001

The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Friday, September 12, 1980. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman and Gerald Hyland. (Mr. John Yaremchuk was absent).

The Chairman opened the meeting at 8:20 P.M. and Mr. Covington led the prayer.

The Chairman called the scheduled 8 o'clock case of

8:00 P.M. PLEASANT VALLEY PRESCHOOL, appl. under Sect. 3-303 of the Ord. to permit renewal of S-121-76 to permit continuation of existing nursery school, located 4616 Stringfellow Rd., 45-3((1))11, Springfield Dist., R-3, 1.52 acres, S-80-S-053. (Deferred from July 29, 1980 for proper advertising).

Mr. William Donnelly of 4096 Chain Bridge Road in Fairfax represented the school. Mr. Donnelly stated that they were asking for renewal of the existing special permit to allow the continuation of the preschool. The preschool was a cooperative preschool which operated from 9 A.M. until 12 Noon, Monday through Friday and followed the regular school year. There was one paid teacher at the school and one cooperative parent who assisted. The school had no more than 15 students at any one time. Mr. Donnelly stated that the school was located in the Greenbriar community building and had been operation for four years.

Mr. Donnelly advised the Board that the school was requesting one change and that was that they would like the renewal without any term. He stated that he believed it had been proven that the school was a good neighbor. It was an inconvenience and an expense to have to renew the permit. He stated that because the school was run as a cooperative, it operated on a shoestring budget. Mr. Donnelly asked the Board to consider renewing the permit without any expiration date. Mr. Donnelly stated that his own son was a graduate of the preschool.

In response to questions from the Board, Mr. Donnelly stated that the preschool had a lease which ran from year to year. There was never any problem in renewing the lease. Chairman Smith stated that if the Board saw fit to grant the special permit without term, that the new lease should be provided at least 30 days prior to the expiration date of the lease. Mr. DiGiulian suggested that the Board set a five year limit on the permit. Mr. Donnelly stated that he did not have a problem with submitting the new lease each year. However, he stated that what he was trying to avoid was the five year term and the school having to renew the permit.

There was no one else to speak in support 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-80-S-053 by PLEASANT VALLEY PRESCHOOL under Section 3-303 of the Fairfax County Zoning Ordinance to permit renewal of S-121-76 to permit continuation of existing nursery school on property located at 4616 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 of Zoning Appeals held on September 12, 1980; and deferred from July 29, 1980 for proper advertising; 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-3.
3. That the area of the lot is 1.52 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:

RESOLUTION

002

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days prior to the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students shall be 15 at any one time.
8. The hours of operation shall be 9 A.M. to 12 Noon, Monday through Friday.
9. This permit shall be renewable annually by the Zoning Administrator upon written request thirty days prior to the expiration date. A copy of the lease for the renewal period shall be submitted also.
10. All other requirements of S-121-76 not altered by this resolution shall remain in effect.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 2, September 12, 1980, Scheduled case of

8:15 P.M. CLAUDE A. & BETTY J. WHEELER T/A PROCTOR HATSELL PRIVATE SCHOOL, INC., appl. under Sect. 18-401 of the Ord. to allow child care center use within residential buildings which are 26 ft. from front lot lines (30 ft. min. front yard req. by Sect. 3-407; compliance with bulk regulations by special permit use req. by 83-3((9))(6)12 & 27, Mt. Vernon Dist., R-4, 12,526 sq. ft., V-80-V-112. (DEFERRED FROM JULY 29, 1980 FOR PROPER ADVERTISING).

&

8:15 P.M. PROCTOR HATSELL PRIVATE SCHOOL, INC., appl. under Sect. 8-305 of the Ord. to permit child care center, located 5945 N. Kings Highway, Fairhaven Subd., 83-3((9))(6)12 & 27, Mt. Vernon Dist., R-4, 12,525 sq. ft., S-80-V-041. (DEFERRED FROM JUNE 24, 1980 FOR FILING OF VARIANCE AND FROM JULY 29, 1980 FOR PROPER ADVERTISING).

Mr. Claude A. Wheeler, President of the corporation of Proctor Hatsell Private School, of 6300 Whalen Street in Springfield informed the Board that he was seeking the opportunity to operate a day care center for 40 children between the ages of 3 to 7. Mr. Wheeler stated that the hours of operation would be 6:30 A.M. to 6:30 P.M., Monday through Friday with a year round program. He stated that the number of employees would be four. The traffic input would 20 vehicles. Mr. Wheeler stated that the center would provide bus transportation for approximately 15 children. The large majority of the traffic would be in the morning and afternoon. Mr. Wheeler stated that the school would serve the area of the Rt. 1 corridor and the Mt. Vernon District.

With respect to the request to the variance, Mr. Wheeler stated that the front yard variance was in conjunction with the special permit request. The Fairhaven subdivision was built in the 1940s. The subject property does not meet the bulk regulations of the zoning district for R-4 zone. Mr. Wheeler stated that he was seeking a variance to be able to comply with the current Ordinance requirements as required for the special permit use.

For background purposes, Mr. Wheeler stated that the Proctor Hatsell Private School had been in continuous operation for 35 years. He stated that the school started out on Memorial Street and had served the area of Lee District and Mt. Vernon District. Mr. Wheeler stated that they presently operated a center at Telegraph Road which served almost 35 families in the Mt. Vernon District and the easterly portion of Lee District. They had another center located at 5955 N. Kings Highway. Mr. Wheeler stated that they provided a stable environment for children up to the age of 7 years.

Mr. Wheeler noted that there were a number of day care centers in the Rt. 1 corridor which had been granted use permits from the Ft. Belvoir area to within a block of the proposed facility. Mr. Wheeler stated that these centers were all located in residential areas and were not considered commercial uses.

Mr. Hyland asked for clarification regarding the number of children. Mr. Hyland stated that the staff indicated a maximum of 40 children and Mr. Wheeler had indicated there would be 25 children. Mr. Wheeler stated that the center would have a maximum of 40 children, 25 children would arrive by private automobile and 15 children would be busses. Mr. Wheeler stated that they were providing parking for 4 vehicles and had a turn around aarea provided on site. Mr. Hyland inquired about the day center located within one block from Mr. Wheeler's center. Mr. Wheeler stated that the other center was located in a church. Mr. Hyland inquired if Mr. Wheeler intended to close his other facilities and consolidate into this facility. Mr. Wheeler stated that was not their intent. He stated that what they were endeavoring to do was to set up a facility for approximately 50 families that would be more convenient to the parents so that they would not have to travel so far. Mr. Wheeler stated that he intended to keep the other two centers open.

Mr. Wheeler was advised that there was considerable opposition to the center from the surrounding community. Mr. Hyland gave Mr. Wheeler a copy of Chairman Herrity's letter. Mr. Wheeler informed the Board that he was aware of the report from the Conservation Committee. With regard to that report, Mr. Wheeler stated that the report indicated that this was a commercial zoning application. Mr. Wheeler stated that was not the case. He stated that this was a special permit application and that the application fell into the category of a day care center. He stated that he was not asking to be rezoned. He was only asking for a special permit and felt that he complied with the criteria outlined in the Ordinance. Mr. Wheeler stated that the Proctor Hatsell Private School had been operating for 16 years without any known violations to the community or to the environment. Mr. Wheeler stated that the previous requests he had made for his day care centers had been thoroughly scrutinized by the County.

Mr. Hyland stated that he was a fairly new member to the Board and was not familiar with Mr. Wheeler's previous requests. He asked Mr. Wheeler if he had had the same kind of reaction previously as he was now getting from the community. Mr. Wheeler stated that there had never been any opposition to a commercial business in this community per se. Mr. Hyland inquired if Mr. Wheeler could explain the reason for this reaction from the citizens. Mr. Wheeler stated that he imagined the community was concerned since this particular area was in a conservation program to retain the identify of an established community rather than being take over by townhouses, apartments, etc. Mr. Wheeler stated that he had spent a great deal of money to enhance the community and the building would add tremendous value to the property of others in the community. Mr. Wheeler showed the Board photographs of the structure as it appeared after restoration and the "before" pictures prior to his ownership of the property.

Mr. Hyland inquired of Mr. Wheeler as whether he felt that the fact the Board of Supervisors created a conservation district to protect the community and the presence of Metro should be consideration for the BZA to grant the proposed day care center. Mr. Wheeler stated that the BZA should take into consideration the fact that there was an existing day center a block away which was granted. It was located in a church. Mr. Wheeler stated that he did not believe that the day care center took away from the conservation district. Mr. Wheeler stated that he had not alked for any loans or County funds. He indicated that he wanted to serve the community and the Rt. 1 corridor. He stated that he wanted to use the property within the zoning laws of Fairfax County.

Mr. Hyland inquired if Mr. Wheeler's present day care centers served any families in the Fairhaven community. Mr. Wheeler stated that he would in the future and had previously served those families. Mr. Hyland inquired if the selection of the site was influenced by Metro. Mr. Wheeler stated that he had originally purchased the property to help a young couple who were having domestic trouble.

Chairman Smith informed Mr. Wheeler that he was seeking a variance to the bulk regulations for this location. He stated that the Ordinance required compliance with the bulk regulations. Mr. Wheeler stated that he was not looking at the property in that sense when he purchased it.

There was no one else to speak in support of the application. The following persons spoke in opposition to the application. Mr. Robert Counts, Chief Planner with Housing and Community Development stated this purposed in appearing before the BZA was to amplify the written testimony. Mr. Counts informed the Board that the Board of Supervisors had adopted the conservation plan approximately one year and two days ago. Mr. Counts stated that the subject property under consideration was located in this conservation district. Mr. Counts stated that a conservation plan was adopted under the provisions of the State Code in Chapter 36. He stated that the plan called for preservation of the neighborhood.

004

Mr. Counts stated that not every residential community was subject to those provisions. Therefore, it did separate the Fairhaven community from other communities in the County. Mr. Counts stated that one primary reason for having the conservation district in this community was the fear that Metro would create an encroachment of commercial activities within the neighborhood. One of the provisions of the Comprehensive Plan under this conservation district was to have the Redevelopment & Housing Authority review zoning and land use applications of the County. Mr. Counts stated that this particular application had been reviewed by an improvement committee and the feelings were that the use was a commercial use and was not compatible with the objectives of the conservation plan.

Chairman Smith questioned the fact that the comittee considered a day care use to be a commercial activity. He asked why this use would be any different from any other day care center in the community. Chairman Smith stated that there was already a day center within the boundaries of the conservation district. He stated that the people of the Fairhaven community would have to seek out this type of service for their children. Chairman Smith stated that he was a little concerned about that part of the conservation district. He indicated that a day care center was a community use and he assumed that there were other uses within the conservation district. He stated that the community was distinguishing between a privately owned day care center and one operated by the community.

Mr. Hyland inquired that since the community ran a day care center on a non-profit basis, he inquired as to whether a cooperative could be established on a non-profit basis and whether it would be distinguished under the conservation plan. Mr. Counts stated that it was his feeling that a community run day care center would meet the objectives of the conservation plan. He stated that in the discussion with the committee, the primary objection to the proposed facility was the establishment of a precedent that might develop as a result of the special permit. He stated that it was the intent of the community to preserve the residential character of the neighborhood. Mr. Hyland stated that the community had the attraction of Metro already. Mr. Counts stated that Metro was not directly in the community and was more on the perimeter. Mr. Counts stated that Bangor Drive was in the middle of the community. There was a legitimate fear that this type of activity would spread. He stated that it was the community's feeling that this activity would serve no purpose.

Mr. Hyland inquired as to what impact, if any, the designation of a conservation district should on the BZA's consideration of the application. Mr. Counts responded that the legal impact was really not a question. He stated that the conservation plan that they were addressing under the State Code was not law. It was just a statement of policy by the Board of Supervisors. Mr. Counts stated that the policy was and did apply to specific neighborhoods. There were seven conservation districts in Fairfax County. These neighborhoods are not the same. They were all different. Mr. Counts stated that Fairhaven was different because of Metro. He stated that this was one of the few remaining areas where there was moderately priced housing for families in Fairfax County. Mr. Counts stated that if the commercial activities were allowed to prosper, it would jeopordize the cost of the housing. He stated that it was important to maintain the price of the housing as there were no other sources being developed in Fairfax County for housing in that range.

Mr. Hyland inquired if Mr. Counts considered this use to be incompatible. Mr. Counts stated that it was incompatible because it was a business. Mr. Hyland inquired if the type of business would make a difference and Mr. Counts responded that it would not. Mr. Counts stated that the business was being operated on a profit motive and it would be operated in a neighborhood which had a delicate construction which had to survive. Mr. Hyland inquired that if the day care center were designed to serve the community exclusively, whether the objections would be the same. Mr. Counts stated that as a business, the community would object.

Chairman Smith inquired of Mr. Counts as to whether he was aware of any occasion where a day care center had attracted other types of businesses in a community. Mr. Counts stated that he was not. Mr. Counts further responded that he was not aware of any other areas that would be next to Metro. Chairman Smith stated that this was not a business. He stated that it did not take a rezoning to operate a day care center. It only took a special permit. Chairman Smith stated that this was an application for a 40 pupil school and would not attract other businesses. Chairman Smith stated that he could understand the concern of the community to maintain the housing for strict residential uses. However, a day care center was a permitted use in a residential area with a special permit. Chairman Smith stated that he gathered the community would rather have someone live in the home.

The next speaker in opposition was Mr. Ron Carls, President of the Civic Association. Mr. Carls stated that this was an application by an outsider. He stated that Mr. Wheeler had been at the civic association meeting last spring. He stated that Mr. Wheeler had presented the matter as a service to the community. At that time, the community had inquired as to the number of their residents using the facility on Telegraph Road. No one knew of anyone using Mr. Wheeler's facilities. Mr. Carls stated that most of the people in the community had relatives or women who stayed home to watch the children. Mr. Carls stated that there was strong opposition to the application. He stated that there was not any day care center

005

in their community. He stated that neighbors might take care of other children but he could not appreciate 40 children in a back yard.

With regard to the traffic situation, Mr. Carls stated that this was a leased house. Mr. Carls stated that Mr. Wheeler could not buy the house on Bangor Drive. There was no room on Kings Highway and not much off street parking. Chairman Smith stated that Mr. Wheeler had provided for four cars. Mr. Carls stated that Kings Highway was going to be widened. The proposed nursery facility faced Kings Highway and if the road was widened it would make the structure even more non-conforming with the required setbacks. Mr. Carls stated that a nursery was a good idea. He stated that Mr. Wheeler operated a fine school but this was the wrong location for a nursery school.

In response to questions from the Board, Mr. Carls stated that there were 240 homes in Fairhaven. Mr. Carls stated that it was unique community as it was isolated. The neighbors were closely knit. They owned their community hall which was leased out to a church. Mr. Carls stated that if the nursery were allowed, he assumed some of the traffic would use Bangor Drive which ran parallel to Kings Highway. He stated that Bangor Drive was a very narrow street and had solid cars parked on both sides. Mr. Carls stated that the community could visualize people using the day care facility leaving their cars and taking Metro.

The next speaker was Judy Forham, Assistant Director of Housing & Community Development. She pointed out to the Board that there was more opposition to the day care center than the number of persons present. She stated that not many people would use the facility as there were private individuals who took care of children in their homes.

The next speaker was Jim Wineguard of 2506 Jamaica Drive who was the Vice-Chairman of the Conservation Committee for the area. Mr. Wineguard stated that he opposed the day care center. Mr. Wineguard stated that the Conservation Committee consisted of 12 people who were unanimous in their opposition. They felt that it was against the spirit of the conservation plan which had been adopted one year and two days ago. Mr. Wineguard stated that the nursery school would be a detriment to the area as it would destroy the residential neighborhood which they wanted to preserve. Mr. Winguard stated that the opposed small businesses and signs being posted as they wanted to keep the neighborhood for the raising of families and not the running of a business. Mr. Wineguard stated that the church served their community and they had control over it. In response to questions from the Board, Mr. Wineguard stated that the church had been leasing the community center for approximately one year. Chairman Smith inquired if the church had a use permit and Mr. Wineguard stated that to his knowledge it did not. Chairman Smith stated that a church needed a special permit if it had begun operation only a year before.

Ms. Louise White of 5948 N. Kings Highway was the next speaker in opposition. She informed the Board that she was nervous about the impact of the day care center on the community. Ms. White stated that she had raised three children who attended Mt. Vernon, Mt. Eagle and Edison. She stated that N. Kings Highway was terrible. The traffic had totten worse each day. Ms. White stated that she and her husband were both on disability and when they travelled to their doctors, it took ½ hour to get out the driveway. Ms. White stated that the day care center was too close to the highway. She stated that there would be a problem with parking. People would leave their cars and take Metro. Children could climb fences and get out onto the highway. She urged the Board to deny the request.

Mr. James Bollings of 6002 Bangor Drive asked the Board whether they would like to have 40 children playing outside with all the noise.

Ms. Vi Taylor of Fairhaven Avenue stated that she had lived in the area for 31 years. She was familiar with the community. She was also a member of the Conservation Committee. She stated that it was impossible to get the children across the highway. She stated that the community was under a 15 year committment with the Board of Supervisors to keep businesses out of the area. She stated that they had worked very hard to keep the community as an individual community. She urged the Board to let the area stay residential.

Mrs. Hall of 6006 Bangor Drive stated that she did not think it was fair that the residents of the community who had lived there for 25 to 30 years had to put up with the nursery school in the neighborhood.

The next speaker was Bonnie Hawkins of 2513 Jamaica Drive who stated that she did not have objections to the nursery school. However, the Board of Supervisors had told the community that they would keep the community as single family residential units. Ms. Hawkins stated that Mr. Wheeler had tried to buy the house on Bangor Drive. She stated that Mr. Wheeler had tried to buy houses in the area, two on N. Kings Highway and two on Bangor Drive. Ms. Hawkins stated that 40 children in a house was not a single family dwelling unit at all.

The next speaker was Joyce Jenkins of Fairhaven Avenue. She stated that she had rented her house for ten years before buying it one year ago. She stated that it was very important to know that there weren't any sidewalks in the area. The children walk in the road. She stated that the day care center and its traffic would be dangerous.

006

During rebuttal, Mr. Wheeler stated that first of all, he was not trying to make enemies. He stated that he had enjoyed his meeting with the community and understood their feelings. With regard to the speaker from Fairfax County Redevelopment and Housing Authority, Mr. Wheeler stated that there was not way it could said that he was not preserving the community. He stated that he had already improved the house and it fit in very well with the community. Mr. Wheeler stated that the house on Bangor Drive was only for additional space for staff and a playground area. He stated that there was no way any children would be brought from Bangor Drive. There was not any provision for a gate for the children to walk through from Bangor Drive.

As far as traffic on North Kings Highway, Mr. Wheeler stated that it was a dilemna that existed because of the growing County. He stated that he found no difficulty with the Police Department study about the number of families from Telegraph Road which was much more congested.

With respect to the conservation plan, Mr. Wheeler stated that he was quite interested and appreciated all of the comments the residents had made to him while the building was under renovation. He stated that he had given a lady the opportunity to go through the facility to see the improvements. Mr. Wheeler stated that a comment had made that it would be pretty expensive for children to attend this facility. Mr. Wheeler stated that it did take money to operate but he had found that where children were taken care of in private homes was often in excess of a nursery school. Mr. Wheeler stated that he tried to keep their tuition to the needs of the familiies they served. Mr. Wheeler stated that his fees were below the average charge and he provided day care and education.

With regard to the variance request, Mr. Wheeler stated that a 4 ft. variance was necessary as it did not meet the existing bulk regulations. Mr. Wheeler stated that North Kings Highway was wide at this location and would accomodate a four lane highway. He stated that the 4 ft. variance was not a great danger for the facility.

Mr. Wheeler stated that the Board's study should be taken into consideration. He also asked that it service the adjoining community. Mr. Wheeler stated that the Board of Zoning Appeals was short-handed and asked that Mr. Yaremchuk be allowed to review the tapes and weigh the matter and participate in the vote. Chairman Smith informed Mr. Wheeler that the Board would take a vote.

In response to questions from the Board, Mr. Wheeler stated that the Bangor Drive property was presently occupied. The lease began in March 1980. Mr. Wheeler stated that the home was leased by a family on a temporary basis. Mr. Hyland inquired whether the facility would be available for staff before March of 198a and Mr. Wheeler stated that it would not. He stated that the facility would only be used for living purposes for a total of four persons until the lease was up. Mr. Wheeler stated that he would have four employees, fulltime. The school would be on a 12 hour day. He stated that some people would augment the schedulting as part-time employees.

Chairman Smith closed the public hearing and the Board recessed at 9:50 P.M. At 10:00 P.M., the Board reconvened to take a vote on the applications.

R E S O L U T I O N

In Application No. V-80-V-112 by CLAUDE A. & BETTY J. WHEELER T/A PROCTOR HATSELL PRIVATE SCHOOL, INC. under Section 18-401 of the Zoning Ordinance to allow child care center use within residential buildings which are 26 ft. from front lot lines (30 ft. minimum front yard required by Sect. 3-407; compliance with bulk regulations by special permit use required by Sect. 8-303), on property located at 5945 N. Kings Highway, tax map reference 83-3((9))(6)12 & 27, County of Fairfax, Virginia, Mr. Hyland 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, 1980; deferred from July 29, 1980 for proper advertising; 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 12,526 sq. ft.

007

4. That the present use of the property which provides for residential and the existing bulk regulations in the application do not deny the applicant reasonable use of the property.
5. That the property is in close proximity to a heavily travelled highway.
6. That the non-conformity does not constitute a particular hardship based on the permitted use of the applicant by right of the property as a residence.

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. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 7, September 12, 1980 Board of Zoning Appeals
CLAUDE A. & BETTY J. WHEELER
T/A PROCTOR HATSELL PRIVATE SCHOOL, INC.

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-V-041 by PROCTOR HATSELL PRIVATE SCHOOL, INC. under Section 8-305 of the Fairfax County Zoning Ordinance to permit child care center on property located at 5945 N. Kings Highway, tax map reference 83-3((9))(6)12 & 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 of Zoning Appeals held on September 12, 1980; deferred from June 24, 1980 for filing of variance and from July 29, 1980 for proper advertising; and

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

1. That the owner of the subject property is Claude A. & Betty J. Wheeler.
2. That the present zoning is R-4.
3. That the area of the lot is 12,525 sq. ft.
4. That the use by the applicant of the subject property as proposed would, based upon the evidence received, pose particular safety problems for persons who would enter and use the facility primarily because of the narrowness of the street, the lack of sidewalks and parking and particularly because of the heavy amount of traffic already in the area.
5. That the use of the particular property for a day care center will, based upon the evidence, increase the traffic in an already heavily travelled neighborhood burdened with considerable traffic.
6. That the proposed property fails to comply with the bulk regulations of Fairfax County.

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 8-006 of the Zoning Ordinance, and

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 7, September 12, 1980, Scheduled case of

8:30 P.M. HOLY TRANSFIGURATION MELKITE GREEK CATHOLIC CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-138-79 for church to permit addition of rectory with driveway entrance from parking lot, located 8501 Lewinsville Rd., 29-1((1))20 & 21, Dranesville Dist., R-1, 10.47 acres, S-80-D-069.

Mr. Rollin DeBohn of Patton, Harris, Rust & Guy of 10553 Main Street in Fairfax, represented the church. He stated that they had an existing use permit which they would like to amend to increase the rectory. He stated that the driveway for the rectory would exist on the same driveway the church was presently using so as not to increase the entrances on Lewinsville Road. The size of the proposed rectory would be 35'x 26'. The rectory would

008

be built of conventional frame structure unlike the church which was a pre-fab metal building. Mr. DeBohn stated that it would blend in with the existing church building.

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

Board of Zoning Appeals

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-D-069 by HOLY TRANSFIGURATION MELKITE GREEK CATHOLIC CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to amend Permit S-138-79 for church to permit addition of rectory with driveway entrance from parking lot on property located at 8501 Lewinsville Road, tax map reference 29-1((1))20 & 21, County of Fairfax, Virginia, Mas 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 12, 1980; 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 10.47 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. All other requirements of S-138-79 not altered by this resolution shall remain in effect.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

// There being no further business, the Board adjourned at 10:15 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on May 4, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: May 11, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 16, 1980. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; and Gerald Hyland. (Mr. Yaremchuk was absent).

The Chairman opened the meeting at 10:30 A.M. and Mr. Covington led the meeting in prayer.

At 10:30 A.M., Mr. Hyland moved that the Board convene in an Executive Session to discuss letal matters and other pending matters. At 11:00 A.M., the Board reconvened into public session to continue with the scheduled agenda.

10:00 A.M. CHARLES SAMPSON & JOHN O. BECK, appl. under Sect. 18-401 of the Ord. to allow subd. into 11 lots with proposed lots 1, 2, 3, 4 & 5 having width of 10 ft. (100 ft. min. req. by Sect. 3-206), located 6836 Braddock Rd., 71-4((1))29, Annandale Dist., R-2, 5.7 acres, V-80-A-115. (DEFERRED FROM JULY 22, 1980 FOR NOTICES.)

Mr. Charles Runyon of 7649 Leesburg Pike in Falls Church represented the applicants. Chairman Smith advised Mr. Runyon that there were only three Board members present. He stated that in cases where there was a problem with a unanimous vote of the three members present, the case would be deferred. Mr. Runyon stated that was a good procedure. Mr. Runyon advised the Board that the requested variance had been requested previously but it had expired during the time the contract documents were being prepared. Mr. Runyon stated that the ownership of the property had changed. The property belonged to Dogwood Builders. Mr. Runyon stated that a construction loan had been obtained and the applicants were ready to proceed. Mr. Runyon stated that they needed to revalidate the variance. The proposed lots do have frontage on Braddock Road but the County staff requested at the time of the rezoning that the lots not have direct access to Braddock. Mr. Runyon stated that they were requesting pipestem lots back to the center street of the subdivision. He stated that this was only a modification to provide a pipestem. There was frontage and sufficient width on Braddock Road but the staff felt that the BZA should grant an access easement in the form of a pipestem. The staff did not want traffic coming in off of Braddock Road.

Chairman Smith stated that the application should be amended to reflect the new ownership of Dogwood Builders. He stated that he had abstained in the original variance.

There was no one else 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-80-A-115 by DOGWOOD BUILDERS, INC. under Section 18-401 of the Zoning Ordinance to allow subdivision into 11 lots with proposed lots 1, 2, 3, 4 & 5 having width of 10 ft. (100 ft. minimum lot width required by Sect. 3-206) on property located at 6836 Braddock Rd., tax map reference 71-4((1))29, 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 16, 1980; 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 5.7 acres.
4. That the applicant's property has an acute traffic problem on Braddock Road and the staff requested that the applicants not use Braddock Road as frontage.

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.

010

RESOLUTION

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 eighteen months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 10, September 16, 1980, Scheduled case of

10:10 A.M. GEORGE M. & OLIVE M. FITZWATER, appl. under Sect. 18-401 of the Ord. to allow subd. into 3 lots, 2 of which would have width of 7.5 ft. each (70 ft. min. lot width req. by Sect. 3-406), located 2358 Great Falls St., Daniels Subd., 40-4((1))28, Dranesville Dist., R-4, 1.0023 acres, V-80-D-131. (DEFERRED FROM JULY 30, 1980 FOR NOTICES).

The Clerk advised the Board that she needed a ruling on the notices. After discussion of the problem involved in the notification process, it was the consensus of the Board to defer the variance until October 7, 1980 at 12:30 P.M. for notices.

//

Page 10, September 16, 1980, Scheduled case of

10:20 A.M. MICHAEL NADANYI, appl. under Sect. 18-401 of the Ord. to allow 3 lots with width of 10 ft. (150 ft. min. lot width req. by Sect. 3-106), located West Ox Road, 35-4((1))14, Centreville Dist., R-1, 15.0 acres, V-80-C-095. (DEFERRED FROM JULY 1, 1980 & JULY 30, 1980 FOR ADDITIONAL TESTIMONY & DECISION OF FULL BOARD).

Mr. Charles Runyon of 7649 Leesburg Pike in Falls Church represented the applicant. Mr. Runyon informed the Board that Mr. Yaremchuk had been the one to ask that the variance be taken back to staff. Mr. Runyon suggested that the Board might want to defer the variance again until Mr. Yaremchuk returned.

Chairman Smith stated that it would be beneficial to defer the application. Chairman Smith asked for a comment from Oscar Hendrickson's office regarding the variance. The variance application was deferred until September 23, 1980 at 12:00 Noon.

//

Page 10, September 16, 1980, Scheduled case of

10:30 A.M. DOSIA B. DUNHAM, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 16 ft. from street line (30 ft. min. front yard req. by Sect. 3-307), located 6412 10th St., New Alexandria Subd., 83-4((2))(39)30, 31 & 32, Mt. Vernon Dist., R-3, 10,500 sq. ft., V-80-V-086. (DEFERRED FROM AUGUST 5, 1980 FOR BOARD OF SUPERVISORS' HEARING).

Mr. Cliff Giffen, a real estate broker of 6701 Richmond Highway, Alexandria, Virginia, represented Dosia Dunham in the sale of her property. Mr. Giffen stated that they were seeking a variance to allow construction. A special exception to allow construction of the dwelling in a floodplain was heard and granted by the Board of Supervisors under certain conditions. Chairman Smith stated that the BZA needed the comments from the Planning Commission. He stated that the applicant should proceed with the variance and possibly the variance would have to be deferred. Mr. Giffen stated that this was an old subdivision that existed prior to the Ordinance. The lots had been developed with 25 ft. width and when they property was developed, several lots were put together for building purposes. Mr. Giffen stated that lot widths of 50 to 75 ft. were normal in the subdivision. Mr. Giffen stated that the lot area, the side yards, etc. were not controlled by the Subdivision Ordinance or the Zoning Ordinance at that time. Mr. Giffen stated that the house immediately across the street from Mrs. Dunhan had frontage of 9 ft. for a front yard. The Ordinance now required a minimum of 35 ft. The house behind the subject property had 9½ ft. frontage. Mr. Giffen stated that was the pattern that had developed through the community. The side yard was about the same being approximately 5 ft.

Mr. Giffen stated that was the situation in the area. Mrs. Dunham wanted her house to front on 10th Street and have no front yard setback from H Street. Mr. Giffen stated that H Street was not state maintained. It was a gravel road serving two or three lots at the rear.

Page 11, September 16, 1980
DOSIA B. DUNHAM
(continued)

One factor that alleviated the situation of not having a 35 ft. front setback was the fact that the streets were wider than required. H Street right-of-way was about 60 ft. wide. The houses were close to the right-of-way but Mr. Giffen stated that you still had the feeling of openness.

Mr. Giffen stated that the proposal to center the house on the lot was influenced by the floodplain. There was 10 ft. to be filled for the floor level so that the floodplain line fell 15 ft. the foundation line. Mr. Giffen stated that they had planned on 15 ft. as the side yard with a retaining wall to hold 3 ft. of fill. At the time of the hearings of the Planning Commission and the Board of Supervisors, ther had been concern that the retaining wall might interfere with drainage from the adjoining properties. Mr. Giffen stated that they solved the problem by moving the retaining wall 10 ft. inside of the property line. He stated that this would retain some large trees and keep the existing drainage as it was.

Chairman Smith inquired as to the ownership of the property. The application was in the name of Dosia Dunham but the staff report indicated Mrs. Burleson owned the property. Mr. Giffen informed the Board that the applicant had two names. She was Mrs. Burleson for 30 years and was now Dosia B. Dunham. She had remarried. Mr. Hyland stated that it would be appropriate to amend the application. Chairman Smith stated that the application should have been made in the name of the deeded owner of the property. Mr. Giffen stated that the property was being sold in the name of Mr. and Mrs. Dunham. Chairman Smith informed Mr. Giffen that he was talking about the deed. He stated that the aggrieved parties was the registered property owner. Mr. Giffen was talking about the contract to purchase the land which Chairman Smith stated did not impress him. In fact, he informed Mr. Giffen that it had a dampering effect. Chairman Smith stated that the application would be changed to the name of Burleson since that was the way the property was deeded. Mr. Hyland suggested that it be changed to Burleson a/k/a Dosia B. Dunham.

Mr. Giffen informed the Board that the feelings of the Board of Supervisors were contigent upon approval of the variance request. If the variance were denied, then the lot would be an unbuildable lot.

There was no one else to speak in support of the application. Mr. John M. Andrews of 1206 8th Street spoke in opposition to the variance. He stated that he had a porch built on the side of his house. He proposed a compromise of 23 ft. in lieu of the 16 ft. He also stated that he had a question about the required setback as to whether it was 30 ft. or 35 ft. Mr. Covington stated that it was 30 ft. because it was a corner lot. Mr. Andrews asked that the house be set back 23 ft. from H Street which would be an additional 7 ft. Chairman Smith stated that the only way to do that was to cut down the size of the house. He informed Mr. Andrews that the special exception had eleven provisions it it. Mr. Andrews stated that the Mr. Giffen had mentioned that the house across the street was only 5 or 6 ft. from the property line. Mr. Andrews stated that was the garage but the actual house set back farther. Mr. DiGiulian stated that the plat inquired it was a dwelling 9 ft. from the property line. Mr. Andrews stated that would be the garage. Chairman Smith stated that H Street was not a state miantained road. Mr. Andrews stated that his house was to the east of the Dunham property. Chairman Smith informed Mr. Andrews that one of the conditions in the Board of Supervisors' hearing had been that there be a retaining wall on the northern property line prior to the site plan approval. He inquired if Mr. Andrews objected to the retaining wall and was informed that he did not. Chairman Smith stated that the plats did not reflect the retaining wall and that there had be a change in the plats to comply with the special exception.

Mr. DiGiulian stated that in the staff report on the special exception, item no. 3 stated it was subject to a wall and item no. 8 talked about a retaining wall within 5 ft. of the proposed building which was what was shown on the plat. Chairman Smith stated that the plat was not consistent. Mr. DiGiulian stated that the letter was not consistent. Item no. 3 was subject to the fact that the retaining wall have weepholes under the wall so that the water would drain off of the property. Item no. 8 spoke about a wall to 16 ft. in with a swale that would carry any water through to the street rather than the adjoining property. Chairman Smith stated that he had no problem with the wall as long as it met the conditions set forth in the special exception. Mr. DiGiulian stated that the site plan was to submitted to DEM for approval of the wall. He stated that they were only concerned about dumping water onto the adjoining property.

Chairman Smith inquired of Mr. Andrews if his objection was only to the dwelling being 16 ft. Mr. Andrews stated that was correct and that he wished it to be built to 23 ft. He stated that he was afraid this variance would set a precedent. Mr. Andrews stated that he had a 35 ft. setback on his home.

There was no one else to speak in opposition. Chairman Smith stated that the Board would hold the record open for additional information. Mr. Giffen asked for an opportunity to rebutt the opposition. Mr. Giffen stated that they had looked at the adjoining property to the rear and the adjoining property to the west. Construction of the proposed dwelling at 16 ft. was visually compatible with these dwellings. Chairman Smith inquired as to the

average size of the houses in the area. He asked if a 40 ft. house was compatible with the existing houses in the area. Mr. Giffen replied that the existing houses were about 30 years old. They were brick Colonial Cape Cods. He stated that many of them were directly across the intersection. Three of the homes were on 50 ft. lots. The width of the homes averaged about 45 ft. shoulder to shoulder. Mr. Giffen stated that the area was a very desirable place to live. He stated that yard requirements were not all that important in the community. He stated that a 16 ft. setback was liberal in terms of other already existing houses. He stated that the home would not detract from the other homes.

Chairman Smith stated that the Board would defer the application to allow Mr. Yaremchuk an opportunity to review the information and the tapes of the hearings. Chairman Smith stated that he had a problem with the variance and wanted to view the property. The variance was deferred until October 7, 1980 at 12:45 P.M. for additional information.

//

Page 12, September 16, 1980, Scheduled case of

10:40 A.M. KEYSTONE FINANCIAL & SERVICE CORPORATION, appl. under Sect. 18-401 of the Ord. to allow subd. into 45 lots & parcels with proposed lot 8 having width of 12 ft. and proposed lots 29 & 30 each having width of 6 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 334, 400 & 444 Seneca Rd., Canterwood Subd., 2-4((1))1, 2 & 4, Dranesville Dist., R-E, 71.44 acres, V-80-D-145.

Mr. Hal Simmons of 307 Maple Avenue, W., Vienna, represented the applicant. Mr. Simmons inquired as to the comment made regarding Mr. Yaremchuk. Chairman Smith advised Mr. Simmons that Mr. Yaremchuk was ill. He stated that the Board would defer any application if it could not come to a unanimous decision.

Mr. Simmons informed the Board that the variance application involved a large tract of land with only a small area suitable for septic. Mr. Simmons stated that he had requested a variance to allow a subdivision of 3 lots consisting of which proposed lots 37, 41 & 56 would have less than the required lot width. Mr. Simmons stated that the maximum allowable number of lots were 67 and the actual number requested were 44 lots of which 9 lots were 5 acre lots. Mr. DiGiulian inquired if the maximum allowable number of lots of 67 was based on the present zoning and Mr. Simmons stated that it was under the two acre zoning. Mr. Simmons stated that there was only a small area suitable for sptic. There was not any public water or sewer. All lots would be on private wells and septic fields. Mr. Simmons informed the Board that the land had been the old Water Authority property some time ago. Chairman Smith stated that the Water Authority only had 4 acres in that area. Mr. Simmons stated that the Water Authority used to own the entire 137 acres. The pump had been moved to the south side of Rt. 7 and there were not any plans to have water along Seneca Road. The property was no longer owned by the Water Authority and was presently owned by Keystone Development Company.

Mr. Hyland stated that the staff report indicated that the proposal did not conform to the Master Plan. Mr. Simmons stated that was not correct. Mr. Simmons stated that he had contacted Mr. Johnson and that he was merely stating the facts. Mr. Simmons stated that there was a problem of misunderstanding. Mr. Simmons informed the Board that the tract was Master Planned for 5 to 10 acre lots but it was zoned for 2 acre lots. Mr. Simmons stated something had been lost in the communication.

Mr. DiGiulian stated that his earlier question had been about the current zoning. He stated that he had a problem with creating a less dense situation than what was presently existing. Mr. Simmons stated that the current zoning was R-E. Chairman Smith stated that the Master Plan was fine but the Board had to consider the present zoning in any decision that it made. He stated that the variances had to be justified and he had not found any justification for granting the variances yet. Chairman Smith stated that he had not seen any proof that the applicant could not make reasonable use of the land without the variance. Mr. Hyland inquired of the applicant as to a statement made that the reason for the requested variance was because of the location of the septic fields. Mr. Hyland asked the applicant to explain what he meant. Mr. Simmons asked the Board to look at the plats. There were two areas of good ground to support septic fields. He stated that what he had been saying was that the hardship was the physical characteristic of the property. There was only a small amount of topography and soil where a septic field could be installed. Mr. Simmons stated that the physical constraints of the property limited the location of the septic. The septic was shown on the plat as little boxes. Chairman Smith informed Mr. Simmons that even if he lost three lots, the applicant would still have reasonable use of the property. He stated that the requested variance was to develop the property at a maximum rather than a minimum use. Mr. Simmons stated that the maximum development allowed was for 67 lots. The plan was only for 44 lots. Mr. Simmons stated that they were well below the maximum density. Mr. Hyland stated that the property could not be deveoped to 67 lots with the septic situation. Chairman Smith stated that if there was public water and sewer, the property could be developed to 67 lots. Mr. Simmons stated that there was not any plans in

the Master Plan at this time for public water and sewer. Mr. Simmons stated that the citizens were afraid that if public water and sewer were allowed, it would result in a more dense development of the property.

There was no one else to speak in support of the application. Mrs. McKinnon of 864 Seneca Road in Great Falls spoke in opposition to the variance. She stated that she had five letters in the file. Mr. Hyland informed Mrs. McKinnon that the Board had received the letters. Mrs. McKinnon stated that she had another letter from a gentleman who had to leave the meeting but wanted his opposition known, Mrs. McKinnon stated that she was opposed to the variance for pipestem lots. She stated that she was basing her opposition on the Subdivision Ordinance as the pipestem lots were not allowed unless there was undue hardship. Mrs. McKinnon stated that the proposed lots were of such unusual shapes and sizes. She informed the Board that there was no land hardship. Mrs. McKinnon stated that the 44 lots added to the 9 lots made a total of 53 lots which would make the lots considerably less than 2 acres. Chairman Smith stated that he had the same problem. Chairman Smith stated that the five acre lots were not under Subdivision Control. However, he assumed that the other lots averaged out to 2 acres.

Mr. DiGiulian stated that was a good question and inquired of Mr. Simmons if the lots did average out to 2 acres. Mr. Simmons stated that they did. He stated that the 71 acres had 35 lots. The remaining 51 acres had 9 lots that would be 5 acres or more.

Mrs. McKinnon stated that her main concern was the total number of houses going up on a road that was already dangerous. She stated that there was only visibility of 10 ft. on Seneca Road. Mrs. McKinnon stated that the citizens were very concerned about the total number of houses going in without any improvement to the road. She stated that it was a question of safety. She was opposed to the variance for the additional three lots. She stated that if the lots could not be constructed under the existing laws, then it was only a financial gain the applicant was seeking. She stated that the citizens wanted to retain the rural atmosphere in the area.

There was no one else to speak in opposition. During rebuttal, Mr. Simmons stated that the people in opposition represented themselves as individuals and should not be part of the Great Falls Civic Association. Mr. Simmons stated that what he was proposing was 2 acre lots. He was proposing 44 building sites on the 134 acres which was 0.33 acres which was well within the Master Plan even though he could put in more lots if he had the septic fields. Mr. Simmons stated that with a lot of tree removal, etc. he could get more lots if he reworked the plat. However, all he was asking for was an additional three lots.

Chairman Smith inquired if it would be possible to get the three lots without a variance. Mr. Simmons stated that it was but the layout of the subdivision would be bad and a lot of trees would have to be removed unnecessarily.

Chairman Smith stated that the Board would leave the record open to allow Mr. Yaremchuk an opportunity to review the file and tapes and to participate in the decision. He stated that it was deferred for decision only. The variance was deferred until October 28, 1980 at 10:00 A.M.

//

Page 13, September 16, 1980, Scheduled case of

10:50 A.M. TONY HUERTA, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 4.9 ft. from side lot line (7 ft. min. side yard req. by Sect. 3-307 & 2-412), located 8255 Toll House Rd., Chapel Square Subd., 70-2((7)) 133, Annandale Dist., R-3, 17,569 sq. ft., V-80-A-144.

Mrs. Huerta of 8255 Tollhouse Road informed the Board that she was seeking a variance in order to construct a carport onto her home. She stated that it would balance out the house. She stated that it would also help her in getting in and out of the house without getting wet. In response to questions from the Board, Mrs. Huerta, stated that she had owned the house since December of 1972. Chairman Smith stated that the proposed carport was 16 ft. wide and inquired as to why it could not be smaller. Mrs. Huerta stated that she had submitted a letter from the contractor. There was an existing chimney that protruded out into the area for the carport. She stated that even though the carport would be 16 ft., she would not have the full 16 ft. because of the chimney. Mr. Hyland stated that the letter from the contractor stated that a 16 ft. carport was being requested to allow for the full opening of car doors. There was a retaining wall of 2 ft. and footings which also figured into the construction of the carport.

Chairman Smith stated that he could not support the variance as requested. He indicated that he could support a minimimum variance. Accordingly, the variance was deferred until October 28, 1980 at 10:10 A.M. to allow Mr. Yaremchuk an opportunity to participate in the decision.

//

Page 14, September 16, 1980, Executive Session

At 12:50 P.M., the Board convened into an Executive Session to discuss legal matters. At 2:30 P.M., the Board reconvened to continue with the scheduled agenda.

//

Page 14, September 16, 1980, Scheduled case of

11:00 A.M. BERRY LAND DEVELOPMENT COMPANY, appl. under Sect. 18-401 of the Ord. to allow subd. into 41 lots, 18 of which are proposed as cluster and 23 as conventional such that proposed conventional lots 1, 5 14, 19, 20, 31, 32, 35, 36 & 40 would have widths of 20 ft., 12 ft., 44 ft., 6 ft., 96 ft., 12 ft., 6 ft., 6 ft. & 108 ft. respectively (150 ft. min. lot width req. by Sect. 3-106), located south quadrant of Clifton Rd. & Ox Rd., Canterberry Estates Subd., 87-1((1))27 and 87-4((1))1, Springfield Dist., R-1, 67.86 acres, V-80-S-146.

Mr. Hal Simmons of 307 Maple Avenue, W. in Vienna represented the applicants. He stated that this property had a very small area & topography of land which was suitable for septic. He asked the Board to examine the drawings. The septic fields were shown on the plats as little boxes. The land within that island was suitable for installation of septic fields. Mr. Simmons stated that the shaded lots were the ones that he was requesting a variance on. Mr. Simmons stated that the hardship had not resulted by any action of the applicant. Strict application of the Code would deprive the applicant of the reasonable use of the property. Mr. Simmons stated that the hardship was caused by the small area and topography and soil which was suitable for septic in that it would not allow subdivision in the normal fashion. Mr. Simmons stated that all lots requiring a variance were sized for 2 acre lots. The land was zoned R-1 which would allow a maximum yield of 65 lots. Mr. Simmons stated that he was only requesting 41 lots.

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

The Board deferred the variance until October 28, 1980 at 10:20 A.M. to allow Mr. Yaremchuk an opportunity to participate in the decision.

//

Page 14, September 16, 1980, Scheduled case of

11:10 A.M. GRACE HALLAHAN, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 18 ft. from rear property line (25 ft. min. rear yard req. by Sect. 3-407), located 1813 Olmstead Dr., Pimmit View Subd., 30-3((8))51, Dranesville Dist., R-4, 8,835 sq. ft., V-80-D-147.

Mrs. Grace Hallahan of 1813 Olmstead Drive in Falls Church, informed the Board that she wished to add a room onto the back of the house. It would be next to the kitchen making access in and out easier. Mrs. Hallahan stated that she did not have enough room. She wished to build a 12'x21' room with a patio across the back of the house. She did not have enough room to build the addition within the law and was requesting a variance for the additional footage. In response to questions from the Board, Mrs. Hallahan stated that she had owned the property since 1958, a total of 22 years. Mr. Hyland asked Mrs. Hallahan to describe her lot. Mrs. Hallahan stated that the lot was 90 ft. across the back. She stated that there was room on the side of her house for the addition but it would very akward. She stated that she was trying to make the house compatible but livable. Mrs. Hallahan stated that she wanted to be able to get around easier inside the house. Mr. Hyland noted that the lot was very shallow. He stated that the lots surrounding Mrs. Hallahan were much deeper. In addition, there was a utility easement on Mrs. Hallahan's property. Mrs. Hallahan stated that on one side of her house was the utility easement and on the other was the driveway.

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

Page 14, September 16, 1980 Board of Zoning Appeals
GRACE HALLAHAN

RESOLUTION

In Application No. V-80-A-149 by GRACE L. HALLAHAN under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 18 ft. from rear property line (25 ft. minimum rear yard required by Sect. 3-407), on property located at 1813 Olmstead Drive, tax map reference 30-3((8))51, County of Fairfax, Virginia, Mr. Hyland 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 16, 1980; 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-4.
3. The area of the lot is 8,835 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 ohter land or to other structures on the same land.

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days prior to any expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 15, September 16, 1980, Scheduled case of

11:20 A.M. LOIS A. TELFORD, appl. under Sect. 18-401 of the Ord. to allow extension & enclosure of carport into 2 car garage addition to dwelling to 13.3 ft. from side lot line such that total side yard would be 21.7 ft. (8 ft. min. but total min. of 24 ft. req. by Sect. 6-106 & 3-207), located 5410 Duxford Pl., Lake Braddock Subd., 78-1((4))448, Springfield Dist., PDH-3, 13,017 sq. ft., V-80-S-155.

Ms. Lois A. Telford of 5410 Duxford Place in Burke informed the Board that her property was irregular in shape in that it had five sides with converging lot lines in the front. She stated that she wanted to build a garage that would extend closer to the property line than the present carport. Ms. Telford stated that the front edge of the garage would extend 2 ft. into the required setback area.

In response to questions from the Board, Ms. Telford stated that she had an existing carport which she wished to enclose into a two garage. Chairman Smith inquired as to the reason for asking for a 24 ft. garage. Ms. Telford stated that steps protruded from the kitchen door into the carport. On the other side, she had a very large car, there were studs that were built right int the middle of the carport. She needed room for the car doors to open with the studs in the way. In addition, Ms. Telford stated that she had a riding mower to house in the garage. Ms. Telford stated that she would be 13.3 ft. from the side lot line. Chairman Smith inquired if the garage could be cut down to 21 or 22 ft. Ms. Telford stated that because of the studs in the middle of the carport, she needed the additional room. In addition, the garage doors were 9 ft. each making a total of 18 ft. Ms. Telford stated that she needed a little room on each side of the doors.

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

RESOLUTION

In Application No. V-80-S-155 by LOIS A. TELFORD under Section 18-401 of the Zoning Ordinance to allow extension and enclosure of carport into 2 car garage addition to dwelling to 13.3 ft. from side lot line such that total side yard would be 21.7 ft. (8 ft. minimum but total minimum of 24 ft. required by Sect. 6-106 & 3-207), on property located at 5410 Duxford Place, tax map reference 78-1((4))448, 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

D16

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 PDH-3.
3. The area of the lot is 13,017 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including converging lot lines.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 16, September 16, 1980, Scheduled case of

11:30 A.M. DAVID & LINDA WOLFF, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 13.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-E07), located 2212 Lomond Ct., The Glade Subd., 27-3((5))3, Centreville Dist., R-E, 1.2339 acres, V-80-C-157.

Ms. Linda Wolff of 2212 Lomond Court in Reston stated that they wanted to build an addition to the rear of their house for her mother-in-law. The addition would be within 13 ft. of the rear lot line. The back of her property was adjoined by parkland. She stated that it was an open area. Ms. Wolff stated that three of her property lines were connected by parkland as the lot was on a cul-de-sac. Ms. Wolff stated that the location of the septic field in the property forced the original builders to put the house to the extreme rear of the property. Ms. Wolff stated that the addition would not affect the neighbors. The addition would not be visible from the road or any of the nearby houses.

In response to questions from the Board, Ms. Wolff stated that they had owned the property for two years. Chairman Smith inquired as to the use of the proposed addition. Ms. Wolff stated that it would be used as a bedroom area for her mother-in-law who was 80 years old. She stated that parkland was behind the property. She informed the Board that she had notified the Park Authority of her requested variance.

There was no one else to speak in support of the application and no one to speak in opposition. Chairman Smith inquired as to the size of the proposed addition. Ms. Wolff stated that the addition would be 28'x20'. The majority of the addition would be attached to the house. Chairman Smith inquired as to why the addition was so large. Ms. Wolff stated that the addition would include a bathroom and a walk-in closet. She stated that her mother-in-law was in a wheelchair so they had to make the bathroom fairly large. Ms. Wolff stated that she had moved her laundry room to make into a hallway or passageway to the proposed addition.

RESOLUTION

In Application No. V-80-C-157 by DAVID & LINDA A. WOLFF under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 13.0 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-E07), on property located at 2212 Lomond Court, tax map reference 27-3((5))3, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance 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 September 16, 1980; and

WHEREAS, the Board has made the fpllowing 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 1.2339 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property and the location of the septic fields on the 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 17, September 16, 1980, Scheduled case of

11:45 A.M. MONTESSORI SCHOOL OF McLEAN, INC., appl. under Sect. 3-203 of the Ord. to amend S-208-73 for nursery school and school of general education to permit change in permittee, increase in max. no. of students to 160, change students age limits to 2 years - 12 years and change operating hours to 9 A.M. to 3:30 P.M., located 1711 Kirby Rd., 31-3((1))119, Dranesville Dist., R-2, 3.921 acres, S-80-D-068.

The representative for the school informed the Board that they were asking approval to increase the age of the children from 2 years to 12 years and to change the hours of the school from 9 A.M. to 3:30 P.M. The representative stated that she was actively involved in the parent association of the school. She stated that they were good neighbors and urged the Board to grant the request.

Mr. DiGiulian stated that the Board had received a verbal report from the Health Department as to the breakdown in the number of children. There would be 100 preschool on the lower level and 60 students on the upper level. The 100 children on the lower level was for four hours or less daily. There was a 15 year lease which was renewable from year to year.

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

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-D-068 by MONTESSORI SCHOOL OF McLEAN, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-208-73 for nursery school and school of general education to permit change in permittee, increase maximun number of students to 160, change students age limits to 2 years to 12 years and change operating hours to 9 A.M. to 3:30 P.M. on property located at 1711 Kirby Road, tax map reference 31-3((1))119, 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 16, 1980; and

018

RESOLUTION

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

1. That the applicant is the lessee.
2. That the present zoning is R-2.
3. That the area of the lot is 3.921 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students shall be 160 with a maximum of 100 students under the age of 5 years on the lower level for 4 hours or less and a maximum of 60 students over the age of 5 years on the upper level.
8. The hours of operation shall be 9 A.M. to 3:30 P.M.
9. The number of parking spaces shall be 24.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 18, September 16, 1980, Scheduled case of

12:00 NOON J. T. & ELLEN SCHNEIDER, appl. under Sect. 3-303 of the Ord. to permit renewal of S-136-77 for beauty parlor as home occupation, located 6432 Alhanbra Ct., Birchwood Subd., 41-1((6))27, Dranesville Dist., R-3, 11,761 sq. ft., S-80-D-063.

Mr. John T. Schneider of 6432 Alhanbra Court in McLean stated that he represented his wife, Jane, who had filed for a renewal of a special permit to continue to operate the beauty shop in her home on Wednesday, Thursday and Friday from 9 A.M. to 4 P.M. Mr. Schneider informed the Board that the use had been granted for a three year period. During that time, no complaints or problems had arisen at the location. Mr. Schneider stated that this was a one chair shop with no employees and he requested that the permit be renewed. Mr. Schneider stated that he had a letter from their neighbors who were in support of the application.

In response to questions from the Board, Mr. Schneider stated that they owned the property for 16 years. Mrs. Alicia Height of 1811 Lansing Court spoke in support of the application. She stated that she had purchased her property ten years ago and was a contiguous neighbor to the Schneiders. She stated that she had found that the Schneiders were the nicest neighbors. Mrs. Height stated that she went to Jane's beauty shop every week. In fact, she walked there as did many of the neighbors. The shop had a side entrance. There was never more than two people at any one time. The shop was kept very neat and it was very quiet. She stated that it did not stand out in any way. Mrs. Height stated that she did not object to the shop. The shop did not detract from the neighborhood.

Mrs. Franca Deery of 6434 Alhambra Court also spoke in support of the application. She had owned the property since January of 1979. Mrs. Deery stated that she actually enjoyed the company of the people in the beauty shop.

Page 19, September 16, 1980
J. T. & ELLEN SCHNEIDER
(continued)

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

Page 19, September 16, 1980 Board of Zoning Appeals
J. T. & ELLEN SCHNEIDER

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-D-063 by J. T. & ELLEN SCHNEIDER under Section 3-303 of the Fairfax County Zoning Ordinance to permit renewal of S-136-77 for beauty parlor as home occupation on property located at 6432 Alhambra Court, tax map reference 41-1((6))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 of Zoning Appeals held on September 16, 1980; 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-3.
3. That the area of the lot is 11,761 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. All other requirements of S-136-77 not altered by this resolution shall remain in effect.
8. This permit is granted for a period of five (5) years.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 19, September 16, 1980, Scheduled case of

12:15 P.M. ROCK HILL CHURCH OF GOD, appl. under Sect. 3-103 of the Ord. to permit a building addition (sunday school rooms) to existing church and related facilities, located 15015 Braddock Rd., 43-4((1))6, Springfield Dist., R-1, 4.0 acres, S-80-S-070.

Mr. Charles Hunsberger of Wharton Lane in Centreville represented the church. He stated that the church felt that they needed extra room for the operation of the church. At the present time, everything was contained all in one room. Mr. Hunsberger stated that they had three

sunday school classes at the church. Mr. Hunsberger stated that the church wanted to get out into the community and get the children interested in the church. The proposed room was needed for classes. Mr. Hunsberger stated that it was hard to teach a sunday school class with so much going on in the same room.

The Pastor of the church also spoke in support of the church. He stated that he personally felt that the addition would enhance the ministry to the community. He stated that at the present time, the church was very limited in its classes and urged the Board to support the application.

There was no one else to speak in support 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-80-S-070 by ROCK HILL CHURCH OF GOD under Section 3-103 of the Fairfax County Zoning Ordinance to permit building addition (Sunday School Rooms) to existing church and related facilities on property located at 15015 Braddock Road, tax map reference 43-4((1))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 September 16, 1980; 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 4.0 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 8-006 of the Zoning Ordinance, and

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

1. This application is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be normal hours of church activities.
8. The number of parking spaces shall be 30.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Yaremchuk being absent).

Page 21, September 16, 1980, Scheduled case of

12:30 P.M. SANDRA K. LAWRENCE & THOMAS B. PELKOWSKI, D.D.S., appl. under Sect. 3-403 of the Ord. to permit child care center, located 4616 Ravensworth Rd., D.F. Hannah Subd., 71-1((1))63, Annandale Dist., R-4, 41,282 sq. ft., S-80-A-065.

D21

As the required notices were not in order, the Board deferred the application until October 7, 1980 at 1:00 P.M.

//

Page 21, September 16, 1980, Deferred case of

1:00 P.M. MACK S. CRIPPEN, appl. under Sect. 18-301 of the Ord. to appeal the decision of the Zoning Administrator's ruling that the Grading Plan submitted, No. 4002-RGP-1, is not permitted in the R-1 Dist., located south side of Leesburg Pike, 12-4((1))58, Dranesville Dist., R-1, 48.4426 acres, A-80-D-009.

Chairman Smith stated that he had been advised that the required notices were not in order. Mr. Dexter Odin, an attorney in Fairfax, represented Mr. Crippen. Mr. Odin informed the Board that when the application was filed Mr. Crippen had in mind some contracts with Metro and he had some grading plans in mind. According to the Zoning Administrator, the grading plan constituted a landfill. Mr. Odin stated that two things had occured. The contracts with Metro did not come to fruition so the need for the grading plan was not necessary. Second, Mrs. Crippen was very much in contention in so far as her desire not to have land used for this purpose. Mr. Odin stated that they did not need the permit itself but their concern was that the ruling of the Zoning Administrator might bind them and they wanted to protect their rights. Mr. Odin informed the Board that they would very much like to have a motion that the application be withdrawn without prejudice to any future grading plans that may be filed. Mr. Odin stated that they wanted to protect the parties against the ruling that it was a landfill. Mr. Odin stated that they would withdraw the grading plan but they did not want the Zoning Administrator's ruling to be binding.

Chairman Smith stated that the Board could not do anything as far as the ruling. The appeal could be withdrawn and it would not prejudice the case in the future according to Chairman Smith if it was for the same ruling and another appeal filed. Mr. Odin stated that he had no objections to the withdrawal. Mr. DiGiulian stated that what the applicant really wanted was the right to appeal within the time limits. Mr. DiGiulian stated that he did not believe the withdrawal would preserve that right. Chairman Smith stated that Mr. Crippen could not appeal the same site plan without resubmitting it. Chairman Smith stated that there was no time limit on an appeal. Mr. Odin stated that there was a time limit on an appeal. Mr. Odin asked that the Board just concur in that if he allowed the withdrawal, that a new grading plan would be considered a new submission.

Mr. James D. Nealon, a land surveyor in Fairfax, represented Mrs. Bettius. Mr. Nealon stated that the issue between Mrs. Bettius and Mr. Crippen was not as stated by Mr. Odin. He stated that there was no permit applied for with the Department of Environmental Management. Plans were submitted without permission of one of the tenants of the land according to Mr. Nealon. He stated that the issue was really whether or not there was any right to appeal in the first place. Mr. Nealon stated that Mrs. Bettius would like to have the County Attorney rule on whether the appeal application was proper in the first place.

Chairman Smith stated that was out of order. Mr. Odin had requested the Board to withdraw the application. Chairman Smith stated that the applicant was allowed to request the withdrawal. Any other question was moot. Chairman Smith stated that if Mrs. Bettius wanted to request the County Attorney to make a ruling on it, that was her prerogative. As far as Chairman Smith was concerned, the question was dead as soon as the Board withdrew the application.

Mr. Nealon stated that the Board had no right to hear the appeal. Chairman Smith stated that the Board was not hearing it as the applicant had asked for a withdrawal. Mr. Nealon stated that in that case, the Board should rule that the appeal was not proper and not allow the applicant to withdraw it. He asked the Board to state to the applicant that they had no right of appeal and the question was moot. Chairman Smith stated that the Board did not know that as they had not heard the appeal. Chairman Smith stated that he had some question about the tenant in common not being a party to the application and had indicated that in the past. However, he felt that if Mr. Odin wanted to pursue the appeal that the Board would have to hear the application. Chairman Smith stated that a response had been given to the Board from the County Attorney's Office that it would have to hear the appeal. An Assistant County Attorney had indicated to the Board in an Executive Session that an aggrieved party was an aggrieved party and that the Board should hear the application if it was properly advertised and properly presented.

As a point of information, Mr. Hyland stated that he had read in a communication from an attorney representing one of the parties which indicated a question in regard to the appeal. Mr. Gannon challenged the right of one party to request, file a grading plan and do with the property as he proposed to do because the property was held as tenants in common. Mr. Hyland stated that he agreed with Chairman Smith in that he had some difficulty with that as well. Secondely, Mr. Gannon had made a request to the Board that nothing be done with the appeal because it was improper. Mr. Nealon stated he was aware of the letter and that

022

Mr. Hyland had stated the facts of the letter correctly. Mr. Hyland stated that his own feeling was that the Board did not have the right to deny any party the right to appeal. Each party had the right to make an appeal and had the right to withdraw it. Mr. Hyland stated that how the Board ruled on the appeal would be another matter. He stated that if the Board heard the appeal he would probably have had much difficulty with the fact that there were twp parties of interest who owned the property. Mr. Hyland stated that did disturb him but the issue was not before the Board as the appeal had been withdrawn. There was nothing further to be decided.

Mr. Nealon asked to make one more statement. He stated that this case would be exactly like going to the Department of Environmental Management with a grading plan on Mr. DiGiulian's property. Chairman Smith interrupted Mr. Nealon and stated that the only question the Board was going to discuss was the appellant's attorney's request to withdraw the appeal. Chairman Smith informed Mr. Nealon that that was the only issue before the Board.

Mr. Hyland moved that the Board permit the withdrawal of the appeal that had been filed from the Zoning Administrator's decision and, further, that by so moving, the Board expressed no opinion as to the right of either of the parties to have filed such an appeal and, further, that in so moving the resolution that it did not affect the future right of either party as far as the use of the property as a landfill or any further application and it should not prejudice them in any way. Mr. DiGiulian seconded the motion and it passed by a vote of 3 to 0.

//

Page 22, September 16, 1980, After Agenda Items

Veterans of Foreign Wars: The request had been deferred from a previous meeting to allow Mr. Yaremchuk an opportunity to participate in the decision. The request came Mr. Hugo Tholen, Commander of Post 8241 of the McLean Veterans of Foreign Wars. He requested permission from the Board to allow construction of a storage building that would be 12 ft. larger than the building originally approved by the Board. Chairman Smith stated that as much as he would like to support the request, he could not as he believe the type of change being requested would jeopordize the special permit. The matter was again deferred until Mr. Yaremchuk's return.

// There being no further business, the Board adjourned at 3:40 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on May 4, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: May 11, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 23, 1980. All Board Members were present: Daniel Smith. Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk and Gerald Hyland.

The Chairman opened the meeting at 10:20 A.M. with a prayer. He then called the scheduled 10 o'clock case of:

10:00 A.M. MRS. JOHN D. BLUNT, appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 lots one of which would have width of 20.21 ft. and the other a width of 62.68 ft. (80 ft. min. lot width req. by Sect. 3-306), located 2818 Bass Ct., Nine Oaks Subd., 102-3((7))2, Mt. Vernon Dist., R-3, 48,348 sq. ft., V-80-V-135. (DEFERRED FROM AUGUST 5, 1980 FOR NOTICES.)

As the required notices were not in order, the variance was deferred until November 4, 1980 at 10:00 A.M.

//

Page 23, September 23, 1980, Scheduled case of

10:10 A.M. BURMAN BUILDING CORP., appl. under Sect. 18-401 of the Ord. to allow subd. into 26 lots with proposed corner lot 26 having width of 95 ft. (105 ft. min. lot width req. by Sect. 3-307), located 7210 Hooes Rd., Fair Vernon Subd., 90-1((4))3 & 4, Springfield Dist., R-3, 9.87144 acres, V-80-S-134. (DEFERRED FROM AUGUST 5, 1980 FOR NOTICES.)

Mr. Fred Lacey represented the applicant. Mr. Lacey stated that a variance was necessary in order to comply with one of the proffers required at the time of rezoning of the property. The Board of Supervisors stipulated that the proposed street in the subdivision align with the entrance to Beverly Park Drive. Because of that proffer, the proposed lot 26 did not have the required lot width for the R-3 zoning district. A variance of 15 ft. was being requested.

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

Page 23, September 23, 1980 Board of Zoning Appeals
BURMAN BUILDING CORP.

R E S O L U T I O N

In Application No. V-80-S-134 by BURMAN BUILDING CORPORATION under Section 18-401 of the Zoning Ordinance to allow subdivision into 26 lots with proposed corner lot 26 having width of 95 ft. (105 ft. min. lot width req. by Sect. 3-307) on property located at 7210 Hooes Road, tax map reference 90-1((4))3 & 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 September 23, 1980; and deferred from August 5, 1980 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 9.87144 acres.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

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.

RESOLUTION

2. This variance shall expire eighteen months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0.

Page 24, September 23, 1980, Scheduled case of

10:20 A.M. THOMAS & LESLIE CONNAUGHTON, appl. under Sect. 18-401 of the Ord. to allow construction of 6 ft. high fence partially in front yard (4 ft. max. height for fence in front yard req. by Sect. 10-105), located 5900 Benfield Dr., Wilton Woods Subd., 82-4((31))4, Lee Dist., R-2, 15,693 sq. ft., V-80-L-149.

Mr. Thomas Connaughton of 5900 Benfield Drive stated that he lived on a corner lot of Benfield Drive in Fairfax County. He stated that he wanted to build a 6 ft. stockade fence to afford privacy from Franconia Road. Mr. Connaughton stated that the purpose of the fence was to break up the sound and prevent children from darting out into traffic. The fence would extend to a patio on the property. There was a line of fir trees to supplement the fence. Mr. Connaughton stated that he needed the privacy and that the variance was very important to him.

In response to questions from the Board, Mr. Connaughton stated that he had owned the property since March 1979. Chairman Smith inquired as to the hardship for granting the variance. Mr. Connaughton stated that while his family was on the patio, they were on display with the car lights coming straight at them. He stated that he wanted visual privacy. Mr. Hyland questioned the request for a variance for the front yard. Mr. Connaughton stated that he had a corner lot. What he considered to be his back yard was technically a front yard. Mr. Hyland inquired if there were other fences in the same area. Mr. Connaughton stated that his neighbors to the south had fences but not the neighbors to the north. However, these neighbors were not corner lots. They had 6 ft. fences. Mr. Connaughton stated that his only alternative was to put a fence immediately to the north of the house. He stated that he could run a fence in that manner but it would cut off one-third of the lot. Mr. Hyland inquired if a 4 ft. fence would give the same amount of privacy. Mr. Connaughton stated that a 4 ft. fence would not be adequate as it would nothing traffic wise. It would only serve to keep the children out of the street.

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

RESOLUTION

In Application No. V-80-L-149 by THOMAS A. & LESLIE C. CONNAUGHTON under Section 18-401 of the Zoning Ordinance to allow construction of 6 ft. fence partially in front yard (4 ft. maximum height for fence in front yard required by Sect. 10-105) on property located at 5900 Benfield Drive, tax map reference 82-4((31))4, County of Fairfax, Virginia, Mr. Hyland 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 23, 1980; 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 15,693 sq. ft.
4. That the applicant's property has two front yards with one of the two front yards facing Franconia Road which has a substantial amount of traffic. The variance of 2 ft. is requested in order to protect the applicant's children from going out onto the road and to reduce the amount of trash and noise coming from Franconia Road.

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 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 25, September 23, 1980 Board of Zoning Appeals
THOMAS A. & LESLIE C. CONNAUGHTON
(continued) 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

Page 25, September 23, 1980, Scheduled case of

10:30 A.M. ISSAS & FLORENCE LANKFORD, appl. under Sect. 18-401 of the Ord. to allow a 6 ft. high fence to remain partially in front yard (4 ft. max. height for fence in front yard req. by Sect. 10-105), located 6404 Hanover Ave., Monticello Forest Subd., 90-1((1))(40)1, Springfield Dist., R-3, 11,844 sq. ft., V-80-S-148.

The Board passed over the application in order to check on the notices.

//

Page 25, September 23, 1980, Scheduled case of

10:40 A.M. SAMUEL SPARKMAN, appl. under Sect. 18-401 of the Ord. to allow construction of a detached garage to 6 ft. from rear lot line & 4 ft. from side lot line (10 ft. min. side yard & 11.3 ft. rear yard req. by Sects. 10-105 & 3-407), located 1941 Griffith Rd., Pimmit Hills Subd., 40-1((11))13, Dranesville Dist., R-4, 13,009 sq. ft., V-80-D-151.

Mr. Sparkman stated that he was requesting a variance in order to locate his garage 6 ft. from the rear lot line. He stated that if he were to locate his garage at the required setbacks, it would make access to the garage difficult as the concrete patio would interfer when he tried to back out. To relocate the garage elsewhere would mean that he had to destroy healthy trees. Mr. Sparkman stated that he preferred to keep the trees and not harm them. Another small concern in not relocating the garage was the use of the back yard for recreation. If the garage met the setbacks, it would sit in the middle of the back yard. Mr. Sparkman showed the Board a sketch of his back yard with the encroachment of the garage indicated. He also showed them the difficulty he had with the trees. Mr. Sparkman stated that by moving the garage to the side lot, it rectified the situation.

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

Page 25, September 23, 1980 Board of Zoning Appeals
SAMUEL SPARKMAN

RESOLUTION

In Application No. V-80-D-151 by SAMUEL SPARKMAN under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage to 6 ft. from rear lot line & 4 ft. from side lot line (10 ft. minimum side yard & 11.3 ft. rear yard required by Sects. 10-107 & 3-407) on property located at 1941 Griffith Road, tax map reference 40-1((11))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 September 23, 1980; 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 13,009 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow and has an unusual condition in the location of the existing buildings on the subject property.

RESOLUTION

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

Page 26, September 23, 1980

ACCESSORY STRUCTURE AMENDMENT: Mr. DiGiulian stated that the previous variance was another example of problems people were having in having to comply with the setbacks for accessory structures. Mr. DiGiulian stated that the BZA had asked the staff to examine the Ordinance regarding accessory structures and whether an amendment was in order. Mr. DiGiulian asked the Clerk to check on the status of the amendment. He stated that it was unreasonable to expect people to construct a detached garage in the middle of their back yards just to comply with the Ordinance. He felt that there should be a change to the Ordinance rather than the BZA granting variances for this type of request.

Mr. Yaremchuk moved that the BZA request to see a draft of the amendment prior to its submission to the Board of Supervisors. Mr. DiGiulian seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith).

//

Page 26, September 23, 1980, Scheduled case of

10:50 A.M. ALFRED P. PAVOT, appl. under Sect. 18-401 of the Ord. to allow the construction of a building over a pool to 9.4 ft. from a side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7400 Burtonwood Dr., Villamay Subd., 93-4((8))169, Mt. Vernon Dist., R-3, 25,966 sq. ft., V-80-D-152.

The Board was in receipt of a letter from Dr. Pavot requesting withdrawal of the variance application. Mr. Hyland moved that the Board allow the withdrawal of the variance without prejudice. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0.

//

Page 26, September 23, 1980, Scheduled case of

11:00 A.M. JOAN F. GALLUP, appl. under Sect. 18-401 of the Ord. to allow subd. into 3 lots with proposed lot 3 having width of 22.15 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 500 River Bend Rd., 8-4((1))30, Dranesville Dist., R-E, 8.6409 acres, V-80-D-153.

Mr. Charles Runyon of 7649 Leesburg Pike in Falls Church represented the applicant. He asked the Board to pass over the variance until his client arrived.

//

Page 26, September 23, 1980, Recessed case of

ISSAC & FLORENCE LANKFORD, V-80-S-148: The Chairman called the recessed case of Issac & Florence Lankford which had been passed over earlier in the day.

Mrs. Barbara O'Connor of Hawaiian Pool & Patio located at 6130 Richmond Highway represented the applicants. Mrs. O'Connor informed the Board that Mr. and Mrs. Lankford were 70 years old and could barely walk. They installed the fence around the pool. The pool was constructed by Hawaiian Pool as a therapeutic device for Mr. Lankford who had suffered a stroke. Mrs. O'Connor stated that the purpose of the fence was to cut off the breeze that blew across the pool area. Mrs. O'Connor stated that the fence was not constructed in error deliberately.

In response to questions from the Board, Mrs. O'Connor stated that Hawaiian Pools had only constructed the pool. The fence was constructed by Long Fence Company. Chairman Smith stated that the fence company should have been aware of the setbacks.

Mr. DiGiulian questioned the accuracy of the plat. Mrs. O'Connor stated that she had gone to Streets and Roads and that was the plat given her as to the location of the right-of-way for Old Keene Mill Road. Mrs. O'Connor stated that the setback on the pool was 35 ft. and the fence should have been about the same. She stated that the pool was constructed at the location indicated on the plat because of the location of a sewer easement in the back yard. There was no other place the pool could go.

Chairman Smith stated that the plat indicated the pool to be set back 30 ft. instead of 35 ft. as stated. He inquired if the plat was from Hawaiian Pools. Mrs. O'Connor stated that she had the plat certified. Chairman Smith stated that the pool was only 30 ft. and he inquired as to the location of the new right-of-way for Old Keene Mill Road. Mr. DiGiulian inquired as to when the fence was installed. Mrs. O'Connor stated that it had been installed about a year ago.

Mrs. O'Connor stated that there had been question as to the exact center of the road. The road had already been widened and she was not aware whether it had been widened any further. Chairman Smith inquired if the Zoning Inspector could enlighten the Board as to the situation.

Mr. Furneisen informed the Board that the fence on the property was 6 ft. high. He stated that a 4 ft. fence was allowed. The front yard setback for the zone was 30 ft. The fence was 2 ft. into the setback area. Chairman Smith stated that 2 ft. was not much. Mr. Knowlton stated that he had thought the fence was closer than that. Mr. Furneisen stated that the house was approximately 38 ft. from the property line. The fence was approximately 28 ft which was 2 ft. into the required setback area.

There was no one else 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-80-S-148 by ISSAC & FLORENCE LANKFORD under Section 18-401 of the Zoning Ordinance to allow 6 ft. high fence to remain partially in front yard (4 ft. maximum height for fence in front yard required by Sect. 10-105) on property located at 6404 Hanover Avenue, tax map reference 90-1((1))(40)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 September 23, 1980; 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 11,844 sq. ft.
4. That the applicant's property is a corner lot and the lot area has been reduced by widening of Old Keene Mill Road right-of-way.

AND, WHEREAS, the Board of Zoning Appeals had 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

Page 28, September 23, 1980 Board of Zoning Appeals
ISSAC & FLORENCE LANKFORD
(continued)

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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

Page 28, September 23, 1980, Recessed case of

JOAN F. GALLUP, V-80-D-153: The Chairman called the recessed variance application of Joan F. Gallup which had been passed over earlier in the morning at the agent's request.

Mr. Charles Runyon of 7649 Leesburg Pike in Falls Church stated that the property consisted of 8½ acres. The applicant was the owner of the property and lived on lot 1. Mr. Runyon stated that she desires to subdivide the parcel into three lots. Mr. Runyon stated that Mrs. Gallup intended to give the 4 acre lot to one of the children which was the purpose of the subdivision. The proposed lots 1 and 2 would also have two acres. Mr. Runyon stated that the request for the pipestem was a result of insufficient frontage. The property was zoned R-E and a pipestem was necessary in order to serve the rear portion of the property.

Mr. Runyon informed the Board that the subdivision had been worked on for two years. Mrs. Gallup lived on the property and would continue to live there. Mr. Runyon stated that the staff report spoke about floodplain, soils and steep slopes. Mr. Runyon stated that all of that was true but he indicated that he could work around the steep slopes and that he would not cut through the streams. Mr. Runyon stated that the stream was not on the property. He stated that the map the staff had used with regard to the stream had not fit the property lines exactly. Mr. Runyon assured the Board that he would not do anything to destroy the stream.

He stated that he would be under severe requirements for siltation and erosion control. He stated that the proposal would allow three dwellings on 8½ acres. He stated that this was not a cluster development. Mr. Runyon stated that all of the points in the staff report were well taken but felt he could address them at the time of the final site plan.

Mr. Runyon stated that the frontage requirement was 200 ft. He felt the request for a 20 ft. pipestem was justified and urged the Board to approve the request.

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

Page 28, September 23, 1980 Board of Zoning Appeals
JOAN F. GALLUP

RESOLUTION

In Application No. V-80-D-153 by JOAN F. GALLUP under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots with proposed lot 3 having width of 22.15 ft. (200 ft. minimum lot width req. by Sect. 3-E06), on property located at 500 River Bend Road, tax map reference 8-4((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 September 23, 1980; and

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

RESOLUTION

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 8.6409 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

Page 29, September 23, 1980, Scheduled case of

11:10 A.M. STAFFORD BROTHERS, INC., appl. under Sect. 18-401 of the Ord. to allow subd. into 21 lots with proposed lot 21 having width of 12.72 ft. (80 ft. min. lot width req. by Sect. 3-306), located 10206 Wandering Creek Rd., Providence Dist., R-3, 8.2502 acres, V-80-P-154.

The Board was in receipt of a letter from Mr. Hal Simmons, the engineer, requesting a deferral of the variance application for two months. His letter stated stated that they were seeking other alternatives.

Mr. T. W. Tiedeken of 2431 Inglewood Court informed the Board that he was concerned about the approach on Shreve Road because of the vertical curve. He stated that there were 15 or 16 places along Shreve Road that should have been fixed years ago. Chairman Smith advised Mr. Tiedeken to contact Design Review of the County.

Mr. Hyland moved that the Board grant the request for a two month deferral. Mr. Yaremchuk seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith). The variance was deferred until November 25, 1980 at 10:00 A.M.

//

Page 29, September 23, 1980, Scheduled case of

11:20 A.M. JOHN D. & LINDA J. TERRIEN, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 17.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 8857 Applecross Lane, Winston Knolls Subd., 88-4((6))133, Springfield Dist., R-3(C), 9,440 sq. ft., V-80-S-158.

Mr. John Terrien of 8857 Applecross Lane informed the Board that he planned to build an addition to the back of the house in order to accommodate the family. There was a deck on the back of the house. Mr. Terrien stated that to build any addition to give them any room would require a variance. He stated that the plat showed the dimensions he felt was necessary to make the addition functional. Mr. Terrien stated that the house was not parallel to the rear lot line. He stated that he had worked out the addition with an architect and the nearest point of the addition would require an 8 ft. variance. Mr. Terrien stated that there was no way to build the addition without encroaching on the setback line.

In response to questions from the Board, Mr. Terrien stated that the house already had a 10'x14' deck which just met the 25 ft. setback. Mr. Terrien informed the Board that he was proposing to tear down the deck and build the addition and then reconstruct the deck on the other side of the house. Mr. Terrien stated that the addition would be an enclosed family room. He stated that the new deck would be built on the left-hand side of the house and would not require a variance.

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

RESOLUTION

In Application No. V-80-S-158 by JOHN D. & LINDA J. TERRIEN under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 8857 Applecross Lane, tax map reference 88-4((6))133, County of Fairfax, Virginia, Mr. Hyland 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 23, 1980; 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(C).
3. The area of the lot is 9,440 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 had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

11:30 A.M. BETHLEHEM BAPTIST CHURCH AND ACADEMY, appl. under Sect. 3-103 of the Ord. to amend S-250-73 for church and school of general education to change name of permittee, to permit addition of three temporary mobile classrooms, delete two of four previously approved staff buildings and to delete 40,000 sq. ft. of land from the special permit for a residence for the pastor, located 4601 West Ox Road, 56-1((1))10, 11 & 11C, Springfield Dist., R-1, 23.88 acres, S-80-S-067.

Mr. William F. White of 13512 Floris Street in Herndon informed the Board that the church was requesting to amend its special permit to allow for some changes. He stated that they wanted to change the name from Northern Virginia Christian Academy to Bethlehem Baptist Church and Academy. Mr. White stated that the school was under the control of the church. The name had been misleading which was the reason for requesting the change.

In addition, the church was also requesting permission to have three mobile type classrooms. Mr. White stated that there would not be an increase in the number of students. The trailers would not be in view of the Animal Shelter. The trailers would be behind the multipurpose building on the north side of the property. Mr. Taylor was the owner of the property next door. Mr. White stated that the trailers would be well screened from Mr. Taylor's property. Behind the church was an all wooded area and the church owned the land on the other sides. Mr. White stated that there would not be an increase in traffic on West Ox Road and indicated that there might be a decrease because of the busing.

Another request was to delete two of the staff buildings on the southeast corner of the property and approximately 40,000 sq ft. of land for the use of the pastor as a home. The land was next to Butler Drive and the property would be served with a private driveway at the end of Butler Drive. There would not be any access for any traffic from the academy and not through traffic would be allowed. Chairman Smith indicated that as long as it was a private drive with an easement, he had no problem.

Chairman Smith inquired as to what was actually in place on the church property and whether their construction plans were being followed. Mr. White stated that the multipurpose gym was built. The church hoped to build three wings onto it in the future. Chairman Smith inquired if there were any classrooms in the multipurpose building. Mr. White responded that the front of the administrative building had some classrooms. None of the proposed classrooms had been constructed yet. Mr. White stated that the church was trying to follow their constructions phases as closely as possible. There was not any public water or sewer on the property. Mr. White stated that the church did not have any problem with the Health Department. The current enrollment of the school was 316 students which was well under the proposed 2,000 students.

Chairman Smith inquired as to what else was being deleted from the church's special permit. Mr. White stated that the two staff buildings that were located on the 40,000 sq. ft. Chairman Smith inquired as to the proposed location for the mobile trailers. Mr. White stated that the trailers would be located near the multipurpose building on the north side of the building. The trailers would be used for about two to three years at most according to Mr. White. Chairman Smith stated that two years was the limit for the site plan without having to renew it.

Chairman Smith inquired if the church still planned to construct the remainder of the development of the property in the manner it was originally granted. Mr. White stated that the church still had plans to construct but with the inflation and a change in pastors, the church was not certain.

Chairman Smith inquired if Mr. White had read the comments from Design Review that specifically regarded the dedication along West Ox Road and the need for frontage on a public street for the pastor's road. Mr. White stated that complaints had been made previously and that there was still some concern regarding the road. He stated that the school was located on next door. He stated that the end of Butler was not very far. There was an existing easement already there.

Chairman Smith stated that there had been opposition to any entrance from this facility to Centennial Hills Subdivision eat the time of the original granting of the special permit. For that reason, the BZA had indicated that all entrances and exits be confined to West Ox Road. There was a basic agreement that it would continue that way. Chairman Smith stated that he did not know whether the basic objection still existed. Mr. White stated that once the lot was divided, it would no longer be a part of the church property. Chairman Smith stated that it would be a separate residence but the church would still own the property. Mr. White stated that the property would be deeded to the pastor.

Mr. DiGiulian stated that if the applicant extended Butler Drive and constructed a cul-de-sac, he could not see how it could be stopped. Chairman Smith stated that if the property was deeded to the pastor and taken out of the jurisdiction of the church, that it changed the status of the parcel.

Mr. Knowlton stated that the church could make it a lease line. Chairman Smith inquired if the church had considered leasing the property to the pastor so as to retain ownership of the parcel. Mr. White stated that the church might do that if it was a better route. Mr. White stated that even if the church had a private driveway for the parsonage, it would not be open for the church traffic. Mr. White stated that Butler Drive already served two homes who would go in the same way as proposed.

Chairman Smith stated that if the church subdivided the property and took the parcel out of the church property, there would have to be access on a public street which would be Butler Drive. He stated that the access could only be used by the pastor. It could not have any connection with the school property.

Page 32, September 23, 1980
BETHLEHEM BAPTIST CHURCH AND ACADEMY
(continued)

Mr. DiGiulian stated that one of the requirements at the previous hearing was that there not be any access from Butler Drive from the church site. He inquired if the BZA still wanted to deny access to the school area from Butler Drive. Chairman Smith stated that he thought the BZA would have to unless they held another public hearing. Mr. White stated that the street would never be opened to the church traffic. He indicated that the church would not want it going through there. Chairman Smith stated that the church could meet the previous requirements if the property was separated for a private residence which would take it out of the special permit. He stated that no traffic would be allowed through the school campus including the pastor who would have to drive down Butler Drive. Mr. White stated that he understood the Board's position.

Chairman Smith stated that the only other arrangement would be to lease the land but the church still could not use Butler Drive except for the pastor.

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

Page 32, September 23, 1980 Board of Zoning Appeals
BETHLEHEM BAPTIST CHURCH AND ACADEMY

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-S-067 by BETHLEHEM BAPTIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-250-77 for church and school of general education to change name of permittee, to permit addition of three temporary mobile classrooms, delete two of four previously approved staff buildings and to delete 40,000 sq. ft. or land from the special permit for a residence for the pastor on property located at 4601 West Ox Road, tax map reference 56-1((1))10, 11 & 11C, 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 23, 1980; 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 23.88 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 ofthe permitted use.

6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The three temporary classroom trailers shall be limited to a period of two (2) years.
8. All other requirements of S-250-73 and S-63-78 not altered by this resolution shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0.

Page 33, September 23, 1980, Scheduled case of

11:45 A.M. MICHAEL GARY FINE, appl. under Sect. 3-203 of the Ord. to permit home professional (doctor) office, located 12423 Wendell Holmes Rd., Fox Mill Estates Subd., 25-4((7))7, Centreville Dist., R-2(C), 18,646 sq. ft., S-80-C-064. (Deferred from September 9, 1980 for lack of a quorum and from September 11, 1980 for full Board. Planning Commission has requested BZA to defer decision pending recommendation.)

The Board was in receipt of a letter from the applicant seeking a withdrawal of the special permit application and a cancellation of the Planning Commission hearing on October 8th. Chairman Smith stated that the applicant had a contract to purchase the lot. There was a lot of interest and concern over the proposed use. Mr. Yaremchuk moved that the Board allow the withdrawal without prejudice. Mr. Hyland seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith).

//

Page 33, September 23, 1980, Scheduled case of

12:00 NOON MICHAEL NADANYI, appl. under Sect. 18-401 of the Ord. to allow 3 lots with width of 10 ft. (150 ft. min. lot width req. by Sect. 3-106), located West Ox Road, 35-4((1))14, Centreville Dist., R-1, 15.0 acres, V-80-C-095. (DEFERRED FROM JULY 1, 1980 & JULY 30, 1980 & SEPTEMBER 16, 1980 FOR ADDITIONAL TESTIMONY IF NECESSARY AND FOR DECISION OF FULL BOARD.)

Mr. Charles Runyon an engineer in Falls Church represented the applicant. Mr. Runyon informed the Board that at the time the BZA had deferred the application for decision, it was because the staff had a problem with the street network and the total dedication for future streets. Mr. Runyon stated that he had prepared a plan which he had shown to Design Review. The staff had asked that a specific condition be placed on the granting of the variance that would obligate the owners to require dedication at the time the entire tract was subdivided. Mr. Runyon stated that he intended to do that so he had put the note on the plat as required.

At the last BZA meeting, Mr. Yaremchuk was not present. He had previously expressed concern that the streets be dedidicated. Mr. Runyon stated that he had asked Oscar Hendrickson to send a memo to the BZA regarding the dedication. Mr. Runyon stated that Mr. Hendrickson had not prepared a memo but he had concurred as long as the notation was on the plat that the area would be dedicated at the time the street was dedicated.

Mr. Hyland inquired as to the reason for requesting a variance. Mr. Runyon responded that the basic reason was the topography and the lack of substantial soil for septic and because of the street network which was not totally set yet. Mr. Runyon stated that there was some opposition from the citizens in the adjoining community. Mr. Runyon stated that the lots would be over one acre and were cluster development. Mr. Runyon stated that his grandfather had developed the property adjoing the proposed subdivision.

Mr. Yaremchuk stated that he remembered the previous meetings and concerns that he had regarding the request. Mr. Yaremchuk stated that he always worked with Subdivision Control. He had a problem with having pipestem lots and selling lots to people without any street frontage on a public street. In the future when the street went in, it would create a big mess. Mr. Yaremchuk stated that in his opinion, this was just a way to get around the public street requirement.

Mr. Runyon stated that the applicant was willing to dedicate but they were not sure where the street alignment would be. He stated that they would dedicate it but they did not want to construct a street at this time.

Mr. Yaremchuk stated that he could not approve the request if he were staff. The lots would sell between $40,000 to $50,000. With three lots, Mr. Yaremchuk stated that the applicant could afford to build a cul-de-sac. Mr. Yaremchuk stated that dedication was no good without any construction. He stated that he did not want to have any part of approving the request without any street frontage. Chairman Smith stated that this was an area where he was in total agreement with Mr. Yaremchuk.

Mr. Yaremchuk inquired if the applicant was going to the sell the lots. Mr. Runyon responded that the applicant was going to construct houses on the lots and then sell the lots. Mr. Runyon assured the Board that the applicant would build the street but he did not want to construct it at this time. He stated that the street might be shifted. Design Review was not certain of the street alignment. Mr. Runyon stated that they could not do anything with the property now. He stated this way, no one got hurt. If the road got changed, then no one got hurt from more dedication.

Mr. Yaremchuk stated that then the lots were sold, the bank would want to know where the street frontage was located. He inquired as to why the applicant did not provide street frontage on the other side. Mr. Runyon stated that the steep slopes and the rocky land would not perc in that area. Mr. Runyon stated that the applicant was looking for some relief. He stated that they were not trying to pull anything over on anyone. The variance would help to keep the cost of the lots down.

Mr. Yaremchuk stated that he did not want to be unfair. He inquired as to how long the applicant had owned the property. Mr. Runyon replied that the man who had hired them could not pay his bill. Mr. Runyon stated that he had purchased the property about two or three years ago. Mr. Runyon stated that they had been working on the property back and forth for a long time. The property could not be developed at this time. In response to questions from the Board, Mr. Runyon stated that they had the bond and dedication. The property was to be developed within a 5 to 10 year time frame.

Mr. Runyon stated that a street would be constructed. If a street were constructed now, it might not line up with the street network and that would mess up Design Review. Mr. Runyon stated that staff was satisfied with the easement and without the bond. Mr. Yaremchuk stated that he understood what Mr. Runyon was saying but he still felt there would be problems with financing. The hardship was because of the topography. Mr. Yaremchuk stated that the main thing he was trying to establish was that the applicant was not trying to get around the Subdivision Control requirements. He stated that the applicant did not want to build an entire street at this time just for three lots. Mr. Yaremchuk stated that the applicant would have to guarantee that he would build the street in a certain period of time. Mr. Yaremchuk stated that five years was reasonable to him. If nothing had changed regarding the ability to develop the other land and no one complained, he stated that the applicant could come back to the Board to ask for an extension. Mr. Yaremchuk stated that if the land were to be sold and then it was sold again, no one would know why there wasn't a public street.

Mr. Runyon stated that they would building a part of the street. He stated that there was no question about the cost. They had to provide a temporary turnaround. Mr. Yaremchuk stated that he would like to tie the applicant down to a certain time period for construction. He stated that Design Review would set the bond and compute it.

Chairman Smith stated that the variance would only be temporary with the bonding requirements. The staff had reviewed the request and they felt that the easement would take care of it. The amount of the bond would be difficult to determine.

Mr. Hyland inquired as to why the road could not be built now and Mr. Runyon stated that it was because the location of the road was not tied down and the cost factor would be unreasonable with all of the temporary culs-de-sac. Mr. Runyon stated that he would be able to save the trees if he did not have to construct the cul-de-sacs. Chairman Smith stated that the applicant would eventually have to construct the cul-de-sacs. Mr. Runyon stated that they would not as the street might run through there. He stated that if the Board granted the pipestem with the easement on it, it would be sufficient.

Chairman Smith stated that it was a very poor arrangement and there would be problems for the future owners. Mr. Runyon stated that he lived on a pipestem lot. The advantages were that you do no have to tear down the trees. Mr. Runyon stated that the lots were two to three acres which he thought was a fair exchange for a pipestem.

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

Page 35, September 23, 1980 Board of Zoning Appeals
MICHAEL NADANYI

RESOLUTION

In Application No. V-80-C-095 by MICHAEL NADANYI under Section 18-401 of the Zoning Ordinance to allow three (3) lots with width of 10 ft. (150 ft. minimum lot width required by Sect. 3-106) on property located at West Ox Road, tax map reference 35-4((1))14, County of Fairfax, Virginia, Mr. Hyland 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 23, 1980; 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 15.0 acres.
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 indicated in the plats included with this application only, and is not transferable to other land.

2. This variance is subject to the additional requirement that the applicant meet requirements as determined by the Director of Design Review for dedication and bonding for construction of a street as may be required, and that the street be constructed within a period of five years.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith).

Page 35, September 23, 1980, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of its Minutes for July 24, 1979. Mr. DiGiulian moved that the Minutes be approved as amended. Mr. Yaremchuk seconded the motion and it passed by a vote of 3 to 0 (Mr. Hyland abstaining).

//

Page 35, September 23, 1980, After Agenda Items

McLEAN POST 8241, VETERANS OF FOREIGN WARS: The Board was in receipt of a letter from Commander Tholen seeking approval to build a 40'x92.7' building in lieu of the previously approved 40'x80' building. Mr. Yaremchuk moved that the request be approved as a minor engineering change. Mr. Hyland seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith).

//

Page 35, September 23, 1980, After Agenda Items

CHANGE OF PROCEDURES: Chairman Smith asked that all future agendas of the BZA schedule Board matters starting at 10 o'clock. He stated that this would allow any member to discuss any matter at the beginning of the meeting.

//

Page 36, September 23, 1980, After Agenda Items

BY-LAWS: The Board was given a set of the updated By-laws. Chairman Smith asked that each member review the By-laws and if there were any suggestions or changes to be made, the Board would discuss them at a future time.

//

Page 36, September 23, 1980, After Agenda Items

POLICY AND PROCEDURES: Chairman Smith stated that the Board had recently had to reschedule an entire agenda. He stated that the Board had not heard from anyone in the County Attorney's Office on whether it had the authority to do so. Chairman Smith stated that the Board adopted Roberts Rules of Order as a guide but it abided by the State Code and the County Code.

Chairman Smith stated that the Board might want to set specific guidelines on rescheduling cases and allow less than a quorum to meet and reschedule any case. He stated that the Board has had problems with the scheduling of the Board Room in the past and that was when it was necessary to reschedule cases.

//

Page 36, September 23, 1980, After Agenda Items

CENTREVILLE ASSEMBLY OF GOD: The Board was in receipt of a letter from the Centreville Assembly of God church requesting an out-of-turn hearing on its special permit application. It was the consensus of the Board to grant the request and the hearing was scheduled for October 21, 1980 at 9:00 P.M.

// There being no further business, the Board adjourned at 1:15 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on June 1, 1982

John P. McGuiness for
DANIEL SMITH, CHAIRMAN

APPROVED: June 8, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, September 30, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk, Gerald Hyland and Ann Day.

Chairman Smith opened the meeting at 8:30 P.M. and Mr. Covington led the meeting in prayer. Mrs. Ann H. Day was welcomed to the Board of Zoning Appeals. Mrs. Day was appointed to serve the unexpired term of Mr. George P. Barnes.

Chairman Smith called the scheduled 8 o'clock case of:

8:00 P.M. GENE OSOLINSKY, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's approval of a group residential facility permit for subject property located at 7011 Essex Ave., Springfield Subd., 80-3((2))(11)4, Springfield Dist., R-4, 10,043 sq. ft., A-80-S-010.

The Board was in receipt of a letter requesting withdrawal of the application. Mr. DiGiulian moved that the applicant be allowed to withdraw the application. Mr. Yaremchuk seconded the motion and it passed by a vote of 5 to 0.

//

Page 37, September 30, 1980, After Agenda Items

CHARLES AND SHARON WAGNER: The Board was in receipt of a letter from Charles and Sharon Wagner requesting an out-of-turn hearing on their variance application. It was the consensus of the Board to grant the request and the hearing was scheduled for Tuesday, October 28, 1980 at 12:45 P.M.

//

Page 37, September 30, 1980, After Agenda Items

MT. VERNON UNITED METHODIST CHURCH: The Board was in receipt of a request from the school located in the Mt. Vernon United Methodist Church for an out-of-turn hearing on its application to increase the hours of the school, the ages and the numbers of children. It was the consensus of the Board to grant the request and the hearing was scheduled for October 28, 1980 at 12:30 P.M.

//

Page 37, September 30, 1980, Scheduled case of

8:30 P.M. JAIME F. BOTELLO, M.D., appl. under Sect. 3-103 of the Ord. to permit home professional (medical) office, located 1156 Riva Ridge Dr., Lockmeade Subd., 12-3((5))78, Dranesville Dist., R-1(C), 26,419 sq. ft., S-80-D-066.

Robert P. Hudock, Esquire, represented Dr. and Mrs. Botello. He stated that Dr. Botello had applied for a home professional office for the practice of medicine. Dr. and Mrs. Botello owned the home. It had been a model home for the subdivision. The garage had been used as a sales office and had some extra doors which an ordinary garage did not have. Mr. Hudock stated that Dr. Botello planned to put his medical office in the garage. Dr. Botello was licensed in Virginia. His home would be a satellite office and not the primary office.

Mr. Hudock stated that Dr. Botello's home was the first home in the subdivision off of Rt. 7. Between Rt. 7 and Dr. Botello's home was 100 ft. of park land.

In response to questions from the Board, Mr. Hudock stated that all parking would be on site in the large driveway. If more parking was needed, Dr. Botello would be able to pave more area. There was an adequate area provided on the site plan. There were five existing parking spaces.

Mr. Hudock stated that Mr. Botello planned to serve at least 10 patients a day. He would have two employees consisting of one receptionist and one nurse. Mr. Hudock stated that there would not be any impact on the neighborhood. He stated that the file contained a letter from the homeowners' association which did not support the proposal. Mr. Hudock stated that the community was not represented by the vote and only 20 homeowners in the 80 person subdivision voted. Mr. Hudock stated that the people would rather have Dr. Botello rent space than to have his office in his home. Mr. Hudock stated that there was nothing in the covenants to prevent a home office. It would be an asset to the community as Dr. Botello would be available for emergencies.

In response to questions from the Board, Mr. Hudock stated that Dr. Botello had space at D.C. Hospital. He did not have another office. Mr. DiGiulian stated that the home would be the primary office. Mr. Hudock stated that Dr. Botello's home would be used for his private practice. It would be a satellite office. Mr. DiGiulian inquired as to the proposed hours of operation. Mr. Hudock responded that Dr. Botello had not set his hours

yet. However, he felt the hours would be the normal hours of business of 9 A.M. to 5 P.M. or 5:30 P.M. Mr. DiGiulian inquired as to how many days a week Dr. Botello was requesting and was informed twice a week. Mr.Yaremchuk inquired as to which two days of the week and Mr. Hudock stated that it would depend on Dr. Botello's schedule at the hospital. Mr. Yaremchuk stated that was a problem unless the applicant asked for the entire week. Mr. Hudock stated that the application applied for six days. He stated that if the business increased, he would have to establish a larger medical facility. Mr. Yaremchuk stated that he was aware that Dr. Botello had a problem with the hospital, but he could not see how the BZA could grant a blanket approval. He stated that the Board had to tie the hours down.

In response to further questions from the Board, Mr. Hudock stated that Dr. Botello had owned the property since May of 1978. Chairman Smith inquired as to how long Dr. Botello had been living on the premises and Mr. Hudock responded since May of 1979. Chairman Smith inquired as to the number of employees. Mr. Hudock stated that Dr. Botello was entitled to have up to two employees. He stated that they would provide at least five parking spaces other than for his personal vehicles. Chairman Smith inquired if Dr. Botello was employed at Hadley Hospital in Washington, D.C. Mr. Hudock stated that he had been but that he would be changing locations soon. Chairman Smith inquired if Dr. Botello was operating anywhere at the present time and Mr. Hudock stated that he was not.

There was no one else to speak in support of the application and no one to speak in opposition. The Board was in receipt of a letter from the Lockmeade Community stating that the majority of the members had voted not to approve the request within the subdivision.

Mr. Hyland inquired as to the covenants. There was a suggestion that the covenants would be a problem yet a statement had been made that there was not a restriction in the covenants. Mr. Hudock stated that there was nothing in the covenants to prevent this home office.

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-D-066 by JAIME F. BOTELLO, M.D. under Section 3-103 of the Fairfax County Zoning Ordinance to permit home professional (medical) office on property located at 1156 Riva Ridge Drive, tax map reference 12-3((5))78, 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 30, 1980; 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(C).
3. That the area of the lot is 26,419 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The hours of operation shall be 9:00 A.M. to 6:00 P.M., six days a week.

8. The number of parking spaces shall be five (5).

9. This permit is granted for a period of one year with the Zoning Administrator empowered to grant two one-year extensions upon written request by the applicant at least thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 39, September 30, 1980, Scheduled case of

8:45 P.M. SAUL K. KOLANSKY, appl. under Sect. 3-203 of the Ord. to permit home professional (psychiatrist) office, located 1100 Collingwood Rd., 102-4((8))7 & 8, Mt. Vernon Dist., R-2, 51,076 sq. ft., S-80-V-071.

Dr. Saul Kolansky informed the Board that he wanted to have a home professional office for a psychiatrist office. He stated that he was licensed in adult and child psychiatry. Dr. Kolansky stated that he would see one patient for one hour. He stated that he would not have any employees. Dr. Kolansky intended to convert the garage into an office. The property consisted of 1½ acres and there was off street parking. Dr. Kolansky stated that he would see only one patient per hour and stated that he did not do group therapy. The only time there would be more than one individual present would be if he were seeing the parents of a patient. Dr. Kolansky stated that he was employed at St. Elizabeth's Hospital in the children's psychiatry division. He stated that he would see patients at varying times during the week. Dr. Kolansky stated that a great number of patients he would see before or after school during and occasionally during the middle of the day.

In response to questions from the Board, Dr. Kolansky stated that his appointments would start at 7 A.M. He would see one or two patients at his home and then go to his office. Other times, he might see patients in his home until 11:30 A.M. and then go to the hospital. Dr. Kolansky stated that the afternoon appointments might range from 2:30 P.M. until approximately 6:30 P.M. Occasionally, he might see patients at 7 P.M. or 8 P.M. in the evenings. Dr. Kolansky stated that his practice had been more than filled since he started seven years ago.

Mr. Hyland inquired if the practice would be six days a week and Dr. Kolansky responded that if there was an emergency, he would see a patient on a Sunday. He stated that would be a rare occurrence. Dr. Kolansky stated that he had owned his home for eight years.

Dr. Kolansky informed the Board that he there was one neighbor who was concerned about the home office being a commercialization of the area. He presented the Board with a shaded map indicating the people who were in support of his application. Most of the people were located nearby. Dr. Kolansky stated that some of the opposition did not live close by. He stated that his property was well screened.

Mr. Yaremchuk inquired as to what types of emergency cases there were in psychiatry. Dr. Kolansky stated that there were patients with suicidal impulses but he indicated that was rare in children. Mr. Yaremchuk stated that Collingwood Road was a major thoroughfare so there would be a lot of traffic.

There was no one else to speak in support of the application. Mr. Ed Clark of Collingwood Road spoke in opposition. He stated that he lived about one block down from the proposed home office. Mr. Clark informed the Board that Collingwood Road was a feeder to the George Washington Memorial Parkway. He stated that every effort had been made to keep the area residential in nature. Mr. Clark stated that Dr. Kolansky's property was only 1½ miles from the Mt. Vernon Clinic. He stated that there was ample space near the hospital to set up an office practice. Mr. Clark stated that it was the opinion of the homeowners that the special permit would be a bad investment to the property values. He suggested that the special permit be denied and recommended the use of the excellent facilities at the hospital. He asked that the use not be allowed in the residential area.

Mr. Hyland inquired if Mr. Clark was familiar with the availability of office space in the area and whether anything was available. Mr. Clark responded that he had been informed there was ample space near the hospital. When asked where the office space existed, Mr. Clark replied there was space available on Sherwood Hall Lane. Mr. Hyland stated that he was not aware of any existing available space. Mr. Clark insisted that there was space available.

There was no one else to speak in opposition. During rebuttal, Dr. Kolansky stated that his patients were not ones who needed hospitalization. He stated that to see patients in a hospital with other patients would be frightening for the children. Dr. Kolansky stated that he had an office in Old Town on 110 N. St. Bais Street above an antique shop. He stated that he did not do group therapy.

Page 40, September 30, 1980 Board of Zoning Appeals
SAUL K. KOLANSKY

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-V-071 by SAUL K. KOLANSKY under Section 3-203 of the Fairfax County Zoning Ordinance to permit home professional (psychiatrist) office on property located at 1100 Collingwood Road, tax map reference 102-4((8))7 & 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 September 30, 1980; 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 51,076 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 7:00 A.M. to 9:00 P.M., six days a week.
8. This special permit is granted for a period of one year with the Zoning Administrator empowered to grant two one-year extensions upon written request by the applicant at least thirty (30) days prior to the expiration date.

