained the address and phone number of Mr. Dudley and it invited the citizens to call and discuss any questions they might have regarding the church's application. Mr. Dudley informed the Board that he had called the residents and offered to meet with them to discuss the issue. All of the residents declined the invitation. Mr. Dudley typed a summary of the details of the application and attached copies of the slides and hand delivered these summaries to the residents in the area. Mr. Dudley stated that they had done everything to solicit responses from the residents and felt that there wasn't anything else that they could have done. For that reason, Mr. Dudley informed the Board that he would be opposed to a deferral.

Mr. Wright stated that she appreciated what the applicant had said but felt that there was some hostility that the church was not aware of. She stated that it was not the church that upset the citizens but the fact that the location for the church would split the community in half.

Chairman Smith stated that the Board could not get involved in the issue of covenants. He stated the proposed site was larger than normal for a church site as far as the land involved and that most churches are built on smaller pieces of ground. He stated that the only real question was the impact. He stated that churches are a community use and it was not until just recently that they were required to obtain a special permit.

Again, Ms. Wright stated that she appreciated the fact that the church had been looking for a long time for a site. Her main concern was that the proposed location would split the community. She stated that if it was based at the end of the street that she would not have a problem with the application. She stated that she felt there should be more communication.

Mr. Durrer stated that the Planning Commission did not take any action on this case so, therefore, there was't a traffic impact study made. Nevertheless, Mr. Durrer stated that this was tough situation and a bad location. He stated that Burke Lake Road has become almost impossible and he urged the Board members to look at it before making a decision.

The next speaker in opposition to the application was Marshal Morrow of 6304 Belleair Road. He presented the Board with a petition signed by the land owners in the Belleair subdivision. He stated that the only signatures that were lacking were the ones that were on vacation. Mr. Morrow stated that the only thing that he would like to see on the two vacant lots in question were two houses which would maintain the integrity of the community.

During rebuttal, Mr. Dudley stated that he did notify all of the surrounding property owners. He specifically involved the Burke Center so that they could inform prospective buyers of the proposed church location. He stated that the Master Plan calls for another road to be built in that area. With respect to lights, he stated that the church was sensitive to any problems that might arise and was taking pains to insure that the lights only service the property intended. Mr. Dudley stated that there was no way that the church could afford to purchase property in the Burke Center complex as they would have to pay the full value. He stated that the church had run into problems while trying to negotiate the deal for the present property. The church had considered that there was room to grow on the proposed property. Mr. Dudley stated that the church understood the concern of the citizens but that it was not the church that was the cause of changes in the community. Mr. Dudley urged the Board members to grant the request.

Page 301, July 5, 1978
BURKE COMMUNITY CHURCH
(continued)

Mr. Yaremchuk made a motion that since there had been a request for a deferral he so moved so that they could work out their differences. Mr. Durrer seconded the motion. Mr. DiGiulian stated that he would support the motion if there was a time limit involved. Mr. Yaremchuk amended his motion to include a deferral time of one week.

During discussion of the motion, Mr. Durrer stated that any person going to the Burke Community Church would have to come out on Burke Lake Road. He stated that the majority of the people attending church would have to drive or be transported in some fashion. He stated that Burke Lake Road at that intersection had a very sharp angle and that the site distance was limited. Mr. Durrer stated that the reason he had seconded the motion was so that the staff could determine if there would be another road constructed or whether there would be any improvements made to Burke Lake Road.

The vote on Mr. Yaremchuk's motion failed by a vote of 2 Yes (Durrer and Yaremchuk) to 3 No (DiGiulian, Barnes and Smith).

Mr. Digiulian made the following motion:

Page 301, July 5, 1978 Board of Zoning Appeals
BURKE COMMUNITY CHURCH

R E S O L U T I O N

WHEREAS, Application No. S-109-78 by BURKE COMMUNITY CHURCH under Section 30-7.2.6.1.10 of the Fairfax County Zoning Ordinance to permit construction of a church and related facilities on property located at 6232 Belleair Road, tax map reference 77-4((2))9 & 10, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 5, 1978; and

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

1. That the owner of the subject property is Stuart F. Kindrick & J. Robert Brown, and that the applicant is the contract purchaser.
2. That the present zoning is RE-1.
3. That the area of the lot is 4.5350 acres.
4. That compliance with the Site Plan Ordinance is required.

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

1. THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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.

RESOLUTION

6. Landscaping and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be normal church acitivities.
8. The number of parking spaces shall be 150.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 2 abstentions (Mr. Durrer and Mr. Yaremchuk).

Page 302, July 5, 1978, Scheduled case for

12:10 P.M. - ANNANDALE PLAY CARE, INC., appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit day care center for 75 children in the St. Barnabas Episcopal Church, located 4801 Ravensworth Rd., Rocart Terrace Subd., 71-3((1))1, (6.4413 acres), Annandale Dist., RE-1, S-110-78.

The required notices were in order.

Mrs. Audrey Trumbull, 7815 Royston Street, Annandale, Virginia, presented the required justification to the Board. She stated that the Annandale Play Care would like to offer a day care center in the Annandale area. The building that they proposed to use sits behind the main church building and off of Ravensworth Road. She stated that there were not any houses any way near the play area. Mrs. Trumbull stated that the Annandale Play Care, Inc. would be made up of qualified staff. She stated that they would take the children on field trips. Mrs. Trumbull reported that they proposed to accept children between the ages of two and ten and that the hours of operation would be from 7 A.M. to 6 P.M., Monday through Friday. She stated that this would be a twelve month operation geared towards working mothers.

There was no one to speak in favor of the application. The following person spoke in opposition to the application. Mr. Perry Dickison of 4717 Ravensworth Road, Annandale stated that he had lived in Fairfax County since 1942. He stated that his property ajoins the church property being 383' long. He stated that the church driveway was only 11' away from his property line and only 48' from his back door. Mr. Dickison stated that by allowing a day care center for seventy-five children that it would increase the flow of traffic into the church. He stated that traffic would consist of the tenants, service personnel, visitors, etc. Mr. Dickison stated that this additional traffic would start at 6:45 A.M. only 48' from his back door and continue until 6:15 P.M. He stated that the proposed day care center was not a part of the church and was a profit making organization.

Mr. Dickison stated that seventy-five children could not help but make noise. He stated that the day care center could not keep the children locked up all day to prevent the noise. He further stated that there are already three day centers in the area. He stated that there was a Montesorri school only two blocks away and the United Methodist Church day care center was seven blocks away. Mr. Dickison stated that within an eight block area of Rt. 236 to Braddock Road, there was a shopping center consisting of 150 rental units, two service stations, the Annandale Tennis Club, a haven for distressed people, five churches, and a Catholic grade school and the Annandale High School. He stated that there was already a lot of traffic generated in the area and especially on Ravensworth Road which was only two lanes. Therefore, Mr. Dickison urged the Board to deny the application for a day care center.

During rebuttal, Mrs. Trumbull stated that the drive to the church does have a barrier of a fence and some trees. She stated that the playground area was well behind Mr. Dickison's house. She stated that there was desperate need for day care centers in the area and informed the Board that they would be located in the middle of the Heritage Apartment complex and the Annandale Terrace Apartment complex.

Mr. Barnes questioned whether the use of buses would be used to transport the children. Mrs. Trumbull stated that there will be a van to transport the children to school.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. S-110-78 by ANNANDALE PLAY CARE, INC. under Section 30-7.2.6.1.3 of the Ord. to permit day care center for 75 children in the St. Barnabas Episcopal Church, on property located at 4801 Ravensworth Road, tax map reference 71-3((1))1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 5, 1978; and

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

1. That the owner of the subject property is Truro Episcopal - St. Barnabas Mission and the applicant is the lessee.
2. That the present zoning is RE-1.
3. That the area of the lot is 6.4413 acres.
4. That compliance with the Site Plan Ordinance is required.

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

1. THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of children shall be limited to a maximum of 75, ages 2 - 10 years of age
8. The hours of operation shall be from 7 A.M. to 6 P.M., Monday through Friday.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 303, July 5, 1978, Deferred case scheduled for

12:30 P.M. - FRANK C. FORBES & JOHN R. WADE, appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel 18 into two lots with proposed lot 18B having less lot width than required by the Ord. (15' requested, 150' required), 8646 Tuttle Road, 79-3((4))18, (2.50 acres), Springfield Dist., RE-1, V-81-78. (Deferred from May 23, 1978 for proper application.)

The required notices were in order. Mr. John R. Wade, 9524 Cherry Oak Court, Burke, Virginia stated that they were requesting approval to resubdivide the tract in an RE-1 section into two 2.50 acre lots. He stated that he would

prefer to keep the tract in a single family use rather than townhouse use.

Mr. DiGiulian stated that he believed that the last time the application was before the Board that he had asked about what type of construction would be required on Tuttle Road. Mr. Wade informed Mr. DiGiulian that the County was awaiting an evaluation from the Board of Zoning Appeals before determining the road condition. Mr. Wade stated that they would prefer to build the road to the current standards to the front of the property. Mr. DiGiulian inquired if they would construct the road in accordance with State Standards and he was informed that the applicants would build by state standards only on their own property. Mr. Wade stated that they would improve the road to where it was presently located. Mr. DiGiulian asked for comments from the County. Mr. Covington stated that the comments would have to come from Design Review. Mr. DiGiulian informed the Board members that he could not vote until he received a report from Design Review regarding the construction of the road for Tuttle Road.

Chairman Smith stated that all the Board had been asked to do was to either grant or deny the request for the 15' frontage. He stated that three houses were already being served by the road.

Mr. Wade stated that the type of houses they would propose to build would be four to five bedrooms and would not exceed the value of the homes on the adjoining properties. He stated that it could only enhance the current value of the neighborhood.

Mr. Durrer stated that if he understood Mr. DiGiulian's statement, Tuttle Road was a deadend street and he questioned what was going to be done with the gap there. Mr. Wade replied that there was a break approximately 300' from the Hillside Road. He stated that it was gravel from Hillside to the edge of the proposed property. He stated that no one is maintaining the road and that presently it was being maintained as a gravel road. Mr. Wade stated that they proposed to extend the gravel road and maintain it until such time as the State took it over. Mr. Durrer stated that there were too many 'ifs' in the statement for him to take any action yet.

There was no one to speak in favor of the application and no one to speak in opposition. There were two letters in the file in opposition to the application.

Mr. Durrer stated that he sees too many areas of no man's land. Chairman Smith stated that they were doing the road for their own property and that if they got fenced in then it was their problem. Mr. DiGiulian stated that he was concerned about Rolling Road. He stated that he thought that with all the development going on in the area that it should be a paved road.

Mr. DiGiulian moved that the Board defer decision on the application until a report from Design Review was received regarding Tuttle Road. Mr. Durrer seconded the motion. The motion passed unanimously by a vote of 5 - 0. The date of July 11th was selected as the deferred date for decision.

//

Page 304, July 5, 1978, Deferred case scheduled for

12:45 P.M. - MESSIAH LUTHERAN CHURCH appl. under Sec. 30-7.2.6.1.10 of the Ord. to permit construction of additional parking lot on a 10,000 sq. ft. separate parcel of land adjacent to existing church, 6511 Bluebill Lane, 93-1((25))(1)1, 2, 3, 4 & 11, Belle Haven Estates Subd., (55,837 sq. ft.), Mt. Vernon Dist., R-10, S-92-78. (Deferred from June 6, 1978 for Notices.)

The required notices were in order. The representative for the church stated that this was an application to allow the church to asphalt 10,000 sq. ft. for a parking lot. He stated that the church was behind this property and that the church owned both properties on the adjoining parcels. He stated that the lot was very flat and that there would not be a problem with drainage.

There was no one to speak in favor of the application and no one to speak in opposition. The Board was in receipt of a letter from Mr. Chapear in opposition to the proposed parking as it would increase traffic and attract undesirable elements.

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-92-78 by MESSIAH LUTHERAN CHURCH under Section 30-7.2.6.1.10 of the Fairfax County Zoning Ordinance to permit construction of additional parking lot on a 10,000 sq. ft. separate parcel of land adjacent to existing church, on property located at 6511 Bluebill Lane, tax map reference 93-1((25))(1)1, 2, 3, 4 & 11, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 5, 1978; and

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

1. That the owner of the subject property is Messiah Lutheran Church.
2. That the present zoning is R-10.
3. That the area of the lot is 10,000 sq. ft.
4. That compliance with the Site Plan iOrdinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any such changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 305, July 5, 1978, Deferred Scheduled case for

1:10 P.M. - MT. VERNON K OF C CLUB, INC. appl. under Sec. 30-7.2.6.1.4 of the Ord. to permit Bingo Auditorium located 7702 Richmond Highway, 101-2((1))part of lot 12, (20.295 acres), Lee Dist., C-D, S-53-78. (Deferred from April 12, 1978 for a period of sixty days for additional information.)

Mr. Durrer inquired if an audit report had been received yet. Mr. Covington stated that the internal audit was satisfactory. Chairman Smith inquired as to whose satisfaction was it considered satisfactory and he was informed that Mr. Cohen of the Budget Office had ruled it satisfactory.

306

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-53-78 by MT. VERNON K OF C CLUB, INC. under Section 30-7.2.6.1.4 of the Fairfax County Zoning Ordinance to permit Bingo Auditorium on property located at 7702 Richmond Highway, tax map reference 101-2((1))pt. of lot 12, County of Fairfax, Virginia, has been property filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 5, 1978 and deferred from April 12, 1978 and June 13, 1978; and

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

1. That the owner of the subject property is Joseph Carr Company and that the applicant is the lessee.
2. That the present zoning is C-D.
3. That the area of the lot is 17,8408 acres.
4. That compliance with the Site Plan Ordinance is required.

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

1. THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The maximum number of patrons shall be 750.
8. The hours of operation shall be 6 P.M. to 11 P.M., Wednesday, Friday and Saturday.
9. This permit is granted for a period of three (3) years with annual renewal required as set forth by the Fairfax County Ordinance.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 307, July 5, 1978, Deferred Scheduled Case for

1:30 P.M. - ENGLESIDE LIONS CLUB, appl. under Sec. 30-7.2.6.1.4 of the Ord. to permit Bingo Games - Auditorium, located 7858 Richmond Highway, 101-2((6))507B, (2,450 sq. ft.), Hybla Twin Cinema Center/Evergreen Farms, Lee Dist., C-D, S-88-78. (Deferred from June 6, 1978 for audit report.)

307

Mr. Covington informed the Board that the audit report was in and that it was satisfactory according to the Audit Division of the Office of Management and Budget.

Page 307, July 5, 1978 Board of Zoning Appeals
ENGLESIDE LIONS CLUB

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, APPLICATION NO. S-88-78 by ENGLESIDE LIONS CLUB under Section 30-7.2.6.1.4 of the Fairfax County Zoning Ordinance to permit Bingo Games - Auditorium on property located at 7858 Richmond Highway, tax map reference 101-2((6))507B, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on June 6, 1978 and deferred until July 5, 1978; and

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

1. That the owner of the subject property is Hybla Valley Associates and the applicant is the lessee.
2. That the present zoning is C-D.
3. That the area of the lot is 2,450 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be 6 P.M. to 11 P.M. on Sundays.
8. This permit is granted for a period of three (3) years with an annual licensing requirement as set forth by the County and the State Code.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 308, July 5, 1978, After Agenda Items

S-98-78, Pepichova School of Ballet: The Board was in receipt of a letter from the Reverend Allen D. Minter, Pastor of the Charles Wesley United Methodist Church regarding the fencing requirement for the Ballet School. They requested permission from the Board to construct the fence over a period of time rather than all at once.

Mr. Durrer moved that the Board allow the church to construct the fence over a period of time as specified in the letter. Mr. DiGiulian seconded the motion. The motion passed unanimously by a vote of 5 to 0.

//

Page 308, July 5, 1978, After Agenda Items

S-196-77, Christian Fellowship Church: The Board was in receipt of a letter from Wilson L. Kirby, P.E. requesting permission from the Board to construct a one story building rather than the two-story building granted by the Board. Mr. Wilson stated that the overall dimensions would not change.

Mr. Barnes moved that they be allowed to construct the one story structure as stated in the letter since it was less than what the Board had originally granted. Mr. Durrer seconded the motion. The motion passed unanimously by a vote of 5 to 0.

//

Page 308, July 5, 1978, After Agenda Items

The Board was in receipt of a letter from Mr. and Mrs. Charles E. Hayden requesting an out-of-turn hearing date in a variance application. The reason stated for the request was the contract with the contractor and also the increased construction costs if they waited until September to be heard.

In view of the fact that the Board had a full agenda scheduled for the end of July which would be earliest time for an out-of-turn hearing and still meet the requirements of the Zoning Ordinance and also the fact that the Board was going to adjourn in August for their summer break, the Board unanimously denied the request.

//

There being no further business, the meeting adjourned at 4:20 P.M.

BY Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the BZA on Dec. 7, 78
Submitted to the other departments,
Board of Supervisors and Planning
Commission on Dec. 7, 78.

Daniel Smith, Chairman

APPROVED: December 12, 78
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Tuesday, July 11, 1978. All Board Members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian and John Yaremchuk.

The meeting opened at 10:15 A.M. led by a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case:

10:00 A.M. - BETHESDA CHRISTIAN CENTER, Inc. appl. under Sec. 30-7.2.6.1.10 of the Ord. to permit Religious Conference Center with overnight housing of participants, located 12000 Henderson Rd., 95-1((1))20A & 95-3((1))2 and 2A, (26.8 acres), Springfield Dist., RE-1, S-57-78. (Deferred from May 2, 1978 for a full Board).

Mr. William H. Hansbarger, 10523 Main Street, Fairfax, Virginia, represented the applicants.

For testimony received at the public hearing, please refer to the verbatim transcript on file in the Board of Zoning Appeals office.

BETHESDA CHRISTIAN CENTER, INC.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, application No. S-57-78 by BETHESDA CHRISTIAN CENTER, INC. under Section 30-7.2.6.1.10 of the Fairfax County Zoning Ordinance to permit religious conference center with overnight housing on property located at 12000 Henderson Road, tax map reference 95-1((1))20A and 95-3((1))2 and 2A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 11, 1978 and deferred from May 2, 1978; and

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

1. That the owners of the subject property are Wayne and Carolyn Hirst and that the applicant is the lessee.
2. That the present zoning is RE-1.
3. That the area of the lot is 26.8 acres.
4. That compliance with the Site Plan Ordinance is required;

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

1. THAT the applicant has not presented testimony indicating compliance with Standards for Special Permit Uses in R Distrcits as contained in Section 30-7.1.1 of the Zoning Ordinance;

NOW, THEREFORE, BE IT RESOLVED, that the subject application is DENIED.

Mr. DiGiulian seconded the motion for purposes of discussion. He stated that he would like to research the section of the present Ordinance as to whether this use was a Group VI use.

Mr. Durrer stated that he made the motion because he did not think that this was a Group VI use. He stated that because the main purpose of the center was to be a conference center that it did not fit in the category of a church.

Mr. Barnes stated that the Zoning Administrator considered it a Group VI use and that was the reason that it was filed under the Group VI use.

Chairman Smith stated that he questioned whether or not the conference center was in accordance with the Ordinance and whether it would be compatible with the residential character and in harmony with the area.

The motion passed by a vote of 3 to 1 (Mr. Barnes) and 1 abstention (Mr. DiGiulian).

Psge 310, July 11, 1978, Scheduled case for

12:00 P.M. - 101 ENTERPRISES INC. T/A PONDEROSA STEAK HOUSE appl. under Sec. 30-6.6 of the Ord. to permit a second free-standing sign in shopping center as set forth in Zoning Ordinance Sec. 30-16.8.3, 4th paragraph, located 1651 Reston Ave., 17-1((1))4, (14,84499 ac.), Centreville Dist., RPC, V-85-78. (Deferred from May 23, 1978 for notices).

The Board was in receipt of a letter from the applicant's attorney, Grayson Hanes, requesting permission from the Board to withdraw the application.

Mr. Durrer moved that the Board allow the applicant to withdraw the application without prejudice. Mr. DiGiulian seconded the motion. The motion passed unanimously by a vote of 5 to 0.

//

Page 310, July 11, 1978, Scheduled case for

12:30 P.M. - CHARLOTTE T. CORNER (IN CONJUNCTION WITH SUP S-86-78, DR. GEORGE MURNAN FOR ANIMAL HOSPITAL IN EXISTING BLDG.), appl. under Sec. 30-6.6 of the Ord. to permit variance from the dustless surface parking lot requirement to permit gravel parking lot, 6830 Elm St., Ingleside Subd., 30-2((1))(6)9, (14,850 sq. ft.), Dranesville Dist., C-D, V-99-78. (Deferred from 5/23/78 for notices).

The required notices were in order. Mr. Lawrence, the attorney for the applicant, stated that the property was to be used as an animal hospital. He stated that the building would be used as it currently stands now and that there would not be any basic difference in the external use of the property. Mr. Lawrence stated that the reason they were asking for the variance was because of the storm facilities drains along Elm Street. He stated that they have submitted a request for a site plan waiver until the outfall is completed from the corner property to Dolley Madison. Mr. Lawrence stated that any improvements now would just accelerate the runoff. He stated that this was just a request for a temporary site plan waiver. He stated that the parking lot is in gravel and that a small portion was paved in concrete. There would not be much runoff with a gravel parking lot. Mr. Lawrence stated that the existing building was a colonial type building that was in need of some upgrading. He stated that the gravel parking lot would not be inconsistent with the architecture of the property and, therefore, they were asking the Board for approval of a temporary variance.

Mr. Yaremchuk inquired as to what was meant by temporary. Mr. Lawrence stated that it would be in the same fashion as what they were asking for from the staff on the outfall. He stated that it could be six months to two years depending on how long the other lots come into line.

There was no one to speak in favor of the application. The following persons spoke in opposition. Ms. Lilla Richards, 8703 Brook Road, McLean, Virginia, informed the Board that she was speaking on behalf of the McLean Civic Association and the adjoining property owners. She stated that they would certainly be willing to allow the temporary variance for one year because of the drainage. But she stated that there were more problems involved that what Mr. Lawrence brought up. Ms. Richards stated that a second floor had been added to the structure when the building permit was for repair of the roof. She stated that there was junk on the property. She urged the Board to request them to clean up the property before the County granted them another special favor.

Mr. Covington informed the Board that as of 11:45 A.M. this morning, the Zoning Inspector had reported that the property had been cleaned up in accordance with the County Standards under the Ordinance. Chairman Smith inquired if they had a permit for the construction. Mr. Covington stated that he had seen the construction. He stated that they only had a permit to repair.

Ms. Richards stated that this condition on the property caused clouds of dust and that it should not be allowed to continue for any longer than one year. She urged the Board to seek answers to the construction problem. Chairman Smith stated that they would request an answer from the Zoning Administrator.

The next speaker in opposition was Myra Huber. She stated that they have addressed the problems with the owner and that he was even a member of their organization. She stated that she could not agree with the request and did not see a need for a long term deferral of the paved parking lot.

Page 311, July 11, 1978
CHARLOTTE T. CORNER
(continued)

During rebuttal, Mr. Lawrence stated that they were not asking for a long time deferral. He stated that he had discussed the waiver with Steve Reynolds from Preliminary Engineering and that the request was more appropriate from a temporary standpoint. He stated that this request was not for any significant amount of time which was why the County staff was willing to go along with it.

Mr. Yaremchuk inquired as to the location of the property. Mr. Lawrence stated that the property was being used as a lawnmower repair shop. He stated that Mrs. Corner was requesting the variance as the owner of the property but that the variance was mainly being requested for the benefit of Dr. Murnan. Dr. Murnan has already been granted a use permit by the Board of Zoning Appeals. He stated that Mr. Corner had lived on the property since 1919 and has had a business there for some time. Mr. Lawrence stated that if there was a problem with the building permit then it would be a matter for the County staff to handle. Mr. Lawrence stated that they were only seeking a variance. He stated that the entire property was owned by Mrs. Corner and that her son now operated the lawnmower repair shop.

Chairman Smith stated that as questions existed regarding this site and since it was part of the area that is presently being considered that the Board would have to have answers to the questions before making a decision on the application.

Mr. Durrer stated that the applicants were only talking about a short period of time not eight to ten years. He stated that they just want to use the property without going to a whole lot of expense. Chairman Smith stated that the applicant, Dr. Murnan, is not an aggrieved party. Mr. Lawrence stated that they were just trying to follow procedures. Mr. Yaremchuk stated that they should get the questions resolved.

Page 311, July 11, 1978 Board of Zoning Appeals
CHARLOTTE T. CORNER

R E S O L U T I O N

In Application No. V-99-78 by CHARLOTTE T. CORNER IN CONJUNCTION WITH DR. GEORGE MURNAN, under Section 30-6.6 of the Zoning Ordinance to permit variance from the dustless surface parking lot requirement to permit gravel parking lot on property located at 6830 Elm Street, tax map 30-2((1))(6)9, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public; a public hearing was held by the Board on July 11, 1978 and deferred from May 23, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-D.
3. The area of the lot is 14,850 sq. ft.
4. That the applicant's property has an unusual condition.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 ur unless renewed by action of this Board prior to expiration.
3. This variance is temporary and should conform to the Site Plan waiver requested by the applicants.
4. Applicants are given five (5) days to clean up the property.

R E S O L U T I O N

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Chairman Smith). The Board stated that all violations are to be cleared up.

Page 312, July 11, 1978, Scheduled case for

1:00 P.M. - JOHN R. WADE & FRANK C. FORBES appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel 18 into two lots with proposed lot 18B having less lot width than required by the Ord. (15' requested, 150' required), 8846 Tuttle Road, 79-3((4))18, (2.50 acres), Springfield Dist., RE-1, V-81-78. (Deferred from July 5, 1978 for report from Preliminary Engineering on the type of improvements needed for Tuttle Road.)

Chairman Smith stated that the Board members had read the report from Preliminary Engineering and asked that it be made a part of the file.

Page 312, July 11, 1978 Board of Zoning Appeals
JOHN R. WADE & FRANK C. FORBES

R E S O L U T I O N

In Application No. V-81-78 by JOHN R. WADE & FRANK C. FORBES under Section 30-6.6 of the Zoning Ordinance to permit subdivision of parcel 18 into two lots with lot 18B having less lot width than required by Ord. on property located at 8646 Tuttle Road, tax map 79-3((4))18, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS , following proper notice to the public, a public hearing was held by the Board on May 23, 1978 and July 5, 1978 and deferred until July 11, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-1.
3. The area of the lot is 2.5 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. Tuttle Road is to be improved as required by the Director of Environmental Management.
4. If a common driveway is provided, the driveway shall conform to all requirements of Fairfax County for pipestem driveways.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Chairman Smith).

Page 313, July 11, 1978, After Agenda Items

//

Mr. Durrer left the meeting at 1:15 P.M.

//

The Board was in receipt of a letter from Mr. G. Lance Gilbert of the Montessori School of Cedar Lane, Inc., S-75-73, requesting a change of hours of operation and a change of ages of the children. He requested the Board to approve the changes as an after agenda item rather than hold another public hearing. The Board requested staff to research the file and to bring it to the next meeting for their review before they would consider the request of Mr. Lance.

//

The Board was in receipt of a letter from the Immanuel Baptist Church requesting an out-of-turn hearing in order to construct an addition to the existing church. The Board unanimously moved to grant the out-of-turn hearing request and scheduled the application for August 2, 1978.

//

The Board was in receipt of a letter from the attorney handling the Estates of Inez DiGiulian and Wilmer Lyles. The Board unanimously moved to grant the out-of-turn hearing date for the reasons set forth in the letter. The Board requested that the application be scheduled as soon as the special exception on the same application was heard by the Board of Supervisors.

//

There being no further business, the meeting adjourned at 1:30 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the BZA on Dec. 12, 78
Submitted to the other departments,
Board of Supervisors and Planning
Commission on Dec. 12, 78

APPROVED: December 12, 78
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Tuesday, July 18, 1978. All Board Members were Present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian and John Yaremchuk.

The meeting opened at 10:25 A.M. led by a prayer by Mr. Barnes.

The Chairman called the scheduled 10:00 A.M. case.

10:00 A.M. - TEXACO, INC., appl. under Sec. 30-6.6 of the Ord. to permit construction of a 30' x 55' canopy over proposed pump islands within 10' right-of-way line (17.6' required), located 6286 Little River Turnpike, 72-4((1))5, (20,908 sq. ft.), Mason Dist., C-D, V-112-78.

Mr. Grayson Hanes was the attorney for the applicant. He informed the Board that this application had been heard by the Planning Commission and the Board of Supervisors the night before and that they had granted the change for the special permit and were aware of the request for the variance before the BZA. He stated that this property has been used as a a service station by Texaco since the late fifties or early sixties. Later Rt. 236 was widened which reduced the size of the station and the site. Mr. Hanes stated that the existing pump island was non-conforming in that it was 15' from the right-of-way and that the Ordinance required it to be 17.6'. He stated that they proposed to relocate the pump island and to construct a canopy over the pump island which would extend into the right-of-way. He stated that the canopy would be 10' from Rt. 236 and they would need a variance of 7.6'. He stated that since they were removing the non-conforming use and beeause of the road widening and the narrowness of the property that they should be allowed their request.

Chairman Smith asked if the pump islands would conform after the change and he was informed by Mr. Hanes that they would. Chairman Smith verified the fact that the variance was only for the canopy over the proposed pump islands.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-112-78 by TEXACO, INC. under Section 30-6.6 of the Zoning Ordinance to permit canopy over proposed pump islands within 10' right-of-way line, on property located at 6286 Little River Turnpike, tax map 72-4((1))5, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 18, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-D.
3. The area of the lot is 20,981 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, being a corner lot and narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

Page 315, July 18, 1978 Board of Zoning Appeals
TEXACO, INC.
(Continued)

RESOLUTION

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 has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0. Chairman Smith stated that the reason he voted for the variance was because the road widening of Rt. 236 had an effect on this site.

Page 315, July 18, Scheduled case for

10:10 A.M. - THOMAS LEE STAFFORD, appl. under Sec. 30-6.6 of the Ord. to permit construction of inground swimming pool 4' from south side property line, (15' required), located 11212 Bellmont Dr., Lake Fairfax Estates Subd., 67-2((2))3B, (25,625 sq. ft.), Annandale Dist., RE-0.5, V-121-78.

Mr. Stafford presented the required justification to the Board. He stated that he originally wanted to construct the swimming pool behind the house. He stated that the back yard drops off and then there is a wooded area which falls off to a lake. There is a drainage field in the entire back yard which runs from one side of the lot to the other. He stated that the only place he could construct the pool was on the south side of the property about 25' from the house. He stated that on the north side the house was 21.9' from the property line so that the only place he could build the pool was on the south side of the property. Mr. Stafford stated that he built the pool in the back yard as he would prefer that he would not be able to comply with the Zoning Ordinance requirements because of the septic field. Between the septic field and the lake there is a heavily wooded section. In order to move the septic fields, he would have to remove a lot of trees.

Mr. Durrer stated that from looking at the photographs of the property, topographic problems did exist. He stated that the back sloped down at a sharp angle. Mr. Durrer questioned Mr. Covington as to why a variance was needed as he had been informed that a pool could be constructed 4' from a property line. Mr. Covington stated that it would have to be 12' behind the rear line of the house before you could build 4' from the line.

Chairman Smith inquired as to the size of the proposed pool. Mr. Stafford stated that he planned to build the pool 17' wide by 36' long. Chairman Smith then inquired of Mr. Covington as to the reason for staying 12' behind the house. Mr. Covington stated that 12' would allow fire equipment to pass through in the event of a fire. Chairman Smith inquired if the pool would have a cover over it. Mr. Stafford replied that it would not and that the pool would be open.

There was no one to speak in favor of the application and no one to speak in opposition of the application

---

Page 315, July 18, 1978 Board of Zoning Appeals
THOMAS LEE STAFFORD

RESOLUTION

In Application No. V-121-78 by THOMAS LEE STAFFORD under Section 30-6.6 of the Zoning Ordinance to permit inground swimming pool 4' from south property line, on property located at 11212 Belmont Drive, tax map 67-2((2))3B, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 18, 1978; and

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

R E S O L U T I O N

1. That the owner of the property is the applicant.
2. The present zoning is RE-0.5,
3. The area of thelot is 25,625 sq. ft.
4. That the applicant's property has exceptional topographic problems in the location of septic field in the rear of the house.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 316, July 18, 1978, Scheduled case for

10:20 A.M. - FRANK J. CAMPIONE, appl. under Sec. 30-6.6 of the Ord. to permit construction of garage 25' from front property line (30' required), located 2226 Loch Lomond Dr., Lawyers North Subd., 38-1((20))36, (17,076 sq. ft.), Centreville Dist., RE-0.5, V-122-78.

The required notices were in order. Mr. Frank J. Campione, owner of lot 36, stated that he was applying for a variance because of the irregular shape of the lot. He stated that the house was built on a hill. The setback requirement was 30'. He stated that because of the pie-shaped lot and the configuration of the front lot line and the topography of the land that he needed the variance in order to construct the garage. He stated that the garage would be 47' from the closest point on the adjoining property. He stated that the actual distance from the road would be 35' because 10' was for an easement. He stated that this proposal would not have only real impact on any adjoining properties. The variance had been approved by the architectural control board of his subdivision.

Chairman Smith inquired as to why he could not move the garage back another foot and was told that it was because of the way the property sloped on that side of the house. Also, Mr. Campione stated that if he moved the garage back then he would be coming closer to the side yards. Chairman Smith stated that he did not have a problem with granting variances in side yards but he had reservations about front yards. After looking at the photographs, Chairman Smith inquired if the garage went back to the double doors. Mr. Campione stated that they were windows not doors. He stated he could not build the garage there because of rocks and also that it would not be attractive in that location.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-122-78 by FRANK J. CAMPIONE under Section 30-6.6 of the Zoning Ordinance to permit construction of garage 25' from front property line on property located at 2226 Loch Lomond Dr., tax map 38-1((20))36, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 18, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-0.5,
3. The area of the lot is 17,076 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Page 317, July 18, 1978, Scheduled case for

10:30 A.M. - WILLIAM E. & MATILDA A. MATTHEWS & MOBIL OIL CORP., appl. under Sec. 30-6.6 of the Ord. to permit service station 8' from R Boundary (50' required), & to permit canopy over pump islands 7' from front property line (22' required), & 0' from R Boundary Line (50' required) & to permit pump islands 15' from front property line (25' required) & 0' from R Boundary Line (50' required), located 6700 & 6708 Franconia Rd., Springfield Estates Subd., 80-4((1))22D & 80-4((5))(6)1, (24,648 sq. ft.), Lee Dist., R-10 & C-DM, V-125-78.

Mr. William H. Hansbarger, the attorney for the applicants, requested a deferral of this hearing until such time as the Planning Commission and the Board of Supervisors have an opportunity to act. Mr. Hansbarger reported that the application was scheduled before the Planning Commission for July 26 and before the Board of Supervisors on August 1st.

It was the consensus of the Board of Zoning Appeals to defer the matter until August 2, 1978 at 2:00 P.M.

//

Page 317, July 18, 1978, Scheduled case for

10:40 A.M. - ROBERT JAMES MOORE, appl. under Sec. 30-6.6 of the Ord. to permit construction of garage & addition to existing dwelling 10.3' from side property line, (20' required), located 6434 Kalmia St., Springfield Forest Subd., 90-2((10))76, (21,819 sq. ft.), Lee Dist., RE-1, V-124-78.

Mr. Moore presented the required justification to the Board. He stated that his house faces the street and goes off at one angle. Mr. Moore stated that he would need a variance of 4.7' to comply with the Code. He stated that he would have about 19' on the front after finishing the addition.

Chairman Smith stated that it appeared his house did sit at a rather peculiar angle on the lot.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

318

In Application No. V-124-78 by ROBERT JAMES MOORE under Section 30-6.6 of the Zoning Ordinance to permit construction of garage & addition to existing dwelling 10.3' from side property line on property located at 6434 Kalmia St., tax map 90-2((10))76, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 18, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-1.
3. The area of the lot is 21,819 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Durrer seconded the motion.

The motion unanimously by a vote of 5 to 0.

Page 318, July 18, 1978, Scheduled case for

10:50 A.M. - THOMAS A. & SUSAN E. NEAL, appl. under Sec. 30-6.6 of the Ord. to permit subd. of parcel into 2 lots, Lot 35A, having less than required lot width, 15' (150' required), located 6846 Old Georgetown Pike, 21-4((6))35A, (1.6592 acres), Dranesville Dist., RE-1, V-129-78.

The required notices were in order. Mr. Neal reported that the lot was flat in front and long and narrow. He stated that he was requesting the variance in order to relieve the situation. Mr. Neal was seeking permission from the Board to allow a pipestem access to the rear lot. He stated that both lots would have frontage on Georgetown Pike but that the rear lot would not have the amount required by the Ordinance.

There was no one to speak in favor of the application. The following person spoke in opposition to the application. Mr. John Clark, 6951 Duncraig, McLean, Virginia, stated that he lived in the adjacent subdivision. He informed the Board that he was a lawyer. Mr. Clark stated that the property in question adjoins Georgetwon Pike which was designated as a scenic byway. He stated that because of this it would probably not be widened and that it would have a lot of traffic. Mr. Clark stated that there were a lot of entrances on the scenic byway. He stated that the Board would be setting a precedent if they allowed a pipestem division of a lot where the normal frontage was 150' and that it would be contrary to the whole idea of the scenic byway. He stated that it would be a precedent for other landowners all up and down Georgetown Pike to request a similar variance. He stated that the scenic byway would end up being heavily entered almost like a parking lot. Mr. Clark stated that this request was contrary to the intent of the Zoning Ordinance. Mr. Clark informed the Board that he did receive a notice of this hearing in the mail but he did not realize from the notice that this was a Board of Zoning Appeals and that he did not understand that the deviation requested was that the access be 10% of that required by the Zoning Ordinance. He questioned whether his neighbors would acquiesce in this request if they

Page 319, July 18, 1978
THOMAS A. & SUSAN E. NEAL
(continued)

understood exactly what was proposed. Chairman Smith requested to see a copy of the letter received.

Mr. Durrer inquired if one driveway would serve both parcels once the lot was subdivided. Mr. DiGiulian stated that he could not tell from the plat and suggested that the Board make that inquiry of the applicant. Mr. Neal stated that there would be one common driveway for both lots.

Mr. Yaremchuk stated that one reason that Georgetown Pike would not be widened was because the people in the area did not want it. Mr. Yaremchuk reported that there were plans to widen it twenty years ago but the Highway Department abandoned plans because there was a lot of opposition to it. Mr. Yaremchuk was upset because citizens come to the Board and argue that the road will never be widened and that it is very narrow. Mr. Clark stated that he understood that but he did not wish to be included in the ones opposed to the widening.

Chairman Smith stated that the applicant's notification letter to property owners did meet the notification requirements. He stated that it did state that they intended to split the property and that they wanted a frontage of 15' for the lot. Chairman Smith reported that this was a condition that he did not particularly approve of but that the County has been allowing it for a number of years to allow the better use of residentially zoned land where it was land locked and where there was a parcel of two acres or more. He stated that this procedure was condoned by the Board of Supervisors.

Mr. Barnes stated that anybody with the way the taxes are now has to be able to utilize the land. He stated a person could not afford to keep two acres to just hold it. Mr. Yaremchuk stated that he felt it was a very good idea and that pipestem lots were ideal because of the seclusion and the privacy.

Mr. Clark asked the Board that if the variance was granted that it be with the stipulation that there only be one driveway or one access for both lots. Mr. Clark was concerned because the one common driveway was not shown on the plat. Chairman Smith stated that the applicant had stated that there was only one driveway proposed.

There was no one else to speak in opposition. Mr. Neal clarified the driveway situation by stating that he preferred that one driveway be into Georgetown Pike. He stated that he has also granted the person who will be building a house on the front lot access to use the driveway. Mr. Neal stated that this would be stated in the deed in the property.

Chairman Smith stated that as long as Mr. Neal owned the property he could do that but he inquired if Mr. Neal would continue to own the rear property. Mr. Neal stated that he would. Mr. Durrer stated that the deed could state that this could be a common outlet or an easement. Mr. Neal stated that he preferred one driveway but that he had plans from Richmond associated with the construction of the roadway of Georgetown Pike and that within the next three years they intend to widen that area and make it dual lane from the beltway down to St. Lukes Church. Mr. Neal stated that the access road that he has existing now into the property slopes down to the road about 8' and the highway proposes to remove the hill.

Mr. Yaremchuk inquired as to the visibility on the existing driveway. Mr. Neal stated it was good but that the road in front of the entire lot will be a one way road going west. He stated that one lot over on the west there was also a pipestem situation. Mr. Yaremchuk inquired if the Highway Department had any money earmarked for this project. Mr. Neal reported that he was required to give a 50' right-of-way.

Page 319, July 18, 1978 Board of Zoning Appeals
THOMAS A. & SUSAN E. NEAL

R E S O L U T I O N

In Application No. V-129-78 by THOMAS A. & SUSAN E. NEAL under Section 30-6.6 of the Zoning Ordinance to permit subdivision of parcel into two lots having less lot width than required (15' shown, 150' required), on property located at 6846 Old Georgetown Pike, tax map 21-4((6))35A, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

RESOLUTION

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 18, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-1.
3. The area of the lot is 1.6592 acres.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

1. This approval is granted for the location indicated in the plats included with this application only, and is not transferable to other land.
2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.
3. This variance is granted subject to the applicant providing one common driveway for the two lots.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Chairman Smith).

Page 320, July 18, 1978, Scheduled case for

11:00 A.M. - MARIO C. CASELLA, appl. under Sec. 30-6.6 of the Ord. to permit construction of swimming pool 6' from side setback (15' required), located 1221 Perry William Drive, 31-1((13))105, (16,021 sq. ft.), Dranesville Dist., R-17, V-128-78.

As the required notices were not in order, the Board deferred this case until September 7, 1978.

//

Page 320, July 18, 1978, Scheduled case for

11:30 A.M. - NATIONAL VOCATIONAL AGRICULTURAL TEACHERS' ASSOCIATION, INC., appl. under Sec. 30-7.2.5.1.4 of the Ord. to permit office for mutual benefit assoc., located 5600 Mt. Vernon Highway, 109-2((1))27, (2.6584 acres), Mt. Vernon Dist., RE-0.5, S-123-78.

Mr. Charles E. Hall, Jr. Engineer with Ward & Hall Associates, 6623 Augusta Drive, Springfield, was the agent for the applicant. The required notices were in order.

Chairman Smith stated that this was a situation where there was an application for a building that does not conform to the setback requirements of the Ordinance. Chairman Smith stated that the use of the building the same size 34' x 28' garage was proposed for use as office uses. Mr. Durrer inquired if the applicants were requesting to use the house or the garage. Chairman Smith stated that the proposal was for the house and the garage. Mr. Covington stated that the garage would be used as office space and the house would be used as a home. Chairman Smith stated that a question arose as to the 100' setback requirement. Chairman Smith stated that there was not an application for a variance for this 100' setback. Mr. Covington stated that this was an existing building. Chairman Smith stated that he had discussed the matter with the applicant and the applicant had discussed the possibility of bringing the building or a similar building with the same dimensions into conformity by removing part of the building and reconstructing it in the proper setback area. Chairman Smith stated that he would like to discuss this with the Board

Page 321, July 18, 1978
NATIONAL VOCATIONAL AGRICULTURAL
TEACHERS' ASSOCIATION, INC.
(continued)

before getting into the hearing. Chairman Smith inquired if there was any objections to allowing the use of the building 28' x 34' in the proper setback area. He stated that he assumed the applicant proposed to remove 13' or 14' of the building and reconstruct it on the other side of the building. Mr. Durrer inquired whether it would be easier to come in with a variance and leave the building alone. Chairman Smith stated that the Zoning Administrator stated that this was a mandatory requirement and could not waived. Chairman Smith stated that the best arrangement was the one proposed by the applicant to remove part of the building. Mr. Durrer stated that he had no objection then.

Chairman Smith stated that the Board would proceed with the hearing based on the applicant bringing the non-conforming building as to setback into conformity and that the building would not be larger than 28' x 34' which was the size of the existing building and that it be brick.

Mr. Hall stated that there was one additional option that the owner would ask for which was that they be allowed to utilize the residence as an office if the Board of the National Vocational Agricultural Teachers' Association elects not to reconstruct the garage. Chairman Smith stated that under the use permit they would be allowed to use the house for office space also. Chairman Smith inquired if there was a lease for this property in the file and was informed that there was one.

Mr. Hall informed the Board that this application would not have an adverse impact on the surrounding area. He stated that there would be a maximum of four people employed in this office and that the majority of the work would be handled by telephone. Mr. Hall stated that the lack of traffic generated would not harm the character of the neighborhood. He stated that they felt that this was a reasonable request and urged the Board to grant the request.

Mr. DiGiulian inquired as to the proposed hours of operation and was informed that they would be from 8 A.M. to 4:30 P.M., five days a week. Chairman Smith also clarified that the house would be used for the National Director of the National Vocational Agricultural Teachers' Association and also as an office if they did not plan to bring the garage into conformity. Chairman Smith inquired as to the length of the lease. Mr. Hall reported that the lease ran for ten years with an option of renewal on a ten year basis. Chairman Smith stated that if the use permit was granted that it should be granted concurrently with the lease.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 321, July 18, 1978, Board of Zoning Appeals
NATIONAL VOCATIONAL AGRICULTURAL
TEACHERS' ASSOCIATION, INC.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-123-78 by NATIONAL VOCATIONAL AGRICULTURAL TEACHERS' ASSOCIATION, INC. under Section 30-7.2.5.1.4 of the Fairfax County Zoning Ordinance to permit office for mutual benefit association on property located at 5600 Mt. Vernon Highway, tax map reference 109-2((1))27, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 18, 1978; and

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

1. That the owner of the subject property is Future Farmers of America and the applicant is the lessee.
2. That the present zoning is RE-0.5,
3. That the area of the lot is 2.75 acres.
4. That compliance with the Site Plan Ordinance is required.

R E S O L U T I O N

322

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures or any kind, changes in use, additional uses, or changes in the plans approved by this Board (Other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The maximum number of employees shall be four (4).
8. The hours of operation shall be 8 A.M. to 4:30 P.M., 5 days a week.
9. The minimum number of parking spaces shall be 4.
*10. If the garage building is used for offices, it will be located so as to meet setback requirements of 100' from all property lines. * Amended 7-30-79 to meet setback requirements of Zoning Ordinance (25').

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 322, July 18, 1978, Scheduled case for

12:00 P.M. - JAMES R. JR., AND NANCI K. MCKAY appl. under Sec. 30-6.6.5.4 of the Ord. to permit 6' high fence to remain in front setback, 11024 Byrd Dr., Fairfax Villa Subd., 57-3((7))0202, (15,616 sq. ft.), Annandale Dist., R-12.5, V-100-78. (Deferred from June 13, 1978 for notices & at request of applicant.)

The required notices were in order.

Mr. Ken Bryan, attorney for the applicant, with a law office in Fairfax, presented the required justification to the Board. He stated that the applicant was seeking a variance of 2' in order to permit a 6' fence in the front setback. Mr. Bryan stated that this was a corner lot located on Bryd Drive and Andes Drive. He stated that Andes Drive was not a through street but ran the length of the lot. The property adjoins the Villa Acquatic Swim Club. Mr. Bryan stated that a substantial amount of parking was being done during the day and at all hours of the night along Andes Drive. At the rear of the lot was a completely wooded area which attracted a lot of activity. Mr. Bryan stated that there was a lot of littering along the front lot line because of the parked vehicles. Mr. Bryan reported that the privacy and use of the property was being disturbed by the public in general.

Mr. Yaremchuk inquired as to why the owner of the property didn't petition the highway department to put up a barrier. Mr. Bryan stated that the street was not constructed as a through street but that it does serve as the entrance to the Villa Acquatic Club. He stated that was their only access.

Page 323, July 18, 1978
JAMES R. JR., AND NANCI K. MCKAY
(continued)

Chairman Smith reported that the driveway to the club was a gravel driveway. Mr. Bryan reported that it was not a fully developed surface driveway.

Mr. Bryan stated that the one concern with constructing a 6' fence was the horizontal site distance for vehicles entering the intersection. He stated that the applicants were not going to obstruct any horizontal site distance with the construction of the fence. He reported that traffic coming out of the swim club and coming up on Andes Drive to the intersection with Bryd Drive would have a full 67' from the end of the fence to the intersection of Bryd Drive.

Mr. Bryan reported another reason for consideration for the construction of the fence was that the applicants were trying to be cautious and avoid problems in the future. He reported that the applicants own a german shepherd dog which is contained in the back yard on a regular basis. Mr. Bryan reported that both of the applicants work. Children going back and forth on Andes Drive on the sidewalk to the swim club continuously taunt the dog in the back yard. There is currently constructed a 3½' chain link fence. Mr. Bryan stated that the dog could go over the present fence in the future.

Chairman Smith inquired as to why the application was being heard under the Section 5.4 and inquired if the 6' fence was already constructed. Mr. Bryan reported that the applicants had commenced construction of the fence after first checking the covenants of the subdivision. Mr. Bryan also stated that the applicants had been advised by the fence construction company that there were no zoning requirement problems so they did actually begin construction. Mr. Bryan stated that there was a violation issued by the Zoning Office at which point the applicants immediately ceased construction and applied for the variance.

Chairman Smith inquired as to how much of the fence was in the front setback. Mr. Bryan stated that it was entirely within the front setback because it is to be constructed on the existing property line. Chairman Smith inquired of Mr. Covington if they were not permitted a 6' fence in the rear setback. Mr. Covington stated that they did not have a rear lot line because this was a corner lot. Chairman Smith inquired as to what part of the fence was actually in front of the house line. Mr. Bryan reported that none of the fence was in the front. He stated that the fence would extend from a point parellel to the rear building line of the house backwards to the back lot line. Mr. Bryan stated that all the applicants were asking to do was to build a 6' fence in the same location as the old fence, just extend the height of it and change the material of the fence.

Mr. Bryan presented the Board with a letter from Mr. and Mrs. Douglas Detwiler who were in favor of the application. He requested that the letter be placed in the record. Mr. Lloyd Smith of 11023 Bryd Drive also spoke in support of the application. Mr. Smith stated that he concurred with this request and the description of the problems on Andes Drive. Mr. Smith stated that the fence would be an attractive addition.

There was no one else to speak in favor of the application and no one to speak in opposition.

Mr. Yaremchuk stated that he had a problem as he was totally against putting a 6' fence along the property line because of visibility. He stated that he was concerned that the Board may be setting a precedent once they start allowing a 6' fence in the setback line and felt a 6' fence would present problems. But Mr. Yaremchuk stated the purpose of the Board was to look at actual situations. He stated that since this street would not go through, that there would not be a visibility problem. Also, because of the children taunting the dog, he felt the applicants should be allowed to construct the fence.

Page 323, July 18, 1978 Board of Zoning Appeals
JAMES R. JR., & NANCI K. MCKAY

R E S O L U T I O N

In [illegible] No. V-100-78 by JAMES R. & NANCI K. MCKAY under Section 30-6.6.5.4 of the Zoning Ordinance to permit 6' high fence to remain in front setback on property located at 11024 Byrd Drive, tax map 57-3((7))0202, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals held on July 18, 1978 and deferred from June 13, 1978 for notices; and

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

That non-compliance was no fault of the applicant.

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

That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0. Chairman Smith stated that he supported the motion because in this case he felt there was a justifiable reason to grant the variance to the Ordinance because of the swimming pool and the traffic.

Page 324, July 18, 1978, Scheduled case for

12:15 P.M. - ABC CREATIVE EDUCATIONAL CENTER, INC. appl. under Sec. 30-7.2.6.1.3 of the Ord. to amend existing special use permit to reflect change of ownership for educational facility, located 8700 Willowmere Dr., 49-1((12))1, (2.46916 acres), Providence Dist., RE-0.5, S-145-78. *Willowmere Farms Subd.