RESOLUTION

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 41, September 30, 1980, Scheduled case of

9:00 P.M. CHESTNUT GROVE CHILD DEVELOPMENT CENTER, appl. under Sect. 6-303 of the Ord. to amend S-247-75 for a child care center to permit change of ownership and continuation of use, located 11252 Chestnut Grove Sq., Chestnut Grove Apts., 17-4((8))1, Centreville Dist., RPC, 16.4868 ac., S-80-C-072.

As the required notices were not in order, the hearing was scheduled for Tuesday, October 21, 1980 at 9:15 P.M.

//

Page 41, September 30, 1980, After Agenda Item

WAYNE S. RAYFIELD, V-80-D-068: The Board was in receipt of a letter from Mr. Charles Runyon seeking a clarification of condition no. 3 in the variance resolution granted on May 13, 1980. Mr. Oscar Hendrickson of Design Review had requested that the Board clarify the matter before the final site plan could be approved.

The Clerk presented the Board with a verbatim of the hearing and a copy of the resolution. After review of the verbatim, it was clear that the intent was for the applicant to use the existing road and not the outlet road. The Clerk was directed to amend the resolution and to notify Mr. Hendrickson of the clarification.

//

Page 41, September 30, 1980, Scheduled case of

9:15 P.M. CHANTILLY BAPTIST TEMPLE, appl. under Sect. 3-103 of the Ord. to permit addition of a sunday school building and parking lot to existing church, located 14101 Lee-Jackson Hy., 34-4((1))39, Springfield Dist., R-1, 1.0347 acres, S-80-S-075.

&

9:15 P.M. CHANTILLY BAPTIST TEMPLE, appl. under Sect. 18-401 of the Ord. to allow blue stone parking lot for 25 cars at existing church (dustless surface for off street parking area req. by Sect. 11-102), located 11401 Lee-Jackson Hy., 34-4((1))39, Springfield Dist., R-1, 1.0347 ac., V-80-S-160.

Mr. Charles White of 4135 Newport Drive in Chantilly represented the church. He stated that the church did not have space in the building so they proposed to construct a 30'x65' building to be used for sunday school purposes only. Mr. White stated that when they add to the building, they will also need to add to the parking lot. He stated that the number of persons attending sunday service would not increase. Mr. White stated that the church wanted to have a bluestone parking lot.

In response to questions from the Board, Mr. White stated that the church had been in existence for 75 years. He stated that the existing church was not the original building. The proposed addition would be a frame structure with clapboard siding. It would be erected on a concrete slab floor.

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

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-S-075 by CHANTILLY BAPTIST TEMPLE under Section 3-103 of the Fairfax County Zoning Ordinance to permit addition of a sunday school building and parking lot to existing church, on property located at 14101 Lee-Jackson Highway, tax map reference 34-4((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 September 30, 1980; and

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

042

RESOLUTION

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 1.0347 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be normal hours of church operation.
8. The number of parking spaces shall be 25.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 42, September 30, 1980 Board of Zoning Appeals
CHANTILLY BAPTIST TEMPLE

RESOLUTION

In Application No. V-80-S-160 by CHANTILLY BAPTIST TEMPLE under Section 18-401 of the Zoning Ordinance to allow blue stone parking lot on property located at 14101 Lee Jackson Highway, tax map reference 34-4((1))39, 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 30, 1980; 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 1.0347 acres.
4. That the applicant's property has an unusual condition in the rural setting of the subject property.

AND, WHEREAS, the Board of Zoning Appeals had 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 43, September 30, 1980, After Agenda Item

JACK CHOCOLA, V-251-79: The Board was in receipt of a request from Mr. Howell Simmons for an extension on the variance granted to Mr. and Mrs. Jack Chocola on October 23, 1979. Mr. Hyland moved that the Board grant a six month extension as requested. Mr. DiGiulian seconded the motion and it passed unanimously by a vote of 5 to 0.

//

Page 43, September 30, 1980, After Agenda Item

RESTON LAND CORPORATION: The Board was in receipt of a letter from the Reston Land Corporation seeking a reduction in the amount of parking required in the approval of the community soccer fields for the Reston Homeowners Association. In addition, it was requested that the storm water retention be waived. After review of the letter and discussion regarding the parking, it was the consensus of the Board to retain the 136 parking spaces which were approved at the time of the public hearing.

// There being no further business, the Board adjourned at 9:45 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

John P. DiGiulian for
DANIEL SMITH, CHAIRMAN

Submitted to the Board on June 1, 1982

APPROVED: June 8, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 7, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk, Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:20 A.M. and Mr. Covington led the meeting in prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. SERGASCO CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of addition to service station building to 7.0 ft. rear lot line (20 ft. min. rear yard req. by Sect. 4-507), located 2600 Sherwood Hall La., 102-1((7))(7)17B, Mt. Vernon Dist., C-5, 17,531 sq. ft., V-80-V-111.

As the pending special exception had not been heard by the Board of Supervisors, the BZA deferred the variance application until October 28, 1980 at 12:30 P.M.

//

Page 44, October 7, 1980, Scheduled case of

10:10 A.M. JOHN C. McNERNEY, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing screened porch to 9.1 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 3701 Whispering La., Lake Barcroft Subd., 60-4((13))313A, Mason Dist., R-2, 14,315 sq. ft., V-80-M-156.

Mr. John McNerney of 3701 Whispering Lane in Falls Church informed the Board that his present house had a screened porch which was 9.1 ft. from the side lot line. It was fully enclosed at the present time. The kitchen area immediately adjacent to it had a small eating space. Mr. McNerney stated that he proposed to enclose the porch to use it as an eating area off of the kitchen. He stated that the enclosure would enhance the value of the property. At present, the porch could only be used during moderate weather. Mr. McNerney stated that the structure would blend in with the rest of the house. In response to questions from the Board, Mr. McNerney stated that he had owned the property for 5½ years.

There was no one else to speak in support of the application. Mrs. Susie Bochanova of 3703 Whispering Lane in Falls Church spoke in opposition. She stated that the area in question was directly across from her bedroom. During the summer when the structure would be in use, there would be a mild screening of trees. Mrs. Bochanova stated that she did not know that the McNerneys intended to enclose the porch. Mrs. Bochanova objected to the request as it was a 40% variance. During the winter, there would be a definite feeling of being closed in and she stated that she wanted her privacy. Mrs. Bochanova stated that if the variance were granted, some consideration should be taken not to place the windows facing her house. She stated that this would allow her to have the feeling that the porch was still there instead of having windows staring into her bedroom. Mrs. Bochanova stated that she wanted some type of screening between the properties.

In response to questions from the Board, Mrs. Bochanova indicated that she preferred to have a solid wall between the property and her house because of the location of her bedroom. Mr. Hyland inquired if she had windows on that side of her house. Mrs. Bochanova replied that she did but stated that the porch was better to have. In the summertime, there was a degree of screening so she was not aware of the porch during the summer months.

There was no one else to speak in opposition. During rebuttal, Mr. McNerney stated that he respected his neighbor's privacy and he understood their concern. He felt that the enclosure would enhance their privacy. The porch was open at the present time. He stated that he did not feel that his neighbor's concern was justified and indicated that the enclosure would increase their privacy. He stated that the amount of noise from the open porch would be decreased.

Chairman Smith stated that no windows should face the neighbor's property. Mr. McNerney stated that he had not been able to obtain a builder to have drawings made up of the enclosure. He stated that his intent was to have a bay window in the front and patio doors at the rear with two windows on the side. Mr. McNerney stated that he did not think a solid wall would be as attractive as having windows on the side. Mr. McNerney stated that he would make the structure as architecturally pleasing as was possible. He stated that he did not have a final building plan at the present time as the builder would not draw anything until the variance was approved.

RESOLUTION

In Application No. V-80-M-156 by JOHN C. McNERNEY under Section 18-401 of the Zoning Ordinance to allow enclosure of existing screened porch to 9.1 ft. from side lot line (15 ft. min. side yard required by Sect. 3-207) on property located at 3701 Whispering Lane, tax map reference 60-4((13))313A, 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 7, 1980; 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 14,315 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 45, October 7, 1980, Scheduled case of

10:20 A.M. LOUISE M. SHERMAN & KENNETH E. FOLEY, appl. under Sect. 18-401 of the Ord. to allow subd. into 3 lots, 2 of which have proposed lot width of 5 ft. each (80 ft. min. lot width req. by Sect. 3-0306), located 1682 Chain Bridge Road, 30-3((1))57, Dranesville Dist., R-3, 1.015 ac., V-80-D-159.

Mr. Ken Foley of 511 Natchee Drive informed the Board that he was the owner of the property at 1682 Chain Bridge Road in McLean. First of all, Mr. Foley stated that there were unusual conditions on this lot which did not apply to the other land in the general vicinity. He informed the Board that if they looked at tax maps 30-1 and 30-3, they would see that the majority of the lots were standard subdivision lots. The width of each lot was in proportion to the depth of the lot. Mr. Foley stated that his existing lot was to the rear of the subdivision. All of the maximum density was in an R-3 area. He stated that his lot was 140 ft. from Broyhill and McLean Estates which were modern subdivision lots.

To the east, lot 56 had a private access road and the lot had already been subdivided. The property to the rear was all maximum density of R-3 lots. Five lots surrounding the subdivision were the exception in the area. Mr. Foley stated that his lot was one of the exceptions. The property had been divided in 1897. They had unusual shapes. He stated that back in 1897, it was popular to build a house close to the road and then farm the rest of the land. Mr. Foley stated that with today's land costs and property taxes, it was no longer reasonable to farm land in central McLean.

046

Mr. Foley informed the Board that the reasonable use of the land would be to use the land. The rear two-thirds of the property was useless unless you farmed it. The existing house was small being 1100 sq. ft. The remaining two-thirds of the property was treeless farm land. Mr. Foley stated that there was only one tree on the property which blocked the view of the rear portion of the land. He stated that the field was an eyesore.

Mr. Foley stated that the land was of no use to the community in its present neglected state. The land was higher in the front and sloped down to the rear. Mr. Foley stated that he proposed to build two small custom farm type homes on the property. He stated that he could not do so without the variance. Mr. Foley stated that the only obstacle was the lot width requirement of the Zoning Ordinance. Mr. Foley informed the Board that he felt the variance should be granted. The property in its present condition was a disgrace. The present house was badly in need of paint. The tree was diseased and the property was overgrown. He stated that the lady living there had not been able to keep up the property. Mr. Foley stated that he wished to restore the house and improve the rear land. The only feasible way was to keep the present house and to build two more houses in the rear.

In response to questions from the Board, Mr. Foley stated that he had purchased the property a month ago. Chairman Smith stated that Mr. Foley was aware of the conditions when he purchased the property. He stated that the deteriorating condition of the house was not a reason to grant a variance. Mr. Foley stated that he wanted to improve the house and to improve the land. He stated that the property to the north had been the same general size and it had been subdivided. Lot 58 next door was also a large lot Lot 59 next to it did not satisfy the minimum lot width requirements of the Zoning Ordinance either. It was 75 ft. wide in lieu of the required 80 ft. Chairman Smith inquired if there was a house on the lots and was informed there was. Mr. Foley stated that lot 60 was already a pipestem lot. Lot 56-B immediately adjacent to it had no frontage on a state maintained road. It had a private road. Chairman Smith stated that property could be developed on a private road under the old Ordinance. He stated that he assumed the property had been developed before the Ordinance was changed.

Mr. Foley stated that the proposed lots were not conflicting with the other adjoining property. He stated that rather than only notify ten adjoining property owners, he had notified fifteen people. No one had objected to his plan or even shown up at the hearing. He stated that this was not an unwanted precedent for the area. Lot 60 was a pipestem lot. Lot 59 had a small lot width also. Mr. Foley stated that the photos showed that the property could be subdivided into the additional two lots without being crowded. He stated that he would improve the existing house and make it an asset to the community. He requested that the variance be granted.

There was no one else 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-80-D-159 by LOUISE M. SHERMAN & KENNETH M. FOLEY under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, 2 of which have proposed lot width of 5 ft. each (80 ft. min. lot width req. by Sect. 3-306) on property located at 1682 Chain Bridge Road, tax map reference 30-3((1))57, County of Fairfax, Virginia, Mr. Hyland 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 7, 1980; 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 1.015 acres.
4. That the applicant's property is exceptionally irregular in shape, in that it is a long and narrow lot.

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

RESOLUTION

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 eighteen months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 47, October 7, 1980, Scheduled case of

10:30 A.M. GEORGE E., JR., & PAULA S. STRUDGEON, appl. under Sect. 18-401 of the Ord. to allow construction of swimming pool & a 6 ft. stockade fence surrounding it, both partially in a front yard (accessory structure or use not permitted to be located in any front yard by Sect. 10-105), located 6903 Hardrock Ct., South Kings Forest Subd., 92-1((11))36, Lee Dist., R-3, 8,716 sq. ft., V-80-L-161.

Mr. George Strudgeon of 6903 Hardrock Court stated that there were three reasons for his request. First, he felt that the area he was asking to use was the only area suitable for the construction of a pool 30 ft. long. A pool smaller than 30 ft. would not be practical. Mr. Strudgeon stated that his lot was one of the smallest in the area. Because of the slope off of the back and the side, it reduced the usable space of his yard.

Mr. Strudgeon stated that the second point related to safety. He stated that he had staked out where the fence would be and where it would come to. It would be 10 ft. from the sidewalk. One neighbor had retracted his signature from the petition which was in opposition to the request. Mr. Strudgeon stated that there would not be any safety problem. He stated that people did not want accessory structures such as sheds or sandboxes in the front yards.

Mr. DiGiulian inquired about the sight distance. Mr. Strudgeon stated that the fence would not interfere with the sight distance at all. He stated that from the intersection, one could see all the way down the street. He stated that in the photograph, his wife was standing where the fence would be located.

There was no one else to speak in support of the application. Mr. Lawrence Elly of 4544 Lantern Place spoke in opposition to the variance. He stated that he lived directly across the street from the property. He stated that he opposed the application because of the general concern for the kids in the area. The average age was seven years old. He stated that the kids interacted in and out of the cul-de-sac and played a lot in the area. Traffic driving at 40 m.p.h. would not bother to stop at the stop signs. A fence at the front of the street would prohibit the parents from observing their children. Mr. Elly stated that within this two block area had been a rash of vandalism which was documented in the police reports. He stated that the kids congregated in the area and a fence would give them more privacy to sit there and park at night.

Mr. Elly stated that the Strudgeons did have another option which was to move the pool back closer to the house. He stated that he had been informed by Mrs. Strudgeon that there was an alternative plan. They could construct the pool at the rear of the house and it would not need a variance. Mr. Elly stated that the Ordinance was very strict about front yard accessory uses. He stated that this was a small lot and that it was difficult to put a 30 ft. pool on it.

Mr. DiGiulian stated that it seemed to him that the applicant would need a variance to place the pool anywhere on the lot. He stated that he could not see an alternate location that would not require some sort of a variance. Chairman Smith stated that the applicant's lot was 36,000 sq. ft. and there was only so much that could go on the lot. He stated that the applicant could move the pool back if he did not build the addition as the pool was allowed in the back yard. Mr. DiGiulian stated that the addition was already there.

048

The next speaker in opposition was Mr. James W. Turbish of 4543 Lantern Place. He stated that his property was directly adjacent to the property in question on the side of the proposed pool. He stated that he was in opposition for two reasons. One reason was the safety factor. He stated that the fence or any construction would block the view from his house of the driveway to the left. He stated that the traffic from left to right was on his side of the lot. He stated that his front yard was a popular place for the children to play. The floor level of the applicant's house was 5 ft. higher than his house. Mr. Turbish stated that he could not see the street at all. If a fence was erected, it would definitely be a safety hazard as far as he was concerned.

The second reason for his opposition was the aesthetics. He stated that the applicant had a small lot and proposed a lot of construction on it. Mr. Turbish stated that at the present time he could see the landscaping in everyone's yard. The fence would block his view to the left for 400 to 500 ft. As far as the pool being constructed further to the rear, Mr. Turbish stated that as he understood it, the present Ordinance was adopted in August of 1978 and the previous Ordinance was even more stringent. He stated that had the applicants not built the addition, they would have had room for the pool. He stated that they had not planned very well. Mr. Turbish stated that he and the rest of the neighbors should not have to suffer.

During rebuttal, Mr. Strudgeon stated that no one could see up into the court except Mr. Elliott because of the elevation. He stated that his pool and fence would not obstruct the view of Mr. Elly. With regard to the loitering, Mr. Strudgeon stated that he did not see any credence that his fence would create loitering. He stated that if he built a pool smaller than 30 ft. in size, it would not add much value to the property. Mr. Strudgeon stated that Mr. Turbish would be the only one effected by the fence. The fence would be 10 ft. from the sidewalk and there was 25 to 30 ft. between the fence and the corner. Mr. Strudgeon stated that he felt that was more than adequate sight distance. He stated that he planted shrubs at that location, it would do more damage.

Mr.DiGiulian inquired if the applicant could turn the pool 90°. Mr. Strudgeon replied that he needed the clearance in between the rear property line and the pool. He stated that to get the pool 15 ft. wide, it would be all the way out to the edge of the house. He stated that he would still need a variance for the fence. Mr. Strudgeon stated that he could a pool without a privacy fence would be a problem.

Chairman Smith stated that this was a matter of convenience and that the Board had to think about the entire community and not just one property. He stated that Mr. Strudgeon could not impact the community simply for his own convenience. Chairman Smith stated that the applicant was overbuilding the lot. He stated that the lot was not large enough to accommodate all of the things the applicant wanted. Chairman Smith stated that the applicant was restricted because of the space and size.

Mr. DiGiulian informed the Board and Mr. Strudgeon that the pool would fit the lot if it was turned 90°. It would only need a variance of 1½ ft. for the front yard for the 6 ft. fence in order to give the clearance desired. Chairman Smith stated that he was concerned about the fence. Mr. DiGiulian stated that any child could climb a 4 ft. fence but not as many could climb a 6 ft. fence.

There was no one else to speak in opposition and the Chairman closed the public hearing.

R E S O L U T I O N

In Application No. V-80-L-161 by GEORGE E & PAULA S. STRUDGEON under Section 18-401 of the Zoning Ordinance to allow construction of swimming pool & a 6 ft. stockade fence surrounding it, both partially in a front yard (accessory structure or use not permitted to be located in any front yard by Sect. 10-105), on property located at 6903 Hardrock Court, tax map reference 92-1((11))36, 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 7, 1980; 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 8,716 sq. ft.
4. That the applicant's property has exceptional topographic problems and is a corner lot with two front yards and has utilities in the rear yard.

AND, WHEREAS, the Board of Zoning Appeals had 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 a variance of 1.5 ft. into the front yard setback for a 6 ft. privacy fence) 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 2 (Mr. Smith & Ms. Day).

Page 49, October 7, 1980, Scheduled case of

10:40 A.M. GEORGE L. & PATRICIA A. EGGERT, appl. under Sect. 18-401 of the Ord. to allow enclosure of wood deck into a screened porch to 18 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 1538 Coat Ridge Rd., Stuart Ridge Subd., 11-3((3))70, Dranesville Dist., R-3(C), 9,000 sq. ft., V-80-D-163.

Mr. George Eggert of 1538 Coat Ridge Road in Herndon stated that in addition to his written statement of justification, he wanted to point out that his lot was only 9,000 sq. ft. The was two decks already in existence on the property. One was on the rear of the house being 10'x10' and the other deck was 12'x24'. The larger deck was one step down from the 10'x10' one. Mr. Eggert stated that the 12'x24' deck was 18 ft. from the property line. He wanted to enclose to 12 ft. deck; however, the present Ordinance would not allow him to convert it into a screened porch. The Ordinance required a 25 ft. rear setback. Mr. Eggert stated that he was seeking a 7 ft. variance in order to enclose the deck.

In response to questions from the Board, Mr. Eggert stated that he had owned the property for three years. He presented the Board with statements from four of the neighbors who would face the rear lot line and who were in support of the requested variance. Mr. Eggert stated that these neighbors were the ones who would be the most impacted by the porch it was converted.

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

RESOLUTION

In Application No. V-80-D-163 by GEORGE L. & PATRICIA A. EGGERT under Section 18-401 of the Zoning Ordinance to allow enclosure of wood deck into a screened porch to 18 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-307), on property located at 1538 Coat Ridge Road, tax map reference 11-3((3))70, 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 October 7, 1980; 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(C).
3. The area of the lot is 9,000 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 50, October 7, 1980, Scheduled case of

10:50 A.M. JULIAN DAVIDSON, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 2429 Shenandoah St., Stonewall Manor Subd., 39-3((16))132, Providence Dist., R-3, 12,178 sq. ft., V-80-P-164.

Mr. Julian Davidson of 2429 Shenandoah Street in Vienna stated that he wished to construct a 24'x24' garage attached to his house on the northeast side of his property. He stated that he would need a variance as the garage extended into the 12 ft. required setback. Mr. Davidson informed the Board that it was not possible to move the garage forward as it would then extend into the required front yard restriction. Mr. Davidson stated that he was only requesting a 5 ft. variance.

There was no one else to speak in support or in opposition to the variance. The Board recessed for approximately five minutes before reconvening to make a decision in the matter.

RESOLUTION

In Application No. V-80-P-164 by JULIAN DAVIDSON under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) on property located at 2429 Shenandoah Street, tax map reference 39-3((16))132, County of Fairfax, Virginia, Mr. Hyland 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 7, 1980; and

Page 51, October 7, 1980 Board of Zoning Appeals
JULIAN DAVIDSON
(continued)

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 12,178 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 had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 51, October 7, 1980, Scheduled case of

11:00 A.M. LEE B. HOLCOMB, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 12.5 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 5264 Signal Hill Dr., Signal Hill Subd., 78-2((16))396, Annandale Dist., R-3(C), 9,704 sq. ft., V-80-A-165.

Mr. Lee B. Holcomb informed the Board that his lot was small being only 9,500 sq. ft. The house set back from the street. The rear lot line was at an angle to the house. He informed the Board that about half of his back yard where the deck would be located was a very steep slope of about a 30% grade. Mr. Holcomb stated that his back yard was not usable. The rear sliding glass door was located in the back right-hand corner of the house. Mr. Holcomb stated that the proposed deck was located to be right off of that door and the deck could not be moved any further over without displacing the door. He stated that there was no other place on the lot to build the deck. Mr. Holcomb stated that the deck would allow him to make reasonable use of his property. He stated that he had surveyed other decks in the area and determined that 14 ft. was about the right width for a deck. Mr. Holcomb stated that he had proposed to plant a row of white pines 8 ft. on center to provide privacy screening between his house and the neighbor at the back. Mr. Holcomb stated that his neighbor to the rear also had a 14 ft. wide deck at ground level but it did not require a variance.

Mr. Holcomb stated that the deck would be designed in accordance with the other decks in the area. He stated that most of his neighbors had decks at the rear of their homes. He stated that his deck would not have an adverse impact on the area. He stated that the design of his deck must be approved by the homeowners association. He stated that they had his design and did not object to it.

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

Page 51, October 7, 1980 Board of Zoning Appeals
LEE B. HOLCOMB

RESOLUTION

In Application No. V-80-A-165 by LEE B. HOLCOMB under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 12.5 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412) on property located at 5264 Signal Hill Drive, tax map reference 78-2((16))396, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

052

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 7, 1980; 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(C).
3. The area of the lot is 9,704 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in wirting thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 52, October 7, 1980, Scheduled case of

11:10 A.M. JAMES D. & MARY G. IMES, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 10 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 8969 Colesbury Pl., Mantua Subd., 58-4((14))16, Providence Dist., 22,774 sq. ft., R-2, V-80-P-166.

Mr. James Imes of 8969 Colesbury Place informed the Board that he was asking them to consider his request from the Ordinance to locate an addition to his house in the side yard. He stated that his intent was to construct an addition 12 ft. wide onto the side of his house. The addition would project 5 ft. into the required side yard.

Mr. Imes stated that the topography and the vegetation of the property were such that there was an easement and floodplain at the rear of the property. The property was level in the front but dropped off 10 ft. in the rear. To construct a garage at the rear of the property would require a sloping driveway and the cutting of trees. Mr. Imes stated that it would not be aesthecially pleasing. He informed the Board that he had parked his car in front of his house and it had been totally demolished by a young boy.

In response to questions from the Board, Mr. Imes stated that the property dropped 10 ft. from the front to the rear of the lot. The house had a walkout basement. He stated that he had purchased the property in March of last year.

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

RESOLUTION

In Application No. V-80-P-166 by JAMES D. & MARY G. IMES under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 8969 Colesbury Place tax map reference 58-4((14))16, County of Fairfax, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

Page 53, October 7, 1980 Board of Zoning Appeals
JAMES D. & MARY G. IMES
(continued)

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 7, 1980; 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 22,774 sq. ft.
4. That the applicant's property has exceptional topographic problems and it is not feasible to construct the addition in the rear yard because of the floodplain.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 53, October 7, 1980, Scheduled case of

11:30 A.M. FRANK M. FOLEY, appl. under Sect. 3-E03 of the Ord. to permit home professional office located 537 Springvale Rd., Down Patrick Farms Subd., 7-2((6))9A, Dranesville Dist., R-E, 5.8391 ac., S-80-D-077.

&

11:30 A.M. FRANK M. FOLEY, appl. under Sect. 18-401 of the Ord. to allow gravel driveway & parking spaces in connection with home professional office (dustless surface req. by Sect. 11-102), located 537 Springvale Rd., Down Patrick Farms Subd., Dranesville Dist., 7-2((6))9A1, 5.8291 ac., V-80-D-162.

For information regarding the testimony presented, please refer to the verbatim transcript located on file in the Clerk's Office.

Page 53, October 7, 1980 Board of Zoning Appeals
FRANK M. FOLEY

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-D-077 by FRANK M. FOLEY under Section 3-E03 of the Fairfax County Zoning Ordinance to permit home professional office on property located at 537 Springvale Road, tax map reference 7-2((16))9A1, 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 7, 1980; 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 5.8391 acres.
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; 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. That the hours of operation shall be 9:00 A.M. to 5:00 P.M. with occasional overtime.
8. This permit is granted for a period of three years.

The motion *FAILED for lack of a second.

// Mr. Yaremchuk offered the following motion:

WHEREAS, Application No. S-80-D-077 by FRANK M. FOLEY under Section 3-E03 of the Fairfax County Zoning Ordinance to permit home professional office on property located at 537 Springvale Road, tax map reference 7-2((16))9AL, 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 7, 1980; 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 5.8391 acres.

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 8-006 of the Zoning Ordinance, and

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Hyland).

As the special permit application of Mr. Frank M. Foley was denied, the variance request was moot.

//
The Board recessed at 12:20 P.M. and reconvened at 1:05 P.M. to continue with the scheduled agenda.

//

11:45 A.M. PROCTOR HATSELL PRIVATE SCHOOL, INC., appl. under Sect. 3-303 of the Ord. to permit school of general education and child care center with overnight care on property located 6312, 6314 & 6318 May Blvd., Rose Hill Farms, 82-3((1))38 & 82-3((11))45 & 46, Lee Dist., R-3, 4.36194 ac., S-80-L-076.

055

Mr. Dexter Odin, an attorney located at 10505 Jones street in Fairfax, represented the applicant. He stated that the proposed site had been operated as a swim club and had twice failed. Mr. Odin stated that the site was most adequate for the proposed use as a school of general education. He indicated that it would be a welcome addition to the community. He stated that they had met with the people in the community and there were no objections to the proposed use.

Mr. Odin stated that the staff had made two comments which he wanted to address. One had to do with the parking situation. Chairman Smith asked Mr. Odin to go through the other items and then proceed with the parking statement. Mr. Odin reported that the proposed school would have 200 students maximum at any one time. It would be a day care center as well as a night care center. Mr. Odin stated that they anticipated approximately 25 employees when the facility was complete. Mr. Odin stated that two structures were proposed for construction at a later date. He indicated that they could not adequately predict just when the structures would be built. Mr. Odin stated that one proposed structure might begin construction within the next three or four months with the last proposed addition beginning in about one or two years. He stated that once the builings were fully completed, there would be 25 employees.

With regard to the parking, the staff had recommended 50 parking spaces. Ms. Kelsey informed the Board that her general recommendation was to allow the school to have 100 students and at such time as the school expanded, to permit them to have 200 students and require them to put in the additional parking spaces. She stated that at such time as the school had 200 students, they would have to add an additional 14 parking spaces.

Chairman Smith questioned the construction of the additional buildings. He inquired if the two story proposed building was the one to be built two years from now. Mr. Odin stated that the two story building was the one to be constructed very soon. The first phase would be rehabilitation of the site. The second phase was the construction of the two story building and the third phase was the construction of the staff quarters. Mr. Odin stated that whenever they constructed either building, they would then provide an additional 14 parking spaces. He further stated that whenever it was determined that the existing spaces were inadequate, they would construct the additonal 14 parking spaces. Chairman Smith questioned why they would not construct the additional parking spaces in any number they would be needed and Mr. Odin replied that it was the suggestion of the staff that 14 spaces would be adeuate. He stated that they would like to construct the 14 parking spaces with the caveat that if it was inadequate, that they would provide more parking. Mr. Hyland stated that seemed to be a reasonable approach.

Mr. Odin asked the Board to amend the suggestion of the staff regarding the use of the present pool. The staff had recommended that the pool only be used by the students and the staff of the school. Mr. Odin stated that if the school had a competitive event, only the students would be permitted to use the pool. He asked that the wording be amended to state that the pool could only be used in conjunction with the permitted use. Ms. Kelsy stated that she concurred with the suggested wording of Mr. Odin. Mr. Hyland inquired if there would be any memberships sold with respect to the pool and Mr. Odin replied that there would not. Mr. Odin stated that would require another special permit as it was not permitted under the current application.

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

PROCTOR HATSELL PRIVATE SCHOOL, INC.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-L-076 by PROCTOR HATSELL PRIVATE SCHOOL, Inc. under Section 3-303 of the Fairfax County Zoning Ordinance to permit school of general education and child care center with overnight care on property located at 6312, 6314 & 6318 May Boulevard, tax map reference 82-3((1))38 & 82-3((11))45 & 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 of Zoning Appeals held on October 7, 1980; 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-3.
3. That the area of the lot is 4.36194 acres.
4. That compliance with the Site Plan Ordinance is required.

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

056

RESOLUTION

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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. The applicant shall provide landscaping and screening at the discretion of the Director of Environmental Management, taking into particular concern the frontage on May Boulevard in recognition of existing vegetation that should not be disturbed and site development limitations.
7. The number of students shall be 200.
8. The hours of operation shall be 24 hours a day, 7 days a week.
9. The number of parking spaces shall be 25 and at such time as any expansion or construction occurs, the applicant shall provide an additional 14 parking at a location to be approved by the Director of DEM.
10. The use of the swimming pool and other facilities on the site shall be used only in conjunction with the school use.
11. The applicant will minitor the parking associated with the use such that there will be no parking on any adjacent streets or properties.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 56, October 7, 1980, Scheduled case of

12:00 NOON TDK, INCORPORATED, appl. under Sect. 3-103 of the Ord. to permit child care center located 9625 Braddock Rd., 69-1((1))26, Annandale Dist., R-1, 1.25 ac., S-80-A-073.

Mr. Richard T. Hibbert of 10409 Dominion Valley Drive in Fairfax Station, Va. represented the applicant. He stated that he was an architect and represented TDK, Inc. who had submitted an application for a child care center to be located on Braddock Road. The plat had been prepared by Long, Brown and Associates. The hours of operation for the child care center were: 6:30 A.M. to 6:30 P.M., five days a week. The number of children to be present at any one time were 150. which was to made up of 16 infants, 90 preschoolers and 34 school age children. There would be a staff of 15 employees.

Mr. Hibbert stated that the most significant impact would be the impact of traffic flow from the facility on Braddock Road. He stated that the nursery would be operated in a manner whereby the parents would drop off the children rather than stop and go in the building. He stated that the parking area would accomodate a stacking of 7 to 8 cars which would allow them to be off of Braddock Road waiting in line to drop off children. Mr. Hibbert stated that at the worst period, approximately 19 cars could be accommodated without affecting the traffic flow on Braddock Road. Mr. Hibbert stated that the parents would not go into the facility with the child but rather a staff member would meet the child and make sure the child got into the building safely. He stated that they proposed to construct a covered shelter.

Mr. Hibbert stated that the facility was proposed in a growing area of the County and was located on a major thoroughfare. The corridor was already quite transitional. The child care center would be developed by using the existing two story brick building. At the rear was a new building which Mr. Hibbert showed photographs of to the Board. Mr. Hibbert stated

that they proposed to use the newer building for the school age children. Mr. Hibbert stated that the child care facility would be a welcome addition to the County and he stressed that it was on a major traffic area. He stated that the facility had been designed with adequate stacking space to avoid congestion on Braddock Road.

Mr. DiGiulian noted that the staff comments from Design Review had indicated that if the 25 ft. transitional screening yard was provided, it would preclude the use of the property. Mr. DiGiulian stated that the Board needed to address the screening. Mr. Hibbert stated that screening existed on the property with the exception being to the right of the building where it was proposed to have new roadway by doubling the access approach. In response to questions from the Board regarding parking for the staff, Mr. Hibbert stated that three spaces were provided in the front and nine in the back. There were 15 employees, many of them husband and wife.

The following persons spoke in support of the application. Dr. Frank Murphy, a pediatrician in the area, stated that there was a tremendous need for this type of care in the area. He urged the Board members to support the application.

Mrs. Audrey Moore, Supervisor of the Annandale District, informed the Board that she was familiar with the property and the owners of the school. She stated that the property had been a concern in land use because of the large building in the back of the property. She stated that it would make a very good use of the property to have a day care center. In addition, Mrs. Moore stated that it would be compatible with the area and was badly needed in the area. Mrs. Moore stated that she was familiar with Mrs. Taylor who had been taking care of children in the area. Approximately one year before, a question had been raised as to whether Mrs. Taylor was taking care of too many children. Mrs. Moore stated that she had received a petition from parents who were impressed with Mrs. Taylor's service and the quality of her center.

The next speaker in support was Mrs. Jane Wilson of 4825 Red Fox Drive who stated that she was a customer of Mrs. Taylor. Mrs. Wilson stated that she worked at Commonwealth Hospital and had taken her children to Mrs. Taylor for 3½ years. Mrs. Taylor had provided stable care for the children without Mrs. Wilson having to change school districts. She stated that Mrs. Taylor was very flexible in time. Mrs. Wilson informed the Board that she had a great deal of respect for Mrs. Taylor and the services she could provide. Mrs. Wilson stated that she drove by the proposed site every day on her way to the hospital and supported Mrs. Taylor in her pursuit of the special permit.

The next speaker was Janet Baliff of 5101 Cisaro Court in Annandale. She stated that she had known the Taylors for seven years. Mrs. Baliff stated that she had four children and had trouble finding sitters. Mrs. Baliff informed the Board that she did not work but did do a lot of volunteer work for the community. She stated that many of the sitters took in far too many children. Mrs. Baliff stated that a day care center which would allow her to drop off children would not be as much worry.

The next speaker in support was Mrs. Mason who lived in Burke Centre. She stated that she used Mrs. Taylor's services and could not say enough about her. Mrs. Mason stated that Fairfax was a growing community. There were parents on waiting lists for good day care centers. Mrs. Mason stated that she and husband were totally devoted to Mrs. Taylor. Mrs. Taylor had excellent qualifications and stability. The school situation and the locale of the center were fantastic. Mrs. Mason stated that she supported Mrs. Taylor's application for the child care center.

The next speaker in support was Oula Jackson who informed the Board that she was a realtor. She stated that young people buying homes needed to buy where they could have a place for the children to go while the parents worked to pay the mortgage. She supported Mrs. Taylor's request for a child care center as it would add to the community.

The next speaker was Tim Gibbons who stated that he had known the Taylors for several years. He stated that Mrs. Taylor provided good quality care.

Another speaker in support was Mrs. Ceceil Bushey of 6802 Brisbane Street in Springfield. She stated that Mrs. Taylor had taken care of her son before and after school. Now, there was a newborn which Mrs. Bushey stated would be cared for by Mrs. Taylor as she was very reliable.

The next speaker in support was Nancy Miller who was a neighbor. She stated that she stayed home so she did not have Mrs. Taylor care for her children. However, she was a clinic aide and was apalled by the number of children who did not have anyone to take care of them after school.

The following persons spoke in opposition to the special permit application. Mr. William Bartlett of 4724 Pickett Road requested the Board not to grant the special permit. He stated that he was resident of Old Forge. He showed the Board photographs of how in just a few years the area had changed because of variances, special permits, etc. Mr. Bartlett stated that because the BZA hearing was scheduled during the day, many residents were not able to attend.

058

He stated that he was speaking on behalf of 22 homes who were contiguous or in view of the proposed child care center and 72 others who were within two blocks of the use. Mr. Bartlett stated that he represented a total of 94 residents. He stated that he had made no attempt to obtain signatures just to try to impress the BZA.

Mr. Bartlett informed the Board that in 1970, the Fairfax Baptist Temple had moved into the community. It had grown and built many improvements on the west side of the property without any permits or variances. In 1976, Twinbrook began construction. Shortly after that, construction began for the townhouses. Mr. Bartlett stated that the area was very congested. In 1976, the Fairfax Baptist Temple received approval for a school for 120 students. He stated that they had two gas pumps and two underground tanks. Nan Mill Drive was opened up with two gas pumps in the middle of the road.

Mr. Bartlett stated that only a month ago, the BZA had approved a special permit for a school on Thackery Court which was several blocks from the proposed center. He stated that the residents in the community had suffered through all the congestion for the past few years. The proposed day care center would bring 1,000 vehicle trips per day. Mr. Bartlett stated that the shopping center already had late night activity with Dart Drug and the Pizza Hut. He stated that the proposed center would bring approximately 200 to 300 cars during the peak traffic hours. Mr. Bartlett stated that residents along Braddock Road often wait 5 minutes to get out of their driveway. Mr. Bartlett stated that the on the previous Sunday, a 12 year old had been hit trying to cross Braddock Road. Cars are often demolished even when parked.

Mr. Bartlett stated that the proposed day care center would be operated by a non-resident and the facility would be vacant during the night hours. He stated that the building would be predominantly used by non-residents. Mr. Bartlett stated that in his community of 350 school age children, only 18 children were below school age and eligible to use the facility. Mr. Bartlett stated that a lot of the wives in the community did not work outside the home. He stated that the action of non-residents had resulted in vandalism and break-ins for the community. Mr. Bartlett stated that the records of the Police Department would substantiate his claims.

In summary, Mr. Bartlett stated that the residents were fed up with people related to activities that were not part of the Master Plan. He requested the Board to deny the special permit. Mr. Hyland inquired if there was a citizens association in Old Forge and whether the day care center had appeared before it. Mr. Bartlett stated that the citizens association was not active at the moment. He stated that it had not met during the past seven years. Mr. Bartlett stated that there were 176 homes in Old Forge. Mr. Hyland inquired as to how the signatures were obtained on the petition in opposition. Mr. Bartlett responded that he had canvassed the area and that Mr. Jones had contacted some residents personally. Mr. Hyland inquired if there was any support to the request in Old Forge. Mr. Bartlett stated that there was not any support in Old Forge but there was support from residents from other streets nearby. He stated that the other residents did not care since they did not have live next to it.

Mr. Hyland inquired as to what made the special permit use so repugnant. Mr. Bartlett stated that there was a band of teenage children ranging in numbers of 5 to 7 who roamed through the area of Surrey Square. He stated that they broke shrubbery, mailboxes, threw paint, etc. Mr. Bartlett stated that he had followed three of them and they all had gone to Dart Drug to buy beer. On two occasions, the Park Police had caught them with beer. They were allowed to be released. Mr. Bartlett stated that he had followed them and they went back into the Old Creeke area. He stated that the teenagers were being attracted to Old Forge because of the Pizza Hut and Dart Drug.

Mr. Hyland stated that he was not sure his question had been answered. The granting of the special permit would not have any impact on the community as far as Mr. Hyland could determine. Mr. Bartlett stated that the day care center would be open from 6:30 A.M. to 6:30 P.M. and there would not be anyone living in the facility. It would vacant in the evenings and on the weekends. Mr. Bartlett stated that four weeks ago, a family had moved out of the community and some vandals had painted all over the house. Chairman Smith inquired of any instances where the schools in the area had been vandalized. Mr. Bartlett responded that the schools that had been vandalized had not been in the Old Forge area.

The next speaker in opposition was Mary Riley of 5101 Lone Oak Place which was off of Powell Road and west of the intersection. She stated that she had a letter from the President of the civic association objecting to the proposed day care center. It would be located 50 yards east of Powell Road and Braddock Road intersection. Traffic turning east would be heading towards the center which would aggravate the traffic conditions. She suggested that the Board deny the special permit. She stated that coming from the west on Braddock Road, there was a hill. She stated that she often had to wait five minutes or more in order to pull out onto Braddock Road. She stated that the traffic was hopeless now. Many of the people who lived in Maywood Terrace had to leave at 7 A.M. or 8 A.M. in the morning. She stated that would be when the heaviest traffic would be going to the day care center. Ms. Riley stated that cars stacked up on Powell Road at the present time. People had difficulty seeing ahead of them because of the hill. Ms. Riley stated that there were two developments west of the proposed

Page 59, October 7, 1980
TDK, Inc.
(continued)

use which had no other means of access other than Braddock Road. At that point of Braddock Road, three lanes merged into two lanes.

The next speaker in opposition was Henry Adams who lived adjacent to Mr. Sholtz's property. He stated that he was opposed to the big building in the back of the property. He stated that it was not supposed to be used because it was illegal. There was 50 ft. to his property and Mr. Adams stated that he was closed in by the big nursery and warehouse building. Chairman Smith stated that the warehouse was used to store some of the antique furniture and was not a part of the shop as such. Mr. Adams stated that the new building had not been in the permit for the antique shop. Mr. Adams stated that he had owned his property since 1946 and was opposed to the the big building as it was illegal. He stated that it had been going on for several years. Mr. Yaremchuk stated that there was not anything in the staff report to indicate that the building was illegal.

During rebuttal, Mr. DiGiulian inquired as to the number of cars that could be accommodated on the site during the peak period. Mr. Hibbert stated that they had predicted the flow of traffic to be from 6:30 A.M. to 7:20 A.M.. He stated that from 7 A.M. to 8 A.M., they anticipated 60 cars. From 8 A.M. to 9 A.M., they anticipated 40 cars. From 9:30 A.M. to 11:30 A.M., they anticipated 10 cars. From 11:30 A.M. to 1:30 P.M., 30 cars. From 1:30 P.M. to 4:30 P.M., 20 cars. From 4:30 P.M. to 6:30 P.M., 100 cars. Mr. Hibbert stated that they were dealing with an arterial highway. He stated that the location would be convenient to the parents. Mr. Hibbert stated that he could not respond to the statement regarding vandalism. He did stated that the church was closed at night. He stated that the day care center would provide structural activities for children after school. Mr. Hibbert stressed to the Board that the traffic could be accommodated on the site.

Page 59, October 7, 1980 Board of Zoning Appeals
TDK, INC.

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-A-073 by TDK, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to permit child care center on property located at 9625 Braddock Road, tax map reference 69-1((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 October 7, 1980; and

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

1. That the applicant is the contract purchaser.
2. That the present zoning is R-1.
3. That the area of the lot is 1.25 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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

060

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 in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management except that the 25 ft. transitional yard requirements is waived.
7. The number of children shall be 150.
8. The hours of operation shall be 6:30 A.M. to 6:30 P.M., five days a week, Monday through Friday.
9. The number of parking spaces shall be 17.
10. The number of employees shall be 15.
11. This permit is granted for a period of three years.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 60, October 7, 1980, Scheduled case of

12:15 P.M. WASHINGTON SPAS, INCORPORATED, appl. under Sect. 4-503 of the Ord. to permit health club within shopping center, located 7500-B Leesburg Pike, 40-1((1))33, Dranesville Dist., C-5, 4.101 acres, S-80-D-074.

Mr. Ken Sanders, an attorney in Fairfax, represented the applicant. He stated that the applicant was the owner of Spa Lady. Mr. Sanders informed the Board that the Zoning Ordinance had been amended to provide for this type of use as a special permit in a C-5 district. The history of the application was such that when the applicant went to apply, he was informed that he could not apply for a health club in this C-5 district. It could not be determined why it could not be permitted in the C-5 district. Mr. Sanders stated that health clubs should be permitted in the C-5 district. The health club was restricted to women giving instruction in slymnastics, dance programs. Mr. Sanders stated that this was a health club and not a swim club. The Board of Supervisors had agreed that a health club should be a use by special permit in the C-5 category. Mr. Sanders stated that the applicant was permitted to apply early on the assumption that it would be granted.

Mr. Sanders stated that the health club would have one employee. There were three other locations in the area. One was at 7-corners, one in Springfield and one was located in the City of Fairfax. Mr. Sanders stated that he was not sure that a health club should be considered to be a special permit use. He stated that he thought it should be allowed by right. The hours of operation for the use would be 9 A.M. to 9 P.M., and 9 A.M. to 5 P.M. on Saturdays. The health club would be closed on Sundays. There would be a maximum of 150 people per day. Mr. Sanders stated that this would be a mild use for the shopping center.

Mr. Hyland inquired if the existing parking would be adequate for the additional cars. Mr. Newson, owner of the health club, stated that there would be a maximum of 40 cars at any one time. Mr. Sanders stated that the health club would conform with all other requirements of the Ordinance. He stated that the health club would not create any additional traffic problems.

In response to questions from the Board, Mr. Newson stated that the lease was for 10 years.

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

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-D-074 by WASHINGTON SPAS, INC. under Section 4-503 of the Fairfax County Zoning Ordinance to permit health club within shopping center on property located at 7500-B Leesburg Pike, tax map reference 40-1((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 held on October 7, 1980; and

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

1. That the applicant is the lessee.
2. That the present zoning is C-5.
3. That the area of the lot is 4.101 acres.
4. That compliance with the Site Plan Ordinance is required.

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

Page 61, October 7, 1980 Board of Zoning Appeals
WASHINGTON SPAS, INC.
(continued)

RESOLUTION

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in C 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 9 A.M. to 9 P.M., Monday through Friday and 9 A.M. to 5 P.M. on Saturday.
8. This permit shall run concurrent with the lease.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 61, October 7, 1980, Scheduled case of

12:30 P.M. GEORGE M. & OLIVE M. FITZWATER, appl. under Sect. 18-401 of the Ord. to allow subd. into 3 lots, 2 of which would have width of 6 ft. each (70 ft. min. lot width req. by Sect. 3-406), located 2358 Great Falls St., Daniels Subd., 40-4((1)) 28, Dranesville Dist., R-4, 1.0023 ac., V-80-D-121. (Deferred from July 30, 1980 for Notices and from September 16, 1980 for Notices.)

Ms. Olive Fitzwater informed the Board that the property was irregularly shaped. She stated that she had owned the property for three years. The size of the lot was 1.18380 acres. The property was vacant. If a variance were granted, Ms. Fitzwater stated that they could subdivide the property into two additional lots and build houses. The property was long and narrow. There was a house on the front lot.

Chairman Smith stated that the house was not shown on the plat and stated that the Board would defer the variance until it had a revised plat to see the location of the house in connection with the pipestem. Ms. Fitzwater stated that she had a plat at home that showed the house.

A neighbor of lot 20 in the Daniels Subdivision opposed the requested variance as she was concerned about water runoff. She stated that there was a water problem coming down the hill and she did not want it to be increased so that it would be worse than it was. She stated that her letter of objection was in file as well as a letter from the owners of lot 3, Mr. and Mrs. Burns who were concerned about the pipestem and the property line. These neighbors were in the City of Falls Church. Mr. Covington informed the Board that he had notified the Zoning Administrator in Falls Church of the requested variance. Mr. Yaremchuk suggested that the lady contact the City of Falls Church regarding the water problem. He stated that the time to call was when the site plan was submitted for approval to Design Review. The lady stated that she wanted to know about the water ahead of time and not after the fact.

There was no one else to speak in opposition.

Page 61, October 7, 1980 Board of Zoning Appeals
GEORGE M. & OLIVE M. FITZWATER

RESOLUTION

In Application No. V-80-D-121 by GEORGE M. & OLIVE M. FITZWATER under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, 2 of which would have width of 6 ft. each (70 ft. minimum lot width required by Sect. 3-406) on property located at 2358 Great Falls

RESOLUTION

062

Street, tax map reference 40-4((1))28, 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 7, 1980; and deferred from July 30, 1980 and September 16, 1980 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-4.
3. The area of the lot is 1.0023 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.

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 18 months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thrity (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

3. This variance is subject to the applicant providing the Board with three copies of a certified plat showing the location of the existing dwelling with the setbacks from the proposed subdivision and providing that the dwelling complies with the bulk regulations of the R-4 zone.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 62, October 7, 1980, Scheduled case of

12:45 P.M. DOSIA B. DUNHAM, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 16 ft. from street line & 5 ft. from the edge of a floodplain (30 ft. min. front yard req. by Sect. 3-307 & 15 ft. min. setback from edge of floodplain req. by Sect. 2-415), located 6412 10th St., New Alexandria Subd., 83-4((2))(39)30, 31 & 32, Mt. Vernon Dist., R-3, 10,500 sq. ft., V-80-V-086. (Deferred from September 16, 1980 for decision of full Board.)

Mr. Giffen represented Dosia Dunham. He informed the Board that the Board of Supervisors had approved the special exception with regard to the floodplain. For background purposes, Mr. Giffen stated that the reasons for the requested variance were because of the problems with the lot being narrow. Mr. Giffen stated that 8 Street was not state maintained so it was not possible to build facing 8 Street. A variance was required to located the house facing 10th Street. At the last hearing, Mr. Andrews had opposed the location of the house at a setback of 16 ft. However, he did support the location if the house was situated at 23 ft. Mr. Giffen stated that effect would be to reduce the size of the house from 44 ft. to 37 ft. which was a drastic reduction in the length of the house. He stated that if you cut 7 ft. off the length of the house, it would cramp it too much. Mr. Giffen stated that Mr. Andrews house was 240 ft. away from the Dunham property. His house set back 35 ft. from the street. The neareat house from the west set back only 9½ ft. from the street. Mr. Giffen stated that the 16 ft. he was requesting was almost exactly in line between the two houses. Mr. Giffen stated that he felt it would be easier for Mr. Andrews to adjust to a 7 ft. difference than it would be for the applicant to adjust to a house 7 ft. shorter in length.

Mr. Andrews informed the Board that his concern was that the variance would set a precedent of a 16 ft. setback. He was also concerned that it would set the house even with his side porch which would devalue his property. Mr. Andrews stated that to reduce the house by 7 ft. would be of benefit and not too much to ask. He stated that 8th Street would eventually be state maintained.

Page 63, October 7, 1980 Board of Zoning Appeals
DOSIA B. DUNHAM

RESOLUTION

In Application No. V-80-V-086 by DOSIA B. DUNHAM under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 16 ft. from street line & 5 ft. from the edge of a floodplain (30 ft. min. front yard required by Sect. 3-307 & 15 ft. minimum setback from edge of floodplain required by Sect. 2-415), on property located at 6412 10th Street, tax map reference 83-4((2))(39)30, 31 & 32, County of Fairfax, Virginia, Mr. Hyland 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 7, 1980; and deferred from September 16, 1980 for decision of full Board; 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 10,500 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 63, October 7, 1980, Scheduled case of

1:00 P.M. SANDRA K. LAWRENCE & THOMAS B. PELKOWSKI, D.D.S. appl. under Sect. 3-403 of the Ord. to permit child care center, located 4616 Ravensworth Rd., D.F. Hannah Subd., 71-1((1))63, Annandale Dist., R-4, 41,282 sq. ft., S-80-A-065. (Deferred from September 16, 1980 for Notices.)

Ms. Sandra Lawrence of 5310 Nutting Drive in Springfield represented the applicants. Ms. Lawrence informed the Board that she was the co-applicant and proposed to have a child care center for 57 children. She stated that she wanted to amend the ages of the children. In her written statement, the ages were given as beigg from 2 to 5. Ms. Lawrence stated that she wished to change that to read: ages from 2 - 12 years. The hours of operatation would be from 7 A.M. to 6 P.M., Monday through Friday to accommodate both half-day, full day and before and after school. She stated that there would not be any Saturday hours. Ms. Lawrence stated that she had talked with all of the neighbors and had not received any objections to the day care center. The building had been used as a doctor's office before she purchased the property. In response to questions from the Board, Ms. Lawrence stated that she had owned the property for six months.

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

Page 63, October 7, 1980 Board of Zoning Appeals
SANDRA K. LAWRENCE & THOMAS B. PELKOWSKI, D.D.S.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-A-065 by SANDRA K. LAWRENCE & THOMAS B. PELKOWSKI, D.D.S., appl. under Sect. 3-403 of the Zoning Ordinance to permit child care center on property located at 4616 Ravensworth Road, tax map reference 71-1((1))63, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

RESOLUTION

064

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 7, 1980; and deferred from September 16, 1980 for Notices; and

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

1. That the applicant is the contract purchaser.
2. That the present zoning is R-4.
3. That the area of the lot is 41,282 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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) whetheror 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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of children shall be 57, ages 2 years to 12 years.
8. The hours of operation shall be 7 A.M. to 6 P.M., Monday through Friday.
9. The number of parking spaces shall be 12.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 64, October 7, 1980, Scheduled case of

1:15 P.M. R. F. CRIST, appl. under Sect. 18-401 of the Ord. to allow cluster of subd. into 7 lots such that lot 1 would have an area of 10,158 sq. ft.; lot 2, 10,759 sq. ft.; lot 3 10,954 sq. ft.; lot 4, 10,821 sq. ft.; lot 5, 10,805 sq. ft.; lot 6, 11,994 sq. ft., lot 7, 11,351 sq. ft., located Druid Hill Rd., 28-4((1))46, Centreville Dist., R-2, 8.63 ac., V-80-C-011. (Deferred from March 11, 1980 for applicant to file a rezoning appl. as an alternative to the variance. Letter was sent to applicant advising of BZA's intent to withdraw the application unless it heard from the applicant.)

As the Board had not received any response from the applicant, the variance was withdrawn for lack of interest. Mr. Yaremchuk made the motion to withdraw which was seconded by Mr. Hyland and it passed unanimously by a vote of 5 to 0.

//

Page 64, October 7, 1980, After After Agenda

Reston Recreation Center: The Board was in receipt of a request from the Reston Recreation Center seeking an out-of-turn hearing on its applications for a special permit and a variance. It was the consensus of the Board to grant the request and the applications were scheduled for November 4, 1980.

//

There being no further business, the Board adjourned at 3:05 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on June 8, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: June 15, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, October 21, 1980. The following Board members were present: Daniel Smith, Chairman; John Yaremchuk; Gerald Hyland and Ann Day. (Mr. John DiGiulian was absent).

The Chairman opened the meeting at 8:15 P.M. and Mr. Covington led the prayer.

The Chairman called the scheduled 8 o'clock case of:

8:00 P.M. SEAN M. CAREY, appl. under Sect. 6-303 of the Ord. to allow home professional office (engineer), located 6216 Wilmington Dr., Burke Centre Subd., 78-3((10))92, Springfield Dist., PRC, 8,334 sq. ft., S-80-S-080.

Mr. Sean Carey of 6216 Wilmington Drive in Burke informed the Board that he had applied for a special permit for a home professional office to allow him to work in his home. He stated that his wife was not able to provide the secretarial services and he wanted to employ a secretary. Mr. Carey explained to the Board that he had a home occupation letter which allowed him to operate a business from his home.

In response to questions from the Board, Mr. Carey stated that his home was a single family dwelling. He stated that his wife was going to have a baby and would not be able to do the secretarial duties. Mr. Carey stated that the special permit request was only temporary to allow him to hire a secretary for one or two years. Mr. Carey stated that he had been in business for three years. He stated that he had been an engineer since August of 1980.

There was no one else to speak in support of the application. The following persons spoke in opposition to the special permit. Mr. Roger Ditmer of 6214 Wilmington Drive stated that he would like a rider put on the special permit if it was granted. He wanted a condition to the effect that no architectural changes would take place to the property. He did not want any buildings constructed on the property. Mr. Ditmer stated that there were some people who had a vendetta against Mr. Carey and wished the special permit to be denied. However, Mr. Ditmer stated that as long as no changes took place to the property, he did not object to the business.

The next speaker in opposition was Florence Craig who questioned whether Mr. Carey would b storing equipment in the back yard. She stated that Mr. Carey kept equipment out front like trucks. She stated that differenct trucks came to the property. Mrs. Craig informed the Board that her home was her investment. She inquired if Mr. Carey had to provide off street parking in his driveway for all of the trucks and whether he could board equipment on the property. Mr. Yaremchuk stated that the applicant could construct a toolshed to house the equipment. Mr. Yaremchuk stated that the applicant could not make the property into commercial property but he would be allowed to have a home office. Mrs. Craig inquired about equipment being housed overnight and whether he would be allowed to do it. Chairman Smith stated that the applicant would not be allowed at any time to park trucks or equipment. He stated that the only thing the applicant could park was automobiles. He stated that the applicant could store equipment and have trucks come to pick it up. Chairman Smith stated that if the special permit was granted, it would be to the applicant only and would terminate if the applicant left the property.

The next speaker was Mr. Robert B. Gorrell of 6301 Skinner Drive. He stated that he lived within two blocks of Mr. Carey's property. Mr. Gorrell objected to the special permit for two reasons. One was that there were 2500 single family dwellings in Burke Centre. As of yet, no special permit had been issued in Burke Centre. Mr. Gorrell stated that he was afraid this request would set a precedent. The community was cluster and Mr. Gorrell felt that the special permit would change the character of the community to some degree. He stated that his second concern was to the land use. He stated that this request would increase the traffice. He stated that Wilmington Drive was one of the most travelled side roads. There was inadequate parking facilities. Mr. Gorrell stated that as he understood it, the applicant would have to park all vehicles including his personal vehicles on the property if a special permit was granted. He stated that Mr. Carey had four personal vehicles. Mr. Gorrell stated that with an associate and a secretary, there would not be enough room on the property for parking all the vehicles. At the present time, Mr. Carey did most of his work in the field. Mr. Gorrell stated that if any clients came to the business, the parking would really be inadequate. Mr. Carey had already extended his parking lot. There was not a garage to park any vehicles. Mr. Gorrell stated that he did not believe the parking could be accommodated. Mr. Gorrell asked the Board to consider Mr. Carey's failure to work with the County and the Burke Centre Conservatory about home offices. He stated that Mr. Carey had not applied for approval to extend his driveway to have a home business. Mr. Gorrell stated that the conservatory had sent notices to Mr. Carey asking him to comply with the regulations.

Mr. Hyland inquired if the conservatory permitted any home businesses. Mr. Gorrell stated that any one could apply to the Board. The conservatory provided opinions from the local residents and there were certain requirements or regulations to be followed. Mr. Gorrell stated that only one home business had been approved and that was in another community. It was given to a woman who wanted to do sewing in her home. Mr. Gorrell stated that the guide-

lines were such that the permit would be granted to the resident only and no other applicant. It could not have an impact on the neighbors.

Mr. Yaremchuk inquired if Mr. Gorrell objected to the special permit request even if it were granted for a one year period. Mr. Gorrell definitely objected. Mr. Yaremchuk inquired what if a family lived there with three to four teenagers and five cars. Mr. Gorrell stated that would violate the law. Mr. Yaremchuk stated that there would still be the traffic. Mr. Gorrell stated that he would find it objectionable but would not have any basis for the objections if it was a family living there.

During rebuttal, Mr. Carey stated that the four cars on his property belonged to his associate. He stated that his associate was living at the residence. The other two cars belonged to Mr. and Mrs. Carey and one car belonged to the secretary. Mr. Carey stated that four cars could fit in his driveway at the same time without any problem. Mr. Carey stated that he would not have any clients coming to the property as he did inspections out in the field. He stated that he went to them. Mr. Carey stated that he had explicit hours and did not weekends and did not work after 5 o'clock. Mr. Carey stated that his associate's home would be completed in mid-November and he would moving then. With regard to the extension of the driveway, Mr. Carey stated that because of a drainage problem, Ryan Homes had determined the solution to be the extension of the driveway. Mr. Carey stated that there was not any equipment in his business such as heavy equipment.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-S-080 by SEAN M. CAREY under Section 6-303 of the Fairfax County Zoning Ordinance to allow home professional office (engineer) on property located at 6216 Wilmington Drive, tax map reference 78-3((10))92, 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 21, 1980; 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 PRC.
3. That the area of the lot is 8,334 sq. ft.
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; 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit sha-l remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

RESOLUTION

068

7. The hours of operation shall be 7:30 A.M. to 4:00 P.M.
8. This permit is granted for a period of one (1) year.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 68, October 21, 1980, Scheduled case of

8:15 P.M. CHILDREN'S WORLD, INC., appl. under Sect. 3-303 of the Ord. to allow child care center, located 8518 Bauer Dr., Fairfax Park Subd., 79-3((4))38C, Springfield Dist., R-3, 0.78107 ac., S-80-S-081.

Mr. Grayson Hanes, an attorney in Fairfax, represented the applicant. Mr. Hanes stated that the site plan he distributed to the Board was attached to a rendering which reflected the type of architecture for the proposed building. Mr. White and Mr. Davis, the engineers, were present to answer any questions the BZA might have. Mr. Hanes stated that he was amazed to learn from the statistics that day care centers are the fourth largest uses in the United States. This particular application was the first application for Children's World in the Northern Virginia area. There were 91 centers throughout the United States. Mr. Hanes stated that the corporation was founded in 1969. Statistics showed that half of the females over 21 years of age were employed outside the home. Thirty-eight per cent of the females had children under the age of 6 that needed day care.

Mr. Hanes stated that they were proposing a quality operation. Children's World had experience and had the track record to prove it. He stated that they were known in the business. The proposed hours of operation were from 6:30 A.M. to 6:30 P.M., five days a week. On Saturday, there might be a social function or a meeting might occasionally be held during the evenings throughout the week. Mr. Hanes stated that would be the exception rather than the rule. The Health Department had approved the site and there was a letter in the file. The application had asked for 130 children but the Health Department limited it to 128.

The property was located at the end of Bauer Drive. Mr. Hanes stated that one could drive through the apartments to get to Rolling Road. Across the street was the West Springfield Terrace Apartments. The Master Plan called for apartments all the way out Bauer Drive. Next to the site was a small house to the east and some vacant lots to the west. Water and sewer were available on Bauer Drive. Bauer was a 50 ft. right of way and would be improved to 60 ft. Mr. Hanes stated that they had dedicated 5 ft. in the front of the property and would put in curb and gutter. He stated that they were putting in a 6 ft. high fence all the way around the property and were asking for a waiver to the requirement for a perimeter wall. He stated that a wooden fence would be more in keeping with the architecture than a masonry wall. The proposed building was 22 ft. high. Nineteen parking spaces were being provided. The Zoning Ordinance required a minimum of 16 parking spaces. The staff would be comprised of 15 people. There would be one teacher to every ten students. There would be one director and a cafeteria provided. Mr. Hanes stressed the fact that this would be a quality day care center. He stated that the architectur of the building was very similar to that of a single family dwelling.

In response to questions from the Board, Mr. Hanes stated that the Mitchells owned the property. The Mitchells were to sell the property to a partnership who would ten lease the property to Children's World for a period of 25 to 30 years. Children's World was a national organization. Mr. Hanes stated that it was a franchise but it was operated under Children's World who had direct control. The corporation was located in Evergreen, Colorado. Several other locations throughout the U.S. included Ohio, Texas and Colorado.

Ms. Pamela C. Mack was the purchaser of the property on behalf of Children's World. Ms. Mack stated that she resided at 922 24 th Street, N.W. in Washington, D.C. She stated that she had a contract to buy the property which would be assigned to a partnership at the time of settlement. The facility would be leased to Children's World,

Chairman Smith inquired as to who was the registered agent for Children's World. Mr. Hanes stated that it was foreign corporation authorized to do business in the U.S. Chairman Smith stated that unless the corporation was registered in the State of Virginia, he had a problem with the application. He stated that unless they were registered in Virginia, they were not qualified to do business in Virginia. Mr. Hanes stated that this was the first endeavor in the State of Virginia. Prior to entering any lease arrangement, the corporation must register. Mr. Hanes stated that if the special permit was granted, it could be conditioned upon the corporation being authorized to do business in the State.

Ms. Barbara Kaplan of 5806 Woodlow Court in Burke informed the Board that she was presently co-Director of a child care center that Children's World might not be aware of. She stated that her center was 1/10th of a mile east of the proposed day care center. Ms. Kaplan stated that her center was located in the shopping center. Ms. Kaplan stated that her main concern was traffic congestion in the area. Ms. Kaplan stated that she was allowed 45 children at

her center. Children's World was asking for 128 children. Ms. Kaplan stated that the parents of her center used Bauer Drive. Another concern was the quality of care to be provided. She stated that her center was also a quality care center. Parents stayed longer than 1 or 2 minutes when picking up the children which would compound the traffic problem.

Mr. Hyland inquired as to how bad the traffic situation was at the present time. Ms. Kaplan responded that at a recent merchants meeting, many shopkeepers had already requested that a signal be placed at the exist on Bauer Drive on Rolling Road. She stated that the state would not install a traffic signal.

The next speaker in opposition was Mary Byers who had three main concerns. The first concern was the location. Ms. Byers stated that there was already a very good day care center 500 ft. away. The second concern was that it was almost impossible to make a left hand turn at this location even when it was not busy. She stated that this was a very difficulty intersection. Ms. Byers stated that she was a teacher of 10 years and had been an administrator for one year. She stated that the ratio of one teacher to every ten children was not quality care and only met the minimum requirements of the State. She stated that there should be one teacher to every four children under the age of 2 years. Ms. Byers stated that there was a need for child care in Fairfax County but stressed that the applicants should do more than just meet the minimum standards. Ms. Byers stated that her third concern was basically the traffic situation.

During rebuttal, Mr. Hanes stated that they were unaware of the other child care center. However, he stated that Virginia was a state that recognized competition. He stated that he felt Children's World could serve a need and would give quality care. Mr. Hanes stated that a recent magazine article had included Children's World as the cadillac of the child care centers. With regard to the traffic, Mr. Hanes stated that a circular driveway was being provided so as not to cause any stacking problems. He stated that there were two points of access to the property. Bauer Drive was being widened. He stated that the traffic was not overloaded at the present time and would not be overloaded with the additional cars.

Mr. Hyland questioned the stacking capabilities and questioned the number of vehicles that would be arriving at the center at any one time. Mr. Jim Whitehead of Dewberry, Nealon and Davis stated that they would provide a circular driveway pattern with minimum delay for the dropping off of children. He stated that should all the parking spaces be in use, the maximum stacking would be 8 to 9 cars. Mr. Whitehead stated that they had anticipated stacking of three cars. They anticipated 120 vehicle trips per day. Mr. Hyland inquired as to how they arrived at that number. Mr. Whitehead responded that it was anticipated that some children would be arriving in numbers of two or three. Mr. Whitehead stated that 120 trips would occur between 6:30 A.M. to 9 A.M. and another 120 trips between 2:30 P.M. and 6:00 P.M. He stated that the vehicles would be going against the traffic flow.

Chairman Smith stated that based on the other day care center with the same number of children, he stated that it was not possible to get that many cars through the intersection in a one hour period. He stated that he was concerned about backup in the streets. Mr. Hanes stated that the County had not done a traffic study. He stated that he felt it should be addressed before the application was decided. Mr. Hanes stated that Children's World was not aware of the other child care center and felt that the BZA should request the County Department of Transportation to analyze the situation. Mr. Hanes stated that he did not feel the traffic would be a problem but wanted an opportunity to prove that to the Board.

Mr. Hyland commended Mr. Hanes for making the suggestion about the traffic study. He then moved that the Board defer the application to ask for a traffic study and the impact of the proposed facility. Chairman Smith asked that it also include the question as to the registration of the corporation. The application was deferred until November 25, 1980 at 10:10 A.M. for the traffic study and the state corporation registration.

//

Page 69, October 21, 1980, Scheduled case of

8:30 P.M. CARLOS A. ASTRADA, M.D., appl. under Sect. 3-303 of the Ord. to permit home professional office (medical), located 4522 Fidelity Ct., Wakefield Chapel Woods Subd., 70-1((20))74, Annandale Dist., R-3(C), 12,323 sq. ft., S-80-A-082.

Mr. Carlos Astrada of 4522 Fidelity Court in Annandale informed the Board that he had applied for a special permit application for a home professional office in order to practice child psychology. He stated that he was requesting a home office as a secondary location. Mr. Astrada stated that worked exclusively with children and did not see any severely disturbed children. He stated that he planned to have long term psychotherapy sessions lasting from 50 to 60 minutes. He stated that there would not be more than two cars at any one time. Mr. Astrada stated that he had one employee. The hours of operation would be 9 A.M. to 8 P.M. He stated that he would not have more than ten patients per week and wanted a five day a week operation. Mr. Astrada stated that his present office was at St. Elizabeth's Hospital. He stated that he had owned his property since 1976.

D70

There was no one else to speak in support of the application. Mr. Daniel A. Desko of 4504 Fidelity Court spoke in opposition. He stated that he opposed the application for several reasons. Mr. Desko stated that he did not live next door but wanted to protect his property. He stated that this business would change the nature of the community. He stated that this business would require a steady stream coming and going from the property. He stated that it was important to have the community remain uniform. Mr. Desko stated that the location of the property was at a T-intersection and was very dangerous. The visibility was blocked because the land rose at the intersection. Children gather at the intersection. Mr. Desko stated that his last reason for opposition was the attitude of the applicant. He stated that Mr. Astrada had parked his car illegally from time to time and the police have had to make him move the car. Mr. Desko stated that only two vehicles would fit in the driveway. Mr. Desko stated that Mr. Astrada did not follow the rules of the homeowners association. He did not complete construction within six months and only cut the yard since he applied for a special permit. Mr. Desko stated that he was afraid Mr. Astrada would expand his business or his hours without permission.

During rebuttal, Mr. Astrada stated that he worked at St, Elizabeth's Hospital and Georgetown Hospital. He stated that his work involved disturbed people. He stated that he was requesting a home office to allow him to work with a different king of problem. He stated that his hours were going to be limited and that he would see so few patients, that it would not be economically feasible for him to open an office elsewhere. Mr. Astrada informed the Board that he did not feel the opening of his office would change the nature of the residential area. He stated that the office hours would be limited so that traffic would be minimal. As far as the dangerous intersection, Mr. Astrada stated that there has not been any accident there since he had lived there. He further stated that the police had never gone to his home about his car being parked illegally. Mr. Astrada stated that the photographs he had summitted showed that three to four cars could park in his driveway.

R E S O L U T I O N

Mr. Yaremchuk moved that the Board deny the special permit application. The motion died for lack of a second.

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-A-082 by CARLOS A. ASTRADA, M.D. under Section 3-303 of the Fairfax County Zoning Ordinance to permit home professional office (medical) on property located at 4522 Fidelity Court, tax map reference 70-1((20))74, 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 21, 1980; 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-3(C).
3. That the area of the lot is 12,323 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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 9:00 A.M. to 8:00 P.M., five days a week.
8. The number of employees shall be one (1).

Ms. Day seconded the motion for voting purposes.

The motion *FAILED by a vote of 1 to 3 (Messrs. Smith, Yaremchuk & Ms. Day)(Mr. DiGiulian being absent.)*

Page 71, October 21, 1980, Scheduled case of

8:45 P.M. GREAT EQUITATIONS, INC., appl. under Sect. 3-E03 of the Ord. to permit continuation of existing riding school & stable as permitted by S-309-76, expired, for a new term & with deletion or modification of condition (9) relating to on-site security guard, located 10001 Arnon Chapel Rd., 8-3((1))19, Dranesville Dist., R-E, 66.2397 acres, S-80-D-083.

Mr. Bill Donnelly an attorney in Fairfax at 4069 Chain Bridge Road represented the applicant. He stated that this was an application for a renewal of a special permit for a riding stable known as Deerfield. The permit had been allowed to expire. The riding stable had been established in 1970 and was renewed in 1976. The Zoning Administratior had ruled that it expired because the request for extension was filed too late. Mr. Donnelly informed the Board that after the application had been filed, the property was sold to a new corporation. The new owners were Largents' Great Falls Stables, Inc. which was newly formed and in good standing. Mr. Donnelly stated that he had not amended the application in writing. The new corporation was formed in July of 1980. Mr. Donnelly presented the Board with a revised affidavit which indicated that Mr. and Mrs. Ronald D. Largents were the Directors of the new corporation. In addition, he presented an insurance binder and a long term lease for the property.

Mr. Hyland moved that the Board allow the application to be amended to reflect the new names. Mr. Yaremchuk seconded the motion and it was unanimously passed.

Mr. Donnelly stated that the second change related to the area. He stated that they were not adding any additional land but were proposing to subtract 12 acres from the subject advertising. He stated that the new lease reflected the deletion of the 12 acres. The twelve acres to be excluded ran along Arnon Chapel Road which was panhandle. He stated that he felt this would not affect the special permit. The area to be deleted was very heavily wooded and would have little effect on the riding stable. Mr. Donnelly stated that 55 acres would be left for 80 horses. The maximum number of horses allowed by the Ordinance was three per acre and Mr. Donnelly stated that they had half the density allowed. He urged the Board to allow the revision in the land area to reduce it to 55 acres. Mr. Donnelly stated that the plat still showed the 12 acres and if amended, he proposed to submit revised plats to the Board.

Chairman Smith stated that he had a problem with amending the land area unless the revised plats were submitted at the same time. He further stated that he had a problem with the reduction in land area unless there was a reduction in the number of horses also. Mr. Donnelly stated that the previous permit allowed 80 horses. Chairman Smith stated that it was the Board's policy to have only one horse per acre. Mr. Covington referred Chairman Smith to Section 2-412 of the Ordinance. Chairman Smith stated that he would not take any action until the application was amended and there was a new advertising to reduce the acreage and the number of horses.

Mr. Donnelly stated that they were not adding any additional land and he did not feel they were affecting the density in any way. Chairman Smith stated that the application would have to be readvertised. The Board deferred the application until November 11, 1980 at 12:15 P.M. for readvertisement.

//

Page 71, October 21, 1980, Scheduled case of

9:00 P.M. CENTREVILLE ASSEMBLY OF GOD, appl. under Sect. 3-103 of the Ord. to amend S-173-79 to permit construction of addition to existing church facilities, located 14821 Lee Highway, 64-2((1))3, Springfield Dist., R-1, 1.721 acres, S-80-S-088.

The hearing was deferred until November 11, 1980 at 12:00 Noon.

//

072

9:15 P.M. CHESTNUT GROVE CHILD DEVELOPMENT CENTER, appl. under Sect. 6-303 of the Ord. to amend S-247-75 for a child care center to permit change of ownership and continuation of use, located 11252 Chestnut Gr., Chestnut Grove Apts., 17-4((8))1, Centreville Dist., RPC, 16.4868 acres, S-80-C-072. (Deferred from September 30, 1980 for Notices.)

Mr. Richard Rash of 11248 Chestnut Grove Square in Reston stated that they were seeking a change in ownership for a day care center at the Chestnut Grove apartments. He stated that this use would be a pre-school operation from 7:30 A.M. until 5:30 P.M. They were licensed to have 30 children but only 21 children were enrolled at the present time. Mr. Rash stated that there were two employees other than his wife and himself. There were three other teachers on a fulltime basis and there was one part-time girl who assisted the school. Mr. Rash stated that they used the parking at the apartments and there never had been any parking problems. He stated that they primarily served the parents in the apartments who dropped the children off while going to their cars or to the busstops.

Mr. Rash stated that some of the children were not fulltime students. He stated that the school was off of the road and there was plenty of parking available. Mr. Rash stated that the school was owned by Richard S. Rash and Margo A. Rash T/A Chestnut Grove Child Development Center. It would operate five days a week.

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

CHESTNUT GROVE CHILD DEVELOPMENT CENTER

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-C-072 by CHESTNUT GROVE CHILD DEVELOPMENT CENTER under Section 6-303 of the Fairfax County Zoning Ordinance to amend S-247-75 for a child care center to permit change of ownership and continuation of use on property located at 11252 Chestnut Grove, tax map reference 17-4((8))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 October 21, 1980; and

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

1. That the applicant is the lessee.
2. That the present zoning is PRC.
3. That the area of the lot is 16.4868 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 7:30 A.M. to 5:30 P.M., Monday through Friday.
8. This permit shall run concurrent with the lease agreement.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 73, October 21, 1980, After Agenda Items

NEWTON EDWARDS: The Board was in receipt of a request from the Board of Supervisors for an out-of-turn hearing on the appeal application of Mr. Newton Edwards. It was the consensus of the Board to grant the request and the appeal was scheduled for Tuesday Night, November 18, 1980.

//

Page 73, October 21, 1980, Deferred case of

GREAT EQUITATIONS, INC. (amended at hearing to LARGENT'S GREAT FALLS STABLES, INC.) appl. under Sect. 3-E03 of the Ord. to permit continuation of existing riding school & stable as permitted by S-309-76, expired, for a new term & with deletion or modification of condition (9) relating to on-site security guard, located 10001 Arnon Chapel Rd., 8-3((1))19, Dranesville Dist., R-E, 66.2397 acres, S-80-D-083.

Mr. Bill Donnelly asked the BZA to reconsider its decision to defer the above-captioned application. He stated that his client wished to proceed with the application as it was originally advertised and amended and that later if they wished to decrease the land area, they would reapply to the Board. Mr. Hyland moved that the Board reconsider its deferral and proceed with the hearing. Mr. Yaremchuk seconded the motion and it passed unanimously.

With regard to the request for a change in condition no. 9 of the original special permit, Mr. Donnelly stated that an on-site security guard was no longer necessary because they had added an alarm system to alert them of fire or breakins. Mr. Donnelly stated that the alarm should entitle the applicant to delete the condition no. 9. He further stated that the type of person to hire as a guard was not usually a horse person. The security guard would only be able to do exactly what the new alarm did. Mr. Donnelly stated that there were letters of support in the file. He stated that they met the standards of the Ordinance and urged the Board to grant the request. The present owners of the riding stable resided one mile from the facility. In case of fire, they would be within one mile. He stated that another couple lived ½ mile away and would also be within quick response time.

Chairman Smith inquired about condition no. 12 with regard to the disposal of manure. Mr. Donnelly stated that condition no. 12 stated that the disposal of manure had to be in a manner approved by the Health Department. He stated that the Health Department had inspected the stable on a regular basis. They had addressed all of the issues and the inspections were satisfactory. Mr. Donnelly stated that the manure pile had accumulated more than it should have. Chairman Smith inquired as to how it would be disposed of. Mr. Donnelly responded that it would be removed for gardening or commercial purposes on a monthly basis. Mr. Hyland inquired if the Health Department had approved of the method of disposal for the manure. Mr. Donnelly replied that they had met the requirements of the Code for disposal but the pile could have been disposed of in a more diligent manner. He stated that the new owners intended to do so. Chairman Smith inquired as to who had raised the question about the manure and it was reported that a letter had been received from Mr. Wise.

Chairman Smith inquired as to the method used to prevent flies or the growth of flies. Mr. Donnelly stated that the stalls were cleaned out every day and a fresh bed of straw was put down every day. He stated that the stalls had passed inspection. The manure pile was limed on a monthly basis. With regard to the dust free maintenance of the riding ring, the ring had been oiled in August. Mr. Donnelly stated that the ring should have been oiled in the spring before the summer season. He indicated that they would carefully monitor it in the future and keep the ring reoiled as it becomes necessary. With regard to the public address system, Mr. Donnelly stated that they would redirect the public address system as they had to comply with the noise ordinance. He stated that they would make every effort to monitor the decibal level of the speaker system. He further stated that all lights would be confined to the property. With regard to tresspassing, Mr. Donnelly stated that they make sure all the fences were in place and they would circulate a handout advising the riders as to where the property lines were and not to tresspass.

Mr. Hyland inquired as to the alarm system and whether it was fail safe system with regard to the horses. Chairman Smith stated that the building was metal and was fire proof. Mr. Hyland inquired as to the length of the lease and was informed it expired in the year 2001. Mr. Donnelly stated that the lease was for 54 acres and ran until 2001.

LARGENT'S GREAT FALLS STABLES, INC.

RESOLUTION

074

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-D-083 by LARGENT'S GREAT FALLS STABLES, INC. under Section 3-E03 of the Fairfax County Zoning Ordinance to permit continuation of existing riding school and stable as permitted by S-309076, expired, for a new term and with deletion or modification of condition (9) relating to on-site security guard on property located at 10001 Arnon Chapel Road, tax map reference 8-3((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 October 21, 1980; 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-E.
3. That the area of the lot is 66.2397 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 on the application and is not transferable to other land.
2. This special permti shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. This permit is subject to the conditions of the previous permit granted on February 1, 1977 as follows with the wception of condition (9):
   The maximum number of horses shall be eighty (80).
   The hours of operation shall be 8 A.M. to 9 P.M., 7 days a week.
   An appropriate electronic alarm system shall be used in lieu of a caretaker or security guard on the premises at all times.
   Proof of adequate insurance is to be provided and kept current.
   A method approved by the Health Department is to be used in the disposal of horse manure.
8. The applicants shall exercise all diligence to remove the objections raised by Mr. George W. Wise in connection with smell, flies, excessive dust, excessive noise, excessive lighting and trespassing of employees.
9. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three (3) one-year extensions. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the Zoning Administrator.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 74, October 21, 1980, After Agenda Items

ROAD AGGREGATES, INC.: The Board was in receipt of a letter from Mr. Kenneth White requesting a second extension on the variance granted to Road Aggregates, Inc., V-70-79. Mr. Yaremchuk moved that they be granted a six month extension. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0.

//

Page 75, October 21, 1980, After Agenda Items

GEORGE M. & OLIVE FITZWATER: On October 7, 1980, the BZA granted a variance to George M. & Olive M. Fitzwater to allow a subdivision into 3 lots, 2 of which would have a width of 6 ft. each. (70 ft. min. lot width req. by Sect. 3-406). The variance was granted provided that the applicant submit revised plats showing the location of the existing dwelling which was to remain and providing it met the bulk regulations of the R-4 zone.

The engineer had submited the revised plats and a problem existed in that the existing dwelling did not comply with the side setback of 10 ft. The Board was questioned as to whether this would be non-conforming since the dwelling met the setbacks from the proposed pipestems or whether another variance hearing would be necessary or whether the Board could amend its resolution.

It was the consensus of the Board to refer the matter to the Zoning Administrator for a written response.

//

Page 75, October 21, 1980, After Agenda Items

Ken Foley: The Board was in receipt of a request from Mr. Ken Foley for approval of revised plats for a subdivision wherein the Health Department had requested the proposed lot line to be removed from a septic field. The original plat had been approved on October 7, 1980. It was the consensus of the Board to approve the movement of the lot line and it passed unanimously.

//

Page 75, October 21, 1980, After Agenda Items

W. H. ELLIS: The Board was in receipt of a out-of-turn hearing for Mr. W. H. Ellis. It was the consensus of the Board to grant the request and the hearing was scheduled for December 2, 1980.

//

Page 75, October 21, 1980, After Agenda Items

CALVIN O. & LINDA S. COX: The Board was in receipt of a request from Mr. Calvin Cox for a six month extension of variance V-226-79 granted by the BZA on October 23, 1979. Mr. Hyland moved that the Board grant a six month extension. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

// There being no further business, the Board adjourned at 11:05 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on May 25, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: June 8, 1982

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 28, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:30 A.M. and Mr. Covington led the prayer.

The Chairman called the scheduled 10 o'clock case of

10:00 A.M. KEYSTONE FINANCIAL & SERVICE CORPORATION, appl. under Sect. 18-401 of the Ord. to allow subd. into 45 lots & parcels with proposed lot 8 having width of 12 ft. & proposed lots 29 & 30 each having width of 6 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 334 Seneca, 400 Seneca & 444 Seneca, Canterwood Subd., 2-4((1))1, 2 & 4, Dranesville Dist., R-E, 71.44 acres, V-80-D-145. (Deferred from September 16, 1980 for decision of full Board.)

Chairman Smith stated that the variance had been deferred for decision only and inquired if the Board was prepared to make a decision. Mr. DiGiulian informed the Chairman that the BZA was in receipt of a letter in support and a letter in opposition which had been received after the last public hearing.

Mr. Howell Simmons of Vienna Virginia informed the Board that there was some opposition at the hearing which wanted an opportunity to be heard. He stated that he had received some letters in opposition. He had obtained 18 signatures in favor of the variance application. Chairman Smith stated that there were 8 letters in the file in opposition to the request. Chairman Smith stated that the letters would be taken into consideration but he indicated the main factor was the hardship. He inquired if Mr. Yaremchuk had had an opportunity to review the tapes and the file and whether he would have any objection to anyone else speaking. Mr. Yaremchuk stated that he was familiar with the variance request. He did not object to anyone speaking.

Mr. Michael Tuey of 225 Seneca Road thanked the Board for an opportunity to speak in opposition to the variance request. He stated that the BZA should have received a letter from the Great Falls Civic Association which adopted the resolution of opposition. One point of opposition being that the proposed lots 8 & 13 could be combined into one 4 acre parcel which would not deprive the owner of the reasonable use of the land and would alleviate the need for the pipestem. Lots 23, 30 & 31 could be redrawn into larger lots according to Mr. Tuey. He asked if Canterwood Lane could be developed to provide for other traffic on Seneca Road. He stated that the irregular nature of the property was due to the soil. Mr. Tuey stated that the applicant was trying to maximize the development which violated the standards of a variance. He indicated that the applicant had been compensated for the soil conditions by a reduction in the purchase price of the property. Mr. Tuey stated that he did not oppose the reasonable development of the property but he did oppose the fact that the request did not meet the requirements for a variance and would set a precedent for pipestem lots. He stated that this was not in conformance with the Comprehensive Plan.

Mr. Tuey stated that the applicant was holding a hammer over the heads of the other residents in that he would extend Canterwood Lane and allow them to use it if they approved his subdivision. He questioned why the applicant would want to help other developments. Mr. Yaremchuk stated that the extension of streets was required by the Subdivision Control Ordinance. He stated that the applicant would be required to extend the street. If the applicant did not extend the street, he would be in violation of the Ordinance.

During rebuttal, Mr. Simmons stated that the applicant had some alternatives as to what he could do with the property if the variance were not granted. Mr. Tuey stated that the applicant had not shown the need for a variance. Mr. Simmons directed the Board's attention to a plat containing 9 five acre lots outlined in green which were not under Subdivision Control. An area in light brown contained 32 two acre lots under Subdivision Control. Mr. Simmons stated that the Master Plan called for .2 to .5 dwelling units per acre. He stated that the proposed density for the development was at .33 which was well within the Master Plan. Mr. Simmons stated that the heavy squares marked on the plat were the unusual constraints of the property. The blue islands were the areas suitable for septic because of the topography. Mr. Simmons stated that they had requested a variance for proposed lots 8, 29 & 30. He stated that the dark brown line was the alternative for the applicant. He stated that they could take the road up to the north where the citizens did not want it. Mr. Simmons stated that he did not consider the suggestion of combining two lots into one lot to be a viable alternative. Mr. Simmons stated that the proposed development had 45 lots out of a maximum of 67 allowed. There were three letters in the file suggesting that it be allowed more yield. Mr. Simmons stated that it was a hardship to construct more road which would require more tree removal and more ground subject to siltation as well as a hardship of another access from Loudoun County. There was a project in Loudoun on the north and west of the proposed site. Mr. Simmons requested the BZA to grant the variance for lots 8, 29 and 30 because of the hardship of additional tree removal and ground subject to siltation and the hardship to future residents.

In response to questions from the Board, Mr. Simmons stated that the preliminary plan had been submitted to the County and that Section I was in bonding.

Page 77, October 28, 1980 Board of Zoning Appeals
KEYSTONE FINANCIAL & SERVICE CORPORATION

RESOLUTION

In Application No. V-80-D-145 by KEYSTONE FINANCIAL & SERVICE CORPORATION under Section 18-401 of the Ordinance to allow subdivision into 45 lots & parcels with proposed lot 8 having width of 12 ft. & proposed lots 29 & 30 each having width of 6 ft. (200 ft. minimum lot width required by Sect. 3-E06) on property located at 334 Seneca, 400 Seneca & 444 Seneca, tax map reference 2-4((1))1, 2 & 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 October 28, 1980; 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 71.44 acres.
4. That the applicant's property has exceptional topographic problems and is constrained by the location of soils suitable for septic fields.

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 18 months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 77, October 28, 1980, Scheduled case of

10:10 A.M. TONY HUERTA, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 4.9 ft. from side lot line (7 ft. min. side yard req. by Sect. 3-307 & 2-412), located 8255 Toll House Rd., Chapel Square Subd., 70-2((7)) 133, Annandale Dist., R-3, 17,569 sq. ft., V-80-A-144. (Deferred from September 16, 1980 for decision of full Board.)

Mr. Huerta informed the Board that his wife had previously attended the hearing and presented the variance. There had been a question as to whether if the chimney stuck out 2 ft. as to whether a vehicle could be parked in the carport. Mr. Huerta stated that the carport would improve his property. He stated that it would be a hardship if the variance were denied. Without a variance, Mr. Huerta stated that he could build a carport but he would not be able to pull the car in all the way. He stated that in order for the carport to be usable and in order to be able to have a utility shed, he needed the variance.

Page 77, October 28, 1980 Board of Zoning Appeals
TONY HUERTA

RESOLUTION

In Application No. V-80-D-144 by TONY HUERTA under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 4.9 ft. from side lot line (7 ft. min. side yard required by Sect. 3-307 & 2-412) on property located at 8255 Toll House Road, tax map reference 70-2((7))133, County of Fairfac, Virginia, Mr. Yaremchuk moved that the Board of Zoning Appeals adopt the following resolution:

RESOLUTION

078

WHEREAS, the captioned application has been 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 28, 1980; 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 17,569 sq. ft.
4. That the applicant's property has an unusual condition in the location of 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 strudture indicated on the plats included with this application only, and is not transferable to other land or to other structures on the same land.

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 78, October 28, 1980, Scheduled case of

10:20 A.M. BERRYLAND DEVELOPMENT COMPANY, appl. under Sect. 18-401 of the Ord. to allow subd. into 41 lots, 18 of which are proposed as cluster & 23 as conventional such that proposed conventional lots, 1, 5, 14, 19, 20, 31, 32, 35, 36 & 40 would have widths of 20 ft., 12 ft., 44 ft., 6 ft., 96 ft., 12 ft., 6 ft., 6 ft., & 108 ft. respectively (150 ft. min. lot width req. by Sect. 3-106), located South Quadrant of Clifton Rd. & Ox Rd., Canterberry Estates Subd., 87-1((1))27 & 87-4((1))1, Springfield Dist., R-1, 67.86 acres, V-80-S-146. (DEFERRED FROM SEPTEMBER 16, 1980 FOR DECISION OF FULL BOARD.)

Mr. Yaremchuk informed the Board that he had an opportunity to review the file and tapes of the previous hearing and was prepared to participate in the decision. Mr. Howell Simmons, an engineer in Vienna, represented the applicant. He stated that the justification for the requested variances was similar to the case of Canterwood. Mr. Simmons presented the Board with a plat with shaded lots for the area under consideration. There was 67 acres zoned R-1 which would allow 67 building lots. Mr. Simmons stated that they proposed 41 building sites on the 67 acres. The density would be 1.6. Mr. Simmons stated that the preliminary plan had been submitted to the County and had been approved.

Mr. Hyland stated that the Comprehensive Plan indicated that this proposal exceeded the density as to the master plan but not as to the existing zoning.

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

RESOLUTION

In Application No. V-80-S-146 by BERRYLAND DEVELOPMENT COMPANY under Section 18-401 of the Zoning Ordinance to allow subdivision into 41 lots, 18 of which are proposed as cluster & 23 as conventional such that proposed conventional lots 1, 5, 14, 19 20, 31, 32, 35, 36 & 40 would have widths of 20 ft.; 12 ft.; 44 ft.; 6 ft.; 6 ft.; 96 ft.; 12 ft.; 6 ft.; 6 ft.; & 108 ft. respectively (150 ft. minimum lot width required by Sect. 3-106) on property located at South Quandrant of Clifton Road and Ox Road, tax map reference 87-1((1))27 & 87-4((1))1,

RESOLUTION

County of Fairfax, Virginia, Mr. Hyland 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-1.
3. The area of the lot is 67.86 acres.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of soils suitable for septic.

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 eighteen months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 79, October 28, 1980, Scheduled case of

10:30 A.M. POOR SISTERS OF ST. JOSEPH, appl. under Sect. 3-303 of the Ord. to amend S-55-77 for child care center to change ages of children to 2 - 6 years, located 4319 Sano St., 72-2((1))20, Mason Dist., 4.81933 acres, R-3, S-80-M-078.

The representative from the child care center informed the Board that the only change being requested was in the ages of the children attending the center. The present special permit allowed children between the ages of 3 to 5 and they now wanted the ages changed to 2 to 6.

Chairman Smith stated that the original permit did not have any time limit. He suggested that the Board only amend the condition relating to the ages of the children.

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

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-M-078 by POOR SISTERS OF ST. JOSEPH under Section 3-303 of the Fairfax County Zoning Ordinance to amend S-55-77 for child care center to change ages of children to 2 to 6 years on property located at 4319 Sano Street, tax map reference 72-2((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 October 28, 1980; 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-3,
3. That the area of the lot is 4.81933 acres.
4. That compliance with the Site Plan Ordinance is required.

RESOLUTION

080

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of children shall be 59, ages 2 years through 6 years.
8. The hours of operation shall be dawn to dark, Monday through Saturday.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 80, October 28, 1980, Scheduled case of

10:45 A.M. ROY & LINDA K. O'BRYAN, appl. under Sect. 18-301 of the Ord. to appeal decision of the Zoning Administrator as of August 21, 1980 denying subd. of parcel under Sect. 2-403, located 1051 Swinks Mill Rd., 21-3((1))30A, Dranesville Dist., R-1, 1.503 acres, A-80-D-011.

As the required notices were not in order, the Board deferred the appeal until November 25, 1980 at 11:30 A.M.

//

Page 80, October 28, 1980, After Agenda Item

ST. JOHN NEUMAN'S CATHOLIC CHURCH: The Board was in receipt of a request from Mr. William E. Donnelly for an out-of-turn hearing on the special permit application of St. John Neuman's Catholic Church for a parish hall. It was the consensus of the Board to grant the request and the hearing was scheduled for December 2, 1980.

//

Page 80, October 28, 1980, After Agenda Item

LEGAL OPINION: The Board was in receipt of a legal opinion from the County Attorney regarding readvertising of BZA hearings when there is not a quorum. After reviewing the memorandum, Mr. Hyland moved that the Board ask the County Attorney to meet with them to discuss it. Mr. DiGiulian seconded the motion and it passed unanimously.

//

Page 81, October 28, 1980, After Agenda Item

MAURICE BART: The Board was in receipt of a request from Mr. Joseph W. McClellan of William H. Gordon Associates, Inc. for an extension of the variance, V-23-79 granted to Maurice Bart on November 20, 1979. Mr. DiGiulian moved that the extension be granted for a period of three months. Mr. Yaremchuk seconded the motion and it passed unanimously.

//

Page 81, October 28, 1980, Scheduled case of

11:20 A.M. J. C. RICHARDSON, JR., appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport to garage addition to dwelling 12.3 ft. from side lot line such that total side yards would be 20.3 ft. (total min. of 24 ft. side yard req. by Sect. 3-207), located 4156 Elizabeth La., Truro Subd., 58-4((21))67, Annandale Dist., 12,899 sq. ft., R-2(C), V-80-A-167.

Mr. James Richardson of 4156 Elizabeth Lane informed the Board that the justification for his request was that he wanted to protect his property. He stated that within the first month of living at the property, his son's bicycle was stolen and his car was vandalized. Mr. Richardson stated that by enclosing his carport into a garage, it would also add protection from the weather. He stated that the majority of the homes in his subdivision had garages. Mr. Richardson stated that the original owners had traded additional basement space for the garage. Mr. Richardson stated that he did not intend to add to the bulk of the home. The concrete slab was already in place and he only wanted to put on matching siding.

Mr. Richardson stated that his lot was irregularly shaped and that if his home had been located differently, he would not have needed a variance. Mr. Richardson stated that only one corner of the garage would require a variance. He stated that he met the minimum 8 ft. side yard for the zone but did not meet the total overall side yard setback.

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

Page 81, October 28, 1980 Board of Zoning Appeals
J. C. RICHARDSON

R E S O L U T I O N

In Application No. V-80-A-167 by J. C. RICHARDSON, JR. under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport to garage addition to dwelling 12.3 ft. from side lot line such that total side yards would be 20.3 ft (total minimum of 24 ft. side yard required by Sect. 3-207) on property located at 4156 Elizabeth Lane, tax map reference 58-4((21))67, County of Fairfax, Virginia, Mr. Hyland 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 28, 1980; 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 12,899 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 converging property lines.

AND, WHEREAS, the Board of Zoning Appeals had 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.

RESOLUTION

082

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 82, October 28, 1980, Scheduled case of

11:30 A.M. ALEXANDER COMNINIDIS, appl. under Sect. 18-406 of the Ord. to allow 10 ft. high shed to remain 0.9 ft. from rear lot line & 0.8 ft. from side lot line (10 ft. min. rear yard & 12 ft. min. side yard req. by Sects. 3-307 & 10-105), located 4101 Conrad Rd., Parklawn Subd., 61-4((6))(5)13, Mason Dist., R-3, 11,525 sq. ft., V-80-M-168.

Mr. Harold Gattsek, an attorney at law practicing in Annandale, represented the applicant. He informed the Board that Mr. Comninidis had purchased his home in 1972. There was a shed at the existing location at that time. Mr. Gattsek stated that when Mr. Comninidis applied for a permit to replace the shed and to add a porch onto his home, he was allowed to repair the shed.

Mr. Gattsek stated that Mr. Comninidis was the proprietor of the Iron Skillet restaurant at Baileys Crossroads. He hired some people to repair the shed who informed him that it was beyond repair. Mr. Comninidis instructed that the shed be replaced with wood. Mr. Gattsek stated that some time later, Mr. Comninidis was informed that the shed was in violation of the Code because of its height.

Mr. DiGiulian inquired if the shed was completed now and whether the present shed was the same dimensions as the original shed. Mr. Gattsek responded that the shed was the same dimensions except for the height. Mr. DiGiulian stated that the plat showed the shed to be in a drainage easement. Mr. Gattsek stated that it was his understanding that the drainage easement was granted before the subdivision plat some 25 years ago. He stated that there is no underground pipes. Mr. Gattsek stated that the shed did not interfere with the flow of water. In addition, Mr. Comninidis had executed a hold harmless agreement with the County.

In response to further questions from the Board, Mr. Gattsek stated that the contractor according to the bills paid was Mr. Lippis. Chairman Smith inquired as to whether he was licensed and Mr. Gattsek stated that he was not sure. Chairman Smith stated that the permit was to repair the shed and not to replace it. Mr. Gattsek stated that Mr. Comninidis had a licensing problem in that he misunderstood his authority from the County. Mr. Gattsek stated that the original shed was 7 ft. high and the present one was 10 ft. high.

Mr. Covington advised the Board that a shed 7 ft. or under could go anywhere in the rear yard. If the shed was over 100 sq. ft., a building permit was required. Ms. Day stated that there was only a 3 ft. difference as far as the height of the shed.

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

RESOLUTION

WHEREAS, Application No. V-80-M-168 by ALEXANDER COMNINIDIS under Section 18-406 of the Fairfax County Zoning Ordinance to allow a 10 ft. high shed to remain 0.9 ft. from rear lot line and 0.8 ft. from side lot line (10 ft. minimum rear yard & 12 ft. minimum side yard required by Sections 3-307 & 10-105) on property located at 4101 Conrad Road, tax map reference 61-4((6))(5)13, 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 28, 1980; 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.

RESOLUTION

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:

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 1 (Mr. Smith).

Page 83, October 28, 1980, Scheduled case of

11:40 A.M. MICHAEL W. MUELLER, appl. under Sect. 18-401 of the Ord. to allow extension and enclosure of existing carport to 14.1 ft. from side lot line such that total side yards would be 36.5 ft. (12 ft. min. but 40 ft. total min. side yard req. by Sect. 3-107), located 12510 Northern Valley Ct., Southfield Subd., 35-4((2))10, Centreville Dist., R-1(C), 23,703 sq. ft., V-80-C-169.

Mr. Michael Mueller informed the Board that he applied for a variance in order to enclose the carport with a rear extension. He stated that his lot was irregularly shaped with converging lot lines. He stated that the placement of the house in the rear of the lot was mainly because of the septic fields in his front yard. Mr. Mueller stated that if the location of his house had been different, a variance would not be necessary. Mr. Mueller stated that his only other alternative was rejected because he would have to have a free-standing garage without any protection from the elements. Mr. Mueller stated that any other location attached to his house would block windows and doors and would eliminate the deck and would require the removal of the electrical outlet and air conditioner. Mr. Mueller stated that the enclosure of his carport would not detract from the area and would increase the value of the property.

Mr. Mueller pointed out to the Board that the distance to the nearest lot would be 14 ft. He stated that his property was on public water. There was a chimney extension of 24"x24" in the carport. In addition, there was also a stairwell 45" wide and 48" long. Mr. Mueller stated that his carport was quite narrow being only 19 ft. He stated that most garages were at least 22'x24'.

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

RESOLUTION

In Application No. V-80-C-169 by MICHAEL W. MUELLER under Section 18-401 of the Zoning Ordinance to allow extension and enclosure of existing carport to 14.1 ft. from side lot line such that total side yards would be 36.5 ft. (12 ft. minimum but 40 ft. total minimum side yard required by Sect. 3-107) on property located at 12510 Northern Valley Court, tax map reference 35-4((2))10, 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 28, 1980; 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(C).
3. The area of the lot is 23,703 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property.

RESOLUTION

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 84, October 28, 1980, Recess

At 11:45 A.M., the Board recessed for lunch. The Board reconvened at 12:45 P.M. to continued with the scheduled agenda.

//

Page 84, October 28, 1980, Scheduled case of

11:50 A.M. DALE E. & LOIS H. KRUSCHKE, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 8 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307 & 10-105), located 8704 Plymouth Rd., Plymouth Haven Subd., 111-2((3))32, Mt. Vernon Dist., R-3, 23,400 sq. ft., V-80-V-170.

Mr. Dale Kruschke of 8704 Plymouth Road stated that the primary justification for the variance was the narrow lot width. He stated that he had over one-half acre but it was only 78 ft. i width. Mr. Kruschke stated that with regard to accessory structures other than sheds in the Plymouth area, seven lots did not meet the current zoning regulations. Mr. Kruschke stated that his request was not a deviation but in keeping with the norm in the development. Mr. Kruschke stated that his proposed location would eliminate the need to haul fill to level the site. It would eliminate and preclude any drainage. He stated that he had talked with his neighbors on the side and they supported his variance. In response to questions from the Board, Mr. Kruschke stated that he had owned the property for six years.

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

Page 84, October 28, 1980 Board of Zoning Appeals
DALE E. & LOIS H. KRUSCHKE

RESOLUTION

In Application No. V-80-V-170 by DALE E. & LOIS H. KRUSCHKE under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 8 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307 & 10-105) on property located at 8704 Plymouth Road, tax map reference 111-2((3))32, County of Fairfax, Virginia, Mr. Hyland 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 28, 1980; 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 23,400 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow and the lot is also a substandard lot.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 85, October 28, 1980, Scheduled case of

12:00 NOON A. G. VAN METRE & MT. VERNON TENNIS WORLD, INC., appl. under Sect. 18-401 of the Ord. to allow change of commercial recreation use within building which is 24.7 ft. at the nearest point from an R District (100 ft. min. setback for such bldg. req. by Sect. 8-503), located 7952 Audubon Ave., Gum Springs Subd., 101-2((1))14, Lee Dist., C-8, 128,066 sq. ft., V-80-L-174.

&

Mr. J. J. Pecorak of the A. G. Van Metre Corporation stated that the justification for the variance was that this was an existing structure. By virtue of the special permit application to put in racquetball courts, a variance was necessary. Mr. Pecorak stated that the structure was existing and not movable and had been in existence since 1972. Mr. Pecorak stated that it would cost a substantial sum to move the structure in order to satisfy the requirements.

Chairman Smith stated that the applicant had reasonable use of the property and wanted to know what was the hardship. He stated that just the mere fact that the applicant wanted to withdraw the tennis courts did not mean that he did not have reasonable use of the building at the present time. Mr. Pecorak stated that under the existing special permit, they did have reasonable use of the property. However, the amendment of the new special permit would require them to meet the current standards. Mr. Pecorak stated that there was no way to move the building. Chairman Smith inquired as to the hardship and Mr. Pecorak replied that he had told the Board what he knew. He stated that he had been assisted by a gentleman in the Zoning Office who informed him that a variance was necessary.

Mr. Hyland stated that although the variance application set forth the reasons for the request, he inquired of the staff as to what had prompted the variance. Mr. Covington stated that the there was a Code requirement that the building be set back 100 ft. from all property lines. At the time the building was constructed, there was no setback requirement. Mr. Hyland clarified the situation by stating that the change of use required that the building meet all requirements and it did not meet the setback requirement.

Chairman Smith stated that Mr. Pecorak had not done his homework in giving the Board the details of the situation. Mr. Pecorak stated that he was not a professional and came before the Board as any citizen would have done. He stated that he was not well versed in the operations of the BZA.

086

Mr. Hyland related to Mr. Pecorak that the Board was only trying to elicit information from him as to the reasons why a variance was necessary and why the BZA should vary the requirements. Mr. Hyland inquired as to the justification for asking for a variance as the location of the building was obvious. Mr. Pecorak replied that it was a change of the commercial use of the building. He stated that it would be a hardship to move the building.

Chairman Smith stated that the original application had been properly filed under another Code. Mr. DiGiulian inquired as to when the building was constructed and was informed it had been constructed in 1973. Mr. DiGiulian stated that it had been built under a special permit at that time.

Mr. Covington stated that the applicant wanted to take one tennis court and replace it with one racquetball court. Chairman Smith stated that he was only trying to get certain information on the record regarding the variance request. Originally, the special permit had been filed under a Group 10 use. He stated that the applicant was only in violation because of a change in the Ordinance.

Ms. Day stated that the applicant was not providing more parking or additional courts. He only wanted to avoid moving the building so he had asked for a variance.

There was no one else 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-80-L-174 by A. G. VAN METRE & MT. VERNON TENNIS WORLD, INC. under Section 18-401 of the Zoning Ordinance to allow change of commercial recreation use within building which is 24.7 ft. at the nearest point from an R District (100 ft. minimum setback for such building required by Sect. 8-503) on property located at 7952 Audubon Avenue, tax map reference 101-2((1))14, 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 28, 1980; 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 128,066 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property in that the existing structure was built prior to the existing Zoning Ordinance yard requirements and the building conformed to Zoning Ordinance setback requirements at the time it was built.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

R E S O L U T I O N

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 2 (Messrs. Smith & Yaremchuk).

Mr. Yaremchuk stated that he could not support the variance as the applicant had not stated his case. He stated that the County had staff to assist the applicants and to help familiarize them with the Board's procedures. Mr. Yaremchuk stated that the applicant was not prepared and he could not vote for the variance.

Page 87, October 28, 1980, Scheduled case of

12:00 NOON MT. VERNON TENNIS WORLD, INC., appl. under Sect. 4-803 of the Ord. to amend S-43-72 for commercial tennis courts to replace one (1) tennis court with four (4) racquetball courts, located 7952 Audubon Ave., Gum Springs Subd., 101-2((1))14, Lee Dist., C-8, 128,066 sq. ft., S-80-L-085.

Mr. J. J. Pecorak stated that the Mt. Vernon Tennis World had four courts and they wanted to install four indoor racquetball courts. He stated that this was the first step in a major revitalization of the facility. Mr. Pecorak stated that they planned a major exterior upgrading as well as changes in the range of services inside the facility. He stated that the hours would remain the same which was from 6 A.M. to 11 P.M., seven days a week. He stated that the only major question was with regard to parking. He stated that by his calculations, 32 parking spaces were required for the courts. Including the employees would bring the required parking spaces to 36. Mr. Pecorak stated that they had 42 parking spaces available. He stated that they did not plan any major change in the number of employees.

In the letter of justification, Mr. Pecorak had indicated the daily traffic to be about 50 people per day. He stated that they anticipated an average of 75 to 100 people daily. On an hourly basis, it would average about 15 to 18 people at any one time. With employees, there would be approximately 22 people on the premises at any one time.

Mr. Hyland inquired if the nature of the use would change in any other way. Mr. Pecorak responded that it would not with the current special permit. He stated that if they intended any other changes, they would apply for another amendment to the special permit.

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-L-085 by MT. VERNON TENNIS WORLD, INC. under Section 4-803 of the Fairfax County Zoning Ordinance to amend S-43-72 for commercial tennis courts to replace one (1) tennis court with four (4) racquetball courts on property located at 7952 Audubon Avenue, tax map reference 101-2((1))14, 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 28, 1980; 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-8.
3. That the area of the lot is 128,066 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 on the application and is not transferable to other land.

RESOLUTION

088

2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. The hours of operation shall be 6:00 A.M. to 11:00 P.M., 7 days a week.

8. The number of parking spaces shall be 42.

9. All other limitations set forth in S-113-72 shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 88, October 28, 1980, Scheduled case of

12:15 P.M. LAKEPOINTE TOWNHOMES HOMEOWNERS ASSOCIATION, appl. under Sect. 3-803 of the Ord. to allow 2 community tennis courts, located behind extension of Lakepoint Dr., Lakepointe Subd., 78-1((1))pt. 6A, Annandale Dist., R-8, 1.86 ac., S-80-A-079.

Mr. Russell Rosenberger, an attorney located in Fairfax, represented the applicant. The application requested the right to construct two tennis courts within the property to be subdivided as Section VI of the Lakepointe Subdivision. The first phase of development would have 180 townhouses and the last phase would have 134 townhouses. Mr. Rosenberger stated that the construction of the two tennis courts would be in addition to the existing facilities. A swimming pool existed at the present time which had been proffered at the time of the rezoning in 1978.

Mr. Rosenberger stated that he felt the location of the facilities had been coordinated in such a way to make them accessible to the whole community. No lights were proposed for the two tennis courts at this time. Mr. Rosenberger stated that any requests for lights would come back to the Board. The facilities would be available to all 314 homes in the Lakepointe development.

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

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-A-079 by LAKEPOINTE TOWNHOMES HOMEOWNERS ASSOCIATION under Section 3-803 of the Fairfax County Zoning Ordinance to allow two community tennis courts on property located behind the extension of Lakepointe Drive, tax map reference 78-1((1))pt. 6A, 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 28, 1980; and

RESOLUTION

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-8.
3. That the area of the lot is 1.86 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be daylight hours.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 89, October 28, 1980, Scheduled case of

12:30 P.M. WEEKDAY SCHOOL, MT. VERNON UNITED METHODIST CHURCH, appl. under Sect. 3-403 of the Ord. to amend S-939-68 for school and child care center to permit increase in number of students from 60 to 90, change ages to 4 months through 5 years, & change hours of operation to 9:00 A.M. to 3:00 P.M., located 2006 Belle View Blvd., Belle Haven Estates Subd., 93-1((25))(4)14, Mt. Vernon Dist., R-4, 2.799 acres, S-80-V-089.

Mrs. Gloria Thompson of the Mt. Vernon United Methodist Church stated that the application had several errors in it which she needed to point out. Mrs. Thompson stated that they did not intend to open any school and this was not a child care center. She stated that this was a week day school operated for three hours per day. It was a parents day out program. Mrs. Thompson stated that they wanted to extend their hours on one day a week to be from 9 A.M. to 3 P.M. She stated that there was no way to have a full five day a week operation. She stated that she may not have made that quite clear in the application and in the written statement.

Mrs. Thompson stated that they examined the possibility of day care but determined that it would cost $28,000 to do so. The parents day out was not run by the church and there were no funds to provide day care. Mrs. Thompson stated that they were seeking the help of other churches as they wanted to serve the parents and provide good Christian care and recreation. Mrs. Thompson stated that they wanted to increase the number of children from 60 to 90 which had been approved by the Health Department. In addition, they wanted to expand the age range from four months to five years. Mrs. Thompson stated that they would also like to extend hours on one or two days a week.

Dr. Emmet Cox of 7035 Quander Road spoke in support of the application. He stated that the church fully supported the request and that it was a good school. He stated that the church would like to be able to be in a position to provide a service for the children in the community.

RESOLUTION

MR. DiGiulian made the following motion:

WHEREAS, Application No. S-80-V-089 by WEEKDAY SCHOOL, MT. VERNON UNITED METHODIST CHURCH under Section 3-403 of the Fairfax County Zoning Ordinance to amend S-939-68 for school and child care center to permit increase in number of students from 60 to 90; change ages to four months through five years and change hours of operation to 9:00 A.M. to 3:00 P.M., on property located at 2006 Belle View Boulevard, tax map reference 93-1((25))(4)14, 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 28, 1980; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on October 28, 1980; 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 2.799 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students shall be 90; ages 4 months through 5 years.
8. The hours of operation shall be 9 A.M. through 3 P.M., five days a week.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

12:45 P.M. MR. & MRS. CHARLES WILLIAM WAGNER, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 8 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 2780 Hill Rd., Oakcrest Subd., 47-2((3))521, Centreville Dist., R-1, 54,648 sq. ft., V-80-C-188.

091

Mr. Charles Wagner of 2780 Hill Road stated that he requested a variance to allow the conversion of a carport into a family room. He stated that due to the floodplain, the only feasible location was the proposed one. Mr. Wagner stated that he needed a double garage. It would house space for a freezer, tractor and a workbench. Mr. Wagner stated that this proposal would take maximum advantage of the structure and reduce cost. He stated that he had to build elsewhere, it would destroy mature maple trees and a lot of fill would be necessary. Mr. Wagner informed the Board that his house was built 25 years ago.

There was no one else 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-80-C-188 by MR. & MRS. CHARLES WILLIAM WAGNER under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107) on property located at 2780 Hill Road, tax map reference 47-2((3))521, 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 28, 1980; 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 54,648 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 had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 92, October 28, 1980, Scheduled case of

1:00 P.M. SERGASCO CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of addition to service station building to 7.0 ft. from rear lot (20 ft. min. rear lot req. by Sect. 4-507), located 2600 Sherwood Hall La., 102-1((7))(7)17B, Mt. Vernon Dist., C-5, 17,531 sq. ft., V-80-V-111. (Deferred from October 7, 1980 because Special Exception was deferred by Board of Supervisors.)

As the special exception had been deferred by the Board of Supervisors, the BZA deferred the variance application until December 2, 1980 at 10:00 A.M.

// There being no further business, the Board adjourned at 1:30 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on June 8, 1982

DANIEL SMITH, CHAIRMAN

APPROVED: June 15, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 4, 1980. The following Board Members were present: Daniel Smith, Chairman; John Yaremchuk; Gerald Hyland and Ann Day. (John DiGiulian was absent).

There was a meeting scheduled with the County Attorney before the scheduled 10 o'clock case. The meeting did not take place as there was not a full Board present.

The Chairman opened the meeting at 10:30 A.M. and Mr. Covington led the meeting in prayer.

Chairman Smith called the scheduled 10 o'clock case of:

10:00 A.M. JOHN D. BLUNT, appl. under Sect. 18-401 of the Ord. to allow subd. into 2 lots, one of which would have width of 20.21 ft. and the other a width of 62.68 ft. (80 ft. min. lot width req. by Sect. 3-306), located 2818 Bass Ct., Nine Oaks Subd., 102-3((7))2, Mt. Vernon Dist., R-3, 48,348 sq. ft., V-80-V-135. (Deferred from August 5, 1980 & September 23, 1980 for Notices.)

Mrs. Bernice Blunt of 2818 Bass Court stated that they were requesting a variance because of the lot configuration. Mrs. Blunt stated that there was not enough frontage for the lot and the Ordinance required a minimum of 80 ft. for each lot. She stated that they proposed to subdivide the parcel into two lots, one lot having frontage of 62.68 ft. and the other one with frontage of 20.21 ft. She stated that they had owned the property since 1976.

There was no one else to speak in support of the application. Mr. Hollin Edmonds of 8136 & 8140 Holland Road spoke at the hearing. He indicated that he was not opposing the variance but wanted to relay the information that Mr. & Mrs. Blunt had allowed a corner of his property to be covered and allowed a tree to fall on it. He stated that he wanted to be guaranteed that they would not destroy any more trees.

Mr. Hyland inquired as to what had happened to the property and Mr. Edmonds stated that it had been covered with dirt. He stated that dirt had been dumped on the corner pipe. He stated that he had it surveyed when he bought the property. One day he saw the peg and the next day he didn't.

Chairman Smith advised Mr. Edmonds that it was civil matter and that he would have to get together with the applicants and work it out. Mr. Edmonds stated that he had been told by Mr. Blunt to get the property surveyed and he would find the corner. In response to questions from the Board, Mr. Edmonds stated that he did not oppose the subdivision. There was no one else to speak in opposition.

During rebuttal, Mrs. Blunt stated that she was not aware of the tree or any dirt. She stated that Mr. Edmonds was the one who dumped the dirt and smoothed it out. She stated that she would meet with Mr. Edmonds to work out the problem.

RESOLUTION

In Application No. V-80-V-135 by JOHN D. BLUNT under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots, one of which would have width of 20.21 ft. and the other a width of 62.68 ft. (80 ft. minimum lot width required by Sect. 3-306) on property located at 2818 Bass Court, tax map reference 102-3((7))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 4, 1980; 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 48,348 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

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

094

RESOLUTION

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 eighteen months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 94, November 4, 1980, Scheduled case of

10:10 A.M. MILTON C. & JUDITH A. WONUS, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 0.2 ft. from edge of floodplain (15 ft. min. setback from edge of floodplain req. by Sect. 2-415), located 3724 Prince William Dr., Mantua Hills Subd., 58-4((15))128, Providence Dist., R-2, 22,761 sq. ft., V-80-P-171.

Mrs. Judith Wonus of 3724 Prince William Drive in Fairfax stated that they were seeking a variance because for 12½ years they had been juggling cars each time they went to work. Mrs. Wonus stated that after quite a bit of consideration, she and her husband had decided that they did not want to leave the neighborhood. She stated that there was not any room on the side of the house to construct a garage.

In response to questions from the Board, Mrs. Wonus stated that there was a 100 year floodplain running through the back of the property. Mrs. Wonus stated that they had been encouraged by the fact that a neighbor had applied for a variance to build a garage in the same area and it had been approved. She stated that they planned to use the same builder who constructed the neighbor's garage.

Chairman Smith stated that if the Board granted the variance, that the applicants would be building at their own risk. Mrs. Wonus stated that it was only going to be a garage. During the 12½ years she had lived at the property, they never had any water problem at all. She stated that the lot was very deep and it ran uphill. She stated that it would have to be a river in order to flood the property that badly.

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

Page 94, November 4, 1980 Board of Zoning Appeals
MILTON & JUDITH A. WONUS

RESOLUTION

In Application No. V-80-P-171 by MILTON C. & JUDITH A. WONUS under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 0.2 ft. from edge of floodplain (15 ft. min. setback from edge of floodplain required by Sect. 2-412) on property located at 3724 Prince William Drive, tax map reference 58-4((15))128, County of Fairfax, Virginia, Mr. Hyland 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 4, 1980; 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.

RESOLUTION

3. The area of the lot is 22,761 sq. ft.
4. That the applicant's property has a floodplain easement and sanitary sewer easement which limit the area to be used for construction purposes.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 95, November 4, 1980, Scheduled case of

10:20 A.M. LARRY K. BELLOS, appl. under Sect. 18-406 of the Ord. to allow deck to remain 13.5 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 9128 Home Guard Dr., Oaks at Signal Hill Subd., 78-2((16))450A, Annandale Dist., 9,096 sq. ft., R-3(C), V-80-A-172.

As the required notices were not in order, the variance was deferred until December 2, 1980 at 11:45 A.M.

//

Page 95, November 4, 1980, Scheduled case of

10:30 A.M. WALTER F. & JANICE R. KRUG, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 21.21 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-407), located 7603 Gaylord Dr., Annandale Terrace Subd., 71-1((15))53, Annandale Dist., 8,400 sq. ft., R-4, V-80-A-173.

Mr. Walter F. Krug of 7603 Gaylord Drive stated that he was requesting a variance of less than 4 ft. to construct a kitchen, dining room and family room on his house. The Code required a 25 ft. setback to the rear lot line. Mr. Krug stated that his was a growing family and they needed the extra space. The addition to the rear of the house was the most logical. He stated that they had considered moving but the financial hardship of losing a 7½% mortgage precluded it. Mr. Krug stated that his neighbors had gotten variances to build additions onto their homes.

Mr. Yaremchuk stated that the applicant had a shallow lot with only 100 ft. depth which was not normal for that area. He stated that the applicant had a hardship.

RESOLUTION

In Application No. V-80-A-173 by WALTER F. & JANICE R. KRUG under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 21.21 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-407), on property located at 7603 Gaylord Drive, tax map reference 71-1((15))53, County of Fairfax, Virginia, Ms. Day 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

096

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 4, 1980; 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 8,400 sq. ft.
4. That the applicant's property has exceptional topographic problems and the angle of the rear property line makes the variance necessary on the corner of the addition.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 96, November 4, 1980, Scheduled case of

10:40 A.M. TEYMOUR RUSHDI, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 26.3 ft. from front lot line & 5.5 ft. from side lot line (30 ft. min. front yard & 12 ft. min. side yard req. by Sect. 3-307), located 7804 Holmes Run, Holmes Run Acres Subd., 59-2((8))(5)7, Providence Dist., R-3, 10,800 sq. ft., V-80-P-176.

Mr. Teymour Rushdi of 7804 Holmes Run in Falls Church stated that his house was rather small as it only had one level. Mr. Rushdi stated that his family needed the additional space. He stated that the present dining room was really unusable because the front door goes into the dining room which made it more like a foyer. Mr. Rushdi stated that he wanted to keep all his property under cover. The washer and dryer were located outside. Mr. Rushdi stated that he had hired an architect to design the addition to make it consistent with the other houses. Mr. Rushdi stated that his back yard was heavily wooded. The front of the house was the most logical place for the additions. Mr. Rushdi stated that his property had a water problem. He indicated that he had shown his plans to the neighbors and had received endorsements from them. Mr. Rushdi stated that the addition would increase the value of his property and would be consistent with the contemporary style of the other homes in the area.

In response to questions from the Board, Mr. Rushdi stated that the structure would be frame and would be the same height as the existing house. He stated that the addition would blend in and the inside of the addition would look like a part of the house. Mrs. Day inquired as to what the addition would be facing on the side of the property. Mr. Rushdi stated that it would face another closed in addition. He stated that the neighbor did not object and had signed an endorsement.

Mr. Sherman, the contractor for Mr. Rushdi, spoke in favor of the application. He stated that he was an engineer and that many of the lots in the area had the same problem as far as drainage. He stated that the addition would replace a carport and would eliminate the drainage. He stated that he was putting in french tiles and would distribute the water to the back of the lot so it would not be a problem for anyone. He stated that the property was very low and it caught water in the middle of the lot. Mr. Sherman stated that the addition would improve the drainage more than anything else.

Chairman Smith stated that most of the lots in the area were very small and had carports. He stated that he did not know how many carports were enclosed. He informed Mr. Rushdi that this was a general condition for the area.

Page 97, November 4, 1980
TEYMOUR RUSHDI
(continued)

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

Page 97, November 4, 1980 Board of Zoning Appeals
TEYMOUR RUSHDI

RESOLUTION

In Application No. V-80-P-176 by TEYMOUR RUSHDI under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 26.3 ft. from front lot line & 5.5 ft. from side lot line (30 ft. minimum front yard & 12 ft. minimum side yard required by Sect. 3-307) on property located at 7804 Holmes Run Drive, tax map reference 59-2((8))(5)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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 4, 1980; 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 10,800 sq. ft.
4. That the applicant's property is exceptionally narrow in width.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 97, November 4, 1980, Scheduled case of

11:00 A.M. ST. MATTHEW'S UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit building addition to existing church and related facilities, located 8617 Little River Turnpike, Wakefield Forest Subd., 59-3((10))13-19 & 22-28, Annandale Dist., R-1, 5.321 acres, S-80-A-087.

Mr. Frank Grace, an attorney in Fairfax, represented the church. Mr. Grace stated that the church had a development plan in mind for several years. The church had been constructed in 1957 or 1958. There had been some additions in the 60s. He stated that they were now at the stage where they wanted to add a wing onto the west side of the property. It would be used for storage space, sunday school and a place for the Board of Directors and the community to meet. Mr. Grace stated that it was not anticipated that the addition would increase the utilization of the site. At the present time, the sunday school was meeting in the minister's study and in hallways. He stated that the addition should not add to any traffic congestion in the church.

Mr. Grace called the Board's attention to a statement that the seating capacity in the church was 400. Mr. Grace stated that a more accurate count was 280 seating capacity. He stated that the church had two services, one at 9 A.M. and one at 11 A.M. He stated that there was a 30 minute span between services. He urged the Board to favorably consider the request.

Mr. Grace informed the Board that the reverend and the architect were present if there were any questions. Chairman Smith inquired about the trail. Mr. Grace stated that the church had been contacted several months ago and presented an offer by the County to purchase an easement for the bike trail. Mr. Grace stated that the church functioned through its Board of Directors and the ruling body met with the representatives of the County. Mr. Grace stated that what he understood to have occurred was that the plan of the County called for the bike trail to go down Rt. 236. to Wakefield Drive and then it was to cut south on Virginia Avenue and then left on Wakefield Chapel Drive. Mr. Grace stated that there was a major concern over the leasing of the right-of-way because of the church's future plans for construction. Mr. Grace stated that the church had some drawings of its master plan which had been prepared back in the 60s which called for additional construction on the east side of the property. A sanctuary was to be construction on the eastern part of the building. The plan called for a circular drive off of Wakefield Drive. The bike trail would intersect the driveway which was the main entrance . Mr. Grace stated that for safety reasons, the church felt it was not a good route for the bike trail to take.

Mr. Grace stated that if the bike trail was going to depart from Rt. 236, there was a much more feasible route. He suggested that the trail depart from Rt. 236 at the northwest corner of the church property and go south to Virginia Avenue and then left behind the church property. However, he stated that this plan was not acceptable to the County.

Mr. Jeff Saxe of the County staff stated that the adopted trail plan called for a trail from the Fairfax City line to Annandale. The County had constructed the trail to Iva Lane which ended at that point. He stated that they would like to build the trail across the church property and use the existing right-of-way into the community college and back up to Rt. 236. The County had been interested in paying for the easement since early spring. Mr. Saxe stated that the County had been interested in the bike trail for some time but it was only recently that it had the funds. Mr. Saxe stated that they felt that the bike trail could be required under the Site Plan Ordinance and the County would no longer be required to pay for it.

Chairman Smith stated that the County had addressed the question of rerouting the trail and he inquired of Mr. Saxe as to the intent. Mr. Saxe stated that the original intent was to construct the trail along Rt. 236. It was decided for citizen safety that the trail should turn inward east of the church property and continue on Virginia Avenue. He stated that the construction of the trail would be along Rt. 236 to the church property and end up at Virginia Avenue as it was a much safer route.

Chairman Smith stated that it seemed like a reasonable request to him as as the County had waived the requirement for the sidewalk. Mr. Yaremchuk inquired if the sidewalk could be required under the Site Plan Ordinance and was informed that it could. Mr. Yaremchuk inquired if the County was going to trade the sidewalk for the bike trail. Mr. Saxe stated that the Site Plan Ordinance stated that trails may be required.

Mr. Hyland stated that the representative of the church had indicated that the placement of the trail would present a conflict as to the future use of the church property. Mr. Hyland inquired if there was any way that the needs and desires of the church could be accommodated. Mr. Saxe stated that he had explained to the church that the County setback went from the edge of the property line not from the edge of the easement. He stated that the only way the church's plans would be affected was if they were trying to put in parking right up to the property line. Mr. Saxe stated that the trail would not influence the church plans at all. Mr. Hyland stated that the bike trail would cross the ingress and egress of the circular driveway at two points.

Chairman Smith stated that several years ago the church had been to the BZA for a parking lot and there had been a lot of discussion about Rt. 236 at that time. He stated that he thought the ingress and egress for the church at Rt. 236 had been disposed of when the sidewalks were waived by the County. Chairman Smith stated that he thought the church wanted to use the other side of the property. He stated that if the church decided to develop the property from Rt. 236, they would have to put in the sidewalk. Mr. Grace stated that the church no longer intended to enter from Rt. 236. The church did have an entrance from Wakefield Drive and from Virginia Avenue at the back of the property. Mr. Grace stated that the church position was simple. If the trail had to depart from Rt. 236, it was more realistic to have it follow the western boundary line of the church property. The only difference between the County proposal and the church proposal was one block. Mr. Grace stated that sidewalks would be improvement but there would not any other sidewalks along Rt. 236. He stated that if the church was being asked for a trade from a sidewalk to a trail, they felt that it would not be any real inconvenience for the County to go down one more block.

With regard to the County purchasing the right of way for the trail, Mr. Grace informed the BZA that the church would have been required to pay for the paving. He stated that the church was being treated as a commercial operation.

Mr. Yaremchuk stated that a long time ago churches were not under Site Plan Control. He stated that the churches have to fit into the community and had to have continuity. He stated that he understood that churches were non-profit. Mr. Yaremchuk inquired of the staff as to whether the question of the service drive had ever been resolved. Mr. Saxe stated that the church had received a waiver from the Board of Supervisors in 1976.

Mr. Hyland stated that he had several questions for the staff. He stated that if the Board had not required the trail along Rt. 236 and across the property on Wakefield, what would the County do in connection with the bike trail. Mr. Saxe stated that the County would extend the bike trail from Iva Lane to Prosperity Avenue and stop it there. He stated that the County would probably not pursue the construction of the bike trail to the side of the community college.

Mr. Hyland stated that if the trail was constructed along the church property, when would it be built. Mr. Saxe responded that it would be constructed in FY'81. He stated that the trail had been designed and could be under construction within six to nine months. Mr. Hyland inquired as to when the addition to the church was to be built. Mr. Grace responded that the church hoped to have the drawings to the church staff within the next two weeks. He stated that the church would like to begin construction as soon as possible and possible could begin right after the first of the year. Mr. Grace stated that he did not speak for the church. If the BZA required the trail, Mr. Grace understood that the County had the money to pay for it. Mr. Saxe stated that the trail would be constructed at the church's expense. Mr. Grace stated that six months ago, the church had been offered $8,000 for the right-of-way. He stated that the church had owned the property since 1956 or 1957.

Mr. Yaremchuk stated that he sympathized with the church but it had to fit into the community. Mr. Hyland stated that he understood Mr. Yaremchuk's position but if the church had not asked for a special permit, the County would have been prepared to construct the bike trail. However, when the special permit application came in, the rules changed. Now, the church was being asked to pay for the bike trail. Mr. Yaremchuk stated that the Board did not have to waive the service drive or the sidewalk. He stated that the County had bent over backwards to work with the church.

Mr. Hyland inquired as to what real difficulty or safety hazard for the church would be posed if the County was able to put the path along Wakefield Drive. Mr. Grace responded that as far as construction along Rt. 236, he could not see how the bike trail would be that dangerous. Mr. Grace informed the Board that the church did want to fit into the community. Mr. Grace stated that it was not the church who didn't want to construct the service drive. He stated that the church had signed an agreement. He stated that the County did not have any plans for the service drive. Mr. Grace stated that it was not the church who vacated the plans.

Chairman Smith stated that at such time as certain other things happened, the service drive would be constructed. He stated that the agreement was still in effect. Chairman Smith stated that he had been told at previous hearings that the church did not plan any access from Rt. 236. Everybody had been in agreement at that time that the waiver was in order. Chairman Smith stated that the church should grant the easement in order to facilitate the pedestrian traffic as well as the bike traffic. Chairman Smith stated that he could understand why the church had the argument with the County. The County had offered to purchase the easement.

Mr. Grace stated that he thought the County was being fair but asked that the church reconsider the County offer so that the bike trail could be resolved. Mr. Grace stated that the County had stated that it would not reconsider its offer and that the church was going to pay for the trail. Chairman Smith stated that the both parties should try to come to an agreement as the BZA did not want to have to turn down the church's request for the addition. Chairman Smith stated that he would like to see the bike trail go in.

Mr. Grace stated that the church would abide by its agreements. He stated that the decision of the Board regarding the conditions of the easement was just as effective as a denial. He stated that the County had the money. Chairman Smith stated that the County could now require the church to put in the service drive and the sidewalks since it was constructing the addition. Chairman Smith stated that the church had had every consideration in the past and should try to cooperate in order to resolve the problem.

Mr. Hyland inquired as to the number of parking spaces and whether it was adequate. Mr. Grace stated that the parking was not adequate. The gravel area had not been changed but was dust free.

Dr. James Smith, a minister for 21 years, spoke in support of the church's application. He informed the Board that he was well aware of Fairfax County's qualifications in serving its people. He stated that the church was not asking for any special privileges. He stated that the church did not want build a sprawling facility. The proposed addition would be first class and would add to the community. Dr. Smith stated that the church's building plans were 20 years old. He stated that the church was not asking for any variances.

The County had decided that a service drive was not needed but a bike trail was. Dr. Smith stated that the church was more than willing to work with the County. He stated that the argument was not centered on Rt. 236 but on Wakefield Chapel Drive. The County proposed to forget about the trail along Little River Turnpike and have it go down Wakefield Chapel crossing the church entrance of 400 cars and people. Dr. Smith stated that this was a very serious matter. He stated that if the trail was constructed on church property, it became the responsibility of the church. Chairman Smith stated that was not the case as the bike trail would be constructed in the easement. Dr. Smith stated that the cars were the responsibility of the church.

Chairman Smith inquired if there was going to be any additional parking provided with the new addition. Dr. Smith stated that was the County's desire and not the church. He stated that when the church proposes to build the new sanctuary in three years it would be prepared to add more parking.

With regard to the bike trail, Dr. Smith stated that the inconvenience to the church was that the proposed area desired by the County was wooded. Dr. Smith stated that the County had not done its part. It wanted to come onto the church property for 35 ft. which was an abnormal request. Dr. Smith stated that there were not any trees along Virginia Avenue. He stated that if the bike trail were constructed there, one could go in a straight line and avoid the 35 ft. and avoid the main entrance of the church. Dr. Smith stated that if the Board insisted on having the bike trail along Rt. 236, the church would go to court or not build the addition at all. Dr. Smith asked that the County be reasonable.

Mr. Yaremchuk inquired if the other proposal would fit in with the County plan. Mr. Saxe stated that a 6 ft. width was necessary for the trail. Mr. Hyland informed Dr. Smith that if he had to make a motion, he would move that the special permit application for the addition be granted subject to the church giving the County an access along the front of Rt. 236 and providing that the County paid for the trail. Mr. Hyland inquired if the church could live with that motion. Dr. Smith stated that 90 days ago the County was willing to give the church $8,000 for the easement. The church board said no. Dr. Smith stated that there was not any new information which would make the church board say yes.

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

Mr. Hyland made a motion that the Board adopt the standard resolution with the six standard limitations on the form; and

7. That the seating capacity of the church was 280 persons.
8. The hours of operation would be normal church hours.
9. That a condition that the applicant be required to grant an easement along Little River Turnpike or Rt. 236 to Wakefield Drive across the church property as requested by the County; and further providing that such easement and the construction of the bike trail be at the sole expense of the County of Fairfax.

The motion FAILED for lack of a second.

Mr. Yaremchuk moved that the Board defer the matter for a period not to exceed 30 days. Chairman Smith stated that it was the desire of the Board to wait until the fifth Board member was present to participate in the decision. The matter was deferred for decision until approximately November 25, 1980.

//

Page 100, November 4, 1980, Scheduled case of

11:15 A.M. CLIFF LEE, appl. under Sect. 3-303 of the Ord. to permit arts and crafts gallery, located 1623 Chain Bridge Rd., Lewinsville Subd., 30-4((1))3, Dranesville Dist., R-3, 12,535 sq. ft., S-80-D-084.

Page 101, November 4, 1980
CLIFF LEE
(continued)

As the required notices were not in order, the special permit application was deferred until December 2, 1980 at 12:00 Noon.

//

Page 101, November 4, 1980, Scheduled case of

11:30 A.M. CONGREGATION OLAM TIKVAH, appl. under Sect. 3-101 of the Ord. to permit building and parking lot additions to existing synagogue & related facilities, located 3800 Glenbrook Rd., Sunny Hill Subd., 58-4((9))17A, 17B, 18A & 18B, Providence Dist., R-1, 4.5204 acres, S-80-P-086.

&

11:30 A.M. CONGREGATION OLAM TIKVAH, appl. under Sect. 18-401 of the Ord. to allow parking spaces for synagogue to 10 ft. from lot line of abutting residential uses (transitional screening 1, open space a min. of 25 ft. wide req. by Sect. 13-109), located 3800 Glenbrook Rd.,Sunny Hill Subd., 58-4((9))17A, 17B, 18A & 18B, Providence Dist., R-1, 4.5204 acres, V-80-P-175.

Mr. Richard Stahl, an attorney located at 4200 Daniels Avenue in Annandale, represented the synagogue. He stated that the improvements being sought were modest. It was the proposal of the synagogue to consolidate its facilities and to improve ingress and egress and parking. Mr. Stahl informed the Board that the synagogue was founded 10 years ago with ten families of limited needs. Since that time, the synagogue had grown. At present, the religious education program for the young people was being conducted in crammed spaces. Mr. Stahl stated that the young people wanted a place of their own.

Mr. Stahl stated that the synagogue wanted to maintain a facility for religious social functions. He stated that they were not unmindful of congestion on Glenbrook Road and proposed to add more parking. The present social hall was a one room facility that was two stories in height. Mr. Stahl stated that they proposed to make it into two floors and to consolidate the religious classes in that area. He stated that they did have a small house that was used for education but it would be reconverted into a residence and the custodian would live there. Mr. Stahl stated that the facility the custodian presently occupied would be converted for youth group activities.

Mr. Stahl stated that they had to replace the facility that was being converted for religious classes. They were seeking an addition of one floor, one story social hall for religious social functions and related activities. He stated that the addition would be in harmony with the existing structure.

Mr. Stahl stated that at present there was only one area that served as the ingress and egress for the synagogue. It was very unsatisfactory in view of the traffic. He stated that they proposed to use the existing road for ingress and then to create a new egress in a semi circle in order to have a better flow of traffic.

Mr. Stahl stated that they also wanted to increase the parking. At the present time, the parking met the County requirements; however, the synagogue needed additional spaces on occasions. Mr. Stahl stated that they proposed an increase in parking of 30%.

Mr. Stahl stated that the building program was very simple and modern. He stated that changes were never easy. As the synagogue grew, there were problems. He stated that they were aware that there was a drainage problem in the area. He stated that they would not be able to construct any facility unless it was approved by Design Review. Mr. Hank Gordon, a civil engineer, informed the synagogue that the drainage problem was solvable. He stated that the synagogue did not want to have a study made as it would cost a lot of money. Mr. Stahl stated that the County would resolve the problem at the time of site plan and the synagogue would correct the problem at that time.

Mr. Stahl informed the Board that the synagogue had met with a majority of the neighbors regarding the proposed changes. He stated that the problems and concerns differed. He stated that the synagogue had made an effort to deal with their concerns. Mr. Stahl stated that the synagogue wanted to be a good neighbor. One neighbor was concerned about the egress and the fact that light would shine directly into his home. Mr. Stahl stated that the neighbor lived directly across from the proposed egress on Glenbrook Road. He stated that the synagogue had offered to relocate the point of egress so that rather than hitting his home, it would hit some shrubbery. In addition, the synagogue had proposed to landscape that neighbor's property.

Another neighbor was concerned about the rubbish bins. Mr. Stahl stated that they would be moved and completely screened. It would not be an eyesore or offensive in any way. That neighbor was also concerned about the screening on the northwest end of the property. Mr. Stahl stated that the synagogue would continue the same type of screening and fencing along the northwest end. Mr. Stahl stated that would be a major improvement for the property. Mr. Stahl stated that there was a stockade fence which was no longer acceptable and would not be continued.

102

Along the southwest boundary of the property, the synagogue had sought a variance to put in parking. Mr. Stahl stated that the neighbors in that area were concerned about noise and lights. Mr. Stahl stated that the synagogue had fully considered their concerns and in the interest of community harmony and the loss of 25 parking spaces, the synagogue decided to withdraw the variance request.

Mr. Stahl stated that at the present time, there was a 10 ft. right-of-way on the western side of the property. There was a service road there and Mr. Stahl stated that the synagogue wanted to continue it. It had been in service since 1971. Mr. Stahl stated that it was road used for deliveries to the kitchen. Chairman Smith inquired if it was used for parking and Mr. Stahl stated that it was not used with the synagogue's consent.

With regard to the screening, Mr. Stahl stated that the synagogue had offered the neighbors on the south to place a pleasing fence within 5 ft. of the parking pavement. The screening would be 8 ft. hemlocks to be planted on the neighbor's side of the fence. Mr. Stahl stated that would make it more pleasing. Mr. Stahl stated that this arrangement would require the neighbor's approval as the Ordinance required the fence to be constructed on the property line. Mr. Stahl stated that the synagogue had made the offer to the neighbors in order to minimize the impact of the noise and lights.

Chairman Smith inquired as to what was the hardship for the parking with respect to the variance request. Mr. Stahl stated that the synagogue had withdrawn the variance request and the parking for 25 spaces. He stated that they were trying to maximize the parking to avoid the stacking problem that occurred occasionally. Mr. Stahl stated that they had functions that used all of the parking spaces and they were trying to take the parking problem or burden off of the neighbors. Mr. Stahl stated that by withdrawing the variance, they were losing 25 parking spaces. However, he stated that they might be able to make them up elsewhere.

Chairman Smith inquired if the asphalt area encroached on the side yard setback at the present time. Mr. Stahl stated that he was not certain but he believed it was 15 ft. from the property line. Mr. Stahl stated that the neighbors were concerned that the bigger the facility, the greater the use. Mr. Stahl stated that the synagogue was not actively recruiting members to expand the size of the congregation. He stated that the kinds of activities were not being increased. He stated that the activities are planned 2½ to 3 years in advance and are scheduled 2½ to 3 years in advance. Mr. Stahl stated that there were certain social amenities that have been scheduled up until 1982. He stated that they had established programs which would not change. There was Bingo on Sunday evenings with an average attendance of 70 persons. Mr. Stahl informed the Board that there was new synagogues in Reston, Sterling and Burke and he anticipated that their synagogue might lose some of its members. Mr. Stahl stated that there might be a drop in the membership.

In summary, Mr. Stahl informed the Board that Olam Tikvah was the largest conservative synagogue in Northern Virginia. The primary purpose of the addition was to meet the needs of the young people. Mr. Stahl stated that the impact was minimal. He stated that they had made an effort to deal with the neighbor's concerns.

Mr. Hyland inquired if there was a day care center operated on the property. Mr. Stahl responded that there was a nursery school program from 9 A.M. to 12 P.M. and from 1 P.M. to 3 P.M. He stated that there were no meals served. Mr. Stahl stated that there were 30 to 50 children in the nursery school program.

The Board recessed the meeting for lunch and reconvened it at 1:15 P.M. to continue with the hearing and to hear testimony from the opposition. Mr. Harry Shiavone of 9024 Denise Lane in Fairfax represented the citizens. He stated that he had lived in the area for 15 years. He presented the Board with a petition in opposition signed by the neighbors. Mr. Shiavone stated that there were several items that needed to be addressed.

Chairman Smith advised Mr. Shiavone that the variance application had been withdrawn. The only issue was to allow the roadway to remain. He stated that if it was used for parking, it would be in violation of the Ordinance. Mr. Shiavone stated that the area had been used for parking. Mr. Shiavone informed the Board that Mr. Harris, Mr. Cook, Mr. Montgomery and himself had met with the representatives of the synagogue. He stated that their concerns were made known to the synagogue. Mr. Shiavone stated that there was a noise problem with the cars, meetings and the children. He stated that there was a visual pollution problem. The property was unkept and not well taken care of. Mr. Shiavone stated that when the synagogue first went in, there was verbal discussion about plantings. He stated that what has been planted was done by the neighbors themselves to lessen the effect of the synagogue. Mr. Shiavone stated that there were light problems because of the car headlights. He stated that there was a lot of traffic coming and going late at night at the synagogue.

Page 103, November 4, 1980
CONGREGATION OLAM TIKVAH
(continued)

Mr. Shiavone stated that there was no animosity towards the synagogue. He stated that the synagogue was used as a community center for activities that ran seven days a week from 8 A.M. until evening. Mr. Shiavone stated that there were religious schools in the afternoon and evening with as many as 400 students. On Sundays, there were two shifts for the classes.

Mr. Shiavone stated that one of the biggest problems was the water. He stated that Mr. DiGiulian had surveyed the property previously and had noted the water problem on the plats. Mr. Shiavone stated that the parking had never been built originally because of the water. Mr. Shiavone stated that all the water drained onto property of 3730 Glenbrook Road. Mr. Shiavone stated that in 1971, the water problem had been reported to Design Review. Chairman Smith advised Mr. Shiavone that the water problem would have to be addressed by site plan as the BZA was not the proper forum. Mr. Hyland stated that there was memo in the file from Payne Johnson regarding the water drainage problem.

With regard to the traffic, Mr. Shiavone stated that prior to the hearing, the synagogue had an activity lasting until 1:30 A.M. He stated that on high holy days, more parking was needed. Mr. Shiavone stated that he had friends who were members of the synagogue and they were welcome to park in his driveway. Chairman Smith stated that it was illegal for the synagogue to park anywhere but on the site itself. Mr. Shiavone stated that Glenbrook Road was a narrow, dead-end street built like a roller coaster. It was an 18 ft. wide country road. He stated that the only other way to get to the synagogue was through Skybrook Subdivision which was seven one-block turns in order to reach the synagogue. Mr. Shiavone stated that there was a problem with the roads in the area.

Mr. Shiavone stated that another point was property depreciation. He stated that the neighbors wanted protection of their small community. He stated that the peak hours of rush traffic to the synagogue affected the salability of the houses surrounding the synagogue. Mr. Shiavone stated that it affected the sales by as much as 60%. Chairman Smith stated that the synagogue would not affect the price of the homes in the area. Mr. Hyland inquired if Mr. Shiavone had any documentation to substantiate the difference in property values. Mr. Shiavone stated that most of the neighbors had lived in the community since it was first established 15 years ago. He stated that it was not a transient area and the people wanted to stay.

With regard to the history of the synagogue, Mr. Shiavone stated that it was first established in a small house at a time when the County did not have any regulations regarding churches. It was established on a dead-end street. At the time the congregation was established, the neighbors were assured that it was a small congregation and that the property would only be used for a place of worship. It was established with 120 people. Later the synagogue was built for 300 people. Mr.Shiavone stated that the congregation was changing. The small addition proposed was almost double the existing facilities. Mr. Shiavone was concerned that there was bingo, dances, arts and crafts shows, etc. on the property which he did not feel were part of worshipping activities. Mr. Shiavone stated that because the synagogue did not come under a special permit in 1971 when it was constructed, the neighbors did not have any way of objecting to the use.

Mr. Yaremchuk stated that this was a good example of how because there were not controls that the synagogue was allowed to impact the community. Mr. Yaremchuk stated that the synagogue should have been established out on Rt. 236 like the Bethlehem Lutheran Church. Mr. Hyland stated that he did not believe the Board could correct past sins.

Mr.Shiavone informed the Board that the existing synagogue was a beautiful structure but it had become a problem within the last three years. He stated that there was not any communication between the synagogue and the community. Mr. Shiavone stated that he spent many hours and many dollars improving his property. Mr. Yaremchuk suggested that the community make the synagogue aware of the problems as they might not be aware of the problems.

Mr. Hyland stated that Mr. Stahl's testimony had indicated that there would not be an increase in the use of the activities on the property. In fact, Mr. Stahl believed that the number of people would decrease because of the new synagogues opening throughout the County. Mr. Hyland inquired of Mr. Shiavone as to what indicatation he had that the impact would increase. Mr. Shiavone replied that the synagogue formally advertised its activities throughout the metropolitan area. In addition, the letter from the synagogue to the surrounding neighbors had indicated that the congregation was growing. Mr. Shiavone stated that the synagogue sponsored Israeli dances; art auctions, etc. He stated that these activities took place every evening and Mr. Shiavone stated that the community could not take the pressure every day. Mr. Shiavone stated that he opposed the expansion because of the traffic

With regard to the road situation, Chairman Smith stated that there were many roads in Fairfax County just as bad as Glenbrook Road if not worse. Mr. Shiavone stated that there had not been any serious accidents to date.

The next speaker in opposition was Mr. Cecil Umberger of 9028 Denise Lane who presented the Board with some charts with respect to the proposed parking. Mr. Umberger was concerned that the open spaces would be used for parking. Chairman Smith stated that the synagogue would be prohibited from parking in the travel aisles. They could only be used for ingress and egress. Mr. Umberger informed the Board that the driveway was not 15 ft. from the property line. It was only 8 ft. and in some places it was 10 ft. Mr. Umberger stated that the driveway was used for parking. Mr. Umberger stated that Glenbrook Road was 18 ft. wide and was 7/10 of a mile long. Mr. Umberger reported that he attended Bethlehem Lutheran Church and they were required to provide a service drive. Chairman Smith stated that was required by Site Plan. The existing synagogue had been allowed on Glenbrook Road by right. Mr. Umberger stated that the existing structure was 13,000 sq. ft. He stated that he got the dimensions from the drawings of the synagogue's architect. The proposed addition was 6,520 sq. ft. Mr. Umberger stated that was a structure almost 50% bigger than the existing structure. In addition, the synagogue was planning to add a second floor in the existing structure. Chairman Smith stated that the synagogue was not large for the land area involved.

With regard to the parking, only 70 parking spaces were required by the County. Mr. Umberger stated that the synagogue was eliminating 24 or 25 parking spaces which would leave about 129 spaces. Mr. Umberger stated that there would still be a drainage problem. Chairman Smith stated that the County would address the drainage problem and improve the situation.

Mr. Umberger stated that his home was 40 ft. from the property line and he had a problem with the lights. The cars came into the parking lot and shone lights over the entire area. Chairman Smith stated that with proper screening, the lights would not shine. Mr. Umberger responded that if the fence came down like it was at the present time, the lights would shine through. Chairman Smith stated that the zoning office would enforce the problem with the lights.

Mr. Umberger stated that there were a lot of activities that were not church related. Chairman Smith inquired as to the type of activities and was informed that the synagogue had ski trips with diesel buses departing at 5:30 in the morning and returning at 11:30 or 12:30 at night. He further stated that the previous weekend a wedding had taken place until 12:30 at night and another occasion an arts and crafts show lasted until 11:30 P.M. Mr. Umberger stated that there were two lights on 30 ft. poles which disturbed his privacy as they shone onto his property. Mr. Umberger stated that the situation was only going to get worse as the congregation grew.

The next speaker in opposition was Mr. Thomas Harris of 9016 Denise Lane. He stated that his home was at the corner of Denise Lane and Glenbrook Road. He was concerned about safety as he had a five year old son. His next concern was the teen center which was located at the rear of his residence and which faced his neighbor's residence. Mr. Harris urged the Board not to allow the teen center. Chairman Smith inquired as to what basis it should not be allowed. Mr. Harris stated that there were environmental problems. Chairman Smith advised Mr. Harris that the Board had no right to restrict it. Mr. Harris then inquired if the teen center could be moved in some area on the property. Mr. Yaremchuk stated that the County couldn't solve all of the problems or concerns of the neighbors.

The next speaker in opposition was Mr. James Montgomery of 9101 Petros Court. He stated that he bordered 245 ft. of the synagogue property. The easement was entirely along his boundary line. Mr. Montgomery informed the Board that there was parking along the roadway and on the easement. The turnaround area was 8 ft. from his line. Mr. Montgomery stated that he was also concerned about the fact that when the two story school was built, the playground equipment would be moved into this area. Mr. Stahl stated that the playground was all movable equipment. Chairman Smith stated that the proposed playground was not shown on the plat and neither was the existing playground. Chairman Smith advised Mr. Stahl that the synagogue would need new plans and plats since they had changed their plans about the variance. He stated that the playground should be a part of the new plats. Mr. Hyland inquired if there was a proposal to move the playground and Mr. Stahl responded that the synagogue wanted to move it away from the cars. Mr. Montgomery informed the Board that he was afraid that the service drive would be used more and that the traffic would be increased with the additions to the synagogue.

The next speaker in opposition was Mr. Lou E. Cook of 3811 Glenbrook Road. He stated that some of the problems had already been discussed. He presented the Board with pictures. Chairman Smith advised Mr. Cook that the drainage problem would be addressed by the County. Mr. Cook stated that he was concerned about the proposed exit being used seven days a week as it was directly in front of his picture window. He stated that if the exit was moved, it would then shine into Mr. Rapavi's windows. Mr. Cook stated that if the exit was left where it was presently located, the carlights would shine over the top of the houses. Mr. Yaremchuk inquired as to how late cars came out of the entrance and Mr. Cook responded that it was late as 1:00 A.M. in the morning. Mr. Yaremchuk inquired as to how often this occured and Mr. Cook replied it occurred everyday. Mr. Cook stated that most of the late night activities occurred on Saturday and Sunday nights every week.

The next speaker in opposition was Steve Halbrook of 3840 Glenbrook Road. He stated that Glenbrook was a typical neighborhood with children walking to and from school. He stated that sometimes the walking to and from school occurred when the synagogue's activities were going on. Mr. Halbrook stated that pedestrian traffic and vehicular traffic were hazardous. He stated that the proposed use and the estimated traffic was not included in the written statement as required by the Ordinance. The synagogue had vaguely worded the activities and Mr. Halbrook stated that there were not enough details presented in the application. Mr. Hyland inquired as to what had been left out of the applicant's statement. Mr. Halbrook stated that the religious school and small community meetings were listed in the statement. However, at present, there were various other activities such as the preschool, dances, etc. Chairman Smith advised Mr. Halbrook to take it up with the Zoning Enforcement Office as to whether the other uses were in compliance. Chairman Smith stated that the synagogue was an existing use. He stated that if Mr. Halbrook questioned whether it was a proper use and whether it was conforming use, he would have to take it up with the Zoning Administrator.

Mr. Halbrook stated that the applicant mentioned small community meetings but had not done a traffic estimate. Mr. Covington advised the Board that Mr. Halbrook felt that there should have been a traffic survey. Chairman Smith stated that this was a religious organization. He stated that if there were uses not in conformance with a church, he wanted to hear about it. Mr. Hyland stated that he agreed with the Chairman. He stated that the activities were not spelled out so that the citizens could know the extent or the impact of the use. Mr. Hyland moved that the staff come up with a current traffic study of the neighborhood. Mr. Halbrook stated that his point was not that the activities were not religious but that no estimate of the traffic impact was given in the statement. Mr. Covington stated that there was a traffic study provided in the staff report but it was about 5 years old. Mr. Halbrook stated that the Ordinance required the traffic estimate to be included in the application and he urged the Board to deny the request as it was not compatible.

The final speaker in opposition was Mr. Dan Stedham of 9025 Denise Lane, lot 10. He stated that he had lived in the area for 16 years. He stated that Skybrook and Glenbrook were not transient. Olam Tikvak was first established as a small house of worship but had grown into a full fledged jewish center. At the time it was established, it served 120 familes and now it served 550 families. Mr. Stedham stated that the temple served less than 3% of the residents in the immediate neighborhood. There were 547 families from outside the community using the facility. Mr. Stedham stated that over the past nine years, the congregation had grown by 47 families a year. Mr. Stedham stated that the question of the community was where to draw the line. He stated that the community could not accept Mr. Stahl's estimate that the congregation would decrease. There were plans before the Board asking for expansion of the use. He stated that the plans had been submitted to the County without any coordination from the community. He stated the fact that it was not coordinated led the community to believe that they were not important to the synagogue. He stated that if the plans as submitted were approved by the County, it would block the view of three homes and create water and traffic hazards. Mr. Stedham stated that the citizens were seriously concerned and felt that the synagogue should not have been built in the first place. He stated that this was the wrong location. Mr. Stedham stated that the community held no enemies with Olam Tikvah and had many close friends there. It was not easy to come forward to state that the community did not want the expansion.

Mr. Stedham stated that the community had several recommendations: (1) that the BZA disallow any addition to the main building as it would mean more people and more programs and more problems for the community.; (2) that the BZA disallow the expansion of the parking lot. He stated that if the building was disallowed, then the parking was not needed. As a alternative, if it was necessary to expand the parking lot for the safety of the children attending school there, then the community recommended that an appropriate storm system be put in and a brick wall provided for noise and hemlocks planted for lights. Mr. Stedham asked that the general plan be coordinated with the peripheral residents. He stated that they were not requesting anything of the synagogue that was not possible. Mr. Hyland inquired as to what plans should be coordinated with the peripheral residents. Mr. Stedham stated that any further plans should be coordinated with the neighbors before being submitted to the County.

During rebuttal, Mr. Stahl introduced Mr. Michael LeMay and Mr. Hank Gordon. Chairman Smith asked Mr. Gordon to provide a topo map to show the Board that there was no other location on the site for the parking. Mr. Stahl stated that one problem with moving the parking from one place to another was that it would be moved to someone else's property line. If it was moved to the north, it would be along Mrs. McClung's property. Chairman Smith stated that he was in full accord with allowing religious facilities in residential areas but he felt that they should afford as little impact as possible. As far as the traffic, Chairman Smith stated that the roads were there and were going to be used. He stated that the synagogue should try to work with the community to afford as little impact as possible. Chairman Smith stated that he supported the motion for deferral.

Mr. Yaremchuk stated that this was a tremendous impact on the community. He stated that the synagogue should not have been allowed at this location. It had poor access from a safety standpoint. Mr. Yaremchuk stated that this was not a location for a church in his opinion. He stated that to expand it would really create a problem.

Mr. Stahl stated that the synagogue did not view the plan as expansion but a consolidation because they were losing other space. Mr. Hyland stated that he had a question regarding the nursery school and inquired as to who ran it. Mr. Stahl replied that it was a coop run by the mothers.

Mr. Hyland moved that the Board defer decision so that the plat could be changed to reflect the changes and (2) in order that staff may update the traffic count and study in view of the activities and to bring to the Board the study and evaluation as to what the traffic impact would be, if any. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0 (Mr. DiGiulian being absent). The matter was deferred until December 2, 1980 at 12:15 P.M. for decision and written testimony.

//

Page 106, November 4, 1980, Scheduled case of

11:45 A.M. RESTON RECREATION CENTER ASSOCIATES, A VA. LIMITED PARTNERSHIP, appl. under Sect. 5-503 of the Ord. to permit commercial tennis & similar courts & roller skating facility, located 1800 Michael Faraday Ct., 18-3((5))9, Centreville Dist., I-5, 4.7595 ac., S-80-C-091.

&

11:45 A.M. HENRY A. LONG & P. WESLEY FOSTER, JR., TRUSTEES & RESTON RECREATION CENTER ASSOCIATES, A VA. LIMITED PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow existing building for commercial tennis & similar courts & roller skating facility to remain 14.2 ft. from an R District & to allow 2 tennis courts within 100 ft. of an R Dist. (100 ft. min. setback from an R District for such building req. by Sect. 8-503), located 1800 Michael Faraday Ct., 18-3((5))9, Centreville Dist., I-5, 4.7595 ac., V-80-C-193.

Mr. Lee Fifer represented the applicants. He informed the Board that it had heard a special permit S-80-C-046 on the property previously. Mr. Fifer explained to the Board that there had a change of interpretation after the granting of the last special permit and that a variance would be necessary to allow for a category 5 use despite the waiver for nonconformity. Mr. Fifer stated that they had agreed to file a new special permit and a variance in order to resolve any questions. However, Mr. Fifer stated that he still believed the first special permit was still valid.

Chairman Smith stated that he did not feel the Board needed to hear about the use again but rather should address itself to the variance. Mr. Covington informed the Board that they did need to hear the use as an application had been accepted. Mr. Fifer explained to the Board that the building had been constructed under the 1959 Zoning Ordinance. A site plan was submitted and reviewed by Fairfax County and approved. Mr. Fifer stated that the 1959 Ordinance had a provision that an industrial use must have a setback of 100 ft. from a residential zone as does the present Ordinance. However, the 1959 Ordinance provided for the Director of Environmental Management as a part of the site plan review to waive that requirement. Mr. Fifer stated that in this instance, the Director had waived the requirement because of an old right-of-way for the railroad which had never been built. Next to it was the Vepco right-of-way which was used as the Vepco right-of-way for power lines. Mr. Fifer stated that the nature of the right-of-ways were residential only because they were not put in the lowest density. Mr. Fifer stated that the land was used as a park and it went through the middle of an industrial park. The Park Authority had made a determination that there was not any adverse effect and so the site plan was approved.

Mr. Fifer explained to the Board that the need for the variance was not caused by any action of the applicant but simply as a change in the Ordinance. Mr. Fifer stated that there was not any plan to expand the building. It would not be closer to the residential area. Mr. Fifer stated that they were in full compliance with the Master Plan and would be denied the use of the building in the category 5 uses because of the a change in the Ordinance and the Zoning Administrator's ruling. Mr. Fifer stated that the use had been previously approved. He stated that they did plan to add additional tennis courts outside within 100 ft. of the residential area.

There was no one else to speak in support of the applications. Mr. Dick Bonar of the Reston Land Corporation spoke in opposition to the applications. He stated that his testimony was only to the special permit application. Mr. Bonar stated that the Reston Land Corporation did not support the application because of the already developed area of Reston. He stated that the area had been carefully planned during the past 17 years and each parcel was sold for a specific use. The builder was required to develop the site according to plans that meet the requirements of the Reston Land Corporation. Mr. Bonar

Page 107, November 4, 1980
RESTON REEREATION CENTER ASSOCIATES,
A VA. LIMITED PARTNERSHIP

&
HENRY A. LONG & P. WESLEY FOSTER, JR.,
TRUSTEES & RESTON REEREATION CENTER
ASSOCIATES, A VA. LIMITED PARTNERSHIP
(continued)

stated that in order to keep the area and uses economically healthy, the Reston Land Corporation did not allow similar uses. He informed the Board that there was a use one block away of the same nature. The owner/developer had done a good job of developing his property. Mr. Bonar stated that if the Board allowed the conversion to a roller rink, it would have an adverse effect on the community. Mr. Bonar stated that competion was good and healthy but urged the Board to deny the special permit application because of the one year past experience with the rink presently under construction.

The next speaker in opposition was Frank McDermott who represented Reston Roller Rink, Inc. which was located one block away from the requested use. He stated that they had a special permit for a roller rink and supported the position of the Zoning Administrator on S-80-C-046. He stated that it was a non-conforming use. He stated that with the change in the Ordinance, the specific category 5 use would not longer be permitted in a residential district. Whenever a non-conforming use proposed to enlarge or alter the use, the local Ordinances must apply. Mr. McDermott agreed with that interpreation.

Mr. McDermott stated that with respect to the variance application, the Board could not grant it unless it determined that the strict application of the Ordinance would have a severe hardship on the applicant and, second, that it would not have a substantial detriment to the surrounding property. Mr. McDermott stated that the other roller rink owned by his client was well under construction. Chairman Smith stated that the statements being made were from a competitive standpoint. He stated that the State Code would not uphold competition as a reason for denial.

Mr. McDermott stated that he was aware of the language in a zoning case involving the Board of Supervisors and agreed with the ruling regarding competition. However, Mr. McDermott stated that because of the facts of this particular case where his client owned the property which was limited to a roller rink use, and they could not use it for anything else, he urged the Board to deny the request. He stated that his client would have to go through Reston Land Corporation to allow them to buy back the property if it was not used a roller rink. Mr. McDermott stated that he did not think the two uses could exist in the same area.

Mr. McDermott stated that the present application had an intensified use which would have a detrimental effect on the property. He considerd it an intensified use because the applicant was combining uses. Mr. McDermott stated that the property was located on a cul-de-sac and had bowling, racquetball, and the roller rink. He stated that the cul-de-sac access would intensify. Mr. Hyland stated that the intensification would still occur even the parcel was developed for another use. Mr. Hyland asked for the negative impace that would be caused to the surrounding property owners. Mr. McDermott stated that the negative impact was the combination of uses within the building, the addition of the racquetball facility inside the building, and the two outside tennis courts, along with the expansion of the parking spaces. He informed the Board that this was an increase as far as another recreational use on the cul-de-sac.

Mr. McDermott argued that a variance could not be granted unless the Board found that the hardship did not apply generally to other properties in the same area. He stated that this was a situation caused by the change in the Ordinance by the Board of Supervisors and that it affected all category 5 uses in the Industrial District. Mr. McDermott stated that this was a general condition and that the applicant was not the only one affected.

Chairman Smith stated that the key to the variance was the unusual land situation pertaining to the building where there had been a waiver permitted because of the use of the adjacent land. The use was not a residential use. Chairman Smith stated that the Board has to take into account the land uses and buildings as it relates to this particular building. This was an unusual situation because of the adjoining residential property which was not used for residential purposes presently and would not ever be used as residential.

Mr. McDermott stated that the main thrust of the applicant's request was financial and he stated that the Board was not authorized to grant a variance as it was not an appropriate action. Chairman Smith stated that the Board could take the financial situation into consideration but it could not be the overriding factor in the determination.

Mr. McDermott informed the Board that should they grant the use and the variance, they would be intensifying the land uses in the cul-de-sac. With respect to denying the applicant the reasonable use of the land, Mr. McDermott stated that the applicant had reasonable use at the present time. The tennis courts were to be placed outside which would change the parking area. Mr. McDermott stated that there wan not any undue hardship

108

Mr. McDermott asked the Board that should they grant the applications, that it be contigent upon obtaining site plan approval as there were questions about the property. In addition, Mr. McDermott stated that when the application had been approved previously in July, it had been for 24 hour operation. He stated that his client's use had been approved only to midnight with the exception of two days a week. Mr. McDermott stated that he could not see any difference with his client's operation across the street from the present one. Mr. McDermott stated that the parking tabulation showed a total of 264 at any one time and he asked that that limitation be specifically included for the roller rink aspect with a total overall parking limitation of 313. Mr. McDermott stated that he did not intend to abandon his position and urged denial.

During rebuttal, Mr. Fifer stated that the variance was necessary because the existing building was located within 100 ft. of the side lot line. He stated that they did not propose to change the building but only the things that went on inside the building. The uses were conforming uses and were not illegal. The building was deemed non-conforming because of a change in the Zoning Ordinance and the interpretation of the Zoning Administrator. In order to make the building conforming, the building would have to be moved 85.8 ft. away from the side lot line in order to have a category five use. Mr. McDermott stated that was the hardship. He stated that in the case of fire, they would not be allowed to rebuild the building without going through the review processes and approvals. Mr. McDermott stated that this was not a non-conforming use because they had obtained the waiver back when the building was constructed.

With regard to the intensification of the use, if you measured intensity by the number of cars, Mr. Fifer stated that the special permit granted back in the summer would have an increase of use somewhat. Mr. Fifer stated that there was nothing wrong with increasing the intensity. However, there were limits of intensification and the applicants were abiding by them.

Mr. Fifer stated that the Board had already reviewed the special application once and found it to be reasonable. With regard to the variance request and Mr. McDermott's statements about the hardship being of a general condition, Mr. Fifer stated that the other properties would have to be similarly situated in an R-5 district located next to the right-of-way of residentially zoned land and have the Vepco easement on the other side. Mr. Fifer stated that the County should rezone the parks and easements.

Mr. Fifer stated that Mr. McDermott should show that his client would have substantial detriment if the special permit were granted. Mr. McDermott had suggested that the Davis case involving the Board of Supervisors was applicable in this case. Mr. Fifer stated that the granting or an assuring of a monopoly was something that society went a long way to avoid. Mr. Fifer stated that Mr. McDermott's client only had a few footings started for his roller rink. Mr. Fifer stated that there was another use permit next door to the north which was not going to be pursued if this special permit were granted. Mr. Fifer stated that this special permit could proceed faster and he stated that competition was a good thing.

With regard to the traffic impact, Mr. Fifer stated that the cul-de-sac area was the logical area for such recreational uses. Mr. Fifer stated that he respected Mr. Bonar's comments and stated that his client was subjected to the same conditions. They had contracted with Reston Land Corporation but Mr. Fifer stated that any contract could be revised. He stated that the other special permit application in which his client had an interest would not take place if this particular special permit was approved and the variance was granted.

Page 108, 108, November 4, 1980 Board of Zoning Appeals
HENRY A. LONG & P. WESLEY FOSTER, JR., TRUSTEES
& RESTON RECREATION CENTER ASSOCIATES,
A VA. LIMITED PARTNERSHIP

R E S O L U T I O N

In Application No. V-80-C-193 by HENRY A. LONG & P. WESLEY FOSTER, JR., TRUSTEES & RESTON RECREATION CENTER ASSOCIATES, A VA. LIMITED PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow existing building for commercial tennis & similar courts & roller skating facility to remain 14.2 ft. from an R District & to allow two tennis courts within 100 ft. of an R District (100 ft. minimum setback from an R District for such building required by Section 8-503) on property located at 1800 Michael Faraday Court, tax map reference 18-3((5))9, County of Fairfax, Virginia, Mr. Hyland 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 109, November 4, 1980 Board of Zoning Appeals
HENRY A. LONG & P. WESLEY FOSTER, JR., TRUSTEES
& RESTON RECREATION CENTER ASSOCIATES,
A VA. LIMITED PARTNERSHIP
(continued) RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 4, 1980; 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-5.
3. The area of the lot is 4.7595 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property particularly in view of the fact that the building was erected under a previous Zoning Ordinance that did not require the 100 ft. setback from the residential zone and the fact that the Ordinance has since changed.

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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Ms. Day seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 109, November 4, 1980 Board of Zoning Appeals
RESTON RECREATION CENTER ASSOCIATES, A VA.
LIMITED PARTNERSHIP
RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-C-091 by RESTON RECREATION CENTER ASSOCIATES, A VA. LIMITED PARTNERSHIP under Section 5-503 of the Fairfax County Zoning Ordinance to permit commercial tennis & similar courts & roller skating facility on property located at 1800 Michael Faraday Court, tax map reference 18-3((5))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 November 4, 1980; and

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

1. That the applicant is the lessee.
2. That the present zoning is I-5.
3. That the area of the lot is 4.7595 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 I 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 on the application and is not transferable to other land.

RESOLUTION

110

2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 detials) 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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of people shall be 313 at any one time.
8. The hours of operation shall be 24 hours a day, 7 days a week.
9. The number of parking spaces shall be 147.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

There being no further business, the Board adjourned at 3:30 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on June 22, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED June 29, 1982

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 11, 1980. The following Board Members were present: Daniel Smith, Chairman; John Yaremchuk; Gerald Hyland and Ann Day. (Mr. John DiGiulian was absent).

The Chairman called the meeting to order at 10:45 A.M. and Ms. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:05 A.M. ANNUAL REVIEW OF VULCAN MATERIALS CO., INC.

Mr. Gilbert Knowlton reported to the Board that the inspection revealed that Vulcan Materials Co., Inc. were operating the use within the requirements of the special permit conditions. He stated that the old quarry was basically closed. The restoration plan called for the site to be part of the facility for the Fairfax County Water Authority. The site was halfway located between Occuquan and the Water Authority Treatment Plan. Negotiations were proceeding to transfer the site to the ownership of the Water Authority. The plan called for the storage of raw water in the spring to provide 1.4 billion gallons of water for a 20 day supply in case of drought. Mr. Knowlton stated that it was important to note that the completed quarry was an important part of the water supply system.

The Vulcan Materials Co., Inc. had moved to the second site which located to the west. It was a larger site and the berm had been built. The asphalt plant had been relocated. The surface materials had been removed and the quarry had begun. Mr. Knowlton stated that the monitoring equipment had begun on the site. Monitoring was done in connection with the blastings and all blasting were coordinated with the Zoning Enforcement Branch of OCP. Mr. Knowlton stated that Mr. Koneczny was present to answer any questions regarding the monitoring of the site.

The Health Department had begun its monitoring according to Mr. Knowlton. Mr. Chase of the Air Pollution Control Board was present to answer any questions the Board might have. No one was present from Public Utilities but they had reported that the drainage problems were being taken care of on the site. Mr. Knowlton stated that there was not any violations or any damage to the dam. The noise level was within the limits defined by the Code.

Mr. Hyland stated that in effect it sounded like Mr. Knowlton was reporting that the operation had been done consistent with the limitations set forth by the Board. Mr. Knowlton stated that was correct and that things were getting better with the new equipment. Mr. Knowlton stated that there had been only one complaint which was checked out and found not to be valid.

Chairman Smith stated that the report was very complete and he did not feel it was necessary to hear from the applicant or anyone else. Mr. Yaremchuk moved to accept the report. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

//

Page 111, November 11, 1980, Scheduled case of

10:20 A.M. T.N.T. CONSTRUCTION COMPANY, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 8 ft. from each side lot line (20 ft. min. side yard req. by Sect. 3-107), located 2917 Fairhill Road, Fairhill on the Boulevard Subd., 49-3((6))21, Providence Dist., R-1, 22,586 sq. ft., V-80-P-177.

Mrs. Lucy Radcliffe of Century 21 Chateau stated that she represented the owner of lot 21 on Fairhill Road. Mrs. Radcliffe informed the Board that the lot was very long and narrow. It was 100 ft. wide by 380 ft. deep. Mrs. Radcliff stated that it was a problem to construct a dwelling as it would be within 20 ft. of the side line requirements. Many of the homes on the street had the same small frontage problems. Some of these houses had erected a garage parallel to the existing house.

Chairman Smith inquired as to how long the applicant had owned the lot and was informed by Mrs. Radcliffe that the lot was presently owned by Mrs. Tepper. Chairman Smith stated that T.N.T. Construction Co. was not a proper applicant if they were not the owners of the lot. He stated that Mrs. Tepper was the only aggrieved party and should have been the applicant in the case. Mr. Hyland inquired as to the relationship of T.N.T. Construction Co. and was informed that they were contract purchaser. Mrs. Radcliffe stated that this was her first experience with a variance application. Chairman Smith stated that she was not an aggrieved party and was not aggrieved in any way by the size of the lot.

The house had been used like a barn. She stated that the property was up for sale and T.N.T. Construction Co. wanted tobuy it. Chairman Smith inquired if Mrs. Tepper was familiar with the variance request as far as the side lot line and she replied that she was. Chairman Smith advised Mrs. Tepper that she would have to become a party to the variance application in order for the variance to be granted. As Mrs. Tepper was present at the hearing, it was the consensus of the Board members present to allow the amendment of the variance application by adding Mrs. Tepper as applicant and T.N.T. Construction Co., Inc. as co-applicant of the variance application.

112

Mrs. Tepper informed the Board that she owned the property for 32 years. Mrs. Radcliffe stated that the variance was necessary because it would only be possible to build a 20 ft. wide home under tthe current zoning which was impractical. Mr. Yaremchuk stated that the lot was long and narrow and was a substandard lot.

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

Page 112, November 11, 1980 Board of Zoning Appeals
T. N. T. CONSTRUCTION CO., INC.
& EDNA TEPPER

RESOLUTION

In Application No. V-80-P-177 by EDNA TEPPER & T.N.T. CONSTRUCTION CO. under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 8 ft. from each side lot line (20 ft. minimum side yard required by Sect. 3-107) on property located at 2917 Fairhill Road, tax map reference 49-3((6))21, 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 11, 1980; 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 22,586 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow and is a substandard 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 113, November 11, 1980, Scheduled case of

10:30 A.M. LT. COL. E. M. BRISACH, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition within 25.1 ft. of the front property line (30 ft. min. req. by Sect. 3-307), located 5626 Bellington Ave., North Springfield Subd., 79-2((2))(71)19, Springfield Dist., R-3, 13,385 sq. ft., V-80-S-178.

Lt. Col. Eugune M. Brisach of 5626 Bellington Avenue in Springfield informed the Board that he had a corner lot which faced Bellington Avenue. Co. Brisach desired to expand the kitchen and the carport. In order to replace the carport, it was their desire to build a garage instead. Because theirs was a corner lot, it was impossible to build the garage and meet the setback requirements. Col. Brisach stated that in order to have a garage that was usable, they were requesting a 4 ft. variance.

Mr. Yaremchuk inquired if the extension of the garage would casue a sight distance problem on Flagg Run Drive and Col. Brisach stated that it would not He stated that his property was elevated at that point and that Flaff Run Drive sloped downward. He indicated that he also had trees at this point to mask the effect of the garage. Mr. Brisach stated that there was a sidewalk along there so there was good visibility. In addition, there was a storm sewer easement.

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

Page 113, November 11, 1980 Board of Zoning Appeals
LT. COL. E. M. BRISACH

R E S O L U T I O N

In Application No. V-80-S-178 by LT. COL. E. M. BRISACH under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition within 25 ft. of the front property line (30 ft. minimum front yard required by Sect. 3-307) on property located at 5626 Bellington Avenue, tax map reference 79-2((2))(7)19, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been proprly 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 subject property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 13,385 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 with double front yard setback requirements.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent)

10:40 A.M. JOHN A. WALSH, appl. under Sect. 18-401 of the Ord. to allow the addition of a carport to be constructed within 3.2 ft. of an existing property line (7 ft. required by Sects. 3-307 & 2-412), located 4533 Eaton Place, Sunny Ridge Subd., 82-3((17))(G)16, Lee Dist., R-3, 10,095 sq. ft., V-80-L-179.

114

Mr. John Walsh stated that he requested a variance to construct a carport within 3 ft. of the property line. He stated that there was no other place to have the carport. Chairman Smith inquired as to the reason for a 24 ft. carport. Mr. Walsh responded that they were a family of five. Chairman Smith stated that the carport seemed too large. Mr. Walsh stated that some of the carport would be used for storage. Chairman Smith inquired if any part of the carport would be enclosed and was told that it would not. Mrs. Day inquired as to what was on the property to the right, lot 17. Mr. Walsh stated that his carport would be 3.2 ft. to the property line and then there was 20 ft. to the neighbor's house. He stated that his neighbor built a carport or a garage, it would be on the other side of the house. There was a door on that side of his neighbor's house and it would not be a practical place for a garage. Mr. Walsh stated that his neighbor did not object to the carport. The carport would be brick and frame structure. There would be one room at the rear for storage space. Mr. Walsh stated that there was a Vepco easement 100 yards to the rear of the carport. Mrs. Day inquired if it was possible to make the carport narrower and then add storage at the rear. Mr. Walsh stated that he would have to dig further back into the hill and it would be a problem with the drainage.

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

Page 114, November 11, 1980 Board of Zoning Appeals
JOHN A. WALSH

R E S O L U T I O N

In Application No. V-80-L-179 by JOHN A. & MARY D. WALSH under Section 18-401 of the Zoning Ordinance to allow addition of a carport to be constructed within 3.2 ft. of an existing property line (7 ft. min. required by Sect. 3-307 & 2-412) on property located at 4533 Eaton Place, tax map reference 82-3((17))(G)16, County of Fairfax, Virginia, Ms. Day 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 11, 1980; 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 10,095 sq. ft.
4. That the applicant's property has exceptional topographic problems which prevent them from construction of a carport elsewhere on the lot as the rear of the property has VEPCO right-of-way easement.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

RESOLUTION

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 115, November 11, 1980, Scheduled case of

10:50 A.M. H. R. LOWSTUTER, appl. under Sect. 18-406 of the Ord. to allow enclosed garage to remain 7.53 ft. from side lot line (8 ft. min. & total of 20 ft. min. side yard req. by Sect. 3-307), located 3522 Pence Ct., Holmes Run Village Subd., 59-4((17))62, Mason Dist., R-3, 9,063 sq. ft., V-80-M-180.

As the required notices were not in order, the variance was deferred until January 6, 1980 at 10:10 A.M.

//

Page 115, November 11, 1980, Scheduled case of

11:00 A.M. JAMES J. ROSS, JR. & WILLIAM F. STANSBURY, appl. under Sect. 18-401 of the Ord. to allow construction of a dwelling to 10 ft. of side lot lines (20 ft. min. side yard req. by Sect. 3-107), located 2122 Great Falls Street, 40-2((1))13A, Dranesville Dist., R-1, .374 acres, V-80-D-181.

Mr. Chip Paciulli represented the applicants. He informed the Board that the variance was requested in order to build a house 10 ft. from each of the side lot lines. Chairman Smith stated that the applicants were seeking two variances and inquired if this was the smallest house that could be put on the property. Mr. Paciulli stated that the house would be identical to the one next door and would be in keeping with the character of the area. Chairman Smith inquired as to what was on each side of the lot at the present time and was informed that the property was developed. Mr. Paciulli stated that the house on the left was 15 ft. from the side lot line. He stated that he was not certain of the distance for the house on the right.

Mr. Yaremchuk inquired if the applicants were going to live on the property or sell it. Mr. Paciulli stated that it was their intention to sell it. In response to further questions, Mr. Paciulli stated that the applicants had owned the property since 1957. Mr. Hyland inquired if it was a vacant lot at the present time and Mr. Paciulli stated that this was one of the last vacant lots in the old subdivision.

Mr. Steven Bishop of 2205 McLean Park Road in Falls Church, Va. was the contract purchaser. He informed the Board that he technically did not have any justification for requesting a variance. The lot was 320 ft. deep. He stated that he purchased the property from the owners who had put in lovely trees and shrubbery. Mr. Bishop stated that he did not plan to disturb the plantings. The center portion ofthe property was where he planned to take down a few trees for his house and his driveway. Mr. Bishop stated that he was attracted to the property because of the privacy with the trees and shrubs. Mr. Bishop stated that he planned to live on the property and wanted some flexibility with a home site. Mr. Bishop stated that to build in accordance with the current side yard requirements was very difficult. The property was zoned R-1 and all the property around it was zoned R-3. The R-3 zoning only required a 12 ft. side yard setback. Mr. Bishop stated that he was not asking for much more than if the property was zoned R-3. Mr. Bishop stated that he was aware there was a great deal of opposition to the variance request.

Mr. Paciulli, in response to questions from the Board, stated that the lot was recorded in 1957. Mr. Yaremchuk stated that any substandrad lot had to be recorded prior to 1949. He inquired as to how the parcel got cut out in 1957. Chairman Smith stated that if it was a legal lot, it could be built on if it existed prior to the present Ordinance. Mr. Yaremchuk inquired if the lot was legal at the time it was recorded. Mr. Paciulli stated that he did not know. Chairman Smith stated that if the lot was legal at the time of the adoption of the current Ordinance, it would be grandfathered and would be a substandard lot. He stated that he assumed that the lot was recorded at the time of the adoption of the Ordinance. If there was a question regarding the lot, Chairman Smith stated that he wanted to hear from the parties involved.

The next speaker in support of the application was Mr. James J. Ross of 2120 Great Falls Street. He informed the Board that Mrs. Ida Walker had owned 20 acres. He stated that he and Mr. Stansbury had taken care of Mrs. Walker and she had given them a piece of property which was known as parcel A. It was cut out and it was recorded in 1957.

Mr. Ross informed the Board that the lots had been sold to Dr. Keating. He wanted ½ acre zoning which everyone had agreed to but the lots were cut down to 1/3 acre zoning. Every one of the people living on the lots originally owned by Mrs. Walker had one-third of an acre. Mr. Ross stated that his piece of property was grandfathered. He informed the Board that he also owned the lot next door. However, he was moving out of state to Delaware and wanted to sell parcel A as one piece of property. He stated that he had taken care of the parcel since 1957.

Chairman Smith inquired as to how many lots were owned by Mr. Ross and he responded that he only owned parcel A & the lot next to it which was 2120 Great Falls Street.

Mr. Yaremchuk stated that he did not believe that the lot was a legal lot as it did not come under Subdivision Control. He stated that a lawyer could do anything he wanted. Mr. Yaremchuk stated that he could not imagine any zoning at that time which allowed a 63 ft. wide lot. Mr. Ross stated that he had been paying taxes on the property since 1957 and that it was a legal lot.

Mr. Yaremchuk stated that the applicants were asking the BZA to do something that might be illegal. Mr. Ross stated that the Board could check the records. Mr. Yaremchuk stated that he did not believe it was a legal lot. Chairman Smith stated that it was a legal lot as far as far as the Zoning Administrator was concerned. Mr. Knowlton stated that he could not find any records back that far to determine whether this was a legal lot. Mr. Knowlton informed the Board that Zoning had found lots of deeds on record that did not meet the requirements of the Ordinance. Mr. Hyland inquired as to what had been done about it and Mr. Knowlton stated that they had to go through the subdivision process in order to be used. Mr. Yaremchuk stated that if this was not a legal lot, the applicant would not be able to get a building permit. Mr. Hyland stated that in that case, this would be an exercise in futility. He stated that he would support the variance but not if the contract purchaser was going to have a problem with getting a building permit.

Mr. Knowlton stated that he needed to know the history of the lot. He stated that Design Review would have to review it before signing off on the building permit application. Mr. Yaremchuk stated that the contract purchaser might go through the process and find out it was an illegal lot. Mr. Yaremchuk stated that he was not convinced that it was a legal lot. He stated that the land was added to Mr. Ross's property as he owned the adjoining lot. Mr. Yaremchuk stated that the land was valuable which was Mr. Ross had to pay taxes on it.

Chairman Smith stated that he was concerned if the Board had an application on an illegal lot. He stated that this was the first time the Board had ever had the question before. Chairman Smith stated that the applications should be researched by the staff prior to the Board meeting. Chairman Smith stated that the matter would have to be clarified before the Board could take any action on it. Chairman Smith stated that he would not want to mislead the applicants into thinking that they could obtain a building permit if the variance were granted. Mr. Yaremchuk stated that they might argue in court that the Board granted a variance so it must be a legal lot. Chairman Smith stated that the application was not going to leave the Board until it was determined whether it was a legal lot.

Chairman Smith inquired if a title search had been done on the property. Mr. Yaremchuk stated that in his experience, lawyers ignored whether the lots complied with zoning when they did a title search. Mr. Hyland stated that Mr. Knowlton had gone to try to resolve the matter over the telephone in order that the Board could resolved the matter at the hearing.

Mr. Yaremchuk stated that he just wanted it on the record and wanted to make sure it was a legal lot. He stated that he was not trying to hurt anybody. He understood that Mr. Ross had been paying taxes on the property. Mr. Paciulli inquired as to what would happen if it was determined that the lot was not legally recorded back in 1957. Chairman Smith stated that the Board would have to deny the variance application.

Mr. William B. Moore, an attorney at 2300 Chain Bridge Road, informed the Board that Mr. Yaremchuk was correct. The plat was noted as parcel A. He stated that Mr. Ross had been given the parcel to add to his property as a way of Mrs. Walker giving some token for his concern. Mr. Moore advised the Board that Mr. Ross had a backup contract which differed by $2,000 which was submitted by an adjacent property owner. Mr. Moore stated that he did not represent that individual but he did represent another property owner. Mr. Moore stated that the Board was not jeopardizing anyone and there was no hardship. The property was listed at $37,000. The backup contract was $35,000. All the properties in the area had 15 ft. side yards. Mr. Moore stated that this variance would be a 15% reduction and would shoehorn houses in the area. Mr. Moore stated that this was nice neighborhood. There was a petition of opposition signed by 13 people who were opposed to the variance.

Page 117, November 11, 1980
JAMES J. ROSS, JR. & WILLIAM F. STANSBURY
(continued)

In response to questions from the Board, Mr. Moore stated that the average lot size was one-third acre. The zoning was R-2. The average lot size was 13,000 sq. ft. The density was two houses per acre. Mr. Moore stated that this parcel was zoned R-1. Even in an R-2 zone, the applicants would to meet a 15 ft. side yard requirement from either side. Mr. Moore stated that with the R-1 zoning, it would be a 50% reduction.

Chairman Smith stated that the Board would have to take into consideration all of the other houses in the area and the type of development before approving any variance. Mr. Moore stated that the side yards in the area were a minimum of 15 ft. and some lots had larger side yards.

Mr. Yaremchuk questioned Mr. Moore's statement that there was not a hardship. He stated that the lot was long and narrow and if it was a legal lot, it met all the specifications for granting a variance. Mr. Moore stated that a 15% reduction would be out of concert with the side yards everyone else had to meet. He stated that there was an embankment on the property which would be a safety problem as far as the driveway was concerned.

Chairman Smith stated that the real question was whether this was a legal lot. Mr. Moore stated that the lot had been given to Mr. Ross to be used as a garden. He stated that it was never intended to be a buildable lot. Mr. Moore stated that there was a problem with drainage on the property.

Mr. Knowlton advised the Board that the question of the legal lot could not be resolved without a title search. Mr. Yaremchuk asked that when the title search was done, that it be determined when the lot was recorded and what the zoning was at that time.

The next speaker in opposition was Richard E. Sander of 2120 Veranda Court in Falls Church. He stated that he was downstream from the runoff of any building on the property. Mr. Sander stated that he was aware that drainage was not a concern of the BZA as such, but he advised the Board that the dam built on the downsite of the property had flooded adjacent property to him to the point that further building would flood his property. Mr. Sander stated that he thought the property should be preserved downstream. He asked that should the variance be granted, that the Board take into consideration the requiring a bond to insure that any change in the drainage did not harm any properties. Chairman Smith advised Mr. Sander that the bond was a function of Design Review.

There was no one else to speak in support of the application and no one to speak in opposition. Chairman Smith suggested that there was no way to resolve the problem until a title search was done. Mr. Paciulli agreed to obtain a title search and asked for two weeks in order to do so. Chairman Smith asked that when the title search was done that it be given to the staff to determine if this was a legal, buildable lot. He also suggested that the staff give the BZA some input as to the size of the lot and the general size of the houses in the area.

Mr. Hyland asked if there was a problem or hardship to the applicant if the variance were deferred. Mr. Ross stated that it would affect the contract on the property. However, if the variance were only deferred for a reasonable period of time and both parties agreed to it, then there would not be a problem.

The variance was deferred until December 2, 1980 at 12:30 P.M. for additional testimony and for the title search to determine if this was a legal, buildable lot.

//

Page 117, November 11, 1980, Recess

At 12:15 P.M., the Board recessed for lunch and reconvened at 1:10 P.M. to continue with the scheduled agenda.

//

Page 117, November 4, 1980, Scheduled case of

11:10 A.M. CARL W. DOLL & PATRICIA J. DOLL, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to 10 ft. of side lot line & 21 ft. from front lot line (12 ft. min. side yard & 30 ft. min. front yard req. by Sect. 3-307), located 1724 Margie Drive, 30-3((13))38, Dranesville Dist., R-3, 13,887 sq. ft., V-80-D-182.

Mrs. Patricia Doll of 1724 Margie Drive stated that they were seeking a variance in order to construct a garage. She stated that her house was centered in the middle of a pie-shaped lot. There was not any room to build the garage except on one side. Mrs.

Doll stated that they wanted to get their cars off of the street as they lived next to a high school. They owned three vehicles. She stated that the way the house was situated, most of the yard was in the front and they did not have a back yard. Mrs. Doll stated that there was not any place to store anything at all.

Chairman Smith inquired as to why a 24 ft. wide garage was necessary. Mrs. Doll stated that they owned two cars and a pickup truck. They wanted to put the two cars in the garage. In addition, they wanted to store lawnmowers and chairs, etc. She stated that her yard was visible from all angles and there was no place to put things.
There was no one else to speak in support of the application and no one to speak in opposition.

Page 118, November 11, 1980 Board of Zoning Appeals
CARL W. DOLL & PATRICIA J. DOLL

RESOLUTION

In Application No. V-80-D-182 by CARL W. & PATRICIA J. DOLL under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to 10 ft. of side lot line & 21 ft. from front lot line (12 ft. minimum side yard & 30 ft. minimum front yard required by Sect. 3-307) on property located at 1724 Margie Drive, tax map reference 30-3((13))38, County of Fairfax, Virginia, Mr. Hyland 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 11, 1980; 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 13,887 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 118, November 11, 1980, Scheduled case of:

11:20 A.M. ROBERT & SUELLEN WOOLFOLK, appl. under Sect. 18-401 of the Ord. to allow construction of deck to 15.4 ft. from rear property line (25 ft. min. req. by Sect. 3-307), located 8801 Aquary Court, Springfield Station Subd., 89-3((6))217, Springfield Dist., R-3, 9,442 sq. ft., V-80-S-183.

As the required notices were not in order, the variance was deferred until December 2, 1980 at 12:45 P.M.

Page 119, November 11, 1980, Scheduled case of

11:30 A.M. RICHARD & PAULA M. MURCH, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing porch to 16.2 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 4112 Wakefield Chapel Road, Wakefield Forest Subd., 59-3((10))88, Annandale Dist., R-1, 16,000 sq. ft., V-80-A-187.

Mrs. Paula M. Murch of 4112 Wakefield Chapel Road in Annandale informed the Board that they wanted to enclose an existing porch. The foundation and the roof were already existing. In addition, there was a stairwell leading to the basement at this location. Mrs. Murch stated that the porch was 16.2 ft. from the side lot line and the Ordinance required a minimum side yard setback of 20 ft. Mrs. Murch stated that her neighbors had sent in a letter of support and indicated that the enclosure of the porch would enhance the house and improve the area. Mrs. Murch stated that her reason for enclosing the porch was that there was no entrance to the basement from the inside of the house. At the present time, they had to go outside in the winter just to reach the basement. Mrs. Murch stated that they had to make frequent trips to the basement as their freezer was located there. By enclosing the porch, it would allow them access to the basement. She stated that due to the present floorplan of the house, any other inside stairwell to the basement was not possible. In addition, the porch would allow storage space and provide a small eating area outside the kitchen door. She stated that by adding the room, it would help energy conservation by not having to keep opening and shutting the door. Mrs. Murch stated that her lot was narrow and was only 100 ft. wide. The neighbor's house was 20 ft. from the side lot line. Mrs. Murch stated that she was only requesting a variance of 3.8 ft. and urged the Board to grant the request.

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

Page 119, November 11, 1980 Board of Zoning Appeals
RICHARD & PAULA M. MURCH

RESOLUTION

In Application No. V-80-A-187 by RICHARD & PAULA M. MURCH under Section 18-401 of the Zoning Ordinance to allow enclosure of existing porch to 16.2 ft. of side property line (20 ft. minimum side yard required by Sect. 3-107) on property located at 4112 Wakefield Chapel Road, tax map reference 59-3((10))88, County of Fairfax, Virginia, Ms. Day 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 11, 1980; 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 16,000 sq. ft.
4. That the applicant's property is substandard for R-1 zoning in both lot width and area and has unusual perimeter.

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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

11:45 A.M. PROCTOR HATSELL PRIVATE SCHOOL, INC., appl. under Sect. 18-401 of the Ord. to allow existing shed to remain on the side lot line, and to allow a 10 ft. high fence to remain in a side yard and 6 ft. high fence to remain in a front yard (12 ft. min. side yard for shed req. by Sects. 10-105 & 3-307; 7 ft. max. height for fence in side yard, and 4 ft. max. height for fence in front yard provided by Sect. 10-105), located 6318-14-12 May Boulevard, Rose Hill Farm Subd., 82-3 ((1))38 and 82-3((11))45 & 46, Lee Dist., R-3, 4.36194 ac., V-80-L-197.

&

11:45 A.M. PROCTOR HATSELL PRIVATE SCHOOL, INC., appl. under Sect. 3-303 of the Ord. to amend S-80-L-076 for school & child care center to permit use of existing shed and tennis courts, located 6318-14-12 May Boulevard, Rose Hill Farm Subd., 82-3 ((1))38 and 82-3((11))45 & 46, Lee Dist., R-3, 4.36194 ac., S-80-L-095.

120

Mr. Dexter Odin, an attorney located at 10505 Jones Street in Fairfax, represented Mr. Claude Wheeler, the applicant and owner of Proctor Hatsell Private School, Inc. Chairman Smith inquired as to why the applicant wanted to use the shed. Mr. Odin stated that part of the shed was onthe property line and part on the adjacent property owner's land. He stated that they did not have the right to go in and tear down the shed. Mr. Odin stated that the shed would only be used for storage of lawn equipment. Mr. Odin stated that the purpose in making an application with respect to the shed was not to its use but to insure that it was legal when they obtained the special permit. Mr. Odin stated that the shed straddled the line.

Mr. Odin stated that the fence made the question of the tennis courts questionable. The neighbors do not object to the fence. The pool was surrounded by a fence and if they complied with the 4 ft. height requirement, the pool would be in violation of the requirements that had been in existence for some time.

Chairman Smith inquired if the next door neighbor also used the shed. Mr. Odin stated that the neighbor had the right to use the shed. The shed existed prior to the subdivision of the property. There was a easement of record regarding the shed. Chairman Smith stated it created a problem as part of the shed was in a different ownership. He stated that the other property owner should be a part of the variance application. Mr. Odin stated that technically the shed constituted a violation of Mr. Wheeler's property but if the variance were approved, then it would bring the shed into compliance. Mr. Covington stated that the applicant had already satisfied the requirement in that they had obtained an occupancy permit for many years. However, this was a change of use. Chairman Smith inquired if any part of the shed was going to be used for storage of the school equipment and Mr. Odin stated that it would not be. Chairman Smith stated that it was an unusual situation and inquired as to how the shed got that way. Mr. Covington stated that this had been an old farm and the owner decided to divide it up. He stated that most of the complex was still there. Mr. Odin stated that they were going to renovate the barn into a guesthouse. Chairman Smith inquired if the shed could be dismantled. Mr. Odin replied that they did not have the legal right to do so. In addition, he stated that they would hate to do so because the shed provided storage space for lawn equipment. He stated that they were only seeking a waiver of the violation. The shed was open and was three-sided. It was not enclosed. He stated that it could not ever be used as a classroom.

Mr. Hyland inquired as to the rationale for granting the variance. Mr. Odin responded that this was an existing facility and had not harmed anyone and had been used over the years in this manner. He stated that if the fence were lowered, they would create a problem for the neighbors. Mr. Odin stated that they were required to have a 6 ft. fence for the wading pool. If the variance were not granted, it would be difficult to comply with the health department's requirements. Mr. Odin stated that they did not have the right to tear down the shed. He stated that they had to obtain the variance in order to obtain an occupancy permit.

Mr. Covington stated that the existing facility had been in existence since 1956. Chairman Smith stated that everything was non-conforming as far as the setbacks. However, he stated that the Board would handle it through the variance procedure since the applicants were here and the pool required a 6 ft. fence. Mr. Covington stated that the variance was primarily for the tennis courts and the 10 ft. high fence.

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

PROCTOR HATSELL PRIVATE SCHOOL, INC.

R E S O L U T I O N

In Application No. V-80-L-197 by PROCTOR HATSELL PRIVATE SCHOOL, INC. under Section 18-401 of the Zoning Ordinance to allow existing shed to remain on the side lot line & to allow a 10 ft. high fence to remain in a side yard & 6 ft. high fence to remain in a front yard (12 ft. minimum isde yard for shed required by Sects. 10-105 & 3-307; 7 ft. maximum height for fence in side yard & 4 ft. maximum height for fence in front yard provided by Sect. 10-105), tax map reference 82-3((1))38 & 82-3((11))45 & 46, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

R E S O L U T I O N

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 11, 1980; 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 4.36194 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property and there has been a change in the Ordinance and a change in the use of the property that affects the fence on the property around the pool and in view of the fact that the tennis courts and pool have enjoyed a continued use for some period of time and that this use will be continued;

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. SiGiulian being absent).

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-L-095 by PROCTOR HATSELL PRIVATE SCHOOL, INC. under Section 18-401 of the Fairfax County Zoning Ordinance to amend S-80-L-076 for school and child care center to permit use of existing shed & tennis courts on property located at 6318, 6314 & 6312 May Boulevard, tax map reference, 82-3((11))45 & 82-3((1))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 Board of Zoning Appeals haeld on November 11, 1980; 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-3.
3. That the area of the lot is 4.36194 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 on the application and is not transferable to other land.

RESOLUTION

2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 chagges (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 procecural 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 in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. All other limitations set forth in S-80-L-076 shall remain in effect.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 122, November 11, 1980, Scheduled case of

12:00 NOON CENTREVILLE ASSEMBLY OF GOD, appl. under Sect. 3-103 of the Ord. to allow construction of additional facilities of church, located 14821 Lee Highway, 64-2((1))3, Springfield Dist., R-1, 1/721 ac., S-80-S-088. (DEFERRED FROM OCTOBER 21, 1980 FOR NOTICES.)

Mr. Fred Wilburn, a land surveyor with an office located at 3990 University Drive in Fairfax, represented the church. He stated that Reverend Kisner intended to be present but was called out of town. Mr. Wilburn stated that he had two members of the church present to answer any questions. They were Mrs. Faircloth and Mr. Gravel. Mr. Wilburn stated that the original special permit was granted to the church for the construction of a much larger and more expensive facility on the same site. Mr. Wilburn stated that the original special permit had expired since nothing was built during the timeframe of the permit. Mr. Wilburn stated that during the time of the permit, the church had received prices for the addition of the site plan and the off-site work. They had determined that it was greater than their resources for the facility. The church went back to the planning stages and had decided on a smaller facility. At present, the church will continue to retain the existing anctuary and would only add an additional facility for classrooms, bathroom and a fellowship hall. Mr. Wilburn stated that the church was using the site that has been used for years but are upgrading it for classroom use. The addition would be 66'x30' addition to an existing building.

Mr. Wilburn stated that there was an existing gravel area which had been used for years. The church originally was a school and was sold to the church for church purposes. There was not any pavement. Chairman Smith inquired if the parking would accommodate everyone who came for service. Mr. Hyland stated that the old special permit required 66 parking spaces and he inquired if that was still the same. Mr. Wilbur stated that the first special permit was for a much larger facility with a new sanctuary and a new parking lot. It was a whole different arrangement. Mr. Wilbur stated that only 18 parking spaces would be provided. The sancuary would serve 60 persons. With respect to the addition, Mr. Wilburn stated that the materials would be prefab frame with aluminum siding. The existing structure was frame. Mr. Wilburn stated that it was the intention of the church to make the addition blend in to look like the building was constructed all at one time.

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

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-S-088 by CENTREVILLE ASSEMBLY OF GOD under Section 3-103 of the Fairfax County Zoning Ordinance to allow construction of additional facilities of church on property located at 14821 Lee Highway, tax map reference 64-2((1))3, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements; and

RESOLUTION

123

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on November 11, 1980; 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 1.721 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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) 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 Speical 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 in accordance with the Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The facility will accomodate approximately 60 persons.
8. The hours of operation shall be normal hours of church activities.
9. The number of parking spaces shall be 18.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being asent).

Page 123, November 11, 1980, After Agenda Items

PET MEMORIAL GARDENS: Mr. James Morrison requested an extension of the special permit granted to Pet Memorial Gardens. In addition, he asked for a change of name but stated that the same people would be involved in the use. Chairman Smith stated that a change of name was not proper without a new application. He stated that there was not any way for the Board to grant the second request. He indicated that he did not have a problem with the extension.

Mr. Hyland stated that the corporation was dissolved. Mr. Yaremchuk stated that the special permit was granted to the owner rather than to the land. Chairman Smith stated that it was not the land. He stated that if a new owner came in, it would have to go back with a new application to the Board of Zoning Appeals. Chairman Smith stated that te owner could sell the corporation and the special permit would continue as long as the corporation stayed in existence. Mr. Yaremchuk stated that the BZA granted the special permit and it was the same people involved with a different name. Chairman Smith stated that was a change of ownership. Mr. Morrison stated that the four persons who were the Directors of the corporation would still be the general partners in a limited partnership. He stated that they would obtain financing through the limited partnership but the limited partners would not have anything to do with the operation. The responsibilities would be shared by the same four people as was the special permit under the corporation. Mr. Morrison stated that he was requesting the change strictly because of financing problems and the IRS rules.

Mr. Hyland moved that the Board grant a six month extension. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0.

//

There being no further business, the Board adjourned at 2:10 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the BZA on June 22, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: June 29, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, November 18, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 8:20 P.M. and Mrs. Day led the prayer.

At 8:20 P.M., Mr. DiGiulian moved that the Board convene into an Executive Session in order to discuss legal matters. Mrs. Day seconded the motion and it was unanimously carried. At 8:50 P.M., the Board reconvened into public session to continue with the scheduled agenda.

//

Page 125, November 18, 1980, Scheduled case of

8:10 P.M. ACCA DAY CARE CENTER, appl. under Sect. 3-303 of the Ord. to amend S-28-75 for child care center to increase max. no. of children from 50 to 110, utilizing space vacated by NOVA Faculty Wives Child Care Center (S-12-74), located 5901 Leesburg Pk., 61-2((1))25A, Mason Dist., R-3, 2.2626 ac., S-80-M-090.

Mrs. Marion Houk of 6218 Beechway Drive in Falls Church informed the Board that the NOVA Faculty Wives Child Care Center had moved out of the building. They were able to obtain space in an elementary school and had not returned to the building after they finished in June. Mrs. Houk stated that ACCA had been allowed to increase its enrollment during the summer months when the space was vacated by NOVA. Now, they would able to use the space downstairs on a continuing basis which was the reason for the request to the BZA. Mrs. Houk stated that ACCA was an extended day care center and no child was younger than four. The majority of the children were kindergarten, first grade and second grade with the maximum age being 10 years. Mrs. Houk stated that the center had been existence since 1970 was occupied space in the Culmore Church.

There was no one else to speak in support 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-80-M-090 by ACCA DAY CARE CENTER under Section 3-303 of the Fairfax County Zoning Ordinance to amend S-28-75 for child care center to increase maximum number of children from 50 to 110, utilizing space vacated by NOVA Faculty Wives Child Care Center on property located at 5901 Leesburg Pike, tax map reference 61-2((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 November 18, 1980; 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-3.
3. That the area of the lot is 2.2626 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date the permit shall remain valid until the request for extension is acted upon by the BZA.

RESOLUTION

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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of children shall be 110, ages 4 through 10 years.
8. The hours of operation shall be 7 A.M. to 6 P.M., Monday through Friday.
9. All other requirements of S-25-70 not altered by this resolution shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 126, November 18, 1980, Scheduled case

8:20 P.M. CALVARY ROAD CHRISTIAN SCHOOL & CHILD CARE CENTER, appl. under Sect. 3-103 of the Ord. to amend S-193-74 to permit increase in number of children from 225 to 240 & change ages from 2 to 6 years to infant through 12 years, located 6811 Beulah St., 91-1((1))61, Lee Dist., R-1, 6.236 ac., S-80-L-092.

Mr. William Knop, the Administrator of the Calvary Road Christian School, informed the Board that they wanted to increase the number of students from 225 to 240. In addition, they were requesting to change the age limitations from 2 to 6 years to be infant through 12 years. There were not any other proposed changes. The hours of operation would remain 6:45 A.M. to 6:00 P.M. Chairman Smith noted that the original permit allowed operation from 6:00 A.M. to 6:00 P.M, five days a week. The school had been in existence since 1974.

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

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-L-092 by CALVARY ROAD CHRISTIAN SCHOOL AND CHILD CARE CENTER under Section 3-103 of the Fairfax County Zoning Ordinance to permit increase in number of children from 225 to 240 and change ages from 2 to 6 to infant through 12 years, on property located at 6811 Beulah Street, tax map reference 91-1((1))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 November 18, 1980; 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 6.236 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, iand is for the location indicated in the application and is not transferable to other land.

R E S O L U T I O N

2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days prior to the expiration date and the special permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of children shall be 240, ages infant through 12 years.
8. The hours of operation shall be 6:00 A.M. to 6:00 P.M., five days a week.
9. The number of parking spaces shall be 119.
10. All other requirements of S-193-74 not altered by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 127, November 18, 1980, Scheduled case of

8:40 P.M. OLD KEENE MILL SWIM & RACQUET CLUB, INC., appl. under Sect. 3-103 of the Ord. to amend S-315-76 for community recreation facility to change hours of operation for tennis courts to 9 A.M. to 10 P.M., located 6301 Lee Chapel Rd., Bent Tree Subd., 78-3((1))7C, Springfield Dist., R-1, 3.27 ac., S-80-S-094.

Mr. William King of 6129 Rockwell Court in Burke represented the club. Mr. King stated that they were requesting a change in the hours of the tennis courts to allow an extension from 9:00 P.M. to 10:00 P.M. All three tennis courts were lighted. Mr. King stated that he was not aware of any opposition from the neighbors regarding the extension of time for the tennis courts. Mr. King stated that the club had canvassed the area in July regarding the request and had also sent certified letters to 22 property owners in the area but only received 18 cards back.

Mr. Hyland inquired if there was appropriate screening for the lights. Mr. King responded that the club had a wind screen. The lights were directed downward. Mr. King stated that the lights were not the official lighting which would be much brighter.

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

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-S-094 by OLD KEENE MILL SWIM AND RACQUET CLUB, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-315-76 for community recreation facility to change hours of operation for tennis courts to 9 A.M. to 10 P.M. on property located at 6301 Lee Chapel Road, tax map reference 78-3((1))7C, 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 18, 1980; 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 3.27 acres.
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board has made 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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 use, 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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 9:00 A.M. to 10:00 P.M.
8. All other requirements of S-315-76 not altered by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 128, November 18, 1980, Scheduled case of

9:00 P.M. NEWTON W. EDWARDS, INDIVIDUALLY, AND THE PINECREST CIVIC ASSOCIATION, appl. under Sect. 18-301 of the Ord. to appeal decision of Zoning Administrator that an appeal of Sept. 24, 1980 on the proposed use of the Salvation Army in SE-80-M-060 was not timely filed, located 6528 Little River Turnpike and 4700 Green Spring Road, 72-1((1))22 & 22A, Mason Dist., R-2 & C-5, 5.980 ac., A-80-M-013.

Mr. Philip Yates, the Zoning Administrator, and Mr. Linsky of the Pinecrest Civic Association, gave testimony to the BZA regarding the subject appeal. For information presented at the hearing, please refer to the verbatim transcript located on file in the Clerk's Office.

At the conclusion of the public hearing, Mr. Yaremchuk moved that the Board overturn the decision of the Zoning Administrator. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 1 (Chairman Smith).

//

Page 128, November 18, 1980, After Agenda Items

LAKEVIEW SWIM CLUB: The Board was in receipt of a request from the Lakeview Swim Club for approval to relocate a deck around the swimming pool because of soil problems. It was the consensus of the Board to allow the relocation provided that the deck retain the same dimensions as previously approved. The proposed deck was to be built in one section 77'x12' which complied with the Board's requirements.

//

Page 128, November 18, 1980, After Agenda Items

MEADOWBROOK ASSOCIATES: The Board was in receipt of a request from Mr. Russell Rosenberger for an extension of the special permit granted to Meadowbrook Associates, S-306-78. Mr. DiGiulian moved that the Board grant a six month extension. Mr. Hyland seconded the motion and it passed by a vote of 5 to 0.

//

Three E Development Company: The Board was in receipt of a request from Mr. George F. Wirth, President of the 3-E Development Corporation regarding an extension of V-242-78 through V-254-78 granted to Loyola Federal Savings and Loan Association. It was the consensus of the Board to grant a 180 day extension. The Clerk was directed to notify Mr. Wirth that this was the last extension to be given. In addition, Mr. Wirth was to be advised that as these were separate variances, construction would have to begin on each lot to validate the variance.