Mr. Vail Pishke, attorney for the applicant, submitted the required justification to the Board. Mr. Pishke reported that the current use permit expires July 28, 1978. He stated that ABC Creative Educational Center desires to be the new owners with the same use and the same conditions as what was previously granted under the old use permit. Mr. Pishke reported that Educo Inc. never really operated the school because they never completed the contract. Mr. Pishke reported that ABC Creative Educational Center are the current owners having bought the property from the Creative Country Day School. Mr. Pishke stated that there would not be more than 167 children on the premises at any one time and the ages would range from two through nine. Mr. Pishke reported that they would use the same personnel. He stated the hours as being from 7 A.M. to 6 P.M., five days a week.

Mr. DiGiulian inquired as to the number of parking spaces on the site. Mr. Pishe stated that the parking is the same as it has been for the past 15 years. He stated that some of the children will be bussed and some parents will be transporting others. Chairman Smith inquired as to the number of buses in use. Mr. Pishke reported that there were two buses owned and operated at the present time. Mr. Yaremchuk reported that there was a circular drive with ample room for parking. Chairman Smith inquired if the buses were painted in conformance with State Law as far as color and lighting and was informed that they were. Chairman Smith stated that the parking was not well defined on the plats.

There was no one to speak in favor of the application. The following person spoke in opposition to the application. Mr. Charles Furr, 8624 Willowmere Drive, Lot 14, a neighbor to the school stated that he did not object to the school but that he was concerned and has been for several years over the fact that he would like to be assured that the people who will operate the school are financially able to run the school properly. Mr. Furr stated that the conditions at the school at the present time are bad. He stated that the grass is very high and was only recently cut because of an annual health department inspection. The back parking lot was badly in need of repair. He stated that cars and buses park right up to the property line. He stated that buses are left with the doors open and keys in the ignition over the weekend. Mr. Furr stated that there are a total of ten buses in the parking

lot and that the lot was in total shambles. Last year, Mr. Furr had asked the former owners to place some logs in the parking lot because people were driving through his property. The school did place some logs there.

Chairman Smith examined the photographs submitted by Mr. Furr showing the condition of the parking lot. He stated that there were several buses in the pictures. Mr. Pishke stated that only two buses were in operation.

Another gentleman from the audience stated that the bus situation should be cleared up. He stated that he did not want to see the school operated on a shoestring.

Mr. Pishke stated that his client was the owner of similar schools in New York. He stated that she was a professional in her business and that she intended to take total control of this operation. He reminded the Board that his client was totally disassociated with the previous ownership of the school.

Chairman Smith inquired if there was anyone on the premises operating the school at the present time. He also inquired as to why the buses were in the shape they were and asked if they had current tags and licenses. Mr. Pishke stated that his client had taken over the operation of the school in April when she took over the contract. Chairman Smith asked who owned the vehicles and had title to them. He asked how many buses the school intended to use and what they proposed to do with the others. Mr. Pishke stated that only two buses would be used. The others would be fixed up and disposed of. Chairman Smith inquired as to the length of time it would take to fix up the buses and get rid of the extras. Mr. Pishke stated that they would need at least three weeks. Mr. Pishke stated that the new operator would be cleaning up the grounds now. Chairman Smith inquired again as to whether the buses had current tags and were issued under the new applicant's name. Mr. Pishke stated that they were. Chairman Smith inquired as to how long it would take to get the parking lot in shape. Mr. Pishke stated that they have three bids presently but that they could not fix the parking lot when the children were there. He stated that they preferred to wait until the end of the session. He stated that possibly it could be completed between August 25th and September 5th. Chairman Smith stated that the parking lot would have to be corrected before the new school session. He stated that this new special permit would not be effective until all the deficiences were cleared up. Mr. Covington stated that they would have to be cleared up within thirty days.

Mr. DiGiulian inquired if the permit could be granted with the provision that the paving take place by September 4th. Mr. Covington stated that he would check out the school within the thirty days to make sure that they complied with the conditions. Chairman Smith stated that only two buses could be kept for use and that all the others would have to be removed from the premises. Mr. Pishke asked the Board to change the number of buses to three so that his client could have an extra bus handy in case of breakdowns. The Board consented to allow them the use of three buses.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. S-145-78 by ABC CREATIVE EDUCATIONAL CENTER, INC. under Section 30-7.2.6.1.3 of the Fairfax County Zoning Ordinance to permit change of ownership for educational facility on property located at 8700 Willowmere Drive, tax map reference 49-1((12))1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 18, 1978; and

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

1. That the owner of the subject property is ABC Creative Educational Center, Inc.
2. That the present zoning is RE-0.5.
3. That the area of the lot is 2.46916 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 as 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (Other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of students shall be 167.
8. The hours of operation shall be 7 A.M. to 6 P.M., 5 days a week.
9. The ages of the students shall be from 2½ years of age through third grade.
10. Grounds will be maintained in proper order including the parking lot.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0. Chairman Smith inquired if Mr. Durrer wanted to include in his motion the number of buses that would be allowed. Mr. Durrer stated that the Zoning Administrator has authority to enforce the number of buses.

Page 326, July 18, Scheduled case for

12:40 P.M. - BEA MAR ASSOC. OF VA., INC. appl. under Sec. 30-6.6.5.4 of the Ord. to permit garage to remain 10.3' from w. property line with total of 35.7' side yds., (12' & total of 40' required), located 12116 Westwood Hills Dr., Folkstone Subd., 36-1((16))82, (22,303 sq. ft.), Centreville Dist., RE-1, V-106-78. (Deferred from June 20, 1978 for notices.)

The required notices were in order. Mr. Alan Jacobs with Bea Mar Associates stated that they were building a two story dwelling and at the request of the contract purchaser, the job superintendent moved the garage forward 2'. When the inspectors were doing the wall checks, it was determined that the building was in violation. Mr. Jacobs stated that the total side yards should be 40'. He stated that this was just a case of bad judgement on the part of the job superintendent in the field. Mr. Jacobs stated that he did not feel that the variance would be a problem for anyone. He stated that the house was on a large lot of 22,300 sq. ft.

Chairman Smith stated that the applicants were seeking a variance to the overall total as well as the minimum side yard requirement. He stated that the total side yard was 35.7' so a variance of 4.3' was necessary and that it would be necessary for a 1.7' variance to the minimum setback requirement.

There was no one to speak in favor of the application. There was no one to speak in opposition but the Board was in receipt of a letter from a lady who was in opposition to the way Bea Mar Associates performed their business. Chairman Smith read the letter into the record.

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. V-106-78 by BEA MAR ASSOC. OF VA., INC. under Section 30-6.6.5.4 of the Fairfax County Zoning Ordinance to permit garage to remain 10.3' from w. property line with total of 35.7' side yards, (12' & total of 40' required), on property located at 12116 Westwood Hills Dr., tax map reference 36-1((16))82, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on July 18, 1978 and deferred from June 20, 1978 for notices; and

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

1. That non-compliance was the result of an error in the location of the building subsequent to the issuance of a building permit,

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

1. 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 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.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 327, July 18, 1978, After Agenda Items

Approval of Minutes: The Board was in receipt of the minutes for April 4, 1978 and April 12, 1978. Mr. Yaremchuk moved that the minutes be accepted and approved as amended. Mr. DiGiulian seconded the motion. The motion was passed unanimously.

//

Page 327, July 18, 1978, After Agenda Items

The Board was in receipt of a letter from Mr. Robert A. Lawrence, attorney for the Belle Haven Country Club, requesting an out-of-turn hearing in order to construct additions to the existing country club. The Board stated that due to the present scheduling and the number of meetings remaining before the August break that it was impossible to grant an out-of-turn hearing before September 7, 1978. Mr. Barnes moved, Mr. Durrer seconded and it was unanimously carried that the Belle Haven Country Club be granted a hearing date of September 7, 1978.

//

Page 327, July 18, 1978, After Agenda Items

The Board was in receipt of a letter from Dr. James R. Myers who believed the Cardinal Hill Swim & Racquet Club to be operating in violation of their special use permit. It was the consensus of the Board to refer the matter to the Zoning Inspections Division to determine if there were any violations and to report the findings and any violations to Dr. Myers and the Board of Zoning Appeals.

//

The Board was in receipt of a letter from Mr. G. Lance Gilbert, the Director of the Montessori School, S-75-73, requesting that the hours of operation be increased and the ages of children amended. Mr. Gilbert was present at the meeting and discussed the changes with the Board. The Board was concerned in

granting these changes without a formal public hearing since these changes were more than what could be considered minor changes. It was the consensus of the Board that Mr. Gilbert make a formal application for these amendments and that a public hearing be held on the matter.

//

There being no further business, the Board adjourned at 1:05 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the BZA on Dec. 12, 78
Submitted to the other departments, Board of Supervisors and Planning Commission on Dec. 12, 78.

APPROVED: December 19, 78
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Thursday, July 20, 1978. All Board Members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes, John DiGiulian (arriving at 10:35 A.M.) and John Yaremchuk.

The meeting opened at 10:30 A.M. led by a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case.

10:00 A.M. - FAIRFAX COUNTY PLANNING COMMISSION & FAIRFAX COUNTY BOARD OF SUPERVISORS, appl. under Sec. 30-6.5 of the Ord. to permit commercial nursery in a residential zone, appeal of Zoning Administrator's decision, located 9401 Burke Road, 78-4((1))17, (22,033 acres), Springfield Dist., RE-1, A-141-78.

Ms. Kathe Anderson, Assistant County Attorney, represented the Fairfax County Planning Commission & the Fairfax County Board of Supervisors. Mr. William H. Hansbarger, Esquire, represented Robert and Ronald DeAngelis who were the owners of the property.

For testimony received during the hearing, please refer to the verbatim transcript located in the file.

FAIRFAX COUNTY PLANNING COMMISSION
& FAIRFAX COUNTY BOARD OF SUPERVISORS

R E S O L U T I O N

Mr. Durrer stated that this use was not compatible with the neighborhood and moved that the Board of Zoning Appeals not uphold the Zoning Administrator and that the Board, in fact, overturn the Zoning Administrator's decision.

Mr. Yaremchuk seconded the motion for purposes of discussion. Mr. Yaremchuk inquired as to what would be done with the building. Mr. Durrer stated that the owners should apply to the Board of Supervisors for a Special Exception. He stated that he did not think it was the intent of the Board of Supervisors to have a commercial enterprise of this magnitude in a residential area or even in a flood plain. Mr. Yaremchuk stated that all the County staff had acted in good faith and approved this operation. He stated the flood plain was not a big issue because this was an agriculture use. Mr. Barnes stated that he was concerned with this application because the owner had bought the property for a specific use and had invested a lot of money. Mr. Barnes said it was absurb that he was now told he couldn't use the property. Mr. Smith stated that there was no question about the use as long as it was performed in the context of the Ordinace as a nursery itself and not a commercial establishment. He stated that he was concerned because the building had been constructed partially in a flood plain.

The motion passed by a vote of 3 (Messrs. Durrer, Yaremchuk & Smith) to 2 (Messrs. DiGiulian & Barnes).

10:20 A.M. - RAVENWOOD PARK CITIZENS ASSOC., appl. under Sec. 30-6.5 of the Ord. appeal of Zoning Administrator's decision to permit group home by right in residential area, located 6209 Cheryl Dr., Ravenwood Park Subd., 61-1((17))28, Mason Dist., R-12.5, A-153-78.

330

Mr. Gilbert Knowlton, Zoning Administrator, informed the Board that the subject property was a dwelling which was used for the housing of certain counselors and children. He stated that the applicants filed an appeal on the grounds that such use is not permitted under the Zoning Ordinance. However, Mr. Knowlton stated that such use was allowed under the definition of "family" in the Ordinance which reads as follows: "FAMILY: One person or two or more persons related by blood or marriage, with not to exceed two roomers or boarders, or a group of not more than four persons not necessarily related by blood or marriage or a group of persons living together in a parent-child relationship, whether adoptive parent, step-parent, foster parent or other similar such supervisory or protective relationship, without regard to actual legal relationship; in any case living together as a single housekeeping unit" Accordingly, Mr. Knowlton stated that the use was allowed under the Zoning Ordinance by right because the group home situation fit the definition of family insofar as a group of persons living together in a parent or child relationship as a single housekeeping unit.

Mr. Yaremchuk inquired as to the ages of the children. Mr. Knowlton stated that at the present time he was not certain of the ages but stated they were teenagers. Mr. Yaremchuk verified that they were children and not adults. Mr. Durrer inquired as to whether the two supervisors actually live there and whether they were man and wife. Mr. knowlton stated that there were more than two supervisors with at least two present at any one time. He stated that they worked in shifts. Mr. Durrer stated that if they change shifts then it is not a family type situation as far as the supervisor is concerned. Mr. Knowlton replied that the house is carried on as one single housekeeping unit always having two adults to supervise the activities within the house. Mr. Yaremchuk inquired as to the total number of persons acting as supervisors. Mr. Knowlton replied that there were six. Mr. Yaremchuk stated then that someone and sometimes two persons were present at the house at least 24 hours a day and Mr. Knowlton replied that that was correct. Mr. Smith inquired as to the limits of ages for the children in the home and if there was a limit to the number of children living there as one group. Mr. Knowlton replied that he was not that familiar with the Title 10 Program as to the limits but he was sure that the children living in the home were teenagers at the present time. He stated that he had been informed that the program was one of the programs for youth and was not an adult program. Mr. Smith stated then that it would normally be associated with people from the ages of 12 to 18 and Mr. Knowlton stated that he would assume so. Mr. Smith inquired if the operators that controlled the home leased the dwelling or whether they owned the home. Mr. Knowlton stated that it was an organization called Environments for Human Services. Mr. Smith inquired if the organization was incorporated in the State of Virginia. Mr. Knowlton stated that they were an organization that was established just for this type of use and was not certain whether they were a corporation or not.

Mr. Ed Finnagan from the County Attorney's Office stated that they were registered in the State of Virginia. Mr. Smith inquired if they were a foreign or a domestic corporation. Mr. Finnagan stated that to his knowledge that they were a domestic corporation. Mr. Durrer inquired if the Board was going to hear testimony regarding the setup of the operation as to where the children came from, who the organization was and who contributes to the keeping of the children. Mr. Finnagan stated that it was his understanding that the appeal was to the interpretation of the Zoning Administrator with regard to the definition of family and whether or not this group home comes within that definition. Mr. Finnagan stated that he believed that is where the Board should be focusing their attention and not necessarily on the individual specifics of the case. Mr. Smith stated that he agreed with Mr. Finnagan. He stated that what the Board was trying to do was to see whether this was actually a family living in the house taking in six children or teenagers to supervise or whether it is an outside organization and whether it fits the definition of family. Mr. Finnagan stated that the Board was dealing with land use considerations and the definition of family with regard to the land use considerations was defined in the Zoning Ordinance.

Mr. Yaremchuk inquired as to which section did the Zoning Administrator interpret that the group home was allowed. Mr. Knowlton stated that under the definition of family that the group home was permitted because they are providing a parent/child realtionship similar to but not exactly like a foster situation in that the youths are placed in the facility through a welfare program. Mr. Knowlton pointed out to the Board that in June of 1971, the Board

of Supervisors had the Fairfax County Welfare Department before them with an appeal to amend the Zoning Ordinance to put these very words in the Code. He stated that this wording was adopted in June of 1971 at the request of the Welfare department to allow such facilities as the one in question. Mr. Smith inquired if it was the intent of the Board to allow someone to rent or own a house and allow a corporation to provide supervisors and administrators to operate and accept contracts with the County and the State as it relates to the Youth Program. Mr. Knowlton stated that the intent of the Board of Supervisors as referenced in the minutes was to broaden the definition to allow certain social service type functions to take place. Mr. Knowlton stated he does not know if this particular welfare program existed at that time. Mr. Knowlton stated that a dwelling unit was defined as a building or portion thereof having cooking facilities for one family which is how you get to the definition of family as to who lives in a dwelling.

Mr. Knowlton stated that when this came to the attention of the Zoning Office that a rather thorough inspection was made of the property and the activities going on there. He stated that it was found that this was a nice house and that it was well kept and that it had ample space as far as health, welfare and environmental conditions for the people living there. He stated that there was cooking facilities for one family in that there was one kitchen for one group of people.

Mr. Smith stated then that the only people that actually live on the premises on a 24 hour continuing basis are the people who are assigned there by the State or the County agencies involved.

Mr. Yaremchuk inquired if one of the staff members of the Zoning Office issued the permit or exactly how it was called to Mr. Knowlton's attention for his decision. Mr. Knowlton stated that an occupancy permit is required for a new dwelling and that thereafter no additional occupancy permit is required just because of a change of tenant. Mr. Knowlton stated that he learned about the operation after they had moved in. Mr. Yaremchuk inquired if they had contacted the Zoning Office before moving in. Mr. Knowlton stated that they had contacted the office on numerous occasions as Chapter 10 Board often does with the various types of programs that they sponsor and that the Zoning Office had previously given approval for this type of home. Mr. Yaremchuk stated and had Mr. Knowlton clarify that the staff had already reviewed this type of program and concluded that it fit the definition of family. Mr. Knowlton stated that the office was not contacted on this particular address but on the use of residential property for this type of program.

Mr. DiGiulian inquired of Mr. Knowlton if the staff had been asked about the same type of operation in just a different location and Mr. Knowlton stated that was correct. Mr. Smith inquired if there were other similar operations like this one in the County at the present time and Mr. Knowlton stated that there were. Mr. Smith inquired if they were the same organization and was told that the organization had about twenty according to Mr. Finnagan. For clarification purposes, Mr. Finnagan stated that the twenty group homes in existence were to provide familiar relationships for various groups of people in need of services. For example, emotionally disturbed, mentally retarded, children in need of supervision, children that are abused, children that are neglected, battered wives or husbands.

Chairman Smith inquired if there has been any other complaints with the use of these homes in other areas of the County since they had been existence. Mr. Knowlton stated that there are a number of different types of houses and stated that he was not sure when the first of this specific type was started. He thought it was started about four years ago since the Zoning Office approved the first runaway home in the County. About two years the home for battered wives was approved. Chairman Smith inquired if there was a maximum of six children at any one location, and whether there was a maximum or minimum. Mr. Knowlton stated that the Zoning Office does not have any maximums or minimuns. He stated that the Social Services Chapter 10 Board sets the number and six was established for this specific home. Mr. Yaremchuk inquired if under the definition of family, if the organization wanted to place twenty children in the home whether approval or refusal would be given. Mr. Knowlton stated that there was nothing in the Ordinance which deals with the size of a family. He stated that the County does have one family of 28 people living in one house. Mr. Knowlton stated that if the program met the criteria of family that it would be approved.

Mr. Raymond Konan, President of the Ravenswood Park Citizens Association, appeared before the Board to represent the appellants. His address was 3122 Adrian Place, Falls Church, Virginia. Mr. Konan stated that when this group home was shown on television, the people at the home indicated that there were 9 people living there. Mr. Konan stated that there was no limitation to the number of children allowed in the definition of family. Therefore, he stated that it was necessary to pay careful attention to the other limitations that might exist in the family definition. He stated that he had been told by Mr. John Bryant of Environments, Inc. that the ages of the children sometimes exceeds the teenage years and goes into the twenties.

Mr. Konan stated that they were before the Board to discuss the child caring instiution issue in Ravenwood Park. He stated that it was licensed by the State of Virginia as a child caring institution. He stated that the County officials had failed to enforce the law in this matter. Mr. Konan stated that Environments, Inc. had aleased a home in their area and began using it as a therapeutic treatment center for teenagers. Mr. Konan stated that according to a statement in the staff report these children were very difficult children unable to be housed in other institutions or programs. Mr. Konan stated that Environments, Inc. was a corporation for profit.

Mr. Konan stated that the residents in Ravenwood Park noticed an unusual situation developing at the home. He stated that there was strange traffic movements to and from the home particularly in the evening around the 11 o'clock shift change. He stated that as cars arrived and went that there would be people talking in the driveway during the shift change. In addition, a number of different teenagers seemed to be moving in and out in rapid succession. Mr. Konan stated that as the house had been for rent for quite some time, that some members of the community believed that squatters had taken possession of the house without the knowledge of the landlord.

Mr. Konan argued that this type of operation does not fit the definition of family because of the shift changes with no adults actually living in the home. He stated that the operation grossed money every year and could possibly set up similar homes in any home in Fairfax County with no conditions set on them because of the definition of family. Mr. Konan stated that this operation could not be considered a family because there were no parents and no adults living in the home.

Mr. Konan stated that the basis for the Zoning Administrator approving the use under the definition of family was that they must be living together as a single housekeeping unit. Mr. Konan stated that the employees are not family. He stated that they had their own families and lead a normal life. He stated that they are merely working there, not residing there. Mr. Konan stated that no adult has resided in the home since the facility began its operation in March. Mr. Konan inquired as to where the required parent/child relationship was. He stated that this was only a babysitting relationship.

The Board recessed for 15 minutes. During this period, Mr. Durrer assumed the chair as Chairman Smith had to leave. As a point of order, Chairman Smith stated that if the remaining Board members could not resolve the case, that he would be allowed to vote in the matter after looking at the proceedings of the remaining portion of the hearing.

Mr. Konan continued with his testimony after the break. He stated that he had been explaining where County Attorney Ruck had gone wrong with this issue. He stated that Mr. Ruck had skipped over the living together requirement and did not directly address it in his memorandum. Mr. Konan had inquired as where was the required parent/child relationship which Mr. Ruck also skipped over. He stated that Mr. Ruck used a latin phrase which indicated that some of the normal authority of a parent like spanking or providing meals or providing medical attention was the only type of parental relationship established but Mr. Konan argued that this was more like the type of authority of a babysitter. Mr. Konan stated that the shift type of exchange of employees was not characteristic of a family situation. He stated that even in a foster parent situation there was one individual in the home around the clock. He stated that was the kind of relationship that the family definition required.

Another point Mr. Konan argued that Mr. Ruck missed was when Mr. Ruck stated that the whole case turned on the family definition. Mr. Konan stated that it does not. Even in the case of home occupations, the law requires that if there are employees involved in the operation that a public hearing be held for a special permit from the Board of Zoning Appeals. Even without a permit, if there are external signs of a business it requires a special permit or an

exemption from the law. The County Attorney stated that the corporation could perform the function because they were a family. Mr. Konan argued that that makes no elegal sense. Mr. Konan cited the example of a recent case before the Board involving the Vietnamese nuns application for a day care center. which was refused by the Board.

Mr. Konan stated that if the Board allowed this use that other homes in the County would also soon be operating in much the same way. He stated that this would destroy the family basis throughout the County.

Mr. Konan presented the Board with a list of eight determinations in resolving the issue.

Mr. F. Lee Ruck, County Attorney, stated that much of the appeal filed was circular in reasoning and stated that he could agree with Mr. Konan if the Board assumed that the Zoning Administrator was wrong and that this was not a family. Mr. Ruck stated that if this was not a family then there has been a change in use which may require a residential use permit or some other occupancy certificate of approval. He stated that Mr. Knowlton's opinion basically was that if one family vacates a house and it is sold to another family then the new family takes over the house and there need not be any procedural requirements. Mr. Ruck stated that he does stand by his earlier statement that the matter largeley rises or falls on whether or not the particular use by EHS of the property owned by John Saah is consistent with the family definition of the Ordinance.

Mr. Ruck stated that one thing that must be considered is where in the Zoning Ordinance does one find that which governs this particular parcel. He stated that the Ordinance either must indicate uses permitted or must indicate uses prohibited. Mr. Ruck stated that the County Ordinance indicates uses which are permitted and where they are permitted. Mr. Ruck informed everyone that the residential zones permit occupancy of a dwelling by a family. He stated that it also permits under a conditional use permit the construction of or the authorization of a pre-existing structure by an institution under the Group V uses. In addition, under the industrial general, the I - G zone, the Ordinance permits all other uses not specifically permitted in some other district. Mr. Ruck stated that Mr. Knowlton was correct that a comprehensive search of the Zoning Ordinance was made to try and determine where one would put this type of use. Mr. Ruck stated that it was clear to him that the only three places in the Fairfax County Zoning Ordinance with about 44 districts and hundreds of conditional uses and uses by right within those districts are in residential zones under the definition of family, under residential zones under the Group V institutional uses by conditional use permits, and in the industrial general zone for all other uses not permitted.

Mr. Ruck stated that the I-G zones presumably by its terms precludes residential use. He stated that one would have to make the interpretation that this particular use has no residential character to even allow it to go in the all other uses.

Basically, Mr. Ruck stated that the main thing was whether this was a family or whether this was an institution. The institution language speaks to institutions for the ordinary care of orphans for other similar persons. Mr. Ruck stated that the definition of family has been read several times. He stated that Mr. Knowlton interpreted the Ordinance and concluded that this use would be included in the definition of family.

Mr. Ruck stated that several things to consider as to whether Mr. Knowlton's interpretation was accurate were whether this were a particular clientele that was being serviced were whether the residents were mentally retarded or developmental disabled under the criteria used by the State Department of Welfare and Institutions. He stated that then it would clearly not be subject to any type of conditional use permit for this type of an operation. Mr. Ruck stated that from a land use point of view, from an interpretation of the Ordinance point of view, he stated that he found it very difficult to interpret a definition of family would by necessity include these children if they were mentally retarded or developmentally disabled but not if they were difficult or emotionally disturbed or some of the other criteria which EHS and the Department of Social Services have felt are appropriate in determining which children should reside in this particular facility.

Mr. Ruck stated that the particular Ordinance amendment which was discussed earlier came up in 1971. He stated that the context in which it came up was reflected in the Minutes of the Planning Commission with little or no minute

entries before the Board of Supervisors. Mr. Ruck stated that the minutes indicated concern on the part of the staff and the Planning Commission as to the then growth of the commune. He stated that the language was in the process of being tightened up to preclude commune use of homes in residential and single family neighborhoods, etc. when at the same time there was concern noted by the Department of Social Services as to the language in the definition because of the many foster care/parent child relationships programs, group homes situations which were ongoing by the Department of Social Services. Mr. Ruck stated that at that time there were not any programs like EHS in the County nor was any considered so that this particular issue was not addressed by the Planning Commission or the Board. But in the mind of the Planning Commission at the time of the formulation of the language and in the mind of the Department of Social Services who pointed out the problems to the Planning Commission, the definition of family had to be even though it was limited in terms of number to prevent communal use that it had to consider the social aspects of the various programs that were going forward. Mr. Ruck stated that the definition that came up at that time was the definition that is presently used. He stated that it was the opinion of the Zoning Administrator and that it was his opinion that that definition cannot be limited solely by the fact that the Department of Social Services has approved a relationship which (1) may cause a pass through of public funds to the particular person or entity providing those services or by the sole fact that there is not a full time live in custodial person. Mr. Ruck stated that he did not think the fact that there was a shift or sequential use of different persons acting as parents to the individual children by itself should defeat it from consideration in the Zoning Ordinance.

Mr. Ruck stated that it would be inappropriate to preclude this use from all zones and that was what he had advised the Zoning Administrator. Therefore Mr. Knowlton has to make a decision as to whether he should permit it under a definition that was originally intended to cover similar circumstances or whether he should include it under the Ordinance section that speaks to institutional construction and use or whether he should consider it to be the most intensive use in the County and place it in the I-G zone.

Mr. Ruck requested the Board to consider the dilemna faced by Mr. Knowlton and that the Board make an interpretation in the Board's view as to where this use does belong if they decided Mr. Knowlton was wrong.

Mr. Yaremchuk stated that the opposition had not stated that this use could not go in a residential zone but that there should have been public scrutiny. Mr. Ruck stated that he had no problem with that and that the Zoning Code could be amended. However, this was not done in 1971.

The following persons spoke in support of the appeal. Mr. Fred Webb of 6436 Sleepy Ridge Road, Falls Church, Chairman of the Mason District Council of Civic Associations, stated that the council findings and concerns were that circumvention of the Board should not have been permitted. He stated that they agreed that this should have been subject to a public hearing to begin with and that if it did not fit into any category in the Zoning Code that this should have been worked out at that time. He stated that the procedure for searching through the Code and attempting to make this use fit the Code is not proper and that it takes it out of the area of citizen participation altogether. Mr. Webb stated that you could take any project and fit it somewhere in the Code in the same way that this was fitted. Mr. Webb presented the Board with a copy of a resolution adopted by the Mason District Council on May 23, 1978 supporting the appeal of the Ravenwood Park Citizens Association.

Mr. Bob Sullivan of 6205 Cheryl Drive, Falls Church was the next speaker in support of the appeal. He stated that he was very displeased that the Zoning Administrator had chosen to define the term "family" for his own fancy without regard to the community. Mr. Sullivan stated that his remarks would be brief but the brevity was not to be taken as a sign of weakness. Mr. Sullivan stated that the Board was here to determine whether the Zoning Administrator was correct that the group home has a right to occupy a residential area as a family. Mr. Sullivan stated that it comes down to the term "residential" and what it means. Mr. Sullivan stated that as he was not a lawyer but a resident that he would approach it as a family man. Mr. Sullivan stated that residential applies to a situation where certain conditions must apply or else it is non-residential. He stated that these conditions which had to exist include the following: a group of families living side by side under a situation on a permanent basis where at least one person in each family is the head of the household and individual of maturity/where children are involved directly and

and

335

personally responsible for discipline, education, moral or religious upbringing, health and above all, love for each other. Mr. Sullivan stated that this group home does not in any way meet those conditions as Mr. Konan has so clearly explained. Mr. Sullivan stated that each family should be considerate of its neighbors. He stated that the house should not by lack of maintenance or use have an adverse effect on the neighboring property. He further stated that the public conduct of its occupants should fit the mold generally acceptable. He stated that should be no loud noises, profanity or obscenities or abuse of neighbors. Motor vehicles should be limited in number, parked off of the street. Occupants should abide by the law. Mr. Sullivan stated that this group home and its occupants violate nearly all of these conditions. He stated that the property is unkempt, grass is uncut, shrubbery is overgrown, weeds are abundant and the house shows a general lack of maintenance even after it has already been occupied for three months. In addition, Mr. Sullivan stated that loud obscenities are heard frequently. At least four to six cars are parked in front of the property. Mr. Sullivan stated that this group home can in no way contribute to the neighborhood.

The next speaker in support of the appeal was Mr. Conrad Lukin of 3231 Valley Lane, past president of the Ravenwood Citizens Association which adjoins the Ravenwood Park subdivision. Mr. Lukin stated that in their annual business meeting unanimously passed a resolution in support of the appeal of the Ravenwood Park Citizens Association. In addition, Mr. Lukin presented the Board with a definition of family as passed in a resolution by the Fairfax Federation of Citizens Association.

During trebuttal, Mr. Ed Finnagan stated that Mr. Konan has raised a question regarding covenants. Mr. Finnagan stated that covenants could not be addressed by the County staff. He further stated that there was concern over this use being a transient facility and he stated that he did not believe that is how it has been defined by the Zoning Administrator. He stated that it would be good to refer back to the Planning Commission Minutes of 1971 when the amendment was placed in the Code which was approved by the Planning Commission and adopted by the Board of Supervisors, which is what the Zoning Administrator based his definition and interpretation on. Mr. Finnagan again stated that this was merely a definition of family and how it is to be interpreted within the confines of land use and the Zoning Ordinance. Mr. Finnagan stated that if it was the pleasure of the Board to reverse that interpretation of the Zoning Administrator that the County would be most appreciative of having the knowledge from the Board of Zoning Appeals as to where they stand and where these types of homes should be located in the County.

Mr. Yaremchuk stated that issue was why there was a professional staff. He stated that it was not up to the Board of Zoning Appeals to define where the use should go. He stated that this was staff responsibility.

Mr. Durrer closed the public hearing. He stated that the Chairman would review the material presented and the tapes of the meeting and that a decision would be made at the next meeting. As the next meeting was a night meeting and because of the short notice for the Chairman to review the material, Mr. DiGiulian moved that the decision be deferred until July 27th. Mr. Yaremchuk seconded the motion and it was unanimously carried.

//

Page 335, July 20, 1978, Scheduled case for

11:00 A.M. - ADEL ANTOUN, appl. under Sec. 30-6.6 of the Ord. to permit construction of swimming pool 5.5' from rear of dwelling and 7' from rear property line, (12' & 15' required), located 4813 Fox Chapel Road, Brecon Ridge Subd., 68-1((5))92, (42,287 sq. ft.), Springfield Dist., RE-1, V-131-78.

The Board was in receipt of a letter from the applicant requesting permission from the Board to withdraw the application. It was the unanimous consensus of the Board to allow the applicant to withdraw the application.

//

11:10 A.M. - EDNA MOCK, appl. under Sec. 30-6.6 of the Ord. to permit division of parcel into two (2) lots, one having less than required lot width, 13.88' showing, (100' required), located 3525 Woodburn Rd., 59-1((1)) 13, 21,822 sq. ft., Providence Dist., RE-0.5, V-132-78.

Mr. Orlo Picculi of 307 Maple Avenue, West, Vienna, represented the applicant. Mr. Picculi stated that the tract of land which was the subject of the application is presently zoned for half-acre lots. He stated that the tract contained an excess of one acre. He stated that the plat would show the division of the property. Mr. Picculi stated that the major justification for this application was because the tract was essentially surrounded by lots zoned in and used in either the half-acre or 17,000 sq. ft. classification. He further stated that the tract was very narrow and long in comparison with other properties in the area. Mr. Picculi stated that the topography and the shape of the lot would not permit the division into lots the same size as the adjacent properties. Mr. Picculi stated that the granting of the variance was requested in ordertto make reasonable use of the land.

Mr. DiGiulian inquired if one common driveway was proposed or whether there would be one drive for each lot. Mr. Picculi stated that there would be one driveway for each lot.

Mr. Edwin Keetes of 8316 Shivery Road, Annandale, appeared to speak in support of the application. He stated that his property was immediately adjacent to the property in question. He stated that he supported this application for single family homes.

There was no one else to speak in favor of the application and ono one to speak in opposition to the application.

Page 336, July 20, 1978 Board of Zoning Appeals
EDNA MOCK

R E S O L U T I O N

In Application No. V-132-78 by EDNA MOCK under Section 30-6.6 of the Zoning Ordinance to permit division of parcel into two lots, one of which having less than required lot width, 13.88' shown, 100' required, on property located at 3525 Woodburn Road, tax map 59-1((1))13, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the the Board on July 20, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-0.5,
3. The area of the lot is 1.1355 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Chairman Smith being absent).

Page 337, July 20, 1978, Scheduled case for

11:20 A.M. - SANTIAGO MONTEAGUDO, appl. under Sec. 30-6.6 of the Ord. to permit conversion of carport into garage 9.5' from side property line, (12' required), located 1609 6th Place, El Nido Subd., 31-1((3))(8)2, (13,125 sq. ft.), Dranesville Dist., R-12.5, V-133-78.

Mrs. Maria Montegudo of the above address gave the required justification to the Board. She stated that the reason for the variance request was to enclose the existing carport for security reasons.

Mr. Durrer inquired if the present carport was 20.9' wide as shown on the plat. He further inquired if the material used to enclose the carport would conform with the materials used in the house. Mrs. Monteagudo stated that the carport was 20.9' and that the materials used to enclose it would be compatible with the existing house.

There was no ono one to speak in favor of the application and no none to speak in opposition to the application.

Page 337, July 20, 1978 Board of Zoning Appeals
SANTIAGO MONTEAGUDO

R E S O L U T I O N

In Application No. V-133-78 by SANTIAGO MONTEAGUDO under Section 30-6.6 of the Zoning Ordinance to permit conversion of carport into garage 9.5' from side property line (12' required), on property located at 1609 6th Place, tax map 31-1((3))(8)2, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 20, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-12.5.
3. The area of the lot is 13,125 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties, being a corner lot.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Chairman Smith being absent).

Page 338, July 20, 1978, Scheduled case for

11:30 A.M. - WEDGEFIELD CORP. appl. under Sec. 30-6.6 of the Ord. to permit construction of chain link fence for pool & tennis complex within front setback area, (50' required), 47-4((1))15 & 16, (61,193 sq. ft.), Providence Dist., RM-2, V-135-78.

The Board was in receipt of a letter from the applicant requesting permission to withdraw the application.

Mr. Barnes moved that the applicant be allowed to withdraw the application without prejudice. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 4 to 0 with Chairman Smith being absent.

//

Page 338, July 20, 1978, Scheduled case for

11:40 A.M. - DAVID F. BYRNES, appl. under Sec. 30-6.6 of the Ord. to permit construction of carport 4' from side setback & to be attached to existing garage, (15' required), located 914 Whann Ave., Langley Forest Subd., 21-4((6))22B-2, (0.576 acres), Dranesville Dist., RE-1, V-138-78.

Mr. David Byrnes of 5724 Haversham Way, Alexandria was the applicant. He stated that the property on Whann Avenue was his property. He stated that the staff report indicated the property owner as being the previous owner. Mr. Brynes stated that had a deed of title if the Board needed to examine it.

Mr. Byrnes stated that the house was fire damaged and had been vacant for about two years. He stated that he is presently renovating it completely and that it requires the same building permit as a new house. He stated that he is enlarging it somewhat at the same time. He stated that the carport is proposed to be constructed along with the renovation of the house. It would be a coordinated part of the renovation. Mr. Byrnes stated that the variance was necessary because although it is a larger lot that the front is such and the configuration of the building was such that it will not accomodate the size of carport needed adjacent to the garage. He stated that there was no other way to make accomodations for the second vehicle.

Mr. DiGiulian inquired if the garage was still going to be used to house the other vehicle and was informed by the applicant that it would remain a garage.

Mr. Durrer stated that the plat showed the width of the garage to be 14' and inquired as to the size of the carport. Mr. Byrnes stated that the carport would be 10'.

Mr. DiGiulian stated that from the pictures of the property there appeared to be some kind of a structure between the house and the garage and inquired as to what it was and whether it was closed or open. Mr. Byrnes stated that it was part of the renovation of the house and that it was a closed structure. He stated that this was a porch before the fire.

Mr. Durrer inquired if the construction would be compatible with the rest of the house.and was assured that it would be.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 338, July 20, 1978 Board of Zoning Appeals
DAVID F. BYRNES

R E S O L U T I O N

In Application No. V-138-78 by DAVID F. BYRNES under Section 30-6.6 of the Zoning Ordinance to permit construction of carport 4' from side setback and to be attached to existing garage (15' required), on property located at 914 Whann Avenue, tax map 21-4((6))22B-2, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

Page 339, July 20, 1978 Board of Zoning Appeals
DAVID F. BYRNES
(continued)

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 20, 1978; and

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

1. That the owner of theproperty is the applicant.
2. The present zoning is RE-1.
3. The area of the lot is 0.576 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Chairman Smith being absent and Mr. Yaremchuk being out of the room).

Page 339, July 20, 1978, Scheduled case for

12:10 P.M. - ANNANDALE VOLUNTEER FIRE DEPARTMENT, appl. under Sec. 30-7.2.6.1.2 of the Ord. to permit construction of addition to existing Fire Station, located 7128 Columbia Pike, 71-1((4))109B, (1.468 acres), Mason Dist., R-10, S-149-78.

At the beginning of the hearing, Mr. DiGiulian informed the Board that he had prepared the plats for this application so he would not participate in the vote.

Mr. William Cline represented the applicant. He resided at 4403 Ossian Hall Lane. Mr. Cline stated that he was the President of the Annandale Volunteer Fire Department. Mr. Cline stated that the addition was needed for more sleeping space for additional personnel and by building an additional building they could house the personnel in the new building. He stated that the new building would be used for training areas with some office space in the middle.

Mr. Durrer inquired as to where the parking would be located if they built the new building. Mr. Cline stated that there was a hill which would be removed and would have enough space for 63 spaces which would include three handicapped spaces. Mr. Durrer inquired as to when construction would begin and was informed that the department was ready to begin as soon as they could the necessary approval from the BZA.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 339, July 20, 1978 Board of Zoning Appeals
ANNANDALE VOLUNTEER FIRE DEPARTMENT

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-149-78 by ANNANDALE VOLUNTEER FIRE DEPARTMENT under Section 30-7.2.6.1.2 of the Fairfax County Zoning Ordinance to permit construction of addition to existing fire station on property located at 7128 Columbia Pike, tax map reference 71-1((4))109B, County of Fairfax, Virginia, has been

properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 20, 1978; and

WHEREAS, the Board 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 1.468 acres.
4. That compliance with the Site Plan Ordinance is required.

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

1. THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of parking spaces shall be 63.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 3 to 0 with 1 abstention (Mr. DiGiulian) and Chairman Smith being absent.

Page 340, July 20, 1978, Scheduled case for

12:40 P.M. - GAYLORD W. & BETTY S. NESS, appl. under Sec. 30-6.6 of the Ord. to permit construction of 6' fence at the front property line, located 2306 Locust DRidge Ct., Locust Ridge Subd., 40-4((31))1, (9,034 sq. ft.), Dranesville Dist., R-10, V-139-78.

Mrs. Betty Ness of the above address informed the Board that the application was made for a variance for the 6' fence for privacy. She stated that at the present time there is a chain link fence but that ongoing cars throw trash onto her patio. She further stated that her dog has been cut on several occasions by the broken glass on the patio. In addition, there is an easement which catches a lot of trash. Mrs. Ness reported that she has requested that the easement be controlled but that she still has to cut the grass and remove the trash.

Mr. Barnes inquired if this was a corner lot and was informed that it was. The Board was concerned with allowing a variance to erect a 6' fence because of the site problem. Mr. Covington informed the Board that if the variance was granted the Zoning Office would work with Mrs. Ness to help determine where to erect the fence so as not to impair vision of traffic.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

In Application No. V-139-78 by GAYLORD W. & BETTY S. NESS under Section 30-6.6 of the Zoning Ordinance to permit construction of 6' fence at the front property line on property located at 2306 Locust Ridge Court, tax map 40-4((31))1, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 20, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-10.
3. The area of the lot 9,034 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties being a corner lot.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

3. The Zoning Office is to work with the applicant to construct the fence so as not to impair visibility for traffic when making right hand turns.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Chairman Smith being absent).

Page 341, July 20, 1978, Scheduled case for

1:00 P.M. - LEASCO REALTY appl. under Sec. 30-7.2.10.2.2 of the Ord. to permit community recreational facilities including tennis courts, swimming pools and similar facilities to be located within a completely enclosed permanent building, located 8300 Greensboro Dr., 29-3((1)) pt. 64, (10 acres), Dranesville Dist., C-OH, S-161-78.

Mr. Martin D. Walsh, attorney, represented the applicant. He informed the Board that there was a problem with the advertising and the staff was going to readvertise the application for a hearing on August 2nd. The problem was that the advertisement indicated this to be a community recreational facility rather than a commercial facility.

It was the consensus of the Board to readvertise the application and schedule it for August 2, 1978.

//

S-201-77, First Church of Christ, the Board of Zoning Appeals was in receipt of a letter requesting an extension of time on the above-permit. The permit was originally granted by the Board on September 20, 1977.

Mr. Barnes moved that the First Church of Christ be granted an 180 day extension. Mr. DiGiulian seconded the motion. The motion passed unanimously by a vote of 4 to 0.

// There being no further business, the meeting adjourned at 3:12 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman

Submitted to the BZA on Jan. 9, 78
Submitted to the other departments,
Board of Supervisors and Planning
Commission on Jan. 9, 78.

APPROVED: January 9, 78
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Tuesday, July 25, 1978. All Board Members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; John DiGiulian (arriving at 8:30 P.M.); and John Yaremchuk.

The meeting opened at 8:10 P.M. led by a prayer by Mr. Barnes.

The Chairman called the scheduled 8 o'clock case.

8:00 P.M. - TUCKAHOE RECREATION CLUB, INC. appl. under Sec. 30-7.2.6.1.1 of the Ord. to amend Special Use Permit to permit construction of three tennis courts with handball or squash courts & administrative space, storage & dressing facilities beneath the courts, located 1814 Great Falls Street, 40-2((1))1, (1 acre), Dranesville Dist., R-12.5, S-126-78.

The required notices were in order. Mr. Emerson Dimple, 6848 Blue Star Drive, McLean, Virginia, a member of the Board of Directors for the Tuckahoe Recreation Club, appeared to speak on behalf of the application. He stated that the request was for additional tennis courts to be built on land that the club was in the process of buying. Mr. Dimple stated that they proposed to construct three tennis courts on the back one acre of the Harris property. He further stated that the handball and administrative space would be located underneath the tennis courts on the northwest corner adjacent to the parking lot.

Chairman Smith inquired if Tuckahoe had a lease with the Harris' on the property and was informed that there was a contract to purchase in the file. Mr. Dimple stated that Mr. Harris and his wife have lived there many years and are tired of cutting the grass. Chairman Smith inquired as to the height of the fence that would surround the tennis courts. Mr. Dimple stated that it stood 10' with points to retain the overflow of juveniles. Mr. Covington informed the Board when questioned regarding the height of the fence that the setback requirement is 40' and as long as they keep the fence 4' in the setback that he could go higher in the rear. Chairman Smith next inquired as to the existing dwelling on the Harris property. Mr. Dimple replied that all ingress and egress for the club would be from their own property. He stated that they would fence around three sides of the property. Mr. Covington stated that the property line goes through the shed and would create a problem for the shed setback. Mr. Dimple stated that the shed would be removed as it is about to fall down anyway.

There was no one to speak in favor of the application. There were several people to speak in opposition to the application. They were concerned as to how close the courts would come to the property line. Chairman Smith invited all of the people to come forward to examine the plats and to ask questions of the applicant. There was concern expressed as to lighting of the tennis courts. Mr. Dimple stated that they did not proposed to light the courts at this time but stated that they would like to have lights at a later time. One woman was concerned with the development of the street. Mr. Dimple stated that they proposed to surround their property with a fence and did not propose to do anything with the street. The woman stated that the covenants would not allow them to construct this type of fence. She further stated that she would like to see a gate constructed. Chairman Smith stated that they Board could not require the applicant to construct a gate but that the applicant could if they felt it would be beneficial to the neighborhood. He further stated that the applicant has a right to construct a 6' fence. The woman stated that she did not mind the height of the fence but the fact that it was a cyclone fence. Mr. Dimple stated that he would put screening along the fence. Chairman Smith informed the people that the applicants could not remove any existing trees without a permit. The people were expressed concern that the construction equipment would be going through their neighborhood. After further discussion with the applicant, the people stated that they were not in opposition if they could work out some concerns they had with the applicant and it was agreed that the recreation club would work with the citizens in the area. There was no one else to speak in opposition.

TUCKAHOE RECREATION CLUB, INC.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. S-126-78 by TUCKAHOE RECREATION CLUB, INC. under Section 30-7.2.6.1.1 of the Fairfax County Zoning Ordinance to permit construction of three additional tennis courts on property located at 1814 Great Falls Street, tax map reference 40-2((1))1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 25, 1978; and

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

1. That the owner of the property is Wilson H. Harris and that the applicant is the contract purchaser.
2. That the present zoning is R-12.5.
3. That the area of the lot is 1 acre.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 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 plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. All requirements of the previous special permits regarding the tennis courts will still apply.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Yaremchuk abstaining and Mr. DiGiulian not yet present.

Page 344, July 25, 1978, Scheduled case for

8:00 P.M. - TYSONS BRIAR, INC., T/A CARDINAL HILL SWIM & RACQUET CLUB, appl. under Sec. 30-7.2.6.1.1 of the Ord. to amend special use permit to construct tennis courts, 9117 Westerholme Way, 28-4((1))47, (1.0 acre), Centreville Dist., RE-1, S-134-78.

The hearing began at 8:30 P.M. Mr. DiGiulian arrived at this point in the meeting. Chairman Smith inquired if the Court case involving Tysons Briar was still pending. Mr. John Brandt informed the Board that it was. He stated that under Court order, the tennis courts were allowed to open at 6 A.M. but that the hours for swimming remained as specified by the Board of Zoning Appeals.

For further testimony, please refer to the verbatim transcript in the file.

Page 345, July 25, 1978 Board of Zoning Appeals
TYSONS BRIAR, INC. T/A CARDINAL HILL SWIM & RACQUET CLUB

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-134-78 by TYSONS BRIAR INC. T/A CARDINAL HILL SWIM & RACQUET CLUB under Section 30-7.2.6.1.1 of the Fairfax County Zoning Ordinance to permit construction of two tennis courts on property located at 9117 Westerholme Way, tax map reference 28-4((1))47, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 25, 1978; and

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

1. That the owner of the subject property is Tysons Briar, Inc.
2. That the present zoning is RE-1.
3. That the area of the lot is one acre.

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

That the applicant has not presented testimony indicating compliance with Standards for Special 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 is DENIED.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 2 (Mr. Durrer and Mr. Yaremchuk).

Page 345, July 25, 1978, Scheduled case for

8:00 P.M. – ACCOTINK ACADEMY, appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit addition to existing building for use as classrooms for learning disabled children, located 8519 Tuttle Rd., 79-3((4))30A & 31A, (83,505 sq. ft.), Springfield Dist., RE-1, S-163-78.

The hearing began at 9:45 P.M. The required notices were in order.

Mr. Warren McConnell of 8533 Tuttle Road gave the required justification to the Board. He stated that he and his wife operate a school at 8519 Tuttle Rd. The purpose of this application was to provide room for their supporting staff. Mr. McDonnell stated that the addition would also provide use of a crisis room for students who have emotional problems. Mr. McConnell stated that they needed a room to cool off in. He stated that the room could also be used for therapy. By providing an addition, the school could gain some valuable storage space. Mr. McConnell stated that the school is increasing their supportive staff and would need a room for therapy.

Mr. Durrer inquired as to the number of students the school has at the present time. Mr. McConnell stated that the County has not given them any students at present but that last year they had 108 students. He stated that the Health Department has approved them for a maximum of 118 students. Mr. McConnell stated that they were under a contract system with the School Board.

Mr. Yaremchuk inquired as to the hours of operation and was was informed that the school operated from 9 A.M. to 2:45 P.M.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Page 345, July 25, 1978 Board of Zoning Appeals
ACCOTINK ACADEMY

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-163-78 by ACCOTINK ACADEMY under Section 30-7.2.6.1.3 of the Fairfax County Zoning Ordinance to permit addition to existing building for use as classrooms for learning disabled children, on property located at 8519 Tuttle Road, tax map reference 79-3((4))30A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

RESOLUTION

346

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 25, 1978; and

WHEREAS the Board has made the following findings of fact:

1. That the owner of the subject property is Warren H. McConnell.
2. That the present zoning is RE-1.
3. That the area of the lot is 83,505 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The maximum number of memberships shall be 118.
8. The hours of operation shall be the hours previously established by the Board in granting the other special permit.
9. The minimum number of parking spaces shall be 16.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 346, July 25, 1978, After Agenda Items

The Board was in receipt of a letter from Mr. Charles Shumate, attorney for Robert & Ronald DeAngelis, requesting the Board to reconsider its motion in the appeal filed by the Planning Commission & Board of Supervisors. After discussion, the Board directed the Clerk to prepare a verbatim transcript of the motion by the next meeting date and stated that they would consider a motion for reconsideration at that meeting after reading the transcript.

//

Page 346, July 25, 1978, After Agenda Items

The Board was in receipt of a letter from the Greenbriar Pool Club, Inc. requesting approval from the Board to have [illegible] classes for senior lifesaving. They stated that they would insure that no loud noises or lights disturbed the surrounding neighbors.

Mr. Covington stated that this would be a worthwhile program and would be a good experiment for the Board. He suggested that the pool obtain approval from all of the contiguous property owners though.

Page 347, July 25, 1978, After Agenda Items
(Greenbriar Pool Club, Inc.)
(continued)

Mr. Durrer moved that the Greenbriar Pool Club be allowed to have the after hours lifesaving courses provided they did get approval from all of the contiguous property owners.

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

//

Page 347, July 25, 1978, After Agenda Items

The Board was in receipt of a letter from the Honorable Judge Jennings forwarding a letter from Mrs. Carol E. Paul regarding the conduct of the Board members at a recent meeting. The Board directed the Clerk to prepare a response to Judge Jennings and to forward a copy of that response to Mrs. Paul.

// There being no further business, the meeting adjourned at 10:15 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the BZA on Jan. 20, 79
Submitted to the other departments,
Board of Supervisors and Planning
Commission on Jan. 20, 79.

APPROVED: January 23, 79
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Thursday, July 27, 1978. The following Board Members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; George Barnes; and John DiGiulian (arriving at 10:55 A.M. Mr. Yaremchuk was absent.

The meeting began at 10:20 A.M. led by a prayer by Mr. Barnes. The Chairman called the scheduled 10 o'clock case.

10:00 A.M. - THOMAS A. & MARGARET MARY HAYES, appl. under Sect. 30-6.6 of the Ord. to permit construction of two car garage 21.9' from rear property line, (25' required), located 2604 Faber Ct., 50-1((16)4, (9,640 sq. ft.), Providence Dist., Walnut Grove Subd., R-10, V-140-78.

Mr. Thomas Hayes of the above address presented the required justification to the Board. He stated that the variance was requested to permit construction of an attached double garage which would extend beyond the setback line. He stated that his lot was trapezoidal and that the house had been placed at an angle with respect to the rear property line. Mr. Hayes stated that the proposed garage would extend 21.9' from the rear property line.

Mr. Durrer inquired if there would be space built over the garage for storage or for living areas and was informed by Mr. Hayes that he had adequate storage in the basement and that the garage was only a one -story addition. Mr. Durrer inquired as to the type of materials to be used and was informed that it would be of masonry construction.

Mr. Smith inquired as to how long the applicants had owned the property and was told ten years. Mr. Hayes reported that he was the original owner and that he planned to continue living there.

There was no one to speak in favor of the application and ono one to speak in opposition to the application.

Page 348, July 27, 1978 Board of Zoning Appeals
THOMAS A. & MARGARET MARY HAYES

R E S O L U T I O N

In Application No. V-140-78 by THOMAS A. & MARGARET MARY HAYES under Section 30-6.6 of the Zoning Ordinance to permit construction of garage 21.9' from rear property line, on property located at 2604 Faber Ct., tax map 50-1((16))4 County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-10.
3. The area of the lot is 9.640 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Barnes seconded the motion. The motion passed by a vote of 3 to 0 (Messrs DiGiulian and Yaremchuk not present).

Page 349, July 27, 1978, Scheduled case for

10:10 A.M. - G. ALAN & EMILY LAKIN, appl. under Sec. 30-6.6 of the Ord. to permit existing deck to remain 10' from side property line (20' required), located 1909 Rhode Island Avenue, Franklin Park Subd., 41-1((13))(7) 17A, (10,851 sq. ft.), Dranesville Dist., RE-0.5, V-143-78.

349

As the required notices were not in order, the case was rescheduled for September 7, 1978 at 2:40 P.M.

//

Page 349, July 27, 1978, Scheduled case for

10:20 A.M. - MARIA GARCIA, appl. under Sec. 30-6.6 of the Ord. to permit dwelling to remain 28.9' from front property line, (30' required), located 3051 Bohicket Ct., Five Oaks Place Subd., 48-3((34))45, Providence Dist., R-12.5, V-144-78.

Mr. Marco Andreallo of 2110 East Fairfax Street, Falls Church explained that the builder of the house had built the house too close to the front property line. Mr. Larry Loffer, a representative from Ryan Homes explained the situation to the Board. He explained that the front property line was on a curve and that it was not until the final survey that it had been determined that the house was in error. Mr. Covington explained to the Board that the measurement for the front setback is taken from the closest point of the street. In this instance, the closest point was measured from another lot. Chairman Smith stated that he always thought that you took each lot measurement on its own merit. Mr. Covington explained that this was a rare situation and that only a minimum variance was required.

Mr. Durrer inquired as to the selling price of the house and was told $63,000. He stated that he was concerned that the owners of the property would have to apply for the variance. Mr. Ryan stated that they did not recognize the deficiency until after settlement. He stated that it was the County that felt they misinterpreted the Ordinance. Mr. Ryan stated that their surveyors felt that they were in compliance.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Page 349, July 27, 1978 Board of Zoning Appeals
MARIA GARCIA

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. 144-78 by MARIA GARCIA under Section 30-6.6.5 of the Fairfax County Zoning Ordinance to permit dwelling to remain 28.9' from front property line on property located at 3051 Bohicket Ct., tax map reference 48-3((34))45, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals held on July 27, 1978 and,

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

1. That non-compliance was [redacted]

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

1. 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.

2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

R E S O L U T I O N

350

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.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk not present).

Page 350, July 27, 1978, Scheduled case for

10:30 A.M. - GEORGE A. RISCILI, appl. under Sec. 30-6.6 of the Ord. to permit addition 13' from side property line, (20' required), located 7703 Ridgecrest Dr., Wellington Heights Subd., 102-2((17))78B, Mt. Vernon Dist., RE-0.5, V-146-78.

Mr. Riscili of the above address presented the required justification to the Board. He stated that he wanted to construct an addition to his home. Mr. Riscili stated that his home was only a two-person house and that it was a very modern house. He stated that his wife is very ill and requires the services of a nurse. Also, his sister-in-law visits frequently. Mr. Riscili stated that he felt the addition would be an attractive addition to the property. He stated that it would be about 100' from the street and about 13' from the side property line. He stated that he did not feel that the addition would detract from the appearance of the neighborhood or bother the neighbors. He further stated that the construction would be compatible with the rest of the house.

Chairman Smith inquired if the applicant could cut down the width of the addition some so as not to request as large a variance. He stated that he was concerned about the side yard because of a letter in the file in opposition to the variance. Mr. Riscili stated that he could convert the garage into a bedroom and then build a garage 2' from the property line that would be in conformance with the Ordinance. Mr. Riscili stated that he wanted to keep the view from outside which is why the addition was proposed to be rectangular. Chairman Smith inquired as to how long the applicants lived here and was informed that they were the original owners eleven years ago.

There was no one to speak in favor of the application. There was no one to speak in opposition but there was a letter from Aubrey Stringer in opposition to the request. She requested the Board to deny the application or to defer decision until a later date.

Mr. Riscili stated that the value of the surrounding properties would continue to go up and he could not see how his proposed addition would detract from values as indicated in the letter. Mr. Riscili stated that he felt Mr. Stringer was concerned because of the distance of 13'. He stated that it was his opinion that Mr. Stringer would be even more concerned if he built a detached garage only 2' from the property line.

Chairman Smith stated that it was very difficult for him to support the variance when the applicants were requesting a variance of 7. He stated that if the applicants cut it down to a 5' variance then he could support it. Mr. Riscili agreed to cut it down to 5'.

R E S O L U T I O N

In Application No. V-146-78 by GEORGE A. RISCILI under Section 30-6.6 of the Zoning Ordinance to permit construction of addition 13'* from side property line on property located at 7703 Ridgecrest Dr., tax map 102-2((17))78B, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 27, 1978; and

R E S O L U T I O N

351

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-0.5.
3. The area of the lot is 30,843 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED IN PART (to permit construction 15' from property line, being a 5' variance instead of a 7' variance) 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Messrs. DiGiulian and Yaremchuk not present).

Page 351, July 27, 1978, Scheduled case for

10:40 A.M. - FRANCIS R. & ALICE L. WILLIS, appl. under Sec. 30-6.6 of the Ord. to permit construction of addition 20.2' from rear property line (25' required), located 8706 Linton Ln., Stratford on the Potomac, 111-1((14))590 (13,342 sq. ft.), Mt. Vernon Dist., R-12.5, V-148-78.

As the required notices were not in order, the case was rescheduled for September 7, 1978 at 12:30 P.M.

//

Mr. DiGiulian arrived at 10:55 A.M. and was present for the remainder of the meeting.

//

Page 351, July 27, 1978, Scheduled case for

10:50 A.M. - THOMAS & JANET FOSMIRE, appl. under Sec. 30-6.6 of the Ord. to permit variance to lot width for proposed lot 1B, 116.76' showing, (150' required), located 3133 Hunt Rd., 46-2((7))1B, (1.2972 acres), Centreville Dist., RE-1, V-156-78.

Mrs. Kathryn Green represented the applicant. She stated that the land was a tract of approximately 2.45 acres and was surrounded by one acre cluster lots. She stated that the Fosmires did not own any of the other surrounding land. She also indicated that there were two approved areas for septic disposal systems on the property.

Chairman Smith inquired as to the length of time the applicants had owned the property and was informed eight years. Chairman Smith inquired if there was a contract to purchase the property and was informed that there was the potential but that the present owners were retired and residing in the South. Chairman Smith inquired if Mrs. Green had approval to represent the applicants and was informed that it was the file.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Mrs. Paul Gorey, 3263 Fox Mill Road, Oakton, stated that she was a resident of Fox Heritage Subdivision. She stated that she was an urban planner with Montogomery County in Maryland. She stated that the variance should be denied as it would resubdivide the property. She stated that when she bought her land she had checked with the County and

352

found out that only one house could be constructed on the surrounding land per each acre. She disclaimed that the applicants would suffer any hardship. She further stated that there were several lots in the surrounding area of more than one acre. She indicated that by creating additional lots on Hunt Road with driveways entering on Hunt Road would create a safety hazard for the intersection. She stated that for her own ingress and egress to her lot that she uses a private drive and that she would not give an easement to the proposed lot 1B. In addition, Mrs. Gorey felt that the culverts in the area would not be able to handle the extra runoff. She again requested the Board to deny this application.

Mr. Durrer inquired as to the location of Mrs. Gorey's residence. She stated that she resided in Section 6, lot 2. She stated that she was the middle of the three houses. Chairman Smith inquired as to how many houses there were in this area. Mrs. Gorey stated that only three houses were served by the pipestem driveway. She stated that the driveway was privately maintained and that it served lots 1, 2 & 3. Mr. Durrer inquired if lot 12 was developed and was informed that it was open space for Fox Heritage.

Chairman Smith inquired if this zoning was for one acre or for a half-acre. Mr. Covington informed him it was one acre zoning. Chairman Smith stated that the map showed it as being zoned for one to two dwellings per acre. Mr. Covington stated that the Master Plan calls for that number of dwellings but at the present it is only one dwelling per acre.

Mr. DiGiulian inquired as to why they couldn't apply for cluster development. Mr. Covington stated that this procedure would reduce cost. Mr. Durrer asked if they couldn't in the future have one to two dwellings on each of the lots per acre and Mr. Covington stated that was in the Master Plan.

The next speaker was Mr. Christopher Davy, 3261 Fox Mill Road, Lot 1, Section 6, Fox Heritage. He stated that when he purchased his property he had looked at the land around it. He stated that the lot next to his was zoned for one house. Mr. Davy stated that based on the topography of the land next door, he had estimated where the proposed house would be located if the land was developed. Mr. Davy stated that he was planning to construct a swimming pool in the future and that the proposed construction would affect his pool. Mr. Davy stated that he was curious as to whether the applicant would construct a new driveway or whether they would need access to the current pipestem. He inquired as to what kind of maintenance would take care of the driveway.

Chairman Smith informed Mr. Davy that possibly the applicant could get an easement from the property owner of the pipestem. Mrs. Gorey stated that she had already indicated that she would not give an easement over her property. Chairman Smith stated that he did not believe in pipestem lots but that it seemed to him that the Board should give favorable consideration to construction of two houses on this land because of the land area involved. He stated that to use the existing pipestem for access would be ideal but if the property owner did not wish to grant an easement then a new access would have to be opened up. Mr. Durrer stated that that could be worked out later on if the Board allowed this subdivision. Chairman Smith stated that he did not like to see additional cuts. However, he stated he felt that the applicant has a case as far as the house was concerned.

The next speaker was Maria Stewart of 3125 Hunt Road, Lot 3, Section 5 of Fox Heritage. Mrs. Stewart stated that she had done the same thing as Mr. Davy. She stated that she purchased her property after looking at what could go in the surrounding area. She stated that if lot A would have a driveway that it would add another driveway at the bottom of the hill. She stated that if you built two houses on that lot that it would mean double cars. Mrs. Stewart stated that the zoning was for one acre lots and required at least 150' frontage.

Chairman Smith stated that the proposed lot does have 116' frontage which is considerable more than the pipestem lots around it in Section 6. Mrs. Stewart stated that if the applicants constructed a driveway off of lot 1B that it would create a hazard. Chairman Smith agreed that it would create a hazard to a degree but he stated that was one thing you had to live with in order to get reasonable use of the land. Mrs. Stewart informed the Board that the Fosmires had never lived there on the property. Mr. Durrer inquired as to the size of Mrs. Stewart's lot. She stated that she owned 1 1/8 acres. She also stated that lot 2 contained 1½ acres, lot 5 contained 1½ acres, and that the lot across the street was 3 acres. She stated that the lot next to it was 4 acres. Mr. Durrer inquired if Mrs. Stewart expected things to stay the way it

was when she purchased the property. Mrs. Stewart stated that the property was sold and that the applicants would be making money on this application.

Chairman Smith informed Mrs. Stewart that if this subdivision contained only one acre or even only one and one-half acre that he would not support it. However, he stated that this application consisted of a considerable amount of land. He stated that the applicants were entitled to use this land as single family dwellings. Chairman Smith agreed that Mrs. Stewart was right about the applicant making a considerable amount of money but he stated the same was true of her home and other homes in the area.

Mrs. Stewart inquired as to the layout of the proposed two houses. She stated that at the present time her driveway was like a dutch dike. Chairman Smith stated that the Highway Department would have to approve the ditch and that subdivision control as to approve the driveways. Chairman Smith stated that the Board could only grant relief if they decided that it should be granted to make reasonable use of the land. He stated that the applicants did have the land area and that they had 116' frontage. He further indicated that the Master Plan would increase the density in this area to two dwelling units per acre.

The next speaker was Judy Kenefick of 3113 Hunt Road. She stated that she was not objecting to the 2¼ acre development. She stated that this was in keeping with the zoning. She did state that she felt it was very important that when the Fosmires purchased the land that they had reasonable use of the land and that nothing has happened to change that. She stated that the Fosmires were asking the surrounding residents to help them make a financial gain. Mr. Durrer inquired as to the size of Mrs. Kenefick's lot and was informed that it consisted of 1½ acres.

The next speaker was Martha Wallis of 3241 Foxmill Road. Mrs. Wallis stated that she owned Lot 46 at the corner of Hunt Road and Foxmill Road. She stated that she was directly across from the corner being considered. Mr. Durrer inquired as to the size of her lot and was told that it was three acres. Mrs. Wallis stated that she was concerned with this application. She stated that the main concern was that the corner was already very dangerous. She stated that the addition of another driveway on Hunt Road would be dangerous. She stated that Lot 1b would create a manmade peril for life and property. Mrs. Wallis stated that she has owned her property for 27 years. She stated that she has already made her sacifice. She stated that she gave the Virginia Department of Highways a 50' dedication in 1972 to help the hazard on Foxmill Road and Hunt Road. Mrs. Wallis stated that she was born in the community and that this particular intersection has always bothered her which is why she dedicated her land. Mrs. Wallis stated that the Fosmires have never lived in the community and have no intention of residing here. She stated that the Fosmires were not interested in the welfare of the community but only in the monetary gain of their own property. Mrs. Wallis stated that she has compassion for children and the school buses that travel in the area. Again, she stated her objection was based on the danger.

The next speaker was Carolyn Behnke of 3129 Hunt Road. Mrs. Behnke stated that she owned the property that abuts Section 3 of Fox Heritage. She asked that the variance be denied. Mrs. Behnke stated that she thought that only one home could be built on the Fosmire property. She stated that to subdivide the property to allow for two houses would place a dwelling squarely on the edge of her property. Mrs. Behnke also indicated that an additional driveway would create an unsafe condition for traffic in the area. Mrs. Behnke urged the Board to deny this request.

There was no one else to speak in opposition to the application. Chairman Smith stated that he would like to get a report from Public Works on the intersection. He also indicated that he would like to request the applicant to consider one common driveway for the two lots since there was so much concern about the hazard. As far as money was concerned, Chairman Smith informed the opposition that this matter was not relevant but that their other concerns would have to be considered. He inquired of Mr. Green if one common driveway could be constructed for the two lots. Mr. Greene stated that this was already being considered by the person who was thinking of building on the property. Chairman Smith stated it should be shown on the plat as a single driveway. Mr. Greene stated that the builder had already been talking about putting in a common driveway wherever the County felt it was best located. Chairman Smith stated that the Board would have to make a decision on this application today because Mr. Barnes would not be present for the next meeting if it was deferred because of the plats and also because Mr. Durrer had resigned and would not be present after August 2, 1978.

354

RESOLUTION

In Application No. V-156-78 by THOMAS & JANET FOSMIRE under Section 30-6.6 of the Zoning Ordinance to permit subdivision of lot & variance to lot width for proposed lot 1B, 116.76' shown, (150' required), on property located at 3133 Hunt Road, tax map 46-2((7))1B, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 27, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-1.
3. The area of the lot is 2.501 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

3. Both lots are to be served by one common driveway and revised plats are to be submitted to show the location of the driveway before the variance is considered valid.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

Page 354, July 27, 1978, Scheduled case for

11:00 A.M. - MCLEAN MEWS JOINT VENTURE, appl. under Sec. 30-6.6 of the Ord. to permit construction of office building closer to front lot lines than allowed by Ord. (30.67' from Whittier Ave. & 25' from Emerson Ave., 50' required) & to waive construction of travel lanes as required improvements under Sec. 30-11.7 (Site Plan Ord.), located 6714 Whittier Avenue, 30-2((9))32, 33, 34, 35 (30,000 sq. ft.), Dranesville Dist., CG, V-157-78.

The Board was in receipt of a letter from Mr. John L. Hanson, Jr., the attorney for the applicant requesting the Board to allow them to withdraw the application.

Mr. DiGiulian moved that the applicant be allowed to withdraw the application without prejudice. Mr. Barnes seconded the motion and it was unanimously passed by a vote of 4 to 0.

//

Page 355, July 27, 1978, Scheduled case for

11:10 A.M. - HORACE N. MOORE, JR., ET. AL., AND COMMONWEALTH INVESTMENT SERVICE, CORP., appl. under Sec. 30-6.6 of the Ord. to permit variance of lot width for proposed lots 5 & 6, 12' shown, (200' required), located 1411 Hunter Mill Road, 18-2((1))34 & 34A, (15.24 acres), Dranesville Dist., RE-2, V-158-78.

As the required notices were not in order, the case was rescheduled for September 7, 1978 at 12:50 P.M.

//

Page 355, July 27, 1978, Scheduled case for

11:20 A.M. - VALERIE HORSTMAN, ET. AL. & BARLOWS, INC., appl. under Sec. 30-6.6 of the Ord. to permit variance of lot width for proposed lots 2, 3 & 4, (6.21' shown, 200' required), located 9030 Jeffrey Road, 8-2((1))09, (7.8952 acres), Dranesville Dist., RE-2, V-159-78.

There was a problem with the application that required amending which was explained to the Board. The Board deferred hearing this application until such time as the amended plats were received and the advertising and posting was done.

//The Board broke for lunch at 12:15 P.M. and returned at 1:40 P.M.
Mr. Yaremchuk was present for the afternoon session.
Page 355, July 27, 1978, Scheduled case for

1:00 P.M. - PAR CONSTRUCTION CORP. & TOWLSTON MEADOW COMMUNITY ASSOCIATION, appl. under Sec. 30-7.2.6.1.1 of the Ord. to permit construction of two tennis courts and a "tot lot", 19-3 & 19-4((1))58, Dranesville Dist., R-17, S-142-78. *Towlston Meadow Sub.

Mr. Michael Flemming of 1415 N. Courthouse Rd. in Arlington represented the applicant. He stated that one year ago when the property owner of the property in question was before the Board of Supervisors for a rezoning, the Board as a condition, required that two tennis courts and a tot lot be constructed on the property. Mr. Flemming stated that the location was indicated on the plats. The application for a special use permit was to apply for the tennis courts and tot lot that had been required for the tenants. Mr. Flemming stated that the courts were within walking distance of the neighboring homes.

Chairman Smith inquired as to the number of homes in the area and was informed there were seventy-five. Chairman Smith stated that it seemed to him that there should be at least 2 or 3 parking spaces to accomodate 75 homes. Mr. DiGiulian stated that after looking at the plat that it appeared to him that the people had no choice but to walk because of the streets and the trails in the area. Mr. Smith stated that was fine as long as no one parked in front of other people's driveways. Mr. DiGiulian stated that this was an ideal situation for walking. Mr. Durrer inquired as to where the parking spaces would be located if they were required. Chairman Smith stated that he could not remember ever having granted a use permit where there were not any parking spaces at all. Mr. DiGiulian stated that the applicant could be requested to place no parking signs in front of the homes surrounding the tennis courts.

There was no one to speak in favor of the application. The following person spoke in opposition to the application. Ms. Kathleen Hodge stated that she lived behind this lot. She questioned why this application was being considered by the Board of Zoning Appeals and inquired if there had been a change in location of the place for the courts and whether the buffer zone of the trees was going to be removed. Chairman Smith stated that the location shown on the plats was the one that was proffered at the time of rezoning. He stated that the applicant would have to apply for a special permit regardless in order to install the tennis courts. Mr. Yaremchuk stated that the County Arborist was the one to look after the trees.

Page 355, July 27, 1978 Board of Zoning Appeals
PAR CONSTRUCTION CORP. &
TOWLSTON MEADOW COMMUNITY ASSOCIATION

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-142-78 by PAR CONSTRUCTION CORP. & TOWLSTON MEADOW COMMUNITY ASSOCIATION under Section 30-7.2.6.1.1 of the Fairfax County Zoning Ordinance to permit construction of two tennis courts and a "tot lot" on

property located at tax map reference 19-3 & 19-4((1))58, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 27, 1978; and

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

1. That the owner of the subject property is Mercer V. Leigh.
2. That the present zoning is R-17.
3. That the area of the lot is 58.1727 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of his Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. Hours of operation shall be daylight hours.
8. No off street parking is to be associated with the use.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.
Chairman Smith stated that he voted for the special permit because this proposal has been in the plan since the original rezoning. He stated that his only concern was the fact that there is not any parking indicated and stated that he felt the Board should prohibit any off-street parking associated with this use.

Page 357, July 27, 1978, Scheduled case for

1:20 P.M. - FAIRFAX VILLAGE DAY SCHOOL, INC., appl. under Sec. 30-7.2.6.1.3 of the Ord. to permit renewal of existing special permit for operation of day center for 125 children, ages infant to eight years with hours from 6:30 A.M. to 6:30 P.M., Monday through Friday, located 10400 Fairfax Village Dr., Fairfax Village Apt., 47-4((1))19, (10.6 acres), Providence Dist., RM-20, S-147-78.

357

Mr. John J. Sabourin, Jr., an attorney in Fairfax, represented the applicant. Mr. Sabourin stated that this application was a renewal of the existing permit. He stated that the only change has been that the applicant has incorporated and is applying now in the corporate name. Also, the hours have been extended ½ hour into the opening time and ½ hour onto the closing time to accomodate the working parents. The ages of the children is also being extended from infants to children eight years of age. Mr. Sabourin stated that it was intended that the children eight years of age would be taken in immediately but at the present time there were no plans to include the infant children. The lease has been renegotiated for a period of 20 years.
Mr. Sabourin stated that the staff report did not indicate that the day school has been operating since the fall of 1972 to this time and that there have not been any primary problems.

Chairman Smith inquired as to when the original permit was granted and was informed 1972. Mr. Sabourin stated that the permit ran concurrently with the lease. Mr. Durrer inquired as to the length of time requested now. He was informed by Mr. Sabourin that the lease will run for 20 years and that the applicant is asking for an indefinite period of time in the granting. Chairman Smith stated that five years was the Board's limit and Mr. Durrer stated that the Board has never granted a permit for a day school for a period of 20 years before.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 357, July 27, 1978, Scheduled case for Board of Zoning Appeals
FAIRFAX VILLAGE DAY SCHOOL, INC.

R E S O L U T I O N

Mr. Durrer made the following motion:

WHEREAS, Application No. S-147-78 by FAIRFAX VILLAGE DAY SCHOOL, INC. under Section 30-7.2.6.1.1 of the Fairfax County Zoning Ordinance to permit renewal of special permit for operation of day care center for 125 children, ages infant to eight years with hours from 6:30 A.M. to 6"30 P.M., Monday through Friday, on property located at 10400 Fairfax Village Dr., tax map reference 47-4((1))19, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 27, 1978; and

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

1. That the owner of the subject property is Lincoln F. Broyhill & John A. Kalson, Tr. and that the applicant is the lessee.
2. That the present zoning is RE-2G.
3. That the area of the lot is 10.6 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional

358

uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.

7. The number of students shall be 125, ages infant to eight years.

8. The hours of operation shall be from 6:30 A.M. to 6:30 P.M., Monday through Friday.

9. This permit is granted for a period of five years.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 358, July 27, 1978, Scheduled case for

1:40 P.M. - CHESAPEAKE & POTOMAC TELEPHONE CO. OF VIRGINIA, appl. under Sect. 30-7.2.2.1.4 of the Ord. to permit addition to existing dial center, located 9327 Braddock Rd., Lake Braddock, 69-3((6))Q, (76,203 sq. ft.), Annandale Dist., R-12.5, S-150-78.

Mr. Randall Church, an attorney in Fairfax, represented the applicant. He stated that the applicant has been before the Board twice before for this dial station. The first time was when it was originally built and the second time was for an addition built onto the back of the dial center. Mr. Church submitted the recommendations of the Planning Commission to the Board. He stated that this application called for an addition onto the back of the existing building. Mr. Church stated that a portion of this proposal was previously approved by the Board but had not been built.

Mr. Durrer inquired as to when was the last time the Board heard an application on this dial center and was told it had been about two years ago. Mr. Church stated that they did not build at all last time. He added that they believed this to be the last time additions would be necessary to this building. He further added that a new type of equipment would be installed that would handle the new growth in the area. Mr. Church stated that this new equipment would reduce the impact in the area by reducing the number of employees.

Mr. Joe Hale of the Building and Design Group of the Chesapeake & Potomac Telephone Co. informed the Board that it was their intent to house equipment in Fairfax County for the area serviced by this station. He stated that the equipment would be added to serve the area until 1991. He added that this was their best estimate at the moment as they foresaw the future growth. Mr. Hale stated that the addition would be the exact same height as the existing structure. He stated that they planned to replace the existing equipment with more modern electrical switch type equipment. He stated that this would allow their customers to add more convenience to their existing phones. He stated that the growth in this area has been such that now is the time for the C & P Telephone Co. to make a decision either to enlarge the facility and use more cumbersome equipment or to make the change to electrical equipment and cut down on the space requirements and also offer additional service and to upgrade the services to the customers in the area.

Mr. Yaremchuk inquired as to what kinds of additional services could be provided. Mr. Hale explained that there were several new features. One was a call hold feature where customers could receive a second call while they are waiting on the first call. He stated that the customer would be able to answer the second call and carry on a conversation while holding the first call. Another new feature was for customers who were expecting a phone call and would not be home to receive it, they would be able to program their phone to relay the call when it came in to wherever they would be. Mr. Hale also stated that this equipment would allow them to add another party for conference calls between several parties and would speed the calling time. Also, another new feature was that customers would be able to program their phones with frequently dialed numbers and would eliminate them having to dial all those numbers.

Page 359, July 27, 1978
CHESAPEAKE & POTOMAC TELEPHONE
CO. OF VIRGINIA
(continued)

Mr. Hale stated that at the present time, the facility has seven employees. He indicated that by 1981, this number will decrease to about three with the upgrading of the equipment. He stated that the upgraded equipment will be more self-sustained.

Mr. Yaremchuk inquired if the new addition would be built of the same type of materials as the present structure. Mr. Hale stated that it would be matched as best as they were able. Mr. Church again stated that this request was to support the present system in the area and that this was the place for the equipment to go.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Page 359, July 27, 1978 Board of Zoning Appeals
CHESAPEAKE & POTOMAC TELEPHONE
CO. OF VIRGINIA

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-150-78 by CHESAPEAKE & POTOMAC TELEPHONE CO. OF VIRGINIA under Section 30-7.2.2.1.4 of the Fairfax County Zoning Ordinance to permit addition to existing dial center on property located at 9327 Braddock Rd., tax map reference 69-3((6))Q, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on July 27, 1978; and

WHEREAS, the Board 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 76,203 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Distrcits as contained in Section 30-7.1.1 of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS <u>NOT</u> VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.

Mr. Durrer seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 360, July 27, 1978, Deferred Cases Scheduled for

2:25 P.M. - RAVENWOOD PARK CITIZENS ASSOC., appl. under Sect. 30-6.5 of the Ord. to appeal Zoning Administrator's decision to permit group home by right in residential area, located 6209 Cheryl Dr., Ravenwood Park Subd., 61-1((17))28, Mason Dist., R-12.5, A-153-78.

360

This case had been heard on July 20, 1978 and was deferred for decision. The Chairman was not present for the hearing but stated that he had studied the minutes and was prepared to vote in the decision.

Page 360, July 27, 1978 Board of Zoning Appeals
RAVENWOOD PARK CITIZENS ASSOC.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

From the testimony that I heard and the information we received, I feel that this is an institutional use or child care facility or either of which is provided for under the Ordinance by other means. I don't feel that is is a use permitted by right in a residential neighborhood.

THEREFORE, I move that we overrule the Zoning Administrator's decision in this case.

Mr. Yaremchuk seconded the motion.

During discussion, Mr. Durrer stated that he agreed with the motion. He also indicated that the Ordinance should be clarified by the Board of Supervisors.

The motion passed unanimously by a vote of 5 to 0.

Page 360, July 27, 1978, Deferred Case Scheduled for

2:30 P.M. - FAIRFAX COUNTY PLANNING COMMISSION & FAIRFAX COUNTY BOARD OF SUPERVISORS, appl. under Sect. 30-6.5 of the Ord. to permit commercial nursery in a residential zone, appeal of Zoning Administrator's decision, located 9401 Burke Road, 78-4((1))17, (22.033 acres), Springfield Dist., RE-1, A-141-78.

Chairman Smith stated that the request for reconsideration of the motion had been deferred at the July 25th meeting in order for the Clerk to prepare a verbatim transcript of the original motion. He stated that the public hearing was completed and that this was only a request from Mr. Shumate for reconsideration of the motion.

Mr. DiGiulian stated that a motion for reconsideration would have to be made by one of the original three members who supported the motion. Mr. Durrer stated that the Ordinance needs to be clarified and that he had not changed his opinion. He stated that he did not think the nursery should be there and he was not going to change his mind.

Page 360, July 27, 1978 Board of Zoning Appeals
FAIRFAX COUNTY PLANNING COMMISSION
& FAIRFAX COUNTY BOARD OF SUPERVISORS

R E S O L U T I O N

After consideration of the request from Mr. Shumate for the Board of Zoning Appeals to reconsider its motion on the appeal brought forth by the Fairfax County Planning Commission & the Fairfax County Board of Supervisors of the Zoning Administrator's decision to permit a commercial nursery in a residential zone, Mr. Durrer moved that the original resolution made on July 20, 1978 still stand.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 2 (Messrs. DiGiulian and Barnes).

Page 361, July 27, 1978, After Agenda Items

The Board was in receipt of a memorandum from Mr. Knowlton regarding a request from Dr. Marian Houck of the ACCA Day Care Center requesting permission to temporarily amend its special permit to increase the number of children for the summer months.

Mr. Durrer stated that he felt that this was minor adjustment to the special permit and moved that the Acca Day Care Center be allowed a maximum of 65 children for the remaining five weeks of the summer.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

//

// There being no further business, the Board adjourned at 12:35 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: January 23, 79
DATE

Submitted to the BZA on Jan. 20, 79
Submitted to the other departments,
Board of Supervisors and Planning
Commission on Jan. 20, 79.

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Wednesday, August 2, 1978. The following Board Members were present: Daniel Smith, Chairman; William Durrer, Vice-Chairman; John DiGiulian; and John Yaremchuk. Mr. Barnes was absent.

The meeting began at 10:25 A.M. led with a prayer by Mr. Covington. The Chairman called the scheduled 10 o'clock case.

10:00 A.M. - CHRYSLER REALTY CORPORATION, appl. under Sect. 30-6.6 of the Ord. to permit structure within sideyard setback area, 26.4' shown, 75' required, located 8610 Leesburg Pike, 29-1((1))16, (3.4406 acres), Dranesville Dist., I-L & I-P, V-130-78.

The Board was in receipt of a letter from the attorney for the applicant, Martin D. Walsh, requesting that this application be withdrawn.

Mr. Yaremchuk moved that the applicant be allowed to withdraw his application without prejudice.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 4 to 0 (Mr. Barnes absent).

//

Page 362, August 2, 1978, Scheduled case for

10:10 A.M. - MARSHALL H. CURTIS & ALDEN, INC., appl. under Sect. 30-6.6 of the Ord. to permit building in C district to be erected closer to R District boundary than the required 25', located 9413 Burke Lake Rd., 78-1((1))33, (1.730 acres), Springfield Dist., CN, V-136-78.

The Board was in receipt of a memorandum from the Planning Commission requesting the deferral of this application until after September 27, 1978. The Board rescheduled the case for October 3, 1978 at 10:00 A.M. Mr. William Arnold, a representative of the surrounding homeowners association stated that he had no objection to the deferral.

//

Page 362, August 2, 1978, Scheduled case for

10:20 A.M. - JOSEPH F. SORRELL, appl. under Sect. 30-6.6 of the Ord. to permit variance of lot width for lots 3-A & 3-B, 196' shown, 200' required, located 706 Utterback Store Rd., 7-3((1))5, (222,998 sq. ft.), Dranesville Dist., RE-2, V-152-78.

The required notices were in order. Mr. Joseph F. Sorrell, Rt. 3, Box 555, Front Royal, VA, gave the required justifidation to the Board. He stated that the rear portion of the property was very rough and there was creek running through it. He stated that that portion of the property was useless. He also indicated that there was adequate land area in the front to divide the property with ample square footage if he could obtain a variance of 4' necessary in order to establish the building lots.

Chairman Smith inquired as to how long Mr. Sorrell had owned the property and was informed he had owned it since 1956.

There was no one to speak in favor of the application and no one to speak in opposition.

RESOLUTION

In Application No. V-152-78 by JOSEPH F. SORRELL under Section 30-6.6 of the Zoning Ordinance to permit variance of lot width for lots 3-A & 3-B, 196' shown, 200' required, on property located at 706 Utterback Store Rd., tax map 7-3((1))5, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 2, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is RE-2.
3. The area of the lot is 222,998 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 4 to 0 (Mr. Barnes absent).

Page 363, August 2, 1978, Scheduled case for

10:30 A.M. - RALPH J. REINECKE, ET. AL., appl. under Sect. 30-6.6 of the Ord. to permit variance for proposed lots 2 & 3 having less lot widths than required by Ordinance, (6.32' shown, 15' required), located 10100 Lawyers Rd., 37-2((1))7, (3.5 acres), Centreville Dist., RE-1, V-162-78.

The required notices were in order. Mr. Picculli, an engineer in Vienna, represented the applicant. He stated that the property was long and narrow and that it was zoned for one acre lots. He stated that there was a large parcel to the west which was zoned for two acre lots. He stated that most of the land surrounding the property was zoned for one acre lots. Mr. Picculli stated that the property was too long and narrow to be developed in the normal fashion. He stated that this would be a very useful development for one acre lots. Mr. Picculli stated that the property would not permit the division of the parcel without a variance and that a strict application of the Zoning Ordinance would deprive the applicant of the reasonable use of the land. He stated that by granting the variance, the tract of land would conform to the other surrounding lots.

Chairman Smith inquired as to the length of time the applicant had owned the property and was told about a year. Mr. Durrer inquired of Mr. Picculli if he had read the comments on the staff report from Preliminary Engineering wherein it was strongly suggested that the pipestem be a common driveway for the lots. Mr. Picculli stated that the applicant would agree to that condition.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Mr. Ronald E. Street, Lot 1, in the Carriage Hill Subdivision. He stated that he was conderned about the drainage from the proposed property. He stated that he would like assurance that the property would be developed in such a manner as to have the drainage go in

another direction. He stated that he felt that once the property was developed they would have a flood. He stated that he would like to see the proper area of septic fields and the drainage for these proposed lots. Mr. Street stated that the lots in Carriage Hills have wells very close to the property lines and he was concerned about the runoff from the direction of Lawyers Road.

Mr. Durrer stated that some department in the County would have control over the drains in that area. Chairman Smith stated that since the land was being divided that the drains would be taken into consideration by Subdivision Control. Mr. Yaremchuk stated that Design Review would have control over the drains. Mr. Street stated that the drain area was very heavily grown up. Chairman Smith stated that Design Review would have to check out the drains and that if there was a problem they would take care of it. Mr. Street stated that he was concerned about after the building phase. He stated that he would like proper drainage in the direction of Lawyers Road. Chairman Smith stated that septic fields have to be constructed at least 100' from all wells. He stated that the applicant would not be able to do anything until he gets permission to subdivide the property. Mr. Street stated that the notification regarding the hearing came from West Homes and stated what they intended to do with the property. Chairman Smith stated that under the State and County Codes that the only aggrieved party to a variance was the property owner and not the contract purchaser. Mr. Picculli stated that the application was applied for under the owner's name and that West Homes were the contract purchasers. Chairman Smith stated that Mr. Reinecke would have to go through the subdivision process if it was granted and that West Homes could not purchase the property until after the approval of the subdivision. Mr. Street inquired if the concerned citizens would have a chance to question the application again. Chairman Smith stated that there would not be another public hearing but that the citizens would have the opportunity for input at the time it was up for subdivision. Mr. Yaremchuk stated that there would not be any notification but that the citizens could check with Preliminary Engineering when they go over the plats and submit any comments to them. Chairman Smith stated that he was not in favor of a pipestem arrangement but that the Ordinance does allow it. He stated that the applicant is entitled to reasonable use of the land and that this was a method which has been used for some time in the County.

Mr. Yaremchuk stated that the Board could only consider the variance on the lot width and that there were other agencies in the County for problems with the septic fields. He stated that the applicant has to start here first to get approval for the subdivision. Mr. Yaremchuk suggested that if the citizens are interested in the application that they should contact Subdivision Control and inform them they are interested in such and such a subdivision and have them notify the citizens when it comes up for approval.

The next speaker in opposition to the application was Mr. Frank J. Moore, 2118 Carriage Hill, Lot 2. He stated that he strongly shared the views of Mr. Street. He stated that he had two more questions for the Board and inquired about the notification letters from West Homes. He asked if West Homes would present the application to the Board.

Chairman Smith stated that he had a question as to whether this was a proper notification procedure since the letters were sent out by West Homes and not by the applicant with no mention of the applicant at all. He stated that he could understand the confusion of the surrounding property owners. Chairman Smith stated that West Homes has no interest in the application at all as far as the variance is concerned. Chairman Smith inquired of Mr. Picculli if the property had been transferred over to West Homes and was informed that it had not. Chairman Smith was informed by Mr. Picculli that there was a contract to purchase by West Homes. In view of the foregoing circumstances, Chairman Smith ruled that the notification procedure was not in order and ruled that the notices would have to be done over going out under the proper applicant's name. The variance application was rescheduled for October 3, 1978 at 10:10 A.M. for proper notices.

//

Page 365, August 2, 1978, Scheduled case for

11:00 A.M. - CHARLES & ROBERT QUILLIN T/A CAPITAL BILLARDS, appl. under Sect. 30-7.2.10.4.5 of the Ordinance to permit operation of billard parlor & recreation center, located 7037 Spring Garden Dr., Brookfield Plaza Shopping Center, 90-2((1))17, (2,000 sq. ft.), Springfield Dist., C-D, S-127-78.

Mr. Bernard Fagelson, the representative for the applicant, forwarded a letter to the Board requesting withdrawal of the application.

Mr. DiGiulian moved that the applicant be allowed to withdraw the application without prejudice.

Mr. Durrer seconded the motion.

The motion passed unanimously by a vote of 4 to 0 (Mr. Barnes absent).

//

Page 365, August 2, 1978, After Agenda Items

The Board was in receipt of a letter from Mr. John T. Cap requesting an out-of-turn hearing in an upcoming variance application. In view of the circumstances outlined in Mr. Cap's letter, the Board unanimously granted the request. The out-of-turn hearing was scheduled for September 7, 1978 at 1:00 P.M.

//

Page 365, August 2, 1978, After Agenda Items

The Board was in receipt of a letter for the Mt. Pleasant Baptist Church requesting an extension of time to begin construction on its special permit which was granted by the Board on September 8, 1977.

Mr. DiGiulian moved that the Mt. Pleasant Baptist Church be granted an 180 day extension.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 4 to 0 (Mr. Barnes absent).

// The Board recessed from 11:10 until 11:20 A.M.

Page 365, August 2, 1978, Scheduled case for

11:20 A.M. - SUN VALLEY COMMUNITY ASSOC., INC., & EDWIN JACOBSEN CORP., & API, INC., T/A SUN VALLEY JOINT VENTURE, appl. under Sec. 30-7.2.6.1.1 of the Ord. to permit construction of three tennis courts and a gazebo, located 27-2((1))7 & 28-1((1))5, Sun Valley Subd., (.85463 acres), Centreville Dist., RE-1, S-151-78.

Mr. David Fleming, 4031 University Drive, Fairfax, VA, represented the applicant. He stated that as soon as the tennis courts are constructed, that the land would be conveyed. He stated that outlot E [redacted] to be the best location for the courts from a topographic standpoint. Mr. Fleming stated that there were several access points to allow access into the proposed park and into the tennis courts. He stated that they would start construction as soon as they got approval from the Board of Zoning Appeals and from the County on the Site Plan. After construction, Mr. Fleming stated that the land would be conveyed to the homeowners association who would then own, operate and maintain the facility.

Mr. Durrer inquired as to what was a gazebo. Mr. Fleming stated that it was a place for the people to go to when they were caught out in the weather. Chairman Smith stated that a gazebo was mostly a southern idea and that it was normally associated with outdoor concerts, etc.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

SUN VALLEY COMMUNITY ASSOC., INC. &
EDWIN JACOBSEN CORP., & API, INC.,
T/A SUN VALLEY JOINT VENTURE

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-151-78 by SUN VALLEY COMMUNITY ASSOC., INC. & EDWIN JACOBSEN CORP., & API, INC., T/A SUN VALLEY JOINT VENTURE, under Section 30-7.2.6.1.1 of the Fairfax County Zoning Ordinance to permit construction of three tennis courts and a gazebo on property located at Sun Valley Subdivision, tax map reference 27-2((1))7 & 28-1((1))5, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on August 2, 1978; and

WHEREAS, the Board 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 .85463.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 366, August 2, 1978, Scheduled case for

11:40 A.M. - THOMAS J. WELSH, BISHOP OF THE CATHOLIC DIOCESE OF ARLINGTON & HIS SUCCESSORS IN OFFICE, appl. under Sect. 30-7.2.6.1.10 of the Ord. to permit a convent and related religious activities, located 6611 South St., Sleepy Hollow Subd., 50-4((21))69, (20,654 sq. ft.), Mason Dist., RE-1, S-154-78.

Mr. Joseph V. Gartlan, 1801 K Street, Washington, D.C., represented the applicant. Mr. Gartlan stated that this application was for a special permit to permit a convent where members of the religious order sponsored by the Bishop of the Catholic Diocese of Arlington would reside. He stated that only five nuns would use the residence to carry out their mission. He stated that there would be weekend visitors of up to five young women who would reside with the nuns on a day-to-day basis. Mr. Gartlan also indicated that there would be conferences held with youngsters from the Catholic High Schools. Mr. Gartlan stated that he had been in contact with the Sleepy Hollow Civic

Association who had stated that this use be allowed with some restrictions which the applicant had agreed to.

In response to a question from the Board, Mr. Gartlan stated that only five nuns would be residing there and that three nuns were residing there at the present time. He stated that the house contained six bedrooms. In response to more questioning regarding meetings conducted with the younsters from the high school, Mr. Gartlan stated that some would be transported by private automobile and some by special buses. Mr. Gartlan stated that the civic association would prefer the students to arrive by private auto. Chairman Smith stated that they would then require additional parking spaces. In response, Mr. Gartlan stated that they presently have 10 parking spaces and that it would not be necessary for the students to park there as they could be dropped off. In response to Mr. Smith, Mr. Gartlan stated that the nearest Catholic Church was St. Anthony's on Rt. 7 in the Culmore area about 1½ miles away. Chairman Smith inquired if they planned overnight retreats and was informed that once every other month there would be a group of about six young girls staying there.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Mr. John R. Camp, 6104 Efford Street, stated that he was President of the Sleepy Hollow Citizens' Association. He stated that they wanted to go on record as being opposed to any home being used in a non-residential type use. He stated that they were concerned about extablishing a precedent. Mr. Henry E. Strickland, Jr. of 3035 Holmes Run Road, Falls Church stated that his property was to the rear of the property in question. He stated that for many years that they have been able to maintain the residential character of the area. He stated that his two main concern was that in supporting the present application that it would pave the way for future non-residential uses. Mr. Strickland presented the Board with a statement on behalf of the Sleepy Hollow Citizens' Association outlining certain restrictions to be placed on this use if it was granted. Mr. Frank Webb, 6436 Sleepy Hollow Road, Past President of the Sleepy Hollow Civic Association stated that he felt that the area would deterioriate from a residential area if a non-residential use was allowed. He requested the Board to deny this special permit. He stated that he had no problem with five people living in the house but that he would prefer them to be a family. He stated that he did not think the house should be used as a dormitory or a temporary living quarter for any group of people.

In response to Chairman Smith's question, Mr. Gartlan stated that the Catholic Diocese acquired the property in November of 1977 and that the property has been occupied since that time with less than four nuns. Chairman Smith stated that they did not need a special permit for four nuns as long as they did not carry on an operation for a school.

Another speaker in opposition to the application was Mr. Robert W. Moore, 3067 Holmes Run Road, Falls Church. He stated that he was also a past president of the Sleepy Hollow Civic Association. He stated that he was concerned with the once a week visitation of the young people. He stated that he did not like this use at all and stated that he would have preferred that the last paragraph in the "restrictions" made by the civic association not have been included. The next speaker was Muriel Strickland of 3035 Holmes Run Road, Falls Church. She stated that she welcomed the nuns in the area but that she opposed the use of the premises as a school with group busing.

During rebuttal, Mr. Gartlan stated that groups of 4 to 6 adults would visit the premises in the evening hours to plan activities in the parishes throughout the diocese. He stated that the agreement with the civic association regarding the frequency of visitors to the premises would not restrict any other group during a seven-day period. In response to a question from the Board, Chairman Smith stated that the occupants of the house could enforce the conditions.

RESOLUTION

Mr. Durrer made the following motion:

WHEREAS, Application No. S-154-78 by THOMAS J. WELSH, BISHOP OF THE CATHOLIC DIOCESE OF ARLINGTON & HIS SUCCESSORS IN OFFICE under Section 30-7.2.6.1.10 of the Fairfax County Zoning Ordinance to permit convent and related religious activities on property located at 6611 South Street, tax map reference 50-4 ((2))69, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on August 2, 1978; and

WHEREAS, the Board 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 20,654 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The residence will not be used on a regular or on a temporary basis as a school or a training center.
8. The residence will not be occupied on a permanent basis by more than five (5) persons. By permanent, it is meant that the residence is the principal residing place of the person involved.
9. The property will be occupied by the Roman Catholic Order of Nuns, The Daughters of Good Counsel & St. Paul of the Cross. This Special Use will not extend to any other group or organization under the sponsorship of the Roman Catholic Diocese of Arlington.
10. No permanent major structural additions will be made to the property which would increase the present living area or alter the external appearance from that presently existing as a single family residence.
11. Groups of persons visiting this residence will be limited in frequency to not more than one per week and in numbers not to exceed fifteen (15). The activities of these groups and other visitors will be limited so as not to disrupt the residential environment of the neighborhood. Transportation will be by automobile(s) rather than by bus(es).

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 369, August 2, 1978, Scheduled case for

12:00 P.M. - DIFFERENT DRUM, INC., appl. under Sect. 30-7.2.6.1.3 of the Ord. to permit school for 25 students, ages 14 - 18, located 7150 Telegraph Rd., 91-4((1))13, (2.81 acres), Lee Dist., RE-1, S-155-78.

The required notices were in order. Mr. Michael Kenny, Director of Different Drum, 8235 Frye Road, Alexandria, stated that the application was for a maximum of 25 students for a school of special education. He stated that they were presently operating in the Unitarian Church and that it was too small for the children and staff. He stated that the school was for children who were labelled emotionally disturbed or pre-delinquent by the Courts. He stated that they have a block grant from the Juvenile Court for the operation of the school. In response to a question, Mr. Kenny stated that the ages of the children ranged from 14 to 18. He further responded that the number of students varies but that it never goes above twenty-five. He stated that they have a lease on the property for a one year period to be regegotiated at the end of the year for a two year term. When questioned regarding hours, Mr. Kenny stated that the hours were from 8:30 to 4:30 with the students there from 8:30 to 2:30. He stated that they do have evening meeting with the parents one night a week every other week from 7:30 to 9:30.

Mr. John W. Lozak, 5543 Dunsmore Road, spoke in opposition to this application. He stated that the back of his property was about 200' from the school's property.He was concerned that the school handled students who were emotionally disturbed, belligerent troublemakers from the County School system. He stated that when you get such a group clustered in one small community then he was concerned for the community. He stated that the County agencies and the schools seemed anxious to bring these type of students into this community. Mr. Lozak was concerned because the Board does not receive input from any source to help them determine whether this use should be permitted. He stated that he was concerned for the safety of his family if the Board granted this application. Mr. Lozak presented the Board with a list of conditions to be considered if they decided to grant the application.

There was no one else to speak in opposition to the application and no one to speak in favor of the application.

During rebuttal, Mr. Kenny stated that the school does not deal exclusively with Fairfax County and does receive students from Alexandria. He stated that the students mostly come from the Northern Virginia area. Chairman Smith discussed the bussing situation with Mr. Kenny and determined that the buses were not marked with any identification. In response to a question from the Board, Mr. Kenny stated that the school does not accept students who have committed atrocious crimes. He stated that the school receives students on a referral basis and that they conduct indepth interviews with the students before accepting them. He stated that they do not accept a student with a serious crime history. In response to the Board, Mr. Kenny stated that the most serious type of crime a student could commit and still be accepted was breaking and entering. He further responded that all the students were high school students and that the school was not a live-in operation. He stated that the staff was made up of six full-time and two part-time people with a minimum of four staff persons present at any one time. When asked if the students were supervised by adults when they were outside on free time, Mr. Kenny responded that the adults were around at all times. He also responded that they have had to dismiss students for behavior problems. With respect to fencing, Mr. Kenny responded that only a small portion of the property was fenced with a temporary type of fence. He stated that the students have been unsuccessful in the public schools. He stated that by restricting the students it tended to reinforce a bad review of themselves. He stated that their philosophy was to allow the students freedom to allow them to get back on the track and make use of the educational facilities in the community. Mr. Kenny invited interested people to look at the facility and stated that the application should be considered on its merits and that a decision not be based on the fears of the citizens.

Page 369, August 2, 1978 Board of Zoning Appeals
DIFFERENT DRUM, INC.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-155-78 by DIFFERENT DRUM, INC. under Section 30-7.2.6.1.3 of the Fairfax County Zoning Ordinance to permit school for 25 students, ages 14 - 18, on property located at 7150 Telegraph Road, tax map reference 91-4((1))13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

370

RESOLUTION

WHEREAS, following proper notice to the public and a public hearing by the Board held on August 2, 1978; and

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

1. That the owner of the subject property is Glenn S. Ovrevik and that the applicant is the lessee.
2. That the present zoning is RE-1.
3. That the area of the lot is 2.81 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 as 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The maximum number of students shall be 25, ages 14 through 18.
8. The hours of operation shall be 8:30 A.M. to 4:30 P.M., five days a week with one night meeting per week from 7 P.M. to 9:30 P.M. (approximately nine months a year/normal school year).
9. The minimum number of parking spaces shall be 19.
10. Vehicles used for transporting students will be marked in accordance with requirements of the State Code.
11. There will be a minimum of four adults on the premises responsible for these students at all times.
12. This permit is granted for a period of one year.

Mr. Durrer seconded the motion.