129

// There being no further business, the Board adjourned at 10:40 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on June 22, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: June 29, 1982

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 25, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:20 A.M. led with a prayer by Mrs. Day.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. STAFFORD BROTHERS, Inc., appl. under Sect. 18-401 of the Ord. to allow subd. into 21 lots with proposed lot 21 having width of 12.72 ft. (80 ft. min. lot width req. by Sect. 3-306), located 10206 Wandering Creek Rd., Providence Dist., R-3, 8.2502 acres, V-80-P-154. (DEFERRED FROM SEPTEMBER 23, 1980 AT THE REQUEST OF THE APPLICANT'S ENGINEER TO SEEK AN ALTERNATIVE TO THE VARIANCE.)

Mr. Howell Simmons of Paciulli, Simmons & Associates, represented the applicant. He stated that the requested variance was for one lot with less than the required lot width. It would be a pipestem lot having 12 ft. width. The property was located in the R-3 district and had a maximum yield of 24 lots. Mr. Simmons stated that the subdivision would create 21 lots, one of which would require a variance. Mr. Simmons stated that the property was steep and irregular in shape. Mr. Simmons stated that if a street were constructed to serve the lots, it would necessitate more tree removal. He stated that the County staff had reviewed the plan and did not have any comment.

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

STAFFORD BROTHERS, INC.

RESOLUTION

In Application No. V-80-P-154 by STAFFORD BROTHERS, INC. under Section 18-401 of the Zoning Ordinance to allow subdivision into 21 lots with proposed lot 21 having width of 12.72 ft. (80 ft. minimum lot width required by Sect. 3-307), located at 10206 Wandering Creek Road, tax map reference 40-3((1))39 & 42, 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 25, 1980; 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 8.2502 acres.
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 location indicated in the plats included with this application only, and is not transferable to other land.

2. This variance shall expire eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days prior to the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

10:10 A.M. CHILDREN'S WORLD, INC., appl. under Sect. 3-303 of the Ord. to allow child care center, located 8518 Bauer Dr., Fairfax Park Subd., 79-3((4))38C, Springfield Dist., R-3, 0.78107 ac., S-80-S-081. (DEFERRED FROM OCTOBER 21, 1980 FOR TRAFFIC STUDY AND STATE CORPORATION COMMISSION PAPERS.)

131

Mr. Grayson Hanes, an attorney located at 4014 University Drive in Fairfax, represented the applicant. He stated that as a result of the last hearing, two or three items had been left up in the air. The first item was the authority for Children's World, Inc. to do business in the State of Virginia. Mr. Hanes stated that he had submitted authorization from the State Corporation Commission indicating that the company was authorized to do business in the State of Virginia. They would trade under the name of Children's Center, Inc.

Mr. Hanes stated that the other issue he wanted to address was the traffic. The Board was in receipt of a traffic study from the Department of Transportation which indicated that the additional traffic could be accommodated by Bauer Drive although the trip generation would be in excess of the trips incorporated in the adopted plan. Mr. Hanes stated that he had an independent study made with respect to the traffic. He stated that he was concerned about the testimony given at the last hearing regarding traffic on Bauer Drive and Rolling Road. Mr. Hanes stated that the traffic generated by the child care center would be 550 trips. According to the County traffic study, the road would accommodate at present about 3,000 vpd. Mr. Hanes stated that the increase in traffic generated by the special permit and an increase in traffic of 15%, the total would be 1,100 vehicle trips. Mr. Hanes stated that the road would be upgraded and he assured the Board that Children's World would dedicate in order that the road could accommodate 5,500 vehicle trips.

The independent study was done by Mr. Dick Keller of BKI, Inc. who indicated that the level of service at Bauer Drive and Rolling Road was the highest level of service possible. He stated that it could be improved upon by taking all of the traffic off the road completely. It was the opinion of Mr. Keller that the intersection with the additional traffic generated by the child care center would remain in its excellent status even with the additional traffic. Mr. Hanes stated that it was his opinion that the opposition was using the traffic issue in an attempt to shoot down the special permit because of the competition argument. Mr. Hanes stated that he knew the BZA had in the past taken the position that if a person wanted to go bankrupt in the State of Virginia, they were entitled to do so.

Another question of concern had been the vehicles on Bauer Drive. Mr. Hanes stated that they had changed the parking to allow the children to be taken right up to the child care center itself. He stated that he had submitted a revised site plan with the only change being the parking arrangement. Mr. Hanes assured the Board that traffic would not be a problem. He indicated that there was not any issue left that had not been addressed in accordance with every other application ever heard before by the BZA. Mr. Hanes informed the Board that Mr. Keller was present to any answers there might be regarding the traffic study. He stated that this was the first venture for Children's World, Inc. in the State of Virginia.

Mr. DiGiulian stated that the staff report addressed the widening of Bauer Drive and a dedication of 30 ft. from the center line of the road. Mr. Hanes stated that they were prepared to do that. He stated that they had requested a waiver of the block wall screening around the property and instead asked that it be wood so as to be in keeping with the trees, etc.

Chairman Smith stated that with respect to the comment regarding bankruptcy, that the BZA hoped that no business ever had to declare bankruptcy. He stated that the BZA was not allowed under the Code of Virginia to use need as a criterial for granting the use. He stated that the close proximity of similar uses might affect the use more in residential areas than in industrial areas.

The next speaker was Barbara Woods of 8734 Center Road, a member of the Zoning Committee of the West Springfield Civic Association. Mrs. Woods stated that a speaker had indicated that Bauer Drive was not crowded. Mrs. Woods explained to the Board that many people pulled out on Bauer Drive from Old Keene Mill Road by going in front of the Police Dept. in order to avoid the intersection. There was one other way to weave in and out onto Bauer Drive. She stated that she didn't know anything about the traffic counts. She stated that coming out of the shopping center across Old Keene Mill Road, there was an access which was terrible. People darted in and out of the traffic which was very dangerous. Mrs. Woods stated that her concern was for the children's safety. She stated that she had opposed the shopping center but had been told that if the shopping center were approved, it would prevent the opening of several large fast food stores. She reminded the Board of the task force for single family detached houses and the fact that the area was to be maintained as a residential area. The portion between Bauer Drive and the Timber Subd. was to be maintained as residential. She stated that she realized that this was a special permit and could be put in a residential area, but she stated that the center would accommodate 100 children which was more of a commercial use.

The next speaker in opposition was Mary Byers of 7936 Orange Plank Drive. She stated that when she first came to the public hearing on the child care center, it appeared that the private street going through the apartments was going to be used. Mrs. Byers was concerned

about the statistics used in the traffic study by the County since they were taken in 1979. Chairman Smith stated that the most recent traffic study was the one prepared by BKI which indicated that Bauer Drive could handle the traffic during the peak hours. Mrs. Byers was concerned about traffic backup on Bauer Drive. She stated that she had done a survey at her facility regarding the amount of time taken by the parents when dropping off the children. The average was five minutes in the morning and eight minutes in the afternoon. Chairman Smith stated that those were not realistic as to the statistics the Board had received in the past. He stated that it did not take as long for the parents when they only dropped the child off at the door. Mrs. Byers stated that the parents of the children at her facility were concerned and often had questions regarding the child as to whether he ate of slept. She stated that to answer the questions always took more than two minutes. Mrs. Byers stated that a child care center was more than just a commercial establishment. Chairman Smith stated that there was a parking lot for the parents who wished to go inside. Mrs. Byers stated that private citizens had been to the previous hearing concerned about why there would be one facility right next door to another one.

Mrs. Day stated that to bring an infant into the child care center would take more than just a few minutes. Chairman Smith stated that there was to be someone to meet the parents at the car who would take the children inside which would expediate the loading and unloading.

During rebuttal, Mr. Hanes stated that the independent study with regard to the traffic had indicated that the Bauer Drive could accommodate 3,000 vpd and that it could go up to 5,500 v.p.d. The County had come to the same conclusions in its study according to Mr. Hanes. The intersection of Bauer Drive and Old Keene Mill Road was at the highest level of efficiency. Mr. Hanes stated that the traffic issue had been addressed and disposed of and was no longer a problem. Mr. Hanes stated that with the revised parking situation, there would be adequate space to accommodate all vehicles at the peak hours.

Mr. Hanes inquired if the Board would waive the requirement of the brick fence for a wood fence with respect to the screening. He stated that the plat showed a masonry wall. Chairman Smith stated that if the applicant wished to change it, it would require another public hearing and revised plats.

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-S-081 by CHILDREN'S WORLD, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to allow child care center on property located at 8518 Bauer Drive, tax map reference 79-3((4))38C, 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 25, 1980; and deferred from October 21, 1980 for traffic study and state corporation papers; and

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

1. That the applicant is the contract purchaser.
2. That the present zoning is R-3.
3. That the area of the lot is 0.78107 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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)

RESOLUTION

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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of children shall be 128, ages 18 months to 11 years.
8. The hours of operation shall be 6:30 A.M. to 6:30 P.M., Monday through Friday.
9. The number of parking spaces shall be 19.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 with 2 abstentions (Mr. Smith and Mr. Yaremchuk).

Page 133, November 25, 1980, Scheduled case of

10:20 A.M. JOHN VICTOR LUTZ, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 6.2 ft. from side lot line such that total side yard would be 31.3 ft. (12 ft. min. but 40 ft. total min. side yard req. by Sect. 3-107), located 3514 Willow Green Ct., Waples Mill Estates Subd., 46-1((13)) 23, Centreville Dist., R-1(C), 26,259 sq. ft., V-80-C-184.

Mr. John Lutz of 3514 Willow Green Court stated that he was seeking a variance for a garage addition to his home. He stated that this home would probably be his permanent home. Mr. Lutz stated that he had dozens of trees on his property and had several pine trees come down on his home. Mr. Lutz stated that he wanted a garage in order to protect his cars. The property was irregularly shaped being much narrower in front than in the back. The back of the property was all parkland. Mr. Lutz stated that his property did not butt up against private property as it was all parkland. The parkland was a 12 to 15 ft. drainage area. Mr. Lutz stated that the front of the property would not be a good location for the garage because of the drainage and the trees. The other side of the house would also require a variance if a garage were built. He stated that his back yard had a septic field and it was not possible to construct a garage at that location either. Mr. Lutz informed the Board that this was the only location. He stated that this side of the house had a basement door which was easily accessible.

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

RESOLUTION

In Application No. V-80-C-184 by JOHN VICTOR LUTZ under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling 6.2 ft. from side lot line such that total side yard would be 31.3 ft. (12 ft. minimum but 40 ft. total minimum side yard required by Sect. 3-107) on property located at 3514 Willow Green Court, tax map reference 46-1((13))23, County of Fairfax, Mr. Hyland 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 25, 1980; 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 26,259 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow and has exceptional topographic problems and drainage problems.

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

RESOLUTION

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 134, November 25, 1980, Scheduled case of

10:30 A.M. WILLIAM SMYTH, appl. under Sect. 18-401 of the Ord. to allow subd. into four lots with proposed lots 2 & 3 each having width of 10.02 ft. (150 ft. min. lot width req. by Sect. 3-107), located 7608 & 7612 Old Ox Road, 96-2((1))3, Springfield Dist., R-1, 10 ac., V-80-S-185.

Mr. Charles E. Runyon, an engineer located at 7150 Leesburg Pike in Falls Church, represented the applicant. The property was located on Old Ox Road which used to be Rt. 123. Mr. Runyon stated that it had a limited amount of access and did not have highway frontage all the way around the property. The property was zoned R-1 but the due to the topography, it could not be subdivided into one acre lots. Mr. Runyon stated that it was the applicant's desire to subdivide the property into four lots having two acres or more. The rear lots would require a pipestem access of 10 ft. Mr. Runyon stated that he felt this was a reasonable solution to the narrowness of the property, the topographic problems and the soil conditions. He stated that they had worked with the Health Department for three years to determine the best way to allocate the perc sites available. By reducing the number of lots, the applicant was able to make a more desirable situation and could take advantage of the limited frontage.

Mr. Runyon stated that the photographs submitted showed a 50 ft. access which served the AT & T building at the rear of the property. He gave the Board the pictures for the file. In response to questions from the Board, Mr. Runyon stated that the applicant had owned the property since 1972. There was an old barn on the property which the applicant had been trying to convert into a residence. It was located on lot 3.

Mrs. Day stated that the proposed subdivision if granted would create two small lots at the end which were of not use. Mr. Runyon stated that the property was chopped up in many ways. It had seven perc sites but if developed in that manner would not create very good lots. Mr. Runyon stated that they felt this proposed subdivision was a better situation. Mr. Runyon stated that no one was living in the house at the present time. Chairman Smith inquired as to why the house was not shown on the plat. Mr. Runyon stated that the house was situated in the middle of lot 3. He stated that he only attempted to show the variance layout.

Mr. Jim Woods of 8734 Center Road spoke in support of the application. He stated that he had known Mr. Smyth for six years. He stated that he had been attempting to buy one of the lots and had signed a contract several years ago. Mr. Woods stated that the purchase of the lot had been held up because of problems in getting the lots approved. He stated that the land itself did not front on Ox Road and would not front on a major highway. Old Ox Road had very limited traffic on it. For that reason, Mr. Woods felt that the subdivision plan should be approved. He stated that he was in favor of it.

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

Page 135, November 25, 1980 Board of Zoning Appeals
WILLIAM SMYTH

RESOLUTION

In Application No. V-80-S-185 by WILLIAM SMYTH under Section 18-401 of the Zoning Ordinance to allow subdivision into four lots with proposed lots 2 & 3 having width of 10.02 ft. (150 ft. minimum lot width required by Sect. 3-107) on property located at 7608 & 7612 Old Ox Road, tax map reference 96-2((1))3, County of Fairfax, Virginia, Ms. Day 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 25, 1980; 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 10 acres.
4. That the applicant's property is exceptionally irregular in shape and has limited frontage and is a long, narrow lot requiring a variance in order to subdivide it.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 135, November 25, 1980, Scheduled case of

10:40 A.M. ELWOOD C. POLLIS, appl. under Sect. 18-406 of the Ord. to allow accessory building to remain 5.4 ft. from side lot line (12 ft. min. side yard req. by Sect. 10-105 & 3-307), located 4914 Bristow Dr., Bristow Subd., 71-3((3))65, Annandale Dist., R-3, 10,500 sq. ft., V-80-A-186.

The Board was in receipt of a letter from Mr. Pollis seeking a rescheduling of the variance as the notices were not sent out. A neighbor informed the Board that he opposed the variance. The Board rescheduled the hearing for Tuesday Night, January 13, 1980 at 8:00 P.M. for notices.

//

Page 135, November 25, 1980, Scheduled case of

10:50 A.M. NATIONAL LIFE INSURANCE COMPANY, under Sect. 18-401 of the Ord. to allow construction of a warehouse building 49 ft. at the nearest point from I-95 right-of-way (75 ft. min. setback of industrial buildings from right-of-way of interstate highways req. by Sect. 2-414), located Gunston Cove Road, Potomac II - Potomac Industrial Park Subd., 113-2((1))16, Lee Dist., I-5, 4.32793 ac., V-80-L-191.

Mr. Allen Anderson, an attorney located at 205 Strang Avenue in Alexandria, represented the applicant. Mr. Anderson stated that there was a 75 ft. minimum setback for an industrial building off of an interstate highway. He stated that they were requesting a variance to construct a building 49 ft. from the interstate because of the exceptional narrowness of the property. Mr. Anderson stated that the property was wedged as far north and as east as it could be located. The property was pie-shaped and only 2,100 sq. ft. of the building would be in the setback area. Mr. Anderson stated that with the shape of the property, the setback was prohibitive. In order to comply with the

requirement, the building would have to be constructed in a pie shape. All of the property was zoned industrial and it was located beside I-95 and the railroad. The variance would not injure the contiguous landowners as the adjoining land was also zoned industrial. Mr. Anderson stated that the construction of the building would increase the tax rates and the property value of the land next to it. The applicant was proposing to construct a warehouse of 35,000 sq. ft. If the property was regularly shaped, a warehouse building of 100,000 sq. ft. could be constructed. Mr. Anderson stated that the applicant was not intruding on the setback any more than economically feasible. He stated that they would not be able to build at all if the variance were denied.

In response to questions from the Board, Mr. Anderson stated that the warehouse would be used for storage. There would be five bays located on the southern portion for tractor trailers. Mrs. Day inquired if the applicant had rights to load or unload with the railroad. Mr. Anderson stated that there was a loading dock on the property but there were no rights with the railroad at this time. He stated that they hoped to take advantage of the rights in the near future.

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

R E S O L U T I O N

In Application No. V-80-L-191 by NATIONAL LIFE INSURANCE COMPANY under Section 18-401 of the Zoning Ordinance to allow construction of a warehouse building 49 ft. at the nearest point from I-95 right-of-way (75 ft. minimum setback of industrial buildings from right-of-way of interstate highways required by Sect. 2-414) on property located at Gunston Cove Road, tax map reference 113-2((1))16, 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 25, 1980; 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-5.
3. The area of the lot is 4.32793 acres.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 137, November 25, 1980, Scheduled case of

11:00 A.M. ROBERT M. CUPP, appl. under Sect. 18-401 of the Ord. to allow construction of a detached garage to 6 ft. from rear lot line & 6 ft. from side lot line (20 ft. min. side yard & 15.4 ft. rear yard req. by Sects. 10-105 & 3-107), located 6516 Joyce Rd., Walhaven Subd., 91-2((2))14, Lee Dist., R-1, 0.516 ac., V-80-L-189.

As the required notices were not in order, the Board deferred the variance until Tuesday, January 27, 1981 at 10:00 A.M.

//

Page 137, November 25, 1980, Scheduled case of

11:10 A.M. STANLEY B. & RUTH B. GROSS, appl. under Sect. 18-401 of the Ord. to allow subd. into two lots, one of which would have width of 195.32 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 9038 Jeffery Road, 8-2((1))32, Dranesville Dist., R-E, 4.271 ac., V-80-D-190.

Mr. Douglas Detwiler, a land surveyor of 10604 Warwick Avenue in Fairfax, represented Mr. and Mrs. Gross. He stated that they were asking for a slight reduction of the required 200 ft. lot width for one proposed lot. The variance sought was 4.6 ft. The minimum frontage required for the two lots would be 400 ft. After dedication for public street purposes and a 50 ft. setback, there was only a total of 195.32 ft. frontage which left one lot with less than the required lot width as stipulated in the Code. Mr. Detwiler stated that the lots would have more than adequate lot area and he stated that the total land involved was 4.271 acres. One acre was being dedicated for public street purposes.

There was no one else to speak in support of the application. Mr. Steven Barnett of 9100 Jeffery Road spoke in opposition. He stated that the residents had submitted a letter in opposition to the variance. Chairman Smith stated that this was a very minor variance request. Mr. Barnett stated that it was a major variance as far as the neighbors were concerned. He stated that Mr. and Mrs. Gross had signed petitions in opposition to previous subdivisions in the area. He stated that they had moved away and were now in a bind to sell the property. Mr. Barnett stated that the subdivision was contrary to the Comprehensive Plan. The neighborhood had been very strong in opposing variances in the area and they wished to continue the opposition. Mr. Barnett stated that this was a rural area and the Master Plan called for five acre lots.

Mr. Hyland inquired if Mr. Barnett believed that any variance should be given for this area. Mr. Barnett stated that a variance should be given for the lot width requirements. He stated that Mr. and Mrs. Gross had moved to Ashton, Virginia. The property had a house and a barn on it. The property was now for sale and originally had been listed as one parcel.

Mrs. Day inquired as to what the area was like with respect to the other property. Mr. Barnett stated that there was a one story brick and frame dwelling on the subject property. Mrs. Day inquired as to the average size of the other lots in the area and Mr. Barnett stated that they were five acres. He indicated that there were smaller lots but everybody else in the area had very large lots. He stated that he had 5.8 acres, Mr. Spokas had 28.5 acres, Mr. Digges had 28.9 acres, another owner had 12 acres, another had 4 acres and Mr. Nelson had 7 acres.

In response to further questions from the Board, Mr. Barnett stated that Mr. and Mrs. Gross had owned the property for five or six years with the house on it. It was a four acre parcel at that time. Mrs. Day inquired if anyone in the immediate area had ever subdivided into smaller lots. Mr. Barnett responded that people had attempted to subdivide into smaller lots but they were unsuccessful.

Mr. DiGiulian stated that it appeared to him that there would be enough lot width for the subdivision were it not for the proposed 20 ft. dedication to Jeffery Road. Mr. Barnett stated that was not true. Mr. DiGiulian stated that there would be enough width for two standard lots. Mr. Yaremchuk stated that if he were the applicant, he would not dedicate. Mr. DiGiulian stated that the applicant had converging lot lines so there was less width in the front than at the rear of the property. Mr. Yaremchuk stated that the applicant was trying to cooperate with respect to dedication but ended up hurting himself. Chairman Smith stated that this was not a self-created hardship as there was no indication that that the applicant had not acted in good faith.

Mr. Barnett called the Board's attention to the fact that Mr. and Mrs. Gross had signed petitions against subdivisions in the past when they lived on the property. Now they no longer lived there and were trying to reap all they could. Chairman Smith stated that the Board had to consider all of the merits of the case. He understood how it hurt when someone took one position and then acted contrary to it.

The next speaker in opposition was Mr. Edward Brackenbach of 9208 Jeffery Road. He stated that this was the third or fourth time he had been before the BZA to discuss a variance on Jeffery Road. He stated that the time was with respect to Dr. Lane's property. Mr. Brackenbach stated that he had known Mr. and Mrs. Gross for some time. He believed that they did move to the property originally to have the acreage. Mr. Brackenbach stated that there was a reason for having the master plan require two or five acre lot sizes. He urged the Board to deny the variance.

There was no one else to speak in opposition. During rebuttal, Mr. Detwiler pointed out that in the area, the property known as parcel 9 had recently been subdivided and was a pipestem lot. It was adjacent to the narrow access of lot 10. It only had a 12 ft. lot width access. He stated that the subdivision on the opposite side was one acre lots. Mr. Detwiler pointed out that in the general area towards Riverbend, parcel 24 had been subdivided into three lots of two acres each. Mr. Detwiler stated that the applicants felt they were in compliance with the Code and that a denial of the variance would deprive them of the reasonable use of the property. Mr. Detwiler further stated that the subdivision was in conformance with the existing zoning on the property.

Mrs. Day moved that the Board deny the variance as the applicant had not satisfied the Board that physical conditions existed which would deprive him of the reasonable use of the property.

The motion died for lack of a second.

Page 138, November 25, 1980 Board of Zoning Appeals
STANLEY B. & RUTH B. GROSS

R E S O L U T I O N

In Application No. V-80-D-190 by STANLEY B. & RUTH B. GROSS under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, one of which would have width of 195.32 ft. (200 ft. minimum lot width required by Sect. 3-E06), on property located at 9038 Jeffery Road, tax map reference 8-2((1))32, 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 25, 1980; 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 4.271 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has converging lot lines.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 2 (Ms. Day & Mr. Smith).

Page 139, November 25, 1980

At noon, Mr. Hyland had to leave the meeting and was not able to return for the remaining cases.

//

Page 139, November 25, 1980, Scheduled case of

11:20 A.M. MICHAEL T. MOORE, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport to 8.3 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 3326 Holly Ct., Holmes Run Acres Subd., 59-2((8))(4)44, Providence Dist., R-3, 11,507 sq. ft., V-80-P-192.

Mr. Michael Moore stated that he was requesting a variance to enclose his carport due to the narrow lot and the converging lot lines. The carport was already existing. He stated that he did not intend to build any closer to the lot line than the existing carport and only wished to enclose it.

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

Page 139, November 25, 1980 Board of Zoning Appeals
MICHAEL T. MOORE

RESOLUTION

In Application No. V-80-P-192 by MICHAEL T. MOORE under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport to 8.3 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 3326 Holly Court, tax map reference 59-2((8))(4)44, 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 25, 1980; 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 11,507 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has converging lot lines.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 139, November 25, 1980, Scheduled case of

11:30 A.M. ROY & LYNDA K. O'BRYAN, appl. under Sect. 18-301 of the Ord. to appeal decision of the Zoning Administrator as of August 21, 1980 denying subd. of parcel under Sect. 2-403, located 1051 Swinks Mill Rd., 21-3((1))30A, Dranesville Dist., R-1, 1.503 ac., A-80-D-011. (DEFERRED FROM OCTOBER 28, 1980 FOR NOTICES.)

Mr. Yates, the Zoning Administrator, informed the BZA that Mrs. Kelsey would present his case. Mrs. Kelsey stated that the subject of the appeal was the Zoning Administrator's decision that the subject lot could not be divided into two lots under the provisions of Par. 1 of Sect. 2-403. The appeal was filed by Mrs. O'Bryan. The property was located at 1051 Swinks Mill Road and was zoned R-1. There was one dwelling on the property. Mrs. Kelsey stated that the background for the appeal was contained in the staff report. In addition, Mrs. Kelsey stated that the point of the appeal was also contained in the staff report.

The provision of the Zoning Ordinance which was in question was Par. 1 of Sect. 2-403 which stated:

1. If any parcel of land is under one ownership, it may be divided into two (2) lots neither of which has an area of less than eighty-five (85) per cent of the minimum area specified for a conventional subdivision lot in the zoning district in which located, and each of the two (2) resulting lots may be used as a lot for a use permitted in the district; provided the parcel meets the following conditions, and development of the resulting lots can comply with all other regulations for the district:

   A. Has an area less than the average area required for two (2) conventional subdivision lots, but contains at lest 180 per cent of the minimum area prescribed by this Ordinance for a conventional subdivision lot in the district in which such parcel is situated, and

   B. The specific parcel existed and has not been the subject of subdivision since the effective date of this Ordinance, and

   C. Is not adjoined by any other land in the same ownership.

Mrs. Kelsey reported to the Board that the proposed lot 2 would have 30,600 sq. ft. of lot area. The property fronted on Gelston Circle. Mrs. Kelsey stated that neither of the lots met the minimum lot area requirement of 36,000 sq. ft. nor did they meet the minimum lot width requirement of 150 ft. as measured at the building restriction line. She stated that reduction in minimum lot area for two lots under Sect. 2-403 required that certain conditions be met.

Mr. Yaremchuk inquired if the problem was the fact that if the applicant used the 180% rule then the property had to comply with all other requirements for the zone. Mr. Yates stated that was correct. Mr. Yates explained that the problem was that the property was 15 ft. short of satisfying the minimum lot width requirement at the building restriction line. Mr. Yates stated that this application was not a variance but an appeal due to the denial of the approval of the subdivision. Mr. Yates stated that Interpretation No. 19 was being appealed by Mr. and Mrs. O'Bryan. He informed the BZA that another appeal had been sought previously under the same provision. Mr. Yates stated that Mr. and Mrs. O'Bryan had wanted to file a variance application to the lot width requirement but he indicated that he had refused to accept it which was why they had filed the appeal. Mr. Yates stated that he was taking a very strict interpretation of Interpretation No. 19 and indicated that it was a judgment issue. Mr. Yates explained to the Board that prior to April 18, 1979 with the interpretation no. 19, the BZA had the power to grant variances under Sect. 2-403.

Mrs. Lynda O'Bryan of 1351 Scott's Run Drive in McLean informed the Board that she and her husband were the owners of the property. Mrs. O'Bryan presented the Chairman with letters from the neighbors in her area who supported the subdivision. Chairman Smith advised Mrs. O'Bryan that this was strictly a question of the Code and was not an issue to be decided by the neighbors unless they addressed the Code. Mrs. O'Bryan informed the Board that they had the property since 1967. She stated that the property had been subdivided prior to 1959 but it came under the Sect. 2-403. Mrs. O'Bryan stated that she was not a zoning attorney and was very emotionally involved. She stated that she could not cite prior interpretations. Mrs. O'Bryan stated that she felt she had sufficiently prepared herself for the appeal as she had worked diligently with the County staff for the past year.

Mrs. O'Bryan stated that she met with Mr. Yates and Mrs. Kelsey on August 21, 1980 as she thought the Zoning Administrator had the authority to grant interpretations. She stated that during the meeting, they examined alternatives of development. She stated that she was involved in many discussions with the planning office. Mrs. O'Bryan stated that as Mr. Yates pointed out, this was a close judgment issue. She stated that justification lies with the BZA in Sect. 18-305 of the Zoning Code.

Mrs. O'Bryan stated that the subdivision of the property would result into two lots of 3/4 acres with each lot meeting the minimum lot area required for each under Sect. 2-403. Mrs. O'Bryan stated that her property was located at the entrance of a cluster development of ½ acre of less size lots. She stated that her subdivision would be similar but larger than property in the immediate vicinity. Both lots have substandard frontage on a state maintained road. Due to the unusual trapezoid lot and the setback of 40 ft., the lot width of 285 ft. was 15 ft. shie of the required 300 ft.

Page 141, November 25, 1980
ROY & LYNDA K. O'BRYAN
(continued)

Mrs. O'Bryan stated that unlike the Lucas appeal, her property differed entirely. She stated that her property was not one of many similar parcels in a trapped subdivision and would not set a precedent. She stated that it would not have a detrimental effect to the immediate area. Mrs. O'Bryan stated that the development would bring public utilities not only to her two lots but to at least three adjoining neighbors. She stated that her neighbors welcomed the subdivision. She stated that the older home would be remodeled in keeping with the other houses in the area. Mrs. O'Bryan stated that the subdivision was in keeping with the Comprehensive Plan of one to two dwelling units per acre.

Mrs. O'Bryan stated that she had spent many hours working on the Comprehensive Plan and had spent countless hours in opposition to rezoning in the Dranesville District which resulted in density not in keeping with the area. She cited the Evans townhouses, McLean Station and Madison of McLean as examples.

Mrs. O'Bryan stated that she had been injured ever since she purchased the property. In April of 1980, she was assured that she could subdivide the property at which time she applied for a building permit and subdivision plans and paid the fees. She showed Chairman Smith the preliminary plat signed by a member of the zoning staff. Mrs. O'Bryan stated that variances were permitted under other sections of the Code and lot width variances comprised a majority of the variances heard by the BZA. Mrs. O'Bryan stated that because she was a active participant in her community, she read the Weekly Agenda and was familiar with lot width variance requests.

Mrs. O'Bryan stated that in close proximity to her property, lots 35A, 35B and 35C had houses under construction after a variance had been granted to allow less lot width of 117 ft. 127 ft. and 50 ft. She stated that it seemed equitable that her lot having less than the required 150 ft. should receive a favorable response from the BZA. She stated that it was clearly evident that the Zoning Administrator's interpretation no. 19 was unjustified. Mrs. O'Bryan stated that she believed the tax assessment reflected that the deed and construction stated the intent to subdivide the property. The property was assessed at $54,000 with the land value of $22,000 per lot. She stated that the present assessment was 2.2 acres and was valued at $48,340 which was $22,000 per acre. Mrs. O'Bryan stated that she had never argued about the assessment because of their clear intention to subdivide the property. Mrs. O'Bryan stated that it also seemed clear of the plan for development since her address was 1051 and the house next door was listed as 1055.

Mrs. O'Bryan stated that she had been given verbal approval for the subdivision prior to the interpreation no. 19 and had been given verbal and written approval in April of 1980. In closing, Mrs. O'Bryan stated that it was clearly evident that variances of this sort were granted under other sections of the Code in this district. Mrs. O'Bryan stated that the granting of justified and equitable variances under Sect. 2-403 lies with the BZA. She stated that the subdivision in the words of the Zoning Administrator was very straight forward and was compatible with the neighborhood and deserving of the granting of a variance.

Chairman Smith advised Mrs. O'Bryan that the question of a variance was not before the BZA. The only question was the ruling of the Zoning Administrator and his interpretation of interpretation no. 19. Mrs. O'Bryan responded to the Chairman that she had been advised by Mr. Yates and Mrs. Kelsey that the BZA had the authority to overturn his decision in the matter. Chairman Smith stated that was true; however, it did not automatically give a variance. He stated that the Board was not entertaining a variance but an appeal.

Mr. DiGiulian stated that if he understood the case, the BZA could not grant a variance for lot area and if the BZA had granted a variance for lot width, then the Zoning Administrator would not approve the subdivision under the 180% clause. Mr. Yates stated that he could not accept an application for a variance because of his interpretation no. 19 which was why the appeal was before the BZA. He stated that he had refused to administratively sign off on the subdivision because under Sect. 2-403 of the Code, the subdivision must meet all of the requirements and no variance could be involved. He stated that was what had prompted the appeal. Mr. Yates stated that if the BZA overruled him, it would be incumbent upon Mrs. O'Bryan to file a variance application. Mr. Yates stated that he could not deviate from his position as it would have a rebounding effect throughout the County.

Mr. Mark Friedlander, an attorney located at 2018 N. 16th Street, in Arlington, informed the BZA that he represented the next door neighbor who favored the position of the Zoning Administrator. Mr. Friedlander stated that Mr. and Mrs. Joe Knotts, the immediate neighbors between the subject lot and Swinks Mill Road, were concerned about the adverse effects of the subdivision. The existing dwelling was served by a road or a driveway which was parallel to Gelston Circle. Mr. Friedlander stated that it would be adverse to have a house between the existing house and the house belong to Mr. and Mrs. Knotts. He stated that they supported the Zoning Administrator as there were certain rules and regulations that were made to be followed. The rules were for the protection of all the neighbors. He urged the Board to affirm the decision of the Zoning Administrator.

The next speaker in support of the Zoning Administrator was Mr. R. V. Trecarico of 7540 Old Cominion Drive in McLean. He stated that he lived south of the property in question. Mr. Trecarico stated that he did not oppose the Zoning Administrator's ruling. He informed the

Board that he was one of the newer landowners in the area. He stated that he did not feel that a precedent had been set. He indicated that he moved to his property because he liked the open space and he did not want the area made smaller. Mr. Trecarico stated that he could not see any hardship in this case as the applicants had not lived in the house for quite some time.

During rebuttal, Mrs. O'Bryan stated that she and her husband had lived on the property for many years. In 1975, they moved to another location where they had a business. Mrs. O'Bryan stated that she had approached the County in 1975 and had carefully followed the steps of compliance with the regulations. She stated that she had notified all of the adjacent land owners of the proposed intent to subdivide. Mrs. O'Bryan stated that she had received calls of encouragement. She met with civic groups. She stated that it would be boring to tell the BZA about all the ups and downs when she had been told to go ahead and start the subdivision process and when she had been to stop.

Mrs. O'Bryan stated that because of the appeal, she personally visited the neighbors. Mrs. O'Bryan stated that as far as the points brought out by Mr. and Mrs. Knotts and Mr. Trecarico, she understood their feelings and their position. She stated that Mr. Trecarico had approached her about 18 months ago with respect to trading some property. She stated that she was unable to accommodate the trade. Both the Knotts and the Trecaricos moved into the area in the early 70s. She stated that they would have known at the time of their purchase of the intent to subdivide the property and to build a new house. Mrs. O'Bryan stated that in 1968, she had been offered 20 ft. of land in exchange for her land along the Knotts property. She stated that Joe and Judy Knotts had been good neighbors and friends. Mr. Knotts had expressed his love of the woods. Mrs. O'Bryan stated that the position of the new house would be located in the woods.

Chairman Smith informed Mrs. O'Bryan that she was arguing the merits of a variance. Mrs. O'Bryan stated that her final statement was with respect to the Comprehensive Plan and the zoning laws and her wish to achieve a dwelling that fit into the neighborhood. She stated that her parcel of land met the intent of the Comprehensive Plan. It would fair and equitable for the BZA to overrule the interpretation of the section of the law according to Mrs. O'Bryan.

Mr. Yaremchuk stated that he agreed the BZA had the authority to vary the lot width and the lot area but that was not the issue. He stated that issue was whether the Zoning Administrator made the proper interpretation. Mr. Yaremchuk stated that he was familiar with the Code and the section of the Ordinance and he believed that the Zoning Administrator was correct. Therefore, Mr. Yaremchuk moved that the BZA uphold the decision of the Zoning Administrator. Mr. DiGiulian seconded the motion. The motion passed by a vote of 4 to 0 with Mr. Hyland abstaining.

//

Page 142, November 25, 1980, Scheduled case of

11:45 A.M. ST. MATTHEW'S UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit building addition to existing church and related facilities, located 8617 Little River Turnpike, Wakefield Forest Subd., 59-3((10))13-19 & 22-28, Annandale Dist., R-1, 5.321 acres, S-80-A-087. (DEFERRED FROM NOVEMBER 4, 1980 FOR DECISION OF FULL BOARD.)

Mr. Frank Grace, an attorney in Fairfax, represented the church. For background purposes, Mr. Yaremchuk stated that the County had waived the sidewalk requirement. He stated that now there was a requirement for a bike trail. Mr. Yaremchuk stated that he believed the service drive would be required still as well as the sidewalk even though the County had waived it previously. He stated that the church did not want either one. Mr. Grace stated that the church had been offered a sum of money to grant an easement for the bike trail but had declined the offer. Mr. Yaremchuk stated that the waiver on the service drive had been granted by the County and was legal. Mr. Yaremchuk stated that he was not certain about the legality of the bike trail and would like to test it. He stated that he felt the church should be fair. The County had granted the church a waiver before and now were requesting the bike trail. Chairman Smith stated that the bike trail was certainly less expensive than the service drive.

Mr. Saxe advised the BZA that just this morning the church, Mr. Oscar Hendrickson and he had reached an agreement regarding the bike trail issue. He stated that the County was willing to waive the service drive requirement and the other 1966 and 1968 waiver in return for the church giving the County the land needed and special funds up to $5,000 to construct the bike trail. He stated that they had met several times and the church had finally agreed to accept the offer.

Mr. Grace advised the BZA that the church had agreed to grant the easement and provide funds of $5,000 for the bike trail. The County had agreed that it would not require the church to construct the service drive in the future. He stated that they hoped the church

Page 143, November 25, 1980
ST. MATTHEW'S UNITED METHODIST CHURCH
(continued)

would be coming back before the BZA in the future for the construction of new buildings and a sanctuary and the driveway access to it. He indicated that the Board of Trustees of the church had met and agreed to the County's offer.

Mr. Yaremchuk stated that the County was really saving the church a lot of money by not requiring them to construct the sidewalk and service drive. Mr. Grace stated that the location of the easement would be worked out by both parties. He stated that the church wished to save as many trees as possible. Chairman Smith asked that the agreement be incorporated in the plat. He stated that he would like to have a revised plat showing the agreed upon location as far as the bike trail was concerned. Chairman Smith stated that if it was going to take a while to work out the agreement, he wanted something in the file to indicated that the church had agreed to build the bike trail.

Mr. Saxe stated that the church had agreed to give the County the necessary land. Chairman Smith inquired if there was anything in writing to that effect. He stated that he was hesitant to grant the variance based on a verbal agreement. Mr. Saxe advised the BZA that Mr. Grace had provided him with a written agreement. The only detail missing or to be worked out was the exact location of the bike trail.

Mr. Ralph Wills of Public Works informed the BZA that the main objection was to provide as little impact on the property as possible with respect to tree removal. He stated that the church had not seen the stakeout of the easement yet. Chairman Smith stated that this would only be a tentative approval of the location of the proposed addition until the church submitted new plats indicating the agreed location for the bike trail. Mr. Yaremchuk stated that he would be satisfied if both sides indicated where the bike trail would be and freehanded the location on the plat so as not to delay the proposed addition for the church.

Page 143, November 25, 1980 Board of Zoning Appeals
ST. MATTHEW'S UNITED METHODIST CHURCH

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-A-087 by ST. MATTHEW'S UNITED METHODIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit building addition to existing church and related facilities on property located at 8617 Little River Turnpike, tax map reference 59-3((10))13-19 & 22-28, 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 25, 1980; and deferred from November 4, 1980 for decision; 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 5.321 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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

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 in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The seating capacity shall be 400.
8. The hours of operation shall be normal hours of church operation.
9. The number of parking spaces shall be 76.
10. An easement along Rt. 236 & Wakefield Drive for a multi-use trail shall be granted to Fairfax County and this special permit is subject to the submission of a plan showing the approved location of the trail.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 144, November 25, 1980, After Agenda Items

It was the consensus of the Board that all after agenda items be brought back to the Board at the next meeting.

// There being no further business, the Board adjourned at 1:00 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on July 13, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: July 15, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 2, 1980. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk and Ann Day. (Mr. Gerald Hyland was absent).

Chairman Smith opened the meeting at 10:30 A.M. and Ms. Day led the meeting in prayer. Chairman Smith announced that Mr. Hyland was ill. He informed the applicants that if anyone wished to have his case deferred to a later date, they could request it as the application was called.

Chairman Smith called the scheduled 10 o'clock case of:

10:00 A.M. SERGASCO CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of addition to service station building to 7.0 ft. from rear lot line (20 ft. min. rear lot req. by Sect. 4-507), located 2600 Sherwood Hall La., 102-1((7))(7)17B, Mt. Vernon Dist., C-5, 17,531 sq. ft., V-80-V-111. (Deferred from October 28, 1980 because special exception was deferred by Board of Supervisors.)

The variance was again deferred until January 27, 1981 at 10:00 A.M. because of the special exception.

//

Page 145, December 2, 1980, Scheduled case of

10:10 A.M. KEVIN P. & PATRICIA McEVOY, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 5 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 2810 Bolling Road, Mason Terrace Subd., 50-2((6))428, Providence Dist., R-4, 6,477 sq. ft., V-80-P-194.

Mrs. Patricia McEvoy of 2810 Bolling Road informed the Board that they had purchased the property in 1977. The home was constructed approximately 35 years ago when the Ordinance was different. Mrs. McEvoy stated that they had thought about moving but decided to stay and add a two bedroom addition to the house. Mrs. McEvoy stated that their decision to stay was based on economics and the many friendships they had established in the area. She stated that their property was very narrow. The addition would be continued along the already existing side yard. The back part of the addition would be more underground. Mrs. McEvoy stated that her home did not have a basement.

She stated that the lots in the area already had rear additions similar to what she had proposed. Lot 425 had a 4 ft. side yard. Mrs. McEvoy stated once again that her lot was very narrow and it would be a hardship if the variance were denied.

In response to questions from the Board, Mrs. McEvoy stated that she had lived at the property since 1977. The house was constructed 35 years ago.

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

Page 145, December 2, 1980 Board of Zoning Appeals
KEVIN P. & PATRICIA McEVOY

R E S O L U T I O N

In Application No. V-80-P-194 by KEVIN P. & PATRICIA McEVOY under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 5 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407) on property located at 2810 Bolling Road, tax map reference 50-2((6))428, 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 December 2, 1980; 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 6,477 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow and is a substandard lot.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 146, December 2, 1980, Scheduled case of:

10:20 A.M. CHARLES E. RUNYON, appl. under Sect. 18-401 of the Ord. to allow subdivision into three lots with proposed lot 3 having width of 10 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 10209 Beach Mill Road, 3-4((1))36, Dranesville Dist., R-E, 8.52 ac., V-80-D-195.

Mr. Charles Runyon, an engineer of 7649 Leesburg Pike in Falls Church, informed the Board that he was the property owner of the property as of September 24, 1980. Chairman Smith stated that the staff report did not indicated Mr. Runyon as the owner of the property. Mr. Covington informed the Board that he had obtained the information from the computer. Mr. Runyon stated that there was always lag time in updating the computer but he assured the Board that he was the owner of record.

Mr. Runyon stated the property contained 8½ acres. He stated that he wanted to develop the lots above the 2 acre category. Mr. Runyon informed the Board that he was the President of the Great Falls Civic Association and they felt that the development was in keeping with the character of the area. Mr. Runyon stated that the variance was necessary because of the narrow frontage of the property on Beach Mill Road.

In response to questions from the Board, Mr. Runyon stated that the existing house would be the required 20 ft. from the pipestem. He stated that he would meet all of the requirements of the Ordinance including setbacks.

There was no one else to speak in support of the application. The following persons spoke in opposition. Mr. Dan O'Connell of 320 Greenhill Street, stated that his property abutted the property in question. He objected to the hearing as it had not been sufficiently advertised. Mr. O'Connell informed the Board that he had seen the sign posted on the property on Thursday before the hearing but when he returned on Sunday, the sign was missing.

Chairman Smith stated that the Board could check with the County Attorney regarding the sign. Chairman Smith stated that there was not question about the sign being properly posted. It was only a matter of the sign not being posted for the required amount of time as it had been removed prior to the hearing. Mr. DiGiulian inquired as to how any one could keep the sign there. Chairman Smith stated that the Board had not had any problems with the signs recently except one that was removed by the property owner itself. Ms. Day inquired as to what would happen if the hearing was deferred in order to repost the sign and someone took it again.

Mr. Yaremchuk moved that the Board proceed with the hearing as the property had been posted and Mr. O'Connell was present to state his views. Ms. Day seconded the motion and the vote was unanimous to proceed with the hearing.

Mr. O'Connell stated that he objected to the variance. He stated that Mr. Runyon had not met the requirement of the Code in showing that he had acquired the property in good faith. He stated that if Mr. Runyon had just acquired the property three months ago, he could not come to the BZA complaining that he had an unusual problem. Mr. O'Connell stated that Mr. Runyon bought the property just to develop it. Mr. O'Connell stated that

Page 147, December 2, 1980
CHARLES E. RUNYON
(continued)

the applicant was not here in good faith and this was not a hardship situation. He stated that this was more like a hardship to make more profit than he could make if he followed the established zoning in the area.

Mr. O'Connell stated that the applicant had stated that there was an unusual condition due to the narrowness of the lot. According to the plat provided with the application, the property was 514'x686'. Mr. O'Connell stated that you could not a lot much more more square than that. He stated that the fact of the matter was that the property was not narrow and, therefore, there was not sufficient justification to grant the variance. He stated that if the variance were granted, the Board might as well throw the zoning controls out the window.

Mr. O'Connell stated that the Code dealth with variances being granted to applicants who could prove demonstrative hardship. The Code was not established to enable property owners to exceed density. He stated that Mr. Runyon was seeking a variance based on a need for reasonable and compatible density. Mr. O'Connell stated that reasonable and compatible density was not one of the reasons cited for granting variances under the justification section of the Code. Mr. O'Connell stated that Mr. Runyon could achieve the density as defined by the plan for the area without any variance. He stated that the BZA was not authorized to grant a variance unless the applicant produced an undue hardship that was not generally shared by the other properties. He stated that by looking at the other properties in the Dranesville District, Mr. Runyon's property was not very untypical. He urged the Board to reject the variance as the lot was not very narrow, much less being exceptionally narrow.

In response to questions from the Board, Mr. O'Connell stated that his property was located at 320 Greenhill Street, lot no. 3. He stated that he owned one acre which was subdivided in 1948. Mrs. Day stated that Mr. Runyon was proposing lots twice the size of Mr. O'Connell's property.

The next speaker in opposition was Mr. McGrath of 10201 Beech Mill Road who stated that his property was directly adjacent to the property that Mr. Runyon purchased. He stated that as Mr. Runyon purchased the property in September, it was assumed that he had bought it for the express purpose of subdividing. He presented the Board with a petition signed many of the neighbors in the area, 16 of whom were present at the hearing. Mr. McGrath stated that his feelings towards the request for the variance were very much like those of Mr. O'Connell. He stated that the lot was not narrow. As far as the posting of the property, Mr. McGrath stated that some people had indicated that the sign was up but it was not up last evening or the morning of the hearing. Mr. McGrath stated that with the current requirements under the Zoning Ordinance, it would not be possible for Mr. Runyon to create three lots as there was was not 600 ft. frontage but only 514 ft. Mr. McGrath further stated that some of the neighbors had not received notice of the public hearing.

Chairman Smith informed Mr. McGrath that notice was no longer a question as far as the majority of the Board members were concerned. Mr. McGrath stated that his notice letter finally caught up with him in New York while he was away on a business trip. He stated that his main objection was the changing of the regulations. Mr. McGrath stated that if this variance were approved, many other lots along Beech Mill Road could request the same variance. He stated that Mr. Runyon had not purchased the property to live there. He indicated that Mr. Runyon was not satisfied to break the property up into two lots but instead was asking for a variance in order to create a subdivision of three lots. The proposed subdivision would have a 10 ft. "T" coming out onto Beech Mill next to Mr. McGrath's property.

The next speaker in opposition was Mr. John Lock of 326 Walker Road. He stated that a piece of his property abutted the corner of Mr. Runyon's property. There was a small pond there. Mr. Lock stated that he had received notification of the variance request and had decided to speak in support of his neighbors to the north. He stated that the area to the south and west of his property which comprised some 24 parcels had been subdivided by Mr. Runyon. He stated that he if this variance were approved, he would be almost completely Runyonized.

During rebuttal, Mr. Runyon informed the Board that Mr. O'Connell owned his lot in joint ownership with another individual. He stated that the subdivision which surrounded this area was Walker Lakes. Mr. Runyon stated that his father had been in the construction business and built many of the homes. He indicated that the people had been Runyonized more than they thought. Mr. Runyon informed the Board that he could construct a street off of Beechmill Road and get four lots of the property. However, he did not feel that was good planning or feasible to do so. Mr. Runyon stated that he planned to build his home on the lot with the pipestem. He indicated that it had been his intention to move to this location and he stated that he did not live that far away from the parcel at the present time. Mr. Runyon stated that the property had a lot of floodplain along the

western boundary. Mr. Runyon stated that his hardship as defined in the Ordinance was sufficiently met. He stated that his was a justified request. Mr. Runyon stated that the real question was whether to have a four lot subdivision or a three lot subdivision which was a little better configured. Mr. Runyon stated that he preferred the three lot subdivision. The Great Falls Civic Association wanted to keep the lots as close to three acres as possible.

Mr. Yaremchuk stated that he had a problem with the hardship question and he could not see that there was a hardship. Mr. Runyon responded that there was insufficient room to construct a street through the property with the existing house. He stated that his hardship was the required frontage along an existing road for the zoning category. In this district, it was difficult to meet the frontage requirement. Mr. Runyon stated that there were many pipestem lots across the street from this parcel but they were smaller sized lots. He informed the Board that he was using the pipestem because of the reduced frontage and was keeping the larger parcels. He indicated that there were three hardships with respect to the property and not just one.

Chairman Smith informed Mr. Runyon that he had been aware of the limitations of the property when he purchased it. In response to further questions from the Board, Mr. Runyon stated that he purchased the property in September 1980. He informed the Board that his proposed subdivision did not exceed the density. Chairman Smith stated that the property could be developed without a variance and could be subdivided into four lots with a public street. He stated that Mr. Runyon was aware of his position on the matter. Chairman Smith stated that there were only four Board members present and urged Mr. Runyon to seek a deferral of the application.

Ms. Day moved that the application be deferred until the absent Board member had an opportunity to review the file and participate in the decision. Mr. DiGiulian seconded the motion and it was unanimously carried. The variance was deferred until December 16, 1980 at 9:15 P.M. for decision of the full Board.

//

Page 148, December 2, 1980, Recess

At 11:30 A.M., the Board recessed for a brief period and returned at 11:50 P.M. to continue with the scheduled agenda.

//

Page 148, December 2, 1980, Scheduled case of

10:30 A.M. RIDGELEA HILLS HOMES ASSOCIATION, appl. under Sect. 18-401 of the Ord. to allow construction of a wall having average height of 5.8', with intermitted piers to a height of 7.4' within the two front yards of a corner lot (4 ft. max. height for fence in a front yard req. by Sect. 10-105); obstructions to vision above a horizontal plane 3½ ft. high on a corner lot not permitted by Sect. 2-505), located 8930 Little River Turnpike, Ridgelea Hills Subd., 58-4((28))E, Providence Dist., R-2, 100,895 sq. ft., V-80-P-196.

Mr. Fred Taylor of 8442 Old Keene Mill Road in Springfield, an attorney, represented Ridgelea Hills Homes Association. He stated that they were seeking a variance to allow a masonry wall along Rt. 236. The justification for the wall consisted of three reasons. He stated that they were seeking some sort of sound abatement for the subdivision which was begun in 1973. In addition, they were attempting to provide a greater amount of privacy from Rt. 236 for the residents of Ridgelea Hills. The third reason for the requested variance was that they wanted to beautify the subdivision.

Mr. Taylor stated that the plans for the walls had been a sizable expense. The wall was necessary for one area of the subdivision. He stated that if the lot lines had been extended for the three lots, a variance would not have been necessary as it would have been considered a rear lot line rather than a front lot line. The property was owned by Ridgelea Hills Homes Association.

Mr. DiGiulian inquired if Mr. Taylor had an opportunity to read the staff report with respect to the sight distance question. Mr. Taylor responded that Mr. Marshall Racoosin had provided a statement regarding the sight distance. There was a service road in front of the lots. Mr. Taylor stated that the construction of the wall would be disirable as it would reduce the noise of the oil tankers on Rt. 236. The Zoning Ordinance prohibited the construction of the wall the the requested height.

Chairman Smith stated that the wall could be constructed to a height of 3½ ft. Mr. Taylor stated that a 3½ ft. wall would not serve the purpose of privacy or noise abatement. Mr. Taylor stated that there was another subdivision along Rt. 236 which had the same type of wall construction as what Ridgelea was requesting. Chairman Smith stated that the other subdivision had shown the wall on the development plan and it was allowed by right.

149

Mr. Yaremchuk inquired if the Board was familiar with Evermay in McLean which had a 7 ft. high brick wall for the whole length of the subdivision. He inquired if the Chairman remembered what the hardship had been in that situation, if any. Chairman Smith stated that he did not recall the hardship. Chairman Smith stated that he was not disagreeing that a solid masonry fence would add to the subdivision. However, he stated that in Evermay, the fence was constructed at the rear lot line which may have been permitted by right. Mr. Covington informed the BZA that Evermay had gone before the Board of Zoning Appeals several years ago.

Ms. Day inquired if the developer of Ridgelea Hills Subdivision had checked with VDH&T and whether there was any problem with the sight distance approaching Rt. 236. Mr. Taylor replied that there was an existing service drive and Rt. 236 would not be a problem as far as sight distance.

Mr. DiGiulian inquired if there was a topographic problem with the land being above the road. Mr. Taylor stated that the land was above the road. He stated that topography effected the property only in the way the noise was felt to be a serious problem for the subdivision. He stated that the developer would be bearing the cost of the construction of the wall. He indicated that the wall was necessary because of the topography of the ground and the noise. Ms. Day stated that she saw a letter from Mr. Halterman of VDH&T approving the construction of the wall. Mr. DiGiulian stated that it was a letter from the President to Mr. Halterman stating that the location of the wall did not interfere with sight distance at the present time. At such time as the service drive was extended and sight distance was impaired, the developer or president of the construction company would be notified by VDH&T.

There was no one else to speak in support of the application. The pastor of the Seventh Day Adventist Church spoke in opposition to the variance request. He stated that the construction of the wall would be to the extent that it was of concern to everyone. He stated that he was not experienced in reading blueprints and inquired as to the exact location of the proposed wall. Chairman Smith stated that the wall would be behind the service drive next to the subdivision itself. The pastor informed the Board that the wall would definitely affect the beauty of the church. He informed the Board that the notification letter he received did not state anything to a great extent so as the church congregation could be adequately informed of the request. He stated that he wished he had more facts. The pastor stated that the entrance to the church property was located next to the lot in question and circled behind the church. The driveway extended down a hill and would be hidden by the proposed wall. He indicated that if the wall was extended up to the corner, it would block the view of the church driveway.

Mr. Yaremchuk stated that he felt it was only fair for the church to have an opportunity to review the application. He stated that he would like for the applicant to review the variance with the church congregation. Mr. DiGiulian noted that it appeared from the plat presented by the applicant that the wall would start at 140 ft. from the church property. Chairman Smith stated that the church frontage was very narrow. The pastor informed the Board that his main objection was that the congregation did not have adequate notice in order to learn the details of the case. Mr. DiGiulian inquired of the engineer if the wall began 140 ft. from the church property and was informed it was 50 ft. Mr. DiGiulian stated that was a reason for the church to be interested in the case and where the end of the fence would be located.

There was no one else to speak in opposition. Chairman Smith asked the applicant to send a plat to the Seventh Day Adventist Church so they could study the proposal. The hearing was deferred until January 13, 1981 at 9:15 P.M. for decision.

//

Page 149, December 2, 1980, Scheduled case of

10:40 A.M. GUY F. VERRIER, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport to 7.2 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1659 East Avenue, DeVine's Subd. of Chesterbrook, 31-3((8))(4)5&6, Dranesville Dist., R-3, 9,776 sq. ft., V-80-D-199.

Mr. Guy Verrier of 1659 East Avenue in McLean informed the Board that he wanted to enclose his carport into a one car garage. A variance was necessary on the side setback for the total overall side yard. Mr. Verrier stated that the Ordinance required a minimum side yard of 8 ft. with an overall total of 20 ft. He stated that he intended to use the garage to park his automobile and to store equipment. He stated that a variance had been granted to the previous property owner to enclose the carport but he was not aware of the expiration date. In response to questions from the Board, Mr. Verrier stated that he had owned the property for 18 months. The structure had a flat roof and was 10 ft. high. He stated that it would only be necessary to enclose the side as the carport was existing.

Ms. Day inquired as to how far the neighbor's house was from the lot line. Mr. Verrier stated that it was about 10 ft. He indicated that the neighbor's house was three floors high with a finished basement. A family room was on the end of the house that would face the proposed garage. Above the family room was a living room. Mr. Verrier stated that the

house next door was a rental unit which was up for sale at the present time. There were no more questions from the Board.

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

RESOLUTION

In Application No. V-80-D-199 by GUY F. VERRIER under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport to 7.2 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1659 East Avenue, tax map reference 31-3((8))(4)5 & 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 December 2, 1980; 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 9,776 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including long and narrow and is a merge of two substandard lots.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 150, December 2, 1980, Scheduled case of

10:50 A.M. MICHAEL J. PHILLIPS & JENELL H. PHILLIPS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to existing dwelling to 3.6 ft. from side line (12 ft. min. side yard req. by Sect. 3-307), located 5302 Juxon Place, Ravensworth Subd., 70-3((2))(8)20, Annandale Dist., R-3, 12,669 sq. ft., V-80-A-198.

Mr. Michael J. Phillips of 5302 Juxon Place informed the Board that he had applied for a variance under Sect. 3-407 of the Ord. for a variance to the minimum side yard. He stated that he was planning to construct an addition to his dwelling which required a variance of 8.4 ft. at the nearest point to the property line. He stated that the addition would begin to be in compliance at 13 ft. from the front. Mr. Phillips stated that his house was situated on an odd-shaped lot. The property was triangular with the narrow part at the front and the widest part at the rear. He stated that the addition would be in compliance for most of the property.

Mr. Phillips stated that his variance request should be granted for two reasons. One reason was that the dwelling was situated on the odd-shaped lot and it was impossible to build without a variance. He indicated that the variance was necessary for only slight portion of the addition at the front. He stated that in order to build the addition and be in compliance

Page 151, December 2, 1980
MICHAEL J. PHILLIPS & JENELL H. PHILLIPS
(continued)

with the setback requirements, it would result in a structure that would not architecturally conform with the existing dwelling. He informed the Board that the materials of the proposed addition would be brick and aluminum and would be constructed as the same level as the house.

Ms. Day noted that the applicant had a lot of property at the rear of his house. Mr. Phillips responded that the back of the lot was comprised of trees and would have to be cleared. He informed the Board that the nearest point to the side lot line would be 3.6 ft. but the house actually set back 12 ft. from the side lot line. Mr. Phillips stated that his neighbors did not object to the addition.

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

Page 151, December 2, 1980 Board of Zoning Appeals
MICHAEL J. PHILLIPS & JENELL H. PHILLIPS

R E S O L U T I O N

In Application No. V-80-A-198 by MICHAEL J. & JENELL H. PHILLIPS, appl. under Section 18-401 of the Zoning Ordinance to permit construction of addition to existing dwelling to 3.6 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 5302 Juxon Place, tax map reference 70-3((2))(8)20, County of Fairfax, Virginia, Ms. Day 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-3.
3. The area of the lot is 12,669 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, being narrow and 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 151 December 2, 1980, Scheduled case of

11:00 A.M. WILLIAM H. ELLIS, appl. under Sect. 18-401 of the Ord. to allow construction of a 12.5 ft. high detached garage 8 ft. from side lot line and 10 ft. from rear lot line (12 ft. min. side yard and 12.5 ft. min. rear yard req. by Sects. 10-105 & 3-307), located 8609 LaGrange St., Pohick Estates Subd., 108-1((2))217 Lee Dist., R-3, 10,626 sq. ft., V-80-L-203.

Mr. William H. Ellis of 8609 LaGrange Street informed the Board that he wanted to construct a 12.5 ft. high detached garage 8 ft. from the side lot line. He stated that it was not possible to move the garage over as it would not provide adequate access to make a turn. Mr. Ellis stated that the garage would be compatible with the neighborhood and urged the Board to grant the variance on the basis of practicality, beauty and the spirit of the Ordinance.

In response to questions from the Board, Mr. Ellis stated that he had owned the property for eleven years.

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

RESOLUTION

In Application No. V-80-L-203 by WILLIAM H. ELLIS under Section 18-401 of the Zoning Ordinance to allow construction of a 12.5 ft. high detached garage 8 ft. from side lot line & 10 ft. from rear lot line (12 ft. minimum side yard & 12.5 ft. minimum rear yard req. by Sects. 10-105 & 3-307 on property located at 8609 LaGrange Street, tax map reference 108-1 ((2))217, 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 December 2, 1980; 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 10,626 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has converging lot lines.

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 of the same land.

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 152, December 2, 1980, Scheduled case of

11:10 A.M. LEONARD C. & CAROL J. JONES, appl. under Sect. 18-401 of the Ord. to allow shed to remain 1.17 ft. from rear lot line & 2.5 ft. from side lot line (10 ft. min. side and rear yards req. by Sects. 10-105 and 3-407), located 2915 Brook Drive, Hillwood Subd., 50-4((8))67, Providence Dist., R-4, 5,203 sq. ft., V-80-P-200.

Mr. Leonard Jones of 2915 Brook Drive stated that he was applying for a variance to allow a shed to remain at its present location. He stated that it was a 10 ft. high shed and was situated 2.5 ft. from the side lot line and 1.17 ft. from the rear lot line. Mr. Jones stated that he he needed a variance of 8 ft. to the rear lot line and 7.5 ft. to the side property line. Mr. Jones informed the Board that his property was substandard as to the lot area and the regulations for the R-4 district. He stated that his property was 58 ft. wide and 103 ft. deep. The Zoning Ordinance requires that the lots in the R-4 district be 70 ft. wide with 8,000 sq. ft. in area. He stated that his lot was only 5,203 sq. ft. Mr. Jones stated that there were easements on his lot which prohibited the location of the shed anywhere else on the property. The shed had been constructed in 10'x8' sections and bolted together so as to be movable. Mr. Jones informed the Board that he thought he was in compliance with the Code when he constructed the shed.

Page 153, December 2, 1980
LEONARD C. & CAROL J. JONES
(continued)

In response to questions from the Board, Mr. Jones stated that there were not any requirement for a building permit when constructing a 8'x10' shed. He stated that he had called the County about obtaining a building permit and was told he did not one. However, the building deparment had not informed him of the height limitation as far as the Zoning was concerned. Mr. Jones stated that he had asked the building department if he could build a large shed and was told he could not because of the easements. He asked if he were limited by the number of sheds and was told by the building department that he could abut the sheds. Again, Mr. Jones stated that he was not aware of the height limitations.

Mr. Yaremchuk stated that a shed 7 ft. high could go right on the property line. Ms. Day stated that it appeared that the shed was higher than 10 ft. Mr. Jones responded that he had not measured the shed but indicated that the height was shown on the certified plat. Mr. Covington stated that the height was certified as being 10 ft. Ms. Day inquired if Mr. Jones had executed a hold harmless agreement since there were two easement going through the property. Mr. Jones stated that he had signed the hold harmless agreement and forwarded it to Mr. Smith's Office who sent it to the Director.

Mr. DiGiulian inquired if there was a wall between the two sheds and was informed there was not. Mr. Jones stated that, in essense, there were two sheds. He indicated that he had been told that the sheds had to be movable. He stated that the roofs were attached with a metal strip that could be pulled apart. The sides of the shed were bolted together and could also be pulled apart.

A neighbor spoke in support of the variance and stated that she did not have objections to the building. She stated that she had lived in the area for 21 years. She informed the Board that it was an attractive building and did not block her view. She also presented a letter from another neighbor who was in support of the variance.

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

Page 153, December 2, 1980 Board of Zoning Appeals
LEONARD C. & CAROL J. JONES

R E S O L U T I O N

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. V-80-P-200 by LEONARD C. & CAROL J. JONES under Section 18-401 of the Fairfax County Zoning Ordinance to permit shed to remain 1.17 ft. from rear lot line & 2.5 ft. from side lot line (10 ft. minimum side and rear yards required by Sects. 10-105 & 3-407), on property located at 2915 Brook Drive, tax map reference 50-4((8))67, 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 December 2, 1980; and

WHEREAS, the Board has made the following finding 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:

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 by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 153, December 2, 1980, Scheduled case of

11:20 A.M. RONALD R. & CAROLYN L. FINELLI, appl. under Sect. 18-401 of the Ord. to allow construction of 15 ft. high detached garage to 2 ft. from side lot line and 4 ft. from rear lot line (12 ft. min. side yard and 15 ft. min. rear yard req. by Sects. 10-105 and 3-307), located 6201 Hillview Ave., Virginia Hills Subd., 82-4((14))(16) 52, Lee Dist., R-3, 10,500 sq. ft., V-80-L-201.

Mr. Ronald Finelli of 6201 Hillview Avenue in Fairfax County stated that he was requesting approval to construct a 15 ft. high garage 2 ft. from the side lot line. He stated that he had owned his property for 18½ years. Mr. Finelli stated that he was short of living space and was also low on storage space. He informed the Board that he wanted to provide security for his two automobiles and have storage space for lawn and yard equipment and other tools.

In response to questions from the Board, Mr. Finelli stated that the existing shed on the property was 10'x10' and would be removed. The proposed garage would be 15 ft. in height. Mrs. Day stated that from looking at the plat, the driveway went straight along the right hand side lot line. She stated that the applicant had chosen a location where the proposed garage was right along the side lot line. Mrs. Day stated that if the driveway curved in towards the middle of the property, the garage could be moved over and would not be right up against the neighbor's lot. Mr. Finelli stated that because of the way the other houses were situated, his proposal would the garage the furtherest away from the neighbors' houses. He further stated that if he constructed the garage in the middle of his back yard, it would block his view and be an eyesore. He informed the Board that his property was lower than the neighbors and flooded in the rear.

Mrs. Day informed Mr. Finelli that variances were granted under hardship conditions. She stated that he had other locations to construct the garage in the back yard and was concerned as he had requested two variances. She stated that it was possible for him to build the garage without any variance. Mr. Finelli stated that if he built anywhere else in the back, it would detract from his residence and would be in the middle of the back yard. Mrs. Day stated that this would set a precedent for the neighbors. Mr. Finelli stated that there were 28 other garages in this neighborhood, many of which were within 2 ft. of the lot lines. He explained that prior to 1978, it was allowed to build up to 2 ft. from the side and rear lot lines. Mr. Finelli stated that his house was 25 years old.

Mr. Covington stated that the previous Code did allow the construction of a masonry garage with 2 ft. of the side and rear lot lines. Chairman Smith added that a frame structure was allowed 4 ft. from the lot lines. Chairman Smith inquired as to how long Mr. Finnelli had owned the property and was informed eight years.

Mrs. Day inquired if Mr. Finnelli had contacted all of the neighbors regarding the proposed garage. Mr. Finnelli responded that all of the neighbors had been notified by certified mail. The owner of the lot behind him did not live on the property. He stated that he had talked to the renter and the owner. Mr. Finnelli stated that his garage would be a masonry structure with brick on two sides that were visible. Part of the structure would be underground and would remain block.

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

Page 154, December 2, 1980 Board of Zoning Appeals
RONALD R. & CAROLYN L. FINELLI

RESOLUTION

In Application No. V-80-L-201 by RONALD R. & CAROLYN L. FINELLI under Section 18-401 of the Zoning Ordinance to allow construction of 15 ft. high detached garage to 2 ft. from side lot line & 4 ft. from rear lot line (12 ft. minimum side & 15 ft. minimum rear yard required by Sects. 10-105 & 3-307) on property located at 6201 Hillview Avenue, tax map reference 82-4 ((14))(16)52, County of Fairfax, Virginia, Ms. Day 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 December 2, 1980; 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 10,500 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.

Page 155, December 2, 1980 Board of Zoning Appeals
RONALD R. & CAROLYN L. FINELLI
(continued) 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 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 eighteen months from this date unless constructions has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 155, December 2, 1980, Recess

At 12:50 P.M., the Board recessed for lunch and reconvened the meeting at 1:40 P.M. to continue with the scheduled agenda.

//

Page 155, December 2, 1980, Scheduled case of

11:30 A.M. ST. JOHN NEUMANN ROMAN CATHOLIC CHURCH, appl. under Sect. 3-203 of the Ord. to permit church and related uses, located on Lawyers Road, 26-3((1))5A, Centreville Dist., R-2, 18.00004 ac., S-80-C-096.

Mr. William E. Donnelly, attorney for the applicant, of 4060 Chain Bridge Road in Fairfax, introduced the Father of the church; Bill Enderly; and Fred Sheridan, the architect. Mr. Donnelly stated that this proposal was to construct a church in Reston which would serve the new parish. It would relieve the overcrowding in the surrounding parishes. Mr. Donnelly stated that the church would be a two story building of contemporary development. It would contain the church proper and the parish. It would seat 600 people and have ample parking. He stated that it would operate during the normal hours of church use.

Mr. Donnelly informed the Board that the site was heavily wooded and would remain undisturbed. He stated that the dense natural vegetation would screen the buildings. He stated that the site had good access. There were two entrances proposed and Lawyers Road was a four lane highway. Mr. Donnelly stated that the long range plans for the church called for a future rectory and classrooms sometime within the next ten years. He stated that the church would apply for the necessary special permit at such time in the future as their plans materialized.

Mr. John Shacochas, Jr. spoke in support of the application. He informed the Board that he resided across the street from the church and was totally in favor of the church. He stated that his only concern was about the corner as it presented a danger because of the curve. He stated that the traffic concerned him greatly and was the only concern he had with respect to the church.

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

Page 155, December 2, 1980 Board of Zoning Appeals
ST. JOHN NEUMANN ROMAN CATHOLIC CHURCH
RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-C-096 by ST. JOHN NEUMANN ROMAN CATHOLIC CHURCH under Section 3-203 of the Fairfax County Zoning Ordinance to permit church and related uses on property located at Lawyers Road, tax map reference 26-3((1))5A, 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 December 2, 1980; 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 18.00004 acres.
4. That compliance with the Site Plan Ordinance is required.

156

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The seating capacity shall be 600.
8. The hours of operation shall be hours of normal church activities.
9. The number of parking spaces shall be 156.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 156, December 2, 1980, Scheduled case of

11:45 A.M. LARRY K. BELLOS, appl. under Sect. 18-401 of the Ord. to allow deck to remain 13.5 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412) located 9128 Home Guard Dr., Oaks at Signal Hill Subd., 78-2((16))450A, Annandale Dist., 9,096 sq. ft., R-3(C), V-80-A-172.

Mr. Larry Bellos of 9128 Home Guard Drive informed the Board that the variance was requested to provide a 12 ft. wide deck to remain 13.5 ft. from the rear property line. He presented the Board with a drawing to show the deck. Mr. Bellos informed the Board that his property was located on a cul-de-sac. The house was situated in the middle and was 80 ft. from the adjacent homes. The home to the right of his lot had a utility room which faced his deck. The house across the street facing his property had small windows. Mr. Bellos stated that in back of his house was about 50 ft. of no-man's land which consisted of sewer easements. Mr. Bellos stated that his house was situated 25 ft. from the rear lot line. The property was unusable except for a 4 ft. deck. Mr. Bellos informed the Board that he had already constructed the deck and he asked that it be allowed to remain.

Mr. Yaremchuk inquired if Mr. Bellos had checked with the Zoning Office before constructing the deck. Mr. Bellos stated that he had purchased the property from Edward Carr. The bid he had received from them to build the deck was too high. He stated that he had settled on his property in August and had contacted another builder to build the deck. He stated that he had not gotten a building permit for the private contractor and had not checked with the County at all. He informed the Board that had been a mistake on his part. Mr. Yaremchuk inquired as to how Mr. Bellos became aware of the building permit problem. Mr. Bellos responded that Mr. Mullins, a building inspector, came to the house about the building permit. He stated that at that point, he went to the County for a building permit but the deck did not meet the setback requirements.

In response to questions from the Board, Mr. Bellos stated that his contractor was Mr. Richardson from Leesburg. He stated that Mr. Lyle Williams had also done some of the work on the deck. Mr. Bellos informed the Board that he did not think a building permit was necessary. He stated that he was getting married, buying the house and making changes all within a one month period and had not even thought about a building permit.

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

157

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. V-80-A-172 by LARRY K. BELLOS under Section 18-401 of the Fairfax County Zoning Ordinance to allow deck to remain 13.5 ft. from rear lot line (19 ft. minimum rear yard required by Sects. 3-307 & 2-412) on property located at 9128 Home Guard Drive, tax map reference 78-2((16))450A, 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 December 2, 1980; 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. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 157, December 2, 1980, Scheduled case of

12:00 NOON CLIFF LEE, appl. under Sect. 3-303 of the Ord. to permit arts and crafts gallery, located 1623 Chain Bridge Road, Lewinsville Subd., 30-4((1))3, Dranesville Dist., R-3, 12,535 sq. ft., S-80-D-084. (Deferred from November 4, 1980 for Notices. In addition, variance needs to be filed for the bulk regulations).

Mr. Cliff Lee of 757 S. 23rd Street in Arlington informed the Board that he was a potter and made pots. He stated that his wife made jewelry. Mr. Lee stated that he wanted to open an arts and crafts gallery at 1623 Chain Bridge Road in McLean. In response to questions from the Board, Mr. Lee stated that they made the crafts on the site. He informed the Board that he and his wife had learned the crafts in college.

Mr. Lee stated that the proposed hours of operation would be from 10 A.M. to 6 P.M., six days a week. He stated that they proposed to live in the house and also work there. Mr. Lee stated that it was very hard to make a living and this was the only thing they had learned in colldge. Mr. Lee informed the Board that he was Chinese and was a naturalized citizen.

Mr. Lee informed the Board that he hoped all the problems dissolved. He stated that he was very tired and had run into a lot of problems with the realtor. Mr. Lee informed the Board that he had not thought anyone could be so dishonest. He stated that if his application was denied he would have to sue the agent because of misrepresentation of the property. Mr. Lee stated that if the Board approved the application and then the County turned it down because of problems with the land, he would not know what to do. Mr. Lee stated that he had gone through all of the paperwork himself as he was not able to hire an attorney.

Mrs. Day inquired if the contract on the property was subject to approval of the special permit. Mr. Lee stated that in the beginning when looking for property, the agent located this property which was very expensive. He stated that he had trusted the agent. Mr. Yaremchuk inquired if Mr. Lee knew the difference between commercial and residential property. Mr. Lee responded that he thought the agent knew as the agent had informed him he could use the property for this purpose. Mrs. Day stated that there was not anything in the contract to indicate that the property was commercial. The contract was to buy a house. She inquired if there had been any witnesses to the discussion regarding the property. Mr. Lee stated that Gwenn Peters was the owner of the property. He stated that the realtor had talked to Don Smith and told him that the County did not know what they were doing. Mr. Lee

informed the Board that he had paid a deposit of $5,000 which belonged to his mother. Mrs. Day stated that the realtor should not have assumed that it was commercial property.

Mr. Yaremchuk stated that whether it was commercial or residential property, it was up to the Board of Zoning Appeals to consider to allow the use. Mr. Covington informed the Board that the property did not meet the bulk regulations.

Ms. Leta Dail of 1101 Flor Lane in McLean represented the McLean Citizens Association. She informed the Board that this particular piece of property was located within the Central Business District. The Central Business District had been carefully drawn to have all residential zoning surrounding it. Ms. Dail stated that the area was master planned for townhouses from 8 to 12 units per acre. The Master Plan had very carefully addressed special permit and where they could be located within a Central Business District. Ms. Dail stated that the Master Plan called for the special permits along Hillside Avenue and Buena Vista Avenue and precluded any special permit in the area of Chain Bridge Road as proposed by the applicant. Mrs. Dail stated that she worked for Supervisor Nancy Falck and the office had received a number of inquiries from people interested in this piece of property. Mrs. Dail stated that a lot of people were misinformed that the property was commercially zoned. Mrs. Dail stated that the property was master planned for high residential use.

Mr. Yaremchuk stated that the Master Plan was only a guide. Mrs. Dail stated that the text was supposed to take precedent. Mr. Yaremchuk stated that it was a guide and was not 100%. Mrs. Dail stated that the Master Plan very specifically addressed the special permits in older structures until redevelopment took place. Mr. Yaremchuk inquired as to who would do the redevelopment. Mrs. Dail stated that someone would come along and buy up the property to redevelop it. Mr. Yaremchuk stated that in the interim use until the townhouses were developed, he inquired as to what was wrong in having this use for two or three years. Ms. Dail stated that it would establish a precedent for other commercialism along Chain Bridge Road. She stated that the McLean Citizens Association was worried about precedents as the courts had not been kind. Mr. Yaremchuk stated that each application was considered on its own merits. He stated that just be voted for one special permit did not mean that he would vote for each and every one.

The next speaker in opposition was Ms. Jane Monahan of 1628 Cecile Street in McLean. She presented the Board with a petition signed by neighbors in the area. She stated that people felt there was inadequate parking and a possible danger to the pedestrians and local residents. There were 61 signatures on the petition. She stated that the only one in the area who had not signed the petition was the father of the applicant's wife. Ms. Monahan informed the Board that when she had moved to the area 20 years ago, this area was an old country road. The road had not improved. It was the main entrance to McLean High School. There were not any sidewalks except for piecemeal. She stated that to put in anything commercial even in a modest way, opened up the area. The house on the corner was for sale and another piece of property on Davison Road was zoned for townhouses. She stated that the builder had not started the townhouses in the past five years. Ms. Monahan stated that she was frightened about Mr. Yaremchuk's approach of taking each special permit case as they came as it left the door open. Ms. Monahan stated that they were trying to stop the traffic. She informed the Board that there were only three parking spaces provided. She stated that Davidson was only one lane in the winter. Lewinsville Park was located nearby. She stated that this was an unimproved road and would be a threat. Mr. Yaremchuk inquired if buses used the road and was informed they did. Ms. Monahan stated that the road was a danger to the students. She stated that the proposed property sat up higher than her car and posed a hazard.

The next speaker in opposition was Mrs. Gail A. Marinelli of 7002 Hamel Hill Court who stated that she lived on a new street built off of Davidson Road and was very close to the proposed use. She stated that her concern was the traffic as she had three children. At the present time, she stated that they took their life in their hands. There had been a bad accident which only resulted in a crosswalk being installed. The sidewalks were broken up and there was not any safe passage on the road. She stated that it was very difficult to see around the corner. Mrs. Marinelli stated that she felt very strongly about it and did not want to see any more traffic. Big trucks parked on the road illegally and come into the cul-de-sac to turn around.

Mrs. Ilene Hodges informed the Board that she resided at the corner of Hamel Hill Court and Davidson Road. Her concern was also the traffic as she stated that Davidson Road could not accomodate any more traffic.

Mr. Lee did not wish to rebutt any statements made by the opposition. Chairman Smith pointed out to the Board that this application was very similar to another public hearing where a special permit was denied because of a similar variance being necessary. Mrs. Day stated that the applicant should be aware of the fact that he had recourse through the Real Estate Board to make his complaint should he choose to do so.

159

RESOLUTION

Ms. Day made the following motion:

WHEREAS, Application No. S-80-D-084 by CLIFF LEE under Section 3-303 of the Fairfax County Zoning Ordinance to permit arts and crafts gallery on property located at 1623 Chain Bridge Road, tax map reference 30-4((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 of Zoning Appeals held on December 2, 1980; and deferred from November 4, 1980 for Notices; and

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

1. That the applicant is the contract purchaser.
2. That the present zonaing is R-3.
3. That the area of the lot is 12,535 sq. ft.
4. That this property is not conducive to commercial use.

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 8-006 of the Zoning Ordinance; and

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 159, December 2, 1980, Scheduled case of

12:15 P.M. CONGREGATION OLAM TIKVAH, appl. under Sect. 3-103 of the Ord. to permit building and parking lot additions to existing synagogue & related facilities, located 3800 Glenbrook Rd., Sunny Hill Subd., 58-4((9))17A, 17B, 18A, & 18B, Providence Dist., R-1, 4.5204 ac., S-80-P-086. (Deferred from November 4, 1980 for traffic study & revised plats showing topo conditions & relocation of play area. Additional written testimony only allowed prior to decision).

Mr. Richard Stahl informed the Board that he wished to make a comment since he had been informed at the last hearing that he would have an opportunity to make appropriate rebuttal. Chairman Smith stated that it was his understanding that there was not to be additional oral testimony. However, he stated that he would allow Mr. Stahl to speak and allow the opposition some time also.

Mr. Stahl informed the Board that he was prepared to answer any questions the Board might have. He stated that Mr. LeMay was also present. One issue at the last hearing concerned the placement of the parking on the plat as opposed to any other area. He stated that he had tried to address the parking. The BZA had requested a new plat since the playground equipment was not shown where it was proposed to be relocated behind the existing facility.

Chairman Smith informed Mr. Stahl that he had a question regarding the parking and the drainage. He stated that the drainage had been discussed previously but he still had a question. Chairman Smith stated that he did not wish to restrict the use of the property but he stated that the synagogue owed it to the community to come up with a plan that the County could agree on. Chairman Smith stated that additional parking should be provided for certain times of the year when the parking overflowed onto the streets. He stated that the BZA had to require enough parking so that it would not happen in the future. Under the special permit, the applicant was required to provide adequare parking for the use.

Mr. Stahl stated that the seating of the sanctuary was not increasing. The present seating of 310 persons only required parking to 79 spaces. Mr. Stahl stated that when the facility was built in 1971, a different Ordinance existed and the requirements were different. He stated that the synagogue would provide 110 parking spaces. Mr. Stahl stated that the opposition was trying to reduce the amount of aprking. Mr. Stahl reminded the Board that the synagogue had withdrawn the request for the variance for the additional parking. He stated that by withdrawing the variance, the synagogue had lost about 24 parking spaces and was now down to 109 parking spaces. Mr. Stahl stated that they were providing additional parking over and above what was required by the County. Chairman Smith stated that it had been brought out that it was not adequate. The testimony had been that there were times the parking was not adequate and that it caused the synagogue members to park in the streets. Chairman Smith stated that parking in the streets was not something the Board could condone. Mr. Stahl stated that this only occurred primarily three or four times a year during the high holy days. Chairman Smith stated that no matter when it occurred, it had to be alleviated. Mr. Stahl advised the Board that the synagogue had made arrangements with the church across the highway for its members to park and then had provided a shuttle

bus service to the synagogue. However, he stated people still parked in the public streets and he stated that the synagogue could not control that. Mr. Stahl stated that the synagogue had made a concerted effort not to park on Glenbrook Road. He indicated that the Police Department had ticketed people parking on Glenbrook Road.

Mr. Stahl stated that even the special permit was denied, the situation regarding parking would not change. He informed the Board that if the synagogue did not provide more parking, the situation would not get better. Chairman Smith advised Mr. Stahl that the congregation had to provide adequate parking for the use no matter what day it was. He stated that some churches had heavy attendance but they still provided adequate parking for all of the peak periods. Mr. Stahl assured the Board that the congregation would make the effort with respect to parking. Chairman Smith asked that the congregation come up with a plan to alleviate the parking problem. Mr. Stahl stated that even if the congregation allowed parking all over the property, he was not certain it would provide enough off-street parking. Mr. Stahl informed the Board that Mr. Schiavone had not objected to people parking in the streets during the high holy days. Chairman Smith stated that other people had testified that parking was a problem. He stated that Mr. Stahl was beginning to convince him that perhaps the site was not adequate for the expansion.

Mr. LeMay informed the Board that he was the architect for the project. He stated that the existing parking was not adequate. He indicated that they were proposing to make parking for 110 cars which would be adequate to meet the needs of the congregation. On the high holy days, there would be a shuttle bus service from Providence Presbyterian Church to alleviate the overflow of parking that occurred. Chairman Smith advised Mr. LeMay that off-site parking did not meet the regulations of the Ordinance. He stated that all parking must be on-site. He stated that he would have to see a signed agreement from the presbyterian church and if it did not conflict with parking for the other service, the Board might consider such an arrangement. He stated that the Board would have to see something in writing. Mr. LeMay stated that most of the christian faiths did not go to such a degree to provide parking. Chairman Smith advised Mr. LeMay that the Board has required parking on site no matter what the faith might be as the Code did not distinguish between the faiths.

Chairman Smith stated that another concern was the drainage situation. He inquired if the congregation had come up with a plan. Mr. William H. Gordon, a civil engineer, informed the Board that the congregation realized that there was a problem with drainage. He stated that he had done some studies but had advised the synagogue not to expend the funds for detailed engineering unless the special permit was granted. Mr. Gordon stated that the engineering detailed studies would cost between $10,000 to $12,000 in order to solve the drainage problems. Since there was still some questions or concerns regarding the special permit application, Mr. Gordon stated that he had advised the synagogue to wait on the studies. However, Mr. Gordon informed the Board that they were prepared to solve the problems of the drainage.

Mr. Stahl informed the Board that the agreement with respect to parking had always been an exchange of letters. He stated that the synagogue had been arranging parking with the Presbyterian Church for the past five or six years. On one occasion, the synagogue had arranged for the use of the Fair City Mall parking lot. Mr. Stahl advised the Board that the synagogue had always made some arrangements for the overflow parking. He indicated that the synagogue would be happy to provide any statement necessary to allow the practice to continue. Chairman Smith stated that the use of the commercial areas would be helpful as an alternative.

Chairman Smith inquired of the Board as to whether there were other concerns that needed to be addressed. Mr. Yaremchuk inquired of Mr. Stahl as to whether the synagogue really needed such a large addition. Mr. Stahl responded that it was not really a large addition. He stated that the synagogue was replacing and consolidating. He stated that the congregation had a school. There were three buildings on the property. One small house was used by the caretaker. The larger house was used for the school. The main building was where services were held, etc. Mr. Stahl informed the Board that they had planned to consolidate the school into one building which ended up taking away the social hall which was two stories high. In order to replace the social hall, a structure was being added in the front as shown on the plat. Mr. Yaremchuk stated that the addition was as large as the existing building. He stated that the congregation might change its mind and expand it further. Mr. Stahl stated that he served on the board of the synagogue and was not aware of any plans to expand the building or to seek new members. He stated that if the synagogue did expand, the sancuary would have to be changed.

Mr. Yaremchuk stated that he would like to see the synagogue and the community come to some kind of agreement of terms. He stated that the synagogue was planning a big addition. He stated that if he lived in the community, he would feel that it was a fairly large consolidation. Mr. Stahl advised the Board that the synagogue would not be using the large house any longer once the addition was completed. The large house would be used by the caretaker. Mr. Yaremchuk stated that he understood what the congregation was doing and stated that it was trying to do some planning. Mr. Stahl assured the Board that the only building structure to be added was the social hall which was being replaced. He stated that the congretation was not increasing the membership but only the parking as it had been one of the complaints in the past.

161

Mrs. Day stated that the congregation could not be against new members. She stated that the congregation could not turn people away who wanted to come to church. Mr. Stahl advised the Board that there was a new syangogue in Reston and in Sterling and in Burke. He stated that their congreation had members residing in Burke and might possible lose some of its members to the other areas.

Mr. Yaremchuk stated that he wanted to hear the reaction from the citizens in the area with respect to the addition. Mr. Yaremchuk stated that with the addition, the synagogue was not increasing the situation but would increase the parking and improve the drainage. He stated that the situation could be as bad as before or worse if the special permit was not granted.

Mr. Harry Schiavone of 9204 Denise Lane in Fairfax informed the Board that the synagogue had solved the problem with respect to parking. He stated that the citizens' concerns were once you increased the facility you would have more people coming who would want to be members. Mr. Schiavone informed the Board that the citizens had submitted its report with its concerns. He stated that the citizens wanted to see the final drawings as many people were concerned about the drainage and flooding. Mr. Schiavone advised the Board that the additional parking to be provided was shown for compact cars. He stated that the parking was backed up to all the neighbors. Mr. Schiavone stated that the congregation had not talked to the neighbors.

With respect to the addition proposed, Mr. Schiavone stated that it was only an increase. He indicated that the neighbors lived with a barely tolerable situation and now the congregation was going to increase the parking. Mr. Schiavone informed the Board that the congregation had increased over the years with an addition of 47 families per year. The congregation membership was now 500 families. Mr. Schiavone informed the Board that the congregation could not solve the problems and would only be compounding them.

Mr. DiGiulian inquired of Mr. Stahl as to why the congregation was planning an addition of 40% of the building that was already existing. He stated that the building to be replaced was only 1,700 sq. ft. in floor area. Mr. Stahl stated that there was the kitchen facility which was rather large as the congregation was not allowed to mix milk and meat products. He indicated that the congregation was trying to carry out a facility that had a multi-purpose so that it could be used by the children at the same time as the adults. Mr. Stahl stated that the addition was not really that big. The existing social hall was two stories. He indicated that the primary purpose of the change was to provide classrooms for the religious school. There were 13 classrooms and there would not be any increase in classroom space.

Chairman Smith closed the public hearing and the Board members discussed deferring the decision until the absent member had an opportunity to review the tape. Chairman Smith stated that the decision would not be anytime in December in order to allow Mr. Hyland an opportunity to review the file and listen to the tapes. He stated that the Board had discussed meeting with the congregation group and representatives from the community at the site to go over the proposed additions to the building and the parking lot and to view the terrain. Chairman Smith stated that the meeting would have to take place prior to the 22nd of December. Mr. Stahl advised that it was not possible to get all the information prior to the 22nd. Chairman Smith stated that the Board would leave the date flexible and the clerk would arrange a meeting date.

It was the consensus of the Board to defer the case and have the clerk arrange a meeting at the site as discussed. The vote to defer was passed 4 to 0 (Mr. Hyland being absent).

//

Page 161, December 2, 1980, Scheduled case of

12:30 P.M. JAMES J. ROSS, JR. & WILLIAM F. STANSBURY, appl. under Sect. 18-401 of the Ord. to allow construction of a dwelling to 10 ft. of the side lot lines (20 ft. min. side yard req. by Sect. 3-107), located 2122 Great Falls St., 40-2((1))13A, Dranesville Dist., R-1, .374 ac., V-80-D-181. (Deferred from November 11, 1980 to determine if this parcel is a legal lot.)

Mr. Covington advised the Board that the staff investigation revealed that this was not a legal lot. He stated that Mr. Whitmore from Mapping could testify to the research. Chairman Smith stated that in view of the Zoning Administrator's decision that this was not a legal lot, he would not supercede. He informed the applicants that this was a problem that they would have to work out with Zoning since that office was charged with the responsibility of the decision.

Mr. Howell Simmons, the engineer representing the applicants, inquired if it was proper to seek a deferral until the next meeting. He stated that from his investigation, he felt it was a legal lot. He asked for an opportunity to determine if the staff had looked at the same things as he found. Mr. Yaremchuk stated that as there was some kind of a legal questions involved, the County Attorney should iron it out.

Chairman Smith stated that the Deputy Zoning Administrator had indicated that this was not a legal lot. Mr. Mackall had stated that it was not a legal lot. Chairman Smith suggested that the Board not take any further action on the application. He indicated that he did not have a problem with the deferral as there were two different opinions.

It was the consensus of the Board to defer the variance until January 27, 1981 at 10:10 A.M. in order to determine if it was a legal lot.

//

162, December 2, 1980, Scheduled case of

12:45 P.M. ROBERT & SUELLEN WOOLFOLK, appl. under Sect. 18-401 of the Ord. to allow construction of deck to 15.4 ft. from rear property line (25 ft. min. rear yard req. by Sect. 3-307), located 8801 Aquary Ct., Springfield Station Subd., 89-3((6))217, Springfield Dist., R-3, 9,442 sq. ft., V-80-S-183. (Deferred from November 11, 1980 for notices.)

Mrs. Suellen Woolfolk of 8801 Aquary Court informed the Board that they wanted to request a variance from the Ordinance that required a minimum clearance of 25 ft. from the property line. She stated that they wished to construct a deck 12'x20' and it could not be constructed without the variance. The deck would come off of the kitchen. She stated that their lot was small and had several features that would not allow the deck to be built without a variance. These features were the location of the house and the storm sewer easement. The proposed location was the only feasible and logical area that would allow access from the second floor.

Mrs. Woolfolk informed the Board that the deck would be 25 ft. from any inhabited property. She stated that her property was irregular in shape. In response to questions from the Board, Mrs. Woolfolk stated that they had owned the property for five years. The deck would be constructed of pressure treated pine. Mrs. Woolfolk stated that behind her property was parkland which was owned by the homeowners association. The proposed deck would be on the back of the house and the storm sewer bisected the property on the right.

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

RESOLUTION

In Application No. V-80-S-183 by ROBERT & SUELLEN WOOLFOLK under Section 18-401 of the Zoning Ordinance to allow construction of deck to 15.4 ft. from rear property line (25 ft. minimum rear yard required by Sect. 2-307) on property located at 8801 Aquary Court, tax map reference 89-3((6))217, County of Fairfax, Virginia, Ms. Day 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 December 2, 1980; 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 9,442 sq. ft.
4. That the applicant's property is exceptionally irregular in shape being shallow and has an unusual condition in the location of the existing building on the subject property and has a storm sewer easement that bisects the 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:

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 163, December 2, 1980, After Agenda Items

GEORGE M. & OLIVE M. FITZWATER: The Board was in receipt of a memorandum from the Zoning Administrator regarding a revised plat of the subdivision for George M. & Olive M. Fitzwater. The revised plat had been submitted for approval as a minor engineering change.

In as much there was not a full Board present, Chairman Smith deferred the request.

//

Page 163, December 2, 1980, After Agenda Items

VIRGINIA MONTESSORI SCHOOL: The Board was in receipt of a request from Danny R. & Elizabeth May seeking approval of an addition which was to be used strictly for living quarters. The approval was sought as a minor engineering change.

It was the consensus of the Board that a public hearing would have to held to accomodate the request.

//

Page 163, December 2, 1980, After Agenda Items

FRANCONIA GRAVEL CORPORATION: The Board was in receipt of a request from Royce Spence seeking a withdrawal of the special permit application of Franconia Gravel Corporation which had been deferred by the BZA in July for a period not to exceed 120 days.

Mr. DiGiulian moved that the Board allow the withdrawal of the special permit without prejudice. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0 (Mr. Hyland being absent).

//

Page 163, December 2, 1980, After Agenda Items

ROCK HILL CHURCH OF GOD: The Board was in receipt of a request from the Rock Hill Church of God to reduce the parking from 30 to 25 spaces which met the requirements of the Ordinance for a seating capacity of 100 people in the sanctuary.

Mr. Yaremchuk moved that the Board allow the reduction in parking from 30 to 25 as requested. Mr. DiGiulian seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

//

Page 163, December 2, 1980, After Agenda Items

CHILDREN'S WAY SCHOOL, S-70-74: The Board was in receipt of a request from Children's Way School to allow the change of ages from 2 to 6 to be from 2 through 9. In addition, the school was requesting to change the hours of operation from 7 A.M. to 6 P.M. to be from 6:30 A.M. to 6:30 P.M., five days a week.

Mr. DiGiulian moved that the Board allow the changes as requested. Mr. Yaremchuk seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

//

// There being no further business, the Board adjourned at 3:50 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on July 13, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: July 15, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 9, 1980. The following Board Members were present: Daniel Smith, Chairman, John Yaremchuk; Gerald Hyland and Ann Day. (Mr. John DiGiulian was absent).

Chairman Smith opened the meeting at 10:25 A.M. and Ms. Day led the meeting in prayer.

MATTERS PRESENTED BY BOARD MEMBERS: Chairman Smith informed the Board that the case of the Salvation Army vs. the Board of Zoning Appeals had been continued by the court until December 23, 1980. He stated that at this point in time, the Board did not have enough funds to cover the attorney's fees. In view of that fact, Chairman Smith stated that the Board would have request additional funds from Mr. Lambert.

//

Page 165, December 9, 1980, Scheduled case of

10:10 A.M. INEZ E. STALCUP ESTATE & PINEY GLEN CO., appl. under Sect. 18-401 of the Ord. to allow resubdivision into 8 lots, with proposed interior lots 3, 4, 5, 6, 7 & 8, each having width of 91 ft. and proposed corner lot 2 having widths of 93 ft. and 114 ft. (100 ft. min. width for interior lots and 125 ft. min. width for corner lots req. by Sect. 3-206), located off of the intersection of Kirby Road and Park Road, Park West Subd., 31-3((1))80, 80E, 80F, 80H, 78A, 81, 77, 79, 79A & 80B, Dranesville Dist., R-2, 4.34 ac., V-80-D-202.

Mr. Robert Test, an attorney at law, of 108 N. Asaph Street in Alexandria, represented the applicants. In response to questions from the Board, Mr. Test stated that the property was owned by the Estate of Inez E. Stalcup. The executor of the estate was Mr. William Stalcup. Mr. Test explained the unusual characteristics of the property. He stated that the unusual shape of the property made it impossible to have adequate frontage to allow 8 lots which was why they were requesting the variances. Mr. Test stated that the plat was fairly simple. He stated that they were trying to avoid getting into any unusual shapes. He informed the Board that eight lots would not create any density problems with the property reserved for dedication purposes. It was the understanding of the estate that the lot on Kirby Road with the easement was created to avoid impact on Kirby Road. Mr. Test stated that the County was concerned about any additional impact on Kirby Road. Mr. Test stated that several other subdivisions in the area required variances. He stated that the unusual depth of the property would provide an adequate use for the estate.

In response to questions from the Board, Mr. Test stated that the hardship was the fact there was not enough frontage. He stated that the property had more than enough square footage but did not have adequate frontage. Mr. Yaremchuk stated that if the property was subdivided into seven lots, there would be enough frontage. Mr. Test responded that the subdivision into eight lots would provide a reasonable number of lots for the estate. He stated that due to the shape of the property, a variance was not unusual.

Mr. Yaremchuk stated that the property was not unusually shaped. It had proper depth and proper width. Mr. Yaremchuk stated that he had a problem seeing the hardship in this case. Mr. Test stated that the property did not have proper road frontage according to the current zoning and the square footage of the property.

There was no one else to speak in support of the application. Mr. Louis Kasper of 6253 Park Road spoke in opposition. He stated that he was not sure whether he supported the application or was opposed to it. He was concerned as a neighbor. He informed the Board that this was a request for 8 lots requiring seven variances. Mr. Kasper stated that the neighbors wanted to see the property developed but wanted to see a layout with fewer lots with fewer variances. Mr. Kasper stated that the neighbors had been open and candid about this and he indicated that there might still be opposition to any other layout. Mr. Kasper informed the Board that he was uneasy about the subdivision.

Chairman Smith stated that he felt there had not been adequate justification given for the number of variances being requested. He stated that the applicant could make reasonable use of the land without a variance. Mr. Yaremchuk stated that agreed with the Chairman. The applicants were seeking the maximum use of the property rather than a reasonable use of the property.

There was no one else to speak in opposition. During rebuttal, Mr. Test stated that the hardship section of the Code was to allow the applicants to have reasonable use of the property. He stated that he was not sure that eight lots were unreasonable. With respect to the comment from the Board that the property could be subdivided into seven lots, Mr. Test stated that he was not sure whether any variances would still be necessary. He informed the Board that the request was not inconsistent with other variances in the area. Mr. Test stated that the property had been in the estate for some time. He indicated that because of the size

of the property and the nature of the neighborhood, this was not an unusual request. Mr. Test stated that the estate would like to make reasonable use of the property.

RESOLUTION

In Application No. V-80-D-202 by INEZ E. STALCUP & PINEY GLEN COMPANY under Section 18-401 of the Zoning Ordinance to allow resubdivision into 8 lots, with proposed interior lots 3, 4, 5, 6, 7 & 8 each having width of 91 ft. and proposed corner lot 2 having widths of 93 ft. & 114 ft. (100 ft. minimum lot width for interior lots & 25 ft. minimum lot width for corner lots required by Sect. 3-206) on property located at Kirby Road and Park Road, tax map reference 31-3((1))80, 80E, 80F, 80H, 78A, 81, 77, 79, 79A & 80B, 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 December 9, 1980; 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 4.34 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. Day seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 166, December 9, 1980, Scheduled case of

10:20 A.M. FAIRFAX COUNTY BOARD OF SUPERVISORS, appl. under Sect. 18-401 of the Ord. to allow construction of public use building 52 ft. high to 10 ft. from side lot line (approx. 54 ft. min. side yard req. by Sect. 3-107), located 4618 West Ox Road, Fairfax County Landfill Subd., 56-1((1))2, Springfield Dist., R-1, 123+ acres, V-80-S-204.

Mr. Veril Tielkemier and Mr. Quigley from Solid Waste and Mr. Robertson from Project Management represented the County. Chairman Smith stated that it was his understanding that there was a question as to whether the Board of Supervisors had deferred action. Mr. Covington informed the Board that the under the hearing of 15-456, the staff had asked the Board of Supervisors to confirm that the original 456 hearing would take into consideration the construction of the transfer station. The Board of Supervisors had deferred it for one week. Chairman Smith stated that the question had only come up that morning and, therefore, the BZA had not had an opportunity to research the matter or get any advice on the matter. He stated that if there was a question on the Code, the question should be addressed before the Board heard the request for the variance. Chairman Smith stated that it amazed him that with as much land as the landfill had that a variance was being requested.

Mr. Ken Smith, an attorney in Fairfax, informed the Board that he represented the citizens around the landfill. He stated that the transfer station had been a matter of controversy for better than a year. Mr. Ken Smith stated that he was not aware of the variance application until just recently. Mr. Smith stated that in light of the Board of Supervisors' deferral and the controversy of whether there would be a 456 hearing on the issue, he suggested that the BZA defer the variance application until after the controversy had been resolved.

Mr. Yaremchuk inquired of the County Staff if they would like a deferral of the matter until there was a full Board present and Mr. Tielkemier responded that he would. Chairman Smith inquired as to when the Board of Supervisors had indicated that they would consider the matter and Mr. Covington reported that it was one week. Chairman Smith inquired if there was a great hurry on the variance application and was informed by Mr. Tielkemier that the station was to be built by October of 1982. At that point in time, the landfill would be closed. At the

167

present time, the staff was going through the process of design of the transfer station. Chairman Smith stated that a month would not make that much difference in the completion of construction. Chairman Smith suggested deferring the application until the first meeting in January of 1981.

Mr. Ken Smith asked to speak to the deferral. He informed the BZA that there were a number of citizens who wanted to involve themselves in the process. He stated that he had only been informed of the matter the night before when speaking to the citizen leaders. He asked that the BZA defer the variance until a night meeting. Mr. Yaremchuk stated that he was not normally against night meetings but stated that this was a variance application. Mr. Hyland inquired if it was possible to schedule the matter for a night meeting. Chairman Smith stated that the next night meeting for scheduling would be in February. Mr. Yaremchuk stated that since the citizens were represented by counsel, he would be the only one to speak. Mr. Ken Smith stated that there were others who had things to say to the BZA and their testimony would not be redundant. Mr. Tielkemier stated that a deferral to the night meeting in February would be in inconvenience for the County. He stated that he preferred a hearing as soon as possible. He informed the Board that the siting of the structure was not what they were asking for but a variance to the side yard setback. Chairman Smith inquired if the variance was absolutely necessary and Mr. Tielkemier responded that it was. Mr. Yaremchuk inquired as to the latest date that could accomodate the County. Mr. Tielkemier stated that he would prefer a hearing in early January.

The variance was deferred until Tuesday Night, January 13, 1981 at 9:30 P.M.

//

Page 167, December 9, 1980, Scheduled case of

10:30 A.M. TRIANGLE DEVELOPMENT COMPANY OF AMERICA, LTD., appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 15 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 3991 Briary Way, The Briars at Westchester Subd., 58-4((33))5, Providence Dist., R-3, 10,500 sq. ft., V-80-P-205.

Mr. Chip Paciulli of 307 Maple Avenue in Vienna represented the applicant. He stated that the request for the variance was brought about because of the shallow lot. The rear yard was encumbered by storm sewer easements and a walkway. Mr. Paciulli stated that the applicant was requesting a variance in order to construct a deck on the rear of the house to 15 ft. from the rear lot line.

In response to questions from the Board, Mr. Paciulli stated that the house was existing and the applicant had owned it for over a year. However, the house was not occupied. Mr. Paciulli stated that the original plans for the house did not include the deck. He presented the Board with photographs to show that there was not any rear year. Mrs. Day inquired as to what was located at the property behind the applicant. Mr. Paciulli stated that the lot was pie-shaped. There was a walkway and a fence behind the house along with a storm sewer easement. He stated that he was not sure as to the distance for the house located behind the applicant's property. Mr. Paciulli informed the Board that there was a stockade fence and a sidewalk there.

Mr. Henry Cushing of the Triangle Development Co. spoke in support of the application. He informed the Board that Fairfax County had required them to construct the sidewalk along the rear of the property rather than along Rt. 236 and the highway. He informed the Board that the subject house had a walkout basement with a very shallow back yard. He stated that they had not been able to sell the house and had decided to put in a deck with screening on the deck to provide privacy. He stated that the screening would help the people who lived behind the lot. Mr. Cushing stated that lack of privacy was a major reason why they could not sell the house and also because of the rear yard situation. Mr. Cushing stated that they could build a 6 ft. deck without a variance but they felt that a 10 ft. deck would be more livable.

Mr. Hyland inquired as to the type of existing screening on the property. Mr. Cushing replied that there was a stockade fence which had been constructed to keep the children from running through the project. On the other side was a garage with bushes but Mr. Cushing did not consider that to be real screening. Ms. Day inquired as to why they did not just have a balcony since the deck would be sitting almost on top of the walkway. Mr. Cushing stated that a deck would be better and would be more pleasurable. He stated that the way the back yard was not, it hindered the marketability of the house.