The motion passed by a vote of 4 to 0.(Mr. Barnes being absent).

Mr. Kenny asked for clarification on the 19 parking spaces. He informed the Board that the 19 spaces were not paved and Chairman Smith informed Mr. Kenny that he would not have to pave the parking spaces.

The Board recessed for lunch at 1:10 P.M. and reconvened at 2:35 P.M. to take up the remaining cases and after agenda items.

//

Page 371, August 2, 1978, Scheduled case for

12:20 P.M. - FIRST ASSEMBLY OF GOD, ANNANDALE, appl. under Sect. 30-7.2.6.1.3 of the Ord. to permit a day care center & school through sixth grade for a maximum number of 180 children, located 5001 Backlick Road Road, 71-4((1))21 & 22, (3.54683 acres), Annandale Dist., RE-0.5, S-160-78.

The required notices were in order. Mr. Wendell Cover, Pastor of the First Assembly of God of Annandale stated that they were applying for a special permit for a day care center and school both for before and after school. He stated that the hours would be from 7:00 A.M. to 6:00 P.M. and that the estimated number of students would be 180. He further stated that a sufficient number of aides and teachers would be present at the school to comply with the Virginia Department of Welfare requirements. Reverend Cover stated that private automobiles and buses would be used to transport the pupils from the school, and that a separate entrance and exit would be provided. He stated that the structure was a three story brick building 500' x 45'. He stated that the classrooms would be on the bottom floors with exits on the ground level.

In response to questions from the Board, Reverend Cover indicated that this operation would be five days a week, Monday through Friday from 7:00 A.M. to 6 P.M. He further indicated that the school children would only be present until 2:30 and that there would be an extended day care program until 6 P.M.

There was no one to speak in favor of the application. Ms. Mildred W. Frazer, 4955 Sunset Lane, Annandale spoke in opposition to the application. She stated that when she was granted a special permit that consideration was given to the fact that she was bringing vehicles into Sunset Lane and that there was a church on the corner. She stated that there was not to be any crossover of traffic for her use. Ms. Frazer stated that this application was going to cause traffic problems because the hours of operation would be the identical to the hours of her operation. She stated that if the church used buses then there would not be a problem. In response to the Board, Ms. Frazer stated that she has operated her school since 1958 and that she has been in this particular location since 1965. She stated that she has approximately 120 children. Ms. Frazer asked that the Sign Ordinance be complied with by the church. She stated that there were more signs than allowed by the Ordinance and that they were larger than required by the Ordinance. Chairman Smith informed Ms. Frazer that the Zoning Enforcement Branch would be the agency to control the Sign Ordinance. Mr. Covington stated that he would have his office check out the signs on the property.

Page 371, August 2, 1978 Board of Zoning Appeals
FIRST ASSEMBLY OF GOD, ANNANDALE

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-160-78 by FIRST ASSEMBLY OF GOD ANNANDALE, under Section 30-7.2.6.1.3 of the Fairfax County Zoning Ordinance to permit day care center and school through sixth grade for maximum number of 180 children on property located at 5001 Backlick Rd., tax map reference 71-4((1))21 & 22, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on August 2, 1978; and

WHEREAS, the Board 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 3.54683.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Soecial Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT BALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The maximum number of students shall be 180.
8. The hours of operation shall be 7:00 A.M. to 6:00 P.M., five days a week.
9. The minimum number of parking spaces shall be 48.
10. All buses used in transporting students to the school will be painted in compliance with the requirements of the State Code.

Mr. Durrer seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 372, August 2, 1978, Scheduled case for

12:40 P.M. - E. LAKIN PHILLIPS & PILAR STUMBAUGH, appl. under Sect. 30-7.2.6.1.3 of the Ord. to construct day care center for 60 children, ages 1 - 4, from 6:00 A.M. to 7:00 P.M., Monday through Friday, and weekends by special arrangement, located 2558 Flint Hill Rd., Five Oaks Subd., 38-3((1))30 & 30A, (.830 acres), Centreville Dist., RE-1, S-171-78.

As the required notices were not in order, the Board deferred this case until September 7, 1978 at 2:15 P.M. The applicant was requested to send out the notification requirements in accordance with the requirements of the Ordinance.

//

Page 372, August 2, 1978, Scheduled case for

1:00 P.M. - TRUSTEES OF IMMANUAL BAPTIST CHURCH, appl. under Sec. 30-7.2.6.1.10 of the Ord. to permit addition to existing church, located 7210 Braddock Rd., Leewood Subd., 71-3((8))12 & 13, (3.318 acres), Annandale Dist., RE-1, S-176-78.

Mr. Robert Fisher, 9802 Ashby Road, Fairfax, represented the church. He was Chairman of the Building Committee and Trustee of the church. He stated that the engineer for the church was Mr. Walter Philips of Falls Church. Mr. Fisher stated that the church has been working on the plans for the church over eight months. He submitted a copy of the Site Plan to the Board. Mr. Fisher stated that the church was proposing to build a new sanctuary which would provide additional space and that below the sanctuary would be a fellowship hall. In response to the Board regarding the parking, Mr. Fisher stated that the church now has 77 spaces existing and would provide for an additonal 70 which would bring the total parking spaces to 147. He further informed the Board that the new construction of Braddock Road was completed and that there now existed a four lane road.

There was no one to speak in favor of the application. Mrs. Casey, an adjoining property owner spoke in opposition. Mrs. Casey stated that she lived on one side of the church and on the other side was the Leewood Nursing Home. She was upset over things the church has been doing in the past and stated that she had no idea the County would permit them to do such things. Mrs. Casey stated that when the church was originally built, her property was rented and she was not aware of the water being dumped on her property from the church. She also stated that the lights from the vehicles going in and out of the church property shines in her bedroom windows.

Page 373, August 2, 1978
TRUSTEES OF IMMANUAL BAPTIST CHURCH
(continued)

Mrs. Casey informed the Board that she would like to have a fence put up to block the lights from the church and also stated that she would like the water situation corrected to that it does not come onto her property. She asked that a solid curbing be provided to keep the water from pouring down on her property. She also stated that children from the church throw bottles in the stream. She stated that she has contacted the County to come and clean out the stream. Mrs. Casey stated that the County has permitted the extension of the nursing home and that all the water comes into the stream but that nobody wants to help clean out the stream.

During rebuttal, Mr. Fisher stated that the culvert was an open culvert and that the County maintains it. Mr. Fisher stated that the water has a natural tendency to drain in the direction of Mrs. Casey's property. He stated that the church has never received a letter from Mrs. Casey regarding this situation. As far as the trash, Mr. Fisher stated that people apparently coming onto the church property at night and drinking and throwing the trash around. Mr. Fisher stated that as far as fencing goes that there was a barrier of trees and bushes to screen the property. He further indicated that about 100' from the property line there was a dense area of foliage and trees.

Chairman Smith stated that the Board did not have any jurisdiction over the water situation and suggested that Mrs. Casey contact the County with regard to the Site Plan. He stated that all of these things would be taken into consideration by Design Review at that time. Mrs. Casey questioned a sign that the church had on the property and Mr. Covington stated that he would have it checked out.

Page 373, August 2, 1978 Board of Zoning Appeals
TRUSTEES OF IMMANUAL BAPTIST CHURCH

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-176-78 by TRUSTEES OF IMMANUAL BAPTIST CHURCH under Section 30-7.2.6.1.10 of the Fairfax County Zoning Ordinance to permit addition to existing church on property located at 7210 Braddock Road, tax map reference 71-3((8))12 & 13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on August 2, 1978; and

WHEREAS, the Board 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 3.318 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be the hours of normal church activities.
8. The minimum number of parking spaces shall be 147.
9. A fence is to be provided along western property line so that the effects of automobile lights will not shine into the dwellings on the adjacent property and to deter pedestrian access between the properties.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 374, August 2, 1978, Scheduled case for

1:30 P.M. - LEASCO REALTY*, appl. under Sec. 30-7.2.10.2.2 of the Ord. to permit commercial recreational facilities to be located within a completely enclosed permanent building, located 8300 Greensboro Dr., 29-3((1)) pt. of 64, (10 acres), Dranesville Dist., C-OH, S-161-78.
*& JACK NAIMAN,

Mr. Martin D. Walsh, an attorney, represented the title owners, Leasco Realty. He stated that Mr. Jack Naiman was going to operate the facility. Mr. Walsh stated that this application was for a commercial recreational facility which would be located within a completely enclosed building. It stated that it would contain a suana, gym, whirlpool, etc. Mr. Walsh stated that this facility was for preventive medicine and that it would provide for the individual needs of its members. Mr. Walsh stated that this application was not for the maximum density allowed under the Ordinance and further indicated that this was a low rise structure. He stated that this location was a good site because of the heavy traffic. He indicated that several discussions had taken place with Equitable Life Insurance who are adjoining property owners. It was agreed that Leasco Realty would provide a brick facade for the office structure and for the sporting center. Mr. Walsh indicated that there would also be an office building constructed on this same site and stated that it was allowed by right. In response to the Board regarding the maximum number of participants the building could accomodate at any one time, Mr. Walsh informed the members of the Board that he had provided a breakdown to the Zoning Administrator. He further stated that the use varies a great deal from hour to hour. The peak hours would be on Saturday and evenings after office hours. Mr. Walsh stated that the maximum number of participants during the off hours would be about 240 persons. He stated that there was an initial membership fee with a monthly fee to be paid by members. Mr. Walsh stated that they would like to reflect that ingress & egress be from International Drive. He stated that they did not feel that the vehicular traffic in this area would be more hazardous.

The following persons spoke in favor of the application. Mr. Hugh Kregor with the Equitable Life Insurance Company stated that they were concerned with the application because the closest point was 140' from their property line. Mr. Kregor stated that one of their concerns was that this facility was for single family use and that if it did not succeed as a sporting center that new tenants would be going in there. He also asked the Board to request that the color of the brick in the structure be uniform in color. The next speaker Mr. Fontaine with the Honeywell Corporation stated that they were very happy to see the quality of the building and believed it to be an amenity to the area.

During the closing of the hearing, Mr. Walsh stated that they would like to have Mr. Jack Naiman named in the application so that he would have the right to take over the special permit later on and suggested that he be named as the contract purchaser. There were no objections to amending the application as outlined by Mr. Walsh. He also stated that they have shown 56,000 sq. ft. as the square footage for the sporting center and stated that this might be increased to 63,000 sq. ft. but that the use would not increase.

There was no one to speak in opposition to the application.

375

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-161-78 by LEASCO REALTY/JACK NAIMAN, contract purchaser, under Section 30-7.2.10.2.2 of the Fairfax County Zoning Ordinance to permit commercial recreational facilities to be located within completely enclosed permanent building on property located at 8300 Greensboro Drive, tax map reference 29-3((1))pt. 64, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on August 2, 1978; and

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

1. That the owner of the subject property is Leasco Realty, Inc. and that Mr. Naiman is the contract purchaser.
2. That the present zoning is C-OH.
3. That the area of the lot is 10 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C or I Districts as contained in Section 30-7.1.2 of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The minimum number of parking spaces shall be 603.
8. Outer construction of the building shall be of brick, uniform in color, of a soft-earthy tone.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 375, August 2, 1978, Scheduled case for

2:00 P.M. - RONALD P. RINALDI, ET. AL., appl. under Section 30-6.6 of the Ord. to permit 7-story office building to be constructed 48' from Kidwell Dr. (114' required) and 68' from rear property line (89' required), located 1949 Gallows Rd., Worthington Heights Subd., 39-2((15))14, 16, 18, 20, 26 & 28, (C-O) & 39-2((15))22 & 24, (C-N), (141,073 sq. ft.), Providence Dist., V-177-78.

Mr. William Elker with Greenehorn and O'Meara in Fairfax, represented the applicant. He stated that the property was surrounded by three streets which were considered front setbacks under the Ordinance. He stated that there was only one rear property line. He stated that the most attractive front yard

would be facing Gallows Road. He stated that the service entrance was in the rear which was the effective rear yard. Next door to the property was a 7-11 store. He stated that the owner of the property also owns another tract which he is planning to develop into an office building. He stated that a service lane would be constructed. He also indicated that the owner of the property was going to coordinate the other project with the parking and the service drive of this project. He stated that they have been required to dedicate along Old Courthouse Road which has affected the placement of the building. Another hardship was the zoning line for C-N which was located in such a manner that it is difficult to slide the building over into the center of the property so as to avoid any variances.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 376, August 2, 1978 Board of Zoning Appeals
RONALD P. RINALDI, ET. AL

R E S O L U T I O N

Mr. Durrer made the following motion:

In Application No. V-177-78 by RONALD P. RINALDI, ET. AL, under Section 30-6.6 of the Zoning Ordinance to permit 7-story office building 48' from Kidwell Dr. & 68' from rear property line on property located at 1949 Gallows Rd., tax map 39-2((15))14, 16, 18, 20, 26 & 28, County of Fairfax, Virginia, Mr. Durrer 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 2, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-O & C-N.
3. The area of the lot is 141,073 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 has started or unless renewed by action of this Board prior to expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Chairman Smith stated that he supported the motion based on the fact that the applicant had three front yards and because of the zoning boundary line problem that existed after dedication.

Page 377, August 2, 1978, Scheduled case for

2:10 P.M. - WILLIAM E. & MATILDA A. MATTHEWS & MOBIL OIL CORP., appl. under Sect. 30-6.6 of the Ord. to permit service station 8' from R Boundary (50' required) and to permit canopy over pump islands 7' from front property line (22' required), and 0' from R Boundary Line (50' required) and to permit pump islands 15' from front property line (25' required) and 0' from R Boundary Line (50' required), located 6700 & 6708 Franconia Rd., Springfield Estates Subd., 80-4((1))22D & 80-4((5))(6)1, (24,648 sq. ft.), Lee Dist., R-10. & C-DM, V-125-78.

Mr. William Hansbarger, an attorney in Fairfax, represented the applicant. He stated that the Planning Commission and the Board of Supervisors have reviewed this application and recommended approval. The two adjoining property owners across from the R-10 zone have been advised of this application and have seen the plan and have also participated in a number of meetings held to discuss this plan. Mr. Hansbarger stated that Mr. Paul J. Denison on the corner of Pioneer & Franconia Road has indicated support of this application in accordance with the Site Plan he had reviewed. The other property owner was Marie Cooper who was an adjoining owner adjacent to the house to be removed by Mobil Oil. Mr. Hansbarger stated that Ms. Cooper would like a wall to be built matching the color of the brick wall already in existence on the property. Mr. Hansbarger presented the Board with a letter from the real estate agent who has handled the house that is going to be removed for the last several years. It stated that this was not a suitable house as it had direct access to Franconia Road and there was no service drive in front of the house.

In response to questioning from the Board, Mr. Hansbarger stated that there were three bays in the station and that the station is going to be operated by a gentleman who has been at this station for the past seven years. He stated that he was fine gentleman and well liked in the community. He stated that he was trying to provide a service to the community and that at present there was only two bays which was built originally in 1956. Chairman Smith stated that he was glad to see that this was not a gas and go station and that this gentleman would remain to serve the community. Mr. Hansbarger stated that Mobil Oil had put up the money for the new construction and that Mr. Ranson would be the operator.

Page 377, August 2, 1978 Board of Zoning Appeals
WILLIAM E. & MATILDA A. MATTHEWS
& MOBIL OIL CORP.

R E S O L U T I O N

In Application No. V-125-78 by WILLIAM E. & MATILDA A. MATTHEWS & MOBIL OIL CORP. under Section 30-6.6 of the Zoning Ordinance to permit service station 8' from R Boundary & canopy over pump islands 7' from front property line & 0' from R Boundary line & to permit pump islands 15' from front property line & 0' from R Boundary Line, on property located at 6700 & 6708 Franconia Road, tax map 80-4((1))22D & 80-4((5))(6)1, County of Fairfax, Virginia, Mr. Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 2, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-DM & R-10.
3. The area of the lot is 24,648 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 has started or unless renewed by action of this Board prior to expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

Page 378, August 2, 1978, Deferred cases scheduled for

2:30 P.M. - CHANSON FINNEY & SIDNEY MASRI, appl. under Sect. 30-6.6 of the Ord. to permit variance of Lot 44B, lot width 15.26' shown, (150' required) & variance to Lot 44A, lot width 137.06' shown, (150' required), located 3530 Morningside Dr., Pine Ridge Subd., 59-1((5))44, (72,180 sq. ft.), Providence Dist., RE-1, V-118-78.

Mr. Chanson Finney informed the Board that this application had been deferred from July 5, 1978 in order for him to contact an adjoining property owner to inquire about purchasing the property. Mr. Finney had been informed that this property owner, Mr. Laine, had a contract with the County to purchase the land. The County was to take possession of the land sometime in September. It was not possible for Mr. Laine to sell any part of the land that was under contract to be sold to the County. The Board discussed this matter with Mr. Finney and it was agreed to further defer this application until such time as the County takes title to Mr. Laine's property and Mr. Finney could inquire of the County if they wished to sell part of the land.

This application was further deferred until September 12, 1978.

//

Page 378, August 2, 1978, After Agenda Items

V-195-78, John & Frances T. Cap, Jr. The Board was in receipt of a letter from Mr. & Mrs. Cap requesting that they be granted an out-of-turn hearing in order that their variance application could be heard before the scheduled date. The reason for the out-of-turn hearing was because of the property being damaged by fire and they were hoping to begin construction as soon as possible. In view of the circumstances outlined in the letter, the Board unanimously moved that the out-of-turn hearing be granted. This application was scheduled for September 7, 1978 at 1:00 P.M.

//

Page 378, August 2, 1978, After Agenda Items

S-171-77, Mt. Pleasant Baptist Church. The Board was in receipt of a letter requesting that an extension be granted on this application which was originally granted by the Board on September 8, 1977.

Mr. DiGiulian moved that the Mt. Pleasant Baptist Church be granted a six month extension. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 4 to 0 (Mr. Barnes being absent).

// There being no further business, the Board adjourned at 4:25 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

APPROVED: _____
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Thursday, September 7, 1978. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John DiGiulian (arriving at 10:45 A.M.); John Yaremchuk and Barbara Ardis.

The meeting began at 10:25 A.M. led by a prayer by Mr. Barnes.

The Chairman welcomed the new member to the Board of Zoning Appeals, Ms. Barbara Ardis, Ms. Ardis was appointed to complete the term of office vacated by Mr. Durrer.

The Chairman informed the applicants present that Mr. DiGiulian would be late for the meeting. He stated that this was not the normal meeting day for the Board and that Mr. DiGiulian had other committments for Thursdays. He stated that anyone wishing to wait until there were five Board members present could do if they addressed the chair.

The Chairman called the scheduled 10 o'clock case.

10:00 A.M. - MARIO C. CASELLA, appl. under Sect. 30-6.6 of the Ord. to permit construction of swimming pool 6' from side setback (15' required), located 1221 Perry William Drive, 31-1((13))105, (16,021 sq. ft.), Dranesville Dist., R-17, V-128-78.

This application had been administratively withdrawn as it was no longer necessary under the new Ordinance which went into effect August 14, 1978.

//

Page 379, September 7, 1978, Scheduled case for

10:10 A.M. - JAMES L. BRADY & SARAH ANN ADAMS, appl. under Sect. 18-401 of the Ord. to permit construction of garage 9.1' from Pennsylvania Blvd., (30' required), located 8425 Camden St., Vernon on the Potomac Subd., 102-3((3))(41)1, 2, 3 & 4, (7,500 sq. ft.), Mt. Vernon Dist., R-3, V-165-78.

Mr. Brady of the above address stated that the property belonged to his wife who was a widow. He was a widower. They both have children from the former marriages totaling five in number. He stated that the house does not have enough room for the whole family. Mr. Brady stated that he would like to enlarge the dining room and to build a garage for the additional storage space. Mr. Brady stated that he and his wife have a lot of antiques which they proposed to store away. He stated that when all the children come home for the holidays from school that they have a parking problem. He indicated that there is a vandalism problem in this area and that they have had insignias torn off the vehicles. Mr. Brady stated that this was a corner lot and that Pennsylvania Blvd. was not improved. He stated that the house faces Camden Street. It was his belief that the proposed construction would not be offensive to the surrounding properties.

In response to questions from the Board, Mr. Brady stated that Pennsylvania Blvd. was not planned for development. He also stated that his former house was a five bedroom house and this his wife's present house is only a four bedroom house. In addition, they have two sets of furniture. He stated that this house only has a partial attic which is jammed. He stated that the new addition was going to be used as a garage and for additional storage space. He stated that he has talked with all his neighbors and that they did not have any objections to the construction.

The Board discussed at length with the applicant the problems associated with Pennsylvania Blvd. It was requested that Mr. Brady apply to the Board of Supervisors for a vacation of Pennsylvania Blvd. Mr. Brady informed the Board that there was a hearing already scheduled before the Board of Supervisors to get that section of Pennsylvania Blvd. vacated.

In view of the hearing before the Board of Supervisors, Mr. Yaremchuk moved that this application be deferred until after the Board of Supervisors' hearing and action on the vacation. Mr. Barnes seconded the motion. The motion passed unanimously. It was agreed that the application be deferred for a period of 60 days.

//

Mr. DiGiulian arrived at this point in the meeting and remained for the rest of the applications heard by the Board of Zoning Appeals.

//

10:20 A.M. - GARY STRAUB, ET. UX., appl. under Sect. 18-401 of the Ord. to permit addition 6.5' from side property line, (8' required), located 6115 Algona Ct., Virginia Hill Subd., 82-4((14))(16)35, (11,488 sq. ft.), Lee Dist., R-4, V-166-78.

The required notices were in order. Mr. Straub of the above address stated that the proposed addition was to be used for a kitchen and an utility room. He stated that he had a problem with the lot as the house was not situated parallel to any one of the side lot lines. In response to Chairman Smith, Mr. Straub stated that the addition was for a country kitchen which was why he did not want to cut down the size of the addition. He also informed the Board that he could not construct the addition on the other side of the house as this was the bedroom area and it would also cover up windows. In response to what was a country kitchen, Mr. Straub replied that it was a regular kitchen with a large table.

There was no one to speak in favor of the application. The property owner of lot 34, 6105 Telegraph Road, appeared to speak in opposition. He stated that he did not want the addition so close to his property. He informed the Board that he was in the process of selling the property and that the prospective buyer does not want an addition that close either. He stated that the kitchen would be right at his bedroom windows. He stated that the distance would be approximately 16' between the addition and his house. He also indicated that he does not live at this property as he resides in Mechanicsville but that he was the owner of the property. The next speaker in opposition was Mr. Robert Martin of 6103 Telegraph Road. He stated that he opposed the application and indicated that if this type of addition were to take place in the rest of the subdivision that all the homes would look like row homes.

During rebuttal, Mr. Straub informed the Board that he proposed to change the present existing kitchen into a storage area. He informed the Board that at present, it was only about 2½ ft. wide between counters. He stated that he could not cut down on the width of his proposed kitchen because of the size of the counters, appliances, and the dimensions of the lumber to be used. He reminded the Board that not of the addition was to be a kitchen and that part of it would be a storage area. He stated that the actual kitchen would be about 15 ft. x 20 ft.

Chairman Smith stated that under the new Ordinance only 8' was required as a side setback and that it seemed to him that Mr. Straub could work out the layout so that the 1.5 ft. variance was not needed. He stated that he could still get the same dimensions if he moved the dining room over some.

R E S O L U T I O N

In Application No. V-166-78 by GARY STRAUB, ET. UX., under Section [redacted] the Zoning Ordinance to permit addition 6.5' from side property line (8' required), on property located at 6115 Algona Ct., tax map 82-4((14))(16)35, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 7, 1978; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 11,488 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Chairman Smith).

Page 381, September 7, 1978, Scheduled case for

10:30 A.M. - CHARLES E. & PATRICIA L. HAYDEN, JR., appl. under Sect. 18-401 of the Ord. to permit variance of 9' for porch addition to be constructed 16' from rear property line & to permit variance of 6' for enclosed shed to be constructed 19' from rear property line (25' required), located 12337 Folkstone Dr., Folkstone Subd., 35-2((2))7, (31,616 sq. ft.), Centreville Dist., R-1, V-169-78.

Mr. Hayden of the above address stated that when the house was constructed, there was a sliding glass door provided for future construction. He stated that he was not aware of the 25' rear setback when he purchased the property. Mr. Hayden stated that there was only 28' from his house to the rear property line and he would like to construct a proch behind the house. In addition, he indicated that he would like to construct a small storage building off the back of the garage which would also require a variance. This would also be for storage. Mr. Hayden stated that the house was designed for a deck and he would like to be able to utilize it. He indicated that all materials to be used in the construction would be matched to the existing house in color and design. It was also stated that the builder had moved the location of the house.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 381, September 7, 1978 Board of Zoning Appeals
CHARLES E. & PATRICIA L. HAYDEN, JR.

RESOLUTION

In Application No. V-169-78 by CHARLES E. & PATRICIA L. HAYDEN, JR., under Section 18-401 of the Zoning Ordinance to permit addition 16' from rear property line & to permit shed to be constructed 19' from rear property line, on property located at 12337 Folkstone Dr., tax map 35-2((2))7, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 7, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 31,616 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing building on the subject property, or the adjacent properties.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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.

R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 has started or unless renewed by action of this Board prior to expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Chairman Smith).

Page 382, September 7, 1978, Scheduled case for

10:40 A.M. - HECTOR J. DELEO, appl. under Sect. 18-401 of the Ord. to permit addition 14.3' from side property line, (15' & total of 40' required), located 8458 Brook R., Woodhaven Subd., 20-3((12))14, (40,011 sq. ft.), Dranesville Dist., R-1, V-173-78.

Mr. DeLeo of the above address stated that he was requesting the variance in order to construct a greenhouse on the side of his house. He stated that the greenhouse could not be constructed on the back of the house as it was too dark. He indicated that the proposed location was the best for growing plants. Mr. DeLeo stated that he had talked with his neighbors and that they did not object to his proposal. In response to questions from the Board, Mr. DeLeo stated that he does not propose to sell the flowers that he grows. He stated that he was a retired Air Force officer and at present operates a small antique shop on Maple Avenue.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-173-78 by HECTOR J. DELEO, under Section 18-401 of the Zoning Ordinance to permit addition 14.3' from side property line, (15' & total of 40' required), on property located at 8458 Brook Road, tax map 20-3((12))14, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 7, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 40,011 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property, or the adjacent property.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

RESOLUTION

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 expiration.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 383, September 7, 1978
EXECUTIVE SESSION--LEGAL MATTERS

At 11:25 A.M., Mr. Barnes moved that the Board of Zoning Appeals adjourn into Executive Session in order to discuss some pending legal matters with the Board's attorney, Mr. William Donnelly. Ms. Ardis seconded the motion and it was unanimously carried by a vote of 5 to 0.

At 11:45 A.M., the Board reconvened into public session.

Page 383, September 7, 1978 Board of Zoning Appeals
KENA TEMPLE

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, there is pending in Circuit Court an action to review a decision of the Board of Zoning Appeals regarding Application S-61-77; and

WHEREAS, in order to settle that lawsuit, Petitioner Mantua Citizen's Association, for itself and the other petitioners, together with the co-defendants, Kena Temple and K.T.S. Holding Corporation, have entered into a written agreement (Exhibit A) concerning the conditions to be applicable to the existing Special Use Permit for Kena Temple; and

WHEREAS, without admitting error, the Board of Zoning Appeals is agreeable to modifying the conditions of the Special Use Permit in accordance with the aforesaid agreement;

NOW, THEREFORE, BE IT RESOLVED, that counsel to the Board of Zoning Appeals is hereby authorized to endorse an agreed final order dismissing the aforesaid action as settled and modifying the conditions on the existing Special Permit for Kena Temple in accordance with the aforesaid agreement.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

* * * * * * * * * * *

EXHIBIT A

EXHIBIT A
KENA TEMPLE SPECIAL USE PERMIT RESTRICTIONS

These restrictions are not intended to expand or limit applicability of laws or regulations relevant to the use of the property and facilities located at 9001 Arlington Boulevard or the Zoning Ordinance provisions pertaining to the required preservation and maintenance of the existing residential character of the community. They are intended to clarify with some specificity the permitted and excluded uses and to effect a working relationship and agreement between members of the community, the Mantua Citizens' Association, and the Kena Temple organization.

I. USE OF THE FACILITIES

Use of the facilities located at 9001 Arlington Boulevard are limited to Kena Temple membership, affiliated Masonic organizations of the Northern Virginia area, and/or small civic activities.

1. Kena Temple membership activities are those activities for members, members' immediate families, bona fide guests, and affiliated Masonic organizations. This includes meetings, social affairs and entertainment activities for the membership. It does not include (a) commercial events or (b) activities (such as roasts, feasts, dinners, shows, dances, concerts, conventions, gatherings, lectures, presentations, or entertainment events of any kind)

where unrelated groups or members of the general public may gain free admission or admission by payment of money, check, credit or other financial means, whether termed admission, donation or other such term, by any party. Further commercial outdoor events, such as circuses, bazaars, concerts, carnivals or games, will not be held. This does not preclude the annual sale of Christmas trees.

The above is not intended to limit the Kena Temple from using said facilities for the enjoyment of its members or affiliated Masonic organizations or preventing similar events when strictly limited to members, affiliated Masonic organizations, their families and guests. Guests will not comprise a majority of attendees at any activity nor will the term "guest" be used in a manner to allow commercial or so-called "open" events.

2. Small civic activities are defined as the use of meeting rooms or the small building by church groups, citizens' associations or small community clubs. Such activities will not exceed 250 attendees and will not include use of the main ballroom. This provision will not be interpreted to permit commercial uses or expansion beyond those clearly intended limitations specified in paragraph 1 above.

3. There shall be no public media advertising of events held at these facilities except for public media notices indicating that the event is a membership activity of Kena Temple or a related Masonic organization and not open to the public.

II. ESTABLISHMENT OF KENA-COMMUNITY COMMITTEE

A Kena-Community Committee shall be established to provide an avenue of communication between the parties. This Committee shall consist of three or four members from the community not affiliated with the Kena Temple, one of which will be an adjoining property owner and the others officers of the Mantua Citizens' Association, and two members each from the Board of Directors of the Kena Temple and the KTS Holding Corporation.

Should an exceptional proposal for use arise, the Committee shall consider the proposed use at least thirty (30) days prior to the date requested. Such proposed use must have the written approval of the Community Committee. Lack of community opposition to any event or use shall not be interpreted as establishing a precedent or as implied approval for any such use.

III. HOURS OF OPERATION

The hours of operation are from 9 A.M. to 11 P.M., except that two evening functions per week may continue until 1 A.M. Additionally, a Kena Temple or affiliated Masonic organization membership function may be held in the ballroom no more than twice a month, Monday through Thursday, until no later than 1 A.M. The regular closing time of 11 P.M. will be Sunday through Thursday.

IV. EXTERIOR LIGHTING

1. All but four of the 30-foot light poles placed in the parking lot in 1977 will be replaced with standard VEPCO 14-foot poles with Type V Colonial style fixtures having four opal panels, specifically, GE catalog no. C721G174. They will be illuminated with 175-watt white mercury vapor lamps. The remaining four 30-foot poles, i.e., those located closest to Barkley Drive, will be replaced with standard VEPCO 10-foot poles with Type V Colonial style fixtures having four opal panels (GE catalog no. C721G174) and illuminated with 100-watt white mercury vapor lamps. The panels of these four fixtures will be blacked out on the eastern side. The number of poles will not be increased.

2. The security lights on the exterior of the building will be shielded to direct the illumination downward to light the perimeter of the building.

3. All exterior lighting, new and old, shall be shielded and redirected as necessary to prevent direct light from being visible from adjoining residences.

4. All exterior lights will be turned off one-half after the closing time of each evening function.

V. BUFFER ZONE AND SUPPLEMENTAL EVERGREE PLANTING

1. The existing buffer zone on the eastern edge of the Kena Temple property will remain as provided by the original Special Use Permit approved in 1962 through the present site plan.

Page 385, September 7, 1978
KENA TEMPLE

2. A double row of evergreen trees has been planted and will be maintained along the buffer zone from Karen Drive to the Route 50 access road. These trees were planted in the spring of 1978, were approximately six (6) feet in height, and were placed at intervals of ten (10) feet on center with rows staggered to establish a natural screen when mature. In addition, Kena Temple will plant and maintain up to thirty (30) trees, a minimum of six (6) feet in height, at locations designated by the Community Committee in the fall of 1978.

3. Kena Temple will replace evergreen screening which fails to survive.

4. Three years from the date of this agreement Kena Temple will review with the Community Committee the adequacy and effectiveness of the screening planted in 1978, including the height and fulness of growth of those trees, and to take corrective action in the event those trees have not formed an effective visual screen.

5. Landscaping and screening along the Route 50 access road will be planted within a reasonable time.

VI. KAREN DRIVE ACCESS ROAD

Karen Drive will be maintained with a locked gate and will not be used as an entrance to or exit from the property.

VII. AMENDMENT OF SPECIAL USE PERMIT

Any future consideration for amendment of the Special Use Permit concerning the property and facilities owned by Kena Temple and the KTS Holding Corporation will give due and full attention to both the content and intent of this agreement.

We the undersigned, have read and agree to the provisions of this document.

* * * * * * * * * *

Page 385, September 7, 1978
ELECTIONS

Mr. Barnes nominated Mr. John DiGiulian for Vice-Chairman. Mr. Yaremchuk seconded the nomination. Mr. Yaremchuk moved that the nominations be closed. By a unanimous vote, Mr. DiGiulian was elected Vice-Chairman for the remainder of 1978.

//
Page 385, September 7, 1978, Scheduled case for

11:10 A.M. - CENTRAL FAIRFAX SERVICES, INC., appl. under Sect. 3-103 of the Ord. to permit operation of school of general education in existing church, located 2709 Hunter Mill Road, 37-4((1))23, (11.121 acres), Centreville Dist., R-1, S-167-78.

The Board was in receipt of a letter from the applicant requesting deferral until a later date. It was the unanimous consensus of the Board to reschedule this hearing for September 19, 1978 at 1:00 P.M.

//
Page 385, September 7, 1978, Scheduled case for

11:30 A.M. - CENTRAL FAIRFAX SERVICES, INC., appl. under Sect. 3-103 of the Ord. to permit school of general education in existing church, located 8922 Little River Turnpike, 58-4((28))61, (3.835 acres), Providence Dist., R-1, S-168-78.

The Board was in receipt of a letter from the applicant requesting deferral until a later date. It was the unanimous consensus of the Board to reschedule this hearing for September 19, 1978 at 1:20 P.M.

//

Page 386, September 7, 1978, Scheduled case for

11:50 A.M. - BELLE HAVEN COUNTRY CLUB, INC., appl. under Sect. 3-303 of the Ord. to permit continued use of private country club with additions to clubhouse, located 6023 Fort Hunt Road, 83-4((1))5, 6 & 13, (156.6952 acres), Mt. Vernon Dist., R-3, S-170-78.

386

Mr. Robert Lawrence of the firm Hazel, Beckhorn & Hanes in Fairfax represented the applicant. The purpose of the amendment to the existing special permit was to enlarge the club house in order to modernize it. There were a lot of problems in the old structure with the electrical wiring and the plumbing fixtures. Mr. Lawrence stated that there would not be an increase in the membership of the club. He indicated that most of the construction would be to the rear of the building. He further indicated that a deceleration and acceleration lane would be provided on Belle Haven Road to eliminate any traffic hazards. He also indicated that improvements would be made on the roads on the club property to improve traffic patterns in picking up guests. In response from questions from the Board, Mr. Lawrence stated that the full membership of the club was 556.

There was no one to speak in favor of the application and no one to speak in opposition. However, the Board was in receipt of a memorandum from Jane Kelsey, Zoning Inspector, regarding outstanding violations for Belle Haven Country Club.

Page 386, September 7, 1978 Board of Zoning Appeals
BELLE HAVEN COUNTRY CLUB, INC.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-170-78 by BELLE HAVEN COUNTRY CLUB, INC., under Section 3-303 of the Fairfax County Zoning Ordinance to permit addition to the clubhouse and continued use of private country club on property located at 6023 Fort Hunt Road, tax map reference 83-4((1))5, 6 & 13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notices to the public and a public hearing by the Board held on September 7, 1978; and

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

1. That the owner of the subject property is Belle Haven Country Club, Inc.
2. That the present zoning is R-3.
3. That the area of the lot is 127.818 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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.

Page 387, September 7, 1978 Board of Zoning Appeals
BELLE HAVEN COUNTRY CLUB, INC.
(continued)

RESOLUTION

6. All necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. All other conditions of the original use permit shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 387, September 7, 1978, Scheduled case for

12:30 P.M. - FRANCIS R. & ALICE L. WILLIS, appl. under Sect. 18-401 of the Ord. to permit construction of addition 20.2' from rear property line, (25' required), located 8706 Linton Ln., Stratford on the Potomac. Subd., 111-1((1))590, (13,342 sq. ft.), Mt. Vernon Dist., R-3, V-148-78. (Deferred from July 21, 1978 for Notices.)

Mr. Willis stated that he and his wife have lived here for seven years and plan to retire in this house. They proposed to build a master bath. He stated that they lived off of a cul-de-sac but they were not a corner lot. He stated that what they planned to build was in keeping with the rest of the neighborhood and that the neighbors had no objection to his plans. In response to questions from the Board, Mr. Willis stated that his yard was the only one with a rear yard and that the other surrounding homes had side yards as they were corner lots. Chairman Smith inquired of Mr. Knowlton if this particular lot could not also be considered a corner lot because of the pipe-stem and was told it was an interior lot.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 387, September 7, 1978 Board of Zoning Appeals
FRANCIS R. & ALICE L. WILLIS

RESOLUTION

In Application No. V-148-78 by FRANCIS R. & ALICE L. WILLIS, under Section 18-401 of the Ordinance to permit construction of addition 20.2' from rear property line, (25' required), on property located at 8706 Linton Land, tax map reference 111-1((1))590, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

[illegible]

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 7, 1978 and deferred from July 21, 1978 for notices; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 13,342 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, being shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

388

RESOLUTION

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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

//
The Board recessed at 12:35 P.M. and reconvened at 12:45 P.M. to continue with the scheduled cases.
//
Page 388, September 7, 1978, Scheduled case for

12:40 P.M. - G. ALAN & EMILY LAKIN, appl. under Sect. 18-401 of the Ord. to allow an 8' fence atop an existing deck of undetermined height in a side yard (7' max. required), located 1909 Rhode Island Ave., Franklin Park Subd., 41-1((13))(7)17A, (10,851 sq. ft.), Dranesville Dist., R-2, V-143-78. (Deferred from July 21, 1978 for Notices).

Mr. Arvydas Barzdukas, an Architect at 152 Hillwood Avenue, Falls Church, Va. represented the applicants. He stated that the applicants were faced with a very narrow and minimum side yard in which the previous owner had constructed a deck which extended all the way to the property line. This was a substandard corner lot. The application for a variance by the previous owner was denied. The current owner will remove 10' of the deck. The applicants were asking that a 6' high privacy screen beginning at deck level be allowed. In response to questions from the Board, Mr. Barzdukas stated that the privacy fence would be constructed at deck level 10' from the side property line. He further informed the Board that the house had been constructed five years ago. Mr. Barzdukas informed the Board that if the applicants remove 10' of the deck that it would then be in conformance with the new Ordinance. When asked if the 10' had already been removed Mr. Barzdukas replied that it had not. He also stated that no part of the deck would extend beyond the roof line of the house and that the fence would never be any higher. He indicated that the deck was constructed with the floor line of the house. The plats submitted showed a privacy screen 8' in height but Mr. Barzdukas informed the Board that they had reduced that to 6' and only required a variance of 2' for the privacy fence.

There was a person to speak in favor of the application. Ms. Marilyn Stickel of 1911 Rhode Island Avenue, an adjoining property owner, stated that she and her husband supported the application because they felt that what the applicants were requesting would not adversely affect the neighborhood. She stated that the difficulty with the lot was that it was a substandard lot and there were difficulties with drainage. She stated that this was a very small lot and the only way the applicants could have any kind of a back yard that they could enjoy with the drainage problems that it was necessary for them to have the deck.

There was no one else to speak in favor of the application. The following person spoke in opposition to the application. Mr. Tom Strunk, owner of lot 1-A, an adjoining property owner, reminded the Board that this variance had been before them before and was denied. He stated that most of the neighbors had written letters of opposition. Chairman Smith stated that the previous application had been filed by a different person and that this was not a duplicate application as the applicants were planning to remove 10' of the existing deck. Mr. Strunk stated that the present owners were aware of the problems with the previous owner not complying with the Zoning Ordinance. He further stated that these were large houses on small lots and that all of the people in the area bought the houses with that knowledge. He indicated that they all could use all the privacy the law would allow.

It was determined from questions from the Board to Mr. Knowlton that no building permit had ever been issued originally to the previous owner to construct the deck. The Board members discussed at length the problems associated with granting a variance on this application when the deck did not meet County standards. After considerable discussion, the following motion was made.

389

RESOLUTION

In Application No. V-143-78 by G. ALAN & EMILY LAKIN under Section 18-401 of the Zoning Ordinance to permit 8'* fence atop an existing deck on property located at 1909 Rhode Island Avenue, tax map 41-1((13))(7)17A, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 7, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 10,851 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED IN PART* (to allow 6' fence atop an existing deck) with the following limitations:

1. This approval is granted for the location and the specific structure indicated in the plats included with that 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 389, September 7, 1978, Scheduled case for

12:50 P.M. - HORACE N. MOORE, JR., ET. AL. & COMMONWEALTH INVESTMENT SERVICE CORP., appl. under Sect. 18-401 of the Ord. to permit variance of lot width for proposed lots 5 & 6, (12' shown, 200' required), located 1411 Hunter Mill Rd., 18-2((1))34 & 34A, (15.24 acres), Dranesville Dist., R-E, V-158-78.

Mr. Knowlton informed the Board that he had a request from the applicant to defer this application because he was trying to work to make this a cluster subdivision to meet the Code and would not need a variance if he succeeded.

Mr. DiGiulian moved to allow the applicant a deferral period until October 3, 1978 at 12:00 P.M. Mr. Barnes seconded the motion. The motion passed unanimously by a vote of 5 to 0.

//
Page 389, September 7, 1978, Scheduled case for

1:00 P.M. - JOHN & FRANCES T. CAP, JR., appl. under Sect. 18-401 of the Ord. to permit garage addition 17.08' from side property line, (20' required), located 5933 River Drive, 122-2((2))35, (28,482 sq. ft.), Mt. Vernon Dist., R-E, V-195-78.

Mr. Cap, presently residing at 5820 River Drive, informed the Board that his house had been destroyed by fire. He stated that he proposed to rebuild the garage which would be 17.08' from the side property line. He stated that his lot was irregular in shape being pie-shaped and that it sloped in several areas. He further indicated that the addition would not result in any injury or hardship to the neighboring lots. In response to questions from the Board, Mr. Cap stated that the garage would be in the same location on the property and built on the existing footings.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-195-78 by JOHN & FRANCES T. CAP, JR. under Section 18-401 of the Zoning Ordinance to permit garage addition 17.08' from side property line on property located at 5933 River Drive, tax map reference 122-2((2))35, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 7, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 28,482 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, being pie-shaped.

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

That the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Chairman Smith stated that the record should show that the house was totally destroyed by fire and was being reconstructed in the same location.

//
The Board recessed for lunch at 1:25 P.M. and reconvened at 2:45 P.M. to continue with the remaining scheduled cases.
//
Page 390, September 7, 1978, Scheduled case for

2:15 P.M. .-. E. LAKIN PHILLIPS & PILAR STUMBAUGH, appl. under Sect. 3-103 of the Ord. to permit day care center for 60 children, ages 1 - 4, Mon. - Fri., from 6 A.M. to 7 P.M. & weekends by special arrangement, located 2558 Flint Hill Rd., 38-3((1))30 & 30A, (1.145 acres), Centreville Dist., Five Oaks Subd., R-1, S-171-78. (Deferred from August 2, 1978 for Notices & pulled by P.C. for hearing on August 30, 1978).

Mr. Bernard Fagelson, an attorney, represented the applicant. He presented the required notices to the Board which were in order. He stated that this was an application for a day care center for 60 children, ages 1 through 4. He stated that this was somewhat different than a school in that there were no classrooms but rooms for the children to rest and play and to learn to live with other children. He stated that a day care center was a necessity and should be located in a residential area. He asked the Board to consider the

impact on the neighborhood and whether that impact was reasonable. He stated that this land was 1.6 acres located on the southside of Flint Hill Road. Between the property and Rt. 123 was a large parcel of vacant land that was heavily wooded. Mr. Fagelson stated that his experience had been that most people approve of day care centers but they don't want them in their neighborhood. He stated that he understood the concerns of the neighbors. He stated that any conditions that could be placed on the use that would make it more compatible with the neighborhood they would be happy to comply with. He stated that the Planning Commission recommendations to change the hours of delivery of the children to 7 A.M. was a reasonable condition that they would agree to. In addition, the trial period of two years was also accepted by Mr. Fagelson without question.

Mr. Fagelson stated that day care centers are a necessity because many parents have to leave children in order to work. He stated that Mrs. Stumbaugh has a great deal of experience and has served as a pediatric nurse. He stated that she is geared towards the medical service and that it was very important for children ages one through four to have medical services available if the need arises. He stated that a nurse would be on call and come to the center three times a week to check the children. In addition, a doctor would be on call at all times.

Mr. Fagelson stated that the applicant was going to construct a fence to limit the play area of the children and indicated that it would be 6,000 sq. ft. in the back of the property. He further stated that no more than 10 children would be outside in the play area at any one time. He stated that the practice of Mrs. Stumbaugh has been to have a supervisor for every four children and stated that when 10 children are outside playing that there would be at least two to three supervisors outside with them. Mr. Fagelson stated that the fence to be constructed around the play area would be 80' from the property line.

Another consideration was the traffic impact. The Board was in receipt of a traffic study from Shiva Pant which indicated that the effect of this day care center would have no real impact on the traffic pattern. Mr. Fagelson stated that this was a good location for a day care center. He stated that it was in a neighborhood of older people and stated that their concerns were justifiable but that they did not appreciate the fact that this day care center would be completely supervised.

The following persons spoke in favor of the application. Ms. Ellen Savanic of 313 North Center Street in Vienna stated that she had gone to the day care center to check out the traffic. She stated that coming from Flint Hill Road making a right hand turn you would have to go less than one-half mile to make a left hand turn to go back towards Tysons Corner. She stated that this would eliminate the traffic hazard of crossing Route 123. She also stated that it would eliminate the people going back through the residential area. She stated that if Mrs. Stumbaugh instructed her parents that she was certain they would all comply by going out of their way rather than through the subdivision. Also, Mrs. Savanic stated that a residential area was a good location for a day care center and that this particular location had a lot of trees surrounding it to block noise. She stated that she did not see any problem with a day care center in this location.

The next speaker was Kathy Bell of Ida Woods Village in Falls Church. She stated that her 2 year old son has been going to Mrs. Stumbaugh's day care center for 1½ years and that she has been taking excellent care of him. She stated that she has arrived as early as 7:30 and that there have never been more than three cars. She stated that when you walk in the house you hardly know that children are there. Mrs. Bell stated that her son is fed breakfast, lunch and sometimes dinner and that he was always bathed before she picked him up. She stated that it was hard to find day care centers for children under two years of age. In response to questions from the Board, Mrs. Bell stated that the day care center her son goes to is located on Lawyers Road in Vienna.

The next speaker in support was Mr. Paul Hubbard of Kettle Lane of Great Falls. He stated that he brings his child a great distance to place him in the care of Mrs. Stumbaugh. He stated that he would go to any reasonable distance to seek out this kind of care.

Mr. Brian McCormick, of the law firm, Ballantine, Dunn and McCormick in Fairfax, represented Mr. Chester Botticelli and Mr. Mahorney, residents of Flint Hill Road. Mr. McCormick presented a petition in opposition to this special permit that had been signed by the residents on Flint Hill Road. The petition contained 143 signatures reflective of the opinions of 76 of the 83 households of the Orchard View Subdivision.

Mr. McCormick stated that the proposed day care center was the gateway to the subdivision. There are five adjoining property owners, three of which have gone on record opposing the permit and two remaining owners, one owning vacant land and the other owner not going on record either way. Mr. McCormick stated that the Board of Supervisors apparently does not share the view of Mr. Fagelson that day care centers should be located in residential areas. He stated that there are only five districts under the Ordinance which allow day care centers by right, none of which is in a residential area. Mr. McCormick also stated that the plat shows the land to be 1.145 acres instead of the 1.6 specified by Mr. Fagelson. Mr. McCormick stated that this particular neighborhood was comprised of more than just older folks. He indicated that it was only the older retired people and housewives whose children have grown up that are able to attend these hearings. Mr. McCormick stated that the petition was signed by people of all ages.

Mr. McCormick stated that Mrs. Stumbaugh was not an owner and merely a tenant of the property. He also stated that the Planning Commission objected to the noise aspect. He stated that he found it difficult to believe that the play area could be located 60' from any property line. Mr. McCormick stated that the sanitary facilities on the property were inadequate. He indicated that the property is served by a septic system.

In summary, Mr. McCormick stated that this day care center would be an inconvenience to the surrounding neighbors and that it was not harmonious. He further stated that the application was incomplete and it was opposed by more than 80% of the people in the neighborhood. Mr. McCormick stated that the day care center should be located in a shopping center or one of the five other zoning districts allowing them by right under the Ordinance and urged the Board to deny this application.

Mr. MaHorney of 9706 Flint Hill Road in Vienna stated that he selected this property 20 years ago because it was within walking distance of the elementary and high schools in the area. He stated that the Office of Transportation impact report does little to reflect the daily traffic impact of Flint Hill Road and Route 123. He stated that Flint Hill Road was a two lane road without curb, gutter or sidewalk. He further stated that the drainage ditches and high paving on Rt. 123 prohibit pedestrian passage. Mr. Mahorney stated that Flint Hill Road and Rt. 123 was a dangerous intersection. He stated that with this day care center, it could only be made more hazardous. According to Mr. Mahorney, to make a left hand turn from Flint Hill Road was to gamble with your life.

The next speaker in opposition was Joseph Guzman of 2550 Flint Hill Road. He stated that he was the newest resident since October 1977. He stated that this neighborhood was just the kind he wanted and that if he had known of the coming day care center that he would not have bought the property. He stated that this proposed operation would devalue his property values.

The next speaker was Chester Botticelli of 9700 Flint Hill Road in Vienna. He stated that his property was 300' from the proposed day care center. He indicated to the Board that he has lived at this location for 20 years. He stated that this is quiet, single family residential neighborhood and with the help of the Board would remain so. He stated that they have been called senior citizens but stated that they all are not older people as the younger folks keep joining their rank. He stated that they were a stable community. He asked that they be allowed to continue to live there in their normal fashion as was the intent of the Board of Supervisors when they approved the Comprehensive Plan.

During rebuttal, Mr. Fagelson stated that the traffic impact was not a real problem. He also indicated that he was interested in the five areas of where a day care center could be located by right. He stated that this day care center would have supervisors and be under complete control. He stated that the Planning Commission had suggested several alterations, one being to limit the number of children to a maximum of 25. Mr. Fagelson stated that this was not a realistic number. He stated that there would be one supervisor for every four children which was a convenience for the neighbors as well as the other supervisors. Another recommendation of the Planning Commission was to start operating at 7:00 A.M. rather than 6 A.M. Also, all through the opposition was the fear that this operation would lower the property values. Mr. Fagelson stated that in all the 30 years that he has been appearing before this Board that he has heard this same phrase but has never been shown this to be true.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-171-78 by E. LAKIN PHILLIPS & PILAR STUMBAUGH under Section 3-103 of the Fairfax County Zoning Ordinance to permit day care center for 60 children, ages 1 - 4, Monday through Friday, from 6 A.M. to 7 P.M. & weekends by special arrangement* on property located at 2558 Flint Hill Road, tax map reference 38-3((1))30 & 30A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 7, 1978; and

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

1. That the applicant is the lessee.
2. That the present zoning is R-1.
3. That the area of the lot is 1.145 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The maximum number of children shall be 60, ages through 1 through 4.
8. The hours of operation shall be 7 A.M. to 7 P.M., Monday through Friday.
9. The minimum number of parking spaces shall be 7.
10. The maximum number of children outside of building any one time shall be 10.
11. This special permit is granted for a period of one (1) year.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 1 (Ms. Ardis).