Ms. Helen Watkins of Okla Drive informed the Board that her property was behind the subject property. She stated that she had many objections and presented the Board with a petition signed by people from the area. She informed that the main objection was that the deck would be an eyesore for the back view of their community. She stated that Fairfax County had the builder construct a sidewalk in between the communities but indicated that was not the fault of the community. She stated that the stockade fence would not block the deck which would almost hang over her property. She stated that her bedroom window was located on the back of her home. She stated that her garage was 15 ft. from the line. She stated that it would be

difficult for the builder to plant trees to screen the deck as it would be too close to the house. Mrs. Watkins stated that the problem was that the builder built a very large house on a postage stamp size lot. She stated that she did not see why the community had to suffer because of the deck. She stated that the house was not conducive to a deck.

Mr. Hyland informed Mrs. Watkins that the builder could construct a 6 ft. deck without a variance. Mr. Covington stated that the builder could build a 10'x10' deck by right. Mrs. Watkins stated that a deck was objectionable because of the noise level. Mrs. Day inquired if Mrs. Watkins had a deck on her house and was informed there was only a patio on the side next to the apartments. Chairman Smith stated that the 10 ft. sidewalk easement helped create the problem for the builder. He stated that he assumed Mrs. Watkins' community used the sidewalk also. Mrs. Watkins responded that the sidewalk did not serve her community. Mrs. Watkins stated that the builder would have done better to put a small house on the lot. She stated that the builder was not thinking about the community.

During rebuttal, Mr. Paciulli stated that the sidewalk had created the unusual situation. The lot was very shallow. He stated that the situation of being able to look into Mrs. Watkins' bedroom windowns would exist even with a 6 ft. deck which was allowed. Mr. Paciulli stated that a 10 ft. deck was considered standard for the homes in the area. Chairman Smith inquired if it was possible to narrow the deck down to 8 ft. Mr. Cushing responded that he was going to build a screen on top of the deck which would be a slanted wood screen. He stated that he did not want to build a 8 ft. deck. Mr. Cushing stated that this particular house was not the biggest house he was selling in the area. He stated that the house had the same square footage as the other houses but it was a lot that was long and skinny. He stated that he would sell the house eventually. Mr. Cushing stated that the 10 ft. deck would be the best size deck for the house and for the community.

Mr. Yaremchuk inquired if the neighbors had seen the plans for the deck. Mrs. Watkins stated that she had been told that the deck would be 10'x38'. She stated that she could not imagine screening if the width was 38 ft. that would be pleasing. Mrs. Watkins stated that there would be a problem with the stockade fence. Mr. Yaremchuk stated that it bothered him when people signed things without knowing what they were signing. Mrs. Watkins stated that if the Board saw the property and how small it was and how close it was to her house, they would understand the situation.

Page 168, December 9, 1980 Board of Zoning Appeals
TRIANGLE DEVELOPMENT COMPANY OF AMERICA, LTD.

R E S O L U T I O N

In Application No. V-80-P-205 by TRIANGLE DEVELOPMENT COMPANY OF AMERICA, LTD. under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 15 ft. from rear lot line (19 ft. minimum rear yard required by Sects. 3-307 & 2-412) on property located at 3991 Briary Way, tax map reference 58-4((33))5, County of Fairfax, Virginia, Ms. Day 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 December 9, 1980; 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 10,500 sq. ft.
4. That the applicant's property is exceptionally irregular in shape being pie-shaped and has an unusual condition in the location of the existing buildings on the subject property due to the owner having granted a 10 ft. easement for community use at rear of 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.

Page 169, December 9, 1980 Board of Zoning Appeals
TRIANGLE DEVELOPMENT COMPANY OF AMERICA, LTD.
(continued) RESOLUTION

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days prior to any expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 169, December 9, 1980, Scheduled case of

10:40 A.M. JAMES A. AGERSBORG, appl. under Sect. 18-401 of the Ord. to allow construction of additions to dwelling including an attached carport to 8 ft. from the front lot line and an attached shed to 5.6 ft. from side lot line (40 ft. min. front and 20 ft. min. side yards req. by Sect. 3-107), located 2946 Rosemoor Lane, North Pine Ridge Subd., 49-3((16))9, Providence Dist., R-1, 41,287 sq. ft., V-80-P-206.

Mr. James A. Agersborg of 2946 Rosemoor Lane introduced Ms. Susan Notkins, architect, of 1179 Crest Lane in McLean. Ms. Notkins informed the Board that Mr. Agersborg's property had unusual topographic problems and was substandard in width. She stated that he wanted to add onto his home for a family room. Ms. Notkins stated that the family room would take the place of space presently occupied by a carport and a tool storage shed. The house was built in the early 50s and the lot was substandard in width. Ms. Notkins stated that the physical constraints of the house and the property line made it impossible to build the family room anywhere else. She stated that to the west, the property fell off sharply.

Ms. Notkins stated that it was Mr. Agersborg's desire to replace the carport. She stated that if the lot was not 40% less in width, they could accommodate all of the functions with some adjustement without requiring a variance to the front and side yards. Ms. Notkins stated that the property would be well screened with white pines.

In response to questions from the Board, Ms. Notkins stated that Mr. Agersborg had owned the property since 1963. Ms. Notkins stated that the house had a basement, half underground. She stated that the floodplain took much of the yard. Only one-third of the property could be used for construction purposes.

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

Page 169, December 9, 1980 Board of Zoning Appeals
JAMES A. AGERSBORG

RESOLUTION

IN APPLICATION No. V-80-P-206 by JAMES A. AGERSBORG under Section 18-401 of the Zoning Ordinance to allow construction of additions to dwelling including an attached carport to 8 ft. from the front loe line & an attached shed to 5.6 ft. from side lot line (40 ft. minimum front & 20 ft. minimum side yards required by Sect. 3-107) on property located at 2946 Rosemoor Lane, tax map reference 49-3((16))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 December 9, 1980; 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 41,287 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including long and narrow 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:

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 170, December 9, 1980, Scheduled case of

10:50 A.M. MANFRED REICHARDT, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 12.5 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6611 Brawner Street, Salona Village Subd., 30-2((15))6, Dranesville Subd., R-2, 21,080 sq. ft., V-80-D-207.

Mr. Manfred Reichardt of 6611 Brawner Street in McLean informed the Board that his property had unusual physical conditions. The house was very small. He stated that he wanted to add some storage space and one additional bedroom. Mr. Riechardt stated that there was not any storage space and the house did not have a rec room. He stated that the site he had in mind for the addition was the only logical place. A variance was requested from the BZA as the house had a septic tank and lines behind it. In the front yard, there was a 50 ft. building restriction line so it was not possible to build at that location. On the other side of the house was the garage. Mr. Richardt stated that he was only asking for a 2½ ft. variance. Mr. Reichardt informed the Board that on his side of the line was a 15 ft. high hedge which was very dense. He stated that the two windows which would face the neighbors would be closed. Mr. Reichardt stated that without the variance, he would only be allowed to build a 9 ft. room which was very narrow and would not be usable.

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

RESOLUTION

In Application No. V-80-D-207 by MANFRED REICHARDT under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12.5 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207), on property located at 6611 Brawner Street, tax map reference 30-2((15))6, County of Fairfax, Virginia, Mr. Hyland 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 December 9, 1980; 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 21,080 sq. ft.
4. That the applicant's property is exceptionally irregular in shape being narrow and has an unusual condition in the location of the septic fields 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.

RESOLUTION

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 171, December 9, 1980, Scheduled case of

11:00 A.M. LAND ASSOCIATES, LTD., appl. under Sect. 18-401 of the Ord. to allow resubdivision into a lot and a parcel, the lot having width of 12 ft. (200 ft. min. lot width req. by Sect. 3-E07), located 11006 Oakton Woods Way, Oakton Woods Subd., 37-1((1)) pt. 5, Centreville Dist., R-E, 6.9888 ac., V-80-C-208.

Mr. John Colby, President of Land Associates, Ltd., 1015 Walker Drive in Great Falls informed the Board that the variance request was the last stage in the development of a large tract of land of 17 acres. He stated that this was a very difficult piece of property being 400 ft by 2,100 ft. deep to the floodplain. Mr. Colby stated that there was only 200 ft. frontage on Stuart Mill Road. He stated that the property could be developed into eight lots under the cluster zoning. However, he stated that he had declined to develop the property in that manner because the lots would be less than two acres in size. In addition, he stated that the area was heavily wooded and had difficult soil configuration for perc. Mr. Colby stated that he had decided the best subdivision arrangement would be to have two acre lots under the R-E zoning. Mr. Colby stated that a residual portion of the property was comprised of 7 acres and had limited frontage. They proposed to divide it into a two acre and a five acre lot. The five acre lot was permitted as it was outside the control of the Subdivision Ordinance. The two acre lot would have 12 ft. of frontage by means of a pipestem from Oakton Woods Way.

Mr. Colby stated that there was approximately three acres of floodplain at the back of the property which he proposed to contain on the five acre lot which was proposed. This would leave two acres out of the floodplain. Mr. Colby stated that it was his intention to covenant the two lots. Mr. Colby informed the Board that he had just developed a 72 acre parcel along the Potomac where he had provided the same covenant.

Mrs. Dorothea Steffen of the Park Authority spoke in opposition to the variance. She informed the Board that she had submitted written comments on the variance. In summary, Mrs. Steffen stated that the Park Authority had received notice of the variance as an adjacent property owner. On December 2, 1980, the Park Authority unanimously agreed to request the BZA to deny the variance. The Park Authority first reviewed the property as a preliminary plat in December 1979. She stated that if the applicant had chosen to consider the cluster subdivision as shown on the preliminary plat, it would have been unnecessary to request a variance. She stated that the granting of the variance would preclude the dedication of the Difficult Run stream valley and its 100 year floodplain to the Park Authority since the resulting five acre lot would not fall under Subdivision Control. Mrs. Steffen stated that Sect. 2-406 of the Ordinance would only allow pipestem lots to be approved for cluster subdivisions. Mrs. Steffen urged the Board to deny the variance as it would set a precedent to allow the intent of Section 2-408(1) to be circumvented.

During rebuttal, Mr. Colby stated that he was shocked to learn of the Park Authority's opposition. Mr. Colby stated that he had been developing the property for over a year and was not aware that they had a problem. Mr. Colby argued that the point regarding the five acre lot being outside the Subdivision Control Ordinance would not be any difference to the Park Authority with respect to the floodplain. He stated that he was seeking to divide a seven acre lot into a two acre and a five acre lot. The five acre lot contained all of the land that had been addressed by the Park Authority as lying in the Difficult Run stream valley. Mr. Colby stated that the preliminary engineering plans submitted to the County and returned by the County were never returned with any written comments from the Park Authority. He stated that if a question existed at that time during the preliminary design plans, he wished he had been aware of them. He indicated that he would have been able to alter the design plans accordingly. He stated that going back to the cluster option would have yielded eight lots. Mr. Colby stated that he was not requesting a variance in order to squeeze the last lot out of the subdivision. He stated that he had voluntarily gone to a lower density to preserve the floodplain which the Park Authority was concerned about.

Mrs. Steffen informed Mr. Colby that the Department of Environmental Management handled all correspondence and contact between agencies and the applicants. Chairman Smith inquired if Mr. Colby needed time to consider the comments of the Park Authority. Mr. Colby stated that he would leave it up to the Board. He stated that he hoped that if the outcome was negative, he would be given an opportunity to rebutt it. Mr. Colby stated that the County had established a preliminary review process through the Department of Environmental Management. He stated that the variance sought was only to the two acre lot. He further informed the Board that he was the contract owner of the property when the remaining five lots in the

subdivision were approved. He stated that since he was not the record owner at that time, he did not have the ability to encompass the proposal into the other subdivision. He was required to wait and record the other five lots retaining the seven acres and then to go through the variance process to accomplish the subdivision.

Mr. Colby argued that technically this was not a subdivision since the five acre lot did not come under Subdivision Control and the two acre lot was through a variance process. He reminded the Board that the two acre lot lay outside the sensitive area addressed by the Park Authority.

Mr. Hyland inquired as to the hardship for seeking the variance. Mr. Colby stated that there were a variety of hardships, primarily from an engineering design standpoint. He stated that there was a very steep gradient, rough topography, heavily wooded growth, and hardwood growth. Mr. Colby stated that he could have, by right, extended the road down towards the Difficult Run floodplain and put the lot onto the road with frontage. He stated that it would have been a 200 to 300 ft. extension of the hard surface state road and would burden the VDH&T to have to maintain a very steep road and a cul-de-sac adjacent to the Difficult Run floodplain. Mr. Colby stated that he felt it did not make sense to extend the state road for 300 ft. to serve one lot. He stated that it could adequately be served by a gravel driveway as requested.

Chairman Smith inquired as to how Mr. Colby addressed the staff comments in the staff report which indicated that the variance could not be granted. In addition, the location of the septic field would preclude the extension of the pipestem. Mr. Colby responded that the property had not been included in the original submission for subdivision of Oakton Woods as he was not the record owner of the property. He stated that he could not approach the BZA until the subdivision was put on record. He further stated that he was not able to become owners of the property until the subdivision was put to record. Mr. Colby stated that this was an example of the chicken and egg theory.

With respect to the drainfield question, Mr. Colby stated that he had submitted the plan to the Health Department who had conducted a perc test on both of the lots. He stated that he had two approved perc sites with reserve areas on the seven acre parcel. He stated that all he had to do was to create a line down betwen the two perc areas to create the two lots. He stated that he would not have to go back to the Health Department as he already had two approved perc sites.

Page 172, December 9, 1980 Board of Zoning Appeals
LAND ASSOCIATES, LTD.

R E S O L U T I O N

In Application No. V-80-C-208 by LAND ASSOCIATES, LTD. under Section 18-401 of the Zoning Ordinance to allow resubdivision into a lot and a parcel, the lot having width of 12 ft. (200 ft. minimum lot width required by Sect. 3-E07) on property located at 11006 Oakton Woods Way, tax map reference 37-1((1))pt. 5, County of Fairfax, Virginia, Ms. Day 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 December 9, 1980; 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 6.9888 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.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 173, December 9, 1980, Recess

At 12:00 Noon, the Board recessed for lunch. The Board reconvened the meeting at 12:45 P.M. to continue with the scheduled agenda.

//

Page 173, December 9, 1980, Scheduled case of

11:10 A.M. LYNCH PROPERTIES, appl. under Sect. 18-401 of the Ord. to allow subdivision into 8 lots with proposed lots 3, 4 and 5 having widths of 46 ft., 6 ft. and 35 ft., respectively (80 ft. min. lot width req. by Sect. 3-306), located 9715 Rustburg Place, Rustburg Cove Subd., 69-1((1))28, Annandale Dist., R-3, 3.61 acres, V-80-A-210.

Mr. Chip Paciulli of Vienna represented the applicant. He stated that the request involved a tract of land with an odd shape and several trees located in the front of the property. Mr. Paciulli stated that the granting of the variance would allow the preservation of the trees. The owner of the property had opted for eight lots rather than a ten lot yield in order to save the trees. Mr. Paciulli stated that the proposed lots 3, 4 and 5 would have less than the required lot width.

Mr. Hyland inquired if Mr. Paciulli was aware of the staff comments and what his reaction was to them. Mr. Paciulli stated that the subdivision was not recorded. The preliminary plan had been reviewed for approval by the Department of Environmental Management. Mr. Hyland stated that the staff had suggested extending Rustburg Place beyond that shown on the site plan. Mr. Paciulli stated that the extension would take away the trees. Chairman Smith replied that everyone was interested in saving trees but it was not justification for granting a variance. Mr. Paciulli stated that the photographs showed the trees.

Ms. Day stated that if the applicant extended Rustburg Place, it would still leave three or four trees. Mr. Paciulli stated that the paving and the extension and a cul-de-sac would wipe out all of the trees. Chairman Smith stated that the trees were not justification for the granting of the property. Mr. Yaremchuk replied that the applicant had indicated that the property was irregular in shape. Chairman Smith stated that the property was not irregular to the extent that it could not be developed in a reasonable and conventional manner.

In response to questions from the Board, Mr. Paciulli stated that the existing house was 50 years old. Chairman Smith stated that some of the trees appeard to be about 50 years old except for the 14 ft. oaks.

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

Page 173, December 9, 1980 Board of Zoning Appeals
LYNCH PROPERTIES

R E S O L U T I O N

In Application No. V-80-A-210 by LYNCH PROPERTIES under Section 18-401 of the Zoning Ordinance to allow subdivision into 8 lots with proposed lots 3, 4 & 5 having widths of 46 ft., 6 ft. & 35 ft., respectively, (80 ft. minimum lot width required by Sect. 3-306) on property located at 9715 Rustburg Place, tax map reference 69-1((1))28, 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 December 9, 1980; and

WHEREAS, the Board had 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 3.61 acres.
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:

RESOLUTION

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

2. This variance shall expire eighteen months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 174, December 9, 1980, Scheduled case of

11:20 A.M. PHILIP G. MIMS & SHANE MAJEWSKI, appl. under Sect. 18-401 of the Ord. to allow occupancy of premises having gravel parking area (dustless surface req. by Sect. 11-102), located 9928 Richmond Hwy, 113-2((1))62, Mt. Vernon Dist., C-8 & I-6, 12.054 ac., V-80-V-211.

Mr. Shane Majewski of 9801 Old Colchester Road in Lorton stated that he had applied for a variance for a gravel parking area due to the surrounding area. He stated that the property was located on Rt. 1 and he had occuped it for four years as a feed store. Ms. Day questioned whether it had been operated for four years in its present condition and she was informed it had been. Mr. Yaremchuk inquired as to the reason the applicant was before the Board now. Mr. Majewski stated that he had applied for a variance in order to waive the dustless surface requirement.

Mr. Covington informed the Board that this had been a change in use as the property was previously occupied as a restaurant. Because it was a change in use, the applicant had to go through the requirements. Ms. Day inquired as to the length of the lease and Mr. Majewski replied it was for two years. He stated that the lease did not have any options to buy the property, just to renew the lease. Mr. Majewski stated that he operated the business on a month to month basis. Mr. Yaremchuk stated that the parking area should have been paved when it was a restaurant. Chairman Smith stated that the previous occupant had obtained a waiver. He stated that the County could only waive the requirement so many times. Mr. Yaremchuk inquired as to the number of patrons on a daily basis that came to the feed store. Mr. Majewski stated that the average was 30 customers per day in an 8 hour day. Mr. Yaremchuk stated that was approximately 4 patrons per hour.

Chairman Smith inquired if there had been complaints regarding the facility. Mr. Covington informed the Board that the Zoning Inspector for Mt. Vernon District was present. Ms. Kathy Parkins, Zoning Inspector, spoke in support of the variance. She stated that Mr. Majewski had been at the location for a number of years. She stated that the feed store was well maintained. The other areas were not paved. She stated that she felt his application was reasonable. Ms. Parkins informed the Board that she had received any objections to it.

Chairman Smith stated that this was a large piece of property. Mr. Yaremchuk stated that the staff could grant the waiver on a temporary basis. Mr. Covington stated that he agreed with Mr. Yaremchuk but indicated that the staff did not wish to grant the waivers because it would become a permanent thing. Mr. Yaremchuk stated that the staff could use good judgement.

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

RESOLUTION

In Application No. V-80-V-211 by PHILIP G. MIMS & SHANE MAJEWSKI under Section 18-401 of the Zoning Ordinance to allow occupancy of premises having gravel parking area (dustless surface required by Sect. 11-102) on property located at 9928 Richmond Highway, tax map reference 113-2((1))62, County of Fairfax, Virginia, Mr. Hyland 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 December 9, 1980; 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 & I-6.
3. The area of the lot is 12,054 acres.
4. That the applicant's property has an unusual condition in that heretofore two temporary

waivers have been granted in connection with this property as far as the dustless surface requirements. In view that the operation of the feedstore does not generate a significant amount of activity in connection with the prior use which was a restaurant and that compliance would create an unusual hardship.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 175, December 9, 1980, Scheduled case of

11:45 A.M. WAY OF FAITH CHRISTIAN TRAINING CENTER, INC., appl. under Sect. 3-103 of the Ord. to amend S-232-78 for school of general education to permit construction of classrooms and auditorium building additions, removal of classroom trailer, and increase in max. no. of students by 175 to a new max. of 295, located 8800 Arlington Blvd., 48-4((1))39, Providence Dist., R-1, 7.9171 ac., S-80-P-095.

Mrs. Lois Burt, P. O. Box 525, Charlestown, West Virginia, represented the applicant. She stated that they were requesting a special permit for construction of classrooms and an auditorium building at the present location on Arlington Boulevard. In addition, an increase in the capacity was also being requested from 175 children to 295 children.

Chairman Smith inquired if the school planned to move the trailer once the building was completed. Mrs. Burt stated that the permission for the use of the trailer would expire at the end of the school year. Chairman Smith stated that the trailer had been changed and was barely visible as the trees were bigger now. Mrs. Burt stated that the trees also shaded the trailer very well.

In response to questions from the Board, Mrs. Burt stated that the building materials would be concrete and steel. It was to be molded concrete to be constructed in sections. She stated that the addition would be much the same as the existing school building. The present building was stucco.

Mrs. Day inquired if the operating conditions would still be the same. Mrs. Burt responded that additional parking spaces would be necessary. Mrs. Day inquired as to how the parking would be taken care of with the increase in students. Chairman Smith stated that 69 parking spaces were three times more parking than needed for the use. He stated that very few students drive to school. He informed the other Board members that the special permit had originally been granted as a building for a computer firm. It was set up as a business. The ratio for parking was based on the original use. Chairman Smith stated that the parking was sparsely used. Mrs. Burt stated that the maximum parking spaces used was approximately 20 at any one time. Chairman Smith stated that he did not have a problem with the parking unless the school increased the maximum ages of the students to the extent that a lot of the students would drive to school. Mrs. Burt informed the Board that the school had kindergarten through twelfth grade.

There was no one else to speak in support of the application. Chairman Smith noted the two letters in the file which were conditioned support. He read the letters and made them a part of the record. One letter was from the Mantua Civic Association which did not oppose the expansion. There was a concern, however, that the addition be compatible and that the temporary classroom trailer be removed as soon as possible and that some type of screening be provided. The other letter was from residents of 809 Chichester Lane who faced the school. They were concerned about landscaping and screening. They wanted as many trees left on the property as possible.

WAY OF FAITH CHRISTIAN TRAINING CENTER, INC.

RESOLUTION

Ms. Day made the following motion:

WHEREAS, Application No. S-80-P-095 by WAY OF FAITH CHRISTIAN TRAINING CENTER, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-232-78 for school of general education to permit construction of classrooms and auditorium building additions, removal of classroom trailer and increase in maximum number of students from 175 to 295, 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 December 9, 1980; 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 7.9171 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 on the application and is not transferable to other land.
2. This special permti shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
3. This approach 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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 295.
8. The hours of operation shall be 8 A.M. to 9:30 P.M.
9. The number of parking spaces shall be 69.
10. All other requirements of S-232-78 not altered by this resolution shall remain in effect.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 176, December 9, 1980, Scheduled case of

12:00 NOON — CENTREVILLE BAPTIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow addition to church parking to have gravel surface (dustless surface req. by Sect. 11-102), located 5730 Stone Road, Krehbiel Subd., 54-1((2))6, 7 & 8, Springfield Dist., R-1, 6.8927 ac., V-80-S-209.

&

12:00 NOON — CENTREVILLE BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-215-73 for church to permit addition to parking lot, located 5730 Stone Road, Krehbiel Subd., 54-1((2))6, 7 & 8, Springfield Dist., R-1, 6.8927 ac., S-80-S-100.

Mr. John Etcher of 5806 Barry Road in Centreville represented the church. He stated that the church was very crowded and there was a need for additional parking. He stated that the church has had an overflow and there was no place on Stone Road to park. The church needed an extension of its parking lot.

Mr. Yaremchuk inquired as to the hardship with respect to the dustless surface variance. Mr. Covington stated that the church was next door to an existing gas line and there was no one nearby. Mr. Covington stated that the nearest house was about 1,000 ft. away. Chairman Smith stated that he did not believe the pipeline would allow the pavement since the parking lot was over the gasline. Mr. Etcher informed the Board that the gas line had informed the church that they could have any kind of surface they wanted as long as it was removed later. Mr. Yaremchuk stated that the church was out in the country. He understood that the Board could not consider the monetary value as a hardship. Mr. Covington stated that the gravel surface would lessen the erosion. Chairman Smith stated that he did not have a problem with the dustless surface variance for the parking lot. Mr. Etcher stated that the church had been in existence for five years. Mr. Yaremchuk stated that if the church got to the point of having so many parishoners as to create a dust problem, then they could afford to pave.

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

Page 177, December 9, 1980 Board of Zoning Appeals
CENTREVILLE BAPTIST CHURCH

RESOLUTION

In Application No. V-80-S-209 by CENTREVILLE BAPTIST CHURCH under Section 18-401 of the Zoning Ordinance to allow addition to church parking to have gravel surface (dustless surface required by Section 11-102) on property located at 5730 Stone Road, tax map reference 54-1 ((2))6, 7 & 8, 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 December 9, 1980; 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 6.8927 acres.
4. That the applicant's property has an unusual condition in the location of the parking over a pipeline easement and there is no room for parking anywhere else in the immediate area and it would be a hardship on the applicant if treated any differently than anyone else.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 177, December 9, 1980 Board of Zoning Appeals
CENTREVILLE BAPTIST CHURCH

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-S-100 by CENTREVILLE BAPTIST CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit addition to parking lot on property located at 5730 Stone Road, tax map reference 54-1((2))6, 7 & 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 December 9, 1980; and

RESOLUTION

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 6.8927 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of parking spaces shall be 61 with other than a dustless surface.
8. All other conditions of S-215-73 not altered by this resolution shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 178, December 9, 1980, Scheduled case of

12:15 P.M. JULIANA GEREN, appl. under Sect. 3-103 of the Ord. to permit home professional office (clinical social work), located 1358 Kirby Road, Potomac Subd., 31-2((1))91, Dranesville Dist., R-1, 91,781 sq. ft., S-80-D-101.

&

12:15 P.M. JULIANA GEREN, appl. under Sect. 18-401 of the Ord. to allow home professional office with gravel driveway (dustless surface req. by Sect. 11-102), located 1358 Kirby Road, Potomac Subd., 31-2((1))91, Dranesville Dist., R-1, 91,781 sq. ft., V-80-D-212.

Ms. Juliana Geren of 1358 Kirby Road informed the Board that she was applying for a special permit for a home professional office. She stated that she wanted to see clients on an individual basis. She indicated that she hoped to see ten people over two afternoons a week. Ms. Geren informed the Board that she was a clinical social worker. Ms. Geren stated that she worked with individuals with low self esteem, marital problems, etc. and did not see criminals or juvenile offenders. She stated that the people she worked with had jobs and families and were able to carry on with their daily activities. She stated that she did not believe her clients would be offensive to the area or jeorpordize the area.

Ms. Geren stated that here property was well screened on the north, west and south. She stated that her clients would park in her driveway and enter the office downstairs. She stated that if it was necessary for them to wait, they would be able to wait downstairs rather than outside. Ms. Geren stated that she did not do recreational therapy so the outside of her home would not be used in the practice. She stated that she would not entertain her clients. Ms. Geren stated that she did not believe the traffic would be affected because on one car per hour. The driveway could accommodate five vehicles.

With respect to the gravel driveway, Ms. Geren stated that it would not cause a disturbance becasue of the distance between her home and the next door neighbor. There was a wooded hill and her house was situated in a rural setting. She stated that she would not have any staff on the premises as she planned to use the secretarial services at her office where she currently worked.

Page 179, December 9, 1980
JULIANA GEREN
(continued)

In response to questions from the Board, Ms. Geren stated that she was not a doctor but a clinical social worker certified by the State. She had resided in her home since February 1968. Mr. Yaremchuk inquired if Ms. Geren had purchased the home with this home office in mind and she replied she had not. Mr. Yaremchuk inquired if there was any opposition to the proposed office. Ms. Geren stated that some of her neighbors were opposed and she had discussed it with them.

Ms. Day questioned the applicant regarding the parking arrangement. She noted that there was not a turnaround space provided on the property and informed the applicant that the clients could not park on the street. Ms. Geren stated that her existing driveway was shown on the plat. To the right of the driveway was space for additional cars. Ms. Geren stated that she had anticipated that her clients could use the parking spaces provide for three cars as a turnaround area which would still leave two parking spaces available. Ms. Geren stated that the driveway had a gravel surface and that was the second part of the application. She informed the Board that she was requesting a variance to the dustless surface requirement. Also, the staff report had suggested that there be a travel aisle provided on the site plan. Chairman Smith stated that was a normal requirement which the Board had placed on all special permits in order to allow room for passing.

Mr. Yaremchuk stated that was required under Site Plan Control and indicated that the Board did not really need to get into it. He informed the applicant that he was against the use if the travel aisle was not provided as it would be unsafe otherwise. Chairman Smith stated that the Board could require the first 25 ft. of the driveway and the travel aisle to be paved. He suggested that the variance for the gravel surface be allowed only for the parking lot. Mr. Yaremchuk stated that he felt the requirement for paving the first 25 ft. applied only for a subdivision. He did not think it was necessary for just one lot. Chairman Smith stated that if the travel aisle was provided, it was reasonable to asphalt the entrance and exit as it alleviated any dust conditions on the highway. Mr. Yaremchuk stated that with only one client at a time, he did not think there would be much dust.

There was no one else to speak in support of the application. Ms. Geren was asked to justify the variance request. She stated that her driveway was separated from the surrounding homes by a great distance. The closest house was approximately 100 yards away. There was a wooded hill there. She stated that the gravel would be in keeping with the rural setting. Mr. Yaremchuk noted that Ms. Geren's property was in a floodplain. Ms. Geren stated that the hardship was the rural setting and the drainage of the property.

The following persons spoke in opposition to the application. Mrs. Fitch of 1323 Langley Road stated that her property was not off of Kirby Road but she shared a joint property line with Ms. Geren. She indicated that that she was sure the applicant would keep her word regarding the operation of the use but the area was large. Mrs. Fitch stated that she did not want people running around the property while they were being interviewed as noise travelled. She stated that she did not care to have any more people introduced to the area and wanted assurance that no additional commercial activity would be introduced. Mrs. Fitch stated that she was concerned not only for herself but the other neighbors. She stated that she believed this type of operation should take place in a medical building or some other facility. Mrs. Fitch stated that she was concerned for Ms. Geren as she would be alone when she was seeing clients.

During rebuttal, Ms. Geren stated that the clients would not be using the outdoor area while waiting to see her. She stated that she would be seeing clients during the daytime when the children were in school. Ms. Geren stated that she planned to work only two afternoons a week. When questioned regarding the hours of operation, Ms. Geren replied that she would start seeing clients anywhere after 11 o'clock to before dark, at about 5 o'clock. With respect to being alone in the house, Ms. Geren stated that there would be another adult in the house watching her child. Ms. Geren assured the Board that she did not foresee any problems.

Page 179, December 9, 1980 Board of Zoning Appeals
JULIANA GEREN

R E S O L U T I O N

Ms. Day made the following motion:

WHEREAS, Application No. S-80-D-101 by JULIANA GEREN under Section 3-103 of the Fairfax County Zoning Ordinance to permit home professional office (clinical social work) on property located at 1358 Kirby Road, tax map reference 31-2((1))91, 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 December 9, 1980; 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.

RESOLUTION

3. That the area of the lot is 91,781 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The total number of clients shall be 10 during a period of two afternoons a week.
8. The hours of operation shall be from 11 A.M. to 5 P.M., by appointment only.
9. All clients and persons waiting for clients are restricted to the interior of the dwelling.
10. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant two (2) one year extensions.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

RESOLUTION

In Application No. V-80-D-212 by JULIANA GEREN under Section 18-401 of the Zoning Ordinance to allow home professional office with gravel driveway (dustless surface required by Section 11-102) on property located at 1358 Kirby Road, tax map reference 31-2((1))91, 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 December 9, 1980; 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 91,781 sq. ft.
4. That the applicant's property has an unusual condition in that the driveway is located in a floodplain.

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

181

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 181, December 9, 1980, After Agenda Items

SPRINGFIELD SWIM & RACQUET CLUB: The Board was in receipt of a letter from the Springfield Swim and Racquet Club requesting permission to a modification of the site plan approved in 1974. One change or modification dealth with the closing of Amelia Street driveway due to a petition of the surrounding area. The driveway was closed to vehicular traffic but open to pedestrian and bicycle traffic. The second request dealth with the admissions control booth.

Chairman Smith stated that these were major changes and would require a public hearing. After discussion of the changes with the applicant, it was the decision of the Board not to take any action without the benefit of a public hearing.

//

Page 181, December 9, 1980, After Agenda Items

BERNICE GAEGLER, V-304-79: The Board was in receipt of a letter from Ms. Bernice Gaegler requesting an extension of time on the variance granted by the BZA on January 15, 1980. It was the consensus of the Board to grant a one-year extension.

// There being no further business, the Board adjourned at 2:30 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on July 13, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: July 15, 1982

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, December 16, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 8:15 P.M. and Mrs. Day led the prayer.

MATTERS PRESENTED BY BOARD MEMBERS: Mr. Yaremchuk inquired if the scheduling of meetings was completed for February. He informed the Clerk that he would not be able to attend the February 17th meeting as he had made arrangements to travel south for awhile.

//

Page 182, December 16, 1980, Scheduled case of

8:00 P.M. CHILDREN'S ACHIEVEMENT CENTER, INC., appl. under Sect. 3-303 of the Ord. to permit continued operation of a private school of general education as permitted by S-257-77, now expired, located 1670 Chain Bridge Rd., 30-3((1))54 & 55, Dranesville Dist., R-3, 4.00018 ac., S-80-D-104.

Mr. Robert McIntyre of 8965 Colesbury Place in Fairfax represented the applicant. He stated that they were requesting a renewal of a previously granted special permit for a school of general education. The hours of operation would be from 8 A.M. until 5 P.M. for the office operation. The number of students would remain the set at 55, ages six through sixteen. He stated that the number of employees would remain the same from five to seven. Mr. McIntyre anticipated no changes in the traffic pattern for the vicinity served which was all of Northern Virginia. He stated that 70% of the students were from Fairfax. He stated that there would not be any new additions to the property as the property was leased. Mr. McIntyre informed the Board that they had purchased some new land and the public hearing on that application was to follow this one. He stated that they needed permission to stay at the present location until they could move to the new location.

In response to questions from the Board, Mr. McIntyre stated that they hoped to open the new facility in August of 1981. There was no one else to speak in support of the application and no one to speak in opposition.

Page 182, December 16, 1980 Board of Zoning Appeals
CHILDREN'S ACHIEVEMENT CENTER, INC.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-D-104 by CHILDREN'S ACHIEVEMENT CENTER, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to permit continued operation of a private school of general education as permitted by S-257-77, now expired, on property located at 1670 Chain Bridge Road, tax map reference 30-3((1))54 & 55, 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 December 16, 1980; 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-3.
3. That the area of the lot is 4.00018 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.

RESOLUTION

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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students shall be 55; ages 6 through 16.
8. The hours of operation shall be 8 A.M. to 5 P.M., Monday through Friday.
9. This permit is granted for a period of one (1) year.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 183, December 16, 1980, Scheduled case of

8:15 P.M. CHILDREN'S ACHIEVEMENT CENTER, INC., appl. under Sect. 3-103 of the Ord. to amend S-66-78 for school of general education to permit change of ownership, change in ages of students to 4 - 16 years and to eliminate term, located 7210 Braddock Road, 71-3((8))12 & 13, Annandale Dist., R-1, 3.4328 acres, S-80-A-097.

Mr. Robert McIntyre of 8965 Colesbury Place in Fairfax represented the applicant. He informed the Board that the school had been owned and operated in the church for approximately four years. He stated that the school was requesting permission to change location and had signed an agreement to purchase the property of Immanuel Baptist Church on Braddock Road. Occupancy was planned for August 1981. He stated that the capacity of the school would remain the same as the present permit. Mr. McIntyre stated that the hours would be from 8 A.M. to 3:30 P.M., Monday through Friday, twelve months a year. There was a capacity for 225 students, ages 4 through 16. The number of employees would be 35. The traffic impact would not differ from the present use of the building. Mr. McIntyre stated that the traffic would consist of nine school vans and fifteen to twenty personal vehicles. The vicinity to be served was all of Northern Virginia with 70% of the students from Fairfax. Mr. McIntyre stated that a large number of the students were on contract by referral from Fairfax County Schools. He stated that there would not be any new additions to the building. Mr. McIntyre stated that the Children's Achievement Center had been operating in Fairfax for ten years and had never had any difficulty with the neighbors. He asked the Board not to limit the special permit to any term since this would be the permanent location.

There was no one else to speak in support of the application. Mrs. Casey of 7228 Braddock Road spoke in opposition. She stated that her property adjoined the church property. She informed the Board that she was not there to complain but only to learn a few facts. She stated that she had been before the Board on two other occasions. Mrs. Casey stated that she wanted a fence along the property line. The church had been planning to construct an addition to the building and had been required to construct the fence because of the light. The church had never constructed the addition. Mrs. Casey stated that this was not the same school as had been in the church. She stated that there were houses one-half mile from the facility. Mrs. Casey stated that the applicant's notification letter did not clearly state what was happening with the property. She stated that she had checked on the application and believed that possibly there would be mentally retarded children attending the school. Mrs. Casey stated that the neighbors should be made aware of that as it would downgrade the properties and the value of the houses. Mrs. Casey stated that 225 children were a lot and asked that the fence be constructed along her property line. She stated that she was trying to beautify her property. She indicated that she had a problem with children passing through her property from the church and she often chased them off the property. Mrs. Casey stated that a stream ran on both side of her house and the children played in the stream. She stated that if there were going to be 225 mentally disturbed or handicapped children, she definitely wanted a fence put up. Mrs. Casey stated that the children would not mind too well. She stated that the school had a contract for the referrals which paid $4,000 to $5,000 per student. Mrs. Casey stated that the play area faced her property and she was concerned about the number of children. In addition, she questioned why the age went up to sixteen for the students. Chairman Smith stated that he assumed the school went up to high school. Mrs. Casey stated that when she called the school, she was informed it only went through the first eight grades.

Chairman Smith inquired about the lights which Mrs. Casey stated disturbed her property. She stated that the lights were from the church and were often left on all night long. Mrs. Casey stated that the lights were on the building and also on the ground. In addition, cars

coming and going at night also shined lights over onto her property. Mrs. Casey stated that her husband had to get up early for work so he went to bed early at night. She stated that she had trees on her property but the lights still disturbed them as they shone through the trees. Mr. Hyland stated that the site plan indicated there were evergreens along the property line. Mrs. Casey stated that there was blacktop along the property line. Mrs. Casey stated that there wasn't much shrubbery as motorcycles cut through onto her property. She stated that her property was wooded. Mrs. Casey stated that the biggest concern was that she was afraid if there was not a fence constructed. She further stated that if the other neighbors realized that this was not the same type of school, they would want a fence also.

Chairman Smith informed Mrs. Casey that the present school had 225 children enrolled in it and he inquired if she had any problems with it. Mrs. Casey stated that she had not had any unusual problems but she did not believe there had been 225 children at the school. Chairman Smith stated that the school had been allowed 225 students. Mrs. Casey stated that the original school was a church school. She stated that this proposal was a completely different caliber. Mrs. Casey stated that the School Board would not refer students to this school for just being a little bit slow. She stated that she had wanted the fence put up before but then the church changed its plans. Chairman Smith stated that he agreed with Mrs. Casey about the fence but he stated he was certain the students were well supervised when outside. He stated that the school has been operating at another location for quite some time and there has not been any problems. Mrs. Casey stated that the church papers blew over onto her property. She stated that young people walk all over her property. She informed the Board that she could not fence in four acres.

During rebuttal, Mr. McIntyre informed the Board that the school would not be operated in the evening hours. The church had a lot of evening activities. He stated that he had not had an opportunity to meet Mrs. Casey or the other neighbors. He stated that her house was barely visible because of the woods which were very thick. He stated that it would be very difficult to walk through her property because of the dense undergrowth. Mr. McIntyre stated that the large playground was to the east of the church property and Mrs. Casey's property was to the west. In response to questions from the Board, Mr. McIntyre stated that the children were allowed 30 minutes playground time per day. The smaller children were fenced in all around and the playground was directly behind the church building to the north. Then the larger playground area was to the east.

Mr. Hyland stated that he was having some difficulty as Mrs. Casey had testified that the playground was next to her property. Mr. McIntyre assured the Board that the playground was behind the church and was completely fenced in. Mrs. Casey stated that the children all gathered out along her property line. Mr. McInytre stated that there was a two-way driveway along her property line and it would be unsafe for the children. He stated that all of the play areas were behind the church or to the east.

Mr. Hyland inquired as to the school's position regarding the fence. Mr. McIntyre stated that the woods were very thick. He stated that the large lights would not be stopped by a fence nor would the headlights of cars. Mr. McIntyre stated that the address he had written to Mrs. Casey was in Springfield and he assumed she lived in Springfield. Mr. Hyland inquired as to the distance from the church property line to the house owned by Mrs. Casey. Mr. McIntyre stated that it was about 150 ft. The 150 ft. was almost all woods. All of the trees were old and there was some small growth.

There was no one else to speak regarding the application.

Page 184, December 16, 1980 Board of Zoning Appeals
CHILDREN'S ACHIEVEMENT CENTER, INC.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-A-097 by CHILDREN'S ACHIEVEMENT CENTER, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-66-78 for school of general education to permit change of ownership; change in ages of students to 4 years through 16 years and to eliminate term 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 of Zoning Appeals held on December 16, 1980; and

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

1. That the applicant is the contract purchaser.
2. That the present zoning is R-1.
3. That the area of the lot is 3.4328 acres.
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; 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 grnating 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 in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students shall be 225, ages 4 through 16.
8. The hours of operation shall be 8:00 A.M. to 3:30 P.M., Monday through Friday.
9. The number of parking spaces shall be 125.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 185, December 16, 1980, Scheduled case of

8:30 P.M. DIANE R. ALEXANDER, appl. under Sect. 3-303 of the Ord. to permit home professional office (marriage counseling), located 13131 Maltese Lane, Greenbriar Subd., 45-3 ((2))(54)9, Springfield Dist., R-3, 13,021 sq. ft., S-80-S-098.

The special permit was administratively withdrawn and no action was required from the Board.

//

Page 185, December 16, 1980, Scheduled case of

8:45 P.M. LORD OF LIFE LUTHERAN CHURCH PRESCHOOL, appl. under Sect. 3-103 of the Ord. to amend S-162-76 for nursery school to permit increase in maximum number of children to 50, located 5114 Twin Brook Road, 69-3((1))17, Annandale Dist., R-1, 3.268 acres S-80-A-099.

Mrs. Sue Arnegol of 5114 Twinbrook Road in Fairfax represented the church. She stated that the school had been in existence since 1973. The church was expanding and there was a full wing added. Mrs. Arnegol stated that she was asking to amend the existing special permit to allow an increase in their enrollment due to the maximum capacity of the septic system. Mrs. Arnegol requested permission for 50 children.

In response to questions from the Board, Mrs. Arnegol stated that the hours of operation would be 9 A.M. to 3 P.M. The staff would be present from 8:30 A.M. to 3:30 P.M. Mrs. Arnegol stated that the preschool was a five day a week operation. With regard to traffic, Mrs. Arnegol stated that the preschool used buses and carpools. She indicated to the Board that this was only a small increase and would not greatly impact the area. Mrs. Arnegol stated that the parents dropped the children off at the door and never had to leave their car. A staff member met the child and escorted him/her inside. Mrs. Arnegol informed the Board that there were approximately 50 parking spaces provided.

Mr. Blum spoke in support of the application. He stated that he and his wife resided at 5102 Thackery Court. He indicated that his wife operated a day care center for 50 children. Mr. Blum informed the Board that there was a need for child care, specifically those spon-

spored by churches. Mr. Blum stated that he had spoken to the Director and felt that the facility would serve a vital need in the community. He stated that he would like to lend his support as they shared many problems and concerns.

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

Page 186, December 16, 1980 Board of Zoning Appeals
LORD OF LIFE LUTHERAN CHURCH PRESCHOOL

RESOLUTION

Ms. Day made the following motion:

WHEREAS, Application No. S-80-A-099 by LORD OF LIFE LUTHERAN CHURCH PRESCHOOL under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-162-76 for nursery school to permit increase in maximum number of children to 50, on property located at 5114 Twinbrook Road, tax map reference 69-3((1))17, 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 December 16, 1980; and

WHEREAS, the Board had 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 3.268 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 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 in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 50.
8. The hours of operation shall be 8:30 A.M. to 3:30 P.M., five days a week.
9. The number of parking spaces are adequate for 50 children.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0.

Page 186, December 16, 1980, Scheduled case of

9:00 P.M. DONALD B. & FRANCES P. SWENHOLT, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 7 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 3414 Barger Drive, Lake Barcroft Shores Subd., 61-1((1))736, Mason Dist., R-2, 17,975 sq. ft., V-80-M-225.

Mr. Swenholt of 3414 Barger Drive in Falls Church informed the Board that he proposed to construct a garage attached to his dwelling. He stated that he was requesting a variance under the hardship section because of the pie-shape of his lot. Mr. Swenholt stated that the slope of the lot was about 22% plus which made it impossible to build a detached garage. Mr. Swenholt stated that the front yard also sloped and the drop was so steep, he was unable to use it when it was wet or snowy. Mr. Swenholt stated that wet leaves made it impossible to drive up the driveway so he often parked in the street. Mr. Swenholt informed the Board that he had lived on the property for sixteen years. He stated that his car had been struck on the street and on icy nights. For the past five years, he stated that he had parked his car across the street from his home. Mr. Swenholt stated that the street configuration represented a hardship. He informed the Board that his property was wider at the back than at the front.

Mr. Swenholt informed the Board that the proposed location for his garage with the new driveway was more feasible than any other plan because of the slope of the yard. He stated that the new slab would relieve drainage problems. Mr. Swenholt stated that the construction of the garage would improve the appearance of his home. Mr. Swenholt stated that there was one aspect of the variance request which was not a physical hardship but more of a personal hardship. He informed the Board that he and his wife were the parents of a mentally and physically handicapped child. He stated that he had included her picture with the variance application so that the Board members would recognize the difficulty of her moving about. He stated that his daughter had difficulty climbing stairs. Mr. Swenholt stated that he had expanded his home on a single level and had enclosed a carport into a study. In addition, he had paved and enlarge the terrace. Mr. Swenholt stated that during the winter, his daughter could take shelter in the garage while waiting for her bus transportation.

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

Page 187, December 16, 1980 Board of Zoning Appeals
DONALD B. & FRANCES P. SWENHOLT

R E S O L U T I O N

In Application No. V-80-M-225 by DONALD B. & FRANCES B. SWENHOLT under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 7 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207), on property located at 3414 Barger Drive, tax map reference 61-1((1))736, County of Fairfax, Virginia, Mr. Hyland 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 December 16, 1980; 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 17,975 sq. ft.
4. That the applicant's property is exceptionally irregular in shape being pie-shaped 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

RESOLUTION

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 188, December 16, 1980, Scheduled case of

9:15 P.M. CHARLES E. RUNYON, appl. under Sect. 18-401 of the Ord. to allow subd. into three lots with proposed lot 3 having width of 10 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 10209 Beach Mill Road, 3-4((1))36, Dranesville Dist., R-E, 8.52 ac., V-80-D-195. (DEFERRED FROM DECEMBER 2, 1980 FOR DECISION OF FULL BOARD.)

As there was not a full Board present, the variance application was again deferred until January 6, 1981 for decision of full Board.

//

Page 188, December 16, 1980, After Agenda Items

CONGREGATION OLAM TIKVAH: Chairman Smith announced that the Board had scheduled a special meeting for Monday, December 22, 1980 for the purpose of viewing the property of the Congregation Olam Tikvah on Glenbrook Road. He stated that the Board would meet at the Board Room in the Massey Building and convene the meeting to go the synagogue site. If there was not any emergency business pending before the Board, it would adjourn the meeting at the synagogue site.

// There being no further business, the Board adjourned at 9:20 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on July 13, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: July 15, 1982

A Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Monday, December 22, 1980. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 11:00 A.M. and Mrs. Day led the prayer.

Page 189, December 22, 1980, After Agenda Items

David Molumby, Jr., V-212-79: The Board was in receipt of a letter from Mr. William Donnelly requesting an extension of the variance granted to Mr. David Molumby, Jr. on November 20, 1979.

Mr. Yaremchuk moved that the Board grant the request and extend the variance for a period of six months. Mr. DiGiulian seconded the motion. The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent for this portion of the meeting.)

//

Page 189, December 22, 1980, After Agenda Items

Land Associates: The Board was in receipt of a letter from from Mr. John Colby, President, of Land Associates, Ltd. requesting a rehearing of the variance denied by the BZA on December 9, 1980. Mr. Colby's letter presented new evidence indicating that the Park Authority no longer opposed the variance request and was in support of a modified version of the original request.

After discussion among the Board members regarding the request, Mr. Yaremchuk moved that the Board allow the rehearing. Mr. DiGiulian seconded the motion. The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent for this portion of the meeting.)

//

Page 189, December 22, 1980

CONGREGATION OLAM TIKVAH: At 11:15 A.M., the Board of Zoning Appeals convened its meeting and reconvened at the site of the Congregation Olam Tikvah synagogue located at 3800 Glenbrook Road in Fairfax. Mr. Hyland joined the Board at this point in the meeting. The Board was met by representatives of the synagogue and members of the citizens association for the purposed of viewing the site.

After the conclusion of the tour of the facilities and walking the boundary of the property, the Board adjourned the meeting.

// There being no further business, the Board adjourned at 1:00 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Aug. 3, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: August 5, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 6, 1981. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland and Ann Day. (John Yaremchuk was absent).

The Chairman opened the meeting at 10:25 A.M. and Mrs. Day led the prayer.

MATTERS PRESENTED BY BOARD MEMBERS: Election of Officers: Mr. Hyland made the following nominations for Officers of the Board of Zoning Appeals; Daniel Smith as Chairman, John DiGiulian as Vice-Chairman, and Sandra Hicks as Secretary. Mrs. Day moved that the nominations be closed. Mr. Hyland seconded the motion. The motion to elect officers as slated was unanimous.

//

Page 190, January 6, 1981, Matters

MATTERS PRESENTED BY BOARD MEMBERS: Mr. Daniel Smith informed the Board that the Courts had granted a Writ of Prohibition to the Salvation Army. He stated that unless there was an appeal, the Board of Zoning Appeals could not hear the Salvation Army appeal scheduled for January 13th.

//

Page 190, January 6, 1981, Scheduled case of

10:00 A.M. ARTHUR F. & ANNE L. BYRNES, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition to dwelling to 17 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 6661 Sorrell St., Langley Forest Subd., 21-4((6))18A, Dranesville Dist., R-1, 33,104 sq. ft., V-80-D-220.

Mr. Byrnes of 7103 Capital View Drive in McLean informed the Board that he was moving to 6661 Sorrel Street in McLean. He stated that he wanted to construct a garage but had a problem due to the pie-shape of the lot. He stated that the dwelling was existing and he only wished to add the garage as he was trying to use solar heat. Mr. Byrnes explained to the Board that the edge of the garage would be 12 ft. from the property line. He stated that he did not a have a problem with the garage aesthetically.

In response to questions from the Board, Mr. Byrnes stated stated that the addition would be a garage, a family room and sort of an atrium. The roof of the addition would be same height as the existing dwelling. The materials for the addition would consist of a frame structure with the dwelling being brick. Mr. Byrnes stated that he purchased the property in November 1980 and planned to live there. He stated that he was not aware of any objections from the neighbors. There was a line of trees along the property line which Mr. Byrnes assured the Board would not be disturbed. Mr. Byrnes stated that his house was quite a distance from the property line. Lot 19 next door was vacant.

Mr. Donald Witheridge spoke in opposition. He stated that his wife, Mrs. Pearle Poole, was the owner of lot 19B, the vacant lot, located next door to Mr. Byrnes. She had asked him to help her defend her property right. He stated that later that day, they had to attend a funeral for his wife's only son. Mr. Witheridge stated that his wife felt strongly about the application and wanted to be present at the hearing.

Mr. Witheridge stated that the applicants had to be basically aware of the zoning requirements and covenants on the property. He stated that the lot was in excess of a quarter acre. He indicated that the applicants' right to build on that size property did not depend on a variance of the laws. Mr. Witheridge informed the Board that the lots in the neighborhood were very spacious and he indicated that there was a great deal of distance between the houses. Mr. Witheridge informed the Board that he wanted to retain the spaciousness of the property. He stated that to infringe on the laws and the covenants was to infringe on the value of his wife's property. He stated that when a house was built on his wife's property, it would have a reduced value because it would have to overlook the proposed garage. Mr. Witheridge stated that the Zoning Ordinance required a minimum of 20 ft. side yard but the covenants for the neighborhood required a minimum of 30 ft. setback. He stated that he was not certain which setback applied. Mr. Witheridge stated that Mr. Byrnes was not asking for a minor variance as he required a variance of 18 ft. Mr. Witheridge stated that his wife, Mrs. Poole, was concerned about protecting the value of her property as it was her sole asset. She was 85 years old and did not receive any retirement income. Therefore, she was very concerned about the variance as it would diminish her property's value. Mr. Witheridge stated that if Mr. Byrnes was allowed to build the garage, then the neighbor on the other side might also want to build on the other side. He stated that it would be difficult for the Board to deny it. He inquired of the Board as to why Mrs. Poole should suffer financial worry because Mr. Byrnes wanted to build too close to the lot line.

Page 191, January 6, 1981
ARTHUR F. & ANNE L. BYRNES
(continued)

Mr. Witheridge inquired if there was another way for the applicants to build the addition that they wanted without diminishing the property values. Mr. Hyland inquired as to what indication there was that the property would be diminished in value. Mr. Witheridge stated that he based his argument on his preference, experience and the knowledge of real estate values. Mr. Hyland inquired as to the plans of the owner of the vacant lot. Mr. Witheridge stated that Mrs. Poole planned to develop the property. She had owned the property since 1948 and was not just a spectator. He indicated that Mrs. Poole had often hoped to build a home there and had high hopes that she would return to the area and be able to build on the property.

Mr. Hyland inquired as to the cover provided on the property, if any, that would have a visual effect. Mr. Witheridge stated that there were only scrub pines and no stately oaks.

Mrs. Pearle Poole also spoke in opposition. She informed the Board that she had owned the lot since 1948. She stated that it had been much easier in her career for her to own a little place in Georgetown. She informed the Board that she wanted to hold onto the lot as she had a little granddaughter and she wanted to keep the land intact.

There was no one else to speak in opposition. During rebuttal, Mr. Byrnes stated that he needed his addition and that it would make the property more attractive and the values would be more for all of the neighbors. Mr. Byrnes informed the Board that on the other side of Mrs. Poole's lot was a building which was directly on the lot line. He stated that on his lot line was a natural hedge barrier of scrub pines which was not easy to see through. Mr. Byrnes assured the Board that the garage would be attractive. He stated that he needed the variance. He indicated to the Board that by using solar energy, he did not need as much room as with other design layouts.

Chairman Smith informed Mr. Byrnes that he could build the garage without a variance as there was sufficient land area to meet the 20 ft. setback. Chairman Smith was not certain whether the applicant could meet the 30 ft. setback as required by the covenants but indicated that was a civil matter anyway. Chairman Smith stated that he was concerned about the justification for the variance because there was adequate land and the addition could be constructed without needing a variance.

Mr. DiGiulian asked for more details from the applicant since he had indicated that he could not get enough exposure to the sun. Mr. Byrnes stated that the addition needed to face directly south which was why he could not extend the addition in any other direction. Mrs. Byrnes informed the Board that she had a greenhouse room which was going to provide heat. Then the garage addition would provide a buffer across the north next to Mrs. Poole's property. Mrs. Byrnes stated that they needed to accommodate the entrance. Due to the pie shape of the lot, if the garage were parallel, it would be difficult to park the car in the garage. She stated that the variance was necessary not only for the southern exposure but because of the difficult lot. She stated that they were putting a lot of money into the construction. There would be a lot of sun skylights and large windows to utilize the sun. She stated that they would not build anything which would disagree with the neighborhood.

Chairman Smith stated that the applicants had not answered his question to his satisfactory as to whether a variance was really necessary. He stated that it appeared that the applicants could make reasonable use of the land by extending out toward the back of the garage. Mrs. Byrnes responded that they did not have any back exit which would make that approach difficult. She stated that she would have to add a road. She indicated that it would be more pleasant to have a building there than a driveway. She stated that the house was on the property at an angle which made it difficult to work out the plans. She stated that they had worked with the architect for a long time on this arrangement.

Mr. DiGiulian inquired as to how wide the garage portion of the addition would be. Mrs. Byrnes responded that she was asking for a 28 ft. garage but had been thinking about having less. She stated that she could make it a 26 ft. garage. Mr. DiGiulian inquired if 26 ft. was the minimum it could be built. Mrs. Byrnes stated that they needed a two car garage and she did not know what the minimum was. Chairman Smith stated that the average two car garage was 22 ft. wide. Mrs. Byrnes informed the Board that they would be willing to minimize it but stated that they did need a two car garage.

RESOLUTION

In Application No. V-80-D-220 by ARTHUR F. & ANNE L. BYRNES under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to *12 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107), on property located at 6661 Sorrell Street, tax map reference 21-4((6))18A, 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 January 6, 1981; 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 33,104 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including converging lot lines.

AND, WHEREAS, the Board of Zoning Appeals had 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 construction of a garage addition to dwelling to 17 ft. from 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

Page 192, January 6, 1981, Scheduled case of

10:10 A.M. H. R. LOWSTUTER, appl. under Sect. 18-406 of the Ord. to allow enclosed garage to remain 7.53 ft. from side lot line (a minimum of 8 ft. and a total minimum of 20 ft. req. by Sect. 3-307), located 3522 Pence Court, Holmes Run Village Subd., 59-4((17))62, Mason Dist., R-3, 9,063 sq. ft., V-80-M-180. (DEFERRED FROM NOVEMBER 11, 1980 FOR NOTICES.)

As the required notices were not in order, the Board again deferred the variance until February 3, 1981. If the required notices were not in order at that time, the Board stated that the variance would be dismissed for lack of interest.

//

Page 192, January 6, 1981, Scheduled case of

10:20 A.M. HUMBLE OIL & REFINING CO. & COLOR TILE, appl. under Sect. 18-401 of the Ord. to allow construction of building to 14 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 4-607), located 7336 Little River Turnpike, 71-1((20))1, Annandale Dist., C-6, 20,132 sq. ft., V-80-A-213.

As the required notices were not in order, the Board deferred the variance for a period of thirty days. In addition, there was a special exception pending before the Board of Supervisors.

//

Page 193, January 6, 1981, Scheduled case of

10:30 A.M. PAULINE L. RYTTER & PINE HILL ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow construction of a dwelling to 9.5 ft. from one side lot line and 10 ft. from the other (12 ft. min. side yard req. by Sect. 3-307), located 1256 Pine Hill Road, Kings Manor Subd., 30-2((22))7 & 8, Dranesville Dist., R-3, 5,675 sq. ft., V-80-D-214.

Mr. Marty Dunn informed the Board that he was a partner of the Pine Hill Associates. Pine Hill Associates had developed 25 houses in Kings Manor Subdivision. He stated that each lot was 50 ft. wide with the same setbacks as was being required in this variance. Mr. Dunn explained to the Board that prior to February 5, 1979, Section 2-417 of the Zoning Ordinance allowed a 15% reduction of the lot width. He stated that they had received variances to build 12 houses on Pine Hill Road in this same manner. Since that time, Mrs. Rytter had chosen to sell her 50 ft. lot which was the last substandard lot on the road. Mr. Dunn stated that the property across the road was zoned R-5. He stated that the variance he was requesting was in complete harmony with the development on Pine Hill Road. He informed the Board that he could not develop the lot in a way that would be architecturally harmonious if they had to meet the 12 ft. setback requirement. Mr. Dun informed the Board that the 50 ft. lot was comprised of two 25 ft. lots.

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

Page 193, January 6, 1981 Board of Zoning Appeals
PAULINE L. RYTTER & PINE HILL ASSOCIATES

R E S O L U T I O N

In Application No. V-80-D-214 by PAULINE L. RYTTER & PINE HILL ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow construction of a dwelling to 9.5 ft. from one side lot line & 10 ft. from the other (12 ft. minimum side yard required by Sect. 3-307), on property located at 1256 Pine Hill Road, tax map reference 30-2((22))7 & 8, 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;

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 6, 1981; 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 5,675 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow and is a substandard lot.

AND, WHEREAS, the Board of Zoning Appeals had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk)(Mr. Yaremchuk being absent).

Page 194, January 6, 1981, Scheduled case of

10:40 A.M. MR. AND MRS. RICHARD M. CRENSHAW, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to dwelling to 8.8 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1751 Pine Valley Drive, Tyson's Green Subd., 29-3((11))185, Providence Dist., R-3, 10,667 sq. ft., V-80-P-215.

Mr. Minton Farnsworth of 8547 Emory Grove Road in Gaithersburg, Md. represented the applicants. He informed the Board that he was a home improvement contractor. Mr. Farnsworth stated that the Crenshaw property was a long, thin lot. There was a one car carport already existing and the applicants wanted to convert it into a two car garage. Mr. Farnsworth stated that the Crenshaws had three cars, two of which presently stayed out on the street. He stated that there had been a lot of vandalism and on occasion gasoline had been stolen out of the vehicles. Mr. Farnsworth stated that the Crenshaws would feel more protected if the cars were in a garage. The proposed width of the garage was 20 ft.

Mr. Hyland inquired about the easement running through the property. Mr. Farnsworth stated that the applicants had letters from Vepco and C & P allowing them to build on the easement. In response to questions from the Board, Mr. Farnsworth stated that he was licensed to do business in Fairfax County.

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

Page 194, January 6, 1981 Board of Zoning Appeals
MR. AND MRS. RICHARD M. CRENSHAW

RESOLUTION

In Application No. V-80-P-125 by MR. & MRS. RICHARD M. CRENSHAW under Section 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 8.8 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1751 Pine Valley Drive, tax map reference 29-3((11))185, County of Fairfax, Virginia, Mr. Hyland 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 January 6, 1981; 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 10,667 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow and shallow and has an unusual condition of easements crisscrossing on the subject property which makes this the only location in which to build a garage.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

Page 195, January 6, 1981, Scheduled case of

10:50 A.M. MR. AND MRS. LARRY E. BLOSE, appl. under Sect. 18-401 of the Ord. to allow construction of a dwelling to 4.3 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1700 Burning Tree Drive, Tyson's Green Subd., 29-3((11)) 16, Providence Dist., R-3, 11,970 sq. ft., V-80-P-216.

Mr. Minton Farnsworth of 8887 Emory Grove Road in Gaithersburg, Md. represented the applicants. He informed the Board that he was a home improvement contractor licensed to do business in Fairfax County. Mr. Farnsworth informed the Board that the subject property was an odd-shaped lot. The house was located in the back corner of the lot which did not leave any room for any additions. There was a one car carport existing on the property. Mr. Farnsworth stated that this was a two car family. He stated that the Bloses had also experienced vandalism of their property.

In response to questions from the Board, Mr. Farnsworth stated that the proposed garage was 22 ft. wide. He stated that he would be extending the present carport by 9 ft. With respect to lots 15 and 17, Mr. Farnsworth stated that there was a single family dwelling 12 ft. from the side line on lot 15. On lot 15, the part of the house that would face the Blose property was the back bedroom area. Mrs. Day inquired as to the type of cover or screening between the properties. Mr. Farnsworth responded that the only screening at the back of the proposed garage were some tall trees and shrubs.

Mr. Blose informed the Board that his property was irregularly shaped. He stated that he talked to the neighbors on his right and they did not object to the garage. Mr. Blose stated that the addition would be a two car garage built of brick to match the front of his house and it would have aluminum siding on the rear.

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

Page 195, January 6, 1982 Board of Zoning Appeals
MR. AND MRS. LARRY E. BLOSE

R E S O L U T I O N

In Application No. V-80-P-216 by MR. & MRS. LARRY E. BLOSE under Section 18-401 of the Zoning Ordinance to allow construction of a dwelling to 4.3 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1700 Burning Tree Drive, tax map reference 29-3((11))16, County of Fairfax, Virginia, Ms. Day 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 January 6, 1981; 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 11,970 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

Page 196, January 6, 1981, Scheduled case of

11:00 A.M. LEO R. ST. JEAN, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition to dwelling to 8.2 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 6810 Bellamy Ave., West Springfield Subd., 89-2((7)) 14, Springfield Dist., R-3, 10,923 sq. ft., V-80-S-217.

196

Mr. Leo St. Jean of 6810 Bellamy Avenue in Springfield informed the Board that his lot was irregular shaped as it was narrow and had converging lot lines. He stated that his house was located at an extreme angle which would not permit the addition to comply with the 12 ft. setback requirement. Accordingly, Jr. St. Jean stated he had applied for a variance. He stated that he wished to extend his carport and convert it into a combination garage and storage area. Mr. St. Jean stated that if his house was situated differently, the additions would comply with the setback. He indicated that only a small portion of the addition would be within the setback area.

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

Page 196, January 6, 1981 Board of Zoning Appeals
LEO R. ST. JEAN

RESOLUTION

In Application No. V-80-S-217 by LEO R. ST. JEAN under Section 18-401 of the Zoning Ordinance wto allow construction of a garage addition to dwelling to 8.2 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 6810 Bellamy Avenue, tax map reference 89-2((7))14, 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 January 6, 1981; 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 10,923 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including shallow with converging lot lines 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

Page 196, January 6, 1981, Scheduled case of

11:10 A.M. GARY H. AND MARGARET E. RUDD, appl. under Sect. 18-401 of the Ord. to allow a subdivision into 3 lots, proposed lots 2 and 3 having widths of 9.99 ft. and 10 ft. respectively (80 ft. min. lot width req. by Sect. 3-306), located 8220 Fort Hunt Road, 102-4((1))15, Mt. Vernon Dist., R-3, 1.1043 ac., V-80-V-218.

Page 197, Janaury 6, 1981
GARY H. & MARGARET E. RUDD
(continued)

Mr. Gary H. Rudd of 1216 Morningside Road in Alexandria informed the Board that his property was long and narrow. Mr. Rudd stated that his lot was 100 ft. wide. Mr. Rudd explained that his proposal to subdivide was the only reasonable use of the property. In response to questions from the Board, Mr. Rudd stated that he had owned the property since October of 1980. He informed the Board that he planned to live on the back lot. Chairman Smith inquired as to the development of the contiguous properties on lots 17, 18, 4, 3 and 2. Mr. Ru-d stated that the surrounding subdivision was Oakbrook which was zoned R-3. Each lot was approximately 12,000 to 13,000 sq. ft. which he stated were smaller size lots than what he was proposing for his property. Chairman Smith inquired if Mr. Rudd had developed Oakbrook and was informed he had not. Mr. Rudd stated that he was not a developer.

Mr. Walton Jenson spoke in support of the application. He stated that he was the pastor at the church which bordered the subject property. Mr. Jenson stated that the church did not have any problems with the proposed development. However, he asked that some sort of screening be made a part of the variance request. Mr. Rudd agreed to provide screening.

Mr. Sydney Smith of 8203 Chilton Court spoke in opposition. He stated that his property adjoined the subject property and that his back yard faced the Rudd's property. He was the owner of lot 2 in Oakbrook. Mr. Smith stated that there were not any narrow lots for about five miles on Fort Hunt Road. He informed the Board that this was a considerable variance and he urged the Board to consider it carefully.

During rebuttal, Mr. Rudd stated that the subdivision would come under Subdivision Control and he indicated that he would go along with whatever suggestions the County had with respect to screening. At the present time, screening consisted of trees and brush. Pastor Jenson stated that the church would prefer a stand of trees or a thick set of shrubbery along the property line.

Page 197, January 6, 1981 Board of Zoning Appeals
GARY H. & MARGARET E. RUDD

RESOLUTION

In Application No. V-80-V-218 by GARY H. & MARGARET E. RUDD under Section 18-401 of the Zoning Ordinance to allow a subdivision into 3 lots, proposed lots 2 & 3 having widths of 9.99 ft. and 10 ft. respectively (80 ft. minimum lot width required by Sect. 3-306) on property located at 8220 Fort Hunt Road, tax map reference 102-4((1))15, County of Fairfax, Virginia, Mr. Hyland 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 January 6, 1981; 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 1.1043 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 eighteen months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

3. The applicant shall provide appropriate screening between the subdivision and the church property; such screening to consist of trees and, further, that the approval of Subdivision Control shall be obtained.

198

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

Page 198, January 6, 1981, Scheduled case of

11:30 A.M. SHIRLEY L. SHENKER, appl. under Sect. 3-203 of the Ord. to permit home professional office (psychologist), 7210 Beechwood Road, Hollin Hills Subd., 93-3((4))219, Mt. Vernon Dist., R-2, 18,704 sq. ft., S-80-V-102.

Mr. Henry Shenker of 7210 Beechwood Road represented his wife. He stated that the special permit was filed to permit a home professional office for his wife who practiced as a psychologist. He stated that there would not be any changes to the property. Their home was a rambler which was built in 1953 with an addition being built in 1955. Mr. Shenker stated that the addition would now be used as the office. He indicated that the neighborhood was quiet with no curbs or gutters. He stated that there was not any other business in the area. Mr. Shenker assured the Board that there would only be one patient at a session lasting from 15 minutes to 1 hour. There would be a half-hour break between patients as there was not any waiting area available. Mr. Shenker stated that his wife would only see individuals or couples and would not see any groups. Mr. Shenker stated that she would have about 15 patients per week.

In response to questions from the Board, Mr. Shenker stated that his wife was licensed as a psychologist. She was employed two days a week at the Northern Virginia Center in McLean. Mrs. Day inquired as to why Mrs. Shenker could not see her patients at the office in McLean rather than in her home. Mr. Shenker responded that there was a great deal of commuting involved and that his wife preferred to see the patients at the house. Mr. Shenker stated that his wife would start the home practice on a gradual basis and eventually be working at home fulltime. Mrs. Day inquired as to where the vehicles would be parked. Mr. Shenker stated that they owned a Volkswagen and a compact car so there would be ample room to park. Mrs. Day stated that the driveway was only 22 ft. and inquired as to how it could accommodate three cars. Mr. Shenker stated that most times, there would only be two cars as he did a lot of volunteer work and was not home. Mrs. Day inquired as to the problem of having patients backing out onto Beechwood Road. Mr. Covington informed her that would be a Police matter. Mr. Hyland stated that this was a rural setting and that Beechwood virtually had no traffic. He stated that in terms of backing out, everyone had the same situation whenever they backed out their driveway. Mr. Shenker stated that the backing out would not be a problem as Beechwood Road did not have a lot of traffic. There were approximately 25 houses on Beechwood Road. Chairman Smith stated that it was illegal to back out onto the street. He stated that if a patient had an accident, the Shenkers would be liable. He urged them to use caution. Mr. Hyland stated that the alternative was to back into the driveway.

There was no one else to speak in favor of the application. Mrs. Mary Jane Orr of the Mt. Vernon District Council spoke in opposition to the application. She stated that her daughter lived at the bottom of Beechwood Drive. Mrs. Orr informed the Board that this was a commercial use which was contrary to the Mt. Vernon District Master Plan. She stated that it would open doors for the issuance of like permits in the future in all of the Mt. Vernon District. In addition, it was an inconvenience to the property owners just for the convenience of one person. Mrs. Orr stated that there were not any curbs or gutters. Parking in the street would be a problem as there was a lot of traffic from people coming off of Rt. 1 as a cut-through to Ft. Hunt Road. Mrs. Orr stated that there was ample office space available at nearby locations which could be used for this particular purpose. She stated that the owners of the commercial buildings were continually petitioning to have their space rented. Mrs. Orr informed the Board that the Mt. Vernon Council of Civic Associations had continually opposed doctors offices in residential homes. Mrs. Orr asked that if the Board granted the special permit, that it be granted to the applicant so it could not be turned over to any other doctor. She asked that the special permit be limited to the specifications that were contained in the application. Mrs. Orr asked that there not be any increase in hours or the number of patients and that the applicant be required to reapply at the end of the year. Mrs. Orr asked the Board to give serious thought to the considerations she had outlined.

Mr. Hyland questioned Mrs. Orr regarding her testimony as to the amount of traffic on Beechwood Drive. Mrs. Orr stated that her daughter lived on Beechwood Drive and had three children. Mrs. Orr stated that she had ample opportunity to sit with the children and see the traffic situation. Mrs. Orr stated that the headlights hit her daughter's home on Rebecca Road at the intersection there. Mrs. Orr stated that there was a lot of traffic and this use would only be adding to it. Mr. Hyland stated that there was not enough room to park along Beechwood Drive. Mrs. Orr stated that people coming off of Rt. 1 making turns throughout the subdivision would not have enough room to maneuver if cars were parked along the street. She indicated that the street was very narrow. Mr. Covington responded that the clients would only be coming to the premises by appointment only. Mrs. Orr stated that this was a commercial use and she was not aware of any other office in the residential area. She stated that there might be some real estate offices which only worked over the phone. Mr. Covington stated that he was not aware of any other offices in the area. Mrs. Orr stated

that the Mt. Vernon Civic Association had denied an office in Belle Haven. She stated that one the problems was that the doctors often increased their staff. She informed the Board about a problem where one doctor had purchased the adjoining lot and paved it over for a parking lot. Mrs. Orr stated that people did not want to live an commercial areas.

There was no one else to speak in opposition. During rebuttal, Mr. Shenker stated that he thought Mrs. Orr had a few misconceptions. He informed the Board that the patients would be separated so as not to have a problem with parking. Mr. Shenker stated that the driveway was adequate for the patients and no one would park in the street to block traffic. Mr. Shenker stated that most of the patients would be seen during the daylight hours so there would not be a problem with headlights. Mr. Shenker stated that his home was rather far removed from Rebecca Road. He also stated that some of the patients would walk to the office. He assured the Board that there would be a small number of cars there per week. Mr. Shenker stated that the office would be only be used by his wife and no other practioners. He stated that she would not see bunches and bunches of patients.

Chairman Smith informed Mr. Shenker that a 9 ft. width would be required for each parking space and the driveway was only 22 ft. wide. He also stated that he was concerned with the situation of patients having to back out the driveway into the public street. Mrs. Day inquired if it was possible to extend the parking to the rear so as not to have a problem with the cars. Mr. Shenker responded that the lot was quite wooded. The lawn was very nice but he stated that he could pave over an additional part of the lot but there would still be a problem with backing out. Mr. Shenker stated that the driveway was about 100 ft. away from the side lot line. Mr. Shenker stated that there was a tree next to the driveway which he would not want to cut down just to extend the driveway.

R E S O L U T I O N

Ms. Day made the following motion:

WHEREAS, Application No. S-80-V-102 by SHIRLEY L. SHENKER under Section 3-203 of the Fairfax County Zoning Ordinance to permit home professional office (psychologist) on property located at 7210 Beechwood Road, tax map reference 93-3((4))219, 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 January 6, 1981; 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 18,704 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 on the application and is not transferable to other land.
2. This special permit shall expire twelve months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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, 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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of patients shall average no more than 15 per week with an interval of 30 minutes between patients.
8. Hours of operation shall be from 8:00 A.M. to 8:00 P.M., weekdays.
9. Patients to be seen by appointment only to control parking spaces.
10. Additional parking spaced to be provided for a small car.
11. There shall be no on-street parking.
12. There shall be no exterior alterations.
13. There shall be no employees.
14. This permit is granted for a period of one year with the applicant having the option to reapply to the Board.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

Page 200, January 6, 1981, Scheduled case of

11:45 A.M. ± THE SALVATION ARMY, appl. under Sect. 3-103 of the Ord. to amend existing special permit for church and related facilities and child care center to permit addition to existing building and add additional land area, located 4915 Ox Road, 68-1((1)) 11 & 18, Annandale Dist., R-1, 5.2530 ac., S-80-A-050. (DEFERRED FROM JULY 29, 1980 FOR 90 DAYS TO CLEAR UP FLOOR AREA RATIO PROBLEM.)

The Board was in receipt of a letter from the applicant seeking a withdrawal of the application without prejudice. Mr. DiGiulian moved that the Board grant the request for withdrawal without prejudice. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

//

Page 200, January 6, 1981, Scheduled case of

12:00 NOON CHARLES RUNYON, appl. under Sect. 18-401 of the Ord. to allow subd. into three lots with proposed lot 3 having width of 10 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 10209 Beach Mill Road, 3-4((1))36, Dranesville Dist., R-E, 8.52 ac., V-80-D-195. (DEFERRED FROM DECEMBER 2, 1980 AND DECEMBER 16, 1980 FOR DECISION OF FULL BOARD.)

As there was not a full Board present, the Board again deferred decision until January 13, 1980 at 9:35 P.M.

//

Page 200, January 6, 1981, After Agenda Hours

BELLE HAVEN COUNTRY CLUB: The Board was in receipt of a request from the Belle Haven Country Club seeking approval of the revised site plan with respect to parking on the site. Mr. DiGiulian stated that a parking tabulation was to have been included with the revised site plan to show that the parking would be adequate for the site. He stated that it was not included with the request for approval and asked the Clerk to notify the club to provide the tabulation.

// There being no further business, the Board adjourned at 12:40 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on August 3, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVAL: August 5, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, January 13, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 8:15 P.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 8 o'clock case of:

8:00 P.M. ELWOOD C. POLLIS, under Sect. 18-406 of the Ord. to allow accessory building to remain 5.4 ft. from side lot line (12 ft. min. side yard req. by Sect. 10-105 & 3-307), located 4914 Bristow Drive, Bristow Subd., 71-3((3))65, Annandale Dist., R-3, 10,500 sq. ft., V-80-A-186. (DEFERRED FROM NOVEMBER 25, 1980 AT THE REQUEST OF THE APPLICANT.)

Mr. Covington informed the Board of Zoning Appeals and the applicant that there was a need for an additional variance which had not been included in the application and was not advertised. He explained that the total floor area exceeded 200 sq. ft. which necessiated another variance. Mr. Pollis stated that his plans had indicated a two story building and the plans had been approved by the County. Mr. Covington informed Mr. Pollis that his two story building was roughly 300 sq. ft. which exceeded the Ordiance requirement of 200 sq. ft for certain size lots. Mr. Pollis stated that his two story building had been approved and was already constructed. Mr. Covington stated that the plans submitted to the County which had been approved did not correspond with what was constructed on the property.

Chairman Smith inquired of Mr. Pollis as to why he did not construct the building in accordance with the approved plans and set it at the distance shown on the plans. Mr. Pollis stated that he had decided to set the accessory building even with the south side of his house . He indicated that he had discussed the building with his neighbors to the south, Mr. and Mrs. Warren. He informed the Board that he would not have constructed the building if they had objected to it. Mr. Pollis stated that the Warrens did not have any problem with the building.

Chairman Smith stated that his question as to why Mr. Pollis did not set the building back the distance shown on the approved plans had not been answered to his satisfaction. Mr. Pollis stated that after he had started construction, he thought it would look better to have it in line with the house. In addition, he stated that if he decided to add a room to the house, he did not want it to interfere with the shed. Chairman Smith stated that was not shown on the approved building plans. Mr. Pollis stated that he had not been really certain as to what the setback would be at the time he applied for the permit.

Chairman Smith stated that the approved plans showed a side yard setback of 12 ft. and a rear yard setback of 14 ft but that was not how it was constructed which was why Mr. Pollis was in trouble. Mr. Hyland inquired of Mr. Pollis as to his reason for moving the side line setback to 5.5 ft. Mr. Pollis stated that after he had looked all the plans over, he had decided that he might want to build another room onto the house to give him more space. He stated that the reason he had constructed a two story shed was because there was not any room in the house. Mr. Pollis explained to the Board that he had moved to Virginia from Maine and needed storage space. He stated that if he built a room onto the back of the house, he would only have 7 ft. past the end of the house which would not really permit a building. Mr. Pollis stated that he had been advised by his architect that it would be better to build up than out.

Mr. Yaremchuk inquired if Maine had building permits and setback restrictions. Mr. Pollis stated that to his knowledge, Maine did not have any restrictions. He stated that he had left Maine ten years ago.

There was no one else to speak in support of the application. Mr. Thomas of 7553 Newcastle Drive in Annandale spoke in opposition. Mr. Thomas stated that he lived about a half block from Mr. Pollis' property. He indicated that there was a covenant which excluded existing property from having new structures. He stated that no structure was to exceed 42" in height and had to have at least 50% open space in land area and design. In addition, all buildings had to be approved by the Architectural Control Review committee. Mr. Thomas stated that the covenants also restricted trailers or any other type structures from the property. Mr. Thomas stated that Mr. Pollis had two trailers situated at the front of his property. Mr. Thomas stated that he was an electrical contractor. He stated that what Mr. Pollis had constructed was highly illegal and he was concerned about the building permit. Mr. Thomas stated that the building was highly unsound. It was 20 ft. high which was too high. Mr. Thomas stated that he was not certain what the building was to be used for but he did not want any of the property to be used for a commercial venture. Mr. Thomas stated that the building would lower the property values in the area as it was painted red.

The next speaker in opposition was Mr. Bill Patterson who resided on Terrel Street but owned property at 4913 Erie Street which was in back of Mr. Pollis' residence. Mr. Patterson stated that he agreed with the statement made by Mr. Thomas. Mr. Patterson informed the Board that the structure was very unsightly as it was much taller than the original house. In addition, the structure was too close to the property line. Mr. Patterson stated that he felt in order to maintain the quality of the residential area, the building restrictions had to be appreciated. Mr. Patterson stated that the structure built by Mr. Pollis would detract from all the rest of the residential area.

Mr. Hyland inquired if Mr. Patterson's property on Erie Street was improved. Mr. Patterson responded that there was a house on his property. Mr. Hyland inquired if there was any other structures in the area that were close to the lot lines and Mr. Patterson responded that there were not. Mr. Patterson stated that the building was 20 ft. high which was much taller than the houses in the area.

The next speaker to testify was Mr. Fred Warren of 4916 Bristow Drive. Mr. Warren stated that he was the closest neighbor to the building which had been constructed by Mr. Pollis. Mr. Warren stated that the color of the building was horrible. However, as Mr. Pollis had indicated, neither Mr. Warren or his wife objected to the present location of the building. In fact, Mr. Warren stated that the present location was situated better than the approved location on the plans. Mr. Warren stated that he lived directly south of the Pollis property and did not object to the structure except for the color. Mr. Warren stated that he was the neighbor most impacted by the structure.

There was no one else to speak in opposition. During rebuttal, Mr. Pollis stated that he and the Zoning Inspector, Mr. John Furneisen, had measured the building at 17 ft. high. Mr. Pollis stated that there were rumors that his building was intended to be a commercial venture. Mr. Pollis stated that he did not wish to rezone his property. With respect to the trailer, he indicated that it belonged to friends of his and he was keeping it on a temporary basis. Mr. Pollis stated that it was a utility trailer. Mr. Pollis stated that the trailer had been used to haul some wood to the property when he was in the hospital. Mr. Pollis stated that the building was painted red but he indicated that he would repaint it as he did not like the color. He stated that it was not the color he thought it would be and he stated that he might paint the building white.

Mr. DiGiulian asked Mr. Pollis to restate the reasons for the building being constructed in its present location rather than at the location shown on the building permit. Mr. Pollis stated that the building at its present location was right in line with the house. He stated that he was thinking about building an addition to the house and he was not sure whether he would be able to go all the way back so he had left room for the addition. Mr. DiGiulian inquired if Mr. Pollis was aware that there was a minimum setback required for the side yard. Mr. Pollis stated that he was aware that there was a setback but not aware that he had violated it. He stated that the setback varied greatly from area to area.

Chairman Smith closed the hearing and informed the Board that there was still a problem of the applicant needing an additional variance. After discussion of the matter, Mr. DiGiulian moved that the Board defer decision of V-80-A-186 until Mr. Pollis had an opportunity to file for the additional variance on the square footage question. Mr. Hyland seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

//

Page 202, January 13, 1980, Scheduled case of

8:15 P.M. KIDDIE KORNER, INC., appl. under Sect. 3-303 of the Ord. to permit child care center, located 1512 Chain Bridge Rd., West McLean Subd., 30-2((7))(2)41, Dranesville Dist., R-3, 17,825 sq. ft., S-80-D-106.

Mr. Robert Young represented the child care center. He informed the Board that a child care center of this type was needed in Fairfax County. He stated that a child care center would be a good use for this property. The property was located on a busy street across from a medical building. There were commercial properties down one side of the street. He stated that the property was in a transitional area and was not very suitable for residential purposes. The property was master planned for townhouses. Mr. Young stated that the existing dwelling on the property was built in 1935 and was very sound. Mr. Young stated that the property would be ideal for a child care center because of its location. He indicated that he had talked to all of the neighbors.

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

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-D-106 by KIDDIE KORNER, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to permit child care center on property located at 1512 Chain Bridge Road, tax map reference 30-2((7))(2)41, 42 43 & 44, 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 January 13, 1981; 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-3.
3. That the area of the lot is 17,825 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 of 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 in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 7:30 A.M. to 6:00 P.M., 5 days a week.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 203, January 13, 1982, Scheduled case of

8:15 P.M. BOEHLY-YOUNG PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow child care center in a building which is 6.6 ft. from a side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1512 Chain Bridge Road, West McLean Subd., 30-2((7))(2)41, 42, 43 & 44, Dranesville Dist., R-3, 17,825 sq. ft., V-80-D-221.

Mr. Robert Young represented the applicant. He stated that the property was to be used as a child care center but the dwelling did not meet the bulk regulations of the zone. Mr. Young informed the Board that he could not move the building. The variance was more economically feasible. Mr. Young stated that he did not wish to knock down the building.

In response to questions from the Board, Mr. Young stated that he had owned the property since last August. He stated that the property was still zoned residential. Chairman Smith inquired if Mr. Young was aware that the property was residential when he purchased it and he stated that he was. Mr. Young informed the Board that he had just recently been made aware of the bulk regulations that had to be met. He stated that he had met with Supervisor Falck and her staff and it was felt that the child care center would be a good use for the property.

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

204

RESOLUTION

In Application No. V-80-D-221 by BOEHLY-YOUNG PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow child care center in a building which is 6.6 ft. from side lot line (12 ft. minimum side yard required on property located at 1512 Chain Bridge Road, tax map reference 30-2((7))(2)41, 42, 43 & 44, County of Fairfax, Virginia, Mr. Hyland 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 January 13, 1981; 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 17,825 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 uses 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 204, January 13, 1981, Scheduled case of

8:30 P.M. HARTWOOD HOUSE, AN ACTIVITY OF HARTWOOD FOUNDATION, INC., appl. under Sect. 3-203 of the Ord. to permit child care center with overnight care, located 2907 Popkins Lane, 93-1((1))6, Mt. Vernon Dist., R-2, 15.339 ac., S-80-V-108.

Mr. Stephen Waurackek of Annandale, Virginia was Committee Chairman and represented the applicant. He informed the Board that Hartwood House was a colition of parents who had formed a non-profit, non-sectarian organization. Mr. Waurackek stated that this type of facility was needed in Fairfax County. The child care center dealt with handicapped individuals. As an example, Mr. Waurackek stated that he had a boy of 14. If he needed a rest or needed to get away, he had to send his son to New Hampshire. Mr. Waurackek stated that Hartwood House would provide care for a reasonable cost for handicapped children. In addition, it prepared children for the day when the parents would no longer would be able to care for them. Mr. Waurackek informed the Board that the child care center proposed was to fill a need. Mr. Waurackek stated that if the parents of a handicapped youngster were allowed 30 days a year for the child to be in this type of a residence, it helped to break the bond and allows the child to be away from the family and with other individuals. Mr. Waurackek stated that while housed at this facility, the child would still continue to go to school and follow his/her schedule. The facility provided bedding and meals.

Mr. Waurackek stated that this was a type of group home situation. He stated that Hartwood House hoped to establish goup homes in the future. The facility would be in a convent located at Popkins Lane. Mr. Waurackek stated that they hoped to facilitate 8 youngsters at any one time. However, he indicated that they would not reach that level until they were staffed to take of 8 youngsters. At the present time, there was only one lady and her husband on the payroll. Another individual had been acquired who would live at the convent for 15 hours a week of donated time. Mr. Waurackek stated that Hartwood House had the support of other churches in the area. Mr. Waurackek stated that each family pays in $1,000 towards the facility. He stated that if he left the area, he would receive his money back. For parents who could not afford the money, arrangements had been made for sponsors. There

was one family in the group who had two children in the home. Arrangements had been made for sponsorship for the daily cost when they went away.

Ms. Day inquired as to how many staff persons would be necessary for the care of 8 youngsters. Mr. Waurackek stated that they would have the proper ratio. He stated that it would probably be a one on one situation for the high care cases. Mr. Waurackek stated that all 8 children would not be high care cases. He indicated that they did not wish to have more than 2 high care cases at any one time. Mr. Waurackek stated that all of the children attending the facility would be programmed except for emergency circumstances. He stated that the center would use part-time workers.

Ms. Day inquired as to the supervision of the children at night in case someone got up and wandered off. Mr. Waurackek stated that each of the rooms would have a monitor and there was a night duty monitor. Ms. Day inquired if the room monitor would be awake and Mr. Waurackek stated that was a detail that needed to be worked out. He stated that they were contemplating having individuals live there and in return for the room, they might have to stay awake for a night. Mr. Waurackek stated that he was still investigating other centers and how they were operated. Mr. Waurackek stated that many of the youngsters were quite helpless. He stated that his son spent much of the time in the hospital and was not able to summon a nurse. Mr. Waurackek stated that there would be a night monitor who would have to walk the floor periodically.

Mr. Waurackek stated that the center would be licensed by the Health Department and the State Welfare. Mr. Hyland inquired as to the ages of the individuals. Mr. Waurackek stated that there would not be any children under the age of 8. Most of the individuals were in grade school and several were in the Northern Virginia Training Center. The ages would be approximately from 8 to 23 years. Mr. Hyland inquired as to the arrangements with St. Louis church. Mr. Waurackek stated that they had a lease which explained the situation. It was a dollar a year lease. Any changes to the building had to meet the Code requirements and had to be discussed with Father Murphy. They had to meet the requirements of the parish and the diocese.

Mr. Hyland inquired as to the type of structural changes comtemplated. Mr. Waurackek stated that they wanted to have a doorway from one side of the building for a ramp and an entrance way, something to break the wind. Mr. Waurackek stated that one of the problems with having live in staff was that you had to provide them with adequate living space with privacy. He indicated that they wanted to create an apartment with a large recreation room, bedroom, small kitchenette and bathroom. Mr. Waurackek stated that there would be minimal impact to the chapel. He stated that the center would be located here for several years and would vacant with adequate notice. Mr. Hyland stated that the lease appeared to be from month to month. Mr. Waurackek stated that the lease was intentionally drafted in that manner. Mr. Hyland stated that this appeared to be a superb plan. He stated that as Chairman of the Human Rights Commission, he commended this plan.

Father Murphy spoke in support of the application. He informed the Board that he had been principal of O'Connell High School in Arlington and had left to join St. Louis Catholic Church. The nuns were not using the convent. Father Murphy stated that the church wanted to do something to help the poor and the convent was just sitting there. It was used for classes and meetings but it was not getting its full use. Father Murphy stated that he had a great affection for the retarded and handicapped. He stated that he did not think society did enough for them. This home was an excellent way of making a statement and it was a unique idea. Father Murphy stated that in the development of the concept, there had been a lot meetings and the church had decided to let the Hartwood House use the facility for a dollar a year. The convent was located next to the church. Rt. 1 was behind the church and the nearest residential homes were two to three blocks away. He stated that this would not pose a hardship on anyone. Father Murphy informed the Board that he was quite impressed with this idea. He hoped that the Board shared his pleasure.

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

R E S O L U T I O N

Ms. Day made the following motion:

WHEREAS, Application No. S-80-V-108 by HARTWOOD HOUSE, AN ACTIVITY OF HARTWOOD FOUNDATION, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to permit child care center with overnight care on property located at 2907 Popkins Lane, tax map reference 93-1((1))6, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

206

RESOLUTION

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on January 13, 1981; 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-2.
3. That the area of the lot is 15.339 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 con;ained 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of individuals shall be 8 with adequate supervision.
8. The hours of operation shall be 7 days a week, 24 hours a day, 52 weeks a year.
9. There shall be a ramp for convenience of said individuals.
10. This permit is granted for a period of three (3) years.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0.

Page 206, January 13, 1981, Scheduled case of

8:45 P.M. NEWTON W. EDWARDS, INDIVIDUALLY, AND THE PINECREST CITIZENS ASSOCIATION, appl. under Sect. 18-301 of the Ord. to appeal decision of the Zoning Administrator that the proposed uses of the Salvation Army in SE-80-M-060 are permitted in the C-2 & C-5 Districts as proposed by that application, located 6528 Little River Tnpk., 72-1((1))22 & 22A, Mason Dist., C-2 & C-5, 5.980 ac., A-80-M-014.

The Board was advised that the appeal application had been administratively withdrawn due to a Writ of Prohibition.

//

Page 206, January 13, 1981, Scheduled case of

9:15 P.M. RIDGELEA HILLS HOMES ASSOCIATION, appl. under Sect. 18-401 of the Ord. to allow construction of a wall having average height of 5'8", with intermitted piers to a height of 7'4" within the two front yards of a corner lot (4 ft. max. hgt. for fence in a fornt yard req. by Sect. 10-105; obstructions to vision above a horizontal plane 3½ ft. high on a corner lot not permitted by Sect. 2-505), located 8930 Little River Turnpike, Ridgelea Hills Subd., 58-4((28))E, Providence Dist., R-2, 100,895 sq. ft., V-80-P-196. (Deferred from 12/2/80 for decision of full Board.)

Chairman Smith inquired if the Board had any questions before making decision in the matter. Mr. Yaremchuk stated that he felt the wall would be more pleasing than looking at all the back yards. Mr. DiGiulian stated that the wall would help with the noise problems from the traffic.

Page 207, January 13, 1981 Board of Zoning Appeals
RIDGELEA HILLS HOMES ASSOCIATION

RESOLUTION

In Application No. V-80-P-196 by RIDGELEA HOMES ASSOCIATION under Section 18-401 of the Zoning Ordinance to allow construction of a wall having average height of 5 ft. 8 inches within the two front yards of a corner lot (4 ft. maximum height for fence in a front yard required by Sect. 10-105; obstructions to vision above a horizontal plane 3½ ft. high on a corner lot not permitted by Sect. 2-505) on property located at 8930 Little River Turnpike, tax map reference 58-4((28))E, 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 January 13, 1981; and deferred for decision from December 2, 1980.

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 100,895 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

3. The construction of this barrier shall not decrease the existing sight distance.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 207, January 13, 1981, Scheduled case of

9:30 P.M. FAIRFAX COUNTY BOARD OF SUPERVISORS, appl. under Sect. 18-401 of the Ord. to allow construction of public use building 52 ft. high to 10 ft. from side lot line (approx. 54 ft. min. side yard req. by Sect. 3-107), located 4618 West Ox Rd., Fairfax County Landfill Subd., 56-1((1))2, Springfield Dist., R-1, 123+ ac., V-80-S-204. (Deferred from 12/9/80 for action of Board of Supervisors).

Chairman Smith informed the other Board members that there was a further request to defer the variance application as the Planning Commission wanted to hold a 456 hearing on the same related issue. It was anticipated by the Planning Commission that it would take two months to accommodate the 456 hearing. In addition, the Board was in receipt of a memorandum from the Zoning Administrator outlining his feelings on the matter. It was his position that the variance application should be deferred until the Planning Commission made its determination.

Mr. Glen Ehrich, Director of Public Works, spoke to the Board about the deferral. He stated that he had reviewed both memorandums. He stated that he did not speak for the OCP or Planning Commission staff. However, it appeared that what the Planning Commission hearing

regarded the use of the site and what the application was regarding was a variance on the setback of the building. Chairman Smith stated that the use came with the variance since they were constructing the use. Therefore, Chairman Smith felt that the Planning Commission should have an opportunity to hold a public hearing and forward its recommendations to the Board of Zoning Appeals.

Mr. Ehrich informed the Board that the Board of Supervisors had advised him to stay with the construction schedule. He stated that it was a very tight schedule. Mr. Ehrich stated that it would help to get the variance problem out of the way as it would save time in not having to wait until after the Planning Commission hearing to go through the variance hearing.

Mr. Yaremchuk stated that Mr. Ehrich's request seemed reasonable. He inquired as to why the Planning Commission all of a sudden decided that the matter would take a 456 hearing. Mr. Covington stated that in any event, a variance would be necessary whether a 456 hearing was conducted or not. Mr. Covington stated that as long as there was any indecision, the matter should be deferred. Mr. DiGiulian stated that the use must not be permitted by right and he was informed that was correct. Mr. Yaremchuk stated that the Board of Supervisors could overrule the Planning Commission. Mr. Hyland stated that the determination would be made by the Planning Commission and the Board of Supervisors. He felt that for the BZA to make a decision on the variance at this point would be premature.

Therefore, Mr. Hyland moved that the Board defer the variance application to allow the use issue to be resolved. Mr. Yaremchuk seconded the motion. Chairman Smith stated that the variance hearing would take place the first meeting after the use issue had been resolved by the Planning Commission and the Board of Supervisors. Mr. Ken Smyth, attorney representing the citizens in the area of the landfill, spoke to the Board regarding the deferral. He inquired if it was possible to schedule the variance for an evening meeting. Mr. Yaremchuk stated that he was against deferring the variance for a night meeting as he did not believe the variance had anything to do with the variance. Mr. DiGiulian stated that he was concerned about the deferral to a night meeting.

Mr. DiGiulian moved that the variance be deferred until the first meeting following the decision of the Planning Commission and the Board of Supervisors, whether that first BZA meeting was a day or night meeting. Chairman Smith stated that he had a problem with the matter of the date and time not being firm when the variance was deferred. Mr. Yaremchuk seconded the motion. The vote on the motion of Mr. DiGiulian to defer the variance until the first meeting after the resolution of the use issue passed by a vote of 3 to 2 (Mr. Yaremchuk and Mrs. Day).

The vote on the main motion of Mr. Hyland to defer the variance application passed by a vote of 4 to 1 (Mr. Yaremchuk). Mr. Hyland inquired as to whether the hearing date would be readvertised in order for the citizens to be aware of it. Chairman Smith stated that the citizens were represented by counsel and that the Clerk could notify their counsel of the hearing date.

Mr. Glen Ehrich informed the Board that the deferral would jeopardize the closing date of the landfill. He stated that there was no way at this point to get any concurrence from the community because of these delays. Mr. Hyland stated that the Board wanted to accommodate the citizens of the County. Mr. Yaremchuk inquired as to the number of citizens who were involved in the matter and whether they were going to speak at the public hearing or just sit and listen. Ms. Kelsey informed the Board that there was an opinion from the County Attorney's Office that unless the application was deferred to a time and date certain, the application would have to be readvertised. Mr. Yaremchuk stated that there were just as many people at day meetings as there were at night.

After further discussion, Mr. Hyland moved that the variance application be deferred until an evening meeting, specifically, Tuesday, March 24, 1981 at 8:00 P.M. Mrs. Day seconded the motion. The motion passed by a vote of 3 to 2 (Messrs. DiGiulian and Yaremchuk).

//

Page 208, January 13, 1981, Scheduled case of

9:35 P.M. CHARLES E. RUNYON, appl. under Sect. 18-401 of the Ord. to allow subdivision into three lots with proposed lot 3 having width of 10 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 10209 Beach Mill Road, 3-4((1))36, Dranesville Dist., R-E, 8.52 ac., V-80-D-195. (Deferred from December 2, 1980, December 16, 1980 and January 6, 1981 for decision of full Board.)

The variance application was again deferred until January 22, 1981 at 12:15 P.M. for decision.

//

Page 209, January 13, 1981, After Agenda Items

St. Andrews Lutheran Church: Mr. Michael LeMay, an architect, gave the Board a copy of the approved site plan of the BZA and a landscape plan. The purpose was for the Board to compare the structures approved with what was now proposed. Mr. LeMay advised the Board that it was not possible for the church to build the administrative office, the social hall and the education hall at this time. Mr. LeMay stated that the church redesigned the structure with a height of 35 ft. They were deleting a portion of the building and changing the setbacks only slightly. There would be 72 parking spaces provided, three being for handicapped persons. The membership would remain the same.

Mr. DiGiulian moved that the Board approve the revised site plans and amend the resolution condition no. 9 to have 3 handicapped parking spaces. Mr. Yaremchuk seconded the motion and it passed unanimously by a vote of 5 to 0.

//

Page 209, January 13, 1981, After Agenda Items

Albert Elias & Arnold Beckhardt, S-312-79: The Board was in receipt of a request from Mr. Alias and Mr. Beckhardt for an extension on the special permit. It was the consensus of the Board to grant a six month extension.

//

Page 209, January 13, 1981, After Agenda Items

Board Schedule: The Board voted to cancel the evening meeting of February 17, 1981 as there were not enough pending applications to schedule the meeting.

// There being no further business, the Board adjourned at 10:30 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Sept. 9, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: Sept. 16, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, January 22, 1981. The following Board members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (arriving at 11:00 A.M.); John Yaremchuk and Ann Day. (Mr. Gerald Hyland was absent).

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. WILLIAM L. & SUE ANN ANGERER, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 8.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 5311 Weymouth Drive, Kings Park Subd., 70-3((4))276, Annandale Dist., R-3, 13,200 sq. ft., V-80-A-224.

Mr. William L. Angerer of 5311 Weymouth Drive was informed by the Chairman that there were only three Board members present due to circumstances beyond their control. Chairman Smith announced that Thursdays were off meeting days for the Board as the meetings were normally held on Tuesdays. He informed Mr. Angerer that in order to affect an affirmative action on the variance application, it would take all three members' affirmative vote. He suggested that the applicant seek a deferral. Mr. Angerer asked that the matter proceed. Chairman Smith informed Mr. Angerer that if the Board did not affect the resolution, that the matter could be deferred at the request of the applicant for a review by the two other Board members. This would allow the absent members to participate in the vote.

Mr. Angerer informed the Board members present that he was seeking a variance from the 12 ft. setback requirement on the side clearance of the property line. The variance was necessary in order to accommodate an attached garage. Mr. Angerer stated that his lot was irregularly shaped, being wider at the front than at the back. In addition, the side lot lines narrowed down as it went towards the back of the property. He stated that he and his wife would like the variance so they could go ahead with the construction of the garage as they had submitted their plans.

In response to questions from the Board, Mr. Angerer stated that he had owned his property for 1½ years. However, they had just moved into the house in July as they had been renting it out until they moved to the area. Mr. Angerer stated that the house was about 14 years old and was located in an established subdivision.

Ms. Day inquired as to what was on the adjoining property. Mr. Angerer responded that the lot next door had a house with bedrooms over top. There was a basement on the first floor with an exit way from the side. He stated that the neighbor's lot was also irregularly shaped and very hill. Mrs. Day inquired if the next door neighbor objected to the variance. Mr. Angerer stated that the neighbor was in the military and did not live there. The tenant was present at the public hearing according to Mr. Angerer. The owner of the lot had stated to Mr. Angerer that if he had wanted a house with a garage, he should have bought one. Mrs. Day inquired if there was a garage on his property and was informed there was not. However, Mr. Angerer stated that the house on the other side had a garage. Mrs. Day inquired if there would be enough room to make a garage should the neighbor desire one. Mr. Angerer stated that his neighbor would need a variance also if he constructed a garage. Mrs. Day inquired if there was any screening and was informed that the yards ran together.

Chairman Smith inquired as to the reason for a garage 17 ft. in width. Mr. Angerer stated that he had requested a variance in order to have enough room to put up a small workshop with a bench and still be able to get a large car in and open the doors. He stated that he did not want the garage to be cramped. Chairman Smith stated that a 12 ft. garage would accommodate one car even with a chimney. Mr. Angerer stated that his chimney was not a problem as it was almost even with the garage.

There was no one else to speak in support of the application and no one to speak in opposition. Chairman Smith inquired if the applicant could cut the garage down by 2 ft. He stated that a 15.5 ft. garage was really 3 to 4 ft. more than necessary. He informed the applicant that the Board had to consider a reasonable request to relieve hardship. Mr. Yaremchuk stated that the applicant was asking for a 17 ft. as it fit his needs. Mr. Yaremchuk stated that he did not see the difference between a 15 ft. garage or a 17 ft. garage. Chairman Smith stated that the minimum size for a garage was 12 ft. Mr. Yaremchuk stated that the Chairman was entitled to his opinion but the applicant wanted to construct a garage that was comfortable. Mrs. Day stated that perhaps the applicant could construct the garage behind his house. Chairman Smith stated that in the Kings Park subdivision, there were quite a few homes that did not have garages. He stated that the lots had the same conditions.

Mr. Yaremchuk moved that the Board adopt the standard variance resolution as the property had unusual conditions in the location of the building and had converging lot lines. He stated that it was not feasible for the applicant to construct the garage in the back. He asked that the variance be granted with the two standard limitations. Mrs. Day seconded the motion. The motion failed by a vote of 2 to 1 (Mr. Smith). Mr. Smith stated that the Board would defer the decision until February 3, 1981 to allow the absent Board members to participate in the decision.

//

Page 211, January 22, 1981, Scheduled case of

10:10 A.M. RALPH E. ZUNICH, appl. under Sect. 18-401 of the Ord. to allow construction of a detached two car garage to 5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1906 Hackamore Lane, Riverside Gardens Subd., 102-3((10))(2) 14, Mt. Vernon Dist., R-3, 10,504 sq. ft., V-80-V-226.

Mr. Ralph Zunich informed the Board that he needed a variance to construct a detached garage behind his house. He stated that if he were to set it back to Code, he could not get in and out of his garage. Mr. Zunich stated that his next door neighbor had a garage which was closer to the lot line. It had been built at the time that the Code allowed a garage to the property line. Mr. Zunich informed the Board that he had owned his property for four years but only been living there for two years. He stated that he had not had the financial resources to build the garage previously. Mr. Zunich informed the Board that the maximum height of the garage would be 14'5". The average height would be 11½ ft. Chairman Smith inquired of Mr. Covington if the garage met the Code requirements being only 5 ft. from the property line. Mr. Covington responded that was the reason the applicant was before the Board.

Mrs. Day noted that the neighbor had a garage almost identical to the one proposed by Mr. Zunich. She inquired as to the type of construction proposed. Mr. Zunich stated that he would have a frame structure with lap siding, the same as his house. Mrs. Day inquired as the neighbor's position on the variance. Mr. Zunich stated that his neighbor did not have a problem with the variance or the garage and had even offered to help build it.

Chairman Smith inquired as to why the garage could not be moved over into the side yard where a variance would not be necessary. Mr. Zunich stated that he had two cars. The small car would be able to negotiate the curve but the larger car would not. Mr. Zunich stated that the garage would be sitting way over in the middle of the yard if he complied with the Code. He stated that the back yard had patio and his children played there. He stated that he had trees and a tree house which would have to be removed.

Mrs. Day inquired as to how far the garage would have to be moved in order to get the large car in. Mr. Zunich stated that the average car was 18 ft. The house was 40 ft. He indicated that he would need at least 25 ft. which would place it in the middle of the property. Mr. Zunich stated that there were other detached garages in the area like the one he was proposing to construct.

Chairman Smith advised Mr. Zunich that the Ordinance had changed. He agreed that the applicant had apoint about exiting and entering the detached garage but the existing Ordinance did not allow construction closer than 12 ft. Chairman Smith stated that he was not in total agreement with the Ordinance but the applicant had alternate solutions. Mrs. Day stated that the neighbor did not object to the garage and was going to help Mr. Zunich build it. She inquired as to what was on lots 19 and 20 behind Mr. Zunich's property. Mr. Zunich responded that on lot 19, there was a home the same type as his. Lot 20 had a split level. Neither of the homes had garages.

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

Mrs. Day moved that the Board adopt the standard variance resolution form as the property was exceptionally irregular in shape; the rear one-third of the property was not conducive to such a structure and that it be granted with the two limitions. Mr. Yaremchuk seconded the motion. The motion failed by a vote of 2 to 1 (Mr. Smith). Chairman Smith stated that the variance would be deferred until there were five members participating in the decision. He stated that the Board would try to get a decision by February 3, 1981.

//

Page 211, January 22, 1981, Scheduled case of

10:20 A.M. AUGUSTUS JOHNSON, appl. under Sect. 18-401 of the Ord. to allow resubdivision into 3 lots, one having a width of 15 ft. and another a width of 85 ft. (100 ft. min. lot width req. by Sect. 3-207), located 7012 Woodland Drive, Leewood Estates Subd., 71-4((3))55, Annandale Dist., R-2, 1.8 ac., V-80-A-227.

As the required notices were not in order, the Board deferred the variance until March 10, 1981 at 10:00 A.M.

//

Page 211, Janaury 22, 1981, Scheduled case of

10:30 A.M. JAMES L. PRYOR, appl. under Sect. 18-401 of the Ord. to allow a 9'10" high shed to remain 2.5 ft. from rear lot line and 2.3 ft. from side lot line (9 ft. 10 in. min. rear yard and 10 ft. min. side yard req. by Sects. 10-105 and 3-407), located 7425 Northrop Road, Hybla Valley Subd., 92-4((3))(2)5, Lee Dist., R-4, 8,628 sq. ft., V-80-L-228.

212

Chairman Smith inquired of Mr. Pryor as to the length of time the shed had been there. Mr. Pryor stated that the shed was started in August 1980. It was not complete as it only had plywood and the roof on it without any siding. Mr. Pryor informed the Board that he had always used metal sheds in the past but they had always rusted out and blown away. He stated that the shed he had constructed was bolted and could not be lifted. Mrs. Day inquired as to why the shed was so close to the property line. Mr. Pryor responded that there was a patio there. He stated that he was putting a deck at the rear of his house. Mrs. Day inquired as to what was located behind Mr. Pryor's property and he responded there was another house. They had a small shed at the house. Mrs. Day inquired if the neighbor had objected to Mr. Pryor's shed. He stated that his neighbor had not said anything about the shed one way or the other. The neighbor to the side had informed Mr. Pryor that they did not object. Mrs. Day inquired as to what siding was proposed for the shed. Mr. Pryor stated that it would have aluminum siding (white) and would match the gable ends of his house. Mrs. Day suggested that evergreens be planted to the height of the shed to screen it. Mr. Pryor stated that the shed was not completely screened but there was some screening already which helped it.

Chairman Smith inquired of Mr. Covington if a building permit was required for a 9x12 shed. Mr. Covington stated that a permit was not required if the shed was 100 sq. ft. or less. He further informed the Board that a shed could be located anywhere in the side or rear yard if it was less than 7 ft. in height.

Mr. Pryor informed the Board that he had called the building permit department and found out that he did not need a building permit. He stated that he was not aware of the height requirement. Chairman Smith stated that the Zoning Administrator needed to try to work on the problem and have better communication between the Zoning Office and the Building Inspectors' Office. He stated that he could understand how a citizen could get confused.

Chairman Smith inquired if the Board members needed more information on the matter. He stated that he would support this variance although he did not agree with the setback. He informed the applicant that he normally did not support variances. Mr. Yaremchuk stated that he supported the variance because a year ago it could have built without a variance. Chairman Smith stated that was not the reason for his support. He indicated that the reason he was supporting the variance was because of the confusion over the building permit. He stated that he believed the applicant was trying to maintain the requirements and not circumvent the Ordinance.

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

Page 212, January 22,1981 Board of Zoning Appeals
JAMES L. PRYOR

R E S O L U T I O N

In Application No. V-80-L-228 by JAMES L. PRYOR under Section 18-401 of the Zoning Ordinance to allow a 9 ft. 10 in. high shed to remain 2.5 ft. from rear lot line and 2.3 ft. from side lot line (9 ft. 10 in. minimum rear yard and 10 ft. minimum side yard required by Sects. 10-105 and 3-407), on property located at 7425 Northrop Road, tax map reference 92-4((3))(2)5, County of Fairfax, Virginia, Ms. Day 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 Janaury 22, 1981; 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 8,628 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:

Page 213, January 22, 1981 Board of Zoning Appeals
JAMES L. PRYOR
(continued)

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. DiGiulian)(Mr. Hyland being absent).

Page 213, January 22, 1981

Mr. John DiGiulian arrived at the Board meeting at 11:00 A.M. and remained for the rest of the scheduled cases.

//

Page 213, January 22, 1981, Scheduled case of

10:40 A.M. THEODORE C. LYSTER, appl. under Sect. 18-401 of the Ord. to allow construction of addition to existing shed which is located 7.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), such that resulting storage structure would have gross floor area in excess of 200 sq. ft. (200 sq. ft. max. gross floor area for such structure req. by Sect. 10-102), located 7411 Long Pine Drive, North Springfield Subd., 80-1((2))(72)2, Annandale Dist., R-3, 15,051 sq. ft., V-80-A-229.

Mr. Theodore C. Lyster of 7411 Long Pine Drive in North Springfield informed the Board that he had a 10'x12' shed and wanted to enlarge it. He stated that the existing shed was built 15 years ago when the side yard restrictions were different.

Chairman Smith inquired of Mr. Covington if the applicant could construct the addition to the non-conforming building by right. Mr. Covington stated that the current Zoning Administrator would not allow additions to non-conforming buildings. Chairman Smith inquired about the noise barrier constructed along the property line. Mr. Lyster referred to the barrier as the great wall of China.

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

Page 213, January 22, 1981 Board of Zoning Appeals
THEODORE C. LYSTER

RESOLUTION

In Application No. V-80-A-229 by THEODORE C. LYSTER under Section 18-401 of the Zoning Ordinance to allow construction of addition of existing shed which is located 7.1 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) such that resulting storage structure would have gross floor area in excess of 200 sq. ft. (200 sq. ft. maximum gross floor area for such structure required by Sect. 10-105) on property located at 7411 Long Pine Drive, tax map reference 80-1((2))(72)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 January 22, 1981; 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 15,051 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:

RESOLUTION

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 214, January 22, 1981, Scheduled case of

10:50 A.M. E. DOUGLAS WRIGHT, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, one of which has width of 24.84 ft. and another a width of 25.6 ft. (70 ft. min. lot width req. by Sect. 3-406), located 4013 Annandale Road, Farr & McCandlish Subd., 60-3((14))2A, Annandale Dist., R-4, 43,152 sq. ft., V-80-A-230.

Mr. Douglas Wright informed the Board that he was the owner of the subject property. He stated that he had the deed to show ownership. He informed the Board that the owner of record listed on the staff report was the previous property owner. In response to questions from the Board, Mr. Wright stated that he had acquired ownership on November 13, 1980. Chairman Smith noted that the variance application had been filed on November 21, 1980. Mr. Wright stated that he was an architect. He stated that his intent was to sell two houses on the property. At the present time, the property was zoned R-4 which would allow four homes if there was enough land. Mr. Wright stated that he only planned to have three houses. There was a house presently on the property. Mr. Wright stated that this was not a high density request and would be low in impact. He urged the Board to grant the request.

In response to questions from the Board, Mr. Wright stated that there were two existing driveways on the property. One driveway served the existing house and the other driveway served as a common entrance. The driveway was gravel. Mrs. Day inquired if this would be considered pipestem lots since there was a common driveway. Mr. Wright stated that there was only one curb cut at the present time. The existing house more than met the 25 ft. setback from a pipestem.

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

RESOLUTION

In Application No. V-80-A-230 by E. DOUGLAS WRIGHT under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, one of which has width of 24.84 ft. and another a width of 25.6 ft. (70 ft. minimum lot width required by Sect. 3-406) on property located at 4013 Annandale Road, tax map reference 60-3((14))2A, 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 January 22, 1981; 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 43,152 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has converging lot lines.

RESOLUTION

AND, WHEREAS, the Board 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 structures on the same land.

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 215, January 22, 1981, Scheduled case of

11:00 A.M. MONTE L. & SHARI L. WEST, appl. under Sect. 3-E03 of the Ord. to permit a home professional office (building contractor), located 2318 Sawdust Road, Hunters Valley North Subd., 37-1((16))3, Centreville Dist., R-E(C), 40,002 sq. ft., S-80-C-109.

Mrs. Shari West informed the Board that she and her husband owned West Homes. They had been in business for five years. She stated that their office was a desk in the construction office which she found to be to their disadvantage. People run in and out to use the telephone and the bathroom which interrupted the work. Mrs. West stated that she and her husband wanted to have a bookkeeping office in their home which was under construction at the present time. She stated that the home office was primarily for the keeping of books and telephone and a sales office.

In response to questions from the Board, Mrs. West stated that their present office was located in a model home in a garage which was labeled construction office. The site was located in Herndon. Chairman Smith inquired as to the number of homes constructed by West Homes. Mrs. West stated that they had built 16 homes in Herndon. She stated that they had built Four Seasons. Mrs. West informed the Board that there would always be a construction trailer on the site. The sales office was in a model home in Herndon. Chairman Smith inquired as to where the Wests resided at the present time. She replied that they had sold their home in September and started building the new one. She stated that they were living in a model home in Herndon. Employees consisted of a construction superintendent, a bookkeeper and two laborers. She stated that the employees would continue to work out of the trailer. The home professional office was primarily for the bookkeeper and Mrs. West. Mrs. West informed the Board that they subcontracted all other work.

Mrs. Day inquired if the laborers would be driven to the home office. Mrs. West stated that they did not plan any additional traffic as the office was not for the trucks or the laborers. She stated that her husband would meet the superintendent on the construction site. The bookkeeper would be the only one driving to the office. Mrs. West stated that she wanted to get a computer for the residence to be operated by the bookkeeper, her husband and herself. The proposed hours of operation were from 8 A.M. to 4 P.M.

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

RESOLUTION

Ms. Day made the following motion:

WHEREAS, Application No. S-80-C-109 by MONTE L. & SHARI L. WEST under Section 3-E03 of the Fairfax County Zoning Ordinance to permit a home professional office (building contractor) on property located at 2318 Sawdust Road, tax map reference 37-1((16))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 of Zoning Appeals held on January 22, 1981; and

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

RESOLUTION

1. That the owner of the subject property is the applicant.
2. That the present zoning is R-E(C).
3. That the area of the lot is 40,002 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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) 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 may be required in accordance with the Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 8 A.M. to 4 P.M.
8. The number of parking spaces shall be adequate for one employee and family use.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 216, January 22, 1981, Scheduled case of

11:10 A.M. WILSON A. & JOANNE L. MARCEY, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 17 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), located 10626 Runaway Lane, Lexington Estates Subd., 12-2((10))127, Dranesville Dist., R-1(C), 20,109 sq. ft., V-80-D-231.

Mr. Jack Rose, an attorney of 128 N. Pitt Street in Alexandria, represented the applicants. He stated that the written statement set forth the justification as well he could. The lot was irregularly shaped as shown on the plat. He indicated that the lot was unusual in that the septic field required setting the house towards the back portion of the property. It was abutted at the rear by a 30 ft. private driveway which allowed access to the homes to the rear. Mr. Rose stated that the house in question was built and had offered at the time of sale for a deck to be added to the back. The house had a pair of double doors. Mr. and Mrs. Marcey had not purchased the option of the deck because they felt it was too expensive. In addition, they did not have the money to build the deck themselves at that time.

In response to questions from the Board, Mr. Rose stated that the proposed addition was a screened in porch with a roof. Chairman Smith inquired if screening was the only thing to be added to the porch and Mr. DiGiulian noted that the plat indicated siding to come up about waist high. Mr. Marcey stated that the siding was to match the rest of the house. Mr. DiGiulian stated that the location of the septic field was not shown on the plat and he asked Mr. Marcey to sketch it in on a plat. Mr. Marcey stated that the house was 82 ft. from the front lot line. The septic field was located in the front yard which was the reason for the house being constructed so far back. Mr. Rose indicated that the neighbors did not object to the variance. He presented the Board with a letter of support from a neighbor.

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

RESOLUTION

In Application No. V-80-D-231 by WILSON A. & JOANNE L. MARCEY under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-107), on property located at 10626 Runaway Lane tax map reference 12-2((10))127, 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 heairng was held by the Board on January 22, 1981; 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(C).
3. The area of the lot is 20,109 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 217, January 22, 1981, Scheduled case of

11:20 A.M. D. A. O'KEEFE, TRUSTEE, appl. under Sect. 18-401 of the Ord. to allow construction of a dwelling to 5.5 ft. from each side lot line (12 ft. min. side yard req. by Sect. 3-307), located 3006 Dunbar Street, Thornrose Subd., 102-1((3))(2)30, Mt. Vernon Dist., R-3, 5,075 sq. ft., V-80-V-222.

The Board was in receipt of a letter from the applicant asking for a withdrawn of the application which was prompted by incomplete notices to the property owners. Mr. DiGiulian moved that the Board allow the withdrawal without prejudice. Mr. Yaremchuk seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

//

Page 217, Janaury 22, 1981, Scheduled case of

11:30 A.M. JOSEPH E. & KATHLEEN P. BROOKMAN, appl. under Sect. 18-401 of the Ord. to allow construction of a detached garage to 6 ft. from side lot line, located 8504 Washington Ave., Mt. Zephyn Subd., 101-3((8))(C)16, Mt. Vernon Dist., R-2, 18,143 sq. ft., V-80-V-223.

Mr. Brookman informed the Board that his proposed garage would be in line with the existing driveway. He stated that to move it over would be to move it 15 ft. which would overlap an existing patio. In addition, he stated that he would have to make two full turns from his driveway which would make it difficult to get his car into the garage.

In response to questions from the Board, Mr. Brookman stated that the adjoining lot did not have anything on it. There was no objections from the neighbors. The garage would be a frame construction with aluminum siding and would be 13 ft. high.

There was no one else 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-80-V-223 by JOSEPH E. & KATHLEEN P. BROOKMAN under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage to 6 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 8504 Washington Avenue, tax map reference 101-3((8))(C)16, County of Fairfax, Virginia, Ms. Day 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 January 22, 1981; 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 18,143 sq. ft.
4. That the applicant 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 218, January 22, 1981, Scheduled case of

11:45 A.M. DAISEY DAY CARE, INC., appl. under Sect. 3-103 of the Ord. to permit child care center within existing church, located 12604 Lee Jackson Hwy., 45-2((1))28, Centreville Dist., R-1, 2.49816 ac., S-80-C-105.

Ms. June Deaner and Mrs. Charlotte Fry represented the day care center. Ms. Deaner stated the special permit was for approximately 25 children, ages 3½ to kindergarten. There were six employees. She stated that this use would not generate a great deal of traffic. The parents already travel Rt. 50. The hours of operation would be from 6:30 A.M. to 6:30 P.M.

With respect to the lease, Ms. Deaner stated that it was open ended. The day care leased from the church. Mrs. Deaner and Mrs. Fry were members of the church. Ms. Deaner stated that there was not a formal lease yet. She indicated that the church would not agree to a formalized lease until the special permit was granted.

Pastor William J. Ritenour of the Lutheran Church spoke in support of the use. He informed the Board that the Church Council was in unanimous support of the day care facility. The church felt that this was one of their contributions to the community to have a day care facility for parents who worked.

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

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-80-C-105 by DAISY DAY CARE, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to permit child care center in existing church on property located at 12604 Lee Jackson Highway, tax map reference 45-2((1))28, 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 January 22, 1981; 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 2.49816 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 os 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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of children shall be 25.
8. The hours of operation shall be 7:30 A.M. to 6:30 P.M., five days a week.
9. The number of parking spaces shall be 22.
10. The maximum number of employees shall be 6.
11. This permit is granted for eighteen months with the Zoning Administrator empowered to renew on an annual basis.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 219, January 22, 1981, Scheduled case of

12:00 NOON CONGREGATION OLAM TIKVAH, appl. under Sect. 3-103 of the Ord. to permit building and parking lot additions to existing synagogue & related facilities, located 3800 Glenbrook Rd., Sunny Hill Subd., 58-4((9))17A, 17B, 18A & 18B, Providence Dist., R-1, 4.5204 ac., S-80-P-068. (Deferred from November 4, 1980 and December 2, 1980 for viewing of property and decision.)

Chairman Smith advised everyone present that there were only four Board members present as this was an off meeting date due to the holiday schedule. Mr. Richard Stahl, attorney for the synagogue, asked the Chairman to have the hearing go forward. Chairman Smith inquired if there were any additional questions before the Board made its decision. Mr. Yaremchuk inquired as to the total number of parking spaces provided and was informed there would be 110 parking spaces. Mr. Stahl stated that with respect to the transitional screening, the synagogue had offered to provide screening between the parking lot and the residential properties. Chairman Smith inquired if there would be any screening on the side of the property where the trash containers were located. Mr. Stahl stated that the screening

would continue all the way around. He indicated that they would put hemlocks in as it had an accelerated growth period and would screen the property more rapidly. Mr. Stahl advised the Board that the trash containers would be completely covered and would be enclosed in a building.

Chairman Smith inquired as to the number of parking spaces to be added to the existing lot. Mr. Stahl stated that the increase was approximately 45 spaces and he indicated that the parking would almost be doubled.

Mr. Yaremchuk inquired about the meeting with the citizens and the result of that meeting. Mr. Stahl stated that the congregation had met with some of the citizens and had tried to accommodate their needs. One major concern was the trash bins which the synagogue had agreed to cover and enclose. Another concern was the lights. Mr. Stahl stated that the lights would not interfer with Mr. Cook's property. He indicated that they had offered to make a difference entrance onto Glenbrook Road and put screening inside Mr. Cook's property to shield the carlight but Mr. Cook had not agreed to it. Mr. Stahl informed the Board that on the north side of the property along Mrs. McClung's lot, the synagogue would put in additional landscaping. He stated that they would work with Site Plan regarding the drainage problems and take whatever steps were necessary to solve the drainage problems.

Mr. DiGiulian inquired as to the movement of the play area. Mr. Stahl stated that the only question regarding the play area was where to move it. He stated that they were thinking of moving the play area up on the hill but if there was a question of drainage there might be a change in the landscaping. Mr. Stahl stated that they wanted to put the play area on the upper level but the final location was undecided at the moment.

Chairman Smith inquired if the citizens had any further questions. Mr. Schiavone stated that the citizens had met with the synagogue. The citizens had wanted the same road for ingress and egress but the letter from the synagogue indicated that was unacceptable. Mr. Schiavone stated that with regard to the 25 ft. strip between the parking lot and the property line, due to the elevation if a fence were constructed on the line, it would not block the headlights. He asked that the fence be set inside the property line next to the parking lot. In addition, Mr. Schiavone stated that if the ingress and egress remained where it was presently located, it would not harm Mr. Cook. He stated that the synagogue had been working for over a year with its architect but had never once included the neighborhood in any of the meetings or discussions of their plans for expansion.

Chairman Smith inquired of Mr. Cook as to whether he had been involved in any discussions regarding screening of his property. Mr. Cook stated that he was not aware of how the synagogue planned to do the screening. He stated that the plan to screen the inside of his property would make it impossible to get in or out of his driveway. Chairman Smith inquired if Mr. Cook had another proposal instead. He stated that he would prefer the synagoue to continue the same ingress and egress as they were presently using as the lights did not bother anybody at that location.

Mr. Yaremchuk asked to express his feelings. He stated that he did not feel the synagogue should have beeen located at this location but it was there. He stated that he felt the synagogue was improving the situation now. However, Mr. Yaremchuk stated that he could not make a decision because the screening had not been worked out yet. Mr. Yaremchuk stated that he hated to see the matter delayed any longer but he felt that the screening should be shown on the plat and the citizens should have a chance to examine it.

Chairman Smith inquired of Mr. Stahl as to why the present ingress and egress could not be used. Mr. Stahl stated that safety was one of the primary concerns. Chairman Smith stated that if the driveway were widened, safety would not be a problem. Mr. Stahl stated that the synagogue had made an offer to put screening on Mr. Cook's property but he had refused and would not allow it under any circumstances. Chairman Smith advised Mr. Stahl that the Board did not have the authority to impose any restrictions on someone else's property.

Mrs. Day stated that the whole crux of the problem was the traffic and she indicated that there had to be some give and take. Mr. Stahl stated that the traffic study done by the County indicated an average of 54 traffic trips. Mrs. Day stated that there was an abnormal amount of traffic on Glenbrook Road that the neighbors had to put up with.

Chairman Smith stated that perhaps the Board should defer the matter to allow some more time and discussion with the citizens. Mr. DiGiulian stated that he was concerned about the screening on the entrance and around the rest of the property. He stated that a 7 ft. fence on the property line would not screen anything. He suggested that the fence be put up against the pavement of the parking lot to help screen the lights. Mr. DiGiulian stated he would like to see the applicant provide a profile of the elevation and the screening. Mr. Yaremchuk stated it would not solve anything to defer the application unless the applicant knew exactly why it was being deferred. Chairman Smith stated that the Board would have to be specific as to what it wanted to see on the plat.

Mr. Stahl advised the Board that the congregation did not have a problem with placing the 7 ft. fence along the pavement of the parking lot. However, he stated that they could not solve the problem of ingress and egress. Chairman Smith stated that the consensus of the Board was to only have one entrance and exit in close proximity to the existing entrance and exit. Mr. Stahl stated that after consultation with the congregation board, there was no way that they could live with only one place for an ingress and egress. He stated that it would not help the traffic flow and was not in the best interest of the synagogue. Mr. Stahl advised the Board that the congregation had made many concessions. If the Board voted the application down, then he stated it was being unreasonable and the congregation would go to the Circuit Court. Mr. Stahl stated that the synagogue had offered to resolve the problem.

Chairman Smith stated that the only solution offered by the synagogue involved adjacent property which the Board could not condition under the special permit. Mr. Stahl stated that the synagogue had made concessions with the neighbors. Mr. Yaremchuk stated that having an additional 60 cars with only one ingress and egress could be a problem if it got tied up. Mr. Yaremchuk stated that two entrances might be better. He indicated that his only problem had been the screening. Mr. Yaremchuk stated that the Board had to be reasonable. Chairman Smith stated that the Board was trying to resolve the issue. He stated that he had thought about the house owned by the congregation and the house next door to it. Chairman Smith stated that perhaps one of the houses should be removed.

Mr. Cook informed the Board that Mr. Rapavi's property adjoined his property and the lights from the synagogue affected his property also. Mr. DiGiulian suggested that perhaps the traffic pattern should be reversed. Mr. Yaremchuk stated that one entrance would not solve the problem for 120 cars. Mr. Cook stated that the existing driveway was wider than Glenbrook Road. Chairman Smith stated that there was not going to be an ideal solution. He stated that perhaps the synagogue was trying to overbuild the property and might eventually have to remove the brick building in order to accommodate what they wanted.

Mr. Michael LeMay, the architect, tried to clarify the situation. He informed the Board that the landscaping was done to try to accommodate Mr. Cook. Mr. Stahl stated that the synagogue had turned the driveway and offered to put in screening which they could not force upon Mr. Cook. Mr. Yaremchuk stated that if the traffic flow could flow one way before then it could be reversed. He reminded the synagogue that they had indicated there was not much traffic. Mr. Stahl stated that the County traffic study indicated an average of 56 vehicle trips per day. He stated that the synagogue wanted to make it easier on the folks living nearby and the only person with any concerns or problems with regard to traffic was Mr. Cook.

Mr. DiGiulian questioned Mr. Cook regarding his property and his ability to back in and out of his driveway. Mr. Cook stated that at the present time, he had not problem with seeing the traffic when pulling in or out of the driveway. If the screening were put inside his property, he indicated that he would not be able to see the traffic.

The Board recessed the meeting for ten minutes to discuss the situation. Upon returning to the meeting, Mr. Stahl advised the Board that the congregation had discussed the two alternatives and both of them were unacceptable. However, if one was to be imposed, the only one that was more acceptable was the alternative of the two exits and entrances with the reversed entrance across from Mr. Cook's property and the exit at the present entrance to the property. However, Mr. Stahl pointed out that it would not solve the neighbors' problem as the traffic entering the synagogue property would have to yield to the other traffic exiting from the other location.

Chairman Smith asked for a consensus from the Board with regard to the driveway situation since a left turn would create a safety hazard. The consensus of the Board was to have only one entrance and exit. The congregation was asked to prepare a profile on the screening and to show it to the citizens before the next BZA meeting. Chairman Smith deferred the decision until January 27, 1981 at 12:15 P.M. for the reasons stated above.

//

Page 221, January 22, 1981, Scheduled case of

12:10 P.M. CHARLES E. RUNYON, appl. under Sect. 18-401 of the Ord. to allow subdivision into three lots with proposed lot 3 having width of 10 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 10209 Beach Mill Rd., 3-4((1))36, Dranesville Dist., R-E, 8.52 ac., V-80-D-195. (Deferred from December 2, 1980; December 16, 1980; January 6, 1981 and January 13, 1981 for decision of full Board.)

Chairman Smith stated that the variance had been deferred on numerous occasions and the applicant was requesting another deferral. It was the consensus of the Board to allow a two week deferral and the variance was deferred until February 3, 1981 at 12:10 P.M.

//

Page 222, January 22, 1981, After Agenda Items

S-80-S-003 and S-80-V-001, Church of Jesus Christ of the Latter Day Saints: The Board was in receipt of a letter from the Mormom Church seeking extensions on the special permits issued for Prices Lane and Sydenstricker Lane. Mr. DiGiulian moved that the special permits be granted a six month extension. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0 (Mr. Hyland being absent).

//

Page 222, January 22, 1981, After Agenda Items

V-80-A-060, Mr. and Mrs. Raymond Pelletier: The Board was in receipt of revised plats for a variance granted to Mr. and Mrs. Raymond Pelletier on May 6, 1980 for a subdivision. The change was requested as the applicants had not realized that they had to maintain a certain setback for the existing dwelling on the building. After review of the amended plats, Mr. DiGiulian moved that the Board accept the amended plats as a minor engineering change. Mr. Yaremchuk seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

//

Page 222, January 22, 1981, After Agenda Items

Approval of Minutes: It was the consensus of the Board to defer approval of the Minutes until the next meeting.

// There being no further business, the Board adjourned at 1:45 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Sept. 14, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: Sept. 16, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 27, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:25 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. SERGASCO CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of addition to service station building to 7 ft. from rear lot (20 ft. min. rear lot req. by Sect. 4-507), located 2600 Sherwood Hall Lane, 102-1((7))(7)17B, Mt. Vernon Dist., C-5, 17,531 sq. ft., V-80-V-111. (DEFERRED FROM 10/28/80 AND 12/2/80 FOR SPECIAL EXCEPTION).

As there was not any action from the Board of Supervisors on the Special Exception, the Board deferred the variance for approximately 30 days. The variance was scheduled for March 10, 1981 at 10:10 A.M.

//

Page 223, January 27, 1981, Scheduled case of

10:10 A.M. JAMES J. ROSS, JR. & WILLIAM F. STANSBURY, appl. under Sect. 18-401 of the Ord. to allow construction of a dwelling to 10 ft. of side lot lines (20 ft. min. side yard req. by Sect. 3-107), located 2122 Great Falls St., 40-2((I))13A, Dranesville Dist., R-1, .374 ac., V-80-D-181. (DEFERRED FROM 11/11/80 AND 12/2/80 TO DETERMINE IF A LEGAL LOT).

The Board was in receipt of a letter from the applicant seeking withdrawal of the variance application. Mr. DiGiulian moved that the Board allow the withdrawal without prejudice. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

//

Page 223, January 27, 1981, Scheduled case of

10:20 A.M. ROBERT M. CUPP, appl. under Sect. 18-401 of the Ord. to allow construction of a detached garage to 6 ft. from rear lot line and 6 ft. from side lot line (20 ft. min. side yard and 15.4 ft. rear yard req. by Sects. 10-105 and 3-107), located 6516 Joyce Road, Walhaven Subd., 91-2((2))14, Lee Dist., R-1, .516 ac., V-80-L-189. (DEFERRED FROM 11/25/80 AT REQUEST OF APPLICANT).

Mrs. Katherine H. McKay, attorney at law, represented Mr. Cupp. Mrs. McKay resided at 5436 Cabot Ridge Court in Fairfax. She stated that the variance was sought in order to construct a garage 6 ft. from the side lot line. Without a variance, the garage would have to be constructed 15 ft. from the side lot line. The property was zoned R-1 and was an old sub-standard lot being only 71 ft. wide. Mr. Cupp was seeking a variance to make the best use of his property. If the garage were constructed according to the setback, it would be situated in the middle of the back yard which would destroy some fruit trees. Mrs. McKay stated that this was a very small lot and it was easy to see how a garage constructed in accordance with the setback would totally destroy the property. She stated that the garage would not affect the neighbors. There was a vacant lot to the rear and the owner had no objection to the variance. The neighbor to the right did not object.

Mrs. McKay stated that the detached garage was in keeping with the area. Out of 11 garages in the area, 11 were detached with similar setbacks as requested. She stated that Mr. Cupp's garage would not be anything different than what was already existing in the area. She informed the Board that Mr. Cupp purchased the property in 1978 with the hope of building a garage. He has determined where the sewage fields are located and wants to make more efficient use of the property.

Chairman Smith questioned the size of the garage. Mrs. McKay stated that the garage would be 39.4 ft. x 30 ft. She stated that Mr. Cupp was in the auto repair business and had three cars. Mr. Hyland inquired if that was the reason for the garage. Mrs. McKay stated it was not. She stated that Mr. Cupp had an interest in cars and had three of his own. Mrs. Day inquired as to what was on the property behind Mr. Cupp's lot and was informed it was a vacant lot with a shed that set close to the property line. Mrs. Day inquired as to how close the shed was located and was informed it set 6 ft. from the property line.

In response to questions from the Board regarding the proposed structure, Mrs. McKay stated that it would be a block building that would be painted. Mr. Hyland inquired if the garage had to be so large as it was larger than most of the other garages in the area. Mrs. McKay stated that it was the maximum but indicated that a two car garage would be better than none at all. However, she stated that Mr. Cupp did own three cars. Mr. Hyland inquired as to

whether the garage could be located in the back yard. Mrs. McKay responded that Mr. Cupp had a garden in his yard over the drain fields. In addition, she stated that the location of the proposed garage had an easier access. Mr. Hyland stated that the dimensions of the garage were only 8 ft. less than the size of a house. Mrs. McKay agreed that the size was large. She stated that Mr. Cupp planned on storing the three cars and other items in the garage. Mr. Hyland inquired if Mr. Cupp planned to restore and repair vehicles in the proposed garage. Mr. Covington stated that he could not do it for resale.

Mr. Robert Cupp of 6516 Joyce Road informed the Board that his auto business was located at 1912 Duke Street in Alexandria. He stated that he had no desire to do auto repair at his home. The three cars would be stored in the garage so as not to interfer with his business. He stated that he had owned the cars for 10 years. They were sitting out in the open at his mother's property. Chairman Smith stated that three cars could be stored in a 30 ft. building. Mr. Cupp responded that he would be working on the cars with equipment of his own. Chairman Smith stated that the normal garage was only 10 ft. He stated that Mr. Cupp could easily fit 4 cars into a garage of this size. Mr. Cupp stated that he had very large equipment such as a lave which he needed to store in the garage in addition to the three cars. Chairman Smith stated that the maximum two car garage was approximately 24 ft. He stated that Mr. Cupp would have no trouble at all meeting the setback for a two car garage. It was true that he would have to give up some of the land but if he had a hobby then sometimes hobbies take up some of the other land spaces. Chairman Smith stated that he assumed that the garden was a hobby also although they were almost essential nowadays.

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

Page 224, January 27, 1981 Board of Zoning Appeals
ROBERT M. CUPP

RESOLUTION

In Application No. V-80-L-189 by ROBERT M. CUPP under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage to 6 ft. from rear lot line and 6 ft. from side lot line (20 ft. minimum side yard & 15.4 ft. rear yard req. by Sects. 10-105 & 3-107) on property located at 6516 Joyce Road, tax map reference 91-2((2))14, County of Fairfax, Virginia, Mr. Hyland 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 January 27, 1981 and deferred from November 25, 1980 at the request of the applicant; 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 .516 acres.
4. That the applicant's property has an unusual condition being a substandard lot created prior to the adoption of the current Zoning Ordinance; and further, that compliance with the Code in the placement of the garage would prevent the applicant from the utilization of his property in the best possible manner.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

10:30 A.M. TACO BELL, INC., appl. under Sect. 18-301 of the Ord. to appeal decision of Zoning Administrator dated October 29, 1980 that appellant's businesses are fast food restaurants, A-80-015.

Ms. Jane Kelsey of the Zoning Administrator's Office informed the Board that it was the Zoning Administrator's decision in this case that Taco Bell restaurants were fast food rather than eating establishments. She stated that there were major distinctions between the two categories. The Code addressed the manner in which the food was brought to the customer. The definition of fast food restaurant is one in which the food is provided to the customers, wrapped and/or packaged, ready for consumption in cars or off-premises. The definition of eating establishment states that its one where the food is provided for consumption primarily therein. The principal use of a fast food is wrapped or packaged food and drink for consumption outside the building.

Ms. Kelsey explained to the Board that the Zoning Administrator had received a letter from Taco Bell in July in which it stated that the national average indicated that customers ate in the restaurant. The letter stated that 85% of the customers consumed food on the premises which led the Zoning Administrator to respond to the letter that Taco Bell was an eating establishment. However, several months later, the Zoning Administrator visited a Taco Bell restaurant and was informed by the manager and through his observations that 50 to 75% of the customers consumed the food on the premises while 25 to 50% were carryout customers. It was the 25 to 50% carry out business that constituted a principal use and, therefore, it was the judgment of the Zoning Administrator that Taco Bell would be a fast food restaurant.

Ms. Kelsey stated that although the food at Taco Bell was not fully prepared or wrapped ahead of time, it was quickly prepared from an assembly line of items much like a sandwhich. The service was from the counter. There were no plates or silverware or waiters, etc. She stated that the orientation was much more like a fast food restaurant. Based on those observations, it was the Zoning Administrator's position that Taco Bell was a fast food restaurant rather than an eating establishment.

Mr. Hyland stated that he was struggling with the definitions of eating establishment and fast food restaurant as both definitions contained words that were not precise. He was concerned over the word primarily for food and drinks for an eating establishment and about the principal use off premises for a fast food restaurant. Mr. Hyland stated that according to the dictionary, principal use meant most consequential. He stated that 25% to 50% then constituted most consequential in terms of use. Mr. Hyland stated that he was not certain of the intent in the definition of principal use. Mr. Yates responded to Mr. Hyland uncertainty be stated that the definition of principal use had to be read as "a principal use" which was distinct from "the principal use." Mr. Yates stated that a principal use of 25% to 50% carryout business would be a principal use. Mr. Yates informed Mr. Hyland that he appreciated his reference to the definition and his concerns with the terms but he stated that he had lived with them for 2½ years.

Mr. Hyland stated that there must be some quantification in the definition if 25% to 50% would constitute a principal use. In the letter from the appellant, it was suggested that 85% would be consumed on the premises with 15% carryout which would not constitute a principal use. However, 25% to 50% seemed to go beyond being minor.

Mrs. Day stated that Mr. Hyland was speaking of quantity but what was also involved was the method of "fast food" preparation. She stated that fast food was prepared and then it was wrapped for when a customer wanted it. Mrs. Day inquired of the staff as to what was the difference in applying for a fast food or a eating establishment. She inquired as to what was the next step for an applicant if one was denied.

Mr. Yates stated that eating establishments were allowed by right and fast food required a Special Exception. Mr. Yates stated that he had met with the representative from Taco Bell and their attorney, Mr. Blankenship, and they were advised of the changes they could make to become an eating establishment. Mr. Yates stated that the whole style of service would have to be changed from that over the counter to being served at a table and they would have to provide a service more in keeping with the conventional restaurant type of activity. Mr. Yates stated that it was not possible for Taco Bell to change their line of service which was more of a fast food because of the style of delivery.

Mrs. Day inquired as to the attitude of the community towards the Taco Bell facility in Manassas as to whether they was any annoyance to the neighborhood. Mr. Yates stated that his office had not conducted a neighborhood evaluation. As a land use, Taco Bell would be considered much like a McDonald's as it was very much the same type of use. Mrs. Day inquired as to whether there had been any objection to the three sites chosen by Taco Bell. Mr. Yates stated that he was not the person to determine whether they were acceptable to the local community or not.

Mr. Hyland inquired if there was a distinction between Pizza Hut and McDonald's. Mr. Yates replied that McDonald's was a fast food restaurant but Pizza Hut was an eating establishment. Mrs. Day inquired as to whether Long John Silvers was similar to the Taco Bell. Mr. Covington informed Mrs. Day that there had never been any distinction made about Long John Silvers as it had been in business for ten years. Chairman Smith stated that it had been there before the Zoning Ordinance required Special Exceptions for fast food restaurants. It was

226

also existing prior to the Highway Corridor Overlay District being established. Mr. Yates stated that the Pizza Hut had sit down service with waitresses which was why it was eating establishment.

Mr. Yaremchuk questioned the Zoning Administrator as to his response to the July letter of the appellant in which it was determined that Taco Bell would be an eating establishment based on the contents of the letter. Then it was not until the site plan was submitted that the Zoning Administator went into greater detail. Mr. Yaremchuk inquired as to why the Zoning Administrator had not gone into complete detail at the time of the inquiry in July. Mr. Yates stated that he may have been negligent in his response to the July 6th letter. Mr. Yaremchuk stated that Taco Bell had purchased several sites and had gone into the expense of preparing the site plans after relying on the word of the Zoning Administrator. Mr. Yates stated that he was aware of the ramifications of their having relied on his word. Mr. Yaremchuk inquired as to what had made the Zoning Administrator go into more detail in October. Mr. Yates responded that the site on Annandale Road brought out the question of carryout. There was a covenant on one of the parcels restricting carryout which begged the question to the Zoning Administrator as to whether this was a fast food restaurant which triggered another investigation. Mr. Yaremchuk inquired if there were any Taco Bells in Fairfax County and was informed that there were not any. Mr. Yates stated that he appreciated what his turnaround had done to the applicant. Mr. Yaremchuk stated that he was bothered by the turnaround. Mr. Yates responded that it bothered him as well.

Mr. Hyland inquired of Mr. Yates as to whether he had had any indication from the applicant that the Taco Bell for the three locations would be different from the one viewed in Manassas. Mr. Hyland stated that if the operation were consistent with the information received in the letter of July 6th, and 85% of the activity was off premises, would it then satisfy the interpretation of the Ordinance as to this being an eating establishment. Mr. Yates stated that 85% off premises would not change his position. He stated that he had queried the applicant as to the character of the facility and as to whether the new locations would be the same as others on the East Coast. He indicated that the representatives had not offered any different information so he could only assume it was the same operation. Mr. Hyland inquired as to whether Taco Bell was considered fast food or eating establishments at the other locations. Mr. Yates responded that he did not how Prince William County regulated the facility or whether they even made the distinction in other jurisdictions.

Chairman Smith stated that Mr. Yates had made a decision based on the information that was provided him in the letter from the applicant at that time without any further research in the matter. Mr. Yates stated that was correct and he indicated that he may have been negligent in not researching the matter more before committing himself. Chairman Smith stated that the Zoning Administrator had to rely on the information that was presented at that time. McDonald's, Gino's and Roy Rogers were all fast food restaurants under the Zoning Ordinance. They also had an assembly line arrangement and pre-prepared food to be picked up and consumed so the customer could move in and out at a very fast speed. Mr. Yates stated that was true. He stated that he could find very little distinction with Taco Bell as it was similar to McDonald's with fast, quick service.

Mr. Hugo Blankenship, an attorney located at 4020 University Drive in Fairfax, represented the appellant. Mr. Blankenship informed the Board that the representatives of Taco Bell had been under the impression that at the time the letter was mailed to Zoning in July, that the Taco Bell site in Manassas had been visited and inspected by officials of the County. In any case, Taco Bell had received the official response to its letter of July 6th and had relied on that response. Mr. Blankenship stated that considerable undertakings had already developed. The letter of July 6th was written by Mr. Stump. Mr. Grossic was the District Manager in the real estate of Taco Bell and Mr. Perdue was the Operations Manager. They had all been involved in extensive work since July up until October. The work had included contracts, selection of sites, engineering studies and going through the site plan process with the County. Mr. Blankenship stated that there was one approved site plan which went through the County process. The other site plan came under question because of the site in Annandale which had a covenant on the ground which prohibited carryout service which resulted from some dispute in zoning a long time ago. Mr. Blankenship stated that it had nothing to do with the outcome of this proceeding. He stated that he did not think any earlier definition would apply to this instance of the use being a fast food restaurant.

Mr. Blankenship stated that the Zoning Administrator's report of January 22, 1981 laid out the two definitions in question. The definition of an eating establishment stated <u>any restaurant</u> and was followed by examples such as coffee shop, short-order cafe, tavern, soda foundation, etc. <u>or</u> any other establishment where food or drink was consumed primarily therein. Mr. Blankenship stated that the fast food restaurant was the only exception from the definition. He indicated that it was narrowly construed. The two definitions needed to be placed side by side to determine where the County found itself.

Mr. Blankenship informed the Board that the people most directly concerned with this operation were present at the hearing. He stated that he wanted to take issue with the argument that says there could be more than one principal use. The definition of principal use is most consequential, first in rank, etc. The eating establishment definition uses the word

"primarily". Mr. Hyland inquired as to Mr. Blankenship's definition of primarily. He responded that primarily was first in time, primary grade, it had to do with order of time. Mr. Blankenship stated that you had to go to see what the intent was.

Mr. Yaremchuk questioned Mr. Blankenship as to what percentage something became a principal use. Mr. Blankenship responded that he could not be wedded to a survey. He informed the Board that Taco Bell had another facility in Woodbridge which had 77% food consumption on the premises and 23% off premises. The 23% off the premises could not be the principal use of the operation. Mr. Blankenship stated that the facility in Manassas was more carryout and had less volume. The percentages quoted in the letter of July 6th were the national averages of the company. Mr. Yaremchuk inquired of Mr. Yates as to whether he had actually counted numbers at the Manassas facility or estimated them. Mrs. Kelsey responded that they had counted numbers in order to come up with the percentages. Mr. Yaremchuk inquired as to how they arrived at the outcome. Mrs. Kelsey stated that in addition to counting, they had discussed the carryout with the manager who had estimated that 25% to 50% of the business was carryout.

Mr. Yaremchuk inquired if the customers had been counted in order to come up with the figures. Chairman Smith stated that he could clarify the situation to some degree as he was familiar with it. He indicated that there were certain times of the day that the carryout would be the greater business. He stated that during lunch, people were on the move and the business was more carryout. At dinner, people moved at a more leisurely pace.

Mr. Yaremchuk stated that he still wanted an answer from Mr. Blankenship as to what percentage he thought a primary use was based on. Mr. Blankenship responded that primary use was to eat on the premises. He stated that the real thing was to look into the orientation of the operation, as to the decor, the ways the money was spent, etc. Mr. Yaremchuk stated that the County had determined that primary use was when you went in and picked something out and then you were gone. Decor had nothing to do with it. Mr. Yaremchuk stated that since the operation dealth with food consumption on and off the premises, where do you draw the line. Mr. Blankenship responded that you drew the line over the 50% mark. He stated that there could only be one principal use and any other would be secondary. Mr. Blankenship stated that it was clear in this case that the principal and primary averages that existed in the national figures were that this was an establishment for eating on the premises. Mr. Blankenship stated that the literature from another state where Taco Bell was located indicated that it was sit down operation. He offered the literature for the record.

Chairman Smith inquired of Mr. Blankenship as to whether it was his opinion that any item prepared could be removed from the premises for consumption. Mr. Blankenship stated that the food was prepared to order. He stated that if you went into McDonald's, the food was all wrapped and sitting there all stacked up in a warming situation. That's what fast food was all about because it was there waiting for you. Chairman Smith stated that was not true for Roy Rogers. Mr. Blankenship stated that he was not familiar with Roy Rogers. Mr. Blankenship stated that the ingredients for Taco Bell are pre-prepared. The shell for the taco was cooked ahead of time but then it was prepared for the customer at the time of order. Mr. Blankenship stated that it was the kind of food that made the difference. He stated that Taco Bell's food was intended to be eaten on the premises as it was messy to take off the premises. Chairman Smith inquired if there was anything other than Tacos served at the facility and was informed there were 11 different items.

Mr. Yaremchuk questioned Mr. Blankenship regarding the literature he had presented. From the picture, it showed a board with all the food prices. Mr. Yaremchuk stated that the facility was oriented towards fast food since the prices were on the board. Mr. Blankenship responded that many cafeterias had a billboard as the prices changed occasionally. Mr. Yaremchuk stated that the board led him to believe that people came in and ordered and then left. He stated that they did not come in and sit down and order. He inquired if a waitress came into the dining area to wait on customers. Mr. Blankenship stated that Taco Bell was more of a cafeteria with a tray that you took to a table and sat down to eat.

Mr. Hyland questioned Mr. Blankenship as to whether he would accept as the definition of "primary", the phrase <u>for the most part</u>. He stated that Mr. Blankenship had been using four dictionaries and Mr. Hyland only had one. Mr. Blankenship stated that the phrase would fit the definition of Taco Bell. Mr. Blankenship informed the Board that he thought it fell into the definition of principal use as it was more to the basic intent of the operation. He stated that the clear intent was to have people come in, sit down and eat. Mr. Blankenship stated that if there was a matter of confusion over the definitions of the Ordinance, then it should be cleared up by some subsequent definition by the Board of Supervisors. He stated that the original judgment of the Zoning Administrator more fairly fit the factors of the case. It was only because of the problem in Annandale over the covenant that the question even arose.

Mr. Hyland stated that when he had questioned Mr. Yates for the definition of a fast food restaurant, he had distinquished between <u>a</u> principal use and <u>the</u> principal use. Mr. Hyland inquired if Mr. Blankenship made the same distinction. Mr. Blankenship stated that he felt it was appropriate because this was an exception to another definition. It was referred to a much broader definition. Mr. Hyland questioned whether there could be two principal uses and a third use which was incidental. Mr. Blankenship stated that he did not think so. He

stated that if the word principal meant anything, it meant first in rank. Mr. Hyland stated that if 40% of food was consumed on the premises, 40% was taken off premises and 20% was something else, it would be presumed that that both definitions of the Ordinance had been satisfied. He inquired if that was the position of Mr. Blankenship. Mr. Blankenship stated that it was not as the definition of eating establishment definitely excluded a fast food restaurant. Mr. Hyland inquired as to the reason for the exception for fast food restaurants. He wanted to know the main reason for having some restaurants allowed by right and others having to go before the Board of Supervisors for a Special Exception. He asked if it was because of the traffic generated. Mr. Blankenship stated that it was not spelled out but he believed the traffic was the reason.

Mr. Hyland stated that fast foods had more traffic coming on and off the property because of the carryout than a restaurant. Since that was the case, he inquired if there was really any difference in the Taco Bell as far as the traffic coming in and off the property than from other fast food restaurants. Mr. Blankenship stated that there was more traffic coming and going in a gas station or auto repair. He stated that there were considered fast service stations. However, if the majority of the customers came for auto repair but also got gasoline then there was a difference. Mr. Blankenship stated that was what they had and that the percentages were hard to say. Mr. Hyland stated that you had to get back to the definitions and not beyond. He inquired as to the more important use which Mr. Blankenship stated was the volume of business.

Mr. Blankenship informed the Board that they had to make a distinction. The only plea he had was that they had started 18 months prior to engage in the enterprise. He stated that they were caught in a situation of a problem that no longer exists. If the situation had not been there, there would not have been any appeal. Mr. Blankenship stated that the harsh rule should not be applied in this case. He stated that would be to strain the difference and to make the secondary use the primary use. Mr. Blankenship stated that the Zoning Administrator was a highly respected individual and was also a personal friend.

Mr. Hyland questioned the letter from Mr. Stump which had indicated that 85% of food was consumed on the premises. Mr. Blankenship responded that had been the company's national average. Mr. Hyland stated that then in Fairfax County, the percentage should not differ too much from the 85% average. He stated that he felt that with 50%, Mr. Yates would have been put on notice that it could go either way. Mr. Hyland informed the applicant that he felt that in all fairness, the Zoning Administrator had reacted to the situation properly under the Ordinance. Mr. Hyland inquired of the applicant if he could represent to the Board that the percentage would meet the 85%. Mr. Blankenship stated that if he did and the percentage turned out to be only 84%, the County would be on top of him. Mr. Hyland stated that the County would only be concerned if it turned out to be only 50%.

Mr. Yaremchuk cited examples of how percentages were used. For instance, the Alcoholic Beverage Control used percentages of volume of food and liquor sold in restaurants. If the volume of liquor exceeded 50% then the liquor license was revoked. Mr. Blankenship stated that was all right as the percentages were written into the law. However, he stated that the percentages were not written in the Zoning Ordinance. Mr. Yaremchuk stated that the Zoning Administrator had to have something to hang his hat on. Apparently, the Zoning Administrator had found the percentages to be somewhat different in the facility in Manassas. Mr. Blankenship stated that had been on one occasion during one lunch hour.

Chairman Smith inquired again as to the definition of fast food restaurants. He stated that in a fast food restuarant all of the food was pre-prepared but not necessarily prewrapped but it was assemblied and ready to be consumed on the premises or off the premises. He informed Mr. Blankenship that in Taco Bell, all of the food was pre-cooked but the assembly line was based on the option of eating there or removing it. Chairman Smith stated that the definition of fast food was basically to have food prepared or semi-prepared to allow people to get in and out quickly. If they took food off the premises, it was true that it would get cold but the people still had the option which was not true in most restaurants or cafeterias. Chairman Smith stated that you seldom see anyone take carryout from a restaurant or a cafeteria as it disrupted the line.

Mr. Blankenship stated that he had offered the evidence but was caught in the County's definitions. He stated that the dilemna was that the Ordinance did not define percentages. Chairman Smith stated that he had a problem with percentages because it was the type of operation and the method or operation rather than percentages. He stated that was what he thought the County was trying to do in this case; to relate the type of land use involved where you had the opetion of eating there or removing it from the premises which was a high volume business.

Chairman Smith advised Mr. Blankenship that he had been notified that he could alleviate the question of the appeal by applying for a Special Exception. He stated that the applicant was not really being denied the use on the three pieces of property.

Mr. Hyland stated that the definition of fast food used the term "wrapped". He stated that McDonald's was a fast food restaurant because it prewrapped the food. Mr. Hyland stated that Roy Rogers was considered a fast food even though it cooked up the chicken ahead of time and

Page 229, January 27, 1981
TACO BELL, INC.
(continued)

placed it in a warmer. He stated that he felt Taco Bell was similar to that situation. Mr. Yaremchuk questioned Mr. Yates as to the determination of the County that Roy Rogers, McDonald's and other facilities were considered to be fast food. Mr. Yaremchuk stated that some of the fast food restaurants had seating capacities but they were still required to go before the Board of Supervisors for a Special Exception as they had been determined to be fast food. He stated that they all went through the same procedure. Mr. Yates stated that was correct. Mr. Yaremchuk stated that the Zoning Administrator in his own mind felt that Taco Bell was not any different from the others and he had to be consistent.

Mr. Blankenship stated that some restaurants offered a choice for food both ways, either to eat in to carry out. Some were only featured as carryout. Mr. Blankenship stated that he belived the problem was the definition of the principal use. He indicated that the facts would support that the principal use for Taco Bell was an eating establishment rather than a carryout. He stated that was the intent of the owners and the operators that it would be an eating establishment.

Mr. Blankenship informed the Board that Mr. Perdue was present to answer any questions and had come a great distance. Chairman Smith stated that the applicant had to go back to the definitions. One of the factors that the applicants had not talked about or given enough concern was the prepared food. Chairman Smith stated that the prepared food gave patrons an option that was not available in some other restaurants. Mr. Blankenship stated that he did not want to argue but he believed the principal use of Taco Bell was an eat in business. He stated that was what they were and that was what they intended to be. He indicated that the Board had the power to see that they continued to be just that.

Mr. Hyland inquired of Mr. Yates as to the intent or importance of the words in the Ordinance when the Board of Supervisors passed the language in the Ordinance. He inquired if Mr. Yates was aware of what they had in mind at the time. Mr. Yates stated that he did not know whether anything was established in writing when it became a part of the Ordinance. He stated that he did not think the words of fast food addressed or distinguished between this facility and the eat-in establishment and the restaurants that do rely on quick service, high volume and high turnover which created high trip generation and intensity of the use. He stated that the intensity of the use was greater for fast food than associated with an eat-in facility. It was their judgment that fast food facility be treated differently than from a eat-in facility.

Mr. Blankenship asked that the Board refer to the second paragraph in the July 6th letter to Mr. Yates which stated that Taco Bell was a chain of fast food restaurants. Chairman Smith stated that apparently Taco Bell was faster than the Zoning Administrator had anticipated in his response to the letter.

Mr. Perdue of 12402 Rockridge in Bowie, Maryland informed the Board that Taco Bell had not been strict in keeping statisical data. He stated that it was tough to have more than a gut level feeling. Mr. Perdue informed the Board that the manager in Manassas only had a gut level feeling. He stated that he did not have statisical data but indicated that if the facility was established around a college campus there would be more carryout. However, he stated that their products did not travel well. He stated that it was impossible to drive and eat a taco. Mr. Perdue stated that they were in the process of trying to change their image by enlarging the dining room as the products were better if eaten in the dining room while still hot.

Mr. Hyland inquired as to the difference in construction for the new facilities and whether there would be any difference from the facility in Manassas and Woodbridge. Mr. Perdue stated that they would have a different type of lighting and would have more seats and more comfortable seating. The normal seating was for 40 patrons. He stated that they would add up to 42 seats and had plants, brass lamps, wooden beams, etc. to make the place more attractive. Mr. DiGiulian stated that the seating in the Woodbridge was of the old style and had about 23% carryout according the survey. He inquired if the carryout would increase in the new facilities. Mr. Perdue stated that he hoped it would be less as the products were best when eaten in the restaurant. He stated that they did not have waitresses. Mr. DiGiulian inquired if they preferred to have the patrons eat on the site or carry out the products. Mr. Perdue stated that the carryout product would not be the same as it did not reheat well and the product fell apart.

Mr. Yaremchuk stated that the reason they had the better average was because they had to attract people away from other fast food and wanted to be a little bit different so people would recognize the building. Mr. Perdue stated that the building did distinguish them from any other facility. The dining room design would not allow them to do too many changes. Mr. Perdue stated that Taco Bell bought all of their products fresh which was a key to their selling points.

During rebuttal, Mr. Yates stated that Mr. Blankenship had presented some good arguments with respect to the definitions with which he had to deal with in reference to the use. Mr. Yates stated that he did not deny or rebutt the comments. He stated that he was bothered by the two definitions but Article 2 of the Ordinance stated that if a use had a similar characteristic that the latter listing shall govern or be referred to the Zoning Administrator. Mr. Yates stated that based on the definition of the Ordinance, he could not say that

Taco Bell was a fast food or an eat-in establishment. He stated that he was only aware of the intent of the Board of Supervisors when regulating fast foods. Mr. Yates stated that he could not distinguish between Gino's, Taco Bell, McDonald's, or Roy Rogers and would have to deem that Taco Bell was a fast food. To say otherwise might jeorpordize others.

Mr. Blankenship stated that he was influenced by the Zoning Administrator's remarks in which he stated that he could not say that Taco Bell was a fast food restaurant or an eat-in establishment. So, according to Mr. Blankenship, the facts went back to the "primary" use. He stated that it could not ever be interpreted to expand the authority of an ageny beyond the conditions of the Ordinance. He stated that the language did not broaden the power of the Zoning Administrator to make an arbitrary decision.

Chairman Smith stated that he thought what Mr. Yates was trying to say was that if Gino's, Roy Rogers, Red Barn, and McDonald's were fast foods then so was Taco Bell. Also, the intent of the Ordinance was that this was fast food if food was pre-prepared for consumption and/or taken out. Chairman Smith stated that was recognized nationally by all organizations as being fast food restaurants.

Mr. Blankenship stated that Taco Bell, if allowed to be installed in Fairfax County, would proceed and rely on the matters presented to Mr. Yates in 1979 as the principal use. He stated that now, eighteen months later, Taco Bell was in some serious legal problems. He stated that the plain and simple solution would be to let them go forward.

Mr. Yates informed the Board that if the matter was so brief and simple, he would not have any gray hairs on his head. He stated that the matter was not quite so cut and dried as Mr. Blankenship would lead the Board to believe.

Chairman Smith closed the public hearing. Mr. Yaremchuk stated that he was not prepared to vote on the matter as he had never visited Taco Bell. He stated that he wanted to go and look at it himself to see the dining room and the way it was oriented. Mr. Hyland stated that he supported that approach. In addition, he stated that he would like a search done of the Minutes of the Board of Supervisors for when this was put in the Ordinance. Mr. Yaremchuk moved that the Board defer decision for a period of two weeks. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith). Mr. Yaremchuk moved that the Board set up a special meeting in order to go out and view the facilities in Manassas and Woodbridge. The special meeting was scheduled for February 6, 1981 at 9:30 A.M.

//

Page 230, January 27, 1981, Recess

At 12:45 P.M., the Board recessed for lunch. The Board reconvened at 1:40 P.M. to continue with the scheduled agenda.

//

Page 230, January 27, 1981, Scheduled case of

11:00 A.M. WEXFORD ASSOCIATES, appl. under Sect. 18-406 of the Ord. to allow construction of a dwelling to 17 ft. from an abutting pipestem (25 ft. min. front yard req. by Sect. 2-416), located 9100 South Wexford Drive, Wexford Drive, Wexford South Subd., 28-4((27))25, Centreville Dist., R-3, 12,556 sq. ft., V-80-C-232.

Mr. Russell Rosenberg, an attorney in Fairfax, represented the applicant. He stated that the grading plan would show that the location of the proposed house for lot 22 which was subject of the variance was located within 17 ft. of the pavement of the driveway. A variance was necessary as the Zoning Ordinance required a 25 ft. setback from the pipestem driveway. Mr. Rosenberg informed the Board that the citing of the house and the driveway had been previously. There was an interpretation that dealt with the 25 ft. setback from pipestem driveways which was Section 2-416 of the Code. Mr. Rosenberg stated that the proposed house was only set back 17 ft. from the pavement. He indicated that was through no fault of the applicant as the grading plan had been drawn up by an engineer and was approved by the County. Mr. Rosenberg stated that the location of the dwelling only 17 ft. from the pipestem was not contrary to the rest of the development plan for Wexford and was in no way detrimental to the property. Mr. Rosenberg stated that the subject pipestem driveway served two lots to the rear of lot 22. He stated that no one had raised any objections to the position of the house to the driveway.

Mr. Rosenberg stated that the builder had to put the house under roof as he had spent about $50,000 in the development of the house. Mr. Rosenberg stated that from looking at the criteria which applied to variances, there was no fault on the applicant as it had been an innocent error. Mr. Rosenberg stated that the criteria had been satisfied and urged the Board to grant the requested variance.

Mr. DiGiulian inquired if the grading plan had been submitted to the County and approved and was informed that was correct. Mr. DiGiulian inquired as to what was the difference in

the plan which showed a 20 ft. and the fact that now the building was only 17 ft. Mr. Rosenberg stated that when the house was cited in the field, it was situated at the 17 ft. setback rather than the 20 ft. shown on the plan. However, he stated that the setback was still 25 ft. from a pipestem.

Chairman Smith inquired as to when the applicant first became aware of the 25 ft. setback requirement. Mr. Rosenberg stated it was subsequent to the construction. After the development had been done and after the building permit had been issued, the applicant became aware of the requirement but construction had already commenced. Chairman Smith inquired if the lot had required a lot width variance previously and was informed that it was possibly it was a cluster subdivision because of the open space. However, Mr. Rosenberg stated that Wexford South was not a cluster subdivision. He stated that there had been a variance originally which approved the pipestem driveway. Chairman Smith stated that there had not been an error in the location of the house but an error in the applicant's knowledge of the setback requirement. Mr. Rosenberg stated that no one acting on behalf of Wexford had been aware of the requirement. The house had been approved on the grading plans and it was the grading plan which was in error which resulted in a fault out in the field work.

There was no one else to speak in support of the application. The following persons spoke in opposition. Mr. Eugene Critchfield of 9104 Ridge Lane, lot 13. Mr. Critchfield informed the Board that he did not see any moral or legal justification for granting the variance. He stated that no pipestems were made a condition by Mrs. Pennino. However, the BZA had chose to ignore that condition when granting the three pipestem lots. Mr. Critchfield stated that the pipestem had impacted his property. It had been claimed that there was no law against making money and that was what the applicant was trying to do. Mr. Critchfield stated that the BZA existed to prevent corporate interests from ignoring the Codes and the laws of the public interest.

Mr. Critchfield further stated that his neighbor Mr. Berhan was unable to be present at the hearing but had asked that the Board add his views as being the same as Mr. Critchfield. Mr. Berhan's property had also been ruined by the sandbagging of one acre zoning. He stated that this was not the way to justify the variance by awarding the request.

There was no one else to speak in opposition. During rebuttal, Mr. Rosenberger stated that there had been a previous variance on the property but the subdivision was not cluster. Mr. Rosenberg informed the Board that the property was zoned R-3 which would allow two to three dwelling units per acre. There were profers made with respect to the open space to the rear of the property. Mr. Rosenberg informed the Board that the masterplanning and the zoning and the approval of the pipestem had already taken place. The decision before the BZA at this time was whether they had complied with Section 18-406 of the Code. Mr. Rosenberg stated that the error was based on the grading plan which was approved by the County. Mr. Rosenberg advised the Board that when they looked at the other lots and their relationship with the houses on these lots, that the request was not inconsistent. Mr. Rosenberg stated that this property was separated by a row of streets and houses from Mr. Critchfield's property.

Mr. DiGiulian inquired as to how far along the construction had commenced before they were aware of the problem with the setback. Mr. Rosenberg introduced Mr. Porter to respond to the question. Mr. Porter stated that framing had begun on the first and second floor of the house.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. V-80-C-232 by WEXFORD ASSOCIATES under Section 18-406 of the Fairfax County Zoning Ordinance to permit construction of a dwelling to 17 ft. from an abutting pipestem (25 ft. minimum front yard required by Sect. 2-416) on property located at 9100 Wexford Drive, tax map reference 28-4((27))25, 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 January 27, 1981; 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

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

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

RESOLUTION

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:

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 1 (Mr. Smith).

Page 232, January 27, 1981, Scheduled case of

11:10 A.M. WEXFORD ASSOCIATES, appl. under Sect. 18-406 of the Ord. to allow construction of a dwelling to 15 ft. from an abutting pipestem (25 ft. min. front yard req. by Sect. 2-416), located 9094 South Wexford Drive, Wexford South Subd., 28-4((27)) 22, Centreville Dist., R-3, 12,149 sq. ft., V-80-C-233.

Chairman Smith announced that Mr. DiGiulian had to leave the meeting and would not be back for the remaining of the cases. Mr. Russell Rosenberg of 9401 Lee Highway in Fairfax represented the Wexford Associates. He stated that his comments should be referenced in the previous case. Again, the property and the construction of the house and the location of the house were based on the approved grading plan which showed the 15 ft. which was short of the required 25 ft. under the Ordinance. Mr. Rosenberg stated that this house had also been in the framing stage at the time of the discovery of the error. He stated that the error in the location was based on the preliminary plan and occurred after the building permit had been issued and was through no active error. Mr. Rosenberg stated that the variance did not impact any other property on the street or on the adjacent driveways. He stated that the applicant had complied with Sect. 18-406 of the Code and he asked the Board for favorable consideration.

There was no one else to speak in support of the application. Mr. Eugene B. Critchfield of 9104 Ridge Lane, lot 13, spoke in opposition. He stated that he found it difficult to accept that a person in the construction industry could make a 40% error. Mr. Critchfield stated that the variance had been granted previously for the pipestem lots. He stated that the applicant should not be awarded another variance. He informed the Board that if they had been doing their job previously, there would not be this problem now.

There was no one else to speak in opposition.

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. V-80-C-233 by WEXFORD ASSOCIATES under Section 18-406 of the Fairfax County Zoning Ordinance to allow construction of a dwelling to 15 ft. from an abutting pipestem (25 ft. minimum front yard required by Sect. 2-416) on property located at 9094 South Wexford Drive, tax map reference 28-4((27))22, 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 January 27, 1981; 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 to a building permit; and

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

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.

RESOLUTION

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. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 233, January 27, 1981, Scheduled case of

11:20 A.M. MANSION HOUSE YACHT CLUB, INC., appl. under Sect. 18-401 of the Ord. to allow marina access road and parking with gravel surface (dustless surface req. by Sect. 11-102), located 9321 Old Mount Vernon Road, Belle Rive Subd., 110-4((8))3, Mt. Vernon Dist., R-2, 2.9 ac., V-80-V-234.

&

11:20 A.M. MANSION HOUSE YACHT CLUB, INC., appl. under Sect. 18-401 of the Ord. to permit private marina as a community use, located 9321 Old Mount Vernon Road, Belle Rive Subd., 110-4((8))3, Mt. Vernon Dist., R-2, 2.9 ac., S-80-V-112.

Mr. George Arkwright, the Commander of the Yacht Club, represented Mansion House Yacht Club, Inc. He informed the Board that Mansion House Yacht Club had obtained an occupancy permit for a special permit which had expired in 1977. Under that permit, there was to be installation for 150 members. Mr. Arkwright informed the Board that Mansion House Yacht Club was never able to complete that installation because of problems. What they did, instead, was to continue operation on a small area that was connected to their initial special use permit. Mr. Arkwright stated that there was never any building erected on the site. They had applied for a site plan waiver and were advised that it was up the Director of Environmental Management. Mr. Arkwright stated that they had to reform the proposoed installation.

Chairman Smith inquired if any area of the river had been filled. Mr. Arkwright stated that they cleared and leveled the area. Chairman Smith inquired if the club had gone up into the inlet to build as they had anticipated. Mr. Arkwright stated that they had run into difficulty with the Corp of Engineers. Because of problems and delays, the permit with the Corp of Engineers had expired. That was in 1975 and it only governed from the water line out. Chairman Smith inquired as to what the club was now asking for. Mr. Arkwright informed the Board that an inspector had visited their site and informed them that they were not in compliance. There was an indication that they could apply for a waiver of site plan but they had gone on to reapply for a special permit in order to get their permit validated.

Mr. Hyland stated that essentially the club had gone back to the drawing board and given up on what was approved previously. There were certain proposals which the club had not been able to do. Now, the special permit had expired. The club was now before the BZA with a differet use. Mr. Hyland inquired as to what was the difference in the activities from what had been approved previously.

Mr. Arkwright stated that previously, the Board had approved 125 slips. Now, the club was not planning any slips, only moorings and boat dry storage. He stated that they were eliminating the slips and coming in with a scaled down version of the marina. In addition, they previoulsy thought they would have a market for about 300 familes. However, now the market was only about 50 families. Mr. Arkwright informed the Board that this was a private marina. Mr. Hyland inquired if the access was restricted or open. Mr. Arkwright responded that the access was open but it was accessible from adjacent property from a court on the other access road. He stated that their access was from the Mansion House Pool property. He stated that Mansion House Yacht Club had a 500 ft. entrance corridor with a gate that was locked. There was a turn around from the tennis courts to a gravel road. Mr. Arkwright stated that it would be a large distance as far as fencing was concerned. He stated that they did not have any security problems. He stated that the pool gates were closed at 10 A.M. People on the courts had keys. Mr. Arkwright stated that they had put chains on their property but he stated that their facility was located at the end of a 400 ft. entrance road. He stated that he believed the more the site was developed, the less problems there would be with security. Mr. Arkwright stated that the adjacent properties were developed. Mr. Arkwright stated that their facility did not have any fulltime security. The pool had someone there all night long. They had damage and vandalism but only had security during the summer months.

Mr. Hyland inquired if the Mansion House Yacht Club had any security. Mr. Arkwright stated that a 7 ft. fence would not keep anyone out that wanted to get in. He stated that their facility was deserted at night and had become a haven for teenagers on the weekends. Mr. Yaremchuk stated that there were a lot of residential lots around there. He was concerned about the amount of traffic from the road and the teenagers who went down there to drink beer late at night. Mr. Arkwright stated that the residential lots were not that close. He stated that the layout was very deceptive. The lots were on a ridge. Mr. Arkwright stated

that one of the problems they had when they put up a chain was that the teenagers started parking on Picardy Court. The Police had to come down and run them off. He stated that the teenagers were not noisy but they drank beer and left debris. It had become a nuisance on Picardy Court. Some of the teenagers parked there and walked down between lots to get to the water.

Mr. Yaremchuk inquired as to whether it was going to be economically feasible now that the club was scaling down its operation and would have only 50 families. Mr. Arkwright stated that it would be economically feasible. He stated that it was a do-it-yourself operation. He stated that the youngsters had used the land before the yacht club even existed. Mr. Arkwright stated that the facility was not used during the week. Mr. Yaremchuk stated that he would have a problem with that if he lived in the residential area nearby. Mr. Arkwright stated that the club had tried to correct the situation by placing a chain across the entrance. Mr. Yaremchuk inquired as to why there wasn't a gate instead of a chain. Mr. Arkwright stated that with a gate, you ran the risk of someone not closing it. With the chain, the last one up would put it in place. He stated that it was a heavy chain and that the youngsters could not get down there with the chain in place. Mr. Yaremchuk inquired if the club would be considered to be a public nuisance since the kids went down there all the time. Mr. Arkwright stated that the youngsters should be stopped from using the property as they were trespassing.

Chairman Smith inquired as to the dustless surface requirement and the request for a variance to that provision. He stated that from the plats, it appeared to be about a 1200 ft. road down to the dock. Mr. Arkwright informed the Board that the club would prefer to have gravel. He stated that as you swung your vehicle down from the tennis courts, there was a ravine about 400 ft. down to 20 ft. He stated that it was a very steep road benched into the side of the hill. He stated that easement was put in over top of the drainage ditch. Mr. Arkwright stated that the road was very isolated. He stated that you could not see the surrounding lots except for when the leaves were off the trees. Mr. Arkwright stated that it would cost the club a big outlay of money to build the kind of construction required because of the outfall and it was difficult for the club to do that at this time. Mr. Arkwright stated that the road would cost well over $100,000. He stated that the club had the construction in mind as a goal but he indicated that it was impossible at this time. He stated that the asphalt would take care of the erosion and the ongoing maintenance problem but the club would not be able to construct such a road within the next year.

In response to further questions from the Board regarding the marina, Mr. Arkwright stated that they did not propose to have big boats. He stated that they had changed their plans from what was originally proposed. Mrs. Day inquired as to the distance from Old Mount Vernon Road past lot 1 to the area where the members would make a right turn into their property. Mr. Arkwright responded that it was approximately 5,000 ft. Mrs. Day suggested that the club pave the road from the highway as it would save all that gravel. Mr. Arkwright responded that the road from the highway was a common entrance they had to share with the pool and that was already paved. Mrs. Day inquired as to the locations of the houses surrounding the entrance road. Mr. Arkwright stated that lot 4 had a house behind the tennis courts and it was the closest one to the road. He stated that Mr. McDonald resided there and he indicated that he had spoken to him.

In response to questions from the Board, Mr. Arkwright stated that the club had owned the property for ten years. It was a membership type of organization much like the pool and they had annual meetings. Mr. Hyland inquired as to the cost of fencing the property to keep out the youngsters for security purposes. Mr. Arkwright stated that one idea would be to put up a fence at the tennis court. He stated that he was only talking about a 5 ft. high gate which could be locked at night. He indicated that it would not keep everybody out but it would help. Mr. Arkwright stated that you would almost have to fence through all of the other lots as well in order to keep everyone out. He stated that he was not aware of the cost but he did not feel it would too burdensome. He stated that they only needed to discourage the teenagers. Friday and Saturday nights were party nights when the weather was nice. The fence would be a determent but it would not keep everyone out if they chose to climb over it.

Mr. Joseph Fitzgerald of 1306 Allwood Court informed the Board that he was a member of the Mansion House Swim Club which was the adjacent property owner to the north. He informed the Board that this was a remote area and the club had a limited membership. He stated that his facility supported this special permit application as it was beneficial. Mr. Hyland questioned Mr. Fitzgerald as to whether they had any security problems. Mr. Fitzgerald stated that his club had taken steps to hire a 24 hour secruity guard because of the teenage drinkers. Mr. Hyland inquired as to what would solve the problems and was informed that the swim club board of directors had been struggling with a solution for some time. Mr. Fitzgerald suggested that some of the parents of the teenagers go down there.

Mr. Alvin Knudson of 3801 Bellerive Terrace informed the Board that his home and his investment were on two lots on the boundary on Picardy Court over which the club had a right-of-way for a driveway. He stated that the club would not have an adverse effect and that he did not have any problem with them. He stated that he would like to see the road improved or sealed to improve the conditions that affected the other lots.

The next speaker was Dr. James P. McDonald of 3902 Picardy Court. He stated that he did not believe that the four houses on Picardy Court were opposed to the land use such as the one on the river. He stated that his concern and that of Mrs. Haddock was one of security. The access road went across the rear of his property where there was a chain with two posts. He stated that some kind of fence needed to be placed there. Even though it was a private club, it had become a community use with people coming up and down the road. Dr. McDonald stated that he did not have a problem with the dust. His real concern was the interim period when the marina was being used by people who were not members.

Mr. Hyland inquired of Dr. McDonald as to what he felt would be necessary. Dr. McDonald stated that he had talked to Mr. Arkwright on the phone and felt that there should be a fence. He stated that you were never going to stop pedestrian traffic. Dr. McDonald stated that he was new to the area and had not lived there during the summer.

The next speaker was Mrs. Riffee of 3912 Lee Dist. in Bellerive Terrace. She stated that she owned property to the south side of the marina. She stated that her house looked down on the marina and she could see it from all areas of her patio. She stated that he lot line was 100 ft. from the corner turn of the road to the marina which was quire noisy. Mrs. Riffee stated that the noise was not just from the cars but the trailers with boats on them. Mr. Yaremchuk inquired as to the amount of activity at night during the summertime. He inquired as to the number of cars per hour. Mrs. Riffee stated that there were an awful lot of cars and people who came and went at all hours of the night. There was not that much activitity during the winter time except for the minibikes and motorcycles. Mrs. Riffee stated that she had not talked to anyone in the club because she had just seen the sign for the hearing. She stated that she was concerned about the noise as the ravine heightend and magnified the noise. She stated that most nights, she could not sleep because of the drunken loud talk, laughing and music. Then early the next meeting, the swim club would start swim team practice. Mrs. Riffee stated that the gravel driveway would be very noisy. She stated that the area was in the flyway of National Airport.

During rebuttal, Mr. Hyland questioned the hours of operation of the marina. He stated that since there were security problems and if he were a neighbor, he would want to know when the people were authorized to be there. Mr. Arkwright stated that the hours of 9 A.M. to 1 A.M. were a carry over from the previous permit.

Discussion took place regarding the fencing in order to take care of the people on Picardy Court. Chairman Smith closed the hearing and the Board recessed for five minutes to discuss the matter prior to decision.

Page 235, January 27, 1981 Board of Zoning Appeals
MANSION HOUSE YACHT CLUB, INC.

R E S O L U T I O N

In Application No. V-80-V-234 by MANSION HOUSE YACHT CLUB under Section 18-401 of the Zoning Ordinance to allow marina access road and parking with gravel surface (dustless surface required by Sect. 11-102) on property located at 9321 Old Mount Vernon Road, tax map reference 110-4((8))3, County of Fairfax, Virginia, Ms. Day 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 January 27, 1981; and

WHEREAS, the Board had 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 2.9 acres.
4. That the applicant's property has a long access road isolated from a main highway and is exceptionally irregular in shape and has topograblic problems and has an unusual condition in the location of the wharf 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 nad/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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

3. The dustless surface shall be allowed for a single road access for a period of two years. At the end of two years, the applicant must show the Board a plan to provide a two way access and meet the dustless surface requirements.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Yaremchuk)(Mr. DiGiulian being absent).

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-V-112 by MANSION HOUSE YACHT CLUB under Section 3-203 of the Fairfax County Zoning Ordinance to permit private marina as a community use on property located at 9321 Old mount Vernon Road, tax map reference 110-4((8))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 of Zoning Appeals held on January 27, 1981; 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 2.9 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; 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of memberships shall be 90.
8. The hours of operation shall be 7:00 A.M. to 10:00 P.M. daily.
9. The number of parking spaces shall be 40.

RESOLUTION

10. The applicant shall construct at the site of the existing posting and chain which controls ingress and egress, a six (6) ft. chain link fence and gate to run across the road down into the woods at the left for approximately 10 to 12 ft. and then to the right to hook up with the fence at the top of the hill at the tennis courts provided that the Mansion House Swim Club will allow the applicant to do so.

Ms. Day seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Yaremchuk)(Mr. DiGiulian being absent).

Page 237, January 27, 1981, Scheduled case of

11:30 A.M. THE CHRISTIAN ASSEMBLY, appl. under Sect. 3-203 of the Ord. to amend S-253-75 for church to permit addition of a trailer classroom, located 8200 Belle Lane, 39-4((1))2 & 39-4((2))2, 3 & 4, Providence Dist., R-2, 9.00988 ac., S-80-P-110.

Mr. Daniel Juraschek of 8200 Belle Lane in Annandale informed the Board that it was the desire of his church to have a sunday school program of 125 students. He stated that they did not wish to cram all of the students into the trailer. Mr. Juraschek stated that the church would use the trailer in addition to other classroom space. The trailer would be used on a temporary basis. He informed the Board that the seating capacity in the sanctuary would not change so there was not a need for additional parking.

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

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-80-P-110 by THE CHRISTIAN ASSEMBLY under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-253-75 for church to permit addition of a trailer classroom on property located at 8200 Belle Lane, tax map reference 39-4((1))2 & 39-4((2))2, 3 & 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 January 27, 1981; 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 9.00982 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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

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 in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. This trailer is granted for a maximum period of five (5) years.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 238, January 27, 1981, Scheduled case of

11:45 A.M. SOUTHVIEW BAPTIST CHURCH, appl. under Sect. 3-203 of the Ord. to permit church and related uses, located 2620 Reston Avenue, 26-3((1))23, Centreville Dist., R-2, 4.2444 ac., S-80-C-111.

Mr. James Langdon, Pastor of the Southview Baptist Church, informed the Board that they were seeking a special permit to build a church on the property to house their worship for the vicinity of Herndon and Reston. He stated that the rest of the information was contained in the written statement. The property owners were the Board of Missions of Mt. Vernon.

In response to questions from the Board, Mr. Langdon stated that the membership would be comprised of 310 people. There would be 91 parking spaces provided and only 78 were required. He stated that they would have the normal hours of church activity.

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

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-80-C-111 by MT. VERNON BAPTIST ASSOCIATION & SOUTHVIEW BAPTIST CHURCH under Section 3-203 of the Fairfax County Zoning Ordinance to permit church and related uses on property located at 2620 Reston Avenue, tax map reference 26-3((1))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 January 27, 1981; and

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

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum seating capacity in the sanctuary shall be 310.
8. The hours of operation shall be normal hours for church operation.
9. The number of parking spaces shall be 91.
10. There will be a maximum of two employees.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 239, January 27, 1981, Scheduled case of

12:00 NOON REHEARING: LAND ASSOCIATES, LTD., appl. under Sect. 18-401 of the Ord. to allow resubdivision into two lots and one outlot, with each of the two lots having width of 6 ft. (200 ft. minimum lot width required by Sect. 3-E06), located 11006 Oakton Woods Way, Oakton Woods Subd., 37-1((18))3, Centreville Dist., R-E, 6.9888 acres, V-80-C-208.

239

Mr. Huntley represented Land Associates as Mr. Colby of that organization was on his honeymoon. Mr. Huntley informed the Board that the Park Authority who had objected the variance at the previous hearing no longer had any objections to the variance.

Ms. Dorothea Steffen of the Park Authority informed the Board that they were withdrawing their opposition and she gave the Board a letter for the file.

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

Page 239, January 27, 1981 Board of Zoning Appeals
REHEARING: LAND ASSOCIATES, LTC.

RESOLUTION

In Rehearing of Application No. V-80-C-208 by LAND ASSOCIATES, LTD. under Section 18-401 of the Zoning Ordinance to allow resubdivision into two lots and one outlot, with each of the two lots having width of 6 ft. (200 ft. minimum lot width required by Sect. 3-206) on property located at 11006 Oakton Woods Way, tax map reference 37-1((18))3, County of Fairfax, Virginia, Ms. Day 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 January 27, 1981; being reheard from December 9, 1980; 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 6.9888 acres.
4. That the applicant's property has an unusual condition in the location of the proposed lots. One lot shall consist of five (5) acres with a 25 ft. ingress and egress easement and the other lot shall have 12 ft. lot width facing Oakton Woods Way.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 239, January 27, 1981, Scheduled case of

12:15 P.M. CONGREGATION OLAM TIKVAH, appl. under Sect. 3-103 of the Ord. to permit building and parking lot additions to existing synagogue & related facilities, located 3800 Glenbrook Rd., Sunny Hill Subd., 58-4((9))17A, 17B, 18A & 18B, Providence Dist., R-1, 4.5204 ac., S-80-P-068. (Deferred from November 4, 1980 and December 2, 1980 for viewing of property and decision).

Chairman Smith stated that at the last meeting, the Board had deferred the application of Congregation Olam Tikvah for decision and receipt of revised site plans in accordance with instructions given to the applicant at that meeting. He advised the applicant that there were only four Board members present at this point in the meeting. Mr. DiGiulian had to

leave the meeting earlier in the day and had not reviewed the revised plats. Chairman Smith suggested that the Board set a new time and date for the decision and that the applicant leave the revised plats for the Board's review prior to the decision.

Mr. Stahl advised the Board that Mr. Gordon and Mr. LeMay were present to answer any questions the Board might have on the revised plat. He stated that they had busy schedules and might not be available for the next meeting. In addition, it was never certain that the Board might be faced with a crisis and not have everyone present.

Mr. Stahl stated that the request of the Board at the last meeting with respect to the revised plats was to show a 7 ft. fence next to the parking area and to indicate one area for ingress and egress. Mr. Stahl stated that had been accomplished. He stated that since those were the limited issues, he requested the Board to resolve the matter as it was affecting the synagogue's schedule of construction. Chairman Smith stated that the Board had not had an opportunity to study the plats and Mr. Hyland was preparing to leave for another meeting. Chairman Smith stated that he felt that Mr. DiGiulian should have a chance to study the topographic plat. Chairman Smith stated that as he was not an engineer, he wanted to seek advice from Mr. DiGiulian.

It was the consensus of the Board members present that the decision and review of the plats be deferred until February 3, 1981 at 10:00 A.M.

// There being no further business, the Board adjourned at 4:30 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Sept 14, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: Sept. 16, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 3, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk, Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:45 A.M. and Mrs. Day led the prayer.

The Chairman called the recessed case of:

10:00 RECESSED HEARING: CONGREGATION OLAM TIKVAH, appl. under Sect. 3-103 of the Ord. to permit building and parking lot additions to existing synagogue & related facilities, located 3800 Glenbrook Rd., Sunny Hill Subd., 58-4((9)) 17A, 17B, 18A & 18B, Providence Dist., R-1, 4.5204 ac., S-80-P-086. (Recessed from January 27, 1981 for decision of full Board).

Chairman Smith inquired of the Board if there were any questions before the Board made its decision in the matter of Congregation Olam Tikvah's request for expansion. There were not any questions.

R E S O L U T I O N

Ms. Day made the following motion:

WHEREAS, Application No. S-80-P-086 by OLAM TIKVAH under Section 3-103 of the Fairfax County Zoning Ordinance to permit building and parking lot additions to existing synagogue and related facilities on property located at 3800 Glenbrook Road, tax map reference 58-4((9)) 17A, 17B, 18A & 18B, 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 4, 1980 and deferred until December 2, 1980; January 22, 1981; January 27, 1981; and decision being made on February 3, 1981; 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 4.5204 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The seating capacity shall be 310.
8. The hours of operation shall be normal hours for a synagogue.
9. The number of parking spaces shall be 119.
10. The screening and trash enclosure shall conform to exhibits I & II.
11. There shall be a maximum of 250 students in the school allowed at any one time.
12. Ingress and egress shall be limited to its present location.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Hyland).

Page 242, February 3, 1981, Scheduled case of

10:00 A.M. ROBERT L. & GLORIA T. KNUDSEN, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 10 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 3712 Woodburn Rd., Beach's Addition to Pine Ridge Subd., 59-3((5))11, Providence Dist., R-1, 22,964 sq. ft., V-80-P-235.

Mr. Robert Knudsen of 3712 Woodburn Road informed the Board that he had a letter of support from his next door neigbhor who was unable to attend the hearing. Chairman Smith accepted the letter for the record. Mr. Knudsen stated that he would like to build a two car garage by adding onto the existing carport on the south side of his house. He indicated that it was the only place to construct the carport due to the fact that the ground had a 7 to 8 ft drop into the septic fields. Mr. Knudsen explained to the Board that he could not build in his back yard because of the septic fields. He stated that he could not build in the front yard because of the structures being located close to the street.

In response to questions from the Board, Mr. Knudsen stated that he was only adding onto the existing carport and enclosing it for a two car garage. Mrs. Day inquired if the letter of support was from the neighbor on that side of the property where the carport was located Mr. Knudsen stated that it was.

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

RESOLUTION

In application No. V-80-P-235 by ROBERT L. & GLORIA T. KNUDSEN under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-107) on property located at 3712 Woodburn Road, tax map reference 59-3((5))11, 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 February 3, 1981; 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-1.
3. The area of the lot is 22,964 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 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.

RESOLUTION

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

243

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 243, February 3, 1981, Scheduled case of

10:10 A.M. EUGENE J. CULLINANE, appl. under Sect. 18-401 of the Ord. to allow subdivision into 5 lots with proposed lots 3 & 4 each having width of 6 ft. (150 ft. min. lot width req. by Sect. 3-106), located 6518 Georgetown Pike, 22-3((1))5 & 7A, Dranesville Dist., R-1, 5.5589 ac., V-80-D-236.

Mr. Charles Jackson, an engineer with Douglas Detwiler & Associates, represented the applicant. He stated that Mr. Cullinane owned 5.6 acres of ground and wanted to subdivide it into five lots. Mr. Jackson stated that the five lots met the R-1 zoning district regulations except for lots 3 & 4 which did not meet the 150 ft. minimum lot width as they were pipestem lots. Mr. Jackson stated that a variance was requested for lots 3 & 4 for several reasons. One was the general layout of the ground with a lot of nice trees on the property. He stated that by not building a public street to meet the frontage requirement, it would leave the trees and not disturb the ground. He further stated that Mr. Cullinane wanted to develop the property in this manner to meet the maximum size lots with the higher yield. Mr. Jackson stated that this plan would also keep the property as private as possible because of the pipestems.

Mr. Yaremchuk stated that he had not heard any justification for the granting of the variance. He indicated that Mr. Cullinance did not want to build the public street as it would cost him money. Mr. Jackson stated that Mr. Cullinane wanted to save the trees and only have driveways instead of a public street. Mr. Yaremchuk inquired if the Arborist had looked at the trees to determine whether they were worth saving. Mr. Jackson stated that he was not aware whether the Arborist had examined the trees. Mr. DiGiulian inquired if it was possible to meet all of the requirements of the Ordinance and still come up with five lots by building the public street. Mr. Jackson stated that it would be very difficult to do that but that it would be possible. Mr. Yaremchuk inquired as to the topography of the property. Mr. Cullinane stated that Mr. Detwiler had checked out the topography and determined that it was not feasible to put in a public street.

There was no one else to speak in support of the application. Mrs. Grace Sneider of 5456 Georgetown Pike spoke in opposition to the application. She stated that she owned the property right next to the pipestem driveway. Mrs. Sneider stated that her bedrooms were at that end of her house next to the driveway. She was concerned about the closeness of the driveway from her property. Mrs. Sneider stated that the plat showed the pipestem driveway coming right out on Georgetown Pike at a location where there was a hill right above that point. She informed the Board that any driveway coming out on Georgetown Pike would have a dangerous problem because of the cars coming up the hill. Mr. DiGiulian stated that the plat showed an existing entrance at that location already. Mr. DiGiulian stated that the plat showed three entrances. Mrs. Sneider stated that there were only two. Mr. DiGiulian questioned Mr. Cullinane about the entrances. Mr. Cullinane stated that he was going to vacate two of the entrances and that the pipestem was not going to go where it was shown. Mr. Cullinane explained that there were two existing entrances, one on lot 5 and the other existing driveway between lots 1 and 2. Mr. Cullinane stated that the plat might show a driveway that was no longer there as it had been removed. Chairman Smith stated that if that were the case, the plat was not correct and up to date. Mr. DiGiulian stated that the plat was dated December 10, 1980. Mr. Cullinane informed the Board that the barn on lot 2 had just been taken down within the last two or three weeks. Mr. Cullinane and Mr. Jackson assured the Board that the proposed pipestem would go across the back of lots 1 and 2 and down to Georgetown Pike and at that location, there would be adequate sight distance.

Chairman Smith questioned the pipestem for lots 3 and 4 and where the access would come from. Mr. Cullinane stated that there would be one egress off of one driveway. Mr. Cullinane stated there was existing shrubbery along the driveway and he indicated that he would put some pines in there also. Mr. Jackson stated that they were asking for a variance to the pipestem for lots 3 & 4. The actual driveway to serve the lots would be between lots 1 & 2 and there would be an ingress/egress easement to serve all of the other lots. He stated that the sight distance problem had been checked out with DEM. Mr. Jackson stated that lots 3 & 4 would be building a driveway with an easement. It would go across lot 2 and come out between lots 1 & 2 onto Georgetown Pike. He stated that was the only location they could get because of the sight distance.

Mr. DiGiulian stated that he would like to see a plat which showed exactly what the engineer was proposing. Mr. Yaremchuk stated that he could not see any hardship in the

application. Chairman Smith stated that the applicant could develop the property without the pipestem which meant that there was not a hardship. He stated that it could be developed without the pipestem and still get the same number of lots. Mr. Cullinane stated that he could cut down some trees and put in a public street and only get four lots.

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

Page 244, February 3, 1981 Board of Zoning Appeals
EUGENE J. CULLINANE

RESOLUTION

In Application No. V-80-D-236 by EUGENE J. CULLINANE under Section 18-401 of the Zoning Ordinance to allow subdivision into 5 lots with proposed lots 3 & 4 each having width of 6 ft. (150 ft. minimum lot width required by Sect. 3-106) on property located at 6518 Georgetown Pike, tax map reference 22-3((1))5 & 7A, 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 February 3, 1981; 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 5.5589

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. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 244, February 3, 1982, Scheduled case of

10:20 A.M. KLARE, LTD. & CARL H. WAY & WILLIAM F. DAVIS, appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 & 3 lots, one having width of 10.37 ft. and the other a width of 107.95 ft. (150 ft. min. lot width req. by Sect. 3-106), located 10304 Zion Rd., 68-4((1))30, Annandale Dist., R-1, 2 ac., V-80-P-237.

Mr. Carl Way of 18623 Old Triangle Road in Prince William County informed the Board that he and Mr. Davis were requesting a variance to permit them to build two single family dwellings on the lots with a common entrance way. He stated that the type of houses that they would like to build would be contemporary style which would fit in with the neighborhood across the street.

Chairman Smith inquired as to the length of time the applicant had owned the property. Mr. Way stated that Klare, Ltd. had owned it for a few years. He stated that he and Mr. Davis were under contract to buy the land only if they get the permission to build the houses. He stated that they had applied for a variance as part of the contract. Chairman Smith informed Mr. Way that he and Mr. Davis were not aggrieved parties as they only had a contract to purchase the land.

Mr. William H. Klare, III, was present at the hearing and informed the Chairman that all he had to do was give authorization from the owner to Mr. Way to represent him at the hearing. He advised the Chairman that the owner had already done that. Chairman Smith stated that the hardship existed for the owner of the property and not the contract purchaser. Mr. Klare stated that there was a desire to divide the property under the Ordinance and that Mr. Way and Mr. Davis were pursuing it on the owner's behalf. He stated that the owner had authorized them to pursue the matter.

Mr. Hyland inquired as to the reason for requesting the variance. Mr. Way stated that he had been looking for land around Fairfax County. Mr. Davis wanted to build a contemporary style house. The back portion of the land was nice and flat. The land in front had a slight incline going down to a small pond. Mr. Hyland inquired if both Mr. Way and Mr. Davis intended to live in the structures themselves. Both Mr. Way and Mr. Davis responded that was their intent.

KLARE, LTD. & CARL H. WAY & WILLIAM F. DAVIS

RESOLUTION

In Application No. V-80-P-232 by KLARE, LTD. & CARL H. WAY & WILLIAM F. DAVIS under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots, one having width of 10.37 ft. & the other a width of 107.95 ft. (150 ft. minimum lot width required by Sect. 3-106) on property located at 10304 Zion Road, tax map reference 68-4((1))30, County of Fairfax, Virginia, Mr. Hyland 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 February 3, 1981; 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 2 acres.
4. That the applicant's property is exceptiionally 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 18 months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Ms. Day seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 245, February 3, 1981, Scheduled case of

10:30 A.M. J. & H. AITCHESON, INC., appl. under Sect. 18-401 of the Ord. to allow construction of storage bldg. on street lot line (40 ft. min. front yard req. by Sect. 4-807; accessory structure req. not to be located in req. min. front yard by Sect. 10-105), located 2908 Annandale Road, 50-4((1))60, Providence Dist., C-8, 1 ac., V-80-P-238.

Mr. Ross Daniel represented J. & H. Aitcheson, Inc. For information regarding the testimony, please refer to verbatim transcript on file in the Clerk's Office.

The variance was deferred until February 10, 1981 at 11:15 A.M. for viewing of the property and for additional information about the Code Section referred to by Mr. Yaremchuk.

//

Page 245, February 3, 1981, Scheduled case of

10:40 A.M. KETTLER & SCOTT, INC., A DELAWARE CORP., appl. under Sect. 18-406 of the Ord. to allow a dwelling to remain 21.8 ft. from front property line (25 ft. min. front yard req. by Sect. 3-207), located 15050 Greymont Drive, Country Club Manor Subd., 53-2((2))(18)54A, Springfield Dist., R-2(C), 13,681 sq. ft., V-81-S-002.

Mr. Bob Lawrence, an attorney in Fairfax, represented the applicant. He informed the Board that the variance was requested under Section 18-406 of the Ordinance which was the mistake section. He stated that the builder could have gotten an administrative variance except for 7/10 of a foot. Chairman Smith stated that a variance would have been necessary for the garage. Mr. Covington stated that the garage was attached and was considered as one structure. Chairman Smith stated that the Board should include the garage so that there would not be any problem with the garage at the time of settlement.

Mr. Lawrence explained to the Board that an error had occurred in the field as two of the builder's models were similar in appearance. However, the models had slightly different dimensions. A mix-up had occurred at the time the building corners were set resulting in the wrong dimensions being applied which resulted in the footings being poured which extended into the front setback area approximately three feet. It was an honest mistake.

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

Page 246, February 3, 1981 Board of Zoning Appeals
KETTLER & SCOTT, INC., A DELAWARE CORP.

R E S O L U T I O N

WHEREAS, Application No. V-81-S-002 by KETTLER & SCOTT, INC., a DELAWARE CORPORATION under Section 18-406 of the Fairfax County Zoning Ordinance to allow a dwelling with garage to remain 21.8 ft. from front property line (25 ft. minimum front yard required by Sect. 3-207) on property located at 15050 Greymont Drive, tax map reference 53-2((2))(18) 54A, 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 February 3, 1981; and

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

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

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

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 sill not create an unsafe conditions with respect to the 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:

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.

Ms. Day seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 246, February 3, 1981, Recess

At 12:40 P.M., the Board recessed the meeting for a lunch break and did not reconvene the meeting until 1:20 P.M. to continue with the scheduled agenda.

//

Page 246, February 3, 1981, Scheduled case of

11:00 A.M. ST. STEPHEN'S UNITED METHODIST CHURCH, appl. under Sect. 3-203 of the Ord. to amend S-26-76 for church and related facilities to permit additions to existing buildings, located 9203 Braddock Rd., 69-4((1))19A, 19D & 19E, Annandale Dist., R-2, 7.184 ac., S-80-A-113.

Ms. Marilyn G. Smith of 4208 Braeburn Drive in Fairfax represented the church as Chairman of the Building Committee. She stated that the church was overcrowded and on some Sundays there was problem to the extent that they had to sit people in the kitchen and in the lobby. Mrs. Smith stated that the situation was dangerous. The sanctuary allowed for 300 people. It was planned to add onto the church and to renovate the kitchen and open up the space to view into the sanctuary. The addition would seat an additional 40 people. Mrs. Smith stated that the Sunday school was used very heavily by the children and the adults. There was a considerable noise problem and she indicated that individual space

for the separate classes were desired. She stated that the church would form a new youth adult class and a youth class if they had the additional space for the classes. The additional space would provide for six additional classrooms. Mrs. Smith stated that the size of the sanctuary would not be increased and there would not be an increase in the size of the parking lot.

There was no one else to speak in support 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 S-80-A-113 by ST. STEPHENS UNITED METHODIST CHURCH under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-26-76 for church and related facilities to permit additions to existing buildings on property located at 9203 Braddock Road, tax map reference 69-4((1))19A, 19D & 19E, 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 3, 1981; 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 7.184 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 used, 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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The seating capacity shall be 394.
8. The hours of operation shall be normal hours of church activities.
9. The number of parking spaces shall be 167.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

11:15 A.M. HARVESTER PRESBYTERIAN CHURCH, appl. under Sect. 6-203 of the Ord. to permit operation of a church in a portion of an existing office building, located 8136 Old Keene Mill Rd., Cardinal Forest Subd., 79-4((6))1B, Springfield Dist., PRC, 136,783 sq. ft., S-80-S-114.

Mr. Ralph Wright of 7904 Inverton Road in Annandale represented the church. He stated that their church was a congregation formally organized 3½ years ago with 96 members. The growth rate for the church had been 11% for the past three years. He stated that the average attendance was 125 people at the present time. The bulk of the membership came from the Annandale and Burke area. Mr. Wright stated that even though they were a growing congregation, they did not have enough money to purchase land and build a church yet. He stated that they had an agreement with the Family Savings & Loan to sublet 2,400 sq. ft. of space in the Cary Building located at 8136 Old Keene Mill in Springfield for their services. He stated that most of the space was a large open area which they proposed to use as an assembly area. The large open area was Suite B-100. Suite B-103 contained 525 sq. ft. of space which they proposed to use as a nursery during sunday school and worship services. Mr. Wright stated that there was enough room to allow the congregation to double its size eventually. The services would be from 9:30 A.M. to 1:00 P.M. on Sundays when there would not be any tenants in the building. He stated that there were 160 parking spaces available at the Cary Building. During daytime business hours, the pastor would have one or two vistors. He stated that all other plans for use would be after 6:45 P.M. during the weekdays and on weekends which should not create any traffic problems. Mr. Wright informed the Board that they would comply with the Code requirements. He stated that the only changes to the building would be an additional exit on B-100 facing the parking lot. He stated that all other interior changes were under way or had already been completed in accordance with the requirements. Mr. Wright stated that the zone for the property was PRC which did allow a church use.

Mrs. Day informed Mr. Wright that she was familiar with the Cary Building having lived across the road from it. She informed him that Design Review had commented on the staff report that an easment should be provided for the common entrance. Mr. Wright stated that the site plan he had submitted showed the building when it was constructed at its present level. He informed the Board that the entrances were existing at the present time. The ingresses and egresses were secured and he stated that there was a driveway at the location mentioned by Design Review. He stated that the entrance was shared with Westwood Baptist Church.

In response to questions from the Board, Mr. Wright stated that the congregation had a lease for two years. There was no one else to speak in support of the application and no one to speak in opposition.

Page 248, February 3, 1981 Board of Zoning Appeals
HARVESTER PRESBYTERIAN CHURCH

R E S O L U T I O N

Ms. Day made the following motion:

WHEREAS, Application No. S-80-S-114 by HARVESTER PRESBYTERIAN CHURCH under Section 6-203 of the Fairfax County Zoning Ordinance to permit operation of a church in 3 suites of the Carey Building; namely Suite B-100 (2,482 sq. ft.); B-103 (525 sq. ft.); and B-108 (651 sq. ft.) on property located at 8126 Old Keene Mill Road, tax map reference 79-4((6))1B, 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 3, 1981; and

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

1. That the applicant is the lessee.
2. That the present zoning is PRC.
3. That the area of the lot is 136,783 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 on the application and is not transferable to other land.

RESOLUTION

2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of parishoners shall be an average of 125.
8. The hours of operation shall be normal hours of church operation.
9. The number of parking spaces shall be 164.
10. This special permit shall be under site plan control.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 249, February 3, 1981, Scheduled case for

11:30 A.M. METROPOLITAN OPEN BIBLE CHURCH, appl. under Sect. 3-304 of the Ord. to amend S-482-66 for child care center to change ages of children to 2 - 8 and to permit use second floor space in addition to lower floor space, located 6434 Franconia Road, 81-3((1))10, Lee Dist., R-3, 1.2151 ac., S-80-L-115.

At the request of the applicant, the special permit application was deferred until February 24, 1981 at 11:30 A.M.

//

Page 249, February 3, 1981, Scheduled case for

11:40 A.M. H. R. LOWSTUTER, appl. under Sect. 18-406 of the Ord. to allow enclosed garage to remain 7.53 ft. from side lot line (a min. of 8' and a total min. of 20' req. by Sect. 3-307), located 3522 Pence Court, Holmes Run Village Subd., 59-4((17)) 64, Mason Dist., R-3, 9,063 sq. ft., V-80-M-180. (DEFERRED FROM NOVEMBER 11, 1980 AND JANUARY 6, 1981 FOR NOTICES.)

Mr. Ronald Walutes, an attorney in Annandale, represented the applicant. He informed the Board that this was a situation where a carport was supposed to be erected on the lot which would have been in compliance with the Code. Inadvertently, the contractor built an enclosed garage. Mr. Walutes informed the Board that 25 of the homes in the subdivision had garages. The contractor built a 26 ft. garage. The property owners were not aware that the garage was not in compliance until after it was in place. Mr. Walutes stated that it would be a hardship on the owner if he had to take it down. He informed the Board that the total minimum side yard requirement for the zone was 20 ft. and that the applicant needed a 4 ft. variance. He advised the Board that it was an honest mistake and was inadvertent. He urged the Board to grant the variance request as it would be a hardship on the property owner to have to remove the garage and reconstruct a carport which would be very costly.

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

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. V-80-M-180 by H. R. LOWSTUTER, TRUSTEE & RMK COMPANY under Section 18-406 of the Zoning Ordinance to allow enclosed garage to remain 7.53 ft. from side lot line (a minimum of 8 ft. and a total minimum of 20 ft. required by Sect. 3-307) on property located at 3522 Pence Court, tax map reference 59-4((17))62, County of Fairfax, has been properly filed in accordance with all applicable requirements; and

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on February 3, 1981; 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. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 250, February 3, 1981, Scheduled case of

11:50 A.M. WILLIAM L. & SUE ANN ANGERER, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 8.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 5311 Weymouth Drive, Kings Park Subd., 70-3((4))276, Annandale Dist., R-3, 13,200 sq. ft., V-80-A-224. ((DEFERRED FROM JANUARY 22, 1981 FOR DECISION OF FULL BOARD).

RESOLUTION

In Application No. V-80-A-224 by WILLIAM L. ANGERER under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 5311 Weymouth Drive, tax map reference 70-3((4))276, 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 January 22, 1981; and deferred until February 3, 1981 for decision of full Board; 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 13,200 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has converging lot lines 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 indicated in the plats included with this application only and is not transferable to other land or to other sturctures on the same land.