Page 393, September 7, 1978, After Agenda Items

V-182-77, Springfield Motors, Inc. Guenter Pfeil and Eckhard Liptau: The Board was in receipt of a letter from Mr. Charles J. Caridi, an attorney representing the Springfield Motors, wherein it was requested that an extension of time be granted in order to construct the structure.

Mr. Barnes moved and Mr. DiGiulian seconded that Springfield Motors be granted an 180 day extension. The motion passed unanimously by a vote of 5 to 0.

//

Page 394, September 7, 1978, After Agenda Items

SCHEDULING OF CASES: It was the unanimous consensus of the Board that the Clerk schedule BZA cases up until 12:45 P.M. and then begin rescheduling at 2:15 P.M. after the lunch break.

//

Page 394, September 7, 1978, After Agenda Items

S-134-78, Tysons' Briar, Inc., T/A Cardinal Hill Swim & Racquet Club. The Board was in receipt of a letter from Mr. John J. Brandt dated August 21, 1978 requesting a rehearing of the application denied by the Board on July 25, 1978.

Mr. DiGiulian stated that he had read the letter and there was nothing in the letter as far as information that could not have been presented at the previous hearing. Therefore, Mr. DiGiulian moved that the request for rehearing be denied. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 1 (Mr. Yaremchuk).

//

Page 394, September 7, 1978, After Agenda Items

S-70-73, Springfield Academy: The Board was in receipt of a letter from Mr. Jack Merritt requesting the last extension granted by the BZA in his special permit. As there had been no violations, Mr. Barnes moved and Mr. DiGiulian seconded that the Springfield Academy be granted the last extension. The motion passed by a unanimous vote of 5 to 0.

//

Page 394, September 1978, After Agenda Items

S-269-77, Burke Lake Assembly of God: The Board was in receipt of a letter from Terry A. Pearson dated August 15, 1978 wherein approval from the Board was requested in order to shift the building 6' closer to the "contract line" than was originally approved on November 15, 1977. As the Board considered this to be a minor engineering change, Mr. Barnes moved, Mr. DiGiulian seconded and it was unanimously granted to allow the building shift of 6'.

//

Page 394, September 7, 1978, After Agenda Items

APPROVAL OF MINUTES: Mr. DiGiulian moved that the BZA Minutes for April 18, 1978 and May 2, 1978 be approved as amended. Mr. Barnes seconded the motion. The motion passed by a unanimous vote of 5 to 0.

//

Page 394, September 7, 1978, After Agenda Items

S-155-78, Different Drum, Inc.: The Board was in receipt of a letter from Mr. Michael Kenney, Director, regarding two matters. As one matter dealth with conditions requested by the Building Inspectors of Fairfax County before the premises could be occupied, the Board of Zoning Appeals stated that they did not have any authority to waive these conditions. The other matter was in regard to the painting of the vehicles used to transport students to the school. The Board stated that this was a safety matter. Therefore, Mr. DiGiulian moved to deny the appeal of Different Drum as it pertained to the painting, lighting and lettering of the school vehicles. Mr. Barnes seconded the motion and the motion passed by unanimous vote of 5 to 0.

// There being no further business, the Board adjourned at 4:10 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman

APPROVED: January 30, 79
DATE

Submitted to the BZA on Jan. 25, 79.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on Jan. 25, 79.

395

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Tuesday, September 12, 1978. The following Board Members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Barbara Ardis. Mr. DiGiulian was absent.

The meeting began at 10:15 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case.

10:00 A.M. - SHELL OIL COMPANY, appl. under Sec. 30-6.6 of the Ord. to permit construction of a pump island canopy closer than 22' from right-of-way line & to permit existing screening to satisfy transitional screening requirements, located 8020 Leesburg Pk., 39-2((1))8, (22,028 sq. ft.), Providence Dist., C-N, V-137-78.

The Board was informed that this application had been administratively withdrawn as it was no longer necessary under the New Zoning Ordinance.

//

Page 395, September 12, 1978, Scheduled case for

10:10 A.M. - JOHN A. & AINA N. NAMMACK, appl. under Sect. 18-401 of the Ord. to permit division of parcel into two lots, one of which is proposed to be a pipestem lot, located 5201 Clifton St., Clearfield Subd., 71-4((6))47A1, (45,040 sq. ft.), Annandale Dist., R-2, V-178-78.

Mrs. Aina Nammack of the above address stated that she proposed to divide the lot because it was a very long lot. She wished to construct a house in the back. She stated that this was a little over ½ acre and that herepresent house is 30 years old. In response to questions from the Board, Mrs. Nammack stated that she would sell the house on the front lot and build another house in the back. Mr. Covington informed the Board that the application for the other variance was no longer necessary under the new Ordinance.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 395, September 12, 1978 Board of Zoning Appeals
JOHN A. & AINA N. NAMMACK

R E S O L U T I O N

In Application No. V-178-78 by JOHN A. & AINA M. NAMMACK under Section 18-401 of the Zoning Ordinance to permit division of parcel into two lots, one of which is proposed to be a pipestem lot on property located at 5201 Clifton St., tax map 71-4((6))47A1, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 12, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 45,040 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow. . .

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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.

R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from the date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Chairman Smith stated that he supported the motion because the lot was narrow and contained a large amount of land in the rear.

Page 396, September 12, 1978, Scheduled case for

10:20 A.M. - JOHN A. & AINA N. NAMMACK, appl. under Sect. 30-6.6 of the Ord. to permit house to remain 15.3' from side property line, 20' required, located 5201 Clifton St., Clearfield Subd., 71-4((6))47A1, (45,040 sq. ft.), Annandale Dist., R-2, V-179-78.

This application had been administratively withdrawn as it was no longer necessary under the New Zoning Ordinance.

//

Page 396, September 12, 1978, Scheduled case for

10:30 A.M. - JOHN J. PROVINCE, appl. under Sect. 18-401 of the Ord. to permit construction of carport 3.4' from side property line (5' required), located 3222 Holly Hill Dr., Broyhill Park Subd., 60-1((17))59, (10,143 sq. ft.), Providence Dist., R-4, V-180-78.

Mr. John Province of the above address proposed to build a 12' carport on side of his house which would come within 3.4' of the side property line. He stated that he needed to have the 12' width because of his car doors which are very wide. A physical hardship was the location of the chimney in the middle of the north side of the house. With the support on the other side of the carport and the chimney sticking out, Mr. Province informed the Board that he needed an additional 2'. He stated he could not construct a carport in any other location because of the T-shape of the house and the slope of the property in the front. All construction materials would be in keeping with the existing house. Mr. Province informed the Board that he had received a letter from the next door neighbor stating that he had no objection to the proposal. Mr. Province informed the Board that he has owned his property for 23 years and was the original owner. In response to questions from the Board, he stated there was a distance of 18½ ft. between his carport and the house next door. The ordinance requires a minimum side yard of 8' and to construct a carport, the applicant could go as close as 5' from the property line.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 396, September 12, 1978 Board of Zoning Appeals
JOHN J. PROVINCE

R E S O L U T I O N

In Application No. V-180-78 by JOHN J. PROVINCE under Section 18-401 of the Zoning Ordinance to permit construction of carport 3.4' from side property line (5' required) on property located at 3222 Holly Hill Dr., tax map reference 60-1((17))59, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 12, 1978; and

R E S O L U T I O N

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 10,143 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property,

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 397, September 12, 1978, Scheduled case for

10:40 A.M. - STEPHEN R. HERSH, M.D., appl. under Sect. 18-401 of the Ord. to permit construction of shed 5.3' from side property line with total of 14.7' side yards, (8' & total of 20' required), located 7306 Langsford Ct., Rolling Valley Subd., 89-3((6))72, (12,273 sq. ft.), Springfield Dist., R-3 (c), V-181-78.

Mr. Stephen Hersh of the above address stated he proposed to construct a shed behind his existing carport in order to keep bicyles, mowers and etc. It is impossible to keep them in the back yard as the ground slopes and it is hard to wheel them down the hill. In addition, there is a drainage problem and all the storm water collects in the back yard. He stated that he would like to build the shed at street level. The property is irregularly shaped and the house is located on the narrowest part of the lot. Construction of the shed would encroach on the side property line. Mr. Hersh stated that he felt the shed would be useful and valuable to him. Mr. Hersh stated that if the variance was granted for the shed, he would make the basement into living space and no storage would kept there at all. Mr. Hersh presented the Board with a petition from the surrounding neighbors stating their support of the application.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

R E S O L U T I O N

In Application No. V-181-78 by STEPHEN R. HERSH, M.D., under Section 18-401 of the Zoning Ordinance to permit construction of shed 5.3' from side property line with total of 14.7' side yards (8' and total of 20' required) on property located at 7306 Langsford Ct., tax map 89-3((6))72, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 12, 1978; and

R E S O L U T I O N

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3 (c).
3. The area of the lot is 12,273 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic problems.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

1. This approval is granted for the locations 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 398, September 12, 1978, Scheduled case for

10:50 A.M. - ROBERT A. BUTTAFUSO, appl. under Sect. 18-401 of the Ord. to permit existing porch to remain 16.8' from rear property line (25' required), located 6307 Hidden Canyon Rd., Pleasant Hill Subd., 53-4((5))97, (14,733 sq. ft.), Springfield Dist., R-2, V-182-78.

Mr. Robert Buttafuso of the above address, in response to Chairman Smith, stated that he did not obtain a building permit prior to construction of the porch. He stated that he was not aware that he needed one and that it was not until the final stages of the construction that he found out. When he went to obtain a building permit, he was informed that he would need a variance. Mr. Covington stated that unless Mr. Buttafuso obtains the variance he would have to tear down the porch. Mr. Buttafuso stated that when he purchased the property it was just a flat piece of land but after the house had been erected, the contractor had built up the back lot into a slope on the right side. He stated that he believed the reason to have been because of the neighbor's drainage problems. Mr. Buttafuso stated that the left side of the house goes out about 20' and then slopes down to a 45° angle. Mr. Buttafuso stated that he was attempting to make the back yard into a patio and was trying to construct a barrier wall level with the patio. He stated that the only flat area on the property which is not really level was the front yard. Mr. Buttafuso stated that he was not from this area and has been living in apartments and rental houses and was not aware of the building permit requirement. When asked if he planned to screen the porch, Mr. Buttafuso stated that he did.

There was no one to speak in support of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-182-78 by ROBERT A. BUTTAFUSO under Section 18-401 of the Zoning Ordinance to permit existing porch to remain 16.8' from rear property line (25' required) on property located at 6307 Hidden Canyon Road, tax map 53-4((5))97, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

Page 399, September 12, 1978 Board of Zoning Appeals
ROBERT A. BUTTAFUSO
(continued)

R E S O L U T I O N

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 12, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 14,733 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 lane.

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

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith) (Mr. DiGiulian being absent).

Page 399, September 12, 1978, Scheduled case for

11:20 A.M. - TEMPLE RODEF SHALOM NURSERY SCHOOL, appl. under Sect. 3-103 of the Ord. to permit continuation of nursery school, located 2100 Westmoreland St., 40-2((1))19, (7.378 acres), Dranesville Dist., R-1, S-174-78.

Mr. Philip Swartz of 2055 N. 15th Street, Arlington, represented the applicant. He stated that they were requesting a reissuance of the special permit granted six years ago. The school has been operating continually since that time and there have been no problems or complaints. He further sated that there has not been any opposition to this application. He stated that the maximum number of students granted was 150, ages 2to 6 and that was what they were still requesting. Mr. Swartz requested that they be granted a special permit for as long as possible. He informed the Board that they had an open enrollment policy and did not restrict the school to members of the synagogue only.

There was no one to speak in support of the application and no one to speak in opposition.

Page 399, September 12, 1978 Board of Zoning Appeals
TEMPLE RODEF SHALOM NURSERY SCHOOL

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-174-78 by TEMPLE RODEF SHALOM NURSERY SCHOOL under Section 3-103 of the Fairfax County Zoning Ordinance to permit continuation of nursery school on property located at 2100 Westmoreland Street, tax map reference 40-2((1))19, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 12, 1978; and

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

RESOLUTION

1. That the owner of the subject property is Trustees of Temple Rodef Shalom.
2. That the present zoning is R-1.
3. That the area of the lot is 7.378 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special 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 is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. This permit is granted for an indefinite period of time.
8. All other conditions of the previous special permit shall be applicable.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 400, September 12, 1978, Scheduled case for

12:00 P.M. - VALERIE HORSTMAN, ET. AL, & BARLOWS, INC., appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, 2 of which are pipestem lots (Var. to provisions of Sect. 2-406), located 9030 Jeffery Rd., 8-2((1))09, (7.8952 acres), Dranesville Dist., R-E, V-159-78.

This application had been deferred from July 27, 1978 because of a problem with the plats and the application. Another problem existed which was discussed by the Board and it was decided to defer the hearing until October 11, 1978 at 1:30 P.M. because of an advertising problem.

//

Page 400, September 12, 1978, After Agenda Items

S-196-77 Christian Fellowship Church: Request for extension of time to construct the church. Special Permit was granted by the Board on September 20, 1977.

Mr. Barnes moved that the Christian Fellowship Church be granted an 180 day extension. Mr. Yaremchuk seconded the motion and it was unanimously carried by a vote of 4 to 0 (Mr. DiGiulian being absent).

//

Page 401, September 12, 1978, After Agenda Items

S-171-78 E. Lakin Philips & Pilar Stumbaugh: Clarification on Mr. DiGiulian's motion as to whether it was his intent to include weekends by special arrangements as requested by the applicant. As Mr. DiGiulian was not present, it was the consensus of the Board to defer clarification until he was present.

//
Page 401, September 12, 1978, After Agenda Items

The Board was in receipt of letter from Mr. Carl L. Sell, Jr. of the Planning Commission requesting deferral on application V-190-78 scheduled to be heard by the Board of Zoning Appeals on September 19, 1978. Mr. Sell was planning to request that the Planning Commission hear this application at the next meeting but it would be impossible to [illegible] it for hearing before the BZA hearing.

Mr. [illegible] moved that the Clerk notify the applicants involved of the Board's intent to defer action on this application at the meeting of September 19, 1978 until such time as the Planning Commission hears the case and forwards the recommendation. Mr. Barnes seconded the motion and it was unanimously carried by a vote of 4 to 0 (Mr. DiGiulian being absent).

// There being no further business, the [illegible]rned at 12:02 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: FEBRUARY 6, 79
DATE

Submitted to the BZA on FEB 1, 79.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on FEB. 1, 79.

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Tuesday, September 19, 1978. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The meeting began at 10:10 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case.

10:00 A.M. - JAMES B. JR., & KIRSTEN P. GREGORIE, appl. under Sect. 18-401 of the Ord. to permit addition 12' from rear property line, (25' required), located 3202 Norwich Terrace, 101-4((17))246A, (13,075 sq. ft.), Mt. Vernon Dist., R-3, V-184-78.

Mr. Gregorie stated that he built his house in 1964 and has lived there since that time. He proposed to have his mother live with him and his wife and proposed to construct a mother-in-law suite on the first floor. In the back of his property was a deep ravine and a concrete ditch. Mr. Gregorie was requesting that he be allowed to build within 12' of the rear property line. After discussing the proposed addition with neighbors, Mr. Gregorie stated that he had changed his plans and would only construct a one room addition with a small kitchenette. The new plans only called for a 5 ft. variance instead of the proposed 13 ft.

Mr. Richard C. Carter, the immediate neighbor, stated that he was in opposition to the original plans but after discussing the construction with Mr. Gregorie stated that he had no objection to the revised plan as submitted to the Board.

There was no one else to speak in favor of the application and no one to speak in opposition.

Page 402, September 19, 1978 Board of Zoning Appeals
JAMES B. JR., & KIRSTEN P. GREGORIE

R E S O L U T I O N

In application No. V-184-78 by James B. Jr., & Kirsten P. Gregorie under Section 18-401 of the Zoning Ordinance to permit addition 12'* from rear property line on property located at 3202 Norwich Terrace, tax map 101-4((17))246A, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 19, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 13,075 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED IN PART *(to allow addition 20' from rear property line) with the following limitations:

403

RESOLUTION

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 expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 403, September 19, 1978, Scheduled case for

10:10 A.M. - BARRY S. MILLER, appl. under Sect. 18-401 of the Ord. to permit division of parcels into 3 lots, 2 of which show less than required lot width, (12' shown, 80' required), located 6053 Tammy Dr., Green Meadows Subd., 81-4((23))B & 48, (65,835 sq. ft.), Lee Dist., R-3, V-190-78.

The Board was in receipt of a mememorandum from the Planning Commission requesting that the BZA defer hearing the Barry Miller application until after the Planning Commission hearing scheduled for October 4, 1978. It was the consensus of the Board to defer the application and this case was rescheduled for October 17, 1978 at 10:00 A.M.

//

Page 403, September 19, 1978, EXECUTIVE SESSION, 10:25 A.M.

Mr. DiGiulian moved that the Board of Zoning Appeals adjourn into Executive Session to discuss a legal matter. At 11:25 A.M., Mr. Yaremchuk moved that the Board reconvene into public session in order to proceed with the scheduled agenda.

//

Page 403, September 19, 1978, Scheduled case for

10:40 A.M. - LINCOLNIA ACADEMY, INC., appl. under Sect. 3-203 of the Ord. to permit continuation of private school and day care center for 35 children ages 2 - 7, from 7:00 A.M. to 6:00 P.M., located 4905 Lincoln Ave., Lincolnia Park Subd., 72-3((10))2, (31,234 sq. ft.), Mason Dist., R-2, S-183-78.

Mr. Thomas J. Dennis of 5001 Lincoln Avenue, Alexandria stated that he and his wife own and operate Lincolnia Academy. The original permit was granted in 1972 and this is a renewal request. Mr. Dennis stated that the school was for children between the ages of 2 and 7 where they are taught to live with the surrounding area and to face public schools. Mr. & Mrs. Dennis live on the same street as the school and requested that they be allowed to continue with their work. There have been no complaints received in the Zoning Office on the operation of this school.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 403, September 19, 1978, Board of Zoning Appeals
LINCOLNIA ACADEMY, INC.

RESOLUTION

Mr. DiGiulian made the following resolution:

WHEREAS, Application No. S-183-78 by LINCOLNIA ACADEMY, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to permit continuation of private school and day care center for 35 children, ages 2 - 7, on property located at 4905 Lincoln Avenue, tax map reference 72-3((10))2, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 19, 1979; and

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

1. That the owner of the subject property is the applicants.
2. That the present zoning is R-2.
3. That the area of the lot is 31,234 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

RESOLUTION

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. This permit is granted for a period of three (3) years.
8. All other requirements of Special Permit S-77-72 shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 404, September 19, 1978, Scheduled case for

11:00 A.M. - MONTESSORI SCHOOL OF CEDAR LANE, appl. under Sect. 3-103 of the Ord. to amend existing special permit, to extend hours of operation from 7:00 A.M. to 6:00 P.M. and to change the ages of children to 2½ - 12 years of age, located 3035 Cedar Lane, Merrifield Subd., 49-3((1)) 25A, (2.654 acres), Providence Dist., R-1, S-186-78.

Mr. Lance Gilbert stated that they were requesting a change in the hours and the ages of the children and also to permit 70 children for four hours or more instead of the previous limit of 30 children. Mr. Gilbert stated that these were the only changes they were requesting and that the maximum number of children would still remain at 104.

A woman whose children attended the school spoke in support of the application She stated that she used the day care facilities as well as the school and urged the Board to grant this request because of the need for good day care facilities in Fairfax County.

Mr. Walker Smith of Hilltop Road representing the Board of Trustees of the church in which the school was located urged the granting of the application.

There was no one else to speak in support of the application and no one to speak in opposition to the application.

The Board was in receipt of a memorandum from Zoning Inspector Jane Kelsey stating that there have been no violations or complaints on the operation of the school.

MONTESSORI SCHOOL OF CEDAR LANE

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-186-78 by MONTESSORI SCHOOL OF CEDAR LANE under Section 3-303 of the Fairfax County Zoning Ordinance to permit existing special permit to extend hours of operation from 7:00 A.M. to 6:00 P.M. and to change the ages of children to 2½ - 12 years of age, on property located at 3035 Cedar Lane, tax map reference 49-3((1))25A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 19, 1978; and

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

1. That the owner of the subject property is Bruen Chapel Methodist Church and that the applicant is the lessee.
2. That the present zoning is R-1.
3. That the area of the lot is 2.654 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of students shall be 104.
8. The hours of operation shall be 7:00 A.M. to 6:00 P.M.
9. The number of children staying over four (4) hours at any one time shall not exceed 70.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 405, September 19, 1978, Scheduled case for

11:20 A.M. - FAIRFAX CHILDREN'S CENTER, INC., appl. under Sect. 3-103 of the Ord. to amend existing special permit, to extend hours of operation from 7:00 A.M. to 6:00 P.M., located 4500 Roberts Road, 68-2((1))9, (12,486 sq. ft.), Annandale Dist., R-1, S-188-78.

Ms. Rosemary Giesy of 4212 Linden Street, Fairfax, represented the applicant. She informed the Board that the school was located in a church and was only requesting an extension of hours in order to accomodate the parents who work at some distance away from the school location.

In response to questions from the Board, Ms. Giesy stated that the school was licensed for 45 children at any time but that their enrollment totalled 62. She stated that their lease expired August 28, 1978 with the church but that they were developing a new lease.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 406, September 19, 1978 Board of Zoning Appeals
FAIRFAX CHILDRENS CENTER, INC.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-188-78 by FAIRFAX CHILDRENS CENTER, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to permit amendment to existing special permit and to extend hours of operation on property located at 4500 Roberts Road, tax map reference 68-2((1))9, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 19, 1978; and

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

1. That the owner of the subject property is the Trustees of St. Georges Methodist Church and that the applicant is the lessee.
2. That the present zoning is R-1.
3. That the area of the lot is 8.46 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be 7 A.M. to 6 P.M.
8. This permit is granted for a period of one year with the Zoning Administrator being empowered to grant four (4) one year extensions.
9. All other conditions of S-157-73 shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 407, September 19, 1978

The Board recessed for lunch at 12:00 P.M. and reconvened at 1:35 P.M. to continue with the scheduled agenda.

//

Page 407, September 19, 1978, Scheduled case for

1:00 P.M. - CENTRAL FAIRFAX SERVICES, INC., appl. under Sect. 3-103 of the Ord. to permit operation of school of general education in existing church, located at 2709 Hunter Mill Road, 37-4((1))23, (11.121 acres), Centreville Dist., R-1, S-167-78.

Ms. Maria Alexander, Executive Director, 6922 King Louis Drive, Alexandria stated that the school serves approximately 30 clients, all over the age of 21. She stated that they would like to be able to include the ages 18 and above. She stated that the hours for the school would remain the same, being 10 A.M. to 4:30 P.M. Ms. Alexander stated that the students arrive by bus. She informed the Board that the school has changed the name slightly since they begin operating in 1967. The purpose of the school is to provide training, education and work experience for adults that are retarded. She stated that they teach them whatever they need to know.

In response to questions from the Board, Ms. Alexander stated that the lease was renewable at the end of each year. She stated that they were hoping to be able to have their own facility within the next six years.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 407, September 19, 1978 Board of Zoning Appeals
CENTRAL FAIRFAX SERVICES, INC.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-167-78 by CENTRAL FAIRFAX SERVICES, INC., under Section 3-103 of the Fairfax County Zoning Ordinance to permit school of general education in existing church on property located at 2709 Hunter Mill Road, tax map reference 58-4((28))61, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 19, 1978; and

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

1. That the owner of the subject property is the Trustees of Fairfax Unitarian Church and the applicant is the lessee.
2. That the present zoning is R-1.
3. That the area of the lot is 11.121 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

408

RESOLUTION

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The number of memberships shall be 30.
8. The hours of operation shall be 10:00 A.M. to 4:30 P.M.
9. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three (3) one year extensions.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 408, September 19, 1978, Scheduled case

1:20 P.M. - CENTRAL FAIRFAX SERVICES, INC., appl. under Sect. 3-103 of the Ord. to permit school of general education in existing church, located at 8922 Little River Turnpike, 58-4((28))61, (3.835 acres), Providence Dist., R-1, S-168-78.

As the required notices were not in order in this application, the Board deferred the case until October 17, 1978 at 11:00 A.M. for proper notification.

//

Page 408, September 19, 1978, Scheduled case for

1:40 P.M. - A. EDWARD RANEY, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's refusal to process application for a special permit (S-209-78) to include miniature golf course, located 6127 Clifton Rd., Twin Lakes Subd., 66-1((1))pt. of 13, (59.72 acres), Springfield Dist., R-1, A-218-78.

Mr. Covington of the Zoning Office explained to the Board that when Mr. Raney originally applied the miniature golf course and the golf driving range were two uses allowed under Group VII of the old Ordinance as a special exception from the Board of Supervisors. When the new Ordinance became effective in August, it eliminated the miniature golf course completely from this zone and changed the driving range to a special permit. Mr. Covington stated that the miniature golf course was no longer allowed in this residential zone from any type of Board. When questioned by the Board, Mr. Covington stated that the application had been filed June 1, 1978.

Mr. Jeff Silverstein, representing Mr. Raney, reviewed the facts surrounding this application for the Board. He stated that the application was filed June 1, 1978 and that the new Ordinance did not take effect until August 14, 1978. The application was filed under the old Code and was to be heard by the under the old Code on September 6, 1978 by the Board of Supervisors. Mr. Silverstein stated that they received notice five days before this hearing that they would now have to come under the new Code. According to Mr. Silverstein, it was common sense that if the original application had been filed under the old Code that it would be heard under the old Code. Mr. Silverstein asked that the Board of Zoning Appeals consider this application under the old Code. A particular date had been chosen for a cut-off and Mr. Silverstein believed that any application filed prior to that date should be considered under the old statutes.

During discussion, Mr. Yaremchuk stated that there was not a grandfather clause in the Ordinance. Mr. Smith stated that there has to be a cut-off date. According to the staff report, the application would have had to have been heard before August 14th to be considered under the old Ordinance. Mr. Smith stated that the Board did not have any authority to grant a use that was not allowed in the zone.

There was no one to speak in support of the application and no one to speak in opposition of the application.

Page 409, September 19, 1978 Board of Zoning Appeals
A. EDWARD RANEY

RESOLUTION

Mr. DiGiulian moved that if this application was in fact filed originally as a special exception on June 1, 1978 and because of the fact that the Board of Supervisors were not limited to a 60 day hearing requirement and this application was duly scheduled on the Board's agenda, that the decision of the Zoning Administrator in A-218-78 be upheld.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 409, September 19, 1978, Scheduled case for

1:40 P.M. - A. EDWARD RANEY, appl. under Sect. 8-601 of the Ord. to permit golf driving range with pro shop, located 6127 Clifton Road, Twin Lakes Subd., 66-1((1))pt. of 13, (59.72 acres), Springfield Dist., R-1, S-209-78.

Mr. Smith requested that as the plats indicated the miniature golf course that new plats be submitted to the Board. He stated that the Board would proceed with the hearing.

Mr. Jeff Silverstein, representing the applicant, stated that they would submit revised plats. This was an application for a driving range and a pro shop which was authorized under Sect. 8-601 and 8-602 of the new Zoning Ordinance. Mr. Silverstein stated that the Board should consider two points: (1) the fact that the Fairfax County Park Authority has stated that they feel that such a proposed facility would be useful in this area based upon the demand; (2) that the Park Authority would probably prefer that Mr. Raney construct the facility as it would save the taxpayers some money. In addition, as this driving range was adjacent to the Twin Lakes Golf Course, it would serve the overflow from Twin Lakes.

Mr. Silverstein stated that the plan called for a vast amount of open space with low level structures. Certain parcels of land are intended for dedication along Clifton and Braddock Roads for enlargement of these roads. A very substantial buffer of trees would be built which would make it almost impossible for people driving on Braddock Road and parts of Clifton Road to view the facility. Mr. Silverstein stated that a facility such as this was temporary in nature and that if sometime in the future development was to take place, that the proposed facility would not have damaged the area or the growth of the area. As far as the traffic impact, the Park Authority's Twin Lakes facility already exists so that this would not cause a substantial impact. Mr. Silverstein stated that he believed the whole concept of a driving range was compatible with the surrounding area. He stated that the facility would be well used and well maintained. He could see no clear cut reason why this facility should not be located here.

In response to questions from the Board, Mr. Silverstein stated that the proposed hours of operation would be approximately 10 A.M. to 10 P.M., seven days a week. He further indicated that 91 parking spaces were provided on the plat. Mr. DiGiulian stated that if the 91 spaces were computed to include the miniature golf course, then the parking could be reduced. The Board discussed the size of the pro shop and what it would contain.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 409, September 19, 1978 Board of Zoning Appeals
A. EDWARD RANEY

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-209-78 by A. EDWARD RANEY under Section 8-601 of the Fairfax County Zoning Ordinance to permit golf driving range with pro shop and accessory building to house tractor on property located at 6127 Clifton Road, tax map reference 66-1((1))pt. of 13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on Tuesday, September 19, 1978; and

RESOLUTION

410

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

1. That the owner of the subject property is A. Edward Raney.
2. That the present zoning is R-1.
3. That the area of the lot is 157.7371 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departmentsof the County of Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be 10 A.M. to 10 P.M., seven days a week.
8. The number of parking spaces shall be 72.
9. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three one-year extensions.
10. The effects of the lights shall be confined to the site.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 410, September 19, 1978, After Agenda Items

V-7-77 & V-35-77, KLARE, LTD: The Board was in receipt of a letter from Mr. Charles Runyon requesting that an extension be granted on the variances granted by the Board. One six-month extension had already been granted and is due to expire October 4, 1978. The letter cited the difficulties encountered by the applicants in getting the necessary approvals from the County.

Mr. DiGiulian moved that KLARE, LTD. be granted an additional extension of 60 days from September 15, 1978 on both V-7-77 and V-35-77 for the reasons cited in the letter dated September 11, 1978. Mr. Barnes seconded the motion. The motion passed unanimously by a vote of 5 to 0.

//

Page 411, September 19, 1978, After Agenda Items

The Board was in receipt of a letter from the Way of Faith Christian Training Center requesting an out-of-turn hearing for the addition of a trailer for classroom purposes. It was the consensus of the Board that this application be scheduled for the night meeting of October 24, 1978 at 8:40 P.M.

411

//

Page 411, September 19, 1978, After Agenda Items

S-171-78, E. Lakin Phillips & Pilar Stumbaugh: Clarification of Mr. DiGiulian's motion as to whether the intent of the motion was to include "weekends by special arrangement" as requested by Ms. Stumbaugh.

The Board discussed the issue and as the question of weekends was not addressed at the hearing and no one spoke for or against it and because the motion specifically stated Monday through Friday, Mr. Barnes moved that the Board leave the motion as it was worded by Mr. DiGiulian at the time of the hearing. Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

// There being no further business, the Board adjourned at 2:55 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: FEBRUARY 21, 79
DATE

Submitted to the BZA on FEB. 17, 79
Submitted to the other departments,
Board of Supervisors and Planning
Commission on FEB. 17, 79.

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Tuesday Evening, September 26, 1978. All Board members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes, John Yaremchuk and Barbara Ardis.

The meeting began at 8:05 P.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 8:00 P.M. case.

8:00 P.M. - CHARLOTTE L. STOKES, appl. under Sect. 3-203 of the Ord. to permit beauty parlor as home occupation, located 3604 Oakland Dr., Wilton Woods Subd., 82-4((7))18, (20,000 sq. ft.), Lee Dist., R-2, S-191-78.

The Board was in receipt of a letter from Ms. Stokes requesting that her application be withdrawn without prejudice.

Mr. Barnes moved that the applicant be allowed to withdraw without prejudice. Mr. DiGiulian seconded the motion.

Mr. Richard D. Schoen of 3608 Oakland Drive, a next door neighbor, informed the Board that he opposed the application and had informed Mrs. Stokes of his opposition. Mr. Schoen requested the Board to withdraw the application with prejudice. Mr. Barnes stated that his motion was to allow it to be withdrawn without prejudice. The motion passed unanimously by a vote of 5 to 0.

//

Page 412, September 26, 1978, After Agenda Items

S-262-77 Central Christian Church: The Board was in receipt of a letter from the Central Christian Church requesting a six month extension on the special permit granted by the Board on November 8, 1977.

Mr. DiGiulian moved that Central Christian Church be granted a six month extension. Mr. Barnes seconded the motion. The motion passed unanimously by a vote of 5 to 0.

//

Page 412, September 26, 1978, After Agenda Items

Loyola Federal Savings and Loan Association & The Boyer Companies, Ltd: The Board was in receipt of a letter from Ms. Frances Becker requesting an out-of-turn hearing for the variances for the Harbor View Subdivision.

Mr. DiGiulian moved that they be granted an out-of-turn hearing for November 7th.

Mr. Yaremchuk moved that they be granted an out-of-turn hearing for November 14th. Mr. Barnes seconded the motion for November 14th and it was passed.

//

Page 412, September 26, 1978, Scheduled case for

8:20 P.M. - GREENBRIAR CIVIC ASSOCIATION, appl. under Sect. 3-303 of the Ord. to amend existing special use permit to construct addition to civic center, located east side of Stringfellow Road, just north of Melville Lane, 45-3((1))11, (1.5181 acres), Springfield Dist., R-3, S-192-78.

Mr. Ken Batchellor of 4204 Maylock Lane, Fairfax, represented the Greenbriar Civic Association. He stated that they proposed to construct a single story addition to the existing civic center in order to have meetings, to house the newspaper staff, etc. In response to questions from the Board, Mr. Batchellor stated that the civic center adjoins open space and was virtually invisible. He stated it was their intent to construct the addition so as to blend in with the existing building as far as materials and styling. He stated that there are twelve parking spaces shown on the plat and that there was additional parking behind the building next to the tennis courts. He stated that they have not had any problem with parking on the facility.

Page 413, September 26, 1978
GREENBRIAR CIVIC ASSOCIATION
(continued)

There was no one to speak in favor of the application and no one to speak in opposition.

Mr. Covington informed the Board that the previous resolution granted on this use was attached to the staff report.

Page 413, September 26, 1978 Board of Zoning Appeals
GREENBRIAR CIVIC ASSOCIATION

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-192-78 by GREENBRIAR CIVIC ASSOCIATION under Section 3-303 of the Fairfax County Zoning Ordinance to permit construction of addition to civic center on property located at east side of Stringfellow Road, tax map reference 45-3((1))11, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on September 26, 1978; and

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

1. That the owner of the subject property is GREENBRIAR CIVIC ASSOCIATION.
2. That the present zoning is R-3.
3. That the area of the lot is 1.5186 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Mangement.
7. All other requirements of special permit S-39-74 shall remain in effect.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 414, September 26, 1978, DISCUSSION ON SCHOOL BUSES: LIGHTING & PAINTING

At a previous meeting, the Board had requested the Clerk to research the files in order to locate a memorandum from the County Attorney's Office regarding the painting and lighting of private school buses. The memorandum read as follows:

> "All buses and other vehicles used for transporting children shall be painted yellow with the words 'School Bus, Stop, State Law' on the front and rear in letters at least six inches high, except that the words 'School Bus' on the front may be in letters at least four inches high if space is limited, or with only the words 'School Bus' on front and rear in letters in letters at least eight inches high, and shall be equipped with such warning devices as are required by state law.
>
> Those vehicles which are prohibited by state law from being marked in the manner required by this condition may not be used to transport children."

Chairman Smith suggested that in the Board's motion regarding school vehicles that maybe the Board should just refer to coloring and lighting and the words School Bus - Stop but leave off the part about state law. Ms. Ardis stated that she did not believe that would solve the problem as George Symanski's objections had been that the wording was not tied into the land use issue. Chairman Smith stated that it was. Mr. Yaremchuk stated the Board should leave the issue alone since it had asked for advice from the County Attorney's Office. Mr. DiGiulian stated that the Board had agreed that it would not enforce that part of the special permit for Different Drum that dealt with the busing coloring and lighting requirement. The Board did not agree about future cases. Mr. Yaremchuk stated that the Board had asked for Mr. Symanski's opinion and it was that the Board of Zoning Appeals can't require this kind of condition on special permits. Mr. Yaremchuk stated that if the Board did, it would be contrary to Judge Plummer's decision.

Mr. Covington stated that this matter came up before and Mr. Tate took the matter to Court and the Board lost the case. The case was the Frazier matter. Chairman Smith argued that Mr. Stevens, formerly of the County Attorney's Office, had stated that if the Board stayed away from the word "State Law" that they had the right to set these conditions based on land use.
Mr. Barnes stated that private buses should be marked and lighted just like public school vehicles. Mr. Covington stated again that the Board of Zoning Appeals did not have the prerogative to set this kind of conditions and that if they did they would be stepping beyond the bounds of zoning. Ms. Ardis stated that the County cannot be more restrictive than the State. Mr. Smith stated that it would not be more restrictive. He stated that it would just require the private schools to comply the same way as the public schools.

//

Page 414, September 26, 1978, Scheduled case for

8:40 P.M. - JAMES F. & KATHLEEN SAUER, appl. under Sect. 3-403 of the Ord. to amend existing special use permit to reflect change of ownership for day care center, located 7000 Arlington Blvd., 50-4((16))127, 128 & 182A, (3.511 acres), Providence Dist., R-4, S-193-78.

The required notices were in order. Mr. James Sauer of 1806 Susquehannock Drive in McLean stated that he and his wife were the applicants. The day care center was presently operating in an existing church. Mrs. Sauer has had five years of experience of this type of work. Mr. Sauer stated that he had had financial training which would enable him to help with the financial management of the establishment. He stated that both he and his wife enjoy working with children. In response to questions from the Board, Mr. Sauer stated that the lease with the church was for two years. The maximum number of children requested was 60 but at the present time there are only 39 between the ages of 2 and 5 and for the after school ages of 6 through 7. Mr. Sauer stated that they were requesting the ages be from 2 to 10. He further indicated that their hours of operation would be 7 A.M. to 6 P.M., five days a week, twelve months a year. Chairman Smith inquired if the previous owner had ever had as many as 60 children there at any one time and was informed no.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

DO NOT COPY

RESOLUTION

Ms. Ardis made the following motion:

WHEREAS; Application No. S-193-78 by JAMES F. & KATHLEEN SAUER under Section 3-403 of the Fairfax County Zoning Ordinance to permit operation of a day care center on property located at 7000 Arlington Boulevard, tax map reference 50-4((16))127, 128 & 182A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 26, 1978; and

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

1. That the owner of the subject property is the Boulevard Baptist Church and that the applicants are the lessees.
2. That the present zoning is R-4.
3. That the area of the lot is 2.1192378 acres.
4. That compliance with the Site Plan Ordinance 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 Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the udty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The maximum number of students shall be 60 children, ages 2 through 10.
8. The hours of operation shall be 7 A.M. to 6 P.M., Monday through Friday, twelve months a year.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

// There being no further business, the Board adjourned at 8:52 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: _____
DATE

Submitted to the BZA on _____.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on _____.

The Regular Meeting of the Board of Zoning Appeals was held in the Massey Building on Tuesday, October 3, 1978. The following Board members were present: Daniel Smith, Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The meeting began at 10:10 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10:00 A.M. case.

10:00 A.M. - ESTATES OF INEZ A. DIGIULIAN & WILMER E. LYLES, appl. under Sect. 18-401 of the Ord. to allow construction of 7-story building 65' from Interstate 95 & 2 1-story buildings 55' & 60' from I-95, (75' required by Sect. 2-414), located 6422. 6430, 6500 & 6530 Loisdale Ct., 90-2((1))40, 41, 41A & 45, (7.3754 acres), Lee Dist., C-7, V-172-78.

Mr. B. Mark Fried, attorney, First American Bank Building, Springfield Mall, represented the applicants. This variance was in connection with a recent rezoning application No. 77-L-117 which concerns the 7 acre tract and of No. 77-L-114 which consists of 15 acres contiguous to the property. The citizens in the area and the County staff are concerned about adding to the traffic congestion in this area. After many meetings with the Planning Commission, the citizens, and the Board of Supervisors, it was the consensus of everyone concerned that traffic be directed down Loisdale Court in back of the proposed office buildings to eliminate this congestion. The applicants are requesting permission from the Board to move the building back from the off-ramp of I-95 so that there would not be double leading traffic in the rear of the building.

Mr. Yaremchuk stated that after looking at the development plans he noticed that a 7-story building and 2 15 story buildings were indicated. He questioned the 2 1-story buildings in the advertisement. Mr. Fried stated that the applicants are asking for a little less because now some are 1 story building and will only be 60' from I-95.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

In Application No. V-172-78 by ESTATES OF INEZ A. DIGIULIAN & WILMER E. LYLES under Section 18-401 of the Fairfax County Zoning Ordinance to permit construction of 7-story building 65' from Interstate 95 & 2 1-story buildings 55' & 60' from Interstate 95 on property located at 6422-6430, 6500 & 6530 Loisdale Court, tax map reference 90-2((1))40, 41, 41A & 45, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 3, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-7.
3. The area of the lot is 7.3754 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow.

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

417

R E S O L U T I O N

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 has started or unless renewed by action of this Board prior to expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 417, October 3, 1978, Scheduled case for

10:10 A.M. - RALPH J. REINECKE, ET. AL., appl. under Sect. 18-401 of the Ord. to allow conventional subdivision with two (2) pipestem lots (a variance to the provisions of Sect. 2-406), located 10100 Lawyers Rd., 37-2((1))7, (3.5 acres), Centreville Dist., R-1, V-162-78. (Deferred from August 2, 1978 for Notices).

Mr. Pacuilli, an engineer in Vienna, represented the applicant. He stated that the Board had actually heard the case before in part on August 2, 1978. The application is to permit two lots, one of which will be a pipestem lot. By a strict interpretation of the Ordinance, it would result in the applicant being denied the reasonable use of the land. Mr. Pacuilli stated that by granting the variance it would not have an adverse effect on the surrounding neighbors. He stated that the applicant would comply with all provisions of the Subdivision Control Ordinance and the Public Facilities Manual for Pipestem Lots.

In response to questions from the Board, Mr. Pacuilli stated that the property owner was Mr. Reinecke and that West Homes was the contract purchaser of the property.

There was no one to speak in favor of the application. The following person spoke in opposition to the application. Mr. Frank Moore, an adjoining property owner, stated that he was very sensitive to the rights of people to use their own property but was not convinced that this right could be exercised at the threat of property values of the adjoining property owners. He stated that this subdivision would cause uncontrollable runoff and problems with the sanitation fields. Mr. Moore stated that he could see no basis for the claim applicant's claim that this variance was necessary. He stated that this property has been traded several times over the past years and it seemed to him that the individuals were well aware of the problems existing on the property. He asked the Board what protection he would have from runoff. Mr. Smith informed Mr. Moore that this problem would come under Subdivision Control. Mr. Moore stated that as a matter of record, he opposed this request.

The Board was in receipt of two letters in opposition to the application which Chairman Smith read into the record. These letters were from Mr. and Mrs. John A. Rizzo and the other from Mr. Bruce R. Condon.

Mr. Barnes asked Mr. Pacuilli about the outlot and was informed that it was to solve the problem of access to Lawyers Road. He stated that it was to solve the problem of site distance. In response to Ms. Ardis' question regarding the distance of the nearest sewer hookup, Mr. Pacuilli stated that he guessed it to be about 2,000 ft. He stated that Carriage Hill subdivision does not have sewer nor does the adjoining subdivision to the west.

There was no one else to speak in support or in opposition to the application.

Page 417, October 3, 1978 Board of Zoning Appeals
RALPH J. REINECKE, ET. AL.

R E S O L U T I O N

In Application No. V-162-78 by RALPH J. REINECKE, ET. AL. under Section 18-401 of the Zoning Ordinance to permit conventional subdivision with two pipestem lots (a variance to the provisions of Sect. 2-406) on property located at 10100 Lawyers Road, tax map 37-2((1))7, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

R E S O L U T I O N

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 2, 1978 and October 3, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 3.5 acres.
4. That the applicant's property is exceptionally long and narrow in shape.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 418, October 3, 1978, Scheduled case for

10:20 A.M. - DAVID C. JEANES, appl. under Sect. 18-401 of the Ord. to allow construction of garage 10.5 ft. from side property line, (15 ft. & total of 40 ft. required by Sect. 3-107), located 4012 Guinea Rd., Lee Forest Subd., 58-4((8))15, (22,997 sq. ft.), Annandale Dist., R-1, V-196-78.

Mr. David Jeanes of the above address stated that he was requesting the variance for several reasons. One was the lot arrangement. This was a corner lot which under the Ordinance means that the applicant has two side yards and two front yards. Mr. Jeanes proposed to construct the garage in line with the existing dwelling and proposed to attach it to the house so as to have access from the house. The construction would come within 10.5 ft. of the side property line. Mr. Jeanes stated that his house was a very modest Cape Cod built in the early 50s. He stated that he would like the garage for a workshop area. Mr. Jeanes stated that the dimensions of the proposed garage allowed for a 3 ft. platform and construction of a fireplace on that end of the house also. In response to questions from the Board, Mr. Jeanes stated that the garage would be constructed out of the same materials as the existing house. He stated that he has lived on the property for four years and intends to keep the house.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 418, October 3, 1978 Board of Zoning Appeals
DAVID C. JEANES

R E S O L U T I O N

In Application No. V-196-78 by DAVID C. JEANES under Section 18-401 of the Zoning Ordinance to permit construction of a garage 10.5 ft. from the side property line, (15 ft. & total of 40 ft. required by Sect. 3-107) on property located at 4012 Guinea Road, Lee Forest Subd., tax map 58-4((8))15, County of Fairfax, Virginia, Ms. Ardis 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 3, 1978; and

419

RESOLUTION

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 22,997 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 419, October 3, 1978, Scheduled case for

10:30 A.M. - P - H HICKORY CREEK, INC., appl. under Sect. 18-401 of the Ord. to allow house to remain 9.4 ft. from side property line (12 ft. & total of 40 ft. required by Sect. 3-107), located 856 Jaysmith St., Hickory Creek Subd., 12-2((7))34, (30,560 sq. ft.), Dranesville Dist., R-1 (c), V-197-78.

Mr. Robert Lawrence informed the Board that the Clerk was unable to locate the notices in this application and he requested a deferral until later in the day to allow him time to obtain his file copy of the notices. The Board agreed to do so.

//

Page 419, October 3, 1978, Scheduled case for

10:40 A.M. - DONALD A. YUNKER, appl. under Sect. 18-401 of the Ord. to allow construction of sun deck to 15.2 ft. from rear property line, (19 ft. required by Sect. 3-207 & Sect. 2-412), located 3807 Moss Brooke Court, Ridgelea Hills Subd., 58-4((28))63, (10,837 sq. ft.), Providence Dist., R-2, V-204-78.

Mr. Yunker of the above address stated that he was requesting a variance in order to construct a sun deck behind his house. In back of the property was a small park area. This was a new subdivision and not many homes were sold as yet. Mr. Yunker informed the Board that he purchased the property in June of 1978. He stated that this was a cluster subdivision and the proposed deck would be open. He stated that it would be a carbon copy of his neighbors that adjoin the property. Chairman Smith stated that Mr. Yunker could have narrowed the deck down a bit and constructed it without a variance. Mr. Yunker stated that his proposed deck was in keeping with the surrounding decks in the area. Chairman Smith stated that he could also move the deck over to the side property and still construct it without a variance. Mr. Yunker stated then that he would not have access to it. Mr. Yunker stated that the lot was very irregular in shape in that there was a very large front yard and a very small rear yard.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

DONALD A. YUNKER

RESOLUTION

In Application No. V-204-78 by DONALD A. YUNKER under Section 18-401 of the Zoning Ordinance to permit construction of sun deck 15.2 ft. from rear property line (19 ft. required) on property located at 3807 Moss Brooke Court, tax map 58-4((28))63, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 3, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2 (c).
3. The area of the lot is 10,837 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 sujbect application is 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 expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Smith)(Mr. DiGiulian being absent).

Page 420, October 3, 1978, Scheduled case for

10:50 A.M. - SOMERSET SOUTH ASSOC., BO-BUD CONSTR. CO. OF VA., PARTNER., appl. under Sect. 18-406 of the Ord. to allow fence to be 6 ft. in height within the front yard (4 ft. maximum height required by Sect. 10-105), 9701 Ceralene Dr., Somerset South Subd., 69-1((10))72, (13,702 sq. ft.), Annandale Dist., R-2 (c), V-198-78.

Mr. Gerald L. Rosenthal of 70615 McWhorter Place in Annandale stated that the variance was requested in order to construct a 6 ft. high fence which would face Braddock Road. The fence was necessary to protect the rear of the house from traffic, noise, pollution, etc.

There was no one to speak in favor of the application and no one to speak in opposition.

SOMERSET SOUTH ASSOC., BO-BUD
CONSTRUCTION CO. OF VA., PARTNER.

RESOLUTION

Ms. Ardis made the following motion:

WHEREAS, Application No. V-198-78 by SOMERSET SOUTH ASSOC., BO-BUD CONSTRUCTION CO. OF VA., PARTNER., under Section 18-406 of the Fairfax County Zoning Ordinance to permit existence of fence to be 6 ft. in height within the front yard (4 ft. maximum height required) on property located at 9701 Ceraline Dr., tax map reference 69-1((10))72, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

421

R E S O L U T I O N

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on October 3, 1978; and,

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

THAT non-compliance was no fault of the applicant.

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

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 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.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Smith)(Mr. DiGiulian being absent).

Page 421, October 3, 1978, Scheduled case for

11:00 A.M. - SOMERSET SOUTH ASSOC., BO-BUD CONSTRUCTION CO. OF VA., PARTNER., appl. under Sect. 18-406 of the Ord. to allow fence to be 6 ft. in height within the front yard (4 ft. maximum height required by Sect. 10-105), located 9621 Ceralene Dr., Somerset South Subd., 69-1((10))35A, (19,097 sq. ft.), Annandale Dist., R-2 (c), V-199-78.

Mr. Gerald L. Rosenthal of 70615 McWhorter Place in Annandale stated that the application was to construct a 6 ft. fence along Braddock Road which was to the rear of the houses in order to protect it from the traffic noise, air pollution, and for the safety of the occupants of the dwelling.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. V-199-78 by SOMERSET SOUTH ASSOC., BO-BUD CONSTRUCTION CO. OF VA., PARTNER., under Section 18-406 of the Fairfax County Zoning Ordinance to permit fence to be 6 ft. within front yard (4 ft. maximum height required) on property located at 9621 Ceralene Dr., tax map reference 69-1((10))35A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on October 3, 1978; and,

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

That non-compliance was no fault of the applicant.

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

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 GRANTED with the following limitation:

R E S O L U T I O N

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.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Smith)(Mr. DiGiulian being absent).

Page 422, October 3, 1978, Scheduled case for

10:30 A.M. - P - H HICKORY CREEK, INC., appl. under Sect. 18-406 of the Ord. to allow house to remain 9.4 ft. from side property line, (12 ft. & total of 40 ft. required by Sect. 3-107), located 856 Jaysmith St., Hickory Creek Subd., 12-2((7))34, (30,560 sq. ft.), Dranesville Dist., R-1 (c), V-197-78.

This application had been deferred earlier in the morning in order for the attorney to obtain his file copies of the notification letters and receipts. After examination, the Clerk certified that the notices were in order.