RESOLUTION

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

251

Ms. Day seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 251, February 3, 1981, Scheduled case of

12:00 P.M. RALPH E. ZUNICH, appl. under Sect. 18-401 of the Ord. to allow construction of a detached two car garage to 5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1906 Hackamore Lane, Riverside Gardens Subd., 102-3((10))(2)14, Mt. Vernon Dist., R-3, 10,504 sq. ft., V-80-V-226. (DEFERRED FROM JANUARY 22, 1981 FOR DECISION OF FULL BOARD).

RESOLUTION

In Application No. V-80-V-226 by RALPH E. ZUNICH under Section 18-401 of the Zoning Ordinance to allow construction of a detached two car garage to 5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 1906 Hackamore Lane, tax map reference 102-3((10))(2)14, County of Fairfax, Virginia, Ms. Day 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 January 22, 1981; and deferred until February 3, 1981 for decision of full Board; 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 10,504 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has an unusual condition in that the rear 1/3 of the property is not conducive to such a structure.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 251, February 3, 1981, Scheduled case of

12:10 P.M. CHARLES E. RUNYON, appl. under Sect. 18-401 of the Ord. to allow subdivision into three lots with proposed lot 3 having width of 10 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 10209 Beach Mill Road, 3-4((1))36, Dranesville Dist., R-E, 8.52 ac., V-80-D-195. (DEFERRED FROM DECEMBER 2, 1980; DECEMBER 16, 1980; JANUARY 6, 1981; JANUARY 13, 1981; JANUARY 22, 1981 AND JANUARY 27, 1981 FOR DECISION OF FULL BOARD).

Mr. Charles Runyon, an engineer, informed the Board that at the public hearing there had been some opposition to the variance. He informed the Board that he had met with the opposition and the plats submitted were in conformance with agreements made with the opposition. Chairman Smith inquired as to the existing structure on the property as it did not meet the setback requirement. Mr. Runyon stated that the structure would be removed as it was in poor condition. Once the structure was removed, there would not be a problem with the 25 ft. setback from the pipestem.

Mr. Yaremchuk informed the applicant that the public hearing had been held so long ago and he asked for clarification as to the justification for the variance. Mr. Runyon stated that the property had topographic problems and the lot was very narrow. There was not enough frontage for a public street. Mr. Runyon stated that this application would be very beneficial as there was a density exchange.

Mr. Runyon presented Mr. O'Connell to speak to the specifics. Mr. O'Connell resided at 320 Greenhill Street. He stated that he represented himself and one other individual. However, he presented the Board with a petition from the people who had expressed an interest in the case. The petition indicated that the people were strongly opposed to the variance in connection with the division of the property. Mr. O'Connell stated that he was authorized by Mr. John Locke who spoke at the previous hearing that he wished to withdraw his opposition but did not wish to sign the agreement worked out with Mr. Runyon. Chairman Smith advised the citizens that the agreement was a civil matter and would not be a part of the BZA record as the BZA did not have the right to require it to be implemented. Mr. Runyon stated that there would not be more than three lots and indicated that he would put the agreement in the deed.

Page 252, February 3, 1981 Board of Zoning Appeals
CHARLES RUNYON

RESOLUTION

In Application No. V-80-D-195 by CHARLES E. RUNYON under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots with proposed lot 3 having width of 10 ft. (200 ft. minimum lot width required by Sect. 3-E06) on property located at 10209 Beach Mill Road, tax map reference 3-4((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 February 3, 1981; 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. The area of the lot is 8.52 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 18 months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 0 (Mr. DiGiulian being absent).

Page 253, February 3, 1981, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for July 31, 1979; August 2, 1979; August 7, 1979 and August 10, 1979. Mr. Yaremchuk moved that the minutes be approved as submitted. Mr. Hyland seconded the motion and it passed unanimously.

//

Page 253, February 3, 1981, After Agenda Items

Belle Haven Country Club: The Board was in receipt of a parking layout for the Belle Haven Country Club which was submitted in respone to the Board's request for a parking tabulation to show that there was adequate parking for the use. It was the consensus of the Board to hold off approval until further review.

// There being no further business, the Board adjourned at 2:15 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Oct. 5, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: October 12, 1982
Date

A Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Friday, February 6, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

Matters Presented by Board Members:

Chairman Smith stated that there was no indication as to when the Board might be prepared to make a decision in the Appeal of Taco Bell, Inc., A-80-015. He stated that the Board was in the process of going to view the property. He stated that perhaps a decision would be forthcoming on Tuesday, February 10, 1981.

//

Page 254, February 6, 1981, After Agenda Items

Belle Haven Country Club, Inc.: The Board reviewed the parking tabulation submitted by Belle Haven Country Club. Mr. Covington informed the Board that the staff was working to correct the situation. He stated that the club was under site plan and under a special permit. Gradually, as changes were taking place, traffic was being addressed.

Mr. DiGiulian moved that the parking plans be approved as submitted,on the plat dated December 23, 1980. Mr. Yaremchuk seconded the motion and it passed unanimously. Chairman Smith suggested that the no parking signs remain intact along the roadway in front of the club property for the length of the property.

//

Page 254, February 6, 1981, Viewing of Taco Bell Sites

At 10:30 A.M., the Board left the Board Room to view the two locations of Taco Bell located in Prince William County. The Board returned at 12:55 P.M.

//

Page 254, February 6, 1981, Viewing of J. H. Aitcheson, Inc. Site

At 1:00 P.M., the Board left the meeting room in order to view the property of J. H. Aitcheson, Inc. which was scheduled for decision on Tuesday, February 10, 1981.

// There being no further business, the Board adjourned the meeting in the field at 2:30 P.M.

By: Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Oct. 5, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: October 12, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 10, 1981. The following Board members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland and Ann Day. (Mr. John Yaremchuk was absent).

The Chairman opened the meeting at 10:30 A.M. led with a prayer by Mrs. Day.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. MARIA E. GARCIA, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing porch to 25.3 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-407), located 2841 Meadow Lane, Hillwood Avenue Subd., 50-4((7))48, Providence Dist., R-4, 8,349 sq. ft., V-81-P-001.

The Clerk advised the Board that there was a problem in the advertising of the variance application which was the fault of the staff. The application had to be deferred for readvertising. The Board deferred the application until February 24, 1981 at 12:30 P.M.

//

Page 255, February 10, 1981, Scheduled case of

10:10 A.M. JAMES V. MENGENHAUSER, appl. under Sect. 18-406 of the Ord. to allow a 6 foot fence and enclosed accessory filter to remain in front yard of corner lot, 29.4 ft. from front lot line (41.2 ft. min. front yard req. by Sect. 10-102), located 8905 Camfield Drive, Potomac Valley Subd., 111-2((5))(3)26, Mt. Vernon Dist., R-3, 11,721 sq. ft., V-81-V-004.

Mr. James Mengenhauser of 8905 Camfield Drive informed the Board that he was requesting to have the existing fence and pool remain in its present location. He reviewed the facts for the Board of the circumstances leading up to the filing of the variance application. Last summer, Mr. Mengenhauser had contracted with Anthony Pools who had submitted plans to the County which were approved. The approved plans showed the location of the 6 ft. fence and the pool filter. Mr. Mengenhauser showed the Board a copy of the approved plans which indicated that his property was a corner lot and showed the location of the pool equipment. Mr. Mengenhauser stated that the plans had come back approved by the Zoning Administrator and by the Board of Design and Review. He stated that there were a few comments on the plans with respect to the drainage. Chairman Smith noted that the approved plans did not have the setbacks shown on it.

Mr. Don Smith of the Permit, Plan Review Branch informed the Board that what his office had approved was the location of the pool per the property line of the dwelling. He stated that his office only signed off on what the applicant filled out on the form. Mr. Smith stated that the plans his office reviewed did not show a fence or a filter. He explained to the Board that a building permit was not necessary for a fence. The building permit was signed off for the construction of the pool. Mr. Smith explained that the certified plat had the additional information which was not shown on the original house location survey used for the pool construction. He stated that the majority of the papers filed were kept in other offices so that the only thing the Permit, Plan Review Branch had examined was the house location survey. Mr. Smith stated that his office staff were not architectural reviewers and had not examined other things shown on the plat but only the item listed on the building permit application. He stated that in this instance, they were only concerned with the pool and not the fence.

Chairman Smith stated that the Building Code required a 4 ft. fence around the pool. Mr. Smith stated that requirement was controlled by the Building Department and not the Zoning Office. Chairman Smith stated that apparently the plans submitted to the Zoning Office were not the same as the ones submitted to the Design Review Office. The setbacks were not shown on the plans for the building permit. Chairman Smith stated that Mr. Mengenhauser was required to meet the setbacks as far as the Ordinance was concerned and that it was his responsibility to determine that. He explained that the Ordinance prohibited 6 ft. fences in a front setback.

Mr. Mengenhauser stated that he realized now that it was his responsibility but at the time the plans came back from the County approved, he assumed everything was all right. He stated that he had assumed that the location of the fence and the filter had been checked by Design Review. He stated that he realized now that had not been done. Chairman Smith stated that the people who constructed the pool knew that there were setback requirements.

In response to questions from the Board, Mr. Mengenhauser stated that he had hired a fence company which had been referred to him by the bank he had taken out the loan to build the pool. Mr. DiGiulian stated that the location of the fence showed on the plats and that there was no question but that it was out further from the front of the house. Chairman Smith stated that without the variance approval, Mr. Mengenhauser had no right to place the fence at that location.

Mr. Mengenhauser informed the Board that after he received the approved plans back from the County, he had proceeded with construction in good faith. The pool was completed in September. During the construction of the pool, there were numerous inspections made by the County. He stated that even the fence was inspected after it was completed. He stated that the inspection revealed that there was a gap in the fence and he had received an order from the County to fill in the gap in the fence which he promptly did. Chairman Smith asked to see a copy of the order. Mr. Mengenhauser stated that he no longer had it. He stated that at that time, there was no indication that there was a problem with the fence and he had not kept the paper from the inspector. Mr. Mengenhauser also stated that during all the inspections, the filter was open to view to anyone who cared to look at it. He stated that he had never received any complaint at that time about the fence or the pool filter.

Mr. Mengenhauser stated that in November, he had received a letter that his fence was in violation. Then in December, he was told that his filter was in violation also. He stated that he had elected to file for the variance and asked the Board to approve the variance as requested. He assured the Board that he had only acted in good faith thinking that his plans were approved. He stated that he had not had any knowledge that he had violated any laws. Mr. Mengenhauser stated that he believe that the 6 ft. fence was necessary for the safety of the small children. He explained that his corner lot was a bus stop. Mr. Mengenhauser stated that to move the fence would be a financial hardship because of the pipes and the concrete deck. In addition, relocation of the pool filter would be a major job.

Chairman Smith inquired as to who had placed the filter at the location. Mr. Mengenhauser stated that Anthony Pools had placed the filter. Chairman Smith stated that Anthony Pools were aware of the front setbacks as they had been before the Board previously. Mr. Mengenhauser stated that he did not feel there would be any adverse effect to the community. He stated that the fence was well built and was not a eyesore. He informed the Board that he had the support of the neighborhood. He stated that there were a number of letters of support including the two properties adjoining his. He stated that the fence in its present location did not block the vision of traffic in any way.

In summary, Mr. Mengenhauser stated that he had acted in good faith and felt that the variance should be granted as it would cause no one a hardship. It would be a big financial problem if he had to relocate everything and he urged the Board to allow it to remain.

Chairman Smith informed Mr. Mengenhauser that he would like to have a copy of the contract with Anthony Pools. Mr. Mengenhauser stated that he had the contract but had not brought it with him to the hearing.

Mr. Howard Olson of 8825 Camfield Court spoke in support of the variance. He stated that he lived 1½ blocks from the Mengenhauser property and drove past their house everyday. He stated that the location of the fence did not obstruct his view of traffic at the corner. The fence was a safety feature for the children who wait for school buses at this corner. It also hid the pool which might attract the children. Mr. Olson stated that he felt the variance should be granted.

Ms. Claire Marvis of 8925 Barter Road stated that she lived across the street from the Mengenhauser property. She stated that the fence was not only beautiful but it was a safety measure as well as it would prevent the pool from being an attractive nuisance. She stated that the fence was a credit to the area. The Mengenhausers had acted in good faith and Ms. Marvis felt it would be grossly unfair for them to have to go to the expense of moving the fence and the filter.

Chairman Smith read a letter from Mr. and Mrs. Fred C. Braun who objected to the fence and he made it a part of the record. There was no one else to speak in opposition.

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. V-81-V-004 by JAMES V. MENGENHAUSER under Section 18-406 of the Fairfax County Zoning Ordinance to allow a 6 ft. fence and enclosed accessory filter to remain in front yard of corner lot, 29.4 ft. from front lot line (41.2 ft. minimum front yard required by Sect. 10-102) on property located at 8905 Camfield Drive, tax map reference 111-2((5))(3)26, 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 February 10, 1981; 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 fence subsequent to the issuance of a building permit, and

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

RESOLUTION

257

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 limitation:

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 by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

Page 257, February 10, 1981, James V. Mengenhauser

Mr. Hyland moved that the Board request Anthony Pools to appear before the BZA to answer questions as to why the filter was located in the position it was and why it did not comply with setback requirements. Mr. DiGiulian seconded the motion. Chairman Smith asked the Clerk to notify Anthony Pools of the Board's request in writing and to allow 30 days for them to respond. Chairman Smith asked Mr. Mengenhauser to provide the Board with a copy of the contract with Anthony Pools.

Mr. Hyland then moved that the fence contractor, Western Fence Company, also be notified in writing to appear before the Board to answer questions relating to the fence situation. Mr. DiGiulian seconded the motion.

//

Page 257, February 10, 1981, Scheduled case of

10:20 A.M. THOMAS STANLEY, appl. under Sect. 18-401 of the Ord. to allow the construction of a detached garage to 2 ft. from rear lot line & 2 ft. from side lot line (15 ft. min. side yard & 15 ft. min. rear yard req. by Sect. 10-105), located 7305 Redd Rd., Reddfield Subd., 40-3((21))22, Dranesville Dist., R-2, 15,782 sq. ft., V-81-D-005.

Mr. Thomas Smyth of 2023 Pimmit Drive in Falls Church was agent for the applicant. He stated that Mr. Stanely was the owner of lot 22 and required a variance in order to construct a detached garage. The lot was very long and narrow which restricted construction on the side. He stated that the house set back 100 ft. from the front lot line. Mr. Smyth stated that if the garage were constructed according to the code requirements, it would take away the rear yard. The rear yard was landscaped and had several trees which the applicant did not wish to remove. In addition, Mr. Smyth stated that the drainage situation could best be accommodated in the proposed location.

In response to questions from the Board, Mr. Smyth stated that Mr. Stanley's brother owned property since 1961 but deeded the property over in 1979. Chairman Smith stated that the property transfer had not been recorded yet according to the staff report. Chairman Smith inquired as to why Mr. Stanley needed a 20 ft. garage. Mr. Smyth responded that Mr. Stanley was an engineer and had three vehicles which he maintained and wanted to store in an enclosed area. Mrs. Day inquired as to what was located on lot 19 behind Mr. Stanley's property. Mr. Smyth stated that it was a detached single family dwelling. Mrs. Day asked if they had a garage. Mr. Smyth stated that they did not to his recollection. Mrs. Day inquired as to what was in Mr. Stanley's yard to prevent him from constructing the garage in accordance with the Code. Mr. Smyth stated that there were trees which would also screen the lot line. Mrs. Day inquired as to how far back the house on Reddfield Drive was from the rear lot line. Mr. Smyth stated that he thought it was about 60 ft. Mrs. Day inquired if there had been any objections to the proposed garage and Mr. Smyth stated that there had not been any to his knowledge.

Since the proposed garage was going to be on the left side next to lot 21, Mrs. Day inquired as to what that neighbor had on his property. Mr. Smyth responded that property line was very well treed. He stated that the neighbors were aware of the proposed garage and there were no objections. Mrs. Day inquired as to the construction materials for the garage. Mr. Smyth stated that the garage would be constructed of white brick.

Chairman Smith inquired as to why the garage could not be set back farther from the property lines. Mr. Smyth stated that the reason was because of the curve for egress and ingress. Chairman Smith stated that there would still be room if the garage were moved over on the property. He stated that 2 ft. from the side was too close to the property line for a 15 ft. building. He asked why the garage was so high. Mr. Smyth stated that the reason was because of Mr. Stanley's pickup truck which had a camper on back of it. Mr. DiGiulian stated that because the garage had a peaked roof, the usable space inside was not that high. He inquired as to the usable portion and was informed it would be about 9 ft. Mrs. Day asked if the garage could be moved over to 4 ft. from the lot line and whether Mr. Stanley would be able to negotiate the curve. Mr. Smyth stated that he could not say for certain but he felt the 2 ft. would make the curve easier to negotiate. Mrs. Day stated that a small car would be able to make the curve at 4 ft.

Mr. Hyland inquired as to the drainage around the back of the property and where the water would go off of the proposed building. Mr. Smyth stated that the property sloped from left to right and from the reat to the front. He stated that the back corner of the property was the highest point so that the water would go mostly to the front of the property. Mr. Hyland inquired if all of the water would be kept on Mr. Stanley's property and was told by Mr. Smyth that it would. Chairman Smith stated that it would be difficult to channel the water because of the overhangs when the garage was only 2 ft. from the side lot line. Mrs. Day stated that they could use an underground pipe.

Mr. Thomas Stanley spoke in support of his variance request. He stated that he was the owner of the property. He stated that the question about the garage being 2 ft. from the property was because of the way he had designed it in order to enter it. In addition, he stated that he had lined up the garage to have a doorway to line up with the exit door from his kitchen. He stated that it would allow him to leave the house and enter the garage better. If he moved the garage over, nothing would line up right. He stated that his design was easier for the parking of the vehicles and for better access when the weather was bad. Mr. Stanley informed the Board that he had talked about his proposed garage with the owner of lot 21 and he did not have a problem with the location. He stated that he would appreciate the Board granting the request as stated.

Mrs. Day inquired if Mr. Stanley intended to do any kind of electronic work or any kind of work in the garage. Mr. Stanley stated that he would not do anything more than the average homeowner would do. He stated that he would do regular maintenance on his vehicles. Mrs. Day inquired if he would work at a high frequency rate and Mr. Stanley stated that he would only tinker. Mrs. Day stated that it was nice that he was able to work on his vehicles.

R E S O L U T I O N

In Application No. V-81-D-005 by THOMAS STANLEY under Section 18-401 of the Zoning Ordinance to *allow construction of a detached garage to 2 ft. from rear lot line & 2 ft. from side lot line (15 ft. minimum side yard & 15 ft. minimum rear yard required by Sect. 10-105) on property located at 7305 Redd Road, tax map reference 40-3((21))22, County of Fairfax, Virginia, Ms. Day 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 February 10, 1981; 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 15,782 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 IN PART *(to allow construction of a detached garage to 2 ft. from rear lot line & 4 ft. from side lot line to avoid water runoff onto adjoining property) 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

Page 259, February 10, 1981, Scheduled case of

10:30 A.M. ARTHUR B. MORELAND, appl. under Sect. 18-401 of the Ord. to allow subd. into 4 lots, two of which would have widths of 15 ft. (150 ft. min. lot width req. by Sect. 3-106), located 12410 Bennett Road, 35-4((1))40 & 41, Centreville Dist., R-1, 7.92 ac., V-81-C-006.

Mr. Arthur Bennett Moreland of Bennett Road in Herndon was informed by the Chairman that the Planning Commission had forwarded a memorandum to the BZA requesting that no action be taken on the variance application until it could make a recommendation. Chairman Smith stated that the Planning Commission had scheduled a public hearing for March 4, 1981. Apparently, the Planning Commission felt that a public hearing should be held on the matter before the BZA made its decision. Mr. Moreland informed the Board that he was retired and had two teenage daughters. He stated that he was disabled. He informed the Board that he wanted to divide the property without heavily populating the area. He stated that Bennett Road was named after his grandfather. He stated that he had lived on the property for sixteen years. Mr. Moreland stated that he had purchased the property from his uncle. The zoning on the property was R-1. Mr. Moreland stated that he was trying to keep it as countrified as possible and as large a lot as possible. Mr. Moreland stated that due to the peculiar shape of the property, he had to request a variance in order to subdivide it.

There was no one else to speak in support of the variance and no one to speak in opposition. Chairman Smith closed the public hearing. Mr. DiGiulian moved that the Board defer decision on the variance application until March 10, 1981 in order to receive the Planning Commission's recommendation. Mr. Hyland seconded the motion. Mr. Moreland inquired as to the problem with his application and was informed that there was not a problem. The Planning Commission had requested the BZA to defer decision until after its review of the application. Chairman Smith stated that if the Planning Commission made its request within 30 days of the filing date, the BZA honored the request.

//

Page 259, February 10, 1981, Scheduled case of

10:45 A.M. ACCOTINK ACADEMY, INC., appl. under Sect. 18-401 of the Ord. to allow gravel drive and parking on connection with school of special education (dustless surface req. by Sect. 11-102), located 8545 Tuttle Road, Fairfax Park Subd., 79-3((4))26, Springfield Dist., R-1, 2.5 ac., V-81-S-003.

&

10:45 A.M. ACCOTINK ACADEMY, INC., appl. under Sect. 8-307 of the Ord. to permit a school for handicapped children, located 8545 Tuttle Road, Fairfax Park Subd., 79-3((4))26, Springfield Dist., R-1, 2.5 ac., S-81-S-001.

As the required notices were not in order, the Board deferred both applications until March 17, 1981 at 10:00 A.M.

//

Page 259, February 10, 1981, Scheduled case of

11:00 A.M. KOREAN PRESBYTERIAN CHURCH OF WASHINGTON, appl. under Sect. 3-103 of the Ord. to permit a church and church related facilities, located 4925 Twinbrook Road, 69-3((1))29, Springfield Dist., R-1, 5.38 ac., S-81-S-002.

Ms. Denise L. Sabagh, attorney at law, at 9940 Main Street, in Fairfax, represented the church. She stated that the Korean Presbyterian Church of Washington wanted to use the existing church building for its services. Ms. Sabagh stated that the existing church was owned and used by the L. B. Church of God. Ms. Sabagh stated that the Korean Presbyterian Church would conduct its services on Sunday morning and Sunday evening and Wednesday evenings in addition to miscellaneous meetings. Lake Braddock Church of God had the same time period for its services according to Ms. Sabagh. She stated that the Korean Presbyterian Church congregation was made up of approximately 150 to 200 members which was about the same

size as the Lake Braddock Church of God congregation. Ms. Sabagh introduced Reverend Kim to the Board members and stated that he was the only employee of the church. However, there was one assistant and one secretary who assisted the Reverend. Ms. Sabagh informed the Board that because the Korean Presbyterian Church and the Lake Braddock Church of God were similar in size, it was anticipated that there would not be any additional traffic impact on the community. She stated that there were other churches located in the area.

Ms. Sabagh stated that the Korean Presbyterian Church had been authorized by the courts to purchase the property. The authorization was signed by Judge Griffith. Chairman Smith inquired if the property had been occupied previously. Mr. Covington advised the Board that the County had never issued an occupancy permit for the property. Ms. Sabagh stated that it had never been used before but that the Korean Presbyterian Church was using the property at the moment. Chairman Smith inquired if they owned the property and was informed that there was a contract to purchase the property. Chairman Smith inquired if the parking had been developed around the church. Ms. Sabagh stated that there were 88 parking spaces. Chairman Smith stated that an additional 12 parking were required in order to meet the parking requirements of the Code. Mr. Covington stated that when the church was built, there was a different parking requirement. He stated that since there had never been an occupancy permit issued for the property, the parking would have to be upgraded. Chairman Smith informed the attorney that only 12 additional parking spaces were needed. Ms. Sabagh stated that perhaps the additional parking was not necessary as the congregation had not built up to 200 members as yet. Chairman Smith advised Ms. Sabagh that the parking requirement was based on the seating capacity of the sanctuary. Ms. Sabagh stated that since the parking met the requirement when the church was built and since the congregation was less than 200 members, the additional twelve parking spaces were not necessary. Chairman Smith stated that it was an Ordinance requirement. He indicated that there had been a different Code requirement when the church was built. He informed her that it should not be a problem to provide for an additional twelve parking spaces. Mr. Covington stated that the church could reduce the seating capacity by 48 seats. Chairman Smith informed Ms. Sabagh that there was an alternative. He stated that he understood her reasoning but informed her that the parking situation was a Code requirement. He stated that there had never been an occupancy permit issued for the property which meant that the previous church had never complied with the Code to begin with. He stated that since the property was being used, it was a violation of the Ordinance to occupy the building without an occupancy permit. He suggested that they make every effort to comply with the Code requirements so that they could continue to occupy the building for their services. He stated that the church had no right to be in the building without an occupancy permit.

Chairman Smith inquired if the Lake Braddock Church of God would be using the building in addition to the Korean Presbyterian Church. Ms. Sabagh stated that they had a contract to purchase the property from the Lake Braddock Church of God. Mr. Hyland inquired as to when the sale would take place. Ms. Sabagh stated that the sale would be completed as soon as the public hearing process was completed. She stated that their loan was only good until March.

In response to further questions from the Board, Ms. Sabagh stated that the hours of operation would be the normal hours for a church and its related acitivities. Mr. J. W. Stone, Trusteed of the Lake Braddock Church of God and Mt. Vernon Realty, spoke in support of the application. He questioned the parking situation. He informed the Board that all of the approvals required for the occupancy permit had been received. He stated that he had been in the mechanics room of the church and had seen the approvals posted. He informed the Board that perhaps since the orignal church had not materialized, that was the reason for not obtaining the occupancy permit. He stated that his church had purchased the land and erected the building but had never used it. He stated that the building had been vacant for almost a year. He informed the Board that the maximum number of people using the building would have been about 100 which did not justify the additional parking spaces. He informed the Board that the final sale of the property had to be completed within 10 days of the BZA's action.

Mrs. Jean Douthitt of 9490 Harold Hill Lane spoke in opposition. She stated that she lived next door to the church property. She informed the Board that two weeks ago, people had cut down trees on the church property. She wanted to know about the rest of the trees on the property to insure that they would be maintained. Ms. Sabagh informed the Board that the church had removed two trees on the property which were dead. Reverend Kim of 5005 Gainsborough Drive in Fairfax informed the Board that the trees were pine trees and were dead and broken. He stated that the trees were a danger to the people so the church had them cut down.

Chairman Smith inquired as to the date the building was constructed. Mr. Stone stated that the church was built in 1976. Chairman Smith advised them that special permits for churches were required in 1976. Mrs. Day inquired if the trees which were removed had provided some type of privacy for Mrs. Douthitt and was informed they had. Mrs. Day inquired if there was still some privacy and Mrs. Douthitt replied that there was but that she wanted to know how many trees would stay so she could monitor the property. Mrs. Douthitt inquired as to the requirement for the removal of trees for the additional parking lot of whatever. Chairman Smith stated that the church could only remove the dead trees.

Page 261, February 10, 1981
KOREAN PRESBYTERIAN CHURCH
OF WASHINGTON
(continued)

Chairman Smith suggested to the church that in the future when they removed any growth, that they obtain a permit to do so.

The next speaker in opposition was Doris Burt of 5060 Queen Drive who inquired of Reverend Kim as to the nature of the business or activities to be conducted at the church. She stated that there were four or five houses that backed up to the church and there were very few trees on that property line. Chairman Smith stated that there was a solid fence on the property. He stated that the church would have to construct a solid fence around the parking lot. Mrs. Burt stated that there was a hill there but no trees. She stated that there was very little area between the church property and their homes. Chairman Smith inquired if the church held any dances on the property. Reverend Kim informed the Board that his congregation did not drink or smoke. He stated that they might have a revival meeting or a reception for the new members several times a year. Also, he indicated that the children might play on the grounds of the church. Chairman Smith inquired if the church planned to have a school there. Reverend Kim stated that they planned to have a Sunday school. He stated that they might have a school during the week but not on a regular basis. Chairman Smith inquired if the church planned to have a day care center. Reverend Kim stated that would require an additional permit.

Ms. Burt questioned the playground area behind the church as it was not cleared for a play area. She stated that the area was all grassy and treed. She inquired as to which area the church considred to be the playground area. Reverend Kim stated that the land was there as there was more than five acres. He stated that there was enough land for the children. He stated that children liked to play big games. There was a payground for small groups of children. Chairman Smith inquired if the church planned to put in a playground and was informed they would have a small one. Chairman Smith stated that the church would have to show the location and dimensions on the site plan. He stated that the organized play area had to be shown on the plat in order for the Board to approve it.

There was no one else to speak in opposition and no further questions from the Board.

Page 261, February 10, 1981 Board of Zoning Appeals
KOREAN PRESBYTERIAN CHURCH
OF WASHINGTON

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-81-S-002 by KOREAN PRESBYTERIAN CHURCH OF WASHINGTON under Section 3-103 of the Fairfax County Zoning Ordinance to permit church & church related facilities on property located at 4925 Twinbrook Road, tax map reference 69-3((1))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 of Zoning Appeals held on February 10, 1981; and

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

1. That the applicant is the contract purchaser.
2. That the present zoning is R-1.
3. That the area of the lot is 5.38 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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) 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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be hours of normal church activities.
8. The number of parking spaces shall be 100.
9. This special permit is subject to receipt of amended plats showing reduced seating capacity in the sanctuary or increased parking to comply with the Zoning Ordinance requirements.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Yaremchuk being absent).

Page 262, February 10, 1981, Scheduled case of

11:15 A.M. J. & H. AITCHESON, INC., appl. under Sect. 18-401 of the Ord. to allow construction of storage bldg. on street lot line (40 ft. min. front yard req. by Sect. 4-807; accessory structure req. not to be located in req. min. front yard by Sect. 10-105), located 2908 Annandale Road, 50-4((1))60, Providence Dist., C-8, 0 ac., V-80-P-238. (DEFERRED FROM FEBRUARY 3, 1981 FOR VIEWING & ADDITIONAL INFORMATION).

Chairman Smith inquired if the Board was prepared to make a motion and there were no further questions.

RESOLUTION

In Application No. V-80-P-238 by J. & H. AITCHESON, INC. under Section 18-401 of the Zoning Ordinance to *to allow construction of a storage building on the front street property line on property located at 2908 Annandale Road, tax map reference 50-4((1))60, County of Fairfax, Virginia, Ms. Day 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 February 3, 1981 and deferred for decision to February 10, 1981; 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 1 acre.
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 IN PART *(to allow construction of a storage building 10 ft. from the front 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 eighteen months from this date unless construction has started and is diligently pursued or unelss renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

RESOLUTION

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being absent).

Page 263, February 10, 1982, Reconsideration Request

J. & H. AITCHESON, INC. Mr. Schermer of 4813 Kingston Drive in Annandale requested the Board to rehear the variance application of J. & H. Aitcheson. After listening to Mr. Schermer's arguments as to why the variance should be reheard, Mr. Hyland moved that the Board reconsider or rehear the case. Mr. DiGiulian seconded the motion and it was passed unanimously.

It was the consensus of the Board to schedule the rehearing for March 17, 1981 at 10:15 A.M.

//

Page 263, February 10, 1981, Scheduled case of

11:30 A.M. TACO BELL, INC., appl. under Sect. 18-301 of the Ord. to appeal decision of Zoning Administrator dated October 29, 1980 that appellant's businesses are fast food restaurants, A-80-015. (DEFERRED FROM JANUARY 27, 1981 FOR VIEWING OF SITE).

Chairman Smith stated that the matter before the Board was whether or not Taco Bell was a fast food restaurant. He stated that the Board should not take into consideration any other arguments as to why it was appealed. Chairman Smith stated that the Zoning Administrator's original response was not a proper one based on the operation or the use of the property.

Mr. Hyland stated that he felt the Zoning Administrator's response was proper in light of the language of the Ordinance at the time. He stated that there was a representation of 85% but that still raised the issue as to what the word "principal use" means in the Ordinance. Mr. Hyland stated that principal use would mean more than 50% or it could be less than 50% as suggested by Mr. Yates. Mr. Hyland stated that the Ordinance did not define it in those terms. Mr. Hyland stated that he would have said that a principal use constituted an activity which equals 20% or more of the overall activity of the restaurant or 20% of the carryout. Mr. Hyland stated that there was not a better definition and the Board was left to the definition in the dictionary which was where the dilemna was. Mr. Hyland stated that he understood the problem that arose. He stated that he felt the Board was hopelessly deadlocked as far as making a decision in the matter.

Chairman Smith stated that in his opinion it was the intent of the Board of Supervisors and the staff at the time of the adoption and the amendment that this type of use be classified as a fast food restaurant due to the limited menu and the fast, expeditious manner in which the patron was served and the choice that he had of either eating in or removing the food from the premises. Chairman Smith stated that this was a non-cafeteria style of service and it was a very limited menu which was not cafeteria style. For that reason, he argued that it could only be interpreted as being a fast food restaurant as indicated in the Ordinance.

Mr. Hyland stated that Mr. Yates had that determination to make and when he made it, he felt that it wasn't based on a 85% test. Chairman Smith disagreed with the percentages. He stated that it was the type of service that was rendered by the established land use and should not be predicated on percentages. Mr. Hyland stated that if that was the case, the Board should not have been counting numbers at the establishment and should not have gone out to view the facility. Chairman Smith stated that as soon as he saw the type of service, the fast food type limited menu, he had no problem relating the use as the type of use requiring a special exception.

Mr. Hyland stated that one of the things that bothered him about the definition of fast food restaurants when applying it to Taco Bell, was any establishment which provides as a principal use, wrapped and/or packaged food or drink which is ready for consumption in cars or off premises. Mr. Hyland stated that he had asked the question whether that was for an establishment where when you walk in the food was all ready wrapped or packaged to be taken off premise. In stated, that in some of the typical fast food restaurants, that was the case. They have it wrapped, packaged and the drinks are the only things that are filled up when a customer comes in. Mr. Hyland stated that that was not the same kind of thing he had seem at the Taco Bell. They did not have anything prewrapped. It was not packaged. It was not wrapped. You ordered first and then they wrapped it or packaged it as opposed to it being ready when you walk in. Mr. Hyland stated that bothered him on the definition of fast food.

Chairman Smith stated that Mr. Hyland had asked for the background from the legislative body. And in that information, Chairman Smith stated that it was their intent that either prepackaged or fast type packaging of paperware without silverware or service at tables was to be a fast food establishement which would require a Special Exception. Chairman Smith stated that if Taco Bell did not meet that intent, then he was way off on it. Chairman Smith stated that Taco Bell was one of the highest users of the paperware as he did not see any silverware in the place or a glass or any type of dish that would indicate that it was not the type of use intended for a Special Exception, fast food category.

For the record, Mr. Hyland stated that he had to indicate something that was communicated to him and other members of the Board that he felt confirmed the information that staff obtained when they went out on their survey. He stated that the facts that the Board obtained from its viewing were almost identical to the experience of staff when it conducted its own on-site inspection. Mr. Hyland stated that there was a representation from the manager of Taco Bell in Manassas who had come from Woodbridge where he was trained that approximately 65% of the patrons ate on the premises and the remaining 35% eat off the premises. Mr. Hyland stated that those were the facts to deal with rather than the 85% in the letter sent to Mr. Yates. Then, the bottom line became whether a 35% carryout business fit the definition of a principal use that is wrapped and/or packaged food that is ready for consumption on or off premises. Mr. Hyland stated that was the issue. He stated that it was not the majority use or the major use since it was less than 50% and therefore, could it be the principal use? Mr. Hyland stated that his answer was "no" that it was not the principal use according to the definition the Board had chosen to use.

Mr. Hyland stated that the Board was deadlocked and would probably end up being denied no matter what. Chairman Smith stated that the principal use was the fact that there was a pre-packaged product. He stated that the percentages did not have anything to do with it. It was the fact that it was a fast food restaurant and that a person could go in, there was no silverware, no glasses, no table service, and it was the principal use of pre-packaged food which was packaged at the time it was ordered. Chairman Smith stated that this use was distinctly different from a restaurant type use or a cafeteria type use and could only be characterized as a fast food restaurant.

Chairman Smith stated that he hoped the Board could get three votes to uphold the decision of the Zoning Administrator in order to resolve the matter. Mrs. Day stated that the food at Taco Bell was packaged before the patron passed his money to pay for the food. Chairman Smith stated that the principal use was prepacked food. Mr. DiGiulian stated that he did not see anything prepacked. He stated that a customer came in and ordered and then they put the different ingredients together and then they packaged it. Chairman Smith stated that the principal use was a paper-type, fast service use. Chairman Smith stated that knowing the background and the legislative intent, this use was certainly one that they intended to be characterized as a Special Exception use under their amendment to the Ordinance for fast food restaurants. Chairman Smith stated that the intent had to be studied along with the language in the Ordinance.

Mr. Hyland stated that in the two definitions and particularly the definition of an eating establishment, that what the Board had was an operation that could technically meet the requirements of an eating establishment because food and drink of any kind for consumption primarily therein...he stated that "primarily therein" had to mean more than 50%. Mr. Hyland stated that he understood that the Board did not want to discuss percentages but he reminded the Chairman that it was the Zoning Administrator who had brought in the 65 and 35 percentage which was the reason for the appeal. Mr. Hyland stated that he agreed that percentages had some bearing. Mr. Hyland stated that in the definition of eating establishment, it would appear that if you used percentages, primarily would mean more than 50%, of eating food on premises then the definition was met. Secondly, he stated that the operation of Taco Bell had some characteristics of a fast food operation. He stated that Taco Bell had characteristics of both which was the problem. Third, since there was a little bit of both and you could not fit it exactly into one or the other and you have a determination as made by the Zoning Administrator over a year ago which gave the applicant the benefit of a ruling that it was a restaurant and not fast food, then a year later changed the rules, Mr. Hyland stated that he was influenced by that fact and was inclined to give the applicant the benefit of the doubt, particularly because the language in the Ordinance was inexact. Mr. Hyland stated that the change of position he understood but he indicated that he had to support the appeal.

Chairman Smith stated that the memorandum dated February 6, 1981 from the Zoning Administrator to the Board would be made a part of the record. Chairman Smith referred to a statement in Attachment 1 from Supervisor Alexander who indicated that Supervisor Shacochis was trying to restrict fast food restaurants and that was what the Board of Supervisors were looking for. He indicated that fast food was hard to define and indicated that they should go into the kinds of service that were in the restaurants. Chairman Smith stated that he was in agreement with that statement. He stated that he felt when you got into the seating capacity, etc. that it was not the things to be considered. Chairman Smith stated that as far as he was concerned, it was the type of service that determined whether it was fast food. Chairman Smith stated that it was certainly the intent of the Board of Supervisors that this type of service be classified as fast food which would require a Special Exception.

Chairman Smith asked the Board for a resolution on the matter. Mr. Yates asked to speak before any action was taken by the Board members. He stated that he did not know whether the Board should take any action today. Mr. Yates stated that he had consulted with the County Attorney and Mr. Keith, the attorney for Taco Bell, and had concluded that the whole issue could result in a motion being put on the floor to reverse the decision of the Zoning Administrator and if it resulted in a 2 to 2 split, then the whole issue would die. If a motion was put on the floor to uphold the Zoning Administrator and the resulting vote was 2 to 2, then there would be the unanswered question as to what was the status of the application. Mr. Yates stated that the third alternative would be for the Board to defer decision

until Mr. Yaremchuk returned in order to get a clear 3 - 2 vote. Mr. DiGiulian stated that he wanted to hear from the applicant. Chairman Smith stated that there was another factor involved which was that the Board had set this date for the date of decision and it had not exceeded the 60 days. Chairman Smith stated that he was concerned that if the Board did not take action of some kind that the appeal would be recorded as a denial because of not meeting the Code requirements.

Mr. Yates informed the Board members that the section of the Code the Chairman was referring to had been amended in the Ordinance and presently only stated that the BZA shall render a written decision on the appeal within 60 days after receipt of same. Mr. Yates stated that the Ordinance did not have the following sentence which stated that if the BZA did not act within 60 days that the appeal would be denied. Chairman Smith inquired as to when that was removed from the Ordinance and was informed that it was under Amendment No. 9. Chairman Smith inquired if the State Code addressed that same issue. Mr. Yates stated that he thought the State Code merely stated that the BZA shall render a decision within 60 days. Mr. Hyland stated that it did not say what kind of action had to be taken. He inquired if Mr. Yates felt that it meant that the BZA had to take final action within 60 days. Chairman Smith stated that had been the interpretation of the courts. Mr. Yates stated that he believed it to be final action but he indicated that it begged the question as to what were the consequences should the BZA not stay within the 60 days time frame. He stated that it would be incumbent upon the applicant to take any course of action. Mr. Hyland stated that the appeal was not heard within 60 days. Chairman Smith stated that since it was not questioned at the time of the hearing and the Board had heard the appeal and gotten all of the information at the time of the public hearing, it behooved the Board to make a decision. He stated that the Board had a responsibility to make a decision as soon as possible.

Mr. John Keith of 4020 University Drive in Fairfax represented the applicant. Mr. Keith requested the BZA to defer decision until Mr. Yaremchuk returned. He informed the Board that he had no objection to the extension of the 60 day period. He stated that the applicant did not chose to raise any objection to it and he urged the Board to wait until the full Board could consider the matter and render a decision. Mr. Hyland inquired if there was any problem with the legality of deferring decision. Chairman Smith stated that if the applicant had no problem with the 60 day requirement, then it was the responsibility of the Board to advise the applicant that the State Code did require it. If the applicant requested it to go beyond the 60 days, then the Board had no problem with it. Chairman Smith stated that he had some concern with the State Code requirement of 60 days.

After further discussion of the 60 day requirement, Mr. Hyland moved that the Board defer decision until such time as Mr. Yaremchuk returned so that the full Board could vote on the appeal. Mr. DiGiulian seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith). (Mr. Yaremchuk being absent). It was the consensus of the Board that a decision not be made any earlier than February 24th or later than March 10th.

// There being no further business, the Board adjourned at 1:30 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Oct. 5, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: October 12, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 24, 1981. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland and Ann Day. (Mr. John DiGiulian and Mr. John Yaremchuk were absent).

The Chairman called the meeting to order at 10:25 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. HALLOWING POINT ASSOCIATION, INC., appl. under Sect. 18-301 of the Ord. to appeal the Zoning Administrator's approval of a group residential facility for residential youth services, Inc., located 5800 Grove Street, Hollowing Point River Estates Subd., 122-2((2))108, Mt. Vernon Dist., R-E, 32,723 sq. ft., A-81-V-001.

Mr. Wallace Kleindienst, representative for Hallowing Point Assoc., requested the Board to defer the appeal application until there was full Board present. Mr. Hyland moved that the Board grant the applicant's request for deferral. Mrs. Day seconded the motion and it passed by a vote of 3 to 0 (Messrs. DiGiulian & Yaremchuk being absent).

It was the consensus of the Board to defer the appeal until March 10, 1981 at 11:15 A.M. for full Board.

//

Page 266, February 24, 1981, Scheduled case of

10:30 A.M. ELWOOD C. POLLIS, appl. under Sect. 18-406 of the Ord. to allow accessory building -a two story structure with approximately 384 sq. ft. gross floor area-to remain 5.4 ft. from side lot line (200 ft. max. gross floor area for storage structure in R-3 req. by Sect. 10-102; 12 ft. min. side yard req. by Sects. 10-105 and 3-307) located 4914 Bristow Drive, Bristow Subd., 71-3((3))65, (Annandale Dist., R-3, 10,500 sq. ft., V-80-A-186. (DEFERRED FROM NOVEMBER 25, 1980 FOR NOTICES AND FROM JANAURY 13, 1981 FOR ADVERTISING OF ADDITIONAL VARIANCE.)

Chairman Smith advised Mr. Elwood C. Pollis of 4914 Bristow Drive in Annandale that there were only three Board members present. He explained that normally there was a five member Board and inquired if the applicant wanted to proceed with the hearing or seek a deferral until there was a full Board. Mr. Pollis responded that he wished to proceed with his case. Chairman Smith explained that he could not support the additional square footage requested for the storage building. He stated that it was part of the Ordinance and he did not believe it should be varied. Chairman Smith stated that he believed restrictions should apply to everyone. Chairman Smith stated that Mr. Pollis could proceed if he wished.

Mr. Hyland stated that he did not wish to influence Mr. Pollis but shared his experience of the Board. He explained to Mr. Pollis what the outcome of having one negative vote would do to his variance application. He explained that others had chosen to have a full Board as it would take a unanimous vote of the three members present to affect any action.

Mr. Pollis decided to seek a deferral. It was the consensus of the Board to defer the variance application until Tuesday, March 17, 1981 at 11:20 A.M. for a full Board.

//

Page 266, February 24, 1981, Executive Session

At 10:35 A.M., the Board recessed the meeting to go into Executive Session as moved by Mr. Hyland and seconded by Mrs. Day. At 10:55 A.M., the Board reconvened the meeting to continue with the scheduled agenda.

//

Page 266, February 24, 1981, Scheduled case of

10:40 A.M. JOHN R. & DIANE R. STEPP, appl. under Sect. 18-401 of the Ord. to allow an addition within 5.1 ft. of the side property line (12 ft. min. side yard req. by Sect. 3-307), located 2407 Childs Lane, Stratford Landing Subd., 102-3((11))(9)20, Mt. Vernon Dist., R-3, 11,340 sq. ft., V-81-V-007.

Chairman Smith advised Mrs. Diane R. Stepp of 2407 Childs Lane in Alexandria that there were only three Board members present and that it would take a unanimous vote of all three members to affect the variance request. He stated that she could request a deferral or proceed with the case. However, he advised her it would be to her advantage to request a deferral for a full Board.

Mrs. Stepp requested the Board to defer the variance application. It was the consensus of the Board to defer the application until Tuesday, March 17, 1981 at 11:30 A.M. for a full Board.

//

Page 267, February 24, 1981, Scheduled case of

11:00 A.M. NATIONAL MEMORIAL PARK, INC., appl. under Sect. 3-103 of the Ord. to permit cemetery for animal interment and crematory for humans and animals, located 2726 Hollywood Road, 50-1((1))36, Providence Dist., R-1, 5.3 ac., S-81-P-003.

Mr. William Hansbarger, an attorney in Fairfax, represented the applicant. For testimony presented and discussion regarding the deferral, please refer to the verbatim transcript on file in the Clerk's Office.

The special permit application was deferred until March 31, 1981 at 10:15 A.M. for a full Board.

//

Page 267, February 24, 1981, Scheduled case of

11:15 A.M. GREENDALE ACADEMY, INC., appl. under Sect. 3-303 of the Ord. to permit change in corporate name for a school and child care center formerly Proctor Hatsell Private School, Inc., located 6318 May Blvd., 82-3((11))45 & 46 and 82-3((1))38, Lee Dist., R-3, 4 ac., S-81-L-004.

Chairman Smith informed Mr. Claude Wheeler that there were only three Board members present and that he could request a deferral for a full Board or proceed with the hearing. Mr. Wheeler requested a deferral for a full Board. It was the consensus of the Board to defer the application until Tuesday, March 17, 1981 at 11:40 A.M. for a full Board.

//

Page 267, February 24, 1981, Scheduled case of

11:30 A.M. METROPOLITAN OPEN BIBLE CHURCH, appl. under Sect. 3-304 of the Ord. to amend S-482-66 for child care center to change ages of children to 2 - 8 and to permit use of second floor space in addition to lower floor space, located 6434 Franconia Road, 81-3((1))10, Lee Dist., R-3, 1.2151 ac., S-80-L-115. (DEFERRED FROM FEBRUARY 3, 1981 AT REQUEST OF APPLICANT).

It was the consensus of the Board to defer the special permit application until Tuesday, March 31, 1981 at 11:00 A.M. for a full Board.

//

Page 267, February 24, 1981, Scheduled case of

11:45 A.M. JAMES G. GORE, JR., appl. under Sect. 18-301 of the Ord. to appeal the Zoning Administrator's denial of a building permit application, located 1935 Franklin Avenue, franklin Forest Subd., 41-1((8))21A, Dranesville Dist., R-2, 12,471 sq. ft., A-81-D-002.

For information regarding discussion of deferral, please refer to verbatim transcript located on file in the Clerk's Office. The appeal was deferred until March 31, 1981 at 10:30 A.M. for a full Board.

//

Page 267, February 24, 1981, Scheduled case of

12:30 A.M. MARIA E. GARCIA, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing porch to 14.3 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-407), located 2841 Meadow Lane, Hillwood Avenue Subd., 50-4((7))48, Providence Dist., R-4, 8,349, V-81-P-001. (DEFERRED FROM FEBRUARY 10, 1981 BECAUSE OF ERROR IN ADVERTISEMENT).

It was the consensus of the Board to defer the variance application until Tuesday, March 10, 1981 at 11:45 A.M. for a full Board.

//

Page 268, February 24, 1981, Scheduled case of

12:40 P.M. TACO BELL, INC., appl. under Sect. 18-301 of the Ord. to appeal decision of Zoning Administrator dated October 29, 1980 that applicant's businesses are fast food restaurants, A-80-015. (DEFERRED FROM JANUARY 27, 1981 FOR VIEWING OF SITE AND FOR DECISION OF FULL BOARD).

It was the consensus of the Board to defer decision until Tuesday, March 10, 1981 at 12:00 P.M. for decision of full Board.

// There being no further business, the Board adjourned at 12:40 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Oct. 5, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: October 12, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 10, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of

10:00 A.M. AUGUSTUS JOHNSON, appl. under Sect. 18-401 of the Ord. to allow resubdivision into 3 lots, one having a width of 15 ft. & another a width of 85 ft. (100 ft. min. lot width req. by Sect. 3-207), located 7012 Woodland Drive, Leewood Estates Subd., 71-4((3))55, Annandale Dist., R-2, 1.8 ac., V-80-A-227. (DEFERRED FROM JANUARY 22, 1981 FOR NOTICES.)

Mr. Augustus Johnson of 7012 Woodland Drive in Springfield informed the Board that he had lived on the property for 30 years and intended to continue living on the property as his permanent residence. Mr. Johnson stated that his problem was that his property was 200' x 400' with 200 ft. of frontage on the road. He stated that he had ample area for three lots but did not have access for the third lot without a variance. Mr. Johnson stated that he was requesting to have one lot with 100 ft. frontage, another lot with 85 ft. frontage and the other lot with 15 ft. frontage which would be a pipestem to serve the lot.

Mr. Yaremchuk stated that he noted on the plats it indicated the future building of two story dwellings. Mr. Johnson informed the Board that he planned to sell the lots and let someone else build the houses. In response to further questions from the Board, Mr. Johnson stated that he had lived on the property for 30 years. Chairman Smith stated that the area surrounding Mr. Johnson's property was developed into smaller lots or townhouse lots. Mr. Johnson stated that there were still a few two acre parcels remaining. Mr. Yaremchuk stated that Mr. Johnson had to pay a lot of taxes on two acres but Chairman Smith stated that the taxes were as much for one-third acre as they were for two acres anymore.

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

Page 269, March 10, 1981 Board of Zoning Appeals
AUGUSTUS JOHNSON

R E S O L U T I O N

In Application No. V-80-A-227 by AUGUSTUS JOHNSON under Section 18-401 of the Zoning Ordinance to allow resubdivision into 3 lots, one having a width of 15 ft. and another a width of 85 ft. (100 ft. minimum lot width required by Sect. 3-207), on property located at 7012 Woodland Drive, tax map reference 71-4((3))55, 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 March 10, 1981, and deferred from January 22, 1981; 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 1.8 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.

RESOLUTION

2. This variance shall expire eighteen months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 270, March 10, 1981, Scheduled case of

10:10 A.M. SERGASCO CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of addition to service station building to 7 ft. from rear lot line (20 ft. min. rear lot req. by Sect. 4-507), located 2600 Sherwood Hall Lane, 102-1((7))(7)17B, Mt. Vernon Dist., C-5, 17,531 sq. ft., V-80-V-111 (DEFERRED FROM JANUARY 27, 1981 AS SPECIAL EXCEPTION WAS PENDING BEFORE BOARD OF SUPERVISORS).

As the Special Exception was still pending before the Board of Supervisors, it was the consensus of the Board of Zoning Appeals to defer the variance application until Tuesday, March 31, 1981 at 12:30 P.M.

//

Page 270, March 10, 1981, Scheduled case of

10:20 A.M. FRANK COHN, appl. under Sect. 18-401 of the Ord. to allow the enclosure and addition to existing carport within 10.6 ft. of the side yard property line (15 ft. min. side yard req. by Sect. 3-207), located 8809 Gateshead Road, East Gate Subd., 110-1((18))(4)6A, Mt. Vernon Dist., R-1, 24,477 sq. ft., V-81-V-008.

As the required notices were not in order, the Board deferred the application until Tuesday, March 31, 1981 at 12:40 P.M.

//

Page 270, March 10, 1981, Scheduled case of

10:30 A.M. MICHAEL A. MATZKO, appl. under Sect. 18-401 of the Ord. to allow the enclosure and expansion of an existing carport within 5.7 ft. of the side property line (12 ft. min. side yard req. by Sect. 3-307), located 7124 Dalhouse St., North Springfield Subd., 80-1((2))(2)34, Springfield Dist., R-3, 12,000 sq. ft., V-81-S-009.

Mr. Michael A. Matzko informed the Board that he was requesting a variance to the side lot setback to enclose his carport into a garage. He stated that by enclosing his carport, it entailed requesting a variance to 5.7 ft. of the side property line. Mr. Matzko stated that he had talked to his neighbor who had no objections to the enclosure of the carport. Mr. Matzko stated that the advantages of the enclosure were obvious. He stated that the enclosure would mostly affect his wife by allowing her a dry access to and from the car. Mr. Matzko stated that the wind blew into the carport which presented a problem and a hazard for his wife as she had to use a cane for support.

In response to questions from the Board, Mr. Matzko stated that the size of the existing carport was 10 ft. and that he wanted to expand it to 14 ft. to allow for the opening of car doors and the storage of equipment. The present width would not allow enough room to get in and out of cars. Mr. Matzko stated that he was advised that the most economical use of the materials would be to have a 14 ft. garage which would also allow the extra room necessary. Mr. Matzko informed the Board that his existing shed would be removed.

Chairman Smith read a letter of objection from a neighbor on Dalhouse Street. The objection stated that the enclosure of the carport would create a crowded area between the two houses. Mr. Matzko stated that the letter was from his neighbor to the east who had known for 19 years. He stated that his garage was not on that neighbor's side lot line. He informed the Board that the neighbor had a garage but his lot was wider and did not require a variance.

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

RESOLUTION

In Application No. V-81-S-009 by MICHAEL A. MATZKO under Section 18-401 of the Zoning Ordinance to allow the enclosure and expansion of an existing carport within 5.7 ft. of side property line (12 ft. minimum side yard required by Sect. 3-307) on property located at 7124

RESOLUTION

Dalhouse Street, tax map reference 80-1((2))(2)34, County of Fairfax, Virginia, Ms. Day 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 10, 1981; 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 12,000 sq. ft.
4. That the applicant's property has exceptional topographic problems and has a portion of said lot in floodplain and also an easement for storm sewer which reduces the buildable area of the 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith) with 1 abstention (Mr. DiGiulian).

Page 271, March 10, 1981, Scheduled case of

10:40 A.M. MARK A. FOWLER, appl. under Sect. 18-401 of the Ord. to allow a carport to come within 4.4 ft. of the side property line (12 ft. min. side yard req. by Sect. 3-307), located 1450 Pathfinder Lane, West McLean Subd., 30-2((7))(8)42, Dranesville Dist., R-3, 21,000 sq. ft., V-81-D-010.

Mr. Mark A. Fowler of 1450 Pathfinder Lane informed the Board that the reason for the variance was due to the hardship of the topographic layout of his yard. He stated that his property was very narrow and had a slope from the front to the back. In order to build a carport to the side, it would be necessary to remove a porch which was over 30 years old and it would require a variance. Mr. Fowler stated that his neighbor on that side had been informed of the variance and had no objection.

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

RESOLUTION

In Application No. V-81-D-010 by MARK A. FOWLER under Section 18-401 of the Zoning Ordinance to allow a carport to come within 4.4 ft. of the side property line (12 ft. minimum side yard required by Sect. 3-307), on property located at 1450 Pathfinder Lane, tax map reference 30-2((7))(8)42, 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

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 10, 1981; 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 21,000 sq. ft.
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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 272, March 10, 1981, Scheduled case of

10:50 A.M. EDWARD BRAWAND, JR., appl. under Sect. 18-401 of the Ord. to allow an addition to a dwelling within 5.5 ft. of the side property line (15 ft. min. side yard req. by Sect. 3-207), located 3325 Beechtree Lane, Staffordale Subd., 60-2((10))7, Mason Dist., R-2, 13,325 sq. ft., V-81-M-016.

Mrs. Brawand informed the Board that her husband was going to present the case but had been involved in a head-on collision the night before. Mrs. Brawand informed the Board that she had been raised in this house and that her husband had been raised in the house across the street. She stated that they both loved the neighborhood, first as childhood sweethearts, second as husband and wife, and presently as parents. She stated that the residence was their home and they hoped to spend the rest of their lives there. Mrs. Brawand stated that she and her husband had decided to expand their home by adding a family room and a garage. She stated that they had chosen not to disturb any trees on the lot. In addition, practical considerations were taken into account as there was not any outside entrance into the basement. For that reason, it was decided to build above ground as well as the fact that the property had a high water table and there was water in the basement. periodically.

Mrs. Brawand stated that a building permit No. 8007B1425 was issued to construct a family room and garage to the rear of the residence. She stated that it was issued to construct the addition as indicated on the plat which was attached to the permit. Mrs. Brawand stated that there was a dispute with the builder and her husband decided to construct the addition himself. However, when he had applied for a permit as a homeowner for construction of the same building at the same location, he was informed that he could begin construction on the family room but would be required to obtain a variance before the garage portion could be constructed. She stated that in good faith, relying on the original building permit approval, her husband had begun excavation of a footing for the entire probject and purchased materials, some of which were designed specifically for the garage. Mrs. Brawand submitted photographs to the Board showing the roof trusses which were fabricated for the design of the addition. She stated that she and her husband felt that a side yard of 5.5 ft. was necessary to afford adequate room for the garage to provide a workshop and garage the vehicles. She stated that to construct the garage to any other side line setback would cause a serious hardship as they would not be able to use the materials which were specifically fabricated for the addition. In addition, if the Board allowed them to build the addition and garage as originally contemplated would not disrupt the environment and would not be opposed by any of the neighbors.

Page 273, March 10, 1981
EDWARD BRAWAND, JR.
(continued)

Mrs. Brawand stated that the current status of construction was that the family room addition was completely under roof and enclosed. Footings had been excavated for the remaining sections which include the garage. She urged the Board to grant the variance.

Mr. Hyland inquired about the building permit which was obtained by the builder and whether it was based on the plat which was submitted for the variance. Mrs. Brawand stated that to her knowledge, the building permit was issued for the whole addition, for both the family room and garage. Mr. Hyland inquired if the plat had ever changed and Mrs. Brawand stated that it had not. Chairman Smith requested to see a copy of the building permit approved by the County and Mrs. Brawand stated that it had been in the window until the dispute with the builder. Mr. Hyland inquired as to who had informed them that a variance was necessary for the garage when they decided to do the construction themselves. Mrs. Brawand stated that the County had informed them a variance was necessary because they were going within 15 ft. of the property line. Chairman Smith inquired as to the name of the builder & was told it was Mr. David Talton. Chairman Smith inquired if there was a contract with the builder to build the addition and garage at this location. Mrs. Brawand stated that there was not a signed contract. Chairman Smith inquired if the builder had guaranteed that the garage could be built at the location and Mrs. Brawand stated that she was not made aware of any problem with the addition as proposed. Chairman Smith inquired if the contractor held a home improvement license in the County of Fairfax and Mrs. Brawand stated that she had never requested any information from the builder. She indicated that all meetings took place between her husband and the builder.

Mr. Hyland stated that he felt additional information was necessary. He requested to see the date which accompanied the building permit from the builder. He stated that the applicants had relied on the original approval and if there was a problem with the side lot line then it should have been picked up at the time of the original building permit. Mr. DiGiulian seconded the motion. The motion passed unanimously.

There was no one else to speak in support of the application and no one to speak in opposition. Chairman Smith inquired as to the status of the construction. Mrs. Brawand stated that the family room has enclosed and constructed. Only the layout had been started on the garage addition. Chairman Smith stated that the original permit possibly was only for the construction of a family room. He stated that any additional information Mr. or Mrs. Brawand might have would be helpful to the Board. Mr. Covington stated that he could provide the accompanying data from the building permit.

Mr. Yaremchuk questioned the need for deferring in order to obtain the additional information. He stated that the applicant would still need a variance whether they had relied on the previous permit or not. Chairman Smith stated that there was a question on the plat. The plat with the variance indicated a side yard of 5.5 ft. at the front but since it was not parallel with the lot line, Chairman Smith stated that the back was closer to a 5 ft. setback. He requested the staff to examine the application. Mrs. Brawand stated that they could move the garage in closer but Chairman Smith stated that it would have to readvertised if it came closer than 5.5 ft.

It was the consensus of the Board to defer the application until Tuesday, March 17, 1981 at 11:50 A.M. for additional information.

//

Page 273, March 10, 1981, Scheduled case of

11:00 A.M. ARTHUR B. MORELAND, appl. under Sect. 18-401 of the Ord. to allow subd. into 4 lots, two of which would have width of 15 ft. (150 ft. min. lot width req. by Sect. 3-106), located 12410 Bennett Road, 35-4((1))40 & 41, Centreville Dist., R-1, 7.92 ac., V-81-C-006. (DEFERRED FROM FEBRUARY 10, 1981 FOR DECISION & RECEIPT OF PLANNING COMMISSION RECOMMENDATION).

Ms. Jane Kelsey informed the Board that it had deferred the variance application on February 10, 1981 in order to allow the Planning Commission to hear the request. She stated that the staff had written an additional staff report which she distributed to the Board. She stated that the report had included the additional comments from DEM regarding access from the proposed lots to be on one common driveway and directly across from Betsy Lane. In accordance with that request, Ms. Kelsey stated that a new plat was submitted to be incorporated into the variance file.

Chairman Smith inquired if the Board had any questions. He advised that the new plats showed acess from Bennett Road at one point. Ms. Kelsey stated that the access from lot 1 was still from Bennett Road. Mr. Hyland inquired if the new plats were in accordance or consistent with the Planning Commission recommendation and Ms. Kelsey responded that they were.

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

RESOLUTION

In Application No. V-81-C-006 by ARTHUR B. MORELAND under Section 18-401 of the Zoning Ordinance to allow subd. into 4 lots, two of which would have width of 15 ft. (150 ft. minimum width required by Sect. 3-106) on property located at 12410 Bennett Road, tax map reference 35-4((1))40 & 41, County of Fairfax, Virginia, Mr. Hyland 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 10, 1981; 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 7.92 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. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

3. This variance is subject to the condition that all new construction for lots 2, 3 & 4 access Bennett Road via one common driveway and that the development be in accordance with the revised plats of March 1981 as approved by the Planning Commission.

Ms. Day seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

Page 274, March 10, 1981, Recess

At 11:30 A.M., the Board recessed for lunch and reconvened at 12:05 P.M. to continue with the scheduled agenda.

//

Page 274, March 10, 1981, Scheduled case of

11:15 A.M. HALLOWING POINT ASSOCIATION, INC., appl. under Sect. 18-301 of the Ord. to appeal the Zoning Administrator's approval of a group residential facility for Residential Youth Services, Inc., located 5800 Grove St., Hallowing Point River Estates Subd., 122-2((2))108, Mt. Vernon Dist., R-E, 32,723 sq. ft., A-81-V-001. (DEFERRED FROM FEBRUARY 24, 1981 AT REQUEST OF APPLICANT).

Ms. Karen Harwood, Mr. Philip Yates and Mr. Larry McDermott represented the County staff in the appeal. Mr. Walter Kleindienst represented the appellant. Chairman Smith advised Mr. Dleindienst that he would have a maximum of 30 minutes to present his case. He asked him to stick to the points raised in his correspondence and not to discuss the facility as far as the Ordinance was concerned. Chairman Smith stated that the only question raised was the safety issue. Mr. Kleindienst informed the Board that one of the issues was the way the Ordinance was applied and interpreted which did not provide for any analysis in the community for the safety of the residents. Mr. Kleindienst stated that his point was that if the children were not disabled they did not belong there. Mr. Hyland stated that it sounded to him like Mr. Kleindienst was raising the question of the validity of the Ordinance. Mr. Kleindienst stated that he was not saying that the Ordinance should be invalidated.

Mr. Philip Yates informed the Board that he was a man of few words and had set forth his position in the staff report dated February 19, 1981. He stated that he felt comfortable that he had presented all of the background information concerning the appeal. In addition, Mr. Kleindienst had presented a letter dated February 25, 1981 which enunciated several reasons why he felt Mr. Yates had erred in issuing the permit. Mr. Yates stated that Mr. Larry McDermott from his staff was present to answer any questions the Board might have. In addition, Mr. John Callahan from the County Executive's Office, Ms. Karen Harwood from the County Attorney's Office, and Mr. Gordon Hay, the Director of the facility and Ms. Pazieno were also present to answer any questions the Board might have about the issue.

Mr. Wallace Kleindienst informed the Board that his position in the matter was set forth in his statement dated February 25, 1981. Mr. Kleindienst stated that he would summarize his arguments. For introduction purposes, Mr. Kleindienst informed the Board that Hallowing Point Association was a civic association formed to represent the homeowners in Hallowing Point. He stated that there were 100 families who were members of the association but there were in excess of 100 lots in the subdivision. Mr. Kleindienst stated that Hallowing Point was an isolated, single family residential environment. He stated that it was isolated because it was the very tip of Mason Neck and there was only one road for access to Hallowing Point from Rt. 1 and that was Gunston Road. Gunston Road was a small, two lane country road. Mr. Kleindienst stated that the community was unlike any other community in Fairfax County because of its isolation and the surrounding topographic features such as the Potomac River and a large plat of undeveloped land abutting the community and the Mason Neck Wildlike Refuge in excess of 1,000 acres. Further down Gunston Road, there was the Gunston Hall Plantation which was also in excess of 1,000 acres. Mr. Kleindienst stated that Hallowing Point was a small community and very isolated and surrounded by the Potomac or undeveloped, heavily wooded land.

Mr. Kleindienst stated that the community had opposed the granting by the Zoning Administrator of the facility. He stated that the Board should not concern itself about the facility and what would happen to it as the operators had terminated its lease in Alexandria after the filing of the appeal. Therefore, Mr. Kleindienst stated that the operators were aware of the appeal and decided to take a chance. Mr. Kleindienst stated that the Fairfax County Group Residential Facility and the Zoning Administrator had reviewed the permit and in applying considerations had excluded considerations of the impact of the Group Home which was nothing more than a halfway house crisis shelter on the community. Mr. Kleindienst stated that the State Statute 15.2-486 indicated that it was the policy of the State and the local subdivision to make sure that foster care homes, homes for the mentally retarded and other group homes shall be allowed in communities. However, Mr. Kleindienst stated that the State only talked about those homes which care for the mentally retarded and developmentally disabled. He stated that the Statute went on to say that when you have those types of clientele population that there were issues of health and safety of the residents of that facility which should heavily considered. Mr. Kleindienst stated that the County in its process had only examined those two issues of health and safety of the residents of the facility to the exclusion of any other interest. Mr. Kleindienst stated that this operation was a group crisis facility that did not have a client population of mentally retarded children or developmentally disabled. He stated that if the Board looked at the applications filed with the GRFC, it was stated that the eligible children to be placed in the facility were truants, runaways, discipline behavior problems, abused or neglected children. Mr. Kleindienst stated that the facility cared for a variety of children with no clear denomination and that the children had a variety of problems, some emotional and some of other type. Mr. Kleindienst stated that the crisis shelter would not service or was intended to service those who were mentally retarded or developmentally disabled. Mr. Kleindienst stated that there was a clear definition of what a developmentally disability was in Section 9-139 of the State Code. He stated that one had a developmentally disability when one had a chronic physical or mental impairment that surfaces before the person attains the age of eighteen. He stated that several other various standards were set out in the Section 9-139.

Mr. Kleindienst stated that the children at the facility did not fit the criteria set forth in the State Code. He stated that what the Zoning Administrator had done was not consider the relevant issues. He stated that the County could enact the Zoning Ordinance to protect the health and safety of the entire population. Mr. Kleindienst stated that when the County acted, it had to take into account the harmonious community which was a general mandate and had to be followed. He stated that what the County had done was apply the standards to the exclusion of the general welfare of the populace and only applied the standards to the residents and the impact of the group home. Mr. Kleindienst stated that the GRFC should have considered all other communities in Fairfax County. He argued that Hallowing Point was a unique subdivision as it was an isolated area. He stated that the staff would be coming and going and the children would be moving in and out everyday. They would have guests on the weekends. All of the activity would increase the traffic down in Hallowing point. Mr. Hyland inquired as to the number of additional trips that would be generated. Mr. Kleindienst stated that a family with four kids would have a different impact. Mr. Kleindienst stated that the residents of the facility would probably only stay at the home for 60 days. He stated that the staff did not live there, the cook did not live there, and the counselors did not live there. Therefore, all of the people would be driving back and forth. Mr. Kleindienst stated that two visitors were allowed per child on weekends which would add to the traffic situation.

Mr. Kleindienst stated that the second impact was that Hallowing Point was seven miles away from any commercial establishment. He stated that the shelter was nothing more than boarding house. He stated that the County or State was paying RYS to house the children. Mr. Kleindienst stated that RYS was a corporation and it was a business. Mr. Kleindienst stated that the residents would live at the facility for 60 to 90 days but there was a diagnostic center there, a counseling center and other things which were totally foreign to what comes on in a residential community. Mr. Kleindienst stated that it was an impact that the County should have examined. Mr. Kleindienst stated that for the last 30 years, Hallowing Point had successfully kept out any intrusion into its environment which was preserved for single families exclusive of any business establishments.

Mr. Yaremchuk stated that what Mr. Kleindienst was saying was good in theory but he asked if there was really a problem within the home. He inquired as to the size of the lot. Mr. Kleindienst stated that the lot was 36,000 sq. ft. and did not have sewer. Mr. Yaremchuk inquired as to the number of children at the facility at any one time. Mr. Kleindienst stated that he did not know the number in the facility at the present time but he stated that they could have up to five and was projected for a maximum of eight. He stated that they had been in the facility since the middle of February and there had been quite a few citizen complaints already. Mr. Kleindienst stated that the most notable complaint that he was aware of was that the next door neighbor had observed the children climbing all over the roof and had called the police. Mr. Kleindienst stated that it took the police 1½ hours to get down there which was another problem. Mr. Hyland inquired as to the closest substation and was informed that it the Franconia Substation. Mr. Hyland stated that the average response time from the Groveton Substation was 12 minutes. Mrs. Day inquired as to why the children were on the roof. Mr. Yaremchuk inquired as to what had happened when the police arrived. Mr. Kleindienst stated that he was not aware of what had happened. Mr. Yaremchuk stated that he would like to know the end result as he put himself in the neighbor's place as if he lived down there. He inquired if the children stayed up late and played loud music and he asked if there was any more vandalism than before. Mr. Kleindienst stated that if he had more time, he would know. Mr. Yaremchuk informed Mr. Kleindienst that he had good theory but he wanted tangible evidence. He stated that perhaps the County and State wanted to get the children away from the shopping centers into a secluded area.

Chairman Smith stated that Mr. Kleindienst was using the 1½ hour police response time as an issue. He informed everyone that the police had to respond to calls on a priority basis and that it depended upon the nature of the call as to the length of time it took to respond. Chairman Smith stated that apparently the police did not feel that the children on the roof was a crisis situation or an emergency situation. In addition, he stated that the police had to respond from whatever area they might be in when they received the call. He stated that the police left the substation early in their shift and did not return to it until the end of the shift. He informed everyone that the police were in some part of the community all the time. Chairman Smith stated that 1½ hour response time was not a criteria to base anything on other than the fact the the police were occupied in some other area on matters of higher priority. Mr. Kliendienst stated that the Chairman had a good point.

Mr. Kleindienst stated that the police matter was one issue. However, he stated that the biggest impact was the diagnostic temporary shelter for children for only 60 to 90 days. He stated that the center had aides. The County had placed the facility in an area where for the past 30 years families had come to live and stayed for at least 10 years. Mr. Kleindienst stated that the other point was Lorton which Mason Neck was a part of. He stated that there was also the landfill, the water treatment plant, three junk yards, and Lorton prison. Mr. Kleindienst stated that the community had more than shouldered its burden. In response to questions from the Board, Mr. Kleindienst stated that the Lorton prison was 10 miles away from Hallowing Point.

Mr. Kleindienst stated that Section 2-502 of the Ordinance gave the Zoning Administrator the authority to grant a permit for a group residential facility. However, he stated that he did not think that this particular type of facility was what the Board of Supervisors had intended to be a group residential facility. He stated that this was not a facility for the people to live at for a long period of time like a residential home for the mentally retarded. He stated that the kids did not stay at the facility long enough to call it home. They did not go to the community schools. They received counseling for 60 to 90 days and then were gone. Mr. Kleindienst stated that the facility was nothing more than a temporary shelter, crisis center, halfway house home for kids where the County or State does not know where else to place them and are only there for a short period of time. Mr. Kliendienst stated that under the definition of a group residential facility and under the common meaning of residence, nobody could call the place their home. He insisted that it was not a place of residence but a temporary place for the children and a place of work for the staff. He stated that it did not fit the definition under Section 2-502.

Mr. Hyland inquired if there were other temporary crisis facilities in Fairfax County. Mr. Yates stated that this facility was the third diagnostic facility in the County. Mr. Kleindienst informed Mr. Hyland that his review of the other two temporary homes were that they were never appealed to the Board of Zoning Appeals or if they were, the issues that he had raised were never raised as to whether or not it was a group residential facility.

Mr. Hyland inquired if the other two previously granted facilities were granted under the same provision as the facility now under appeal and Mr. Yates stated that they were. Mr. Hyland inquired if Mr. Kliendienst felt that it was appropriate and he stated that the facility was not a group residential facility or a residence. He stated that a residence was a place where people resided. Mr. Kleindienst stated that if you took the definition of the Zoning Ordinance for what a residence was and it could not be described as the same as the facility under appeal. Mr. Hyland stated that Mr. Kliendienst had cited the Ordinance which also had the definition of dwelling unit which allowed a maximum of eight people to reside and did not go into the length of time they had to reside there. Mr. Hyland stated that Mr. Kliendienst had indicated that the children did not reside there. He inquired as to the status of the litigation in the appeal to the court. Mr. Kliendienst stated that the litigation was on-going and had been set for trial and had not been resolved. Mr. Hyland inquired as to the date of the trial and was informed it was set for the end of May of 1981. Mr. Kliendienst stated that he had purposely not raised that as an issue as he did not feel it was something for the Board to consider. Mr. Hyland stated that he understood Mr. Kliendienst's position but documentation had been submitted which raised the issue which was why he asked the question. Mr. Hyland stated that he was curious as to whether the courts had interpreted the Code provisions. Mr. Kliendienst stated that the trial date was in May but the issue before the court was not the Zoning Ordinance regulations at all. He stated that it was a different issue entirely. He stated that the court case was on the restrictive covenants which were two different issues. Mr. Hyland inquired if they had asked for an injunction and Mr. Kliendienst stated that he had asked for a preliminary injunction pending the final outcome of the trial.

Mr. Yaremchuk inquired of Mr. Yates about the three facilities in Fairfax County. He asked if one of the facilities was off of Columbia Pike in Mason District and was informed by Mr. Yates that it was. Mr. Yaremchuk stated that the community there had appealed Mr. Yates' decision and the Board upheld him. Mr. Yaremchuk inquired of Mr. Yates as to whether he had received any complaints from the citizens in the area recently and was informed he had not. Mr. Hyland inquired of Mr. Yates as to his reaction of the issue of residence and whether in his opinion the Ordinance would include temporary residence. In addition, he stated that representation had been presented that other factors that might impact on the community had not been considered by the Zoning Administrator in his determination. Mr. Hyland inquired if Mr. Yates had considered the impact on the community and if so, what factors had he considered. Mr. Yates replied that he appreciated the term "reside" and the argument presented. He reminded the Board that if there was a proposed use that it was incumbent upon him to determine which use had characteristics most similar to the one proposed. He indicated that there was no question in his mind that the group home facility as defined in the Ordinance was that use which had characteristics most similar to the use in question. He stated that an argument could be made contrary to it but the use that he was dealing with was an interim use which was a group residential facility. Mr. Yates stated that in reference to other factors not being considered, he indicated that was a strong allegation. He stated that he did not make decisions contrary to the Zoning Ordinance. He stated that within the provisions of the group residential facility guidelines there might not be a statement as to the general welfare and safety of the community. However, Mr. Yates stated that it was addressed in the preamble of the Zoning Ordinance. Therefore, Mr. Yates stated that he could definitely say that the impact on the community was a definite factor in his consideration. Mr. Hyland inquired if the Zoning Administrator had personally viewed the site and was informed he had spent about three hours there. Mr. Hyland inquired if Mr. Yates had received any objections to the facility prior to his decision. Mr. Yates stated that he was aware of the objections when he made his inspection of the site. Mr. Yates informed the Board that he had received written objections from Mr. Kliendienst and had received verbal comments from Mr. McDermott from the community from earlier meetings.

Mr. Yaremchuk inquired if any of the officers of the civic association had been notified prior to the County placing the facility at Hallowing Point. Mr. Yates stated that it was in the guidelines that a minimum of ten notices be sent out with reference to the facility. Mr. Yates stated that about 70 people attended the public session before the Group Residential Facility Commission.

Mr. Hyland stated that there was some reference in Mr. Kliendienst's brief that the Zoning Administrator had not given the basis or reasons for his decision. Mr. Kliendienst stated that Section 2-502 stated that the decision of the Zoning Administrator shall be in writing and that he was to let the public know of his interpretation. Mr. Hyland stated that the section referred to the decisions of the Zoning Administrator and not interpretations. Mr. Kliendienst stated that if the Zoning Administrator made a written decision, the reasons or basis should be reflected in the written decision. Mr. Hyland asked Mr. Kliendienst to point to the language in the Ordinance which specified that and Mr. Kliendienst stated that there was nothing in the Ordinance.

Mr. Kliendienst stated that his other major point was whether the facility protected the residents who lived in the facility. Mr. Kliendienst stated that the facility had a lot of problems being located down in Hallowing Point. He informed the Board that he set out in detail all of the various problems in his statement presented with the appeal. Some of the problems were fire, police and medical facilities, community services, etc. He stated that

across the street was the Potomac River. He informed the Board that there had been several drownings there. In addition, there were very high cliffs in that area. Chairman Smith inquired as to why these considerations would be a greater health or safety factor to the participants of the facility over and above the other community users. Mr. Kliendienst stated that was a good point but he indicated that a lot of the participants had problems with themselves and not necessarily with their parents. He informed the Board that a major portion of the participants would have problems with themselves as they were runaways. Mr. Kliendienst was concerned about the cliffs there as he indicated that these children were inclined to leave the house at night. Mr. Kliendienst stated that if a child took off, he had a greater capacity to cause harm to himself because of the cliffs, the marsh and the fact that there was not any bus service in the area.

Chairman Smith inquired if there were any statistics to prove Mr. Kliendienst's statements. He related an incident to the Board that had taken place in January at Harbor House where three kids who were runaways had tied up the counselor, stolen her keys and taken off in her car. Chairman Smith stated that he had read about it in the newspaper. He stated that hundreds of cars were stolen every month in the County. Chairman Smith stated that he was sure that the youngsters were going to do things that they saw others doing in the same society. He informed Mr. Kliendienst that the youngsters in these facilities were not the only bad people and were part of the community. He stated that they came from local areas and were part of the environment.

Chairman Smith requested Mr. Kliendienst to get back to the traffic issue. Chairman Smith stated that the staff at the facility would arrive in the morning and leave in the evening. The guests were there only on the weekends. Since it was stated that the facility had its own diagnostic facility, Chairman Smith stated that should lower the traffic. In addition, he stated that the children were restricted in travel. He stated that the families in the community were not restricted and some of them might have four or five children. Chairman Smith stated that children do like to sneak out at night and the marsh and the cliffs posed a problem to them as well. The children at the group residential facility were restricted and were supervised. Mr. Kliendienst inquired as to why there was a criteria for the safety and welfare of the residents if they were not applied. He informed the Board that there were not any fire hydrants in the area and the group facility might burn down. Mrs. Day stated that if there was a fire in any other residence, they would have to wait the same amount of time as the group residential facility. Chairman Smith stated that at the group facility, there was a person in the home who was awake the entire 24 hours. He stated that it was probably one of the safest homes in the area. Mr. Kliendienst stated that the Chairman was assuming that the staff was alert. Chairman Smith stated that he had visited one of these facilities and the staff was there on a 24 hour basis and awake.

Mr. Hyland asked Mr. Kliendienst to put aside the issue about the residents and inform him as to the other factors which would impact adversely on the community that should have deterred the Zoning Administrator from permitting the facility at this location. Mr. Kliendienst stated that the facility introduced a quasi-commercial business into the area that did not have any other for seven miles. He stated that there had already been an impact on the area because of the other uses that are down there. He inquired as to how much a neighborhood had to share in its burden. He stated that the community was isolated. He stated that Hallowing Point was not Annandale or Arlington. He stated that his community did not have a transient type of environment. Mr. Hyland asked for the negative impact on the community. Mr. Kliendienst stated that there were people concerned for themselves and the residents also. He stated that if you lived down in the area, you knew what the impact was. He stated that this was a home that was not going to be used like the other homes. People who used the facility were only there for 60 to 90 days. Counselors would be working there. Mr. Kliendienst stated that no one else worked in the community. Mr. Kliendienst stated that the facility was an attractive nuisance. Mr. Hyland inquired as to the length of time for the permit and was informed it was issued for two years with an option to purchase the property. Mr. Hyland inquired as to the type of review process existing after it was granted. He asked if it was automatically reviewed after two years. Mr. Yates stated that there was a provision in Sect. 2-502 which mandated a six month review of the facility by the Group Residential Facility Commission and the Zoning Administrator.

Chairman Smith stated that he did not feel that this facility had a greater impact on the residential character than it would have on any other residential area in the County. He inquired if there was another group home in the area already in existence. Mr. Kliendienst stated that the nearest one was in Mt. Vernon about 15 miles away. Mr. Kliendienst stated that he would close his argument by stating that there were other areas more appropriate for the facility. He stated that it would be more appropriate elsewhere as there were a lot of subdivisions that were different than Hallowing Point. Mr. Kliendienst stated that it was unfair to impact on Hallowing Point.

Mr. Floyd F. Eunpu of 5837 River Drive in Lorton informed the Board that he had written a letter dated February 11, 1981. He stated that he wanted the Board to know that there was no fire prevention in Hallowing Point itself as it only had one fire hydrant with one well. He stated that the group home was a quasi-facility and was different from a residential use. Chairman Smith stated that a pumper could do a good job of putting out fires with the river. Mr. Eunpu argued that it was not possible as the tide was 150 to 200 ft. from the shore and could not be relied upon for putting out fires.

The next speaker was Mr. Scott Crampton of 11701 River Drive in Lorton who addressed another health aspect other than fire. He stated that another concern was the sewerage. He stated that the lot where the group home was located was approved for sewerage in 1973. The lot next door was not suitable for sewerage in 1976 and was denied. Mr. Crampton informed the Board that the group home situation would use the sewerage facilities much more than a family. Chairman Smith stated that he was sure the sewer aspect was addressed prior to the issuance of an occupancy permit and he indicated that it was not a purview of the Board of Zoning Appeals. He stated that if the occupancy permit was granted, then the Health Department felt that the sewer was adequate for the number of persons at the dwelling. Mr. Crampton stated that if the Board did not look into the sewer situation then his point was wasted. Mr. Hyland informed Mr. Crampton that the BZA had to rely on the other agencies and must assume that they did their jobs.

The next speaker was Nancy Monroe of 11801 River Drive in Lorton who stated that she was present at the hearing in December before the Group Residential Commission when a gentleman from RYS indicated that they had a perc test run. Ms. Monroe stated that as of this morning the perc test had never been run. In addition, with respect to the fire safety, she stated that the Fire Department had informed her that they could not use the river because it only had one access. She stated that there was only pumper and the fire department did not have the personnel to run the pumper as they needed their personnel to fight fires. Ms. Monroe stated that three times when a burglary was in process, in no instance had the police arrived before 25 minutes and most often it was 45 minutes after they were called. Another concern of Ms. Monroe was that with the granting of the group home residential permit, it meant that the people were ignoring the covenants. She felt that was an impact on the community. Chairman advised Ms. Monroe that the covenants were a civil matter. Ms. Monroe informed the Board that she had been a child welfare worker and had been responsible for choosing homes for the children. She stated that this group home for 5 to 8 children did not have a recreation room. There was no where for them to go but the general living room. She stated that there was no place for them to let off steam. She stated that every teenager was restless. Ms. Monroe stated that the neighbors had been assured that the children would not leave the lot but the lot was only a quarter acre. She stated that there was no room on the lot to put any outside recreational equipment as the lot was always taken up by cars. Ms. Monroe informed the Board that she did not think this house was an appropriate place to have children who needed to let off steam when there were no other recreational facilities in the area.

The next speaker was Linda Baker of 6053 River Drive, Vice-President of the Hallowing Point Civic Association. She informed the Board that the association did not like the impact of the group home on the neighborhood. She stated that not one of the neighbors would hear of any complaints about the facility as the complaints were registered with the Group Residential Facilities Commission.

Mr. Callahan of the Group Residential Commission informed the Board that he kept the minutes of the meetings. He stated that he had not heard of any complaints with the present facility However, there was one complaint about Harbor House, another home operated by the RYS. That incident involved a youth out at night. He stated that the children were not allowed to become part of the community. Chairman Smith stated that there was no reason why the children could not be invited to church. Mrs. Baker informed the Board that she really had not had a chance to research to research the situation. One of the major impacts to the communities was noise. She stated that 8 teenagers would make noise. She stated that with the average teenagers, at least the neighbors could be assured that they would grow up and go away. Mrs. Baker was concerned about the appearance of the homes run by RYS. She stated that the yards were terrible. She stated that the police were often called because the children do run away However, she stated that she was not able to get the statistics on the group homes. Mrs. Baker complained about the visitors coming to see the children who raced their cars up and down the streets. Often times, there would be groups of 20 to 30 children making noise.

The next speaker was Paul Haluza of 6012 Chapman Road who spoke about the fire situation. He informed the Board that the home would have from 5 to 8 youngsters sleeping in rooms with locked windows. He stated that the locked windows were inconsistent with the County laws. He informed the Board that the community had had two major fires where the homes had burned to the ground. He stated that the health and welfare which was to be considered before the issuance of the permit concerned him because if the children were asleep, he wanted to know what were the fire escape routes. At the last major fire, the fire department had tried to use the pumper but it was out of gas. Mr. Haluza stated that he had one question about the RYS application which he had tried to raise at previous hearings. In the application, it had indicated that the children would not be paranoid, schrizophenic or mentally handicapped. Mr. Haluza stated that the RYS did not have a qualified person to make that determination. He stated that he did not believe a social worker could make that judgment as to whether a person was mentally competent. Mr. Haluza also inquired about the notification letters sent to the neighbors as to whether they were sent before or after the lease was signed. Mr. Haluza stated that these facilities were doomed for failure because of the lack of proper administration. He stated that many of the residents in the community had taken off work to attend the public hearings. Mr. Haluza stated that if the health and welfare were the main concerns as to whether the group home permits were issued, he could not understand how this

permit was issued for this particular location. He stated that the health and welfare of the residents were in serious danger at this location. The children were being restricted to the grounds. He stated that it was 6½ miles out the nearest highway. The children had to be bussed. He stated that the facility relied on the taxpayer's money and was not concerned about its budget. Mr. Haluza stated that he had lived in the neighborhood for 12 years and was part of the community. Mr. Haluza stated that for the program to be successful, you had to put the children back into society. However, he stated that RYS did not keep records to determine what had happened to the residents. Mr. Haluza stated that the house was going to be occupied for 24 hours a day and the sanitary facilities would be tested to the limits.

The next speaker was Bob Clemonts of 11724 River Drive. Mr. Clemonts stated that he had reviewed the Ordinance and only one section dealth with the group residential facilities. However, under Section VIII on Special Permits, it also talked about group housing units. Mr. Clemonts stated that no where in the Ordinance did it talk about diagnostic centers. He reminded the Board that there was no authority to waive any of the standards under the Ordinance. He informed the Board that the Zoning Administrator had taken the standards and molded them to fit a diagnostic center which was not defined or discussed in the Ordinance at all. Chairman Smith stated that the situation was not defined to Mr. Yates as a diagnostic center but a residence for youngsters. Chairman Smith advised Mr. Clemonts that in all of the group residential facilities, there was some type of an evaluation or diagnostic work going on as it was part of the program.

Mr. Yates responded to Mr. Clemonts by stating that with reference to Article VIII, it was inappropriate to the request because the Board was not dealing with a Special Permit Use. Mr. Yates stated that he appreciated the comments about the diagnostic centers but he advised Mr. Clemonts that the provision set forth in paragraph 1 & 2 of Section 2-302 of the Ordinance did give him the authority as to how a use should be regulated. He stated that there was no question in mind that the use that was before the Board was in the spirit and intent of a group residential facility as defined in the Ordinance.

The next speaker was Mrs. Ruth Waters, owner of lot 66 of 5815 Oakgrove Street. She informed the Board that she was a charter member of the civic association since 1951. She stated that the lovely and quiet area was where she had purchased property to get away from commercial facilities. She stated that the community had remained harmonious for 30 years. However, the encroachment of the group home would affect the value of her property. She stated that the residents were professional people who had to earn a lot of money to live in Hallowing Point. She stated that the youths at the group home had not earned the right to live in the community.

The next speaker was Col. John Borhling of 5829 River Drive. Col. Borhling informed the Board that the residents of the community spoke as individuals and differed on many subjects but he stated that they were all concerned. He stated that the group home was a common threat. Col. Borhling stated that the last perc test performed on the property was in 1973 and he presented the Board with a copy of that test. Col. Borhling stated that as a private citizen, it had been his duty to collect $10,000 to defend the community from a threat. He inquired as to what the threat did to the property values. Col. Borhling also reported the impact the group home had on the community because of the beercans on the lawn, the tree limbs on the property, the screen which was kicked off on the sidewalk, and the general appearance of the property. He stated that all of this was only after 2½ weeks of operation.

Mr. Gordon Hay, the Executive Director of RYS, responded the issues raised by Col. Borhling. He stated that there was a complaint process which they used. The process was that they asked that the community bring complaints to the attention of RYS. Mr. Hay stated that he followed up with his staff on the compliants and he asked that the complaints be as detailed as possible. Mr. Hay stated that he was not aware of the beercans until this morning. He stated that at this point of time, he could not comment. Chairman Smith inquired if any of the youths at the residence drank beer. Mr. Hay stated that prior to the group home moving in on February 6th, there had been a lot of trash left on the property. He stated that it might be that some of the trash on the property was beercans. Mr. DiGiulian inquired if it were normal policy to replace screens after a member of the staff was contacted about it. Mr. Hay stated that there had been a screen sticking out which was fixed prior to the youths moving in.

Col. Borhling informed the Board that there was still a screen missing from the front side of the house and it was laying up against the house. He stated that there were beercans in the front yard. He stated that the neighbors had been assured by Mr. Hay that the yard would be well cared for consistent with the neighborhood. Col. Borhling stated that leaves and debris on the property had not been touched.

Mr. Yaremchuk discussed the criteria for selection of a site by the RYS staff. Mr. Hay stated that the ideal location was one where there was a lot of privacy as it allowed them to operate a better facility. Mr. Yaremchuk discussed the procedures followed when establishing a group home facility. He asked if the impact on the community had been discussed and Mr. Hay assured him that it had. Mr. Yaremchuk inquired if the RYS were concerned about this facility being 7 miles from Rt. 1 or about being down by the river with only one means of ingress and egress. He inquired if they had considered the response time of the fire and police personnel. Mr. Hay stated that all of those considerations were determined by the

County Executive's Office and the Health Department. Mr. Hay stated that there were three meetings with the County Excecutive prior to the public hearing. Mr. Hay stated that the first meeting with the Citizens Advisory Council was scheduled in order to establish a good communication channel. Mr. Hay stated that the complaint about the children on the roof was brought forth by the adjacent property owner. Mr. Hay stated that he had contacted her when she moved in and gave her a number of telephone numbers to contact if there was a problem. He stated that he had dropped by to see her on February 24th and she had mentioned the problem of the children on the roof but he stated that he was unable to get specifics from her. He stated that he was never able to establish whether it was kids or adults on the roof. Mr. Hay stated that after talking with his program director, he was not able to ascertain whether it was kids or adults on the roof. On two occasions, staff members had checked the roof for leaks. Another time, the staff had been up on the roof to install a T.V. antennae.

Mrs. Monroe inquired of Mr. Hay as to what had happened to the perc test which was requested at the previous hearing. Mr. Hay stated that there had been a meeting with him and Mr. Callahan and Mr. Bill Burger, the Chief Sanitarian of the Health Department. The purpose of the meeting was to determine how many children could be served in addition to the staff. Mr. Hay stated that Mr. Burger had done some research on the facility which the builder had provided initially. Mr. Burger stated that the facility could serve 5 residents. He stated that he had been informed that they could expand the system and raise the number of residents to 8 people. Mr. Hay stated that two additional pits would have to be added for 8 individuals and the Health Department had granted the permit for them to expand. Mr. Hay stated that he had received three bids to expand the system and they had finances to proceed with it. In response to questions from the Board, Mr. Hay stated that the lease was for 36 months with the option to buy the facility. Mr. Hyland inquired if there was a contigency in the lease about getting approval and Mr. Hay stated that there was. He stated that there was a 90 day kickout clause up until January 15th. Mrs. Day inquired if there was a supervisor at the facility 24 hours a day and whether the supervisor was awake at night. Mr. Hay stated that there was a minimum of two people on duty at all times and there was awake overnight coverage. Mrs. Day inquired if the children had certain responsibilities for the care of the facility. Mr. Hay stated that there was a general cleanup each day. Mrs. Day inquired about the beercans in the front yards. Mr. Hay stated that he could send the children to the perimeters of the property but they would have to be supervised. In regard to a question about smoking, Mr. Hay responded that certain areas were designated as smoking areas but the children were allowed to smoke only during certain periods of the day and only under supervision.

The next speaker was Donald Luzius of 11711 River Drive who stated that he lived across the street from the group home facility. He stated that he felt threatened by it. He stated that he felt threatened as he did not get to know the children since they were not there for any long period of time. He stated that he knew the teenagers in his area but not the teenagers at this home. He informed the Board that the supervisors were only there on a watch basis which made him feel even more threatened. He stated that if he was standing on his front porch and yelled for help, no one would hear him as the nearest neighbor was 300 ft. to 500 ft. away. Mr. Luzius stated that he was not able to stand up against a 17 year old and neither was his wife. Mr. Luzius informed the Board about the group home facility in Annandale where a youngster tied up an employee and ran off. Mr. Luzius stated that there was a real threat with the group home and the feeling was shared by his neighbors.

During rebuttal, Mr. Yates stated that there was one question deserving a response about whether or not the application was approved prior to or subsequent to the signing of the lease. Mr. Yates stated that the lease was signed on October 14th with a 90 day contigency. The application for a group home was not filed until November 6th. Mr. Yates stated that the Board had heard many concerns and many observations. In most areas, it was a matter of judgment. Mr. Yates stated that he appreciated the positions brought to the Board by the citizens. Mr. Yates stated that in reviewing 12 other permits which he had signed for group homes, it was his judgment that this permit was just as appropriate as the others and he felt comfortable with his decision and stood solidly behind it.

There were no other questions from the Board and Chairman Smith closed the public hearing. Mrs. Day moved that the Board uphold the decision of the Zoning Administrator. Mr. Yaremchuk seconded the motion for discussion purposes. Mr. Yaremchuk stated that this was an unusual and tough case. Mr. Yaremchuk stated that he was familiar with the subdivision and had visited the area and was familiar with the regional park authority land. Mr. Yaremchuk stated that he sympathized with the citizens but on one breath the citizens were stating that they secluded and on the other they were stating that they had had enough. Mr. Yaremchuk stated that he was concerned about the group home from the standpoint of safety. The citizens lived in the area and had stated that the reason they chose the location was because of the seclusion. He stated that the citizens were not worried about the fire and police protection when they purchased their property. The area was beautiful because of the Potomac River. Mr. Yaremchuk stated that the group home was dispersed through a process by the County. He stated that the RYS had leased the home because they did not have to do much with it. Mr. Yaremchuk stated that he had supported the Zoning Administrator with regard to the facility on Columbia Pike because it was one block from a major highway. However, he

stated that he had a problem with this facility. He stated that no matter where the Zoning Administrator allowed a group home facility, there would be complaints. He stated that the citizens complain without allowing it time to track a record. He stated that the problem would not go away. The Board of Zoning Appeals would be faced with it time and time again. Mr. Yaremchuk stated that the County could not refuse to place the group homes in the County. He stated that it appeared to him that if there were 5 individuals with adult supervision that they could blen in with the community. He stated that the youngsters were only at the facility for 90 days which might be unfortunate. He stated that it was a like a motel because they were going and coming and were not really established. Mr. Yaremchuk stated that since this area was secluded and it took the police a long time to respond, he could understand both sides of the issue. However, he stated that he was aware that these youngsters had to live somewhere.

Mr. Hyland stated that in terms of the issue of deferral, he inquired as to what good it would do. Condition No. 9 of the permit already provided that at the expiration date of six months, there would be an automatic review and if problems had arisen, a public hearing would be held. The Zoning Administrator could require another look at the permit and revoke it. Mr. Hyland stated that the decision of the Zoning Administrator was appealable. Mr. Hyland informed Mr. Kliendienst that his brief was very good. He stated that Mr. Kliendienst was appealing a decision where the Zoning Administrator had made a judgment call. There was merit to the issued brought out by Mr. Kliendienst. The decision was based on the Zoning Administrator's interpretation. Mr. Hyland stated that as he sat on the BZA, he would have to find that the Zoning Administrator had grossly not done his job in order to overturn him. Mr. Hyland stated that he hesitated to place his judgment on this question. He stated that the Board was dealing with a narrow issue. One of the major issues, was that there was a process still available to the community in terms of raising questions about the impact. Mr. Hyland stated that he had to give the citizens his reaction by stating that some of their concerns were concrete. With regard to the issue on property values, Mr. Hyland stated that he had seen pro and con on that issue. Only time would tell. Mr. Hyland stated that as he saw it, the community still had a very viable input at the end of the six month period. Mr. Hyland stated that if the problems were presented to Mr. Yates, he would have to listen to the concerns. Mr. Hyland stated that he felt that was enough as there would be the benefit of experience. Mr. Hyland stated that he was reluctant to substitute his dicision in terms of conjecture. With respect to the appeal, Mr. Hyland stated that this was a very narrow issue and he could not conclude that the Zoning Administrator had not done his job. He stated that the concerns would be reviewed in six months.

There was no further discussion from the Board members. The vote on the motion to uphold the decision of the Zoning Administrator passed by a vote of 4 to 1 (Mr. DiGiulian).

//

Page 282, March 10, 1981, Scheduled case of

11:45 A.M. MARIA E. GARCIA, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing porch to 14.3 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-407), located 2841 Meadow Lane, Hillwood Avenue Subd., 50-4((7))48, Providence Dist., R-4, 8,349 sq. ft., V-81-P-001. (DEFERRED FROM FEBRUARY 10, 1981 FOR ERROR IN LEGAL ADVERTISEMENT AND FROM FEBRUARY 24, 1981 FOR LACK OF QUORUM.)

Mr. Frank Garcia, the son of Maria E. Garcia, represented the applicant. He stated that he was seeking a variance to request that the porch be allowed to be enclosed. Chairman Smith requested the justification for the variance. Mr. Garcia responded that as the porch now existed, it could not be used as it was in a state of disrepair. He stated that his mother wanted to use the porch during the winter and summer. She had owned the property for 8 or 9 years. Chairman Smith inquired if Mr. Garcia also lived in the home and he responded that he did. Chairman Smith inquired as to how they planned to use the porch. Mr. Garcia stated that they would like to live in it and have some portion of the area for plants like a greenhouse. Mrs. Garcia informed the Board that the porch was open at the present time and was absolutely useless. In winter, it was very cold. In summer, it was humid. She stated that if it was enclosed, it would be useful. She informed the Board that her son could use the same foundation and the enclosed porch would have bricks and windows and glass.

There were no further questions from the Board. There was no one else to speak in support of the application and no one to speak in opposition.

Page 282, March 10, 1981 Board of Zoning Appeals
MARIA E. GARCIA

RESOLUTION

In Application No. V-81-P-001 by MARIA GARCIA under Section 18-401 of the Zoning Ordinance to allow enclosure of existing porch to 14.3 ft. from front lot line (30 ft. minimum front yard required by Sect. 3-407), on property located at 2841 Meadow Lane, tax map reference 50-4((7))48, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

MARIA GARCIA
(continued)

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 10, 1981; 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 8,349 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property and corner lot having having to meet two front yard setbacks.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 283, March 10, 1981, Scheduled case of

12:00 NOON TACO BELL, INC., appl. under Sect. 18-301 of the Ord. to appeal decision of Zoning Administrator dated October 29, 1980 that appellant's businesses are fast food restaurants, A-80-015. (DEFERRED FROM JANUARY 27, 1981 FOR VIEWING OF SITE AND FROM FEBRUARY 24, 1981 FOR LACK OF QUORUM. APPEAL NEEDS DECISION OF FULL BOARD.)

Chairman Smith inquired if there were any questions and there were none. He inquired if the Board was prepared to make a decision in this case.

Mr. Yaremchuk moved that the Board of Zoning Appeals uphold the decision of the Zoning Administrator. Mr. DiGiulian seconded the motion. Chairman Smith inquired if there was any discussion and there was none. He stated for the record that the Board of Zoning Appeals had visited the two Taco Bell restaurants and the food was on a fast service and most of it was wrapped and prepackaged. Chairman Smith stated that the majority of the people did remove the food from the premises. The vote on the motion to uphold the decision of the Zoning Administrator passed by a vote of 4 to 1 (Mr. Hyland).

//

Page 283, March 10, 1981, After Agenda Items

GEORGE M. & OLIVE M. FITZWATER: The Board was in receipt of a letter from George M. & Olive M. Fitzwater requesting an out-of-turn hearing on their variance application for a subdivision which had previously been approved by the BZA in 1980. The applicant had redirected the pipestem driveway which was deemed not to be a minor engineering change therefore necessitating another public hearing. It was the consensus of the Board to grant the request for an out-of-turn hearing and the hearing was scheduled for Tuesday, March 31, 1981 at 12:50 P.M.

//

Page 284, March 10, 1981, AFTER AGENDA ITEMS

APPROVAL OF MINUTES: The Board was in receipt of Minutes for September 11, 1979; September 18, 1979; September 25, 1979 and October 2, 1979. It was the consensus of the Board to approve the minutes as submitted.

//

Page 284, March 10, 1981, After Agenda Items

Martha Lucas: The Board was in receipt of a request for an extension on a variance granted to Martha Lucas for a subdivision. Mrs. Lucas' agent was Thane S. Lohr who was a real estate agent and was under the impression that the property had to be sold first before it could be recorded as a subdivision. The applicant, Mrs. Lucas, was not aware that the subdivision had to be recorded or a site plan filed within one year from the granting of the variance.

Chairman Smith stated that he could not support the request for extension because the variance had expired. Mr. DiGiulian moved that the Board grant a six month extension. Mr. Yaremchuk seconded the motion. The motion passed by a vote of 3 to 2 (Messrs. Smith and Hyland).

//

Page 284, March 10, 1981, After Agenda Items

St. George's United Methodist Church, S-49-79: The Board was in receipt of a request for an extension on the special permit granted to St. George's United Methodist Church. Two previous extensions had been granted by the BZA. Mr. Yaremchuk moved that the Board grant a six month extension. Mr. DiGiulian seconded the motion and it passed unanimously by a vote of 5 to 0.

//

Page 284, March 10, 1981, After Agenda Items

Eugene J. Cullinane: The Board was in receipt of a request from Mr. Douglas Detwiler seeking a rehearing of a variance which was denied by the BZA at its meeting of February 3, 1981. Mr. DiGiulian informed the Board that he had talked to Mr. Detwiler and there was erroneous information presented at the hearing by Mr. Detwiler's employee. Mr. Detwiler was unable to attend the variance hearing as he was out of state because of his father's illness. The employee was not thoroughly familiar with the variance request.

Mr. Hyland moved that the Board allow the rehearing of the variance application because of the information submitted by Mr. Detwiler. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith). The rehearing was scheduled for April 14, 1981 at 10:00 A.M.

//

Page 284, March 10, 1981, After Agenda Items

Raymond & Hilda Chavez: The Board was in receipt of a request for an extension of the variance granted to Raymond & Hilda Chavez on March 4, 1980, V-80-S-010. It was the consensus of the Board to grant a six month extension.

//

Page 284, March 10, 1981, After Agenda Items

Allen Building: It was the consensus of the Board to have someone from Preliminary Engineering present the facts regarding the Allen Building before the BZA approved the site plan as being in accordance with the resolution conditions.

// 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: November 9, 1982
Date

Submitted to the Board on Nov. 5, 1982.

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 17, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:25 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. ACCOTINK ACADEMY, INC., appl. under Sect. 18-401 of the Ord. to allow gravel drive and parking in connection with school of special education (dustless surface req. by Sect. 11-102), located 8545 Tuttle Road, Fairfax Park Subd., 79-3((4))26, Springfield Dist., R-1, 2.5 ac., V-81-S-003. (DEFERRED FROM FEBRUARY 10, 1981 FOR NOTICES.)