Mr. Robert Lawrence, an attorney in Fairfax, represented the applicant. He stated that P-H Hickory Creek was the owner of the subject property. The developer was Pinewood Development Co. Mr. James L. Smith was the former developer but is no longer handling the development. Mr. Lawrence stated that when the property was staked out, that the corner stake was placed 9.4 ft. from the property line instead of the required 12 ft. This mistake was discovered during the wall checks by the engineer, Mr. Monaco. Mr. Lawrence stated that Mr. Monaco was not the original engineer and this engineering problem was not discovered until the building was under roof. Mr. Lawrence stated that the lot has ample room to relocate the building but it was decided to proceed through the variance section of the Ordinance under the mistake section.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

In Application No. V-197-78 by P-H HICKORY CREEK, INC. under Section 18-406 of the Zoning Ordinance to permit house to remain 9.4 ft. from side property line (12 ft. & total of 40 ft. required by Sect. 3-107) on property located at 856 Jaysmith St., tax map reference 12-2((7))34, County of Fairfax, Virginia, Ms. Ardis 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 with the by-laws of the Fairfax County Board of Zoning Appeals, and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 3, 1978; and

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

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

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 GRANTED with the following limitations:

Page 423, October 3, 1978 Board of Zoning Appeals
P-H HICKORY CREEK, INC.
(continued)

RESOLUTION

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.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 423, October 3, 1978, Scheduled case for

11:10 A.M. - SOMERSET SOUTH ASSOC., BO-BUD CONST. CO. OF VA., PARTNER., appl. under Sect. 18-406 of the Ord. to allow fence to be 6 ft. in height within the front yard (4 ft. maximum height required by Sect. 10-105), located 9617 Ceralene Dr., Somerset South Subd., 69-1((1))33A, (18,276 sq. ft.), Annandale Dist., R-2 (c), V-200-78.

Mr. Gerald L. Rosenthal of 7615 McWhorter Place in Annandale, stated that this request was to allow a 6 ft. fence in the rear yard which was treated as a front yard under the Ordinance. The purpose of the fence was to cut down on the amount of noise, trash and lights coming from Braddock Road. The fence was placed on the property at the time of construction and the applicants were requesting that it be allowed to remain.

There was no one to speak in support of the application and no one to speak in opposition of the application.

Page 423, October 3, 1978 Board of Zoning Appeals
SOMERSET SOUTH ASSOC., BO-BUD CONST.
CO. OV VA., PARTNER.

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. V-200-78 by SOMERSET SOUTH ASSOC., BO-BUD CONSTRUCTION CO. OF VA., PARTNER., under Section 18-406 of the Fairfax County Zoning Ordinance to permit fence to be 6 ft. in height within front yard (4 ft. maximum height required by Sect. 10-105) on property located at 9617 Ceralene Dr., tax map reference 69-1((1))33A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on October 3, 1978; and

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

That non-compliance was no fault of the applicant.

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

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 GRANTED with the following limitations:

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.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Smith)(Mr. DiGiulian being absent).

Page 424, October 3, 1978, Scheduled case for

11:20 A.M. - SOMERSET SOUTH ASSOC., BO-BUD CONST. CO. OF VA., PARTNER., appl. under Sect. 18-406 of the Ord. to allow fence to be 6 ft. in height within the front yard (4 ft. maximum height required by Sect. 10-105) located 4612 Herend Pl., Somerset South Subd., 69-1((10))32, (11,416 sq. ft.), Annandale Dist., R-2 (c), V-201-78.

Mr. Gerald Rosenthal of 7615 McWhorter Place in Annandale stated that they were requesting permission to erect a fence or leave remaining the 6 ft. fence in the front yard of the subject lot for the purpose of eliminating noise and traffic sounds and air pollution as well as trash from Braddock Road.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Page 424, October 3, 1978, Board of Zoning Appeals
SOMERSET SOUTH ASSOC., BO-BUD CONST. CO.
OF VA., PARTNER.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. V-201-78 by SOMERSET SOUTH ASSOC., BO-BUD CONSTRUCTION CO. OF VA., PARTNER., under Section 18-406 of the Fairfax County Zoning Ordinance to permit fence to be 6 ft. in height within front yard (4 ft. maximum height required by Sect. 10-105) on property located at 4612 Herend Pl., Somerset South Subd., tax map reference 69-1((10))32, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on October 3, 1978; and,

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

That non-compliance was no fault of the applicant.

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

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 GRANTED with the following limitations:

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.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Smith) (Mr. DiGiulian being absent).

Page 424, October 3, 1978, Scheduled case for

11:40 A.M. - JOHN P. FOREST, D.D.S., appl. under Sect. 3-103 of the Ord. to permit home professional dental office, located 8717 Little River Turnpike, Ashton Jones Subd., 59-3((9))2A, (38,051 sq. ft.), Annandale Dist., R-1, S-203-78.

As there was a mixup with the notification process, the Board deferred this application for hearing until November 7, 1978 at 10:00 A.M. The Clerk was requested to forward a copy of the notification letter and the staff report to Dr. Forest.

//

Page 425, October 3, 1978, Scheduled Case for

12:00 P.M. - HORACE N. MOORE, JR., ET. AL. & COMMONWEALTH INVESTMENT SERVICE CORP., appl. under Sect. 18-401 of the Ord. to allow variance of lot width for proposed lots 5 & 5, (12' shown, 200' required), located 1411 Hunter Mill Road, 18-2((1))34 & 34A, (15.24 acres), Dranesville Dist., R-E, V-158-78. (Deferred from September 7, 1978 for reevaluation).

The Board was in receipt of a letter from Mr. William Donnelly stating that the variance was no longer necessary under the new Zoning Ordinance because his clients had exercised other alternatives. Mr. Donnelly requested that the application be withdrawn.

Mr. Yaremchuk moved that in view of the attorney's explanation regarding the application, that they be allowed to withdraw. Ms. Ardis seconded the motion and it was unanimously carried by a vote of 4 to 0 (Mr. DiGiulian being absent).

//

Page 425, October 3, 1978, Scheduled Case for

A.A.I. - MARSHALL H. CURTIS & ALDEN, INC., appl. under Sect. 30-6.6 of the Ord. to permit building in C district to be erected closer to R districtboundary than the required 25', located 9413 Burke Lake Road, 78-1((1))33, (1.730 acres), Springfield Dist., CN, V-136-78.

This application had been deferred for hearing from August 2, 1978. However, under the new Zoning Ordinance effective August 14, 1978, this variance was no longer necessary and was administratively withdrawn.

//

Page 425, October 3, 1978, Scheduled Case for

THE TOPAZ CORPORATION, appl. under Sect. 30-6.6 of the Ord. to permit variance of lot width for Lot 3-D, (118.38' shown, 150' required), located 1427 Trap Rd., 28-2((1))8, (1.672 acres), Dranesville Dist., RE-1, V-194-78.

This application has been administratively withdrawn as it is no longer required under the new Zoning Ordinance effective August 14, 1978. **

**V-194-78 was reinstated for hearing purposes as of February 5, 1979 as it was determined that the variance <u>is</u> still required under the new Ordinance. This application was scheduled to be heard on March 13, 1979.

//

Page 425, October 3, 1978, Scheduled Case for

CONTEMPORARY CONSTRUCTION CORP., appl. under Sect. 30-6.6 of the Ord. to permit 1) variance to front setback from Mt. Vernon Circle (30.05' shown, 45' required); 2) variance to minimum side yard setback, (9.5' shown, 10' required) & (3) variance to total side yard setback (27.5' shown, 30' required), located 9317 Mt. Vernon Circle, Vernon on the Potomac Subd., 110-3((11))71, (18,343 sq. ft.), Mt. Vernon Dist., RE-0.5(C), V-202-78.

This application was administratively withdrawn as it was no longer required under the new Zoning Ordinance effective August 14, 1978.

//

Page 425, October 3, 1978, After Agenda Items

JAMES L. BRADY & SARAH ANN ADAMS, appl. under Sect. 18-401 of the Ord. to permit construction of garage 9.1' from Pennsylvania Blvd., (30' required), located 8425 Camden St., Vernon on the Potomac Subd., 102-3((3))(41)1, 2, 3 & 4, (7,500 sq. ft.), Mt. Vernon Dist., R-3, V-165-78.

The Board of Zoning Appeals held a public hearing on the above application on September 7, 1978 and deferred decision pending the outcome of a Board of Supervisors' hearing on the vacation of Pennsylvania Boulevard. The Board of Zoning Appeals was in receipt of a letter from the applicants requesting that the application be withdrawn.

Page 426, October 3, 1978, After Agenda Items
JAMES L. BRADY & SARAH ANN ADAMS
V-165-78

Mr. Barnes moved that the application of James L. Brady & Sarah Ann Adams, V-165-78, be allowed to withdraw. Mr. Yaremchuk seconded the motion and it was carried by a vote of 4 to 0 (Mr. DiGiulian being absent).

//

Page 426, October 3, 1978, After Agenda Items

S-183-78 LINCOLNIA ACADEMY, INC: The Board of Zoning Appeals held a public hearing on the application of Lincolnia Academy, Inc. on September 19, 1978 to permit the continuation of a private school and day care center for 35 children, ages two through seven. The Board granted the application as requested.

Following that hearing, Mrs. Dennis forwarded a letter to the Board asking that the ages of the children be amended from two through nine in order to accomodate after school age children.

Mr. Barnes moved that the condition on the special permit granted on September 19, 1978 be amended to read 35 children, ages two through nine. Mr. Yaremchuk seconded the motion and it was carried by a vote of 4 to 0 (Mr. DiGiulian being absent).

//

Page 426, October 3, 1978, After Agenda Items

A-217-78 GEORGE V. GRAHAM, JR.: The Board was in receipt of a letter from Mr. George Graham stating that he was not given enough time in which to research the names and addresses of the legal property owners for notification purposes in accordance with the Ordinance requirements. Mr. Graham was asking that the Board reschedule his application for as soon as possible. It was the consensus of the Board that as the application had already been advertised that Mr. Graham would have to wait until the scheduled hearing date for the Board to set a new time and date certain. Mr. Graham's appeal was scheduled for October 17, 1978.

//

Page 426, October 3, 1978, After Agenda Items

V-262-78 DALE L. THOMPSON: The Board was in receipt of a letter from Mr. Dale Thompson requesting an out-of-turn hearing on his variance application as he had already begun construction and did not want the weather to damage it. Mr. Thompson had been granted a variance for the construction at a previous hearing but during the actual construction had exceeded the height of the building as indicated on the plats approved by the Board. Ms. Jane Kelsey, Zoning Inspector, discussed with the Board the problems concerning this application and read the minutes of the previous hearing. It was the consensus of the Board that Mr. Thompson be granted an out-of-turn hearing as soon as possible. The application was scheduled to be heard on November 7, 1978.

// There being no further business, the Board adjourned at 12:05 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk

Daniel Smith, Chairman

Submitted to the BZA on Mar. 1, 79.
Submitted to the other departments, Board of Supervisors and Planning Commission on March 4, 79.

APPROVED: March 6, 79
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Wednesday, October 11, 1978. The following Board Members were present: Daniel Smith, Chairman; George Barnes, John Yaremchuk and Barbara Ardis. Mr. DiGiulian was absent.

The meeting opened at 10:25 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10:00 A.M. case.

10:00 A.M. - JAMES H. BURCH,*appl. under Sect. 18-401 of the Ord. to allow conventional subdivision into two (2) lots, one of which is a pipestem lot (a variance to provisions of Sect. 2-406), located 3416 Sunny View Dr., Sunny View Subd., 101-4((16))2B, Mt. Vernon Dist., R-3, V-205-78, 37,256 sq. ft. *amended (J. H. & Ruth C. Scott)

Mr. James Burch of 7916 Wellington Road in Mt. Vernon informed the Board that he proposed to divide the property into two lots even though under the Ordinance with a minimum lot size of 10,500 sq. ft. that he could squeeze three lots out of the 37,256 sq. ft. parcel. The property is zoned R-3 and he was asking for a variance to the lot width for 12' on the pipestem lot. Mr. Burch stated that this area would make beautiful home sites and that this variance would not impact the neighborhood. Mr. Burch showed the Board some video tapes and explained the film. In response to questions from the Board, Mr. Burch stated that the property owners were Mr. & Mrs. Scott and that he was the contract purchaser. Chairman Smith asked that the application be amended to show Mr. & Mrs. Scott as the applicants and Mr. Burch as the co-applicant.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

JAMES H. BURCH & J.H & RUTH C. SCOTT

R E S O L U T I O N

In Application No. V-205-78 by JAMES H. BURCH & J. H. & RUTH C. SCOTT under Section 18-401 of the Ord. to permit the division of applicant's property into two (2) lots, one of which will be of pipestem configuration (12' width) on property located at 3416 Sunny View Drive, tax map 101-4((16))2B, County of Fairfax, Virginia, Ms. Ardis 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 37,256 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

R E S O L U T I O N

3. Owner is required to comply with the standards in the Fairfax County Public Facilities Manual for pipestem driveways.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Smith)(Mr. DiGiulian being absent).

Page 428, October 11, 1978, Scheduled case for

10:10 A.M. - PHILLIP R. PRATZNER, appl. under Sect. 18-401 of the Ord. to allow addition of a 10' x 21' wood deck onto house to 15' from rear property line (19' required by Sect. 3-107 & Sect. 2-412), located 2909 Blue Robin Ct., Folkstone Subd., 36-1((14))4, Centreville Dist., R-1, V-211-78, 23,544 sq. ft.

Mr. Phillip Pratzner of the above address in Herndon stated that he was asking to be able to build a 10' x 21' wooden deck onto the rear of his house which would be 15' from the rear property line. He stated that his property was on the end of a dead-end cul-de-sac and was a pipestem lot. The property to the rear of his was owned by the Fairfax County Park Authority and was a wooded floodplain. The builder of the development had already placed a sliding glass door in the family room which would be ideal for a deck. In response to questions from the Board, Mr. Pratzner stated that the easement was on the other property. He stated that he was served by a pipestem driveway. As to the reasons for requiring a deck, Mr. Pratzner informed the Board that the builder had already put in the sliding door and placed a bar over it so that there was no danger from falling out the door to the ground 9' below. The house was designed for a deck.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Page 428, October 11, 1978 Board of Zoning Appeals
PHILLIP R. PRATZNER

R E S O L U T I O N

In Application No. V-211-78 by PHILLIP R. PRATZNER under Section 18-401 of the Ord. to allow addition of 10' x 21' wood deck 15' from rear property line on property located at 2909 Blue Robin Ct., tax map 36-1((14))4, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 23,544 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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.

R E S O L U T I O N

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

Ms. Ardis seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 429, October 11, 1978, Scheduled case for

10:40 A.M. - COLONIAL ANIMAL HOSPITAL, INC., appl. under Sect. 4-503 of the Ord. to permit construction and operation of a veterinary clinic, located Lee Chapel Rd., adjacent to 7-11, State Route 643, 78-3((1))7A, (15,395 sq. ft.), Springfield Dist., C-5, S-206-78.

Mr. William A. Downey, Jr., Attorney, had requested a deferral of this hearing on behalf of his clients, the Colonial Animal Hospital, Inc., due to this date being a religious holiday. It was the consensus of the Board to grant the deferral and the application was rescheduled for October 31, 1978 at 2:15 P.M.

//

Page 429, October 11, 1978, Scheduled case for

11:00 A.M. - LINDA M. BITTLE, appl. under Sect. 3-E03 of the Ord. to permit beauty parlor as home occupation, located 11000 Vale Road, 37-1((7))19, Centreville Dist., R-E, S-207-78.

As the required notices were not in order in this application, the Board deferred the hearing until November 14, 1978 at 12:15 P.M. for notification.

//

Page 429, October 11, 1978, EXECUTIVE SESSION

At 11:05 A.M., Mr. Barnes moved that the Board adjourn into executive session to discuss legal matters. Ms. Ardis seconded the motion and it was unanimously carried.

At 11:30 A.M., it was the unanimous consensus of the Board to reconvene into public session.

//

Page 429, October 11, 1978, Scheduled case for

11:20 A.M. - ANTHONY & TERESA NASIF, appl. under Sect. 3-203 of the Ord. to permit re-evaluation of Special Use Permit for Dentist Office, located 6528 Braddock Rd., Smarrland Subd., 72-3((2))13, (0.51 acres), Annandale Dist., R-2, S-208-78.

Mr. Russell Rosenberger of 9401 Lee Highway, Fairfax, Virginia represented the applicant. The purpose of this hearing was a reevaluation hearing on the special permit granted to Dr. Nasif in October of 1975. Mr. Rosenberger stated that this office was formerly a residential dwelling and has been operated as a dentist office since October of 1975. At that time, there was tremendous concern over the traffic and the parking was reduced from 8 to 6 spaces. The six spaces have been more than adequate for the site. The hours of operation are from 9:00 A.M. to 5:00 P.M. with lapproximately 10 patients per day. The neighborhood surrounding the office support this operation. Mr. Rosenberger presented the Board with a petition from the surrounding civic association endorsing this application. Mr. Rosenberger stated that Dr. Nasif does not comtemplate any additions or changes to this operation. The applicant was only requesting the Board to extend the special permit to allow him to continue the operation as it was originally granted. It is no longer allowed under the new Zoning Ordinance but the applicant felt that he was grandfathered under the old Ordinance.

In response to questions from the Board, Mr. Rosenberger stated that the dental office was an asset to the community and not a liability. He stated that Dr. Nasif charges the usual fees as he does not live in the house and does have an overhead like the commercial operations. Dr. Nasif has one assistant in the operation.

Mr. Philip G. Yates, Zoning Administrator, advised the Board that this was not a renewal or extension application but only a re-evaluation as the applicant was allowed a five year renewal. In response to Mr. Yaremchuk, Mr. Yates stated that if there had been complaints or violations on the special permit he would have advised the Board to the contrary.

The following person spoke in support of the application. Mr. Jerry Turner of the Braddock Baptist Church. He presented the Board with a petition signed by 44 individuals in favor of the application. Mr. Turner stated that they did not have any problem with the permit being granted indefinitely. The church property adjoins this use and was not in opposition to the dental office being located next door. He stated that the church was made up of about 200 members of which 44 who live in the immediate area had signed the petition.

There was no one else to speak in support of the application and no one to speak in opposition to the application.

Mr. Rosenberger asked the Board to defer decision on this application until Mr. DiGiulian could review the files and listen to the tapes in order to participate in the decision. Mr. Barnes moved that the application be deferred for a period not to exceed 30 days. Ms. Ardis seconded the motion and it passed by a vote of 3 to 0 with 1 abstention (Mr. Yaremchuk) (Mr. DiGiulian being absent).

The decision was scheduled for October 24, 1978 as an after agenda item.

//

Page 430, October 11, 1978, Scheduled case for

11:40 A.M. - OAKBROOK COMMUNITY COUNCIL, INC. & FAIRFAX STATION JOINT VENTURE, appl. under Sect. 3-203 of the Ord. to permit community tennis courts, located Innisvale Dr., Innisvale Subd., 76-1((1))pt. of 26, (2.0660 acres), Springfield Dist., R-1, S-210-78.

Mr. Joseph Howe of Boothe, Pritchard & Dudley, 4085 University Drive, Fairfax, represented the applicant. This application was for a special permit to allow two community tennis courts on property zoned R-1 to be operated by the Oakbrook Community Council. The location of the courts would be on a very wooded area containing two acres. Some of the land would be going to the Park Authority. No lighting was proposed for the courts. After completion of the tennis courts, the title of the land would be transferred from the developer to the community council. There was no estimated traffic impact. The courts would be restricted to the people living in the community and their guests.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 430, October 11, 1978 Board of Zoning Appeals
OAKBROOK COMMUNITY COUNCIL, INC.
& FAIRFAX STATION JOINT VENTURE

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-210-78 by FAIRFAX STATION JOINT VENTURE & OAKBROOK COMMUNITY COUNCIL, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to permit construction and use of community tennis courts on property located at Innisvale Drive, tax map reference 76-1((1))pt. of 26, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 11, 1978; and

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

1. That the owner of the subject property is Fairfax Station Joint Venture.
2. That the present zoning is R-1.
3. That the area of the lot is 2.066 areas.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 431, October 11, 1978, Scheduled case for

The Board recessed for lunch at 12:05 P.M. and reconvened at 1:25 P.M. in order to complete the remaining agenda.

//

Page 431, October 11, 1978, Scheduled case for

1:30 P.M. - VALERIE HORSTMAN, ET. AL. & BARLOWS, INC., appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, 2 of which are pipestem lots (variance to provisions of Sect. 2-406), located 9030 Jeffrey Road, 8-2((1))09, (7.8952 acres), Dranesville Dist., R-E, V-159-78. (Deferred from September 12, 1978 for a full Board.)

Mr. Charles Huntley, Engineer, 4200 Daniels Avenue, Annandale, VA., represented the applicant. Chairman Smith stated that his fact sheet did not list Valerie Horstman as a property owner. He stated that the application was filed by Mr. Barlow. Ms. Kelsey stated that she took the findings of fact from the previous staff report. Mr. Covington stated that he did not prepare the staff report for this application and did not know who did.

Chairman Smith informed the applicants that there were only four Board members present and inquired if they wished a further deferral or to proceed. It was the desire of Mr. Huntley to proceed with the application. He stated that the property could be divided by making a 5 acre lot in the back and a 2½ acre lot in the front and meet all of the requirements of the Ordinance. The applicants wished to divide the property into three lots. Mr. Yaremchuk inquired as to how they could meet the Code because it would not come under Subdivision Control. He was informed that any division of a lot would come under Subdivision Control.

Mr. Huntley stated that they were seeking a variance because of the odd configuration of the property on Jeffrey Road. There was enough soil for perc tests to get three lots out of the property. Most of the surrounding lots in the area are 5 acre lots. It was the applicants feeling that this variance would be in harmony with the R-E zoning category. In addition, he stated that they did not feel that it was practical to build a road to serve these lots.

432

Ms. Faye Madigan of 1087 Woodchuck Lane in Frederick, Maryland, stated that she owned this parcel of land along with her sister and brother. She stated that they expect to have two new homes built on this property to provide homes for the citizens in the area. She stated that Mr. Barlows intends to construct some very nice homes in the price range of at least $100,000. In response to questions from the Board, Ms. Madigan stated that she inherited this property about 20 years ago.

The following people spoke in opposition to this application. Mr. Robert Diggs of McLean stated that he and his brother bought a 27 acre parcel of land adjacent to the Horstman property. He stated that he did not approve of pipestem lots. The County Ordinance requires a 50 ft. right-of-way and an orderly development of property. He stated that this parcel has a limited amount of road frontage and if a pipestem lot was granted then the Board would be compounding the problem. He indicated that a pipestem lot on this particular parcel was not advantegous to the neighborhood or to his property in the back. In response to questions from the Board, Mr. Diggs stated that he had frontage on Jeffrey Road.

The next speaker was Mr. Robert Goff of 425 N. 40th Street in Arlington. He stated that he owned lot 38 having purchased it two years ago with the intention of building a home there. He stated that his family liked the area because it looked like farm land. Mr. Goff informed the Board that the Comprehensive Plan called for a minimum of 5 acrea. He stated that he felt that an increased number of homes would detract from the area. It was his opinion that there should not be any homes built on less than five acres in this area.

The next speaker was Simone Burnett of 9700 Jeffrey Road. She stated that she had submitted a 12 page letter to the Chairman of the Board of Zoning Appeals. At that time, Mr. Barlows was seeking four lots instead of the three advertised now. She stated that she was still opposed to this application as it violates the County Plan. She stated that she believed that this application would be detrimental to the area. She also questioned as to where in the new Zoning Ordinance it stated that five acres was beyond Subdivision Control. In response to questions from the Board, Ms. Burnett stated that she has lived on her property for 1½ years.

The next speaker was Mr. Otto Spokas of 9034 Jeffrey Road. He owns 28 acres adjoining the subject property. He stated that he has lived here for 27 years and was opposed to the pipestem arrangement. He also indicated that this would affect his access to his property. Mr. Spokas informed the Board that he has maintained the ingress and egress road himself all these years. By subdividing the adjoining property with ingress & egress over the same route used by Mr. Spokas, it would threaten the acess of Mr. Spokas in times of emergency. He stated that he was also concerned about drainage from these lots. He stated that runoff would add to the problems and could run into some money. He stated that he should not have to repair the damage to his road caused by something like that. He stated that he did not plan to subdivide his property and did not have any children to leave the property to later. He informed the Board that it was his intention to leave the property to charity for a summer camp. In response to questions from the Board as to what he was opposed to, Mr. Spokas stated he was not concerned with the future of the land as to development because that would be someone else's problem. He stated that he was concerned about the pipestem arrangement because of the road situation where people would argue over the maintenance of it.

The next speaker was Mr. Harry S. Troub of 9108 Jeffrey Road who urged the Board to reject this application because this was a special area recognized as such by the County Comprehensive Plan. He stated that he was not asking the Board to stop the development but to control the development of the back lots. He stated that if the Board granted this variance that it would invite other variances in this area of the same nature. Again, he urged the Board to deny the application in order to inject some stability into the area.

The next speaker was Robert Keyser of Rockville, Maryland, who owned property to the north of the Diggs property. He stated that he owned 9006, 9000 & 9040 Jeffrey Road. Mr. Keyser stated that he agreed with Mr. Spokas and added his concurrence that the variance should be denied. He informed the Board that his property had been in his wife's family since 1955.

Page 433, October 11, 1978
VALERIE HORSTMAN, ET. AL., &
BARLOWS, INC.
(continued)

During rebuttal, Mr. Huntley stated that the contract purchasers, Harold & Frank Barlow, live to the north of Mr. Diggs' property. He informed the Board that the property could be divided into three lots by taking the matter to Court since there were three heirs to the property.

There was no one else to speak in favor or in opposition to the application.

Page 433, October 11, 1978 Board of Zoning Appeals
VALERIE HORSTMAN, ET. AL., &
BARLOWS, INC.

R E S O L U T I O N

In Application No. V-159-78 by VALERIE HORSTMAN, ET. AL. & BARLOWS, INC. under Section 18-401 of the Zoning Ordinance to permit subdivision into 3 lots, 2 of which are pipestem lots, on property located at 9030 Jeffrey Road, tax map reference 8-2((1))9, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 7.8952 acres.

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

THAT the applicant has not satisfied the Board that physical conditions as listed above 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 is DENIED.

Ms. Ardis seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 433, October 11, 1978, After Agenda Items

The Board was in receipt of a memorandum from Mr. Philip G. Yates, Zoning Administrator, regarding some modifications and changes to the variance and special permit resolution forms since the adoption of the new Ordinance. The Board reviewed these amendments and changes and stated that they did not have any problem with revising the forms in accordance with the memorandum.

//

Page 433, October 11, 1978, After Agenda Items

S-234-77 GRACE CHRISTIAN REFORMED CHURCH: The Board was in receipt of a letter from Reverend Ringer requesting the Board to grant an extension on the special permit and to note the name change of the church. Mr. Yaremchuk moved that the Grace Christian Reformed Church be granted a six month extension. Mr. Barnes seconded the motion and it was carried by a vote of 4 to 0 (Mr. DiGiulian being absent).

//

Page 434, October 11, 1978, After Agenda Items

S-218-77 CHURCH OF GOD OF PROPHECY: The Board was in receipt of a letter from the Reverend Wright requesting a six month extension on the special permit due to problems with the soil test. Mr. Barnes moved that the Church of God of Prophecy be granted an 180 day extension. Ms. Ardis seconded the motion. The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

//

Page 434, October 11, 1978, After Agenda Items

APPROVAL OF MINUTES: Mr. Barnes moved that the Board approve the minutes for the Board meetings of May 9th and May 16th as amended. Mr. Yaremchuk seconded the motion and it was carried by a vote of 4 to 0.

// There being no further business, the Board adjourned at 2:20 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: March 13, 79

Submitted to the BZA on mar. 13, 79
Submitted to the other departments,
Board of Supervisors and Planning
Commission on March 10, 79.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 17, 1978. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes and John Yaremchuk. Ms. Ardis was absent.

The meeting opened at 10:10 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10:00 A.M. case.

10:00 A.M. - BARRY S. MILLER, appl. under Sect. 18-401 of the Ord. to permit division of parcels into 3 lots, 2 of which show less than required lot width, (12' shown, 80' required), located 6053 Tammy Dr., Green Meadows Subd., 81-4((23))B & 48, (65,835 sq. ft.), Lee Dist., R-3, V-190-78.

Mr. Barry Miller of 6052 Tammy Drive stated that he was requesting a variance to the Zoning Ordinance because the outlot was land locked. He stated that he wanted to develop the lot and enlarge lot 48 which was his present lot. When he does, two of the lots will have less than the required lot width. Without a variance, he stated that he would be deprived the full and reasonable use of his land. In response to questions from the Board, Mr. Miller stated that he bought the land in May of 1974 and was aware that it was an outlot. Ms. Jane Kelsey informed the Board that in March of 1971, the BZA granted a variance on the outlot to the American Housing Guild.

There was no one to speak in favor of the application. The following persons spoke in opposition to the application. Mr. Glen Bfau of 6112 Lyndley Terrace of Alexandria stated that he was a resident of Green Meadows and has resided there since 1971 when the subdivision was developed. He stated that he represented the residents of Green Meadows. He submitted a petition to the Board from residents in the area who opposed this application. Mr. Bfau stated that there was a townhouse development of about 400 units immediately adjacent to Mr. Miller's property. He stated that several of the immediate homeowners were concerned because Mr. Miller had been in contact with the townhouse developer. The residents were concerned that there may be more to Mr. Miller's request than meets the eye. Mr. Bfau stated that he had examined the minutes of the BZA hearing in October 1969 for the American Housing Guild on Outlot B and that the plats had a restriction notice on them which read: No building permit for a dwelling will be issued for Outlot B as the same does not meet the requirements for the Fairfax County Zoning Ordinance. Representatives of the American Housing Guild had informed Mr. Brau that they were denied a request for additional building permits for the outlot and stated that it would remain as an outlot. Mr. Bfau stated that several of the residents of Tammy Drive paid more money for their homes in order to live on a cul-de-sac. He stated that several of these residents had made substantial improvements to their homes which they would not have done had they known that the restrictions on outlot B would not be upheld. Mr. Bfau stated that when Mr. Miller purchased the outlot he had informed the neighbors that he did so to insure that no dwelling would be built on it. He stated that even though the neighbors could not trust the American Housing Guild it was thought they could trust Mr. Miller. The Homeowners Covenants state that an owner must receive the consent of the Architectural Review Committee prior to subdividing his property. Mr. Miller has not done that. Mr. Miller was aware of the requirement when he purchased his property in 1971 and also in 1974 when he purchased the outlot. Mr. Bfau presented the Board with his specific concerns regarding this variance. In summary, Mr. Bfau asked the BZA to honor the committments made to them at the time of their purchase and asked that Mr. Miller's variance be denied.

Mr. Carl Sell of the Planning Commission read a statement presenting the Planning Commission's recommendation on the variance. He presented the statement to the Board for the record.

Mr. Mike Gatlin of 6001 Larkspur Drive stated that he was a minister and did not live in the Green Meadows Subdivision but in the Maple Grove Subdivision to the west. He stated that harm would be evident if this variance was granted because of the pipestem going through a cul-de-sac. He stated that all persons living in the area would be harmed by this type of construction or new type of plan. He stated that he was also concerned about the increase in traffic. Mr. Gatlin was also concerned about the slope of the land in the area because of runoff.

The next speaker was Donald Wofford of 6051 Tammy Drive who stated that he also owns property at 6053 Tammy Drive. Mr. Wofford stated that he purchased his property in 1976 and was assured that the cul-de-sac would remain intact. He stated that he approached the American Housing Guild in 1973 in order to buy the peoperty in question. He stated that he was not interested in building it was just to protect his interests. At that time, Mr. Miller contacted him with regard to purchasing some of the land in order to extend his property. Mr. Wofford stated that he did not have a problem with that but that he did not purchase the land. Mr. Wofford was opposed to Mr. Miller's application for a variance and urged the Board to deny it.

Ms. Beatrice Solomine of 6054 Tammy Drive stated that she purchased her home because it was located in a cul-de-sac. She stated that she had relocated from Philadelphia and could have found a home sooner but decided to wait for the construction of the house on the cul-de-sac. Because of this, she had to keep most of her furniture in storage in Philadelphi awaiting the construction of her home on Tammy Drive. She stated that she relied on the Zoning Ordinance to keep the character of the cul-de-sac and not destroy it. She stated that she has made many improvements to her home well over $15,000. She acted in good faith and would not have invested in this property if she had known the cul-de-sac could be violated. She stated that she has lived here for eight years in peace and requested the Board to let her continue to do so. She stated that the granting of this variance would bring dirt and disturb the tranquility of the area.

Mr. Wayne Lee of Green Meadows, 6067 Tammy Drive, stated that the Zoning Ordinance was intended for the overall good of the community and was established to protect the neighborhood as it was originally planned. He stated that if the variance was approved, it would be contrary to the good of the overall interests of the citizens as a whole. He stated that this was evident by the overwhelming opposition to this application.

For clarification, Mrs. Jane Kelsey informed the Board that the original application from the American Housing Guild had been for two lots. The development would not give the Park Authority the entire portion of the land so that the Park Authority did not take any of the land.

During rebuttal, Mr. Miller stated that on the day he filed for the variance he contacted his neighbors to inform them of his plans. Since that time, rumors have been widespread throughout the area as to what he intends to do. He stated that has talked to the neighbors and shown them his plans but that they are still not convinced. He stated that the petition circulated and signed was full of inconsistencies and half-truths which was no wonder everyone was against him.

The Board discussed the previous variance application by the American Housing Guild and inquired as to why a home had never been built on the lot that a building permit had been issued for. Mr. Miller stated that there had been a contract purchaser for the property but it never went through. Mr. Miller stated that when he bought the outlot, he was not aware of it being buildable. About one year ago, he stated that he was apprised that the County looked at outlots in a slightly different manner than before. He stated that if he was to develop the lot under the cluster concept he would not need a variance. The County will not allow Mr. Miller to construct anything on the outlot without a variance.

R E S O L U T I O N

In Application No. V-190-78 by BARRY S. MILLER under Section 18-401 of the Zoning Ordinance to permit division of parcels into 3 lots, 2 with less than required lot width, on property located at 6053 Tammy Drive, tax map 81-4((23)) B & 48, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 17, 1978; and

RESOLUTION

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 65,835 sq. ft.

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

THAT the applicant has not satisfied the Board that physical conditions as listed above 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 is DENIED.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 437, October 17, 1978, Scheduled case for

10:10 A.M. - JAMES D. ASHBAUGH & JERRY SCHRAGER, appl. under Sect. 18-401 of the Ord. to allow subdivision with proposed lot 3 having 15' lot width (200' required), located 1442 Crowell Road, Whispering Pines (future) Subd., 18-4((2))1, (7.73 acres), Dranesville Dist., R-E, V-216-78.

Mr. James B. Ashbaugh of 1400 Carriage Lane in Vienna stated that he was one of the owners of a parcel of land containing 7½ acres just north of Crowell Road and Brownsmill Road. Mr. Ashbaugh stated that he was trying to subdivide the parcel into three lots and had worked with an engineer trying to cluster the parcel. The County and the County Attorney were against the concept of clustering this parcel because they did not think it was viable for only three lots. According to the plan, the rear lot, no. 3, would have three acres and would require a pipestem drive. The justification for the variance was that the property was long and narrow with the narrow end on Crowell Road. Mr. Ashbaugh stated that this was a rural area and he did not think approval of the application would affect the atmosphere or the character of the area. The proposed driveway for the rear lot would be between the two front lots. There would not be any problem with site distance as Crowell Road was fairly straight in this area. He stated that they were well within the lot size requirements but that in order to utilize the land, the variance was the only possible way. In response to questions from the Board, Mr. Ashbaugh stated that they did not own any adjacent land. He also indicated that the only people to use the proposed pipestem drive would be the owners of lot as the other two lots have adequate frontage on Crowell Road. He stated that the maintenance of the pipestem would be the sole responsibility of the lot owner for lot 3. The Board requested that someone from Preliminary Engineering discuss the dedication discussed in the staff report.

Ms. Kathy Handman of 10201 Westward Drive stated that Brownsmill Road was like a private drive with only five homes there mostly owned by black families. She stated that it was badly in need of repair and that the residents had tried to get it fixed but nothing was ever done about it. She stated that they had tried about three years ago and have not tried since then as nothing was ever done about it.

The next speaker was Ron Stanton of 10319 Brownsmill Road. He stated that Brownsmill Road was just a dirt and gravel road to his residence which was lot 10. Lot 9 was not developed. He stated that Brownsmill Road was badly in need of repair. In questioning from the Board, Mr. Smith stated that the plat indicated there was a 25' dedication which would enable the road to be developed if everyone contributed in order to make a 50' right-of-way which the State would maintain. Mr. Stanton stated that he has lived on the property since April of 1978. He indicated that the house was already built. He stated that the house sits back about 43' from the road. He informed the Board that he was uninformed of the variance.

The next speaker was Ed Fisher of 10305 Brownsmill Road who lived across from the subject property. He stated that his house sits back about 25' from the road. He informed the Board that he has lived on the property for 45 years. He also indicated that the citizens have been trying to get assistance in this area for quite some time but that the County says that the road belongs to the

State but that theState doesn't claim it either. Mr. Fisher stated that it has never been decided who owns the road. Mr. Smith stated that the road was dedicated for public street purposes. Mr. Yaremchuk stated that under the Board of Reviewers, the road could go under the system even it it was only 40 ft. wide. Mr. DiGiulian stated that if the Board was going to talk about dedication, it should be discussed as to who would have to spend the money in order to build the road. He stated that he did not believe that three lots could stand the cost of building such a road. Mr. Fisher stated that there were not a lot of families living down there but the ones that were could not afford to build a road themselves. He stated that most of these people are holding onto the property for sentimental reasons as it was handed down through their families.

Mr. Oscar Hendrickson of Preliminary Engineering arrived at the meeting and informed the Board that if the residents vacated enough land to make a 40 ft. right-of-way, then the Board of Viewers could look at it and take it into the system. The road could be paid for by the County. The Board discussed at length with Mr. Hendrickson other alternatives rather than granting the variance for the pipestem.

Mr. Ashbaugh stated that he has been working with the County staff for over a year. It appears that the people that are on the private lane are not in favor of widening it and there is a question of whether that 12 ft. is public property. Mr. Ashbaugh stated that he felt the Board was being inconsistent as the gravel road goes out to the intersection of Brownsmill Road and Crowell Road and was a dangerous intersection. He stated that it would create a traffic hazard. If he was provided access to the proposed lot 3 from Crowell Road, it would not create any kind of hazard and would have good site distance. Mr. Ashbaugh stated that it was a more feasible route.

Mr. Yaremchuk stated that he did not agree with the application. He stated that the dedication was getting around the Subdivision Control Ordinance.

Page 438, October 17, 1978 Board of Zoning Appeals
JAMES D. ASHBAUGH & JERRY SCHRAGER

R E S O L U T I O N

In Application No. V-216-78 by JAMES D. ASHBAUGH & JERRY SCHRAGER under Section 18-401 of the Zoning Ordinance to permit subdivision with proposed lot 3 having 15 ft. lot width (200 ft. required) on property located at 1442 Crowell Road, tax map reference 18-4((2))1, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 17, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 7.73 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 ivolved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Page 439, October 17, 1978 Board of Zoning Appeals
JAMES D. ASHBAUGH & JERRY SCHRAGER
RESOLUTION

Mr. Barnes seconded the motion.

The motion*failed by a vote of 2 to 2 (Mr. Smith & Mr. Yaremchuk)(Ms. Ardis being absent). Mr. Smith informed the applicant that the absent Board member would be consulted to determine if she chose to participate in the decision after reviewing the file and listening to the tapes of the hearing. If she chose not to participate, the motion would remain as being defeated.

Page 439, October 17, 1978, Scheduled case for

At 11:55 A.M., the Board of Zoning Appeals recessed for a break and reconvened into public session at 12:05 P.M.

//

Page 439, October 17, 1978, Scheduled case for

10:20 A.M. - MARIAN W. CAMPBELL, LOUIS E. WHITE & EARL R. WHITE, TRUSTEES, appl. under Sect. 18-401 of the Ord. to allow subdivision into 7 lots with proposed lots 2, 3, 4, 5, 6 & 7 each having lot width of 5 ft. (150 ft. required), located 1149 Reston Avenue, Rieley Ridge Subd., 11-2((1))36, (0.9327 acres), Centreville Dist., R-1, V-219-78.

Mr. Charles E. Runyon, 152 Hillwood Avenue in Falls Church, represented the applicants. He stated that there was an easement going through the middle of the property to Reston Avenue which would run across lots 3 & 6. The property has a narrow frontage and the applicants did not wish to run the street across the gasoline easement. It was felt that the pipestem access was more reasonable and Mr. Runyon requested that the variance be granted. In response to questions from the Board, Mr. Runyon stated that they could not construct a road because it would take a total of 50 ft. which when you crossed the pipeline would be a considerable expense to the adjustement of the pipes. He stated that it was felt that the pipestem would blend in better with the surrounding area. Mr. Runyon stated that Reston Avenue was fairly flat in this area.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 439, October 17, 1978 Board of Zoning Appeals
MARIAN W. CAMPBELL, LOUIS E. WHITE &
EARL R. WHITE, TRUSTEES
RESOLUTION

In Application No. V-219-78 by MARIAN W. CAMPBELL, LOUIS E. WHITE & EARL R. WHITE, TRUSTEES, under Section 18-401 of the Zoning Ordinance to permit subdivision into 7 lots with proposed lots 2, 3, 4, 5, 6 & 7 each having lot width of 5 ft., on property located at 1149 Reston Avenue, tax map reference, 11-2((1))36, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 17, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 7.4530 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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.

R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 440, October 17, 1978, Scheduled case for

10:40 A.M. - KONRAD PALMER HARTL, appl. under Sect. 6-503 of the Ord. to permit Pastoral Counseling as home occupation, located 11317 South Shore Rd., 17-2((12))27, (10,357 sq. ft.), Centreville Dist., PRC, S-212-78.

At the request of the applicant, the hearing for this application was deferred until November 7, 1978 at 2:00 P.M. because of notification problems.

//

Page 440, October 17, 1978, Scheduled case for

11:00 A.M. - CENTRAL FAIRFAX SERVICES, INC., appl. under Sect. 3-103 of the Ord. to permit school of general education in existing church, located 8922 Little River Turnpike, 58-4((28))61, (3.85 acres), Providence Dist., R-1, S-168-78. (Deferred from September 19, 1978 for notices)

Ms. Maria Alexander, Executive Director, stated that they have been operating in this church for about ten years and are requesting that their permit be continued. She stated that the purpose of the school was to work with retarded adults. In response to questions from the Board, she stated that at the present time they are working with 26 individuals and that they never go above 30 students. Ms. Alexander stated that the church was the Bethleham Lutheran Church and that the lease was in the file. She further stated that the hours of operation were from 8:30 A.M. to 4:30 P.M., ages 18 and over. Mr. Barnes stated that Central Fairfax Services also has another location right next door to his property that also was just renewed.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-168-78 by CENTRAL FAIRFAX SERVICES, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to permit school of general education in existing church on property located at 8922 Little River Turnpike, tax map reference 58-4((28))61, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS; following proper notice to the public and a public hearing by the Board held on October 17, 1978; and

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

1. That the owner of the subject property is Bethleham Lutheran Church and that the applicant is the lessee.
2. That the present zoning is R-1.
3. That the area of the lot is 2.835 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

441

R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Beard, 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Spcial Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be 8:30 A.M. to 4:30 P.M., five days a week.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 441, October 17, 1978, Scheduled case for

11:20 A.M. - TEMPLE BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit a church, located 7200 Ox Rd., 87-4((1))pt. of 1, (15 acres), Springfield Dist., R-1, S-214-78.

Reverend Bonds stated that the church owns the property and is requesting a special use permit for the church in addition to the variance to the dustless surface requirement for the parking lot. He stated that it was the desire of the church to use the 15 acre parcel as its permanent location. Regular church services and church activities are planned. He stated that the property was located on Rt. 123 and has good access and would have good traffic flow. He stated that the church has planned future growth and has submitted two plans or phases to the Board. He stated that the church plans to move ahead with phase one at this time if approved. Chairman Smith asked what was included with phase one and was informed a chapel and office, an educational building, a multi-purpose building and an auditorium. Rev. Bonds stated that the parking lot would be developed when the sanctuary was actually built. The Board informed Rev. Bonds that it could only approve the first phase at this time as a Site Plan for the entire proposal was not going to be submitted. In addition, it was determined that a new public hearing would be required in order to expand beyond what was actually shown on the plats submitted with this application. In response to questions from the Board, Rev. Bonds stated that the church anticipates about 250 - 300 people for the auditorium. He stated parking was being provided for 96 spaces. The chapel and other buildings were only one story with no basement, 125' x 100' with 96 parking spaces provided, only 63 parking spaces required. The buildings are to be constructed of masonry, cinderblock, stone, wood & glass. Rev. Bonds stated it was their intent to keep the building rustic in nature in keeping with the surrounding area of Burke Lake Park. He stated that there would be a tinge of colonial construction thrown in.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

442

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-214-78 by TEMPLE BAPTIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit a church on property located at 7200 Ox Road, tax map reference 87-4((1))pt. of 1, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 17, 1978; and

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

1. That the owner of the subject property is Temple Baptist Church.
2. That the present zoning is R-1.
3. That the area of the lot is 15 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE BE IT RESOLVED, that the subject application is 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 indidated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be the hours of normal church services.
8. The minimum number of parking spaces shall be 96.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Chairman Smith stated that the Board should note the proposed total development and make this plan a part of the file for the future Board to be made aware of.

Page 442, October 17, 1978, Scheduled case for

11:40 A.M. - TEMPLE BAPTIST CHURCH, appl. under Sect. 18-401 of the Ord. to permit variance to dustless surface requirement, (Sect. 11-102, pt. 14), located 7200 Ox Road, 87-4((1))pt. of 1, (15 acres), Springfield Dist., R-1, V-215-78.

Reverend John Bonds stated that the church has two reasons for requesting a variance to the dustless surface requirement. One was a financial hardship. Chairman Smith informed Rev. Bonds that the Board has no authority to grant variances strictly for financial hardships. The Board members discussed the

length of time that a variance could be granted for a dustless surface requirement. Chairman Smith stated that it could be granted for a period of two years after which the applicant could request an extension by reapplying to the Board. Mr. Covington stated that it could be granted for a period of five years. In response to questions from the Board, Rev. Bonds stated that the parking area and driveway would be treated with oil & gravel. Chairman Smith stated that the entrance and the deceleration lane should be paved for a short length and Rev. Bonds stated they would pave up to the State right-of-way.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 443, October 17, 1978 Board of Zoning Appeals
TEMPLE BAPTIST CHURCH

R E S O L U T I O N

In Application No. V-215-78 by TEMPLE BAPTIST CHURCH under Section 18-401 of the Zoning Ordinance to permit variance to dustless surface requirement on property located at 7200 Ox Road, tax map reference 87-4((1))pt. of 1, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 17, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 15 acres.
4. That the applicant's property has an unusual condition in that the parking lot is to be relocated under phase 2 of building program.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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. A deceleration land is to be constructed to VDH&T standards and a standard paved entrance is to be provided to 35 ft. inside the present right-of-way for Ox Road.

3. This variance is granted for a period of five years or to coincide with future construction.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

// The Board recessed for lunch at 1:45 P.M. and reconvened at 2:10 P.M. to continue with the scheduled agenda.

//

Page 444, October 17, 1978, Scheduled case for

1:30 P.M. - GEORGE V. GRAHAM, JR., appl. under Sect. 18-301 of the Ord. to amend Zoning Administrator's refusal to approve building permit for a greenhouse for a commercial nursery on property in an RE-1 district, located 10614-10618 Leesburg Pike, 12-3((1))11 & 12, (3.5776 acres), Dranesville Dist., R-1, A-217-78.

444

Mr. George Graham of 451 Seneca Road, Great Falls, Virginia, requested a deferral on this appeal because of notification problems. At the request of the applicant, the deferral was granted for November 14, 1978.

//

Page 444, October 17, 1978, After Agenda Items, S-209-78, A. Edward Raney

Mr. Edward Raney submitted revised plats to the Board on the golf driving range. He also presented the Board with a letter from Supervisor Travesky regarding the filing of his special exception for the miniature golf course. In discussing this matter with the Board, Mr. Raney was informed that the Board had held the appeal on the matter and did not have authority to grant the appeal. Mr. Raney stated that he would like some additional time in order to obtain legal assistance. He stated that he felt that the remedy to the situation lay somewhere in the County. Mr. DiGiulian stated that all the Board could do was accept the plats as requested at the September 19th hearing He stated that the Board had already granted the permit for the golf driving range. Chairman Smith agreed and stated that the Board did not have the authority to approve the miniature golf course. He informed Mr. Raney that he could pursue the manner in any way he saw fit but that the Board did not have the authority to take any further action in the matter. Chairman Smith stated that the plats would be accepted with the understanding that the miniature golf course was not a part of the granting by the Board.

//

Page 444, October 17, 1978, After Agenda Items, Dismas House,

The Board was in receipt of a memorandum from the Zoning Administrator, Philip G. Yates, regarding an extension of the Special Permit issued to Dismas House at 7701 Telegraph Road. The Board had granted the permit for a period of one year with the Zoning Administrator empowered to grant two one-year extensions. The first extension had been granted. Dismas House was now requesting the second extension but violations of a minor consequence had been noted the previous year and Mr. Yates was requesting clarification from the Board as to whether he should grant the second extension. The violations concerned complaints about cars being parked along side the road rather than in the parking lot of Dismas House. The reason had been because of snowy conditions and the violation was cleared a few days later. It was the Board's determination that the extension should be granted.

//

Page 444, October 17, 1978, After Agenda Items

The Board was in receipt of a letter from Richard Scales, President of the Shouse Village Community Association, regarding construction of a tennis practice backboard. He was asking that they be allowed to construct the backboard in an area of existing paved parking without requiring another public hearing. The Board was also in receipt of a letter from Ms. Martha J. Tillman regarding the Shouse Village Community Association, stating that a public hearing should be held in order to make everyone aware of the proposed changes.

It was the consensus of the Board that the applicant would be required to submit new plats showing all of the improvements on the site as well as the proposed changes and that a new application be filed in connection with the extended use.

//

Page 444, October 17, 1978, After Agenda Items, V-118-78, Chanson Finney & Sidney Masri, Decision

The Board heard the application on July 5, 1978 and deferred decision for revised plats showing flood plain areas. On August 2, 1978, the Board again deferred decision because the applicant was in the process of obtaining additional land. As the Board had not heard from the applicant since this

Page 445, October 17, 1978, After Agenda Items
V-118-78 (continued)

time, the Board requested the Clerk to write a letter-to the applicant stating that the Board was going on record to deny the application unless the Board receives correspondence contrary to this to withdraw the application. The applicant was given 60 days to respond to the Board's letter.

//

Page 445, October 17, 1978, After Agenda Items

The Board was in receipt of a letter from the Salvation Army requesting that an out-of-turn hearing be granted on their application. Based on the reasons stated in the letter, the Board granted an out-of-turn hearing for November 21, 1978.

// There being no further business, the Board adjourned at 2:35 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the BZA on Mar. 15, 79
Submitted to the other departments,
Board of Supervisors and Planning
Commission on Mar. 15, 79.

Daniel Smith
Daniel Smith, Chairman

APPROVED: March 20, 79
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 24, 1978. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes; John Yaremchuk and Barbara Ardis.

The Chairman called the meeting to order at 8:05 P.M. and Mr. Barnes opened the meeting with a prayer. The first scheduled case for 8:00 P.M. was called by the Chairman.

8:00 P.M. - THE LEARNING CENTER, appl. under Sect. 3-203 of the Ord. to permit school of special education for children with learning disabilities, located 6519 Braddock Rd., First Fairland Subd., 72-3((4))26, 27, 28 29 & 30, (1.292 acres), Mason Dist., R-2, S-223-78.

The required notices were in order.

Ms. Nancy Koehler of 5221 Ferndale Street in Springfield, represented the applicant. The Learning Center is a private school of private instruction operating from Monday through Friday, September to June. They proposed to operate in the Braddock Church next to the Weyanoke Elementary School and were requesting a special permit. She stated that the school would not create any traffic hazard and that the number of children would be limited. There would not be more than twelve students at any one time. At the present time, Ms. Koehler was operating in her home with less than four children. The hours of operation are to be 8:15 A.M. until 2 P.M., five days a week, Monday through Friday, ages 10 to 15 with a minimum of 12 students at any one time. She stated that there would be two classes and two instructors with six students in each class.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-223-78 by THE LEARNING CENTER under Section 3-203 of the Fairfax County Zoning Ordinance to permit school of special education for children with learning disabilities on property located at 6519 Braddock Road, tax map reference 72-3((4))26, 27,28, 29 & 30, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 24, 1978; and

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

1. That the owner of the subject property is the Braddock Baptist Church and that the applicant is the lessee.
2. That the present zoning is R-2.
3. That the area of the lot is 1.29 acres
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board

(other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.

7. The maximum number of students shall be twelve (12); ages 10 - 15 years.

8. The hours of operation shall be 8 A.M. to 2 P.M., five days a week.

9. This permit is granted for a period of five (5) years.

Mr. Barnes seconded the motion.

The motion passed by a vote of 5 to 0.

Page 447, October 24, 1978, Scheduled case for

8:20 P.M. - THOMAS J. WELSH, BISHOP OF THE CATHOLIC DIOCESE OF ARLINGTON, AND HIS SUCCESSORS IN OFFICE, appl. under Sect. 3-403 of the Ord. to permit a convent, located 6419 Shady Lane, Hillwood Subd., 51-3((2)) 105 & 106, (25,057 sq. ft.), Providence Dist., R-4, S-224-78.

Ms. Marilyn Moore of 200 N. Glebe Road in Arlington, represented the applicant. She stated that she was seeking a special permit in the name of Bishop Welsh for the use of a convent that would house a maximum of 12 nuns. She stated that the mission of the convent was to work with the lay members of the Diocese. The dwelling at 6419 Shady Lane was to be used only for a dwelling and would not be used for meetings. All ingress and egress would be from Westover Sreet. Ms. Moore stated that it was her belief that this proposed use would not be detrimental to the community. Ms. Moore informed the Board that originally the application had been filed for a total of 8 nuns but was recently amended for 12 as several of the areas within the house could be used as bedrooms. This proposed use was on two lots, 105 and 106. The house is located on lot 105 and the basketball court is on lot 106 in addition to a pool. The house originally belonged to Mr. & Mrs. Koons. In response to questions from the Board, Ms. Moore stated that the nuns would be using the tennis courts. She stated that at the present time, there were five nuns in the order. The house consists of eight bedrooms, three offices and one large recreational room. There was enough parking to accomodate approximately five automobiles but Ms. Moore informed the Board that the convent was restricted to two automobiles. When asked to explain in more detail about the convent, Ms. Moore stated that there would not be any meetings at the house as these were held in the parishes. She stated that the nuns would have to travel to the meeting places. The house was to be strictly used as a dwelling and a place for prayer and would not be open to the public.

Mr. Robert O'Connor of 2914 Lee Drive, President of the Hillwood Civic Association, spoke in favor of the application. He stated that they had a meeting to answer questions and to alleviate some of the anxieties of the citizens in the area. The members of the civic association voted to support the application but had two recommendations to the Board. They recommended that the basketball and tennis courts on the property be restricted to the nuns and their invited guests. The purpose was for some controls on the courts as the citizens did not want an open door policy for the use of the courts. The second recommendation was on parking. It was recommended that all parking for the use be on-site. They further stated that they did not want the house to be used for a retreat or any physical education type of facility.

There was no one else to speak in support of the application and no one to speak in opposition of the application.

THOMAS J. WELSH, BISHOP OF THE CATHOLIC DIOCESE OF ARLINGTON, AND HIS SUCCESSORS IN OFFICE

448

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-224-78 by THOMAS J. WELSH, BISHOP OF THE CATHOLIC DIOCESE OF ARLINGTON AND HIS SUCCESSORS IN OFFICE under Section 3-403 of the Fairfax County Zoning Ordinance to permit a convent on property located at 6419 Shady Lane, tax map reference 51-3((2))105 & 106, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 24, 1978; and

WHEREAS, the Board 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-4.
3. That the area of the lot is 25,057 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 necessary landscaping and screening shall be provided to the satisfaction of the Director of Environmental Management.
7. The maximum number of nuns shall be twelve (12).
8. The minimum number of parking spaces shall be four (4).
9. The dwelling is to be used strictly for residential purposes.
10. The use of the tennis and basketball courts are strictly for the nuns and their invited guests.
11. Maximum number of four cars for the use of the nuns.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 449, October 24, 1978, Scheduled case for

8:40 P.M. - WAY OF FAITH CHRISTIAN TRAINING CENTER, INC., appl. under Sect. 3-103 of the Ord. to amend existing special permit for school of general education to permit temporary classroom trailer and basketball court, located 8800 Arlington Blvd., 48-4((1))39, 7.9 acres, Providence Dist., R-1, V-232-78.

Mrs. Lois Burke of 2040 Cedar Lane, Vienna, represented the applicant. She stated that the school proposed to use the trailer for the remainder of the school year and could possibly still require it after that. In response to questions from the Board, she stated that the trailer could house 20 students. She stated that they needed the trailer not because of overcrowding of the existing building but because of an increase of classes in order to offer a variety of subjects to the upper classes. With regard to the basketball court, she stated that this was a permanent structure ~~presently in existence and~~ consisting of blacktop with goal posts.

There was no one to speak in support of the application. Mr. Paul Hammack of the Mantua Civic Association spoke in opposition to the application. He stated that the civic association was opposed to having a temporary trailer as an improvement to the center. It was felt that it would detract from the surrounding area. Mr. Hammack stated that they would like to see a limit on the use of the trailer as far as the length of time because it was not compatible with the area. Mr. Hammack stated that the basketball court was in front of the building facing Arlington Boulevard and was not compatible with the residential neighborhood. He stated that the basketball court would detract from the overall appearance of the surrounding structures. Chairman Smith stated that the basketball court was existing at the side of the structure and sits back 105 ft. from the service drive and was even with the rear of the building. Mr. Hammack stated that the temporary trailer should not be allowed on principle as it might allow for further temporary trailers later on. He stated that this would also act as a springboard for other temporary uses in the area. Mr. Smith accepted the letter from the Mantua Civic Association for the record.

There was no one else to speak in opposition to the application.

Page 449, October 24, 1978, Board of Zoning Appeals
WAY OF FAITH CHRISTIAN TRAINING CENTER

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-232-78 by WAY OF FAITH CHRISTIAN TRAINING CENTER, INC., under Section 3-103 of the Fairfax County Zoning Ordinance to permit amendment of existing permit to allow temporary classroom trailer and basketball court on property located at 8800 Arlington Boulevard, tax map reference 48-4((1))39, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 24, 1978; and

WHEREAS, the Board 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-1.
3. That the area of the lot is 7.9 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance,

NOW, THEREFORE, BE IT RESOLVED that the subject application is 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.

R E S O L U T I O N

3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The use of the temporary trailer is limited through the end of the 1979 to 1980 school year.
8. The maximum number of students at any one time in the trailer shall be twenty (20).
9. All conditions of the original use permit shall remain in effect.

Mr. Barnes seconded the motion. The motion passed unanimously by a vote of 5-0.

Page 450, October 24, 1978, Scheduled Case For

9:00 P.M. - ANTHONY & TERESA NASIF, appl. under Sect. 3-203 of the Ord. to permit reevaluation of Special Use Permit for Dentists Office, located 6528 Braddock Road, Smarrland Subd., 72-3((2))13, (0.51 acres), Annandale Dist., R-2, S-208-78.

The Board had held a public hearing on the above application on October 11, 1978 at which time the decision was deferred for a full Board. Mr. DiGiulian stated that he had visited the site and listened to the tapes and reviewed the files and was prepared to make a motion.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-208-78 by ANTHONY & TERESA NASIF under Section 3-203 of the Fairfax County Zoning Ordinance to permit reevaluation and extension of special use permit for dentist office on property located at 6528 Braddock Road, tax map reference 72-3((2))13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board held on October 11, 1978 and deferred for decision until October 24, 1978; and

WHEREAS, the Board 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-2.
3. That the area of the lot is 0.51 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

WHEREAS, all conditions of special permit S-195-75 have been met, that there have been no violations of the permit, and no complaints as to the operation have been registered; and

AND, WHEREAS, the Board has determined that this use has not caused an adverse impact on the surrounding neighborhood and is in harmony with the purpose and intent of the Zoning Ordinance;

DO NOT COPY

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, that the use may continue as stipulated in the use permit S-195-75 without further evaluation.

Ms. Ardis seconded the motion.

The motion passed by a vote of 3 to 2 (Messrs. Yaremchuk and Smith).

Page 451, October 24, 1978, After Agenda Items

The Board was in receipt of a request from the Queen of Apostles Catholic Church to amend the existing special permit to allow the use of a trailer for a temporary classroom. The Zoning Administrator, Mr. Philip Yates, had sent a memorandum to the Board asking their approval to allow the trailer to continue as it only had one more month before being vacated. Chairman Smith stated that he did not think the Board should take any action on this unless there was public hearing was held. However, it was the consensus of the Board that there would not be a problem with the use of the temporary trailer for a period of ninety days and that if a longer period of time was necessary they should come in with a proper application for a public hearing.

//

Page 451, October 24, 1978, After Agenda Items

The Board was in receipt of a letter from Mr. Victor M. Glasberg, an attorney for Mrs. Mildred Frazer, regarding an incident involving Mr. & Mrs. Frazer at a BZA hearing on August 2, 1978 during which the Board was presented a letter from Mr. Frazer's attorney on Mrs. Frazer's school. It was the request of the Board that this matter be deferred until the next meeting in order to allow the County Attorney's Office to review the letter and make a recommendation to the Board.

// There being no further business, the Board adjourned at 9:03 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the BZA on April 1, 79
Submitted to the other departments,
Board of Supervisors and Planning
Commission on April 4, 79.

Daniel Smith
Daniel Smith, Chairman

APPROVED: April 10 79
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 31, 1978. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes, John Yaremchuk and Barbara Ardis.

The Chairman called the meeting to order at 10:10 A.M. and Mr. Barnes led the prayer.

The Chairman called the scheduled 10 o'clock case.

10:00 A.M. - PROSPECT ASSOC., A GENERAL PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to permit subdivision in which two proposed lots have less than minimum required lot width: proposed lot 12, 116.03 ft; proposed lot 13, 111.13 ft., (200 ft. required), located 8114 Georgetown Pike, Potomac Knolls Subd., 20-2((1))2, (50.2181 acres), Dranesville Dist., R-E, V-213-78.

The required notices were in order. The attorney for the applicant, Mr. Robert Lawrence of Fairfax, stated that this was an irregularly shaped lot starting at Georgetown Pike and running back to the Potomac River. The intent of the applicant is to put several lots in a cul-de-sac form with lots larger than what is required for the district. Mr. Lawrence indicated that the lot averages are much higher than the lot widths shown on the plats. The entire parcel consists of approximately 50 acres. In response to questions from the Board, Mr. Lawrence stated that he was not sure what the applicant proposed to do with the remaining land once the road was developed. He stated that these would be very choice lots as they backed up to the Potomac River. When asked if the lots next to this one were developed as yet, Mr. Cecil Jones, the project manager, stated that there will be a total of 20 lots in the development with all of them being 2 acres or more in size. He stated that there was other development on either side of this parcel. Mr. Jones informed the Board that they did not need variances on any of the other 20 lots. The reason for the problems for lot 12 & lot 13 had been because of the cul-de-sac. He stated that at the building restriction line there was more than 200 ft.average but that the cul-de-sac had caused the problems with the frontage of the lots.

There was no one to speak in favor of the application and no one to speak in opposition.

PROSPECT ASSOC., A GENERAL PARTNERSHIP

R E S O L U T I O N

In Application No. V-213-78 by PROSPECT ASSOC., A GENERAL PARTNERSHIP, under Section 18-401 of the Zoning Ordinance to permit subdivision with two lots having less than minimum required width: lots 12 & 13 (116.03 ft. & 111.13 ft. shown; 200 ft. required), on property located at 8114 Georgetown Pike, tax map reference 20-2((1))2, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 31, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 50.76 acres
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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.

Page 453, October 31, 1978 Board of Zoning Appeals
PROSPECT ASSOC., A GENERAL PARTNERSHIP
(continued) R E S O L U T I O N

NOW, THEREFORE, BE IT RESOLVED, that the subject application is GRANTED with the following limitations:

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 453, October 31, 1978, Scheduled case for

10:10 A.M. - BARRY D. STAEBLER, appl. under Sect. 18-401 of the Ord. to allow subdivision into 7 lots with proposed corner lot 3 having width of 172.96 ft. (175 ft. required) and proposed interior lot 6 having width of 125.03 ft. (150 ft. required), located 10300 Dumfries Road, Oak Knob Subd., 37-4((1))38, (68,095 sq. ft.), Centreville Dist., R-1, V-220-78.

As the required notices were not in order, the Board deferred hearing the application until November 21, 1978 at 12:45 P.M.

//

Page 453, October 31, 1978, Scheduled case for

10:30 A.M. - DENNIS G. DUPIER, appl. under Sect. 18-401 of the Ord. to allow carport addition to existing dwelling such that total side yard will be 17.8 ft. (total of 19 ft. required), located 4030 Old Hickory Road, Truro Subd., 58-4((21))19, (10,596 sq. ft.), Annandale Dist., R-2(c), V-222-78.

The required notices were in order. Mr. Dennis Dupier of the above address stated that the reason he was seeking the variance was to permit construction of an open carport on the north side of his house. In response to questions from the Board, Mr. Dupier stated that the subdivision was about ten years old and was a cluster subdivision. He informed the Board that there were several parks and open land that was dedicated to the area for public use surrounding this subdivision. Most of the homes in this area already have two car garages or carports or at least a single car garage. He stated that he would like to construct a nine carport which would blend in with the rest of the area. He stated that the closest point of the carport to the property line would be 9.2 ft. with a total side yards of 17.8 ft. Mr. Covington informed the Board that the Ordinance requires a minimum side yard of 8 ft. with an overall total of 24 ft. but that the applicant could extend 5 ft. into the required setback but no closer than 5 ft. to the property line. Mr. Dupier stated that the adjacent home to the north of his property was not in line with his home and that it sits back farther from the street. When asked how many other homes in the area have the same problem, Mr. Dupier replied none. He stated that there were about 300 homes in the area. He stated that he presently parks his automobile on the north side of the house but that there was not any shelter there for it.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 453, October 31, 1978 Board of Zoning Appeals
DENNIS G. DUPIER
(continued) R E S O L U T I O N

In Application No. V-222-78 by DENNIS G. DUPIER under Section 18-401 of the Zoning Ordinance to permit carport addition to existing dwelling with total side yard of 17.8 ft. (total of 19 ft. required) on property located at 4030 Old Hickory Road, tax map reference 58-4((21))19, County of Fairfax, Virginia, Ms. Ardis 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 31, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2(c).
3. The area of the lot is 10,596 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Page 454, October 31, 1978, Scheduled case for

10:40 A.M. - CHARLES R. & ROSEMARY H. DARBY, appl. under Sect. 18-401 of the Ord. to allow construction of a carport 3.6 ft. from side property line, (8 ft. & total of 20 ft. required), located 6163 Mori Street, Potomac Hills Subd., 31-3((19))3, (11,184 sq. ft.), Dranesville Dist., R-3, V-225-78.

The required notices were in order. Mr. Darby informed the Board that his home was one of the few houses in the Potomac Hills Subdivision that does not have either a carport or a garage. He indicated that there are only about four homes that do not have either with approximately 400 homes in the subd. Mr. Darby stated that his property was pie-shaped with the narrow end at the back of the house. If he constructs a carport, it will be necessary for a variance at the rear end of the property. He indicated that he plans to construct the carport for a single car width but for two cars deep. He stated that the proposed width was about 15 ft. but that he could not take advantage of it because of an embankment and the footings. He stated that it will be necessary to construct a 2 ft. wall from the house to retain the dirt embankment in order to cover the footings.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

RESOLUTION

In Application No. V-225-78 by CHARLES R. & ROSEMARY H. DARBY under Section 18-401 of the Zoning Ordinance to permit construction of carport 3.6 ft. from side property line (8 ft. & total of 20 ft. required), on property located at 6163 Mori Street, tax map reference 31-3((19))3, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

Page 455, October 31, 1978 Board of Zoning Appeals
CHARLES R. & ROSEMARY H. DARBY
(continued) RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 31, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 11,184 sq. ft.
4. That the applicant's property is exceptionally irregular in shape.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Page 455, October 31, 1978, Scheduled case for

10:50 A.M. - ROBERT O. NOYER, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing double carport 7.7 ft. from side property line, (12 ft. & total of 30 ft. required, 7.7 ft. & total of 27.8 ft. shown), located 9432 Old Courthouse Road, The Trails Subd., 28-4((16))6, (15,118 sq. ft.), Centreville Dist., R-2, V-227-78.

The required notices were in order. Mr. Noyer of the above address stated that when he purchased the house there already existed a double carport. He stated that now he proposed to convert the carport into a double garage to store the cars and for additional insulation for the house. The materials to be used would conform in color and style with the existing house and he indicated that he would not have to change the roof line. In response to questions from the Board, Mr. Noyer stated that he has owned this house since 1970 and will continue to live here. He further indicated that the dimensions of the carport are 20' x 20'. He stated that he needed a variance both from the minimum side yard requirement and for the overall total.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 455, October 31, 1978 Board of Zoning Appeals
ROBERT O. NOYER

RESOLUTION

In Application No. V-227-78 by ROBERT O. NOYER under Section 18-401 of the Zoning Ordinance to permit enclosure of existing double carport 7.7 ft. from side property line with total side yards of 27.8 ft. (12 ft. min. & total of 30 ft. required), on property located at 9432 Old Courthouse Road, tax map reference 28-4((16))6, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 31, 1978; and

RESOLUTION

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 15,118 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing building on the subject property.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 456, October 31, 1978

11:00 A.M. VULCAN MATERIALS COMPANY (ANNUAL REVIEW)

Mr. Jack Maize, Inspector Specialist with the Zoning Administration Office, appeared before the Board to assist in the annual review of the Vulcan Materials Company (Graham Quarry) by the Board of Zoning Appeals for the purpose of determining whether the conditions set forth in the special permit are being met.

Mr. Maize stated that all conditions imposed by Fairfax County are being met, except that relating to airborne partuculates. A joint study of suspended particulates is being conducted in the Occoquan area by Fairfax County and the Vulcan Materials Company. Approximately $5,300 was spent on air monitoring equipment by the Division of Zoning Administration for use by the Air Pollution Control Element of our Health Department. The Board was in receipt of two reports which summarized the data collected in the past year. Mr. J. J. Nelson of the Air Pollution Control Office and Mr. Ed Graham of the Environmental Office of Vulcan Materials Company were available to answer any questions and to provide assistance in the Board's deliberations.

Mr. Maize stated that it would be necessary to continue surveillance of all existing quarry limitations. There are no additional requirements that need to be considered at this time.

Mr. Dan Smith inquired as to what might be done to reduce the dust concentration. He was informed that the watering truck could be used to a greater extent on internal road areas where truck traffic is heaviest, particularly on weekends. Chairman Smith inquired about the storage area the top of the hill as it appeared to him to be an area of contamination especially with the wind. Mr. Maize stated that the storage area is almost non-existent because of the demand. He stated that the quarry is hardpressed to meet building demands: One of the larger piles that the Board members had witnessed on an earlier visit now no longer exists. In response to a question from Chairman Smith, Mr. Maize stated that the property used for storage is still being leased from the D. C. Government.

There were no more questions from the Board. Chairman Smith stated that it appeared that the special permit and the conditions set were working out very well for all concerned.

//

The Board recessed for lunch at 11:30 A.M. and reconvened at 1:30 P.M. to continue with the scheduled agenda.

//

Page 457, October 31, 1978, Scheduled Case for

1:30 P.M. - McLEAN ANIMAL HOSPITAL, INC., appl. under Sect. 4-803 of the Ord. to permit veterinary hospital, located 9895*Georgetown Pike, Great Falls Shopping Center, 13-1((1))pt. of 23, 11,024 sq. ft., Dranesville Dist., C-8, S-226-78. *amended to 9891 at hearing.

The required notices were in order. Mr. Becker of 1300 Old Chain Bridge Road, represented the applicant. He stated that the operation is owned by Dr. Patton who wishes to operate an additional animal hospital in the Great Falls Shopping Center and has entered into a lease with the shopping center. The property is located at 9895 Georgetown Pike. Mr. Becker stated that no one is in objection to this proposal. This is commercial property. Mr. Becker inquired if the Board would allow him to amend the application to change the location of the animal hospital from 9895 to move down to 9891. The reason for the change was to have a slightly bigger place and also because as the concrete floor had not been poured yet it would enable them to locate the pipes and drains exactly where they were needed. Mr. Becker informed the Board the difference in square footage between the two locations was only about 124 sq. ft. There was no objection from the Board to amending the application as requested. Mr. Becker went on to state that the use would be as a veterinary hospital and must comply with the regulations of the Health Department for sound and odors. In response to questions from the Board regarding overnight housing, Mr. Becker stated that any overnight housing would be because the animal was recovering from surgery and would not be for the purposes of boarding. He stated that ten would be the maximum number of animals kept overnight at any one time.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 457, October 31, 1978 Board of Zoning Appeals
McLEAN ANIMAL HOSPITAL, INC.

R E S O L U T I O N

Ms. Ardis made the following motion:

WHEREAS, Application No. S-226-78 by McLEAN ANIMAL HOSPITAL, INC. under Section 4-803 of the Fairfax County Zoning Ordinance to permit a veterinary hospital on property located at 9891 Georgetown Pike, tax map reference 13-1((1))pt. of 23, County of Fairfax,,Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 31, 1978; and

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

1. That the owner of the subject property is Rt. 193 Associates and that the applicant is the lessee.
2. That the present zoning is C-8.
3. That the area of the lot is 1,024 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Special Permit Uses in C Districts as contained in Sect. 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with the application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

RESOLUTION

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. Hours of operation shall be 8 A.M. to 7 P.M. on weekdays and 8 A.M. to 6 P.M. on Saturdays.
8. This special permit is limited to treatment of small animals as defined in the Ordinance.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 458, October 31, 1978, Scheduled case for

1:50 P.M. - MOUNT VERNON-LEE ENTERPRISES, INC., appl. under Sect. 3-403 of the Ord. for renewal of special permit for school of special education with change in name of opermittee, located 6120 North Kings Highway, Penn-Daw Subd., 83-3((4))1, 2, & 3, 27,906 sq. ft., Lee Dist., R-4, S-228-78.

The required notices were in order. Mr. Joseph Hemelings of Alexandria represented the applicant. He stated that this was a request for a renewal of the special permit and at the same time a request to allow the change of name for the permittee. The original permit was granted to Eastern Fairfax Activities Center for Retarded Adults, Inc. The change in name was accepted by the State Corporation Commission. The permit expiration date is November 11, 1978. In response to questions from the Board, Mr. Hemelings stated that the maximum number of students is 30, ages 18 and over. He stated that the hours of operation are from 8 A.M. to 4 P.M., five days a week and that there is no weekend activities. He informed the Board that they have an annual lease with the church. There are nine full-time employees. Mr. DiGiulian stated that at the last public hearing there had been a problem about the parking. Mr. Hemelings stated that the neighbors had been afraid of congestion in the area. He stated that he has visited the neighbors and they have signed a petition indicating that they have no objection to the school for another year and also that they have no objection to the van loading and unloading students on School Street. Mr. Hemelings stated that they are requesting permission to load and unload on School Street because of the problems with the parking on the Mt. Eagle School parking lot. He stated that it was difficult for the handicapped students to walk that distance and it takes two staff persons to walk the students into the church building. This takes a long time and is very difficult and inconvenient during the winter months. In response to Mr. DiGiulian's question regarding employee parking, Mr. Hemelings stated that he personally parks at the gas station lot next door. He informed the Board that the school is looking for another location, possibly a warehouse.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 458, October 31, 1978 Board of Zoning Appeals
MT. VERNON - LEE ENTERPRISES, INC.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-228-78 by MT. VERNON-LEE ENTERPRISES, INC., under Section 3-403 of the Fairfax County Zoning Ordinance to permit renewal of special permit for school of special education with change in name of permittee on property located at 6120 North Kings Highway, tax map reference 83-3((4))1, 2, 3, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public and a public hearing by the Board of Zoning Appeals held on October 31, 1978; and

459

RESOLUTION

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

1. That the owner of the subject property is Calvary Presbyterian Church and that the applicant is the lessee.
2. That the present zoning is R-4.
3. That the area of the lot is 28,077 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The maximum number of students shall be 30 with a total of 9 employees.
8. The hours of operation shall be 8 A.M. to 4:30 P.M., Monday through Friday.
9. The minimum number of parking spaces shall be 8, located on the Mount Eagle School parking lot.
10. This special permit is granted for a period of one year.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 459, October 31, 1978, Scheduled case for

2:15 P.M. - COLONIAL ANIMAL HOSPITAL, INC., appl. under Sect. 4-503 of the Ord. to permit construction and operation of a veterinary clinic, located Lee Chapel Road, adjacent to 7-11, State Rt. 643, 78-3((1)) 7A, (15,395 sq.ft.), Springfield Dist., C-5, S-206-78. (Deferred from October 11, 1978 at the request of the applicant).

The required notices were in order. The attorney for the applicant, Mr. William G. Downey of Springfield, stated that the property is zoned C-5 and is owned by the Southland Corporation. The applicant proposed to build on the northern section of the property. He stated that the staff report recommended screening that is now existing on the property would be acceptable. The Planning Commission held a hearing on this application and recommended approval of the application with the conditions outlined in the staff report. Mr. Downey stated that at the present time, there exists a 6 ft. solid fence and evergreens. The 7-11 store is located to the south of this proposed structure. Mr. Downs stated that he has a letter from the Director of Environmental Management stating that the existing 12 ft. strip is adequate as long as it remains in good condition. When asked by the Board as to who would be responsible for maintaining the fence and the existing screening, Mr. Downey

replied that the applicant would maintain the northwestern boundary and into the eastern boundary of the property.

In response to questions from the Board, Dr. Breslauer stated that the proposed hours of operation would be 8 A.M. to 6 P.M., Monday through Saturday. He also indicated that he would be operating one night a week, either on Monday or Thursday until 8:P.M. and on Sundays from 8 A.M. to 5 P.M. He stated that the facility would be operated by two doctors, a receptionist, and possibly one or as many as three individuals to assist them with the operation He stated that they would only be dealing with small animals and there would not be any animals kept overnight as it was not allowed by the Ordinance for this zoning district.

The following persons spoke in favor of the application. Mr. George Yeager of the Rolling Valley West Civic Assoc. stated that he was not really speaking for or against the application. He stated that no one in the area was opposed to this application but that there were some reservations. He stated that he wanted to make sure that the regulations of the Ordinance would be enforced. One of the adjoining property owners, Mrs. Carson, was concerned about the problem of odors and was of the feeling that the Ordinance would not be strong enough to control the odors. Her house is located about 100 ft. from this proposed use. She was informed by the Board that the entire operation would be inside a building and would be odor-free and soundproof. Dr. Breslauer informed the Board that he has operated his present facility for 13 years and does not have an odor problem or a noise problem. He stated that he was retaining the same architect who designed the present facility. Also, with the help of some new innovative materials, the nature of the operation would be greatly improved. The building would have central air conditioning and exhaust fans with charcoal filters for odors. Dr. Breslauer sstated that odor has not been a problem in the past and indicated that he desires to be a good neighbor. He also indicated that his employees would not be able to work in an building full of odor nor would his clients allow it.

The architect, Mr. Marty Mintz of Annandale, informed the Board that he designed the original animal hospital of Dr. Breslauer 13 years ago. He stated that the exterior walls were designed to eliminate the sound of the barking. Also, the walls are insulated. He stated that Dr. Breslauer operates another animal hospital in a shopping center and there is not any problems with noise or odor.

Mr. Yeager stated that another of his points was the buffer between Mrs. Carson's property and the clinic. The next speaker was Mr. Frank Gregor of 9522 Myrac Court. He stated that when he bought the property that he was unaware that a 7-11 was going in. There is extremely heavy traffic at this store at least six days a week. At the end of Myra Court, there is a new shopping center less than 300 yards from the street and near an elementary school. He also stated that there are tennis courts with mercury lights on the courts, a church rectory, and other schools nearby so that he was entirely surrounded by commercial operations. Chairman Smith informed Mr. Gregor that other commercial uses could go in that would be allowed by right. He stated that the Board would try to set some conditions on this application to make it compatible with the rest of the neighborhood. Mr. Yeager stated that the hours of operation for evening use was a major source of conflict. During the daytime hours, the noise would not be offensive but at night when people were trying to rest the noise would be distressing.

The next speaker was Dave Campbell of 9526 Lela Court located just south of the 7-11 store. He stated that he was opposed to the application because of the traffic situation and the additional noise. He stated that the parking would be limited. Also the increase in traffic would create noise as well as the animals. He felt there would be a problem with odor as well as he has never seen an animal yet that doesn't smell. Mr. Campbell informed the Board that his house is located about 100-150 ft. from the property line. He stated he already has problems with trash and noise from the 7-11 store. He stated that because of the topographics of the area, that they were in a unique situation. His land lies 10 ft. below the ground level of the 7-11 and now receives an extensive amount of drainage into the back yard during heavy rains. He was concerned about the chemicals and the pollutants from the animal clinic draining into his backyard also. He was concerned about the disposal of the cleaning solutions for the clinic. He was informed by the Board to check with Public Works regarding runoff problems.

Page 461, October 31, 1978
COLONIAL ANIMAL HOSPITAL, INC.
(continued)

During rebuttal, Mr. Downey stated that this property was zoned C-N for 23 years. Mrs. Carson owned the property and had it subdivided into two lots. She sold both lots to the Southland Corporation. Now, the applicants are buying one of the lots for the clinic. Mr. Downey stated that a traffic impact study was conducted for the Planning Commission hearing and was in the file.

Page 461, October 31, 1978 Board of Zoning Appeals
COLONIAL ANIMAL HOSPITAL, INC.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-206-78 by COLONIAL ANIMAL HOSPITAL, INC. under Section 4-503 of the Fairfax County Zoning Ordinance to permit construction of and operation of veterinary clinic on property located at Lee Chapel Road, adjacent to 7-11 store, tax map reference 78-3((1))7A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 31, 1978; and

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

1. That the owner of the property is the Southland Corporation and that the applicant is the contract purchaser.
2. That the present zoning is C-5.
3. That the area of the lot is 15,395 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C Districts as contained in Sect. 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required to the satisfaction of the Director of Environmental Management.
7. The hours of operation shall be 8 A.M. to 8 P.M., seven days a week.
8. The number of parking spaces shall be twelve (12).
9. This special permit will come under Site Plan Control; drains and the screening are to be located to the satisfaction of the Director of Environmenta Environmental Management with the Board of Zoning Appeals having the final authority.

Mr. DiGiulain seconded the motion.

The motion passed by a vote of 5 to 0.

Page 462, October 31, 1978, After Agenda Items

S-269-77 Burke Lake Assembly of God: The Board was in receipt of a letter from Mr. Terry Pearson requesting an extension on the special permit granted to the church on November 15, 1977.

Mr. Barnes moved, Mr. DiGiulian seconded and it was unanimously carried to grant the Burke Lake Assembly of God an extension on the special permit for a period of 180 days.

//

Page 462, October 31, 1978, After Agenda Items

The Board unanimously approved the BZA Minutes of May 23, 1978 as amended.

//

Page 462, October 31, 1978, After Agenda Items

V-216-78 Jerry Schrager & James D. Ashbaugh: The Board was in receipt of a letter from the applicants requesting a rehearing on the variance heard by the Board on October 17, 1978 which was denied by a vote of 2 to 2. Based on the information contained in the letter, Mr. DiGiulian moved, Mr. Barnes seconded, and it was carried by a vote of 3 to 2 (Messrs. Smith and Yaremchuk) that the request for rehearing be granted. The rehearing was scheduled for November 28, 1978 at 8:15 P.M.

//

Page 462, October 31, 1978, After Agenda Items

S-223-78 The Learning Center: The Board was in receipt of a letter from Mrs. Nancy Koehler regarding the special permit granted by the Board on October 24, 1978. She requested that the ages of the students be amended. The Board had granted the permit with the ages of 10 to 15. She was asking that the ages be changed to read 6 to 16. As the Board did not have any problems with the request, Mr. DiGiulian moved, Ms. Ardis seconded, and it was unanimously carried to amend the ages as requested.

//

Page 462, October 31, 1978, After Agenda Items

The Board was in receipt of a letter from Mr. and Mrs. Jack Harris requesting an out-of-turn hearing on their variance application to construct a fence in the front setback area. The letter cited safety hazards which endangered the children because of the unusual situation of three front yards. It was the unanimous decision of the Board to grant an out-of-turn hearing as requested. The hearing was scheduled for November 28, 1978 at 8:10 P.M.

//

Page 462, October 31, 1978, After Agenda Items

S-259-77 Fordson Storage Units: The Board was in receipt of a letter requesting an extension on the special permit granted by the BZA on November 8, 1977. Mr. Barnes moved, Mr. DiGiulian seconded, and it was carried by a vote of 4 to 1 (Mr. Smith) to grant the extension as requested for a period of 90 days.

//

Page 462, October 31, 1978, Scheduling Policy

Mr. DiGiulian moved, Mr. Barnes seconded, and it was carried that the Clerk schedule BZA applications up to 12:45 P.M. and that the Board break for lunch as soon as the scheduling would allow, preferably about 1:00 P.M.

//

Page 462, October 31, 1978, After Agenda Items

V-252-77 & V-253-77 William F. Robertson: The Board was in receipt of a letter from Mr. Charles Runyon, Engineer, requesting an extension on the above variances granted by the BZA on October 18, 1977. It was the unanimous decision of the Board to grant the extensions as requested for a period of 180 days for V-252-77 and V-253-77.

//

// There being no further business, the Board adjourned at 3:15 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: April 10 79
DATE

Submitted to the BZA on Apr. 1, 79.
Submitted to the other departments,
Board of Supervisors and Planning
Commission on Apr. 1 79.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 7, 1978. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes, John Yaremchuk and Barbara Ardis.

The meeting opened at 10:10 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case.

10:00 A.M. - JOHN P. FOREST, D. D. S., appl. under Sect. 3-103 of the Ord. to permit home professional dental office, located 8717 Little River Turnpike, Ashton Jones Subd., 59-3((9))2A, (38,051 sq. ft.), Annandale Dist., R-1, S-203-78. (Deferred from 10/3/78 for Notices.)

Mr. C. Fitzgerald of Fitzgerald & Smith, 10560 Main Street, Fairfax, represented the applicant. He stated that Dr. Forest has been practicing dentistry in the Annandale area for 15 years. The building that he has been leasing has recently been sold and Dr. Forest is looking for a permanent office. Dr. Forest has decided to move into the Annandale area and provide an office in his home. He found a piece of property where he could a home and office that would be compatible with the surrounding area. The property is located at 8717 Little River Turnpike. There are commercial uses which are located across the intersection of Iva Lane and Little River Turnpike. The property would have to be rehabilitated as the structure existing now is old. Originally, the structure was used as a church and was later converted to a residence. There is a church located near this property as well as the commercial uses across the highway. Mr. Fitzgerald stated that this proposed use would form a good buffer between the commercial uses and the residential zones. Mr. Fitzgerald stated that the application complies with all of the requirements that have to be met for a home professional office and stated that this use would not be detrimental to any surrounding area and would actually be an improvement to the neighborhood.

In response to questions from the Board, Mr. Fitzgerald stated that the existing structure would be removed. The proposed structure was over 180 ft. in length and 61 ft. in width and would be built of stucco and cinderblock. There would be employees involved in the operation but the number would not exceed that allowed under the Ordinance. With regard to parking, Mr. Fitzgerald was informed by the Board that all parking has to be on the site and the total number of spaces to meet the maximum use needs to be shown on the plat. Mr. Fitzgerald stated that 2 spaces would be required for Dr. Forest, 4 for the employees and 4 for the patients making a total of 10 spaces necessary. Mr. Fitzgerald stated that it was his understanding that the parking would be shown at the time of Site Plan approval in accordance with the number required by the Board of Zoning Appeals.

The following people spoke in favor of the application. Mr. Lou Blazy stated that his property was located behind the applicant's property next to the elementary school. Mr. Blazy was in favor of the application but concerned as to the location of the parking spaces. The next speaker was Mr. Robert Phillips of the Pine Ridge area. He informed the Board that his property was not adjacent to the subject property but that he was concerned with the development of this area. He stated that he thought it was good to put this type of an enterprise in this area as then the area was not left open for higher density development. Mrs. Delia Olson, an adjacent property owner, stated that this was ideal use for this area and that she was very happy to have Dr. Forest here. The Board was in receipt of two letters in suppport of the application. There was no one to speak in opposition to the application.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-203-78 by JOHN P. FOREST, D.D.S., under Section 3-103 of the Fairfax County Zoning Ordinance to permit home professional dental office on property located at 8717 Little River Turnpike, tax map reference 59-3((9))2A, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

465

RESOLUTION

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on November 7, 1978 and deferred from October 3, 1978 for Notices; and

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

1. That the owner of the subject property is John P. Forest.
2. That the present zoning is R-1.
3. That the area of the lot is 0.82 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance except as qualified below.
7. The total number of persons involved in the operation shall not exceed four (4).
8. The hours of operation shall be 8:30 A.M. to 4:30 P.M., Monday through Friday.
9. The number of parking spaces shall be ten (10).
10. This special permit is subject to review of the revised plats showing the required parking spaces.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 465, November 7, 1978, Scheduled case for

10:20 A.M. - REGINALD E. DURHAM, appl. under Sect. 18-401 of the Ord. to allow construction of carport in front setback area (23.4 ft. shown, 30 ft. required), located 5902 Montell Drive., Parkside Subd., 82-1((13))22, (11,348 sq. ft.), Lee Dist., R-3, V-229-78.

The required notices were in order. Mr. Reginald Durham of the above address stated that his property was a corner lot, located at the intersection of Larkin Lane and Montell Drive. He indicated that there are several other homes in the areas that have garages or carports. An attempt was made to construct the carport at the rear of the lot but Mr. Durham stated that he ran into several problems. It would necessitate the construction of a new causeway, removal of shubbery and a lot of excavation. The alternative was to seek a variance which would allow construction of the carport in the required setback. Because the addition would be attached to the dwelling, Mr. Durham did not feel that the proposed carport would detract from the surrounding area. In response to questions from the Board, Mr. Durham stated

that he has owned the property for five years. As for site distance, Mr. Durham stated that this construction would not interfere with drivers vision from either Montell Drive or Larkin Lane.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 466, November 7, 1978 Board of Zoning Appeals
REGINALD DURHAM

R E S O L U T I O N

In Application No. V-229-78 by REGINALD E. DURHAM under Section 18-401 of the Zoning Ordinance to permit construction of carport in front setback on property located at 5902 Montell Drive, tax map reference 82-1((13))22, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 11,348 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Page 466, November 7, 1978, Scheduled case for

10:30 A.M. - BANK OF VIRGINIA/POTOMAC, appl. under Sect. 18-401 of the Ord. to allow curb cut to be located 7.29 ft. from side lot line (20 ft. min. required by Sect. 4-805), located 6341 South Kings Highway, 83-3((5))Lot B, 53,445 sq. ft., Lee Dist., C-8, V-230-78.

The required notices were in order. Mr. Kenneth White, an engineer, 3704 Colvin Street in Alexandria, stated that a variance was necessary in order to gain access to the property. He indicated that a 30 ft. entrance off of South Kings Highway was to be constructed if the Board granted a variance to allow a curb cut 7.29 ft. from the side lot line. In response to questions from the Board, Mr. Knowlton replied that the State Highway Department requires a minimum of 12½ ft. Chairman Smith stated that the Board does not have any authority to grant this type of variance and suggested that the applicant go to the State Highway Department. After much discussion regarding authority, it was the majority decision of the Board to go ahead with the hearing as the applicant would have to work out the final details with the State Highway Department. Any variance granted by the BZA would be void if details could not be

Page 467, November 7, 1978
BANK OF VIRGINIA/POTOMAC
(continued)

worked out with the State Highway Department. In proceeding with the hearing, Mr. White stated that the applicant does not have substantial frontage on South Kings Highway. The applicant proposed to have a 30 ft. entrance which only left approximately 27 ft. frontage. There was no way a 20 ft. minimum could be met for the curb cut. During discussion, the Board stated that it would be more practical to split the difference between the two sides of the driveway. Mr. White stated that he thought that the applicant could live with that suggestion. Mr. DiGiulian calculated that 13.64 ft. would be the distance on each side. The Board inquired if there had been a problem with site distance as to the reason for the initial request. Mr. White replied that there was not any problem. When asked about future development of lot 23, he stated that it was vacant at this time.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 467, November 7, 1978 Board of Zoning Appeals
BANK OF VIRGINIA/POTOMAC

R E S O L U T I O N

In Application No. V-230-78 by BANK OF VIRGINIA/POTOMAC under Section 18-401 of the Zoning Ordinance to permit curb cut to be located 7.29 ft. * from side lot line (20 ft. minimum required by Sect. 4-805) on property located at 6341 South Kings Highway, tax map reference 83-3((5))Lot B, County of Fairfax, Virginia, Ms. Ardis 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-8.
3. The area of the lot is 53,445 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED IN PART *(to allow curb cut to be located 13.64 ft. from each side lot line) 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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

3. This variance is subject to approval of the Virginia Department of Highways and Transportation.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 468, November 7, 1978, Scheduled case for

10:40 A.M. - CARL A. COVINGTON, appl. under Sect. 18-401 of the Ord. to permit subdivision where lot 1 has a lot width of 181.34 ft. (225 ft. required by Sect. 3-E06), and to permit construction of a single family dwelling at 40 ft. setback from the street line (50 ft. required by Sect. 3-E07), located 11103 Gunston Road, 119-1((1))4, (7.958 acres), Mt. Vernon Dist., R-E, V-233-78.

Mr. Carl Covington of the above address stated that he was the owner of the subject property having bought it 14 years ago with the intention of building a house on it to live in. He stated that he proposed to subdivide the property in order to give a lot to his children to build a house on now. He stated that the house being considered would be somewhat smaller than his existing home. In response to questions from the Board, Mr. Covington stated that his existing home is located on lot 2 and his daughter planned to construct a house on lot 1. He stated that his son-in-law is a registered architect and was familiar with the details of the application to answer any questions that the Board might have. Mr. Mark Bellamy of 7083 Brockton Street in Springfield stated that a variance is needed for lot width on lot 1 as it was substandard. He indicated that the property would be divided into five acres in the rear. Mr. Bellamy stated that the lot was considered a corner lot. He informed the Board that the variance was for the lot width and also another variance was nec sary for the setback of the proposed house.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 468, November 7, 1978 Board of Zoning Appeals
CARL A. COVINGTON

R E S O L U T I O N

In Application No. V-233-78 by CARL A. COVINGTON under Section 18-401 of the Zoning Ordinance to permit subdivision where lot 1 has width of 181.34 ft. and to allow construction of single family dwelling 40 ft. from the right-of-way line on property located at 11103 Gunston Road, tax map reference 119-1((1))4, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 7.958 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed listed above 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 is 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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 469, November 7, 1978, Scheduled case for

10:50 A.M. - MARTIN D. & BARBARA A. COOK, appl. under Sect. 18-401 of the Ord. to allow 6.8 ft. high fence to remain in front yard (4 ft. maximum height allowed by Sect. 10-105), located 6219 Bren Mar Drive, Bren Mar Park Subd., 81-1((4))(B)3, Mason Dist., R-4, 10,312 sq. ft., V-234-78.

As the required notices were not in order, the Board deferred the application for hearing to December 5, 1978 at 11:00 A.M.

//

Page 469, November 7, 1978, Scheduled case for

11:00 A.M. - GAYLE B. MATTHEWS & STELLA J. MATTHEWS, appl. under Sect. 18-401 of the Ord. to allow enclosure of an existing carport to 5.8 ft. from side lot line (8 ft. required by Sect. 3-407), located 2341 Oak Street, Mount Daniel Subd., 40-4((15))44, Dranesville Dist., 12,531 sq. ft., R-4, V-237-78.

Mr. Matthews of the above address stated that he was proposing to enclose the existing carport for several reasons. He indicated that it would not change the character of the area at all. In response to questions from the Board, he stated that he has owned the property for one year. Mr. Matthews stated that all of the houses in this area are close together which leaves very little room between them. Mr. Matthews stated that the original subdivision was built in the 40's and his house was constructed about five years ago.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 469, November 7, 1978 Board of Zoning Appeals
GAYLE B. & STELLA J. MATTHEWS

R E S O L U T I O N

In Application No. V-237-78 by GAYLE B. & STELLA J. MATTHEWS under Section 18-401 of the Zoning Ordinance to permit enclosure of existing carport 5.8 ft. from side lot line (8 ft. required by Sect. 3-407) on property located at 2341 Oak Street, tax map reference 40-4((15))44, County of Fairfax, Virginia, Mr. Ardis 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 12,531 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 tother land or to other structures on the same land.

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

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 470, November 7, 1978, Scheduled case for

11:10 A.M. - EDWARD M. STATLAND & BADMAN TEIMORIAN CO., TR., appl. under Sect. 18-401 of the Ord. to allow subdivision into three lots, two of which have lot width of 12 ft. (200 ft. required by Sect. 3-E06), located 8612 Old Dominion Drive, 20-1((1))56A, Dranesville Dist., 5.794 acres, R-E, V-255-78.

As the required notices were not in order, the application was deferred for hearing until December 5, 1978 at 11:10 A.M.

//

Page 470, November 7, 1978, Scheduled case for

11:20 A.M. - SHELL OIL COMPANY, appl. under Sect. 18-401 of the Ord. to allow a pump island canopy 6 ft. from front right-of-way line (22 ft. required), located 12219 Leesburg Pike, 6-3((1))2, (22,434 sq. ft.), Dranesville Dist., C-8, V-221-78.

The required notices were in order. Mr. James Day, Field Engineer with Shell Oil Company stated that this was an application from Shell to construct a canopy over the existing pump island. A variance was required in order to construct the canopy. Mr. Day stated that this was a small request compared to what Shell has done in the past. In response to questions from the Board, Mr. Day stated that this was a 16 ft. variance but it would be located 6 ft. from the front right-of-way line. He stated that the canopy would have a ranch style roof with shingles on top. The station would be split between self-service and full-service. Mr. Day informed the Board that the Board of Supervisors had heard a special exception to allow the canopy on November 6th. It was his impression that this request was to allow the variance for the canopy to be constructed. Mr. Knowlton informed the Board that the Board of Supervisors had heard a special exception just the day before and granted it. Mr. Knowlton stated that there were not any conditions placed on the granting that would affect the setback.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 470, November 7, 1978 Board of Zoning Appeals
SHELL OIL COMPANY

R E S O L U T I O N

In Application No. V-221-78 by SHELL OIL COMPANY under Section 18-401 of the Zoning Ordinance to permit pump island canopy 6 ft. from right-of-way line (22 ft. required) on property located at 12219 Leesburg Pike, tax map reference 6-3((1))2, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-8.
3. The area of the lot is 22,434 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

RESOLUTION

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 has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 471, November 7, 1978, Scheduled case for

11:30 A.M. - DALE L. THOMPSON, appl. under Sect. 18-401 of the Ord. to allow addition to existing dwelling to be completed and to remain 26.6 ft. from front property line and to a height of 18.8 ft. instead of 14 ft. as approved in the granting of V-106-78, located 6422 Deepford Street, Monticello Woods Subd., 81-3((13))(D)232, Lee Dist., 14,309 sq. ft., R-3, V-262-78.

The required notices were not in order as the notification letter sent to the surrounding property owners by Mr. Thompson did not state that he was applying for a variance regarding the roofline of the structure. After discussion with the Board, the application was deferred for hearing until December 5, 1978 at 11:20 A.M.

//

Page 471, November 7, 1978, Recess

The Board recessed for lunch at 12:00 P.M. and reconvened at 1:35 P.M. to continue with the scheduled agenda items.

//

Page 471, November 7, 1978, Scheduled case for

1:30 P.M. - EARLY LEARNING INC., appl. under Sect. 3-103 of the Ord. to permit private school of general education for max. 120 children, located 9012 Leesburg Pike, Woodside Estates Subd., 19-4((4))A-1, 5.000 acres, Dranesville Dist., R-1, S-231-78.

The required notices were in order. Mr. John Aylor informed the Board that this was a request for a special permit for a school with hours from 7 A.M. to 6 P.M. A play area with a 4 ft. fence was included. The estimated traffic inpact was about 50 vehicular movements per day. There would be group transportation including carpools and five school buses. Mr. Aylor stated that the residential character of the area would be maintained as the building was only 20 ft. in height and the trees on the west side of the property would be preserved. He indicated that some new trees would be planted along Leesburg Pike. Mr. Aylor stated that this was non-profit organization. The maximum number of 120 children was being requested. The applicant, Early Learning, Inc., has schools operating in Prince Georges County, Maryland, Greenbelt, Maryland and Gathersburg, Maryland. The teachers have a four year college degree. The classes are made up of a maximum of 20 students and are approved by the Maryland State Board of Higher Learning. He indicated that all of their teachers are required to have an internship. Early Learning, Inc. has contracted with George Mason University as a educational consultant. Mr. Aylor stated that there was a need for this school in this area as the two Montesorri schools in the area are full and have a waiting list. In addition, the need for preschool or nurseries has increased greatly as more and more parents are working. Mr. Aylor stated that this school would serve the community.

In response to questions from the Board, Mr. Aylor again stated that the hours would be 7 A.M. to 6 P.M, ages two through third grade. He indicated that this would be a five day a week operation for the whole year round. As for the design of the building, it was a quadruplex and would be grayish in color to blend in with the surrounding area. The whole parcel of land consists of five acres and Mr. Aylor informed the Board that there was not any use for the remaining land being considered at this time.

472

The following person spoke in favor of the application. Mrs. Elizabeth Rupert of 1298 Woodside Drive of McLean stated that they were a working family and were very interested in seeing this permit approved. She stated that they felt this this proposal would offer the opportunity for young persons to meet the educational needs for their children while the mothers worked.

The following persons spoke in opposition to the application. Mr. William Soloman of 9870 Brook Road in McLean stated that his property abutts this proposed school, in particular, the proposed driveway. He stated that the property was bought in his wife's name and that when the house was constructed it was built perpendicular to the property line. Mr. Soloman stated that the master bedroom was in view of the applicant's driveway. He indicated that the driveway placed in this location would hinder the enjoyment of his property. Mr. Soloman stated that the driveway should be placed in the middle of the five acre parcel or at the other end of the parcel instead of next to his property. In addition, as the driveway was proposed, Mr. Soloman stated that it would create a traffic hazard because of other intersections in the immediate area. Mr. Soloman was concerned about the proposed driveway being located only 10 ft. from his property line, especially in view of the early morning hours with all the traffic and noise. Mr. Soloman was concerned about the parking if there were night meetings. He indicated that there was not enough room on Brook Road to park as it was only wide enough for two cars. He was concerned as to where the excess cars would park if there were night parent/teacher meetings. Another concern was that there was only one loading and delivery zone and Mr. Soloman felt this would tax that one area. Mr. Soloman stated that the applicant planned to preserve some existing trees but that nothing was said about additional landscaping or barriers. In addition Mr. Soloman was concerned about the septic field on the property. In response to that question, Mr. Aylor informed the Board that the Health Department had approved the septic field and that they would use public water. Mr. Soloman stated that if this was an application for a school but was running the whole year round it would then seem to be more of a nursery or child care center than a private school.

Mr. Smith stated that the proposed driveway had not been approved by the State Highway Department and could possibly be moved further away from the residential area and a transition area provided.

The next speaker in opposition was Mr. Wesley Parcell of 9871 Brook Road who stated that he lived directly opposite Mr. Soloman and the school. He informed the Board that the road was very narrow with deep ditches making it very difficult for a large number of cars to park. Mr. Parcell was informed by Mr. Smith that all parking has to be on the site. Mr. Parcell stated that if there were night meetings there would not be adequate room on the property to accomodate all the cars.

The next speaker was Lilla Richards of 8703 Brook Road who stated that some statements were made that were not complete in their accuracy. She stated that the citizens association did not take a position in support of this application because they were waiting for answers to some questions raised which did not mean they approved the plan as indicated by the applicant. However the association did support the concept of a Montessori School. Ms. Richards also stated that there was a problem with the proposed driveway location being so close to the property line. Inasmuch as the property contains five acres, Ms. Richards stated that the proposed driveway and the school location should be moved on the property. She stated that the association had inquired about landscaping and, particularly, Brook Road. Ms. Richards stated that it did not seem reasonable to create a dog leg driveway. The question of night meetings was also brought up by the association but they did not receive any response from the applicant. With regard to the existing screening along the property line, Ms. Richards stated that it could not be considered "trees" as the majority of the existing screening consisted of nothing more than overgrown shrubs. Ms. Richards asked that two points be considered by the Board of Zoning Appeals. One, that no use of the property be allowed after 6 P.M. unless the applicant designates where the parking will be located. Two, that the driveway be cut out so that it does not create a dog leg and that the revised plat be returned to the Board for review of the placement of the driveway.

There was no one else to speak in opposition. During rebuttal, Mr. Aylor stated that they planned to retain all plantings. He indicated that there were two reasons for locating the school here. One was financial as the seller felt that the rest of the property was very valuable. He was informed by Mr. Smith that the Board cannot consider financial aspects of the land. The second reason for the location of the school was the location of the septic

Page 473, November 7, 1978
EARLY LEARNING, INC.
(continued)

field. Mr. Aylor stated that the building could not be moved much because of the location of the septic field. Mr. Dennis Laskin, President of Early Learning, Inc. stated that they retained an engineering firm who had informed them that this was a difficult area to engineer because of the land. Most of the land is unusable as it is a swamp area. The land that is usable is very essential. Mr. Laskin stated that it was only possible to place the building where it is presently proposed because of the problems with the land.

Mr. Smith inquired if the building could be relocated about 25 ft. Mr. DiGiulian stated that from looking at the plat, it appeared that it could be moved 12 - 15 ft. Mr. Laskin stated that 10 ft. would not be a problem. As for the location of the proposed driveway, Mr. Laskin stated that the purpose had been to create a curve in Brook Road for the ease of the parents and the transportation system. Mr. Laskin stated that they had felt it was the desire of the surrounding citizens not to have the proposed driveway coming out exactly where the location of the driveway for the church was situated. Mr. DiGiulian suggested that the applicant move the driveway over 15 ft. and it would still create a curve and be about 25 ft. off the property line. Ms. Ardis inquired if the proposed driveway could be located exactly opposite from the church's driveway since this property would only be used on weekdays and the church would mostly be used on Sundays. Mr. Laskin stated that they were trying to avoid that. Mr. Yaremchuk stated that across from the church driveway would be the ideal placement for the school's driveway as then there would not be a problem with traffic.

It was the consensus of the Board to defer decision on this application until the applicant provides revised plats showing transitional screening yard 1 with a type f barrier. The driveway was to be relocated 25 ft. and the building was to be relocated 10 ft. The date of December 5, 1978 was selected as the date for decision. It was scheduled for 11:30 A.M.

//

Page 473, November 7, 1978, Scheduled case for

1:50 P.M. - NO. VA. PRIMITIVE BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit church, located 9640 Blake Lane, 48-3((17))51, Providence Dist., R-1, 1.2525 acres, S-235-78.

Mr. Frank Williams of 3008 Sun Valley Road in Oakton represented the church. He informed the Board that the church was a contract purchaser. He stated that the congregation was made up of about 25 families. At the present time, the church is meeting in the Seventh Day Adventist Church in Vienna. The area proposed for a church is planned for townhouses along the Blake Lane corridor. The applicants felt that this church would be an ideal use for this location and indicated that it was a beautiful lot. It was the belief of the church that when and if they were able to construct the church it could be to the benefit of the surrounding community. The applicants were able to afford this particular price and urged the Board to grant the special permit. In response to questions from the Board, Mr. Williams stated that the church would seat about 75 people. He informed the Board that with minor adjustments, the requirements of the Code could be met. Thirteen spaces for parking was required by the Code. The existing septic system was adequate for the church use as the applicants would only be there on Sundays and one night a week. Mr. Williams informed the Board that it would be used less by the church than what it is presently being used.

The following persons spoke in favor of the application. Mr. Red Pittman of 10311 Ranger Road stated that his dwelling was next door to the parsonage of this congregation. He stated that they have several meetings every week and he has never been bothered by them. He informed the Board that this was a disciplined group of people and that they would be an asset to the community.

The next speaker in favor of the application was Mr. Sammy B. Skaggs of 9609 Bel Glade Street who informed the Board that he owned the property on the east boundary. He stated that he had been informed that the property was zoned for townhouses. He was concerned as there were single family homes all around this area. He stated that he did not believe that this particular property was large enough to construct a church and inquired as to what would happen to the special permit if the church was never built. He was informed by Chairman Smith that there was no intent by the congregation to build a church at this time. Mr. Skaggs stated that he hoped that when the congregation starts using the property that all of the young people hanging around there at night in parked cars would cease. He inquired if the church would

put up any barriers on the property to prevent the loitering of the youngsters. Mr. Skaggs stated that if the Board grants the special permit, a condition should be made that the church does put up barrier or a fence to keep passers by from using the property during the week. He was informed by Chairman Smith that the Board was reluctant to require fencing but that if the applicant wished a chain across the driveway might be a good suggestion to keep out trespassers.

There was no one else to speak in opposition of the application. During rebuttal, Mr. Williams stated that there was not any problem with the septic tank. He informed the Board that he had walked the property and had not seen any evidence that there was a problem with the tank. He informed the Board that the church use would place less demand on the septic system than the present use of the three bedroom home. Ms. Marjorie Aubrey informed the Board that she had bought the property in June and was not aware of any problems. Formerly, ten teenagers had rented the property. She stated that when she purchased the property she had taken care of all problems. She stated that the septic tank is in fair condition and that there was not any problems with it. She informed the Board that she had never lived in the house. They decided to sell the property to the church because it was felt that it would be a good addition to the community.

Mr. Barnes inquired as to whether there was water and sewerage on Blake Lane that the church could connect to. He was informed by Mr. Williams that the church is suffering financial restraints at this time but when actual construction of the church is begun, the church would hook up to water and sewer. When asked by Mr. Barnes how long the church would use the property on a temporary basis before actual construction of the church, Mr. Williams stated it was not known for certain.

There were no more questions from the Board.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-235-78 by NO. VA. PRIMITIVE BAPTIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit a church on property located at 9640 Blake Lane, tax map reference 48-3((17))51, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on November 7, 1978; and

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

1. That the owner of the subject property is George E. Aubrey and that the applicant is the contract purchaser.
2. That the present zoning is R-1.
3. That the area of the lot is 1.2525 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 special permit shall expire one year from this date unless construction (operation) has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board

Page 475, November 7, 1978 Board of Zoning Appeals
NO. VA. PRIMITIVE BAPTIST CHURCH
(continued) RESOLUTION

It shall be the duty of the Permittee to apply to this Board for such approval Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.
7. The hours of operation shall be normal hours of operation for a church.
8. The number of parking spaces shall be thirteen (13).
9. Control of the driveway with a chain is required when the church is not in use.
10. Septic facilities are to be used if approved by the Health Department.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 475, November 7, 1978, Scheduled case for

1:50 P.M. - NO. VA. PRIMITIVE BAPTIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow gravel surface for driveway and parking space for church (dustless surface required by Sect. 11-102(14), located at 9640 Blake Lane, 48-3((17))51, Providence Dist., 1.2525 acres, R-1, V-236-78.

Mr. Frank Williams represented the church. He informed the Board that whatever the church does with the existing driveway would probably be altered when the church begins final construction of the church. He stated that only 13 parking spaces are needed which would provide ample parking and satisfy the needs of the congregation. Mr. Williams informed the Board that because of the limited use of the property, they could not see any problem with the granting of a variance to the dustless surface requirement.

There was no one to speak in support of the application. Mr. Skaggs spoke in opposition to the application. He inquired as to the location of the parking lot on the property. He was informed by Chairman Smith that the parking was off of Blake Lane and showed Mr. Skaggs a copy of the plat submitted by the applicants. There was no one else to speak in opposition.

Page 475, November 7, 1978 Board of Zoning Appeals
NO. VA. PRIMITIVE BAPTIST CHURCH
RESOLUTION

In Application No. V-236-78 by NO. VA. PRIMITIVE BAPTIST CHURCH under Section 18-401 of the Zoning Ordinance to permit gravel surface for driveway and parking space for church use on property located at 9640 Blake Lane, tax map reference 48-3((17))51, County of Fairfax, Virginia, Ms. Ardis 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 1.2525 acres.
4. That the applicant's property would have such limited use as to preclude a a dust problem.

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

RESOLUTION

THAT the applicant has satisfied the Board that conditions as listed above 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 is 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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed unanimously by a vote of 5 to 0.

Page 476, November 7, 1978, Scheduled case for

2:00 P.M. - KONRAD PALMER HARTL, appl. under Sect. 6-303 of the Ord. to permit pastoral counseling as home occupation, located 11317 South Shore Road, 17-2((12))27, (10,357 sq. ft.), Centreville Dist., PRC, S-212-78. (Deferred from October 17, 1978 for Notices).

The required notices were in order. Mr. Palmer Hartl of 11317 South Shore Road in Reston informed the Board that he was an Episcopal Minister and that he desires to counsel fulltime. He stated that he was not functioning with any one particular church at this time but indicated that he was associated with several churches in the area. Mr. Hartl stated that at the present time he is operating from his home and that in the past he has operated from his apartment. In response to questions from the Board, Mr. Hartl stated that he was licensed as a minister and did charge for his services. He further stated that most of the clients come between the hours of 8 A.M. to 8 P.M. on an individual basis for approximately one hour per session. Group sessions usually run about 1½ hours per week. He stated that eight was the maximum number of people making up a group and that they parked on the cul-de-sac in front of his home. He was informed by the Board that all parking for a special permit would have to be on-site. Mr. Hartl stated that his driveway would hold about five cars. He stated that he sees about two group sessions a week on the average of 17 - 18 people and that the total number of people per week would be about 40. In response to Chairman Smith as to whether he counseled these individuals in a behavior science or a religious science, Mr. Hartl stated that it was mostly in psychoanalysis. In answering more questions from Mr. Smith, Mr. Hartl stated that his training was from his education in the ministry. He also stated that he did not have any intention of hiring any employees to help in the counseling.

When Mr. Yaremchuk stated that the size of the lot appeared to be too small to accomodate the parking, Mr. Hartl inquired as to the possibility of limiting the home office to individual clients. He stated that he personally owned two cars but that one car was gone on Monday nights. Chairman Smith stated that it was the policy of the Board that parking for home professional offices not be located closer than 25 ft. to any lot line and the plat for this land showed the driveway to be 15 ft. from the lot line.

There was no one to speak in support of the application. Mr. David Wells of the Reston Homeowners Association of 11753 North Shore Drive appeared in opposition to the application. He stated that they were fully aware that the Board of Zoning Appeals had no authority to enforce the covenants of Reston. He stated that under the covenants no property could be used except for residential purposes. This application was for something other than a residential use and would represent change of character in the area.

Chairman Smith stated that the Board was confronted with the legal question of the covenants. He stated that if this use was prohibited by the covenants then the applicant was bound by them by law. Chairman Smith went on to state that if the applicant was directly associated with a church and if the clients were the parishoners of that church then there would not be any problem as it was a use allowed by right. He stated that Mr. Hartl was establishing a service the same as an attorney or an architect and that was the light in which the Board had to examine the application. Chairman Smith stated that he felt the

Page 477, November 7, 1978
KONRAD PALMER HARTL
(continued)

Board should study this particular application in more detail and even request some legal advice for consideration.

Mr. Hartl stated that he would not want the character of the neighborhood to be violated either and if he felt that what he was requesting would alter the character that he would be asking the Board to grant such a special permit. He informed the Board that he has been operating for some time and that he has not had any complaints.

Ms. Ardis stated that she would be interested in learning if the Gulf-Reston attorneys had any information to report to the Board on challenges of the covenants relating to home professional offices in the Reston area.
Mr. DiGiulian stated that he would be interested in having a report on this subject before making a decision on this application.

Mr. DiGiulian moved, Mr. Barnes seconded, and it was unanimously carried that the Board defer decision on this application until receipt of a report from the County Attorney's Office. The Clerk was requested to contact the Reston attorneys as well regarding the covenants.

Page 477, November 7, 1978, After Agenda Items

S-158-76 Dismas House: The Board was in receipt of a letter from Mr. William B. Riechardt, Executive Director, requesting the Board to amend the special permit to allow Dismas House to house eight boys rather than the six boys as allowed by the permit granted on September 21, 1976.

It was the consensus of the Board that the applicant would have to file a formal application and go through the public hearing procedure in order to increase the number of boys. The Clerk was advised to so inform Mr. Reichardt

//

Page 477, November 7, 1978, After Agenda Items

V-265-77 George D. Overbey: The Board was in receipt of a letter from Mr. Overbey requesting an extension on the variance granted November 15, 1977. Mr. Barnes moved, Ms. Ardis seconded, and it was unanimously carried to grant a six month extension on the variance of Mr. Overbey.

//

Page 477, November 7, 1978, Approval of Minutes

The Board unanimously moved to approve the minutes of June 6, 1978 as amended.

// There being no further business, the Board adjourned at 3:34 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the BZA on Apr. 1, 79
Submitted to the other departments,
Board of Supervisors and Planning
Commission on Apr. 1, 79.

Daniel Smith
Daniel Smith, Chairman

APPROVED: April 10, 79
DATE

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 14, 1978. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; George Barnes and John Yaremchuk. Ms. Barbara Ardis was absent.

The meeting opened at 10:15 A.M. led with a prayer by Mr. Barnes.

The Chairman called the scheduled 10 o'clock case.

10:00 A.M. - A. R. & MARY MINCHEW, appl. under Sect. 18-401 of the Ord. to allow garage addition to existing dwelling 5.2 ft. from side lot line (min. 15 ft. required by Sect. 3-107), located 10209 Old Hunt Road, Hunters Mill Subd., 37-2((13))22, Centreville Dist., 48,062 sq. ft., R-1, V-238-78.

Mr. Charles Runyon, Engineer, at 152 Hillwood Avenue, Falls Church, stated that the plat shows the location of the proposed garage. He stated that the request for the addition was to replace an existing garage. Because of the topography of the land it was not possible to construct the garage in accordance with the setback requirements which necessitates seeking a variance. In response to questions from the Board, Mr. Runyon informed the Board that the property on the right side drops off sharply which dictated where the garage could be built. He stated that it drops off about 6 to 7 ft. across the property for about 22 ft. He informed the Board that the house was built in 1972 or 1973 and that the Minchews had owned the property for about 2½ years. The garage proposed was for two cars but would actually only be used for one car with the extra space used for storage of lawn equipment. When asked about the location of the house on lot 23, Mr. Runyon stated that he believed it was about 28 ft. from the property line. The setback requirements are a minimum of 15 ft. for a side yard and a total side yard requirement of 40 ft. Mr. Runyon reported that the total side yards would be 51 ft. In response to the number of lots in this subdivision, Mr. Runyon reported that he believed it to be approximately 35 lots, all one acre in size. Mr. Smith inquired as to whether the majority of these homes in the area had attached garages. Mr. Runyon stated that about 90% of the homes had garages. He stated that most of the homes in the area were large structures.

There was no one to speak in favor of the application and no one to speak in opposition to the application. There were several letters of opposition in the file which Mr. Smith read into the record. The letters were from Joe & Betty Freedle, Randolph J. Edwards and Charles Little.

As a point of rebuttal, Mr. Runyon stated that Mrs. Minchew has phlebitis so that some of the rooms on the first level would be converted into a bedroom and a den for her. Mr. Runyon stated that this was another reason for requesting a variance so that a new garage could be constructed. In addition, Mr. Runyon submitted a letter from Mr. Norman Horn in support of the application. The main basis for the request was because of the topographic layout of the property.

R E S O L U T I O N

In Application No. V-238-78 by A. R. & MARY MINCHEW under Section 18-401 of the Zoning Ordinance to permit garage addition to existing dwelling 5.2 ft. from side lot line (minimum 15 ft. required by Sect. 3-107) on property located at 10209 Old Hunt Road, tax map reference 37-2((13))22, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 14, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 48,062 sq. ft.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of the existing building on the subject property.

RESOLUTION

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0.(Ms Ardis being absent).

Page 479, November 14, 1978, Scheduled case for

10:10 A.M. - LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to permit house to be constructed 38' from the front property line, located 10501 Greene Drive, Harbor View Subd., 113-4((6))14, Mt. Vernon Dist., 28,674 sq. ft., R-E, V-242-78.

Mr. Cecil Boyer, President of the Boyer Companies, 4250 Chain Bridge Road, in Fairfax, informed the Board that they heard the same request about a year ago and granted the variances. Mr. Boyer stated that these requests are slightly different. The previous request had been made by the bank and this request is from the builder.

Chairman Smith stated that the Board spent a great deal of time on hearing these cases back in 1977 trying to come up with a solution to the problems that were attached to the development of this land. The variances were granted in 1977. Chairman Smith stated that to now exceed the previous requests that the applicant would certainly have to have substantial justification. Chairman Smith inquired if Mr. Boyer was working with the people in the community as he did not want to grant the subdivision at the expense of the community and the Zoning Ordinance. Mr. Boyer informed him that they had discussed this subdivision with the community.

Mr. Boyer informed the Board that they were requesting a 30' setback for lots 15 and 26 and a 38' setback for lot 14. They did not want to construct the homes as previously granted because of the problem with the floodplain. He stated it would be quite costly to fill and would increase the prices of the houses with no real benefit to the consumer. He stated that as a personal belief he felt that having a 30' setback for the houses instead of the 50' required by the Ordinance the homes would be more appealing and more attractive.

The reason for coming back to the Board was because Mr. Occar Hendrickson of Preliminary Engineering had contacted them to consider the request of the Harbor View Civic Association to terminate the proposed cul-de-sac. Mr. Boyer was aware that to continue Greene Drive would increase the traffic between the two subdivisions. After the initial variances expired, Mr. Boyer agreed to terminate the cul-de-sac only if these new variances would be granted. He stated that he met with the civic association on November 2, 1978 and outlined their plans for construction of the development. The homes will be developed in the Fall of 1979 with a price in the low hundreds. Mr. Boyer stated that if the variances are granted for 30' the homes will not necessarily be constructed exactly 30' from the front setback. He stated that he wanted the flexibility to do so according to the slope of the land. Mr. Boyer informed the Board that there are only five lots that he was requesting variances on that had not been part of the previous granting. By not granting these new requested variances, it would create a hardship. Mr. Boyer stated that he wanted an overall blanket okay for the lots so he would have flexibility. The new lots being considered were lots 19, 16, 15, 25 & 26.

Mr. Hendrickson stated that the reason additional variances were being requested was because of the cul-de-sac that the citizens had requested the builder to construct. Chairman Smith informed him that the cul-de-sac was not an issue before the Board and that the only consideration the Board could give was to the variances on the lots. Mr. Hendrickson stated that Mr. Boyer could construct houses on the lots now but he had agreed to build a cul-de-sac which would incur considerable expense. In return, he would like some consideration from the County. Chairman Smith replied that the Board did not have any authority to consider financial expense under the State Code.

Mr. Hendrickson stated that the only other consideration then was that there was an Ordinance that states you cannot build closer than 15' from the floodplain. Chairman Smith stated that he had no quarrel with taking an additional look at those lots that were affected by the cul-de-sac but not the other lots.

The Board discussed the procedure to follow in hearing all of theses variances. After much discussion, Mr. DiGiulian moved, Mr. Barnes seconded, and it was carried by a vote of 4 to 0 to allow the applicant to withdraw his applications for lots 16, 19, 25 & 26 without prejudice.

The Board then heard the justification for the variance requested on lot 14. Mr. Boyer stated that the request was for a front setback of 38' instead of the required 50' based on the cul-de-sac arrangement which would increase the setback from the original granting. He stated that the proposed house location was situated exactly where it was previously.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 480, November 14, 1978 Board of Zoning Appeals
LOYOLA FEDERAL SAVINGS AND LOAN
ASSOCIATION & THE BOYER COMPANIES, LTD.

R E S O L U T I O N

In Application No. V-242-78 by LOYOLA FEDERAL SAVINGS & LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., under Section 18-401 of the Zoning Ordinance to permit house to be constructed 38 ft. from front property line on property located at 10501 Greene Drive, tax map reference 113-4((6))14, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 14, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 28,674 sq. ft.
4. That the applicant's property has exceptional topographic problems.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED IN PART (to permit house to be constructed 30' from front property line) with the following limitations:

Page 481, November 14, 1978 Board of Zoning Appeals
LOYOLA FEDERAL SAVINGS AND LOAN
ASSOCIATION & THE BOYER COMPANIES, LTD.

R E S O L U T I O N

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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 481, November 14, 1978, Scheduled case for

10:20 A.M. - LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to permit house to be constructed 30' from front property line, located 1505 Greene Drive, Harbor View Subd., 113-4((6))15, 28,950 sq. ft., Mt. Vernon Dist., R-E, V-243-78.

Mr. Cecil Boyer of the Boyer Companies, Ltd. stated that this request was similar to the previous request for lot 14. A variance was requested because of the dul-de-sac arrangement which would put the house back further on the lot within the 50 ft. required setback.

There was no one to speak in favor of the application. Mr. Robert Bodine of 6210 Greeley Boulevard of Springfield stated that he was neither in favor or in opposition of this request. He stated that he has heard testimony that the last two variances were dependent on a cul-de-sac. He was informed by Chairman Smith that the variances were based on the small lots in addition to the topographic conditions. When Mr. Bodine inquired as to why the cul-de-sac was needed, Chairman Smith stated that it was an arrangement that the County staff and the civic association had talked about and found it to be in harmony with the community. Mr. Bodine further stated that the Board has previously granted variances on these same lots. He stated that this situation existed in June of 1977. He inquired as to the front setback requirement for this district. Chairman Smith informed him that the Board acts to the best of his ability according to the State and County Codes. The requirement of a setback for building near a floodplain was 15'. He stated that the Board takes all of the information into consideration when making a decision. There was no one else to speak in opposition to the application.

Page 481, November 14, 1978 Board of Zoning Appeals
LOYOLA FEDERAL SAVINGS AND LOCAN
ASSOCIATION & THE BOYER COMPANIES, LTC.

R E S O L U T I O N

In Application No. V-243-78 by LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD. under Section 18-401 of the Zoning Ordinance to permit house to be constructed 30 ft. from front property line on property located at 10505 Greene Drive, tax map reference 113-4((6))15, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 14, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 28,950 sq. ft.
4. That the applicant's property has exceptional topographic problems.

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

482

R E S O L U T I O N

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 482, November 14, 1978, Scheduled case for

10:25 A.M. LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to permit house to be constructed 30' from front property line, located 10509 Greene Drive Harbor View Subd., 113-4((6))16, 21,924 sq. ft., Mt. Vernon Dist., R-E, V-244-78.

Mr. DiGiulian moved that application V-244-78 for lot 16 be withdrawn without prejudice. Mr. Barnes seconded the lmotion. The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

//

Page 482, November 14, 1978, Scheduled case for

10:30 A.M. - LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to permit a house to be constructed 30' from front property line, located 10513 Greene Drive Harbor View Subd., 113-4((6))17, Mt. Vernon Dist., 23,089 sq. ft., R-E, V-245-78.

Mr. Cecil Boyer of the Boyer Companies, Ltd. stated that the variance was requested because of the topographic difficulty of the floodplain. He stated that they were requesting a 30' as previously granted.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

R E S O L U T I O N

In Application No. V-245-78 by LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., under Section 18-401 of the Zoning Ordinance to permit house to be constructed 30 ft. from front property line on property located at 10513 Greene Drive, tax map reference 113-4((6))17 County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 14, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 23,089 sq. ft.
4. That the applicant's property has exceptional topographic problems.

Page 483, November 14, 1978 Board of Zoning Appeals
LOYOLA FEDERAL SAVINGS AND LOAN
ASSOCIATION & THE BOYER COMPANIES, LTD.
(continued) R E S O L U T I O N

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 483, November 14, 1978, Scheduled case for

10:35 A.M. - LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to permit a house to be constructed 30' from the front property line, located 10517 Greene Drive, Harbor View Subd., 113-4((6))18, Mt. Vernon Dist., 22,110 sq. ft., R-E, V-246-78.

Mr. Cecil Boyer of the Boyer Companies, Ltd. stated that this request was for a continuation of the variance previously granted because of topographic problems and the floodplain conditions.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

Page 483, November 14, 1978 Board of Zoning Appeals
LOYOLA FEDERAL SAVINGS AND LOAN
ASSOCIATION & THE BOYER COMPANIES, LTD.
R E S O L U T I O N

In Application No. V-246-78 by LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., under Section 18-401 of the Zoning Ordinance to permit house to be constructed 30' from front property line on property located at 10517 Greene Drive, tax map reference 113-4((6))18, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 14, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zonaing is R-E.
3. The area of the lot is 22,110 sq. ft.
4. That the applicant's property has exceptional topographic problems.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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.

R E S O L U T I O N

484

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 484, November 14, 1978, Scheduled case for

10:40 A.M. - LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to permit house to be constructed 30' from the front property line, located 10521 Greene Drive, Harbor View Subd., 113-4((6))19, Mt. Vernon Dist., 22,140 sq. ft., R-E, V-247-78.

Mr. DiGiulian moved that application V-247-78 for lot 19 be withdrawn without prejudice. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

//

Page 484, November 14, 1978, Scheduled case for

10:45 A.M. - LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to permit house to be constructed 30' from the front property line, located 10525 Greene Drive, Harbor View Subd., 113-4((6))20, Mt. Vernon Dist., 22,102 sq. ft., R-E, V-248-78.

Mr. Cecil Boyer of the Boyer Companies, Ltd. stated that this variance was requested because of the topographic problems and the floodplain.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 484, November 14, 1978 Board of Zoning Appeals
LOYOLA FEDERAL SAVINGS AND LOAN
ASSOCIATION & THE BOYER COMPANIES, LTD.

R E S O L U T I O N

In Application No. V-248-78 by LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., under Section 18-401 of the Zoning Ordinance to permit house to be constructed 30' from the front property line on property located at 10525 Greene Drive, tax map reference 113-4((6))20, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 14, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 22,102 sq. ft.
4. That the applicant's property has exceptional topographic problems.

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

R E S O L U T I O N

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 484, November 14, 1978, Scheduled case for

10:50 A.M. - LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to permit a house to be constructed 30' from front property line, located 10529 Greene Drive, Harbor View Subdivision, 113-4((6))21, Mt. Vernon Dist., 24,947 sq. ft., R-E, V-249-78.

Mr. Cecil Boyer of the Boyer Companies, Ltd. stated that they were requesting the exact same variance as previously granted in 177 because of topographic conditions and the floodplain.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

R E S O L U T I O N

In Application No. V-249-78 by LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD. under Section 18-401 of the Zoning Ordinance to permit house to be constructed 30' from front property line on property located at 10529 Greene Drive, tax map reference 113-4((6))21, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 14, 1978; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 24,947 sq. ft.
4. That the applicant's property has exceptional topographic problems.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations:

R E S O L U T I O N

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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 486, November 14, 1978, Scheduled case for

10:55 A.M. - LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., Appl. under Sect. 18-401 of the Ord. to permit a house to be constructed 30' from front property line, located 10533 Greene Drive, Harbor View Subd., 113-4((6))22, Mt. Vernon Dist., 30,737 sq. ft., R-E, V-250-78.

Mr. Cecil Boyer of the Boyer Companies, Ltd. stated that this was a request for a variance based on the topographic donditions and the floodplain.

There was no one to speak in favor of the application and no one to speak in opposition of the application.

R E S O L U T I O N

In Application No. V-250-78 by LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD. under Section 18-401 of the Zoning Ordinance to permit house to be constructed 30' from front property line on property located at 10533 Greene Drive, tax map reference 113-4((6))22, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 14, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 30,737 sq. ft.
4. That the applicant's property has exceptional topographic problems.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 487, November 14, 1978, Scheduled case for

11:00 A.M. - LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to permit house to be constructed 30' from front property line, located 10537 Greene Drive, 113-4((6))23, Mt. Vernon Dist., 25,200 sq. ft., R-E, Harvor View Subd., V-251-78.

Mr. Cecil Boyer of the Boyer Companies, Ltd. stated that a variance was being requested because of the topographic condition of the land involved and because of the floodplain.

There was no one to speak in favor of the application and no one to speak in opposition.

Page 487, November 14, 1978 Board of Zoning Appeals
LOYOLA FEDERAL SAVINGS AND LOAN
ASSOCIATION & THE BOYER COMPANIES, LTD.

R E S O L U T I O N

In Application No. V-251-78 by LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD. under Section 18-401 of the Zoning Ordinance to permit house to be constructed 30 ft. from the front property line on property located at 10537 Greene Drive, tax map reference 113-4((6))23, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 14, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 25,2000 sq. ft.
4. That the applicant's property has exceptional topographic problems.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 487, November 14, 1978, Scheduled case for

11:05 A.M. - LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES LTD., appl. under Sect. 18-401 of the Ord. to permit house to be constructed 30' from the front property line, located 10541 Greene Drive, Harbor View Subd., 113-4((6))24, Mt. Vernon Dist., 22,247 sq. ft., R-E, V-252-78.

Mr. Cecil Boyer of the Boyer Companies, Ltd. stated that he was requesting this variance because of the topographic problems with the land and because of the floodplain.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

RESOLUTION

In Application No. V-252-78 by LOYOLA FEDERAL SAVINGS & LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., under Section 18-401 of the Zoning Ordinance to permit house to be constructed 30 ft. from the front property line on property located at 10541 Greene Drive, tax map reference 113-4((6))24, County of Fairfax, Virginia, Mr. Yaremchuk 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 14, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 22,247 sq. ft.
4. That the applicant's property has exceptional topographic problems.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 is 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 and is diligently pursued or unless renewed by action of this Board prior to any expiration.

Mr. Barnes seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 488, November 14, 1978, Scheduled case for

11:10 A.M. - LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to permit house to be constructed 30' from the front property line, located 10601 Greene Drive, Harbor View Subd., 113-4((6))25, Mt. Vernon Dist., 21,945 sq. ft., R-E, V-253-78.

Mr. DiGiulian moved that application V-253-78 for lot 25 be withdrawn without prejudice. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

//

Page 488, November 14, 1978, Scheduled case for

11:15 A.M. - LOYOLA FEDERAL SAVINGS AND LOAN ASSOCIATION & THE BOYER COMPANIES, LTD., appl. under Sect. 18-401 of the Ord. to permit house to be constructed 30 ft. from front property line, located 10606 Greene Drive, Harbor View Subd., 113-4((6))26, Mt. Vernon Dist., 22,471 sq. ft., R-E, V-254-78.

Mr. DiGiulian moved that application V-254-78 for lot 26 be withdrawn without prejudice. Mr. Barnes seconded the motion. The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

//

Page 489, November 14, 1978, Scheduled case for

11:20 A.M. - ELEANOR R. BURNS, appl. under Sect. 18-401 of the Ord. to allow subdivision in which proposed lots 9, 10, 11 & 12 would each have width of 3.97 ft. (200 ft. required by Sect. 3-E06), located 429 Utterback Store Road & 10701 Beech Mill Road, 3-3((1))30, Dranesville Dist., 35.19 acres, R-E, V-256-78.

Mr. Hal Simmons of Picuilli & Simmons, Associates, in Vienna, represented the applicant. The required notices were in order. Mr. Simmons stated that this property fronts on Utterback Store Road. The proposal was to divide the parcel into four lots with less than the required lot width. The entire parcel is 35 acres and the proposal is for 11 lots of about 2 acres each and for 14 one acre sites. He stated that the reason for the variance was the unusual conditions of the land in that the land is very steep and that there was no access provided to this ground. There is also a floodplain in the area. In summary, Mr. Simmons stated that a strict application of the Zoning Ordinance would deprive the owner of the reasonable use of the land.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 489, November 14, 1978 Board of Zoning Appeals
ELEANOR R. BURNS

R E S O L U T I O N

In Application No. V-256-78 by ELEANOR R. BURNS under Section 18-401 of the Zoning Ordinance to permit subdivision in which proposed lots 9, 10, 11 & 12 each have lot width of 3.97 ft. (200 ft. required) on property located at 429 Utterback Store Road, tax map reference 3-3((1))30, County of Fairfax, Virginia, Mr. DiGiulian 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 with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 14, 1978; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 35.19 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has exceptional topographic problems.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:
THAT the applicant has satisfied the Board that physical conditions as listed above 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 is GRANTED with the following limitations.

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

2. This variance shall expire one year from this date unless this subdivision has been recorded among the land records of Fairfax County.

3. That the proposed common driveway to serve proposed 13 dwelling units be constructed in accordance with the pavement and base course design of the TS-6 as set forth in Vol. II of the 1978 Public Facilities Manual. In addition, some provision should be made as determined necessary by the Director of Environmental Management to guarantee perpetual maintenance by all homeowners of an adequately constructed common driveway.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Smith)(Ms. Ardis being absent).

11:30 A.M. - LOUIS CARL FLOYD, JR., appl. under Sect. 3-103 of the Ord. to permit home professional dental office, located 6905 Ben Branklin Rd., Fair Vernon Subd., 90-1((5))13, Springfield Dist., 24,556 sq. ft., R-1, S-240-78.

The required notices were in order. Mr. Floyd of 6905 Ben Franklin Road in Springfield stated that the next application in his name for a variance was to be withdrawn as it was substandard lot. He stated that the only request the Board was to consider was the special permit request for a home professional dental office. Mr. Floyd informed the Board that he has lived in this home since January 1973. He stated that he works in Dumfries and Lorton and has been aware of the growing need for dentists to work in the evening. It is becoming increasingly difficult for people who work to take off because of carpools, etc. in order to visit the dentist. Mr. Floyd stated that he would like to schedule evening appointments to accomodate the working people but his staff does not want to be away their families in the evenings. By opening a home professional office, Mr. Floyd stated that his wife could serve as his receptionist. By opening a satellite office, he stated that he could handle routine care, preventive care and emergency dental work in his home after regular hours. Mr. Floyd stated that he has consulted his neighbors about opening an office in his home and that they have unanimously endorsed the idea. In response to questions from the Board, Mr. Floyd stated that the proposed hours of operation would be from 7 A.M. to 10 P.M. and some hours on the weekends.

There was no one to speak in favor of the application and no one to speak in opposition.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-240-78 by LOUIS CARL FLOYD, JR., under Section 3-103 of the Fairfax County Zoning Ordinance to permit home professional dental office on property located at 6905 Ben Franklin Road, tax map reference 90-1((5))13, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on November 14, 1978; and

WHEREAS, the Board 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-1.
3. That the area of the lot is 24,556 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is 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 special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.

RESOLUTION

491

5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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. Landscaping and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.
7. The hours of operation shall be 7 A.M. to 10 P.M.
8. The number of parking spaces shall be two (2).
9. This permit is granted for a period of three (3) years.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Ms. Ardis being absent).

Page 491, November 14, 1978, Scheduled case for

11:30 A.M. - LOUIS CARL FLOYD, JR., appl. under Sect. 18-401 of the Ord. to allow construction of addition to existing dwelling such that total side yards would be 38 ft. (40 ft. required by Sect. 3-107), located 6905 Ben Franklin Rd., Fair Vernon Subd., 90-1((5))13, Springfield Dist., 24,556 sq. ft., R-1, V-239-78.

As this was a substandard lot and Sect. 2-417 of the Zoning Ordinance permits the side yard setback to be reduced, the applicant could build to within 15 ft. of the side lot line by right. As the variance was not necessary, this application was administratively withdrawn without prejudice.

//

Page 491, November 14, 1978, Scheduled case for

11:50 A.M. - RICHARD T. ASH, appl. under Sect. 3-E03 of the Ord. to permit day care center for max. 45 children, located 9405 Georgetown Pike, 13-1((1))66B, Dranesville Dist., 90,000 sq. ft., R-E, S-241-78.

The required notices were in order. Mrs. Carole Ash of 9405 Georgetown Pike informed the Board that the idea of applying for a special permit to keep up to 45 children came about because she decided to watch a few children to earn money so she would not have to go back to work as a secretary. When she started asking around to keep children after school, she stated that her phone began ringing off the hook asking her to sit. Mrs. Ash stated that the nearest day care facility is 8 to 10 miles to Great Falls. She stated that she and her husband talked about the idea and decided that if she could get enough children to keep to support the family he would help her. She stated that they proposed to build a 40 ft. addition on the side of their home to make a large living area but clarified that this would not be a school structure or an institutional type structure.

She stated that she and her husband desire a warm loving environment for the children. She went on to state that she wants to provide love and care for the children of working parents. She stated that she plans to construct a 6 ft. fence around the back yard to cut down on the noise the children would make while playing. She stated that even though she has applied for a maximum of 45 children, she estimated that she would only keep about ten children per adult as she did not want to hire outside help. She stated that she plans for about 20 fulltime children daily and stated that there would be about 25 more students before and after school. There would only be a maximum of 45 children at any one time. In response to questions from the Board, Mrs. Ash stated that the hours would be from 6:30 A.M. to 6:00 P.M. In addition, she stated that there would be three to four parking spaces provided. Mrs. Ash stated that she had decided to apply for the maximum of 45 children as that was the number allowed by the Health Department in accordance with the septic system. She stated that her husband and her mother-in-law were planning to help her with the children. She stated that they planned to convert part of the carport into an office and also a facility for a small kitchen. The office would be used to separate children who are sick from the others until the parents could arrive to pick them up. Mrs. Ash stated that she has five children of her own and her husband has one from a previous marriage. She stated that they love children. Mrs. Ash stated that she has a letter of recommendation from two real estate firms stating the need for this type of facility in this area.

There was no one to speak in support of the application. The following people spoke in opposition to the application.

492

Mrs. Elizabeth Cottini of 9319 Georgetown Pike in Great Falls presented the Board with a petition of opposition to any type of special permit being granted for a day care center at 9405 Georgetown Pike. The petition was signed by fourteen people. In addition, she presented a letter on behalf of Mrs. Essie M. Girard of 9401 Georgetown Pike who was in opposition to the day care center. The basis for the opposition was the traffic and the noise pollution and the hazard that would be created from heavy traffic on Georgetown Pike. Mrs. Cottini also presented a letter from her husband and herself. They object to the day care center because of the traffic and because this use would not be in keeping with the neighborhood. This was a commercial venture and Mrs. Cottini suggested that the a church be rented to accomodate a day care center somewhere away from the residential area. She further stated that 45 children could be quite noisy. She stated that 10 children are there now and wanted the Board to keep this use from continuing.

The next speaker in opposition was Mrs. Betty Draper Roseberry of 9409 Georgetown Pike in Great Falls. She stated that she objects to the day care center because her house to the new addition would be only 75 ft. away. She stated that the play area is adjacent to her back yard being only 100 ft. away. She stated that the driveway was only 35 ft. from her bedroom window. Traffic is already heavy on Georgetown Pike. She stated that in the near future, she plans to build an addition and it would be too close to the proposed addition next door. Also, this use would decrease her property values. She stated that traffic on Georgetown Pike was already bumper to bumper and this additional traffic would create a problem. She was concerned for the safety of the children in the area because of the increased likelihood of accidents.

The next speaker was Mr. Jack Grayman, owner of lot 4, adjacent to the Cottini property. He stated that he objected to the day care center because Georgetown Pike was a hazard for anyone. He stated that it was narrow & double lane until you get to his section where there is a passing zone. Mr. Grayman stated that people get frustrated and that when they reach the passing zone they speed up. He stated that they have had many accidents in this area. Mr. Grayman stated that this is a residential area and is intended more for retirement people. He stated that if the people did not object now to the changes, there would be 7-11's in the future. In addition, this proposed use would increase the water usage in the area which would affect the neighboring wells.

The next speaker was Mr. Kundsen of lot 66 who stated that he was also in opposition to this day care center.

During rebuttal, Mrs. Ash stated that the people who objected to the use all worked fulltime and would not be home during the day. She stated that she did not plan to babysit at night. In addition, she stated that the children would not be able to go out to play in the mornings because of the dew. During the summer, there would not be a lot of children outside playing because of the heat. She stated that she plans to make a game room out of part of the basement for the children. She stated that there would not be 45 children outside all day long. Also, she stated that children five and under play quieter than the school age children. The school age children would only be outside for a few hours daily. In response to the questions from the Board, Mrs. Ash stated that they owned his property for four years.

Mr. Yaremchuk stated that as far as the traffic was concerned, plans have been submitted to widen Georgetown Pike but that the citizens objected because this was designated as a scenic route. Mr. Ash stated that he would blacktop the driveway to cut down on noise. He further stated that he did not plan to provide transportation. He indicated that their closest neighbor was in favor of this application. Mrs. Ash stated that some families have more than one child which would cut down on the number of vehicles coming to the property. When asked if 20 would be all right as the maximum number, Mrs. Ash stated that was what they estimated at first but that there were a lot of drop off children to be provided for.

There was no one else to speak in favor or in opposition.

Page 493, November 14, 1978 Board of Zoning Appeals
RICHARD T. ASH

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-241-78 by RICHARD T. ASH under Section 3-E03 of the Fairfax County Zoning Ordinance to permit day care center for maximum of 45 children* on property located at 9405 Georgetown Pike, tax map reference 13-1((1))66B, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on November 14, 1978; and

WHEREAS, the Board 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-E.
3. That the area of the lot is 80,000 sq. ft.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED, that the subject application is*GRANTED IN PART (to permit day care center for maximum of 30 children and not more than 20 at any one time) 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 special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require A Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance. (Deleted cond. #6 on 7-31-79) - ALL
7. The number of children shall be 30 and not more than 20 at any one time.
8. The hours of operation shall be 6:30 A.M. to 6:00 P.M., Monday through Friday.
9. The number of parking spaces shall be four (4).

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Ms. Ardis being absent).

Page 493, November 14, 1978

The Board recessed for lunch at 1:25 and returned at 2:45 to continue with the remaining scheduled agenda.

//

Page 493, November 14, 1978, EXECUTIVE SESSION

At 2:45 P.M., the Board convened in Executive Session to discuss legal matters and reconvened into public session at 3:25 P.M. to continue with the scheduled agenda.

//

Page 494, November 14, 1978, Scheduled case for

12:10 P.M. - LINDA M. BITTLE, appl. under Sect. 3-E03 of the Ord. to permit beauty parlot as home occupation, located 11000 Vale Rd., 37-1((1))19, Centreville Dist., R-E, S-207-78.

Mr. John Bittle of the above address stated that his wife was applying for a special permit for a home occupation to operate a beauty shop in her parents home. In response to questions from the Board, Mr. Bittle stated that his wife has worked as a hairdresser in Vienna and at Hecht's at Tyson's Corner. He stated that they have been living with his wife's parents for three months. He informed the Board that it was a five bedroom house and that they lived in the basement of the house. When informed that this was an unusual situation, Mr. Bittle stated that they had the permission of his wife's parents to do this. He stated that they were informed that they had to live wherever the shop was located so they moved into his inlaws home three months ago. He stated that his inlaws have lived at this location for 25 years and built the house themselves. Mr. Bittle stated that he had rented a townhouse in Fairfax and that when the lease was up he would change his postal address. He informed the Board that his inlaws had seven children and that all but two have left home. He indicated that his father-in-law was willing to allow his daughter to build and operate a shop in the home. Chairman Smith questioned Mr. Covington as to whether Mrs. Walker could apply and obtain the license for the shop. Mr. Covington stated that if the 11000 Vale Road was the bona fide residence of Mrs. Bittle then she could be the proper applicant. Mr. Philip Yates, the Zoning Administrator, stated that the question was whether the applicants were appropriately before the Board of Zoning Appeals. Chairman Smith was concerned because the applicants still maintain another residence. When questioned as to where he receives his mail, Mr. Bittle stated that some mail still goes to townhouse address in Fairfax. He stated that he does not intend to move back to the townhouse address. He informed the Board that the townhouse was their first residence when they got married.

There was no one to speak in favor of the application and no one to speak in opposition to the application.

Page 494, November 14, 1978 Board of Zoning Appeals
LINDA M. BITTLE

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-207-78 by LINDA M..BITTLE under Section 3-E03 of the Fairfax County Zoning Ordinance to permit beauty parlor as home occupation on property located at 11000 Vale Road, tax map reference 37-1((1))19, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and,

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

1. That the owner of the subject property is Joseph T. & Thelma E. Walker.
2. That the present zoning is R-E.
3. That the area of the lot is 0.5 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Distrcits as contained in Section 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is 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 special permit shall expire one year from this date unless construction or operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a Special Permit shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes (other than minor engineering details) without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

RESOLUTION

4. This granting does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
5. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place 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 and screening shall be required and must satisfy Sect. 13-109 and Sect. 13-110 of the Zoning Ordinance.
7. The hours of operation shall be 9 A.M. to 5 P.M., Wednesday, Thursday, Friday and Saturday.
8. This permit is granted for a period of one (1) year.

Mr. Barnes seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Smith Abstained)(Ms. Ardis being absent).

Page 495, November 14, 1978, Scheduled case for

12:30 P.M. - GEORGE V. GRAHAM, JR., appl. under Sect. 18-301 of the Ord. to amend Zoning Administrator's refusal to approve building permit for a greenhouse for a commercial nursery on property in an RE-1 district, located 10614 - 10618 Leesburg Pike, 12-3((1))11 & 12, (3.5776 acres), Dranesville Dist., R-1, A-217-78. (Deferred from October 17, 1978 for Notices).

Mr. George Graham of 451 Seneca Road in Great Falls was informed by Chairman Smith that there were only four Board members present and was asked if he would allow the hearing to be deferred until the fifth Board member was present. Mr. Graham stated that he wished to have the hearing today. Ms. Kathe Anderson, Assistant County Attorney, advised the Board that if the hearing was held perhaps they might wish to defer a decision in the matter until the final decision from Judge Middleton was rendered in the DeAngelis case which might have a bearing on this application.

For his presentation, Mr. Graham stated that he was seeking a reversal of the decision of the Zoning Administrator not to issue a building permit for a greenhouse for a commercial nursery in light of the recent decision of Judge Middleton in the DeAngelis case. The Board of Zoning Appeals had been overruled in Court in the DeAngelis case. Mr. Graham informed the Board that he planned to construct a 126 ft. x 120 ft. greenhouse as was defined in the Zoning Ordinance for agricultural use. He stated that the property contained 3.5776 acres. When questioned regarding the parking, Mr. Graham stated that the parking was indicated on a drawing for the grading plan.

Mr. Graham stated that he was refused a building permit by the Zoning Administrator on August 11th. He stated that he was appealing the decision and the reasoning behind this refusal for the building permit. Chairman Smith stated that he believed that the Board of Zoning Appeals was right as far as the commercial aspects of the DeAngelis case were concerned. He went on to state that there was still a question as far as the greenhouse use and that this was an area that still needed to be addressed insofar as Judge Middleton's decision. For this reason, Chairman Smith again stated that he would prefer to have this application deferred until the County Attorney could get a ruling on the question of the greenhouse.

For clarification, Mr. DiGiulian inquired if this application was for a greenhouse use only. Chairman Smith stated that if it was a greenhouse that nothing could be sold. Mr. Graham stated that he intended to abide by the Zoning Ordinance as it read for agricultural uses. Chairman Smith stated that the greenhouse and the shadehouse were permitted uses under the old Zoning Ordinance but that the building could not be used for anything other than an office and definitely not for sales. Since the effective date of the new Zoning Ordinance, this type of use now requires a Special Exception from the Board of Supervisors. Mr. Graham stated that he had planned to construct a greenhouse on this particular piece of property since April of 1978 and was informed by numerous telephone conversations with the County staff that this was a use allowed by right. Mr. Graham agreed with the Board that the Zoning Administrator had no alternative but to deny the building permit based on the Board's decision in the DeAngelis case. However, he is not arguing that a building permit be issued. He was informed by Chairman Smith that he would have to come under the new Zoning Ordinance now and apply for a special exception to the Board of Supervisors.

Mr. Graham argued that he was grandfathered under the old Zoning Ordinance as he had applied for the building permit prior to the effective date of the new Zoning Ordinance. He was informed that the Board of Supervisors had adopted the new Zoning Ordinance in principle a full year ago which allowed people ample time to make use of their property prior to the effective date of the new Ordinance. Chairman Smith stated that the Board of Zoning Appeals would have to get an answer from the County Attorney's Office as to whether there was any provision in the new Ordinance to allow him to have the greenhouse other than applying for a special exception.

For the record, Mr. Graham asked the Board to state the decisions that it had to make with regard to this case. Chairman Smith stated the first question was a decision that could possibly have a retroactive affect that would not be provided for under the existing Ordinance. In addition, Chairman Smith stated that the prevailing Ordinance must be taken into consideration and that the Board of Zoning Appeals could only tell him to apply to the Board of Supervisors for a special exception.

Mr. Graham stated that he could prove to the Board that he had applied for a building permit prior to the date of the new Ordinance in accordance with the provisions of the old Ordinance. Chairman Smith informed Mr. Graham that this was no longer a use by right under the new Ordinance and that a special exception was required. Chairman Smith stated that the Board needs time to study the other problems attached to this decision. He stated that if this appeal decision did not have a retroactive affect that he would not have any problems with it but added he needs additional time to study the problems. He was concerned that the retroactive affect would be in violation of the existing Ordinance.

Mr. DiGiulian inquired that as the Board had a request for an indefinite deferral and since Mr. Graham was obligated to make payments on the land when he couldn't use it, if a specific time with a reasonable length of time for a decision wouldn't be more appropriate. Mr. Smith stated that the 19th of December would be the earliest date in order to get an answer to the questions. Mr. DiGiulian stated that there was no reason for the Zoning Administrator to refuse to sign off on the building permit accept for the fact of the Board decision in the DeAngelis case.

Mr. Yaremchuk inquired of the Zoning Administrator, Mr. Yates, whether he refused to issue the permit because of the Board decision on the DeAngelis case and whether that refusal was on August 11th. Mr. Graham stated that he began the building permit process on August 2nd and was finally refused on August 11th. Mr. Yates stated that under the old Ordinance he would not have had any problem with issuing a building permit for a greenhouse and a nursery. He stated that his refusal was based on the Board's decision in the DeAngelis case. Mr. Barnes inquired that if a building permit had been issued whether Mr. Graham would be allowed to show or display anything outside of the greenhouse and was informed by Mr. Yates that he would have been allowed to do so. Mr. Yates also stated that he would have been allowed to sell anything connected with the greenhouse.

Chairman Smith inquired if the Zoning Administrator would have any problems with the Board referring this decision back to his office for a period of one week for him to reconsider his decision with an opportunity for the Board to again consider this matter if he could not reach a conclusion by November 21st. There was no objection from Mr. Yates.

//

Page 496, November 14, 1978, After Agenda Items

APPROVAL OF MINUTES: Mr. Barnes moved, Mr. DiGiulian seconded, and it was unanimously carried that the Minutes of June 13, 1978 be approved as amended.

//

Page 497, November 14, 1978, After Agenda Items

S-210-70 NICHOLAS B. ARGERSON, D.D.S. (home professional dental office): Mr. Argerson had telephoned the Clerk on November 9, 1978 to state that he was thinking about selling some of his land and wanted to know (in writing) how it would affect his special permit if he did. The Clerk was instructed to write Mr. Argerson and advise him that it would affect his special permit and that he would need to submit a new application to amend the permit if there were any changes in the land area, the buildings or the permittees. A public hearing would be required before the Board.

// There being no further business, the Board adjourned at 4:31 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: May 8, 79
DATE

Submitted to the BZA on May 1, 79
Submitted to the other departments,
Board of Supervisors and Planning
Commission on May 1, 79.