10:00 A.M. ACCOTINK ACADEMY, INC., appl. under Sect. 8-307 of the Ord. to permit a school for handicapped children, located 8545 Tuttle Road, Fairfax Park Subd., 79-3((4))26, Springfield Dist., R-1, 2.5 ac., S-81-S-001. (DEFERRED FROM FEBRUARY 10, 1981 FOR NOTICES.)

Mr. Warren McConnell of 8533 Tuttle Road in Springfield wished the Board a Happy St. Patrick's Day. He informed the Board that he and his wife owned the property at 8945 Tuttle Road. Mr. McConnell stated that they had requested the special permit because their school at Accotink and the building program had not progressed as rapidly as they had hoped. Mr. McConnell informed the Board that it had given permission for the addition to the school and the addition was almost completed. However, the free standing building was not yet under construction. Mr. McConnell stated that they felt the small residence at 8545 Tuttle Road would provide space for another ten handicapped children. The small residence would allow a one on one ratio with the handicapped children. Mr. McConnell stated that the premises were suitable to this process because it was close to the main school building but was also isolated from other residences.

Mr. McConnell advised the Board that in addition to the request for a special permit for the small residence, was a request for a variance to the dustless surface requirement. At the present time, the residence was served by a gravel driveway. In response to questions from the Board, Mr. McConnell stated that the students arrived at the school by a fleet of buses that went to 8519 Tuttle Road. Then there was a smaller bus to take the students to 8545 Tuttle Road. Mrs. Day inquired if there was an escort and Mr. McConnell stated that the teachers were there. Mr. Yaremchuk inquired about the septic field and whether it was approved. Mr. McConnell replied that it was suitable and had been approved. Mr. Yaremchuk remarked that the house was very old and inquired if any work had to be done to it. Mr. McConnell stated that he had remodeled the house and had the Health Department look at the septic and it had been approved as it was. Mrs. Day inquired about the hours of operation for the school. Mr. McConnell stated that the school started at 9 A.M. and ended at 1 P.M. on Monday and 3 P.M. the rest of the week. Mr. DiGiulian inquired if Mr. McConnell had read the staff report. Mr. McConnell's only comment was that he had written a letter and asked for approval of the special permit like the one granted in 1966. Mr. DiGiulian stated that he was concerned about the paving of the driveway for 25 ft. into the property. Mr. McConnell stated that none of the other properties along Tuttle Road had that requirement. He informed the Board that the eventual usage would be as a private residence and would not be under a special permit. He stated that he was only requesting a temporary use until he could get the other buildings at 8519 Tuttle Road completed. Mr. DiGiulian inquired as to how long the temporary situation would exist and was informed one year. Chairman Smith stated that he did not have a problem with the dustless surface requirement for the first 25 ft. from the road as he felt it was a legitimate request. He stated that the Board of Zoning Appeals did not grant site plan waivers. Mr. Yaremchuk stated that there was nothing in the Site Plan Ordinance to indicated that a 25 ft. paved surface was required. Chairman Smith stated that the Site Plan people could not require it which was why they had pointed it out to the BZA. He stated that they could grant the site plan waiver. Mrs. Day inquired as to the amount of traffic that would be involved from Tuttle Road into the property. Mr. McConnell stated that there would be very little traffic as there were only four teachers and one school bus. At present, there would only be 8 children at the location. Mr. McConnell stated that the children needed more space and more quiet.

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

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-81-S-001 by ACCOTINK ACADEMY, INC. under Section 18-401 of the Fairfax County Zoning Ordinance to permit a school for handicapped children on property located at 8545 Tuttle Road, tax map reference 79-3((4))26, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

RESOLUTION

286

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on March 17, 1981; 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 2.5 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 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 on the application and is not transferable to other land.
2. This special permit shall expire in one year.
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 approfal, 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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be ten (10) children.
8. The hours of operation shall be 9:00 A.M. to 3:00 P.M., five (5) days a week.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

RESOLUTION

In Application No. V-81-S-003 by ACCOTINK ACADEMY, INC. under Section 18-401 of the Zoning Ordinance to allow gravel drive and parking in connection with school of special education (dustless surface required by Sect. 11-102) on property located at 8545 Tuttle Road, tax map reference 79-3((4))26, 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 March 17, 1981; 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 2.5 acres.
4. That the applicant's property has an unusual condition in the location of the property and would be in keeping with the character of the surrounding area if it remained in its natural setting. In addition, the number of students using this facility would have little impact as they will be bused.

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 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 is granted for a period of one year.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 287, March 17, 1981, Scheduled case of

10:15 A.M. REHEARING: J. & H. AITCHESON, INC., appl. under Sect. 18-401 of the Ord. to allow construction of storage bldg. on front lot line (40 ft. min. front yard req. by Sect. 4-807; accessory structure req. not to be located in req. min. front yard by Sect. 10-105), located 2908 Annandale Road, 50-4((1))60, Providence Dist., C-8, 1 ac., V-80-P-238.

Chairman Smith advised the Board members that the variance of J. & H. Aitcheson had been granted-in-part on February 10, 1981. There had been a request from the contiguous property owner for a rehearing as he had been out of town at the time of the original hearing.

For further information regarding the rehearing, please refer to the verbatim transcript on file in the Clerk's Office. The decision was deferred for a period of one week to allow the Board members to reexamine the property. The decision was scheduled for March 24, 1981 at 8:40 P.M.

//

Page 287, March 17, 1981, Scheduled case of

10:30 A.M. KENNETH J. & ANN K. WYNNE, appl. under Sect. 18-401 of the Ord. to allow a storage shed to remain 1.8 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 6342 Villa Lane, Ravenwood Subd., 61-1((3))33, Mason Dist., R-3, 28,750 sq. ft., V-81-M-011.

Mr. Kenneth Wynne stated that he was requesting a variance to allow a shed 8.2' high to remain 1.8 ft. from the side lot line. He stated that the reason for the variance request was because his lot was a corner lot and had a very limited building area. He stated that the pavement rise restricted the building area and would not allow access to a building or the management of storage equipment up and down the hill.

In response to questions from the Board, Mr. Wynne stated that the size of the shed was 10'x 10' but he stated that the County defined it as being 10'x12'. He stated that the roof had an overhang which he had put on the shed to store wood to keep it from getting wet. The height of the shed was 8.2' which was 1.2' too high. Mr. Wynne informed the Board that the shed was supposed to be under 7 ft. in height. Chairman Smith stated that the dimensions were greater than allowed. Mr. Wynne stated that one of the things he was not aware of was that the overhang would be considered in the dimensions. Chairman Smith inquired if Mr. Wynne could move the wood and reduce the overhang. Mr. Wynne stated that there was not any other place on his lot to place the shed. The back yard was fairly steep. Mr. Wynne stated that his lot was very peculiar in its dimensions. The shed was built on a concrete slab and it would be difficult to move it. Mrs. Day inquired as to what was located behind the shed. and how far it was from the property. Mr. Wynne replied that there was another shed but he did not know the exact distance. He stated that it could be seen in the photographs. Mrs. Day inquired if the neighbor objected to the shed. Mr. Wynne stated that he had discussed the placement of the shed with his neighbor so that there would not be any objection.

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

RESOLUTION

In Application No. V-81-M-011 by KENNETH J. & ANN K. WYNNE under Section 18-401 of the Zoning Ordinance to allow a storage shed to remain 1.8 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 6342 Villa Lane, tax map reference 61-1 ((3))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

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 17, 1981; 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 28,750 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, and is a corner lot 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 locationand 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 288, March 17, 1981, Scheduled case of

10:40 A.M. CHONG BUM YI, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to a commercial building within 36.10 ft. of the front property line (40 ft. min. front yard req. by Sect. 4-807), located 2715 Huntington Ave., 83-1((1))36, Mt. Vernon Dist., C-8, 27,941 sq. ft., V-81-V-012.

The variance application was deferred until April 14, 1981 at 11:30 A.M. because of the notices and because of a pending special exception.

//

Page 288, March 17, 1981, Scheduled case of

10:50 A.M. HOLGER OPDERBECK, appl. under Sect. 18-401 of the Ord. to allow tennis court to extend 9 ft. into the min. front yard (40 ft. min. front yard req. by Sect. 3-107; accessory structure not allowed to be located in a min. front yard req. by Sect. 10-105), located 1712 Abbey Oak Drive, Sun Valley Subd., 28-1((13))20A, Dranesville Dist., R-1, 30,335 sq. ft., V-81-D-013.

Mr. Holger Opderbeck of 1712 Abbey Oak Drive in Vienna informed the Board that he had started construction of his tennis court late last fall. He stated that the way the tennis court was laid out, it extended 9 ft. into the front yard and required a variance for that portion of the tennis court. Mr. Opderbeck stated that he believed that his lot was irregular in shape. He stated that his driveway went up from Abbey Oak Drive and wrapped around the property. He informed the Board that more than 50% of his lot was a front yard. Mr. Opderbeck stated that the tennis court only extended by 9 ft. and did not really take up more of the front yard than 5%. He stated that the tennis court was located behind his house and the garage. He stated that the appearance of the court would not be changed by moving it up 9 ft. He stated that if he landscaped around the property, the tennis court would not have any adverse effect. If the variance were denied, he stated that he would have a small court which would limit the use of the land and the tennis court. He stated that he believed the variance should be granted.

Chairman Smith inquired as to the justification for the granting of the variance. Mr. Opderbeck stated that if the variance were not granted, he would be left with a small tennis court which was not useful. Chairman Smith inquired if Mr. Opderbeck owned lots 21A or 19 and was informed that he did not. Mr. Covington informed the Board that the applicant met the Code but the front line of the house established the setback. Mr. Opderbeck stated that the unusual circumstances was the irregular shape of the property and the fact that most of his yard was a front yard. He stated that he only wanted to make use of 5% of the front yard.

Mrs. Day inquired about the construction on the other lots. Mr. Opderbeck stated that lot 21A currently had a home built on it but the property was still owned by the builder. The other two lots nearby, lots 18 & 19, were still available to have homes built on them but nothing was constructed on them at the present time. Mrs. Day inquired as to the result of the conversation with the builder about the variance and Mr. Opderbeck stated that he did not object to the tennis court. Mr. Opderbeck stated that other people were present to speak at the hearing regarding the variance.

Mr. Anibal Cabellos of 1721 Abbey Oak Drive, lot 132A, stated that he supported the petition in support of the variance. He stated that he whatever Mr. Opderbeck was doing was right and would not damage the view. Mr. Cabellos stated that he felt the 9 ft. variance was a minimum amount and that the tennis court would be an improvement to the property. He stated that the other house right next to the Opderbeck property was a new house and had just been finished. The other lots in the area were empty. Mr. Cabellos stated that there was not any opposition to the requested variance. He stated that Mr. Opderbeck had tried to have a good landscaping for his lot.

Mr. William Meyer of 1709 Abbey Oak Drive spoke in opposition to the variance. He stated that he was the owner of lot 5. His objection was the fact that Mr. Opderbeck was doing more than just building a tennis court. There had been grading and a retaining wall was constructed. Mr. Meyer stated that even if the tennis court would be in harmony, there were several people in opposition to it. Mr. Meyer stated that the lot could easily accommodate the tennis court. He stated that there were three more tennis courts down the street that could be viewed from Abbey Oak Drive which were in park land set aside for use and enjoyment of families from three civic communities. Mr. Meyer stated that Mr. Opderbeck's house faced the back yards of the other homes which were not built yet. He stated that due to the layout the cinderblock wall and the 7 ft. fence would be offensive. The tennis court would be in full view of anyone driving along Abbey Oak Drive. Mr. Meyer stated that Mr. Opderbeck began construction prematurely before finding out about the requirements. Mr. Meyer stated that the variance would set a precedent for others in the area. He stated that the retaining wall with a 7 ft. fence on top of it would be a safety hazard to the children in the area The tennis court would adversely affect the neighbors because of noise and he stated that there was no natural buffer to detract sounds.

The next speaker in opposition was the contract purchaser for lot 21A who resided in Brandywine, Maryland. He stated that the tennis court would be offensive to him to look at as it would be in his front yard. He stated that it would destroy the value of his property. He stated that he did not know why someone would start to build a tennis court and not have permission first.

During rebuttal, Mr. Opderbeck stated that two people from the Zoning Office had informed him of the requirements for construction of the tennis court. Mr. Yaremchuk inquired as to what Zoning Inspections had told Mr. Opderbeck. He stated that the Zoning Inspectors had told him there was no problem in terms of the front yard requirements. He stated that it was only after another meeting with the inspectors that he had received a letter stating that the Ordinance prohibited construction in the front yard and that he extended 9 ft. into the front yard with the tennis court. Mr. Yaremchuk inquired as to the name of the Zoning Inspector and was informed it was Natlee Becker. Mr. Covington informed the Board that if Mr. Opderbeck's lot was 6,000 sq. ft. bigger, he would not have had to meet the setback as far as the building but would only to meet the minimum side yard requirement. Mr. Yaremchuk stated that he wanted to know whether the Zoning Inspector had told Mr. Opderbeck that the tennis court was all right. Mr. Covington stated that the Zoning Inspector had gone out to check the tennis court. He stated that it would be very hard to determine the front yard because of the pipestem. Mr. Yaremchuk stated that he wanted to know Ms. Becker had told Mr. Opderbeck. Mrs. Day stated that she was also interested in knowing what was said about the tennis court.

Chairman Smith inquired as to why Mr. Opderbeck could not move the tennis court so as not to require a variance. Mr. Opderbeck stated that he could not move it over. He would only be able to cut off the end of the tennis court. He stated that his retaining wall was next to the garage. Chairman Smith advised Mr. Opderbeck that he could still get the tennis court in there and have reasonable use of the property. Mr. Opderbeck stated that there would be a limited length. Mr. DiGiulian inquired as to the distance from the tennis court to the wall. Mr. Opderbeck replied there was about 18 ft. Mr. DiGiulian stated that if Mr. Opderbeck could move the court 9 ft. and still have 9 ft. to the wall. He stated that it did not appear to fit by sliding it back and cutting down on the area by the west end of the court and to the wall. Mr. DiGiulian stated that if that were done, a variance would not be necessary.

Mr. Covington informed the Board that Ms. Becker was in the field and was not available to answere questions. Chairman Smith stated that the area was considered a front yard and that Mr. Opderbeck could move the tennis court back. Mrs. Day stated that it was already existing. Mr. Covington advised the Board that any accessory structure up to 7 ft. in height could go anywhere in the side or rear yard. Chairman Smith stated that he could not see why the variance was necessary if Mr. Opderbeck utilized his space. Mr. Opderbeck stated that for

safety reasons, he needed a safe barrier. Chairman Smith stated that a variance would be necessary to the height of the fence also. He stated that a 7 ft. fence could contain all of the tennis balls. Mr. DiGiulian inquired as to the normal distance from the end of the court to the wall. Mr. Opderbeck responded that the total length of the court would be about 120 ft. He stated that if he were granted the variance, his court would be 116 ft. in length which was 4 ft. short of a reasonable tennis court. He stated that if he had to cut off 9 ft., the tennis court would be too small and limited in its use. Chairman Smith stated that if the tennis court were cut down 9 ft. that Mr. Opderbeck would still have reasonable use of the property. Mr. Opderbeck stated that if he cut down on the distance from the end of the court to the wall, he would run the danger of running into the fence. Chairman Smith stated that it would be a reasonable court and usable court. He informed Mr. Opderbeck that the Board did not have the authority to grant a variance if the applicant had the reasonable use of the land. Mr. Opderbeck stated that he believed he could not make reasonable use of the land as it would restrict playing to singles. He stated that he believed 9 ft. was a small extension compared to the front yard.

There were no further questions from the Board and Chairman Smith closed the public hearing.

Page 290, March 17, 1981 Board of Zoning Appeals
HOLGER OPDERBECK

RESOLUTION

In Application No. V-81-D-013 by HOLGER OPDERBECK under Section 18-401 of the Zoning Ordinance to allow tennis court to extend 9 ft. into the minimum front yard (40 ft. minimum front yard required by Sect. 3-107; accessory structure not allowed to be located in a minimum front yard required by Sect. 10-105) on property located at 1712 Abbey Oak Drive, tax map reference 28-1((13))20A, County of Fairfax, Virginia, Ms. Day 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 17, 1981; 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 30,335 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. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 290, March 17, 1981, Scheduled case of

11:00 A.M. DOUGLAS J. FRASER, JR., appl. under Sect. 18-401 of the Ord. to allow an addition to dwelling within 15 ft. of the rear property line (25 ft. min. rear yard req. by Sect. 3-307), located 8717 Whitson Court, Rolling Valley Subd., 89-3((6))189, Springfield Dist., R-3(C), 9,180 sq. ft., V-81-S-014.

Mr. Douglas J. Fraser of 8717 Whitson Court in Springfield informed the Board that he was applying for a variance in order to build an addition to his home. He stated that his family needed increased living space. He stated that he could not construct an addition to the left because of a storm drainage easement and could not build to the right because of the carport and driveway. Mr. Fraser stated that the only location open to him was to extend onto the back of his house. He stated that the addition would increase the kitchen and give access to the deck and to the screened in porch. He presented the Board with a letter from the architectural committee of his homeowners association which approved the plans for the addition.

Chairman Smith inquired as to why Mr. Fraser could not spread out his addition and not encroach onto the rear yard requirement. Mr. Fraser stated that 8 ft. of the addition would be kitchen space and 12 ft. would be the screened-in porch. Mr. DiGiulian inquired if the addition was a one or two story addition and was informed it was only one story on the same

Page 291, March 17, 1981
DOUGLAS J. FRASER, JR.
(continued)

floor as the kitchen. It would have columns underneath it and would be left open. Mrs. Day inquired if the applicant could change the proposed dimensions or move the screened in porch to the side area where it would not encroach onto the rear setback. She stated that it would make it more rectangular. Mr. Fraser stated that if he were to do that, he would have a l-shaped porch with only a few feet off of the 8 ft. addition to the kitchen. Mr. DiGiulian inquired as to what was to the rear of the property and was informed that there was floodplain owned by the Springfield Station Homeowners Association. Chairman Smith inquired if this were a new subdivision and was informed it was built in 1971 and that the applicant purchased the property in 1973.

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

Page 291, March 17, 1981 Board of Zoning Appeals
DOUGLAS J. FRASER, JR.

RESOLUTION

In Application No. V-81-S-014 by DOUGLAS J. FRASER under Section 18-401 of the Zoning Ordinance to allow an addition to dwelling within 15 ft. of the rear property line (25 ft. minimum rear yard req. by Sect. 3-307) on property located at 8717 Whitson Court, tax map reference 89-3((6))189, 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 March 17, 1981; 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(C).
3. The area of the lot is 9,180 sq. ft.
4. That the applicant's property is exceptionally irregular in shape having an unusual lot configuration and has an unusual condition in the location of the 20 ft. storm sewer easement on the 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 291, March 17, 1981, Recess

At 12:20 P.M. the Board recessed for lunch and returned at 1:10 P.M. to continue with the scheduled agenda.

//

Page 291, March 17, 1981, Scheduled case of

11:10 A.M. GERTRUDE K. PEFFER, appl. under Sect. 18-401 of the Ord. to allow 6 ft. high fence to remain in front yard (4 ft. max. height for fence in front yard req. by Sect. 10-105), located 4555 Lantern Place, South Kings Forest Subd., 92-1((11))45, Lee Dist., R-3, 11,220 sq. ft., V-81-L-015.

As the required notices were not in order, the Board deferred the variance until April 14, 1981 at 11:40 A.M.

//

Page 292, March 17, 1981, Scheduled case of

11:20 A.M. ELWOOD C. POLLIS, appl. under Sect. 18-406 of the Ord. to allow accessory building--a two story structure with approximately 384 sq. ft. gross floor area--to remain 5.4 ft. from side lot line (200 ft. max. gross floor area for storage structure in R-3 req. by Sect. 10-102; 12 ft. min. side yard req. by Sects. 10-105 and 3-307) located 4914 Bristow Dr., Bristow Subd., 71-3((3))65, Annandale Dist., R-3, 10,500 sq. ft., V-80-A-186. (DEFERRED FROM NOVEMBER 25, 1980 AT REQUEST OF APPLICANT: DEFERRED FROM JANUARY 13, 1981 FOR NOTICES: AND DEFERRED FROM FEBRUARY 24, 1981 FOR LACK OF QUORUM.)

Mr. Elwood C. Pollis of 4914 Bristow Drive in Annandale informed the Board that he had constructed a building 5.4 ft. from the lot line and he was requesting a variance because he was not aware that there was a 200 sq. ft. maximum floor area space. He stated that he had built a workshop downstairs and wanted to use the second floor for storage space. Mr. Pollis stated that he was not aware of the size limitations and he stated that his building plans had shown the two story structure.

Chairman Smith advised that the Board that apparently Mr. Pollis did not have a building permit because of the notice of violation in the staff report. He inquired of Mr. Pollis as to what size building had been approved for the building permit issued. Mr. Pollis stated that his plans had shown a two story addition. Chairman Smith stated that the building permit was only issued for a one story structure and the distance from the side line was not 5.4 ft. Mr. Pollis stated that the distance was supposed to be 12 ft. Chairman Smith stated that Mr. Pollis had two problems as he did not build the structure where he had indicated he would and then he added another story to it. Mr. Pollis informed the Board that he had moved the structure over closer to the side lot line as he was hoping to add another room onto his house for a family room. Mr. Pollis stated that be was not aware that he had to be 12 ft. from the line.

Mrs. Day examined the photographs and inquired if the structure was fully constructed. Mr. Pollis responded that it was not completed. He stated that the building was completed but there were trim boards to be put on yet. He stated that it was a wood structure on posts. In response to further questions from the Board, Mr. Pollis stated that the height of the first story was 8 ft. and the second story was 6 ft. high. Mrs. Day inquired if there were any way to separate the two stories or divide it. Mr. Pollis stated that it would be hard to remove the top section and he would not know what to do with it. Mr. Pollis stated that the building was built on 15 concrete posts that were 8 inches in diameter and the maximum space between them was 4 ft. Mrs. Day inquired if it were possible to move the building over inland on the lot. Mr. Pollis stated that it was possible but he stated that his neighbor did not object to where it was located and had spoken in his behalf at the January hearing.

The next speaker in support of the variance was Mr. Emile Cardiel of 4917 Bristow Drive who stated that his home was located across the street at a 45° angle to Mr. Pollis which allowed a very clear view of the building in question. Mr. Cardiel stated that he was in support of leaving the workshop where it was as it was not an eyesore and it blended very well with the surrounding area. Mr. Cardiel stated that the immediate next door neighbor did not object to the building and had so testified. Mr. Cardiel stated that if there were an error in the building site that the Zoning Inspectors from the Zoning Office should be the ones to bear the blame.

The next speaker in support of the variance was Mrs. Gladys Veynar of 4915 Bristow Drive who informed the Board that she lived directly across the street from Mr. Pollis. She recommended that the building remain as it was. She stated that if you did not know it was there, you would have to look for it as it blended in with the rest of the house and the trees. She stated that this error was not the fault of Mr. Pollis as the plans had been approved in wrror. Mrs. Veynar informed the Board that the citizens paid the salaries of the Zoning Inspectors and if they could not depend on their knowledge that the variance should be granted or the Zoning Office held accountable for the cost of construction.

Chairman Smith advised Mrs. Veynar that she had made an incorrect statement about the Zoning Office. He informed her that the Zoning Office had not given Mr. Pollis permission to place his building at this location. He stated that Mr. Pollis was the one in error. In addition, Chairman Smith inquired as to how many workshops had a second story on them. Chairman Smith stated that Mr. Pollis had seen fit to construct a two story structure in a place not approved by the Zoning Office. Mrs. Veynar stated that she would like to see more information given to the homeowners. She stated that when she had called the Zoning Office, she got a different interpretation everytime. She stated that it would be nice to have something printed up as to what the County expected from the citizens. Chairman Smith advised Mrs. Veynar that was the purpose and intent of the Zoning Ordinance.

Mr. Hyland arrived at the BZA meeting at 1:30 P.M. in the middle of the hearing on Elwood C. Pollis variance application.

The following person spoke in opposition to the variance. Mr. William Patterson of 4917 Erie Street informed the Board that he lived directly behind Mr. Pollis' property. He stated that he felt that the building was an eyesore to the community and detracted from the value of the property and the looks. Mr. Patterson stated that anyone driving down Heritage Drive could see the structure from about 200 yards away. Mr. Patterson stated that the property owners relied on the zoning restrictions. He stated that if the variance were granted in this case, then any other number of people would be able to apply for the same thing and get it granted. Mr. Patterson stated that if that were the case, it would not make the area very desirable.

Mr. Hyland inquired as to what it was about the structure that bothered Mr. Patterson, the coor or the height of the building. Mr. Patterson stated that he was bothered by both. Mr. Hyland inquired if the color of the building were changed, whether it would be less objectionable to Mr. Patterson. Mr. Patterson stated that it would not. He informed the Board that a lot of people have sheds in their back yards but a two story shed was an entirely different matter. Mrs. Day inquired if Mr. Patterson had an objection to a one story shed. Mr. Patterson stated that he did not object as there were a number of people in the neighborhood who had one story sheds and they came in assorted colors. Mrs. Day inquired if the other sheds were the same distance to the lot lines as Mr. Pollis' shed. Mr. Patterson stated that the residents had placed their sheds wherever it was convenient.

During rebuttal, Mr. Pollis stated that he was only asking the Board to grant the variance. He stated that his reason for the two stories was for storage. He stated that he had a lot of things in his attic. Chairman Smith stated that if it were a one story building, there would not be a problem with it. He stated that Mr. Pollis had not constructed the building where he was supposed to put it. The second story addition exceeded the maximum square footage allowed. Chairman Smith reminded Mr. Pollis that he was actually asking for two variances. Mr. Pollis stated that he was not aware of the 200 sq. ft. maximum floor area requirement. Chairman Smith stated that it was in the Ordinance. He stated that people criticize government for doing anything for them and some people want government to do everything. Mr. Pollis stated that he was not aware of the requirements. Chairman Smith stated that Mr. Pollis was aware of the 12 ft. side yard requirement. Mr. Pollis stated that he had been asked how far the building would be and he had said about 12 ft. The building permit had been approved. Mr. Pollis stated that his neighbors did not object to it and he asked the Board to allow it to remain where it was located.

R E S O L U T I O N

In Application No. V-80-A-186 by ELWOOD C. POLLIS under Section 18-401 of the Zoning Ordinance to allow accessory building--a two story structure with approximately 384 sq. ft. gross floor area--to remain 5.4 ft. from side lot line (200 ft. maximum gross floor area for storage structure in R-3 required by Sect. 10-102; 12 ft. minimum side yard req. by Sects. 10-105 & 3-307) on property located at 4914 Bristow Drive, tax map reference 71-3((3))65, County of Fairfax, Virginia, Ms. Day 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, a public hearing was held by the Board on March 17, 1981 and deferred from November 25, 1980 at the request of the applicant; deferred from January 13, 1981 for Notices; and deferred from February 24, 1981 for lack of a quorum; 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 10,500 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 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 accessory building 5.4 ft. from side lot line provided that the height of the building is adjusted to one story not to exceed ten (10) feet] with the following limitations:

RESOLUTION

1. This approval is granted for the location and the specific structure indicated inthe 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 2 (Messrs. DiGiulian and Yaremchuk).

Page 294, March 17, 1981, Scheduled case of

11:30 A.M. JOHN R. & DIANE R. STEPP, appl. under Sect. 18-401 of the Ord. to allow an addition within 5.1 ft. of the side property line (12 ft. min. side yard req. by Sect. 3-307), located 2407 Childs Lane, Stratford Landing Subd., 102-3((11))(9)20, Mt. Vernon Dist., R-3, 11,340 sq. ft., V-81-V-007. (DEFERRED FROM FEBRUARY 24, 1981 FOR LACK OF QUORUM.)

Mrs. Diane Stepp of 2407 Childs Lane in Alexandria informed the Board that they wanted to build an addition to their home in order to expand the kitchen and have a family room off of the first floor from the kitchen. In order to do so, they would have to expand on the side of the house. She stated that they were asking for 6.9 ft. variance to enable them to build this addition. Mrs. Stepp stated that none of their neighbors had objected and she asked for the Board's approval.

In response to questions from the Board, Mrs. Stepp stated that they had owned the property for three years and planned to continue to living here. Mr. Hyland inquired as to the reason for the hardship which necessitated the variance. Mrs. Stepp stated that their lot was very narrow and they only had 19 ft. from the kitchen area. The zoning required 12 ft. and she stated that the variance was the only logical way to expand as the other end of the house contained bedrooms.

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

RESOLUTION

In Application No. V-81-V-007 by JOHN R. & DIANE R. STEPP under Section 18-401 of the Zoning Ordinance to allow an addition within 5.1 ft. of the side property line (12 ft. minimum side yard required by Sect. 3-307) on property located at 2407 Childs Lane, tax map reference 102-3((11))(9)20, 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 March 17, 1981; 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 11,340 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.

R E S O L U T I O N

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 295, March 17, 1981, Scheduled case of

11:40 A.M. GREENDALE ACADEMY, INC., appl. under Sect. 3-303 of the Ord. to permit change in corporate name for a school and child care center formerly Proctor Hatsell Private School, Inc., located 6318 May Blvd., 82-3((11))38, 45 & 46, Lee Dist., R-3, 4 ac., S-81-L-004. (DEFERRED FROM FEBRUARY 24, 1981 FOR LACK OF A QUORUM.)

Mr. Claude Wheeler of 6300 Wayles Street in Springfield informed the Board that he was requesting a name change to Greendale Academy, Inc. under S-81-L-004. Chairman Smith inquired if Greendale Academy, Inc. had the same stockholders as Proctor Hatsell Private School, Inc. and Mr. Wheeler stated that it did. He stated that he and his wife were the stockholders. Mr. Wheeler stated that this request was only for a name change and no other changes were being requested.

There was no one else to speak in support 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-81-L-004 by GREENDALE ACADEMY, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to permit change in corporate name for a school and child care center formerly Proctor Hatsell Private School, Inc. on property located at 6318 May Boulevard, tax map reference 82-3((11))38, 45 & 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 of Zoning Appeals held on March 17, 1981; 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-3.
3. That the area of the lot is 4.0 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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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

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 in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. All conditions of the previously granted special permit S-80-L-093 shall remain in effect.
8. The variance granted by BZA shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 296, March 17, 1981, Scheduled case of

11:50 A.M. EDWARD BRAWAND, JR., appl. under Sect. 18-401 of the Ord. to allow an addition to a dwelling within 5.5 ft. of the side property line (15 ft. min. side yard req. by Sect. 3-207), located 3325 Beechtree Lane, Staffordale Subd., 60-2((10))7, Mason Dist., R-2, 13,325 sq. ft., V-81-M-016. (DEFERRED FROM MARCH 10, 1981 FOR ADDITIONAL INFORMATION REGARDING BUILDING PERMIT ISSUED JULY 1980.)

Mr. Brawand of 3325 Beechtree Lane in Falls Church informed the Board that he was requesting a variance for a two-car garage that would be attached to family room which was currently under construction. He gave the Board a summary of the testimony presented by his wife at the previous meeting regarding his dispute with the builder and his reliance on the issuance of the building permit applied for by the contractor. Mr. Brawand informed the Board that his contractor had dug the footings as they now existed. Mr. Hyland inquired if the footings were dug within 5 ft. of the property line. Chairman Smith stated that the original building permit called for a family room and a garage. Mr. DiGiulian stated that the building permit was only approved for the roof and walls and that the builder had to come back later for the interior. Chairman Smith stated that a carport would be allowed to extend to the 5 ft. distance.

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

RESOLUTION

In Application No. V-81-M-016 by EDWARD BRAWAND, JR. under Section 18-401 of the Zoning Ordinance to allow an addition to a dwelling within 5.5 ft. of the side property line (15 ft. minimum side yard required by Sect. 3-207) on property located at 3325 Beechtree Lane, tax map reference 60-2((10))7, County of Fairfax, Virginia, Mr. Hyland 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 17, 1981; 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 13,325 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.

RESOLUTION

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 297, March 17, 1981, Scheduled case of

12:00 NOON ALBERT S. JARRATT, appl. under Sect. 18-401 of the Ord. to allow 82.5 ft. high antenna to remain 56.6 ft. from one lot line & 65.5 ft. from another (82.5 ft. min. setback from lot lines req. by Sect. 10-105), located 3061 Valley Lane, Sleepy Hollow Manor Subd., 51-3((11))201, Mason Dist., R-3, 20,016 sq. ft., V-80-M-053. (DEFERRED FROM MAY 6, 1980 FOR HOLD HARMLESS AGREEMENT).

The Clerk was requested to check on the file for May 6, 1980 and to bring the matter back to the BZA at a later date.

//

Page 297, March 17, 1981, Recess

At 2:05 P.M., the Board recessed for approximately 10 minutes and then reconvened to continue with the after agenda items.

//

Page 297, March 17, 1981, After Agenda Items

The Boyer Companies: V-80-S-014; V-80-S-015 and V-80-S-016: The Board was in receipt of a letter from Ken White, engineer, requesting an extension of the variances granted to Boyer Companies on March 11, 1980. The letter informed the Board that the Boyer Companies had gone bankrupt and the property was now owned by Broyhill Enterprises.

A representative of Broyhill Builders, Inc. located at 8800 Surveyor Place was present at the meeting to answer any questions the Board might have on the extension request. In response to questions from the Board, he stated that the company had been in business since 1956.

Mr. DiGiulian moved that the Board grant a six month extension for the requested variances. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0 (Mr. Hyland being absent).

//

Page 297, March 17, 1981, After Agenda Items

Mengenhauser: The Board was in receipt of the contracts regarding the Mengenhauser variance. The Clerk informed the Board that she had contacted the contractors and had scheduled a discussion with the Board for March 31, 1981 at 10:00 A.M. Chairman Smith advised the Clerk to notify the contractors in writing of the Board's request to meet with them to discuss the Mengenhauser contracts.

//

Page 297, March 17, 1981, After Agenda Items

Jack Chocola, V-25-79: The Board was in receipt of a request for an extension of the variance granted to Jack Chocola, V-25-79. Mr. DiGiulian moved that the Board grant a six month extension. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0 (Mr. Hyland being absent).

// There being no further business, the Board adjourned at 2:30 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Nov. 9, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: Nov. 16, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, March 24, 1981. The following Board Members were present: Daniel Smith, Chairman; John Yaremchuk; Gerald Hyland and Ann Day. (Mr. John DiGiulian was absent).

The Chairman called the meeting to order at 8:20 P.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 8 o'clock case of:

8:00 P.M. FAIRFAX COUNTY BOARD OF SUPERVISORS, appl. under Sect. 18-401 of the Ord. to allow construction of public use building 52 ft. high to 10 ft. from side lot line (approx. 54 ft. min. side yard req. by Sect. 3-107), located 4618 West Ox Road, Fairfax County Landfill Subd., 56-1((1))2, Springfield Dist., R-1, 123± ac., V-80-S-204. (DEFERRED FROM DECEMBER 9, 1980 & JANUARY 13, 1981 FOR ACTION BY PLANNING COMMISSION AND BOARD OF SUPERVISORS.)

Mr. Veril Tielkemier, Director of Solid Waste Division, Department of Public Works, represented the Fairfax County Board of Supervisors. He stated that he was requesting a variance to the setback to allow the building to be constructed 10 ft. from the property line. To the north was the Fairfax County West Ox Road Park and to the west was the landfill which would be turned over to the Park Authority for development. To the south, the building would be abutted by the Virginia Department of Highways and Transportation. Mr. Tielkemier stated that at the present time, VDH&T had a salt pile at that location. Further south was the State Camp No. 30. To the east was the maintenance yard for storage of tractors and materials. On the northeast corner was the Fairfax County Fire Training Center. The tower abutted the road leading in to the transfer station. There was also the maintenance facility owned by Fairfax County. To the north was the Fairfax County Animal Shelter. Mr. Tielkemier stated that the transfer station would be about 250 ft. wide by 700 ft. long and they wanted to place it at this location.

In response to questions from the Board, Mr. Tielkemier stated that a transfer station was a location where refuse trucks could bring the trash to transfer trucks. The ultimate disposal site would be the I-95 landfill. He stated that the transfer station was designed to hold 1,000 tons of trash a day. He presented the Board with a rendering of the transfer station prepared by the firm who had designed it. Mr. Yaremchuk inquired as to why the transfer station was necessary. Mr. Tielkemier responded that the transfer station was a more economic means of transporting the refuse. He informed the Board that the I-95 landfill was located at the southern end of the County with heavily populated areas. The transfer station would reduce the long haul and would be a more efficient way of handling the trash. He stated that it would be more economical from the view of the citizens. Mr. Tielkemier informed the Board that this would be the first transfer station in Fairfax County. He stated that there was one in Arlington and one in Alexandria and several in Washington, D.C. Mr. Yaremchuk inquired as to why the trash would be brought from the residential areas and then dumped at the transfer station instead of going directly to the I-95 landfill. Mr. Tielkemier stated that the transfer station would hold tractor trailers which could hold three loads of refuse as compared to one load from the refuse truck. Mrs. Day inquired if the trailer was enclosed and was informed it was. Mr. Hyland inquired if a study had been done and Mr. Tielkemier stated that it had and this was more economical. Mr. Yaremchuk stated that studies were fine but they could be made to look anyway you wanted depending on what you were looking for. Mr. Tielkemier stated that it really was more economical. Mr. Yaremchuk inquired as to why the refuse trucks couldn't be larger and was informed there was a weight restriction. Mr. Yaremchuk wondered how a moving van could go into a subdivision if that were the case. Mr. Tielkemier stated that the tractor trailer had a much larger weight. He stated that the transfer trucks were allowed 80,000 lbs. gross. Mr. Tielkemier stated that the trucks were limited to certain highways based on the vehicle and the number of axles it had. Mr. Yaremchuk stated that West Ox Road was a secondary road and inquired as to how they could take the transfer trailers on that road. Mr. Tielkemier responded that not all roads had weight restrictions. Mr. Yaremchuk stated that the average road only had 4½ to 5 ft. of blacktop and base. He inquired if anyone had checked with Arlington County and gotten the cost figures on the transfer station. He inquired as to what the savings would be per year to the County and the citizens. Mr. Tielkemier stated that he could not give a precise figure but indicated it would be about $13.50 a mile maximum. Mr. Tielkemier informed the Board that the study had been completed and was accepted by the Board of Supervisors in February 1979 which showed the transfer scenario to I-95 from Rt. 66 to be a very cost effective method of disposal of waste. He stated that because of the study, the Board of Supervisors had approved the siting of the facility at I-66. Mr. Tielkemier informed the Board that if 250 haulers all drove down to I-95, the cost per ton would go up greatly for all of the homeowners by about 33% of what they were presently. He stated that the average cost at present was $100 a year.

Mr. Yaremchuk stated that the study had been presented to the Board of Supervisors because it would save so many dollars a year. However, he stated that the County did not serve all of the County with regard to refuse disposal. Chairman Smith stated that the only question before the Board was to the variance itself and that was the only thing to be considered.

Chairman Smith stated that the question before the Board was whether there was justification to grant the variance to construct the building itself. He inquired of Mr. Tielkemier as to why they could not construct the building at the setback so as not to require a variance. Mr. Tielkemier stated that the building was 250 ft. wide and occupied a great deal of room on the property. He stated that when the trucks came in and got under the scales, they had to proceed straight ahead and back into the dumping area. Mr. Tielkemier stated that the area provided for the vehicles to maneuver was at a minimum and could not be squeezed any more. Chairman Smith inquired as to why the building could be moved or reversed on the property. Mr. Tielkemier stated that there was an area of virgin earth that had never been disturbed. He stated that they needed a split level design and the terrain of the property lent itself to that design. Chairman Smith stated that it might be more costly to move the building but he stated that it could be done since there had been 123 acres of the landfill at one time.

Mr. Yaremchuk asked about the severe hardship cited by Mr. Tielkemier. Mr. Tielkemier stated that the hardship was the costly construction and he indicated that they were trying to take advantage of the topography and the shallow trash in the area which only had 20 to 30 ft. depth. Chairman Smith advised Mr. Tielkemier of the provisions of Section 18-401 and 18-404 of the Ordinance which set forth the criteria used by the Board in granting variances. Cost was not considered as a hardship under the Ordinance. Chairman Smith stated that he was sure it would cost more to build the facility at the setback line but he stated that a variance would not be required. He stated that if there were 123 acres, the plan had not been very well thought out. Mr. Tielkemier stated that the landfill existed in 1963 when there was not a need for a transfer station. He stated that the need now existed. Although it was costly, the primary concern was to the citizens of the transfer station. He stated that the shallow area was the best location for construction and the surrounding uses would be compatible to the transfer station. Chairman Smith stated that there were some uses that would not be compatible with it such as the Camp 30 with its resident convicts who had been living there for some time. In addition, he stated that there were some residents across the road and a big church. He indicated that the residents were already impacted at the present time. Chairman Smith stated that he remembered that the residents had been promised that the area would be a landfill and then given to the Park Authority. However, several buildings had been constructed on the property. Originally, the area was only planned for parkland. Chairman Smith stated that he was a member of the Board when it granted the permit for the use of the landfill. Mr. Hyland inquired as to how the other buildings were allowed on the property. He was advised by the Chairman that the County wanted to make other uses of the land and no one had questioned it. Mr. Yaremchuk inquired as to the distance the closest house was to the proposed facility and was informed by the Chairman that it was about 100 to 200 ft. from West Ox Road. Mr. Tielkemier advised the Board that the area directly across West Ox Road from the facility was now zoned for industrial uses. Chairman Smith stated that there were still one or two residential homes along there. Mr. Tielkemier stated that he was not certain the homes were occupied. Mrs. Day stated that she could not understand the impact on the State Prison Camp and could not see adding more taxes to the citizens. She insisted that it be moved to I-95. Chairman Smith inquired as to how the Board could justify the facility at the proposed location. Mr. Yaremchuk stated that there was a topographic problem and the County was trying to take advantage of the situation. Chairman Smith stated that the prisoners deserved the same treatment as other residents in the area. He stated that the prison camp had been there for 30 years.

There was no one else to speak in support of the variance. Mr. Kenneth Smith, attorney at law, 4189 University Drive in Fairfax, represented many of the citizens in the area who had banded together for a HALT meeting. Mr. Smith stated that he wanted to take a moment to speak to the transfer issue. Chairman Smith advised Mr. Smith to stick to the variance issue. Mr. Smith stated that he only wanted to comment on the fact that the transfer station would not look anything like the pretty picture presented by the applicant. Mr. Smith stated that before he addressed the land use question and the laws that applied to the variance, it would be helpful to respond to Mr. Yaremchuk's points. He presented Mr. Steve Gettler to speak to the citizens' issues.

Mr. Gettler of 12405 Cannonball Road in Fairfax County stated that he resided across Rt. 29-211 from the landfill and was the Chairman of the Board of Supervisors' committee on the transfer station. He stated that he wanted to address some of the issues about cost and traffic. With respect to cost, the consultant report showed only a 7% cost advantage in putting the transfer station in as opposed to the direct haul issue. He stated that as many times as he had read the report, he could not find any cost finings. He further stated that the construction costs had not been brought up to date. The Board of Supervisors had asked for more recent figures and the staff had then estimated some $8,000 to escavate the site plus the fact that it would be on fill. He stated that the consultant had studied and analyzed other sites and the I-66 was the more expensive site. Mr. Gettler informed the Board that it would cost more to use this site and haul the refust to I-95 than it would be to locate it somewhere else. Mrs. Day inquired as to the location of the other sites and was informed Merrifield was one of them but the staff had never informed the commitee of the exact location they had considered. Mrs. Day inquired about other sites and was informed that the consultant had also considered sites on I-66, Merrifield and Chantilly. Mr. Gettler stated that there was not more than a 5% difference in cost from one site to another but the I-66 site was the most expensive. Mrs. Day inquired if the I-66 site was the closest

Mr. Gettler responded that the Chantilly site was more to the west and was 16 miles round-trip for many of the trash trucks to reach the site. In response to questions from the Board, Mr. Gettler stated that he had served as Chairman of the committee for the design of the transfer station which did not include the selection of the location. Mr. Yaremchuk inquired if the Board of Supervisors had approved the use and was informed by Mr. Gettler that they had recently overturned a decision by the Planning Commission and had approved the site. Mr. Gettler stated that the citizens wanted the County to look into the traffic concern and everything they asked for was denied. He stated that the Bethlehem Baptist Church had located its high school on West Ox Road and they were very concerned about the traffic. They presently ran school buses to their site and with the transfer station there would be the addition of large eighteen wheel vehicles on West Ox Road. In addition, Fair Oaks shopping center had been added to the area. Mrs. Day inquired about limiting the trucks and the buses. Mr. Gettler stated that was a question for the staff. Mr. Gettler stated that as a part of his six month efforts on the committee, never once was the question raised that a setback issue was required. He stated that the committee was never informed about the setback for the design. Mr. Yaremchuk inquired if the committee knew where the building would be located. Mr. Gettler stated that they would have liked to have known it. He stated that they might have been able to reposition it as one committee member had thought about turning the building around. Now the staff was taking the position that the building could not be turned around. Mr. Gettler stated that the committee would have liked to have been informed as they were not aware that it did not meet the zoning requirements.

Mr. Yaremchuk inquired if the Board of Supervisors had looked at the site plan and whether a variance was necessary from the BZA if the Board of Supervisors had approved the site. Chairman Smith stated that the Board of Supervisors could act instead of the Board of Zoning Appeals on such matters. However, he stated that in areas where there was a Board of Zoning Appeals, the Board of Supervisors did not do it. He stated that the Board of Supervisors had the authority if they wanted to do it. Chairman Smith stated that the only question was whether there was a justified hardship as defined in the Ordinance and that was the only issue.

Mr. Yaremchuk inquired of Mr. Tielkemier as to why the issue was before the Board of Zoning Appeals. Mr. Tielkemier stated that the answer was because the zoning office had to sign off on the building permit. Mr. Yaremchuk inquired as to why the zoning staff which worked for the Board of Supervisors could not approve the site plan. Mr. Ken Smith advised the Board that the Board of Supervisors would have to amend the Ordinance before they could hear it. Mr. Smith advised the BZA that the Board of Supervisors had appointed the committee but the staff person was Mr. Glen Ehrich in Public Works who was not a zoning attorney. Mr. Smith informed the Chairman that he was right about the main point being whether there was a hardship. He then read the provisions of the State Code with respect to the duties of the Board of Zoning Appeals. Mr. Smith stated that the property to the left of the proposed building or to the south was owned by the State. He stated that the County wanted title to part of that property but he had not seen that in any of the presentations. Mr. Hyland stated that if the County got title, then they would not have a problem with the setback. Mr. Smith stated that they would still have to build on some property which was not yet County property. He advised the Board that the VDH&T was reluctant to give any of the land to the County. Mr. Hyland inquired as to the use the land was put to at the present time and was informed it held equipment for Camp 30. Mr. Hyland inquired as to the distance existing from the south of the proposed building to the State property and Mr. Smith stated that the plan showed it right up to the existing building line. Chairman Smith stated that the building was 10 ft. off of the property line. Mr. Yaremchuk stated that he was confused as to just why the citizens were against it. He stated that even if the building were moved, there was still going to be a building there. Mr. Smith stated that it would take much longer to do it at this location as there was much more to it than just the setback. Mr. Yaremchuk inquired of Mr. Smith as to what would be accomplished if the BZA denied the variance. The building would still be built but only 10 ft. further away. Mr. Smith stated that the Board of Supervisors were still planning on alternative sites. Mr. Hyland stated that if the Board of Supervisors had to move the building, then it would have an impact on the variance as it would be moot. Mr. Smith stated that he did not feel it was his place to put that issue before the BZA. He stated that the staff was finalizing another study for the Board of Supervisors.

Mr. Hyland inquired as to Mr. Tielkemier's reaction to Mr. Smith's presentation. Mr. Tielkemier stated that on February 23, 1981, the Board of Supervisors overruled the Planning Commission's motion on a 456. Supervisor Travesky established a subcommittee of three to work with the citizens in the area to ease the impact or to look at the possibilities of the site. He stated that there had been one meeting of the subcommittee and Mr. Smith of the Citizens and the County Staff. Mr. Hyland inquired if the subcommittee had the perusal to recommend another site or whether the location was fixed. Mr. Tielkemier advised the BZA that Mr. Smith and the citizens had proposed another site on the landfill on adjacent property. Chairman Smith inquired if it would require a variance. Mr. Tielkemier stated that it would require a 456 hearing and Board approval. He stated that the property sloped and the landfill was quite steep at that location. Mr. Yaremchuk stated that he still wanted to know why the citizens were opposed to the variance if the building was going to be located there anyway. He stated that it would cost more money to move it and he wanted to

301

see the County do it in the most economical way. Mr. Smith stated that he did not believe this was the most economical way but only the way the County wanted to do it. He stated that it appeared to be a piece of property ~~that they~~ could build a transfer station on without all of the gyrations. Mr. Hyland stated that it might the cost as opposed to the cost of building on another site. Mr. Yaremchuk stated that no matter where it was located, someone would oppose it. Mr. Smith stated that the reason the Planning Commission voted unanimously against it was because the County had not taken into consideration the long range plans of what it intended to do with trash in the County. He stated that they had not looked at the future needs. Mr. Smith stated that a much more logical place for a transfer station would be somewhere close to the beltway.

Chairman Smith stated that he was not going to comment about the Planning Commission. He stated that it was a transfer station when the old areas were eliminated where there were incinerators. He stated that he was not going to comment on whether the Board of Supervisors ahd a long range program or not. Chairman Smith stated that waste disposal was becoming rewarding for the communities who continued to use that type of disposal. However, he stated that you could not continue to bury it for the next 100 years and you had to find other methods. Mr. Yaremchuk stated that the Board missed the boat. He stated that the Board of Supervisors had been trying to plan over the last 20 years for solid waste disposal. However, he stated that you could not do planning if the people would not accept it. Mr. Yaremchuk stated that this was the last line of resistance which was why the people were here. Chairman Smith stated that he lived right on the highway within sight of the landfill. He stated that the people did not oppose it because it was to be used as a landfill and the people were reasonable. Chairman Smith stated that the BZA needed to get back on the hardship issue. Mr. Smith stated that the citizens had been waiting for ten years for the landfill to close permanently and now they found out that the County was planning a permanent structure which was part of the problem. Mr. Smith stated that he wanted to refer the BZA back to the languague of the Code. He stated that cost was not a consideration. He understood it was logical to consider cost when talking about the outlay. Mr. Smith stated that the property was not narrow or shallow as there was 123 acres. There were not any extraordinary problems or hardships or confiscation. He stated that the County had a problem and wanted to solve it the easiest way possible. Mr. Smith stated that the County could build the transfer station on the site without a variance. Mr. Smith stated that not all of the considerations for a variance had been met. He realized that Mr. Yaremchuk was very knowledgeable having been a resident and a Director or Environmental Management and knew a lot about land use in Fairfax County. Mr. Smith stated that this was a self-inflicted hardship and was not worthy of consideration. He stated that he did not believe the problems were as severe a hardship as has been stated but even if they were, it was still a self-inflicted hardship. Mr. Smith stated that it would be very unfortunate if the BZA made a decision that would have to be litigated as the citizens did not look forward to the expense. Mr. Smith stated that he was hoping that if the BZA decided that this case should be decided as a matter of law that it tried to refrain from the natural tendency to help out a situation such as cost.

Mr. Hyland stated that in Mr. Smith's closing remarks, he had indicated hardship to the citizens and inquired as to the hardship. Mr. Smith stated that the hardship would be the litigation expense. He stated that was not the only question. The Board of Supervisors had overturned the Planning Commission. The Board subcommittee was appointed to avoid litigation. Mr. Smith stated that the variance would be the issue litigated and if it were overturned, then the County would have to make some decision as to where they could put the transfer station. Mr. Smith stated that it was his hope that if the variance were granted, that the decision could be overturned. If the matter were to be litigated and overturned then they would be right back to a favorable decision. Mr. Smith stated that it would be a shame to have to go through that process.

Mr. Yaremchuk asked to see a map of the property lines one more time. Mr. Tielkemier stated that the line to the right was the area from the landfill presently used by the Fire Training Center. The line on the left was the existing active landfill or completed landfill. Mr. Hyland inquired if that were the only place on the entire tract for the transfer station and was informed by Mr. Tielkemier that it was. He stated that the rest of the area was the active landfill and the depth was 150 ft. The property of the VDH&T to the immediate south was used for storage of salt and sand on the roads. Mr. Tielkemier stated that the County did not intend to go over that property line for the construction of the transfer station. Chairman Smith stated that the County could still move the building over and reverse the building and it would not require more excavation. He stated that they could get away from the property line and meet the setback requirements. Mr. Tielkemier stated that the proposed location was the only practical location to get away from the deep trash. Mr. Yaremchuk inquired as to what would be accomplished by moving it. Chairman Smith stated that they would meet the setback like everybody else. Mr. Yaremchuk stated that there was plenty of light and air all around it and still inquired as to what would be accomplished by moving it from the property line. Chairman Smith stated that the application was made on 123 acres of land and they had worked themselves into a corner. Mr. Tielkemier informed the Board that the area of the Camp 30 was presently leased from the Commonwealth of Virginia to the County for another ten years. He stated that the 123 acres consisted of mostly landfill which had a depth of 150 ft. He stated that it was for these reasons that they were asking for a variance. He stated that the only area available was long and narrow and it

302

would be difficult to build unless the variance were granted. Chairman Smith stated that there was a tract in Merrifield which could have been used. Mr. Yaremchuk inquired as to the location of the site in Merrifield. Chairman Smith stated that it was located off of 29-211 and I-66 and was close to the intersection of Gallows Road. Mr. Yaremchuk asked Mr. Tielkemier what the hardship was for requesting the variance. Mr. Tielkemier stated that the County was trying to locate the transfer station in an area where there was the least amount of trash. Secondly, there was a natural earth berm and the surrounding properties would not be adversely affected. The site itself was long and narrow and did not lend itself to many architectural structures.

Chairman Smith closed the public hearing. He stated that the question before the BZA was the allegation of hardship. He cited the provisions under the Ordinance pertaining to the self-inflicted hardship.

Page 302, March 24, 1981 Board of Zoning Appeals
FAIRFAX COUNTY BOARD OF SUPERVISORS

R E S O L U T I O N

In Application No. V-80-S-204 by FAIRFAX COUNTY BOARD OF SUPERVISORS under Section 18-401 of the Zoning Ordinance to allow construction of public use building 52 ft. high to 10 ft. from side lot line (approximately 54 ft. minimum side yard required by Sect. 3-107) on property located at 4618 West Ox Road, tax map reference 56-1((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 March 24, 1981; and deferred from December 9, 1980 and January 13, 1981 for action by the Planning Commission and the Board of Supervisors; 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 123± acres.
4. That the applicant's property is exceptionally irregular in shape including long and 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 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 302, March 24, 1981, Scheduled case of

8:30 P.M. HUMBLE OIL & REFINING CO. & COLOR TILE, appl. under Sect. 18-401 of the Ord. to allow construction of building to 14 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 4-607), located 7336 Little River Turnpike, 71-1((20))1, Annandale Dist., C-6, 20,132 sq. ft., V-80-A-213. (DEFERRED FROM JANUARY 6, 1981 FOR SPECIAL EXCEPTION).

Mr. Don Hanback with an office located in the Rotunda Condominium in McLean represented Color Tile and Humble Oil Company. He informed the Board that the property was located on Little River Turnpike at Markham Street next to the Exxon Station. He stated that the property had been transferred to the Exxon Foundation which was non-profit. The Board of Supervisors and the Planning Commission had recently approved the resubdivision of the property. The property has 20,132 sq. ft. Color Tile wanted a variance to construct a building 14 ft. from the rear lot line. Exxon was required to put in a service road and had to dedicate 40 ft. of the lot. He stated that they would have to meet the parking requirements of the Ordinance. Mr. Hanback advised the Board that Color Tile had 420 stores all around the country and this store would the fourth in Fairfax County. Mr. Hanback stated that they only needed about 17 parking spaces but the Ordinance required 27 parking spaces. In order to accommodate the required number of parking, the structure had to be set back. Mr. Hanback stated that they were requesting a variance of 6 ft. in order to accommodate the required parking. He stated that a bowling alley was located to the rear of the property and the Exxon station was next door. There was also a lumber yard on the other side of the property. Mr. Hanback stated that the subject property was zoned C-6. Mr. Hanback stated that the requested variance was modest and a reasonable request and he urged the Board to grant it.

In response to questions from the Board, Mr. Hanback stated that the parcel had been subdivided out of the original parcel belonging to the Exxon station. Mrs. Day inquired about a lease and was informed the property had been purchased from the Exxon Foundation.
There was no one else to speak in support of the application and no one to speak in opposition.

Page 303, March 24, 1981 Board of Zoning Appeals
HUMBLE OIL & REFINING CO. & COLOR TILE

R E S O L U T I O N

In Application No. V-80-A-213 by HUMBLE OIL & REFINING COMPANY AND COLOR TILE under Section 18-401 of the Zoning Ordinance to allow construction of building to 14 ft. from rear lot line (20 ft. minimum rear yard required by Sect. 4-607) on property located at 7336 Little River Turnpike, tax map reference 71-1((20))1, County of Fairfax, Virginia, Mr. Hyland 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 24, 1981 and deferred from January 6, 1981 for action from Board of Supervisors on SE-80-M-040; 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-6.
3. The area of the lot is 20,132 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.

2. This variance shall expire eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 304, March 24, 1981, Scheduled case of

8:40 P.M. REHEARING: J. & H. AITCHESON, INC., appl. under Sect. 18-401 of the Ord. to allow construction of storage bldg. on front lot line (40 ft. min. front yard req. by Sect. 4-807; and a variance to Sect. 10-105 to permit accessory structure to be located in front yard, located 2908 Annandale Rd., 50-4((1))60, Providence Dist., C-8, 1 ac., V-80-P-238. (GRANTED IN PART ON FEBRUARY 10, 1981) (DEFERRED FROM MARCH 17, 1981 FOR DECISION.)

For testimony and comments regarding this rehearing, please refer to the verbatim transcript located on file in the Clerk's Office.

Page 304, March 24, 1981 Board of Zoning Appeals
REHEARING: J. & H. AITCHESON, INC.

R E S O L U T I O N

In Rehearing of Application No. V-80-P-238 by J. & H. AITCHESON, INC. under Section 18-401 of the Zoning Ordinance to allow construction of storage building on front lot line (40 ft. minimum front yard required by Sect. 4-807; and a variance to Sect. 10-105 to permit accessory structure to be located in front yard on property located at 2908 Annandale Road, tax map reference 50-4((1))60, County of Fairfax, Virginia, Ms. Day 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 rehearing was held by the Board on March 17, 1981; and deferred for decision until March 24, 1981; 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 1 acre.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property. The front of the property is the only feasible location for the proposed shed to protect the supplies and equipment and to provide a turn around space for trucks.
5. The adjoining commercial properties will not be hidden or adversely affected by said variance.
6. The character of the district will not be changed by the granting of the 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.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART (to allow construction of storage building 10 ft. from the front 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 304, March 24, 1981, After Agenda Items

Mt. Vernon C & P: The Board was in receipt of a request from Mr. William Donnelly regarding the Mt. Vernon C & P Telephone Company. It was the consensus of the Board to defer action for a period of one week to allow the Clerk an opportunity to send out the material in the next Board package for the Board's review.

//

Page 305, March 24, 1981, After Agenda Items

Vinson Allen: The Board was in receipt of the final site plan submitted for approval in accordance with the conditions of the granting of the variance. It was the consensus of the Board to defer the approval until Mr. DiGiulian's return.

//

Page 305, March 24, 1981, After Agenda Items

Greensboro Associates, V-80-D-039: The Board was in receipt of a request from Martin D. Walsh for an extension of the variance granted to Greensboro Associates. Mr. Yaremchuk moved that the Board grant the extension for a period of six months. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

// There being no further business, the Board adjourned at 10:10 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Nov. 9, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: Nov. 16, 1982

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 31, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

The Chairman called for the discussion on the Mengenhauser variance:

ANTHONY POOLS: Mr. Richard M. Kelso of 8005 Haute Court in Springfield represented Anthony Pools who had installed the swimming pool and equipment on Mr. Mengenhauser's property. Mr. Kelso was informed of the background involving the variance request of Mr. Mengenhauser. Mr. Kelso stated that he was familiar with setback requirements but he advised the Board that he had been under the impression that the pool filter was not a permanent structure because it could be moved.

Chairman Smith inquired if the applicants were required to obtain a building permit on the pool equipment and was informed by Mr. Covington that it was part of the pool permit. Mr. Hyland inquired as to what had been received by the pool company from the County to indicate that the filter was not subject to the setback requirements. Mr. Kelso stated that all information was submitted to the County before it was approved. He stated that MAPS had acquired all of their building permits for installation.

Chairman Smith thanked Mr. Kelso for appearing before the Board and asked that he make every effort in the future to eleviate any confusion now that the company was aware that all equipment was considered part of the pool installation and had to meet all setback requirements.

WESTERN FENCE CO.: Mr. Robert Fawcett of 12517 Park Lawn Drive in Rockville, Maryland represented the Western Fence Co. with regard to the Mengenhauser variance. Chairman Smith asked Mr. Fawcett to explain to the Board how the fence was constructed in the setback area. Mr. Fawcett stated that at the time the fence was constructed, the pool filter had already been installed. He stated that his company had a signed contract which stated that the homeowner was responsible for the installation of the fence. Mr. Fawcett stated that was normal for his company to drop a fence to 42" on a corner lot but the homeowner had indicated that he had permission for the 6 ft. fence. Mr. Hyland inquired if the fence company had a conversation with the homeowner to explain that the fence was in a setback area. Mr. Fawcett stated that he always advised the customers and had them sign that they were responsible. Mr. Hyland inquired if Mr. Mengenhauser had been aware that the fence was in a setback area and asked to see the document that they had signed. Mr. Fawcett presented the Board with a copy of the contract. He further stated that the company went by the survey of the property. Mr. Hyland noted the signature block on the contract which Mr. Mengenhauser had been asked to sign because of the problem with the fence.

Chairman Smith thanked Mr. Fawcett for taking the time to appear and asked that he be more careful in the future so that these mistakes would not happen as it created a problem for the Board as well as the property owners. He stated that it was up the contractors as professionals to advise the public and not let the mistakes take place.

//

Page 306, March 31, 1981, Scheduled case of

10:15 A.M. NATIONAL MEMORIAL PARK, INC., appl. under Sect. 3-103 of the Ord. to permit cemetery for animal interment and crematory for humans and animals, located 2726 Hollywood Road, 50-1((1))36, Providence Dist., R-1, 5.3 ac., S-81-P-003. (DEFERRED FROM FEBRUARY 24, 1981 FOR LACK OF QUORUM).

For information regarding the testimony presented, please refer to the verbatim transcript on file in the Clerk's Office.

Page 306, March 31, 1981 Board of Zoning Appeals
NATIONAL MEMORIAL PARK, INC.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-81-P-003 by NATIONAL MEMORIAL PARK, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to permit animal interment and crematory for humans and animals on property located at 2726 Hollywood Road, tax map reference 50-1((1))36, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements; and

RESOLUTION

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on March 31, 1981; and deferred from February 24, 1981; 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 5.3 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 8-006 of the Zoning Ordinance, and

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART (to allow cemetary for animal interment) 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months 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. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The hours of operation shall be 9:00 A.M. to 6:00 P.M., Monday through Saturday.
8. The number of parking spaces shall be five (5).
9. Additional screening satisfactory to the Director of Environmental Management shall be provided along the northeastern property line.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 307, March 31, 1981, Recess

At 12:35 P.M., the Board recessed for lunch and reconvened at 1:10 P.M. to continue with the scheduled agenda. Mr. Hyland was not present for the remainder of the meeting.

//

Page 307, March 31, 1981, Scheduled case of

10:30 A.M. JAMES G. GORE, JR., appl. under Sect. 18-301 of the Ord. to appeal the Zoning Administrator's denial of a building permit application, located 1935 Franklin Avenue, Franklin Forest Subd., 41-1((8))21A, Dranesville Dist., R-2, 12,471 sq. ft., A-81-D-002. (DEFERRED FROM FEBRUARY 24, 1981 FOR NOTICES.)

Mr. Ian O'Flaherty represented the applicant. For information regarding the testimony presented, please refer to the verbatim transcript on file in the Clerk's Office.

Mr. Yaremchuk moved and Mr. DiGiulian seconded that the Board of Zoning Appeals overturn the decision of the Zoning Administrator. The vote on the motion FAILED by a vote 2 to 2 (Mr. Hyland being absent.

//

Page 308, March 31, 1981, Scheduled case of

11:00 A.M. METROPOLITAN OPEN BIBLE CHURCH, appl. under Sect. 3-304 of the Ord. to amend S-482-66 for child care center to change ages of children to 2 - 8 and to permit use of second floor space in addition to lower floor space, located 6434 Franconia Road, 81-3((1))10, Lee Dist., R-3, 1.2151 ac., S-80-L-115. (DEFERRED FROM FEBRUARY 24, 1981 FOR FULL BOARD.)

308

Chairman Smith advised the applicant that there was not a full Board and the applicant elected to proceed with the hearing. Mr. Larry Cole, Pastor of the church, represented Metropolitan Open Bible Church. He stated that he was also Director of Kiddie Kollege at the church. The only change being requested was an age range for the children and a space change. In response to questions from the Board, Mr. Cole stated that the present ages of children were from three to six years of age and they now wanted two through eight years. There were 120 children. Chairman Smith inquired if the second floor area being requested for the use of the school was in the church and whether it had been approved for this type of use. Mr. Cole assured him it was approved. There were no further questions.

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

Page 308, March 31, 1981 Board of Zoning Appeals
METROPOLITAN OPEN BIBLE CHURCH

R E S O L U T I O N

Ms. Day made the following motion:

WHEREAS, Application No. S-80-L-115 by METROPOLITAN OPEN BIBLE CHURCH under Section 3-304 of the Fairfax County Zoning Ordinance to amend S-482-66 for child care center to change ages of children to 2 to 8 and to permit use of second floor space in addition to lower floor space, on property located at 6434 Franconia Road, tax map reference 81-3((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 of Zoning Appeals held on March 31, 1981; and deferred from February 24, 1981; and

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

1. That the owner of the subjectproperty is the applicant.
2. That the present zoning is R-3.
3. That the area of the lot is 1.2151 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of children shall be 120, ages 2 through 8 years.
8. The hours of operation shall be 7:00 A.M. to 6:00 P.M.
9. Adequate on-site parking must be provided.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 309, March 31, 1981, Scheduled case of

11:20 A.M. DAGMAR H. STAPLETON, appl. under Sect. [illegible] the Ord. to allow a detached garage to remain 8.7 ft. from the side [illegible]rty line (12 ft. min. side yard req. by Sect. 3-307), located 1523 Cedar Ave., West McLean Subd., 30-2((7))(2)34, Dranesville Dist., R-3, 11,250 sq. ft., V-81-D-017.

As the required notices were not in order, the Board deferred the variance until May 5, 1981 at 10:00 A.M.

//

Page 309, March 31, 1981, Scheduled case of

11:30 A.M. ROBERT M. DAUGHERTY, appl. under Sect. 18-401 of the Ord. to allow the construction of an attached garage within 8 ft. of the side property line (12 ft. min. side yard req. by Sect. 3-307), located 6802 Murray Lane, Sleepy Hollow Woods Subd., 60-4((16))(A)28, Mason Dist., R-3, 15,565 sq. ft., V-81-M-018.

Mr. M. A. Patterson, an architect in Annandale, represented Mr. Daugherty. He stated that Mr. Daugherty was requesting a variance to enhance the value and character of his property and to protect the property. Mr. Patterson informed the Board that the property was an irregularly shaped lot as it was on a cul-de-sac. Mr. Patterson stated that he did not believe there was any objection from the neighbors. He stated that the side of the addition would be 8 ft. from the side property line. The required side yard was 12 ft. under the Ordinance. In response to questions from the Board, Mr. Patterson stated that the addition would be an enclosed garage 22 ft. wide.

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

Page 309, March 31, 1981 Board of Zoning Appeals
ROBERT M. DAUGHERTY

RESOLUTION

In Application No. V-81-M-018 by ROBERT M. DAUGHERTY under Section 18-401 of the Zoning Ordinance to allow construction of an attached garage within 8 ft. of the property line (12 ft. minimum side yard req. by Sect. 3-307) on property located at 6802 Murray Lane, tax map reference 60-4((16))(A)28, 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 March 31, 1981; 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 15,565 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has converging lot lines.

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 buildingsinvolved.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 310, March 31, 1981, Scheduled case of

11:40 A.M. KEVIN & HEIDI DELLAFERA EAGLETON, appl. under Sect. 18-401 of the Ord. to allow the subdivision of a lot into two lots, one of which will be 24.48 ft. wide (200 ft. min. lot width req. by Sect. 3-E06), located 949 Bellview Road, Prospect Hill Subd., 20-1((1))19, Dranesville Dist., R-E, 4 ac., V-81-D-019.

As the required notices were not in order, the Board deferred the variance until April 28, 1981 at 11:20 A.M.

//

Page 310, March 31, 1981, Scheduled case of

11:50 A.M. JUDITH K. YOUNG, appl. under Sect. 18-401 of the Ord. to allow the construction of an enclosed porch within 21.9 ft. of the rear property line (25 ft. min. rear yard req. by Sect. 3-207) and to allow construction of an open deck within 14.1 ft. of the rear property line (19 ft. min. rear yard req. by Sect. 2-412), located 5406 Gainsborough Drive, Kings Park West Subd., 69-3((5))302, Annandale Dist., R-2, 10,663 sq. ft., V-81-A-020.

Mrs. Judith Young of 5406 Gainsborough Drive informed the Board that she wished to build a screened porch and open deck at the rear of her home. She stated that her home was on a wide pie-shaped wedge and fell short of the building setback. Mrs. Young stated that there was a park like setting behind her property. She stated that if her lot was normal, there would not be any reason for requesting a variance. Mrs. Young stated that there were easements on both sides of her property. She stated that she wanted to enjoy her backyard and the adjoining parkland. She stated that the addition would add to the enjoyment and that it would not detract from the parkland or the easement. In addition, it would add to the value of the property.

Chairman Smith inquired as to why the property was a wedge. Mrs. Young stated that she had contacted the original surveyor and found out that the parkland was floodplain. She stated that the property could not have been built on without the wedge. Mrs. Day stated that the plat showed a little stream running through the parkland. Chairman Smith stated that the lot was very unusual and he was certain that it was shaped that way in order for the builder to meet the floodplain setback.

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

Page 310, March 31, 1981 Board of Zoning Appeals
JUDITH K. YOUNG

RESOLUTION

In Application No. V-81-A-020 by JUDITH K. YOUNG under Section 18-401 of the Zoning Ordinance to allow the construction of an enclosed porch within 21.9 ft. of the rear property line (25 ft. minimum rear yard required by Sect. 3-207) and to allow construction of an open deck within 14.1 ft. of the rear property line (19 ft. minimum rear yard required by Sect. 2-412) on property located at 5406 Gainsborough Drive, tax map reference 69-3((5))302, 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 March 31, 1981; and

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

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 311, March 31, 1981, Scheduled case of

12:00 NOON LARRY E. BLANKENSHIP, appl. under Sect. 18-401 of the Ord. to allow the construction of two additions to a dwelling within 17.4 ft. & 18.4 ft. of the rear property line (25 ft. min. rear yard req. by Sect. 3-307), and to within 10.3 ft. of the side property line (12 ft. min. side yard req. by Sect. 3-307), located 7901 Penn Place, Hollin Hall Subd., 102-2((2))(17)28, Mt. Vernon Dist., R-3, 10,419 sq. ft., V-81-V-021.

Mr. Larry Blankenship of 7901 Penn Place informed the Board that he had purchased the property five years ago on an assumable loan. He stated that he now had two children and he wanted to stay in the area. His oldest child went to Weyanoke Elementary. Mr. Blankenship stated that he did not wish to go into the new housing market. He stated that he wanted to put an addition on his home at minimal cost.

In response to questions from the Board, Mr. Blankenship stated that on one end of his house was the living room, dining room and study. On the other end was the furnace and a garage for storage of equipment. He stated that his existing house consisted of three bedrooms, one bath, one kitchen, and one living toom. He stated that the new dining room would be behind the living room. In addition, he would have a study and a laundry room. Mrs. Day stated that would be a lot of house on a little lot. Mr. Blankenship stated that he was taking out the furnace from the kitchen and putting it in the garage with a 14 ft. door. He was adding a bathroom to the master bedroom. Mr. Blankenship stated that he had talked to his neighbors and no one objected. Mrs. Day inquired as to what was on the neighbor's lot next door and was informed it was a driveway. The neighbor's house sat about 30 ft. off of the property line. Mrs. Day inquired if the neighbor had a garage and was informed he did. Mrs. Day inquired about a shed which was constructed right on the property line and Mr. Blankenship informed her it would be torn down and replaced by the garage. Chairman Smith inquired as to why the length of the addition could not be shortened. Mr. Blankenship responded that the bathroom would take up part of the garage. On the other side, there would be three bedrooms with a guest bedroom.

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

Page 311, March 31, 1981 Board of Zoning Appeals
LARRY E. BLANKENSHIP

RESOLUTION

In Application No. V-81-V-021 by LARRY E. BLANKENSHIP under Section 18-401 of the Zoning Ordinance to allow the construction of two additions to a dwelling within 17.4 ft. and 18.4 ft. of the rear property line (25 ft. minimum rear yard required by Sect. 3-307) and to within 10.3 ft. of the side property line (12 ft. minimum side yard required by Sect. 3-307) on property located at 7901 Penn Place, tax map reference 102-2((2))(17)28, County of Fairfax, Virginia, Ms. Day 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 31, 1981; 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 10,419 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

RESOLUTION

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 312, March 31, 1981, Scheduled case of

12:15 P.M. WILLS AND VAN METRE, INC., appl. under Sect. 3-2003 of the Ord. to amend an existing special use permit (S-229-76) for a day care center by changing the age limitation from 6 - 8 to 6 - 12 years, located 7429 Vernon Square Drive, Mt. Vernon Square Subd., 93-3((1))5, Mt. Vernon Dist., R-20, 2.88005 ac., S-81-V-005.

Mr. Michael Giguere, an attorney in Fairfax, represented the applicant. He informed the Board that they were requesting to amend an existing special permit in order to change the age limitations. Chairman Smith stated that was condition no. 7 on the previous special permit which limited the maximum number of children to 61, ages 6 - 8. Mr. Giguere stated that there were numerous limitations on the permit. One limitation was for a maximum of 100 children, ages 2 - 6 and the other was a maximum of 61 children, ages 6 - 8. He stated that they were currently asking for 61 children in the ages of 6 -12. Chairman Smith asked that all previous limitations be consolidated with this day care in order to clarify the matter.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-81-V-005 by WILLS & VAN METRE, INC. under Section 3-2003 of the Fairfax County Zoning Ordinance to amend an existing special use permit (S-229-76) for a day care center by changing the age limitation from 6 to 8 to 6 to 12 years on property located at 7429 Vernon Square Drive, tax map reference 93-3((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 of Zoning Appeals held on March 31, 1981; 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-20.
3. That the area of the lot is 2.88005 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of children shall be 100, ages 2 through 6 years and 61, ages 6 through 12 years.
8. All other conditions of S-18-73 and S-86-79 not modified by this action shall remain in effect.

R E S O L U T I O N

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

313

Page 313, March 31, 1981, Scheduled case of

12:30 P.M. SERGASCO CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to service station building to 7 ft. from rear lot (20 ft. min. rear lot req. by Sect. 4-507), located 2600 Sherwood Hall Lane, 102-1((7))(7)17B, Mt. Vernon Dist., C-5, 17,531 sq. ft., V-80-V-111. (DEFERRED FOR SPECIAL EXCEPTION).

The variance was once again deferred by the BZA because of the special exception pending before the Board of Supervisors. The deferral date was June 2, 1981 at 10:00 A.M.

//

Page 313, March 31, 1981, Scheduled case of

12:40 P.M. FRANK COHN, appl. under Sect. 18-401 of the Ord. to allow the enclosure and addition to existing carport within 10.6 ft. of the side yard property line (15 ft. min. side yard req. by Sect. 3-207) located 8809 Gateshead Road, East Gate Subd., 110-1((18))(4)6A, Mt. Vernon Dist., R-2, 24,477 sq. ft., V-81-V-008. (DEFERRED FROM MARCH 10, 1981 FOR NOTICES.)

Mr. Frank Cohn of 8809 Gateshead Road informed the Board that he had followed all notification procedures at this point. He stated that he had failed to notify the Park Authority who had a floodplain easement across the back of his property. Mr. Cohn stated that when he had purchased the property, it had a one car carport. He stated that he had recently obtained a building permit to extend the carport to the exact distance from the side property line. He stated that he was permitted to extend that distance because he had an open structure. Mr. Cohn stated that he now wanted to enclose it to enhance his property and to add to the protection of his property. He stated that his property was long and narrow and he needed a variance on either side. Mr. Cohn stated that he had talked to his neighbors and no one objected. Mrs. Day noted that there was a swimming pool in the back yard. In response to questions from Mrs. Day, Mr. Cohn stated that the existing carport was 21.6 ft. wide and was 20 ft. deep. It was wood frame and the house was brick and frame.

There was no one else 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-81-V-008 by FRANK COHN under Section 18-401 of the Zoning Ordinance to allow the enclosure and addition to existing carport within 10.6 ft. of the side yard property line (15 ft. minimum side yard required by Sect. 3-207) on proprty located at 8809 Gateshead Road, tax map reference 110-1((18))(4)6A, County of Fairfax, Virginia, Ms. Day 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 31, 1981; 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 24,477 sq. ft.
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:

RESOLUTION

314

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid untillthe extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 314, March 31, 1981, Scheduled case of

12:50 P.M. GEORGE M. & OLIVE M. FITZWATER, appl. under Sect. 18-401 of the Ord. to allow subd. into 3 lots such that 2 lots would have lot width of 12 ft. each (70 ft. min. lot width req. by Sect. 3-406), located 2358 Great Falls Street, 40-4((1))28, Dranesville Dist., R-4, 43,660 sq. ft., V-81-D-022.

Mr. Joe Smyth of 6710 Weaver Avenue in McLean represented the applicants. He stated that he was the contract owner of the property which was owned by Mr. and Mrs. Fitzwater. He informed the Board that the closing on the property had taken place but the deed was in escrow. Mr. Covington informed the Board that the variance had been granted once before. Mr. Smyth informed the Board that the new subdivision made a much more attractive layout. He stated that when he had first presented the subdivision, the lots all went straight back. Chairman Smith suggested that the Board just amend the original granting to conform to the revised plats. Mrs. Day stated that she was pleased to hear that this was a better use of the land and that all of the neighbors were in favor of it.

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

RESOLUTION

In Application No. V-81-D-022 by GEORGE M. & OLIVE M. FITZWATER under Section 18-401 of the Zoning Ordinance to amend V-80-D-121 to allow subdivision into 3 lots such that 2 lots would have lot width of 12 ft. each (70 ft. minimum lot width required by Sect. 3-406) on property located at 2358 Great Falls Street, tax map reference 40-4((1))28, 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 March 31, 1981; 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 43,660 sq. ft.
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.

Page 315, March 31, 1981 Board of Zoning Appeals
GEORGE M. & OLIVE M. FITZWATER
(continued)

RESOLUTION

2. This variance shall expire eighteen months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 315, March 31, 1981, Scheduled case of

1:00 P.M. ALBERT S. JARRATT, appl. under Sect. 18-401 of the Ord. to allow 82.5 ft. high antenna to remain 56.6 ft. from one lot line & 65.5 ft. from another (82.5 ft. min. setback req. by Sect. 10-105), located 3061 Valley Lane, Sleepy Hollow Manor Subd., 51-3((11))201, Mason Dist., R-3, 20,016 sq. ft., V-80-M-053. (DEFERRED FROM MAY 6, 1980 FOR HOLD HARMLESS AGREEMENT: DEFERRED FROM JUNE 24, 1980 FOR AMENDMENTS TO HOLD HARMLESS AGREEMENT: AND FROM JULY 30, 1980 FOR REVIEW OF DOCUMENT BY COUNTY ATTORNEY'S OFFICE.)

Page 315, March 31, 1981 Board of Zoning Appeals
ALBERT S. JARRATT

RESOLUTION

In Application No. V-80-M-053 by ALBERT S. JARRATT under Section 18-401 of the Zoning Ordinance to allow an 82.5 ft. high antenna to remain 56.6 ft. from one lot line & 65.5 ft. from another (82.5 ft. minimum setback req. by Sect. 10-105) on property located at 3061 Valley Drive, tax map reference 51-3((11))201, 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 May 6, 1980 and deferred until June 24, 1980 for a hold harmless agreement, and deferred until July 30, 1980 for amendments to hold harmless agreement and review by the County Attorney's Office; 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 20,016 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 eighteen months from this date unelss construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

3. This variance is subject to the provisions of the hold harmless agreement attached hereto.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

(SEE ATTACHED PAGE FOR HOLD HARMLESS AGREEMENT)

HOLD HARMLESS AGREEMENT

COMES NOW. MR. AND MRS. ALBERT S. JARRATT, and states that for good and valuable consideration, they have made a hold harmless agreement between themselves and the BOARD OF ZONING APPEALS, sitting as a body and acting as an agent for the County of Fairfax, the COUNTY OF FAIRFAX, and the Board members individually, namely, DANIEL SMITH, Chairman, JOHN DiGIULIAN, V. Chairman, GEORGE BARNES, JOHN YAREMCHUK and GERALD HYLAND.

WHEREAS, MR. AND MRS. ALBERT S. JARRATT own property located at 3061 Valley Lane, Falls Church, Virginia; and

WHEREAS, they have made application for a variance before the BOARD OF ZONING APPEALS, Application No. V-80-M-053 wherein they are requesting a variance as to the height requirement for an amateur radio tower to be placed on the above-described property, which variance seeks to alter the height requirement as it relates to the setback lines on the above described property; and

WHEREAS, it is the desire of the BOARD to grant such variance based on the signing of this Hold Harmless Agreement. The said property owners, MR. AND MRS. ALBERT S. JARRATT, do agree to indemnify and hold harmless the BOARD OF ZONING APPEALS, THE COUNTY OF FAIRFAX and the BOARD members individually from any and all actions resulting from their granting of the variance for the height requirement of such amateur radio tower. That this Hold Harmless Agreement is intended to indemnify the above described individuals and entities from any and all damage to persons or property as a result of this tower. That the said MR. AND MRS. ALBERT S. JARRATT, indemnify and hold harmless with the full intent of relieving all of the above-described parties from any liability whatsoever for any action of injuries to persons or properties as a result of having this tower located on their property.

WHEREAS, the supporting tower for the antenna has the feature of being easily adjusted in height to permit easy maintenance on the antenna/rotator and/or for lowering the height during periods of high winds, it is the express intent that this document is to be in effect only during those times when the height is such as to require the zoning variance. In other words, it is understood that during the time the height is temporary or permanently reduced sufficiently so as to not require the zoning variance, that the hold harmless and indemnity provision of this provision of this document is not in effect.

Furthermore, it is understood and agreed that the provisions of this document may be cancelled by the property owner by the concomitant act of permanent reduction in antenna height and the submission of a written notice of same to the Chairman of the Board of Zoning for Fairfax County.

Date: 7 - 15- 80

_____(SEAL)
ALBERT S. JARRATT

_____(SEAL)
MRS. ALBERT S. JARRATT

Page 316, March 31, 1981, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for October 16, 1979; October 23, 1979 and October 30, 1979. Mr. Yaremchuk moved that the Minutes be approved as submitted. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0.

//

Page 316, March 31, 1981, After Agenda Items

SOMERSET-OLDE CREEK RECREATION CLUB: The Board was in receipt of a request from Richard O. Spencer seeking permission to enlarge the fenced-in area at the club by relocating the fence on the interior of the property. Chairman Smith stated that he had no objection to the club relocating the fence on the interior of the property as long as it did not encompass any new land area not under the special permit.

//

Page 316, March 31, 1981, After Agenda Items

ELSIE LEIGH: V-6-78: The Board was in receipt of a request from Mrs. Leigh seeking an extension on the variance granted by the BZA on April 4, 1978. Prior extensions had been granted by the BZA as follows: 1st extension for 180 days; 2nd extension for one year and 3rd extension for six months.

Mr. Yaremchuk moved that the Board grant the fourth extension for a period of six months. Mr. DiGiulian seconded the motion and it passed by a vote of 3 to 0 with 1 abstention (Mr. Smith).

//

Page 316, March 31, 1981, After Agenda Items

ROAD AGGREGATES, V-70-79: The Board was in receipt of a request from Mr. Kenneth White of Alexandria Surveys, Inc. regarding an extension for Road Aggregates, V-70-79, granted by the BZA on May 8, 1979. Prior extensions had been granted as follows: 1st extension for six months and 2nd extension for six months.

Mr. DiGiulian informed the Board that he talked to Ken White regarding this extension and Mr. White had informed him that there was a drainage problem downstream from the property. He stated that they were trying to come up with a storm water retention plan. The County Attorney's Office had been reviewing the matter since October until the last 10 days when the site plan came back with the position that they could build with some minor revisions.

Mr. DiGiulian moved that the Board grant another six month extension and Mr. Yaremchuk seconded the motion. The vote passed by 3 to 0 with 1 abstention (Mr. Smith).

//

Page 316, March 31, 1981, After Agenda Items

JOHN R. & DIANE R. STEPP, V-81-V-007: The Board was in receipt of a request from Mrs. Diane Stepp for approval of a chimney extension into the 5.1 ft. area which had been approved for a variance by the BZA on March 17, 1981. The property was zoned R-3 and required a 12 ft. side yard. After the variance was granted, Mrs. Stepp applied for a building permit and informed the County that her builder was going to put in a chimney which would extend 3 ft. into the 5.1 side yard approved by the BZA. The chimney had not been shown on the plat to the BZA and was not advertised as being a part of the requested variance. Mrs. Stepp stated that she had discussed the chimney with her builder who had informed her it was not necessary for it to be shown on the plat because it was not counted in the setback. Mrs. Stepp was seeking approval from the BZA to allow the chimney to change the setback on the side of her property from 5.1 ft. to 2.1 ft. It was the consensus of the Board that Mrs. Stepp would have to reapply for a variance and go through another public hearing if she wanted the chimney or she would have to move it out of the setback area.

/

Page 316, March 31, 1981, After Agenda Items

JOHN T. GEARY: The Board was in receipt of an out-of-turn hearing request for the application of John T. Geary. It was the consensus of the Board not to grant the request but to hear the application in the order it was filed.

//

Page 317, March 31, 1981, After Agenda Items

Group Residential Homes: The Board was in receipt of a request from Philip G. Yates, Zoning Administrator, regarding group residential facilities. It was the consensus of the Board that the matter be brought back to the Board at another date.

//

Page 317, March 31, 1981, After Agenda Items

Mt. Vernon C & P Telephone Co.: The Board had deferred a request from Mr. William E. Donnelly regarding an addition to the Mt. Vernon C & P Telephone Communication Center in order to allow further study on the matter. The Board had received another letter from Mr. Donnelly withdrawing his request from the Board of Zoning Appeals and indicating that he would file an application to the Board of Supervisors for a special exception in order to construct the addition.

// There being no further business, the Board adjourned at 3:45 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on NOV. 9, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: November 16, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on April 7, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of

10:00 A.M. JAMES P. MORRISON, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport within 6 ft. of side property line (8 ft. min. & a total of 20 ft. req. by Sect. 3-307), located 7101 Plandome Court, Rolling Valley Subd., 89-3((6)) 170, Springfield Dist., R-3C, 9,806 sq. ft., V-81-S-023.

Mr. James P. Morrison of 7101 Plandome Court informed the Board that he wanted to build a garage and his property did not permit him any other option than to enclose the existing carport. Mr. Morrison advised the Board that an enclosed structure was not permitted within 8 ft. of the property line. He stated that his carport was 6 ft. from the property line. In response to questions from the Board, Mr. Morrison stated that he had owned the property since August of 1979 which was 1½ years. Chairman Smith inquired if this was a new cluster subdivision and was informed the subdivision was 7 years old. Chairman Smith inquired if there were a lot of carports in the area. Mr. Morrison stated that the original design was mostly carports but that at least one-third of them had been enclosed into garages.

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

RESOLUTION

In Application No. V-81-S-023 by JAMES P. MORRISON under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport within 6 ft. of the side property line (8 ft. minimum and total of 20 ft. req. by Sect. 3-307) on property located at 7101 Plandome Court, tax map reference 89-3((6))170, 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 7, 1981; 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(C).
3. The area of the lot is 9,806 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including converging lot lines.

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 eighteen months from the date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

RESOLUTION

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 319, April 7, 1981, Matters Presented By Board Members

JAMES GORE: Mr. DiGiulian stated that the Board had an appeal the previous week, case no. A-81-D-002 which had resulted in a tie vote of 2 to 2. He stated that quite often when a Board member was missing, the Board held up the vote until the fifth Board member could participate. Therefore, Mr. DiGiulian moved that the Board reconsider the appeal no. A-81-D-002. Mr. Yaremchuk seconded the motion to reconsider. Chairman Smith stated that he would take a vote on the motion but he advised Mr. DiGiulian that he felt the motion was out of order because he could not move to reconsider or rehear under Roberts Rules of Order. Mr. DiGiulian stated that had he known that the previous week, he would have objected at that time. He stated that he would have objected that the Chairman insisted upon taking a vote when there were only four Board members present. Chairman Smith stated that he had no idea that the vote was going to result in a tie. He stated that it was not his position to advise an applicant to defer decision when they had an attorney to represent them. Mr. DiGiulian stated that he only wanted the Board to be consistent. Chairman Smith stated that the only decisions deferred for the fifth Board member had involved variances or special permits and were not appeal cases. Chairman Smith stated that he would take a vote on the motion but he wanted the County Attorney's Office to come down and referee the discussion. He stated that it was his intepretation that Mr. DiGiulian was not on the prevailing side and did not have the right to reconsider. Mr. DiGiulian stated that was not the way it had been presented to him the previous week. Mr. Yaremchuk stated that was not the way the requests for rehearing or reconsideration had been handled for the past two years. He stated that the Board needed a policy decision. Mr. Yaremchuk stated that he echoed Mr. DiGiulian's feelings. He stated that many times he had listened to tapes and voted on a lot of cases when he had been absent. Most always, it was the Chairman who advised the applicant that there were only four Board members present. Mr. Yaremchuk stated that the Board had to be consistent. Chairman Smith stated that only the prevailing side could move to reconsider. Mr. DiGiulian stated that in view of the Chairman's statement the previous week in which he had indicated that the matter could be brought up the next week, he felt the Chairman should honor the request.

Mr. Hyland stated that he agreed with Mr. DiGiulian and Mr. Yaremchuk. He also stated that Roberts Rules applied directly were also correct in that only the prevailing side could move to reconsider. Mr. Hyland stated that if it were a matter of practice or procedure, then the question was what was the rule the BZA was bound by. Mr. Hyland stated that there might be two rules. He stated that he could not recall circumstances of tie votes in the past and had to admit that an appeal was even more important. For that reason, Mr. Hyland stated that he thought the Board should be consistent with whatever it had done in the past. Chairman Smith stated that he had asked the Zoning Administrator the previous week if he would allow a deferral and he had indicated his objection to the Chairman. He objected to any continuation or reconsideration. Chairman Smith stated that it took three votes to overturn the Zoning Administrator's position. At the time he discussed the contiuance with Mr. Yates, the attorney for the appellant had not said a word. Mr. Yaremchuk stated that the Zoning Administrator was a public servant and should not be making decisions for the Board of Zoning Appeals.

Chairman Smith stated that the Board was making the public wait because of this problem and he asked that the Board recess discussion until the County Attorney could referee the discussion. Mrs. Day moved that the Board have the County Attorney come down to discuss the matter. Mr. Hyland stated that the motion was out of order. Chairman Smith stated that it would be to the Board's benefit to have the County Attorney come to discuss it. He stated the Board would be able to take as much time with it as needed. Mr. DiGiulian stated that if the only question the County Attorney addressed was how the BZA went about rehearing, then he was in favor of having him come down. Mr. Yaremchuk stated that he did not like the whole matter as the Board had always asked the fifth Board Member to participate. He stated that this was a policy problem but he stated that he would abide by whatever the majority ruled on the matter. He stated that he did not need any County Attorney's opinion on this. He suggested that the Board meet in Executive Session to decide upon its policy.

The Board recessed the matter until the end of the meeting.

//

Page 319, April 7, 1981, Scheduled case of

10:20 A.M. ANDREA FIELD, ET. AL, appl. under Sect. 18-401 of the Ord. to allow subdivision into four lots with proposed lots 1, 2 & 3 each having lot width of 6.05 ft. (150 ft. min. lot width req. by Sect. 3-106), located 1344 Hunter Mill Road, Douglas Woods Subd., 18-2((1))7, Dranesville Dist., R-1, 8.3362 ac., V-81-D-024.

Mr. Howell Simmons respresented the applicants. Chairman Smith inquired as to the owners of the property and was informed it was owned by Mr. and Mrs. Field, Mr. and Mrs. Paciulli and Mr. and Mrs. Simmons. Chairman Smith stated that if they were the deeded owners, then the application should have been made in that manner. Mr. Simmons stated that there were six owners, all owning it in common. It was one parcel of land owned by six individuals.

320

Mr. Hyland stated that when there were three parties all owning land as tenants in common, no matter how it was written up, the procedure of using one name with et. al would normally suffice for the BZA's purposes. Chairman Smith stated that he only wanted to make it clear as to the present owners of the property and whether Andrea Field was one of the principal owners of the property.

Mr. Simmons presented the justification to the Board. He stated that the variance request was for three lots with less than the required street width. The property was narrow and very steep and had a stream with a 100 yr. floodplain along the southern border. The property was surrounded by the Park Authority. Mr. Simmons stated that the property was zoned R-1 and had a maximum yield of 7 lots. The parcel contained 8.3362 acres. He stated that each lot would be about 1¼ acres.

Mr. Dick Jones of the Fairfax County Park Authority advised the Board that he had reviewed the variance request. The Park Authority was concerned about the stream valley policy which was adopted to protect the steep slopes. Mr. Yaremchuk inquired as to what the Park Authority did with the easements. Mr. Jones responded that they protected the trees of a certain diameter. In addition, no trash, signs or buildings were allowed. Mr. Hyland inquired as to who had the responsibility for the easement. Mr. Jones stated that if granted, the Park Authority had the power. He stated that as far as picking up the dead trees on the property that it would be the owner's responsibility. Mr. Jones stated that the Park Authority did not have control of the maintenance. Mr. Yaremchuk stated that there were so many parks and nobody was taking care of them. Mr. Yaremchuk stated that he hoped the Park Authority had some plan to take care of this property. Mr. Hyland stated that the Park Authority did not do anything with them except limit what the owner could do. Chairman Smith stated that the owner had the right to use the land and had the benefit of the open space for certain purposes. He would be used by the birds and wildlife and a place to run dogs.

Chairman Smith inquired about the density of the property. Mr. Simmons stated that the density was low for the zoning but that it might be high according to the Master Plan. The property was zoned 1 acre which meant that it could be developed into 7 lots. Chairman Smith inquired if the property had passed perc and whether there was any water. Mr. Simmons stated that there was water on the property but that they planned to use public water. He stated that the Park Authority would bring it to within 300 ft. of the property in the fall of 1981. In the fall of 1981, the Water Authority would have it. With regard to septic, Mr. Simmons stated that some wanted septic and some wanted sanitary sewer. Mrs. Day stated that she was ignorant about how the BZA could grant a variance when there was some unknown question about the utilities. Mr. Simmons stated that if the property did not perc, there was sanitary sewer available. He stated that he did not plan to use public water because the project would go on line way before the water main was connected. Mrs. Day inquired if there was water available. Mr. Simmons responded that there was always water available if you dug deep enough.

Mr. Yaremchuk inquired about the easement the Park Authority wanted and asked that if it were given and the water line was brought through there, what kinds of problems would there be on the property owner. Mr. Simmons stated that they did not plan to bring the water line through. He stated he wanted to wait on the easement to insure that they had the necessary development. He stated that they had agreed to the easement basically because they preferred to stand before the BZA in agreement with the staff comments. Mr. Yaremchuk stated that once the easement was granted, everybody better know all of the bylaws. Mr. Hyland stated that the applicant was trying to work with the Park Authority in order to avoid future problems. He assumed that the applicant would have everything tied down in an agreement with the Park Authority regarding the easement and Mr. Simmons assured him they would.

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

Chairman Smith stated that there were still some unaswered questions about the easement agreement with the Park Authority which the BZA needed such as the location of the houses on the lots and the location of the perc tests. Mr. DiGiulian stated that the lots were to be served by sanitary sewer and he did not see why the BZA could not go ahead and act on the variance at this time. Chairman Smith stated that he wanted to see where the houses would go in order to be sure that the houses could be connected to a septic field. Mrs. Day stated that she would also like that information. Chairman Smith stated that the BZA needed the house locations, the location of the perc tests, the septic locations and the well locations as well as the finalization of the easement agreement with the Park Authority. Mr. Simmons stated that the memorandum from the Park Authority dated March 19, 1981 indicated that the exact locations were to be determined by the Park Authority prior to approval of the final site plan. Chairman Smith stated that unless there was a signed agreement, nothing in the recommendation or agreement was binding. Mr. Hyland inquired as to what would happen if the applicant and the Park Authority did not come to an agreement. Mr. Simmons stated that he would not be allowed to file a final site plan and that he was willing to accept those conditions.

Mr. Simmons informed the Board that he had been before them with several applications, some of which had perced and some of which had not. He informed the Board that this was the first application that no matter whether it passed perc or not, there was a solution. He stated that the soil priles had been done. Mr. Simmons stated whether the lots passed perc or not, it was the same layout, the same three lots and they could be put on the existing sanitary sewer if needed.

Chairman Smith stated that the notation on the plats regarding the sewer would not allow the applicant an alternative. He stated that the applicant had submitted plats and that was the way it had to be developed. Mr. Simmons stated that he was not aware of the notation on the plat.

Page 321, April 7, 1981 Board of Zoning Appeals
ANDREA FIELD, ET. AL.

R E S O L U T I O N

In Application No. V-81-D-024 by ANDREA FIELD, ET. AL. under Section 18-401 of the Zoning Ordinance to allow subdivision into 4 lots with proposed lots 1, 2 & 3 each having lot width of 6.05 ft. (150 ft. minimum lot width required by Sect. 3-107) on property located at 1344 Hunter Mill Road, tax map reference 18-2((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 Board on April 7, 1981; 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 8.3362 acres.
4. That the applicant's property is exceptionally irregular in shape being long and 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 18 months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid intil the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 321, April 7, 1981, Scheduled case of

10:20 A.M. CRAMER M. & SUSAN A. GILMORE, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 15 ft. from front lot line (35 ft. min. front yard req. by Sect. 3-207), located 6470 Fifth St., Weyanoke Subd., 72-3((8))(F)39, 40, 41 & 42, Mason Dist., R-2, 11,000 sq. ft., V-81-M-025.

Mr. Gilmore of 5109 Cherokee Avenue presented the Board with a sketch to aid in his presentation. He stated that his property was located in the Weyanoke Subdivision in Mason District. He stated that his lot was a substandard lot. The Everly house next door was built 40 years ago. Mr. Gilmore stated that his proposed variance was to allow him to realign his house with the extension of the Everly house from Cherokee Avenue which was 9 ft. from the property line. Mr. Gilmore stated that his house addition would be 15 ft. from the property line. He stated that his property was a corner lot which required that there be a 35 ft. setback on both Fifth Avenue and Cherokee Avenue. He stated that he had met the 35 ft. setback from Fifth Avenue but violated the other setback. Mr. Gilmore stated that other neighbors' homes did not conform to the setbacks either. Mr. Gilmore advised the Board this his lot was 1/4 acre being 100 ft. x 110 ft. and was 11,000 sq. ft. He presented the Board with a letter of support from his neighbor, Mrs. Rosemary Everly.

Page 322, April 7, 1981
CRAMER M. & SUSAN A. GILMORE
(continued)

As one last additional piece of information, Mr. Gilmore informed the BZA that the Board of Supervisors had granted permission to Indian Run to build apartments and townhouses on Cherokee Avenue which was about 1½ miles from Little River Turnpike. Mr. Gilmore stated that as his street was very active, he was concerned about the safety of his children playing in the yard and wanted to maximize the use of his back yard. He stated that the front of his house was where his garage was located and it was turned from Fifth Avenue to avoid the traffic from Cherokee Avenue. Mr. Hyland inquired as to the location of the driveway and was informed it came directly from Fifth Avenue. Chairman Smith inquired if there was a soils problem on the lot and was informed there was not. In response to further questions from the Chairman, Mr. Gilmore stated that a house had been removed from the lot.

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

Page 322, April 7, 1981 Board of Zoning Appeals
CRAMER M. & SUSAN A. GILMORE

RESOLUTION

In Application No. V-81-M-025 by CRAMER M. & SUSAN A. GILMORE under Section 18-401 of the Zoning drdinance to allow construction of dwelling 15 ft. from front lot line (35 ft. minimum front yard req. by Sect. 3-207) on property located at 6470 Fifth Street, tax map reference 72-3((8))(F)39, 40, 41 & 42, County of Fairfax, Virginia, Mr. Hyland 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 7, 1981; 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 11,000 sq. ft.
4. That the applicant's property is a substandard lot with doubld front yard requirements.

AND, WHEREAS, the Board of Zoning Appeals 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 322, April 7, 1981, Executive Session & Board Matters

At 11:20 A.M., Mr. DiGiulian moved that the Board go into an Executive Session to discuss the recessed motion regarding the rehearing or reconsideration of A-81-D-002, James Gore, Jr. Mr. Hyland seconded the motion and it passed by a vote of 5 to 0. At noon, the Board reconvened into public session to continue the discussion on the motion.

Chairman Smith informed the Board that the motion made earlier by Mr. DiGiulian did not follow the procedures as far as Roberts Rules of Order but he indicated that he would take a vote on the motion anyway. Mrs. Day stated that she felt it would be opening a can of worms and was against the rehearing and stood by the ruling of the previous week. Chairman Smith stated that he felt the decision of the Zoning Administrator was correct which was why he had voted to deny the motion. He stated that this decision would affect many homeowners in the County. The vote on the motion to rehear the appeal of James Gore, Jr., A-81-D-002 passed by a vote of 3 to 2 (Mr. Smith & Mrs. Day).

Chairman Smith stated that he felt the Board had taken an invalid vote but indicated it was up to the people involved. Mr. Yaremchuk stated that the Board had reheard cases in the past. Mr. Hyland stated that in the Aitcheson variance, there had been a motion to reconsider the case. After the rehearing, the Board had deferred decision on the second hearing to enable him to vote on the matter. Mr. Hyland stated that it would seem that if the Board moved to reconsider that the applicant should be allowed to come and say whatever it was they had to say. Chairman Smith stated that the applicant would have to come up with a reason for reconsideration.

Mr. Hyland asked the Chairman to inform him as to what had been done in the past as far as rehearing or reconsiderations. Chairman Smith stated that the maker of the motion wanted reconsideration of the vote. He stated that Mr. Hyland had indicated that he wanted people to be heard which was a rehearing. Chairman Smith stated that there had to be new evidence presented if it was a rehearing. Mrs. Day stated that she did not see how anyone could come back in and object to the vote. Mr. Hyland stated that the applicant was asking for a vote of the five Board members. Mr. Yaremchuk stated that the motion was moved to allow the fifth Board member to vote which the Board had done many times in the past. He stated that he did not see why the Board could not do so now. Chairman Smith stated that he was listening for directions from the Board on the matter. Mr. Hyland stated that he had no problem with listening to the tapes and then bringing the matter back to the Board for a vote of the full Board. He stated that he did want to talk to Mr. Yates and Mrs. Kelsey concerning the case. Mr. Hyland stated that he was not certain whether that was unfair to the applicant or not. Chairman Smith inquired about the numerous people who had testified at the appeal and Mr. Hyland responded that it would all be on the tape. Mr. Yaremchuk stated that the Board was not overturning the numerous people, only the Zoning Administrator. Chairman Smith stated that everyone who spoke was a principal in the case.

It was the consensus of the Board to schedule decision for May 5, 1981 at 10:10 A.M.

//

Page 323, April 7, 1981, Scheduled case of

10:40 A.M. ROBERT B. & SONDRA J. HAMILTON, appl. under Sect. 18-406 of the Ord. to allow a deck to remain 10.6 ft. from the rear property line (19 ft. min. rear yard req. by Sect. 2-412) & to allow a dwelling to remain 22.6 ft. from the rear property line (25 ft. min. rear yard req. by Sect. 3-307), located 8222 Treebrooke Lane, Oakbrooke at Fort Hunt Subd., 102-4((17))17, Mt. Vernon Dist., R-3(C), 10,124 sq. ft., V-81-V-026.

Mr. Robert B. Hamilton of 8222 Treebrooke Lane in Alexandria informed the Board that he had submitted a copy of his contract on the purchase of his home to show what it had included. Mr. Hamilton stated that he was the first person to try to retain what the builder had done. Chairman Smith inquired if Mr. Hamilton had constructed the deck and was informed that that builder had constructed it. Mr. Hamilton stated that he had purchased the property from Mr. Curtis who had purchased it from the builder. Chairman Smith stated that the deck was non-conforming. Mr. DiGiulian inquired as to how Mr. Hamilton found out that the deck was not legal. Mr. Knowlton of the Zoning Office informed the Board that he had sent a letter after it came to his attention that the final house location survey showed that the house and the deck were not in compliance. Mr. Knowlton stated that the house was built in 1977 and the Zoning Office had just received the final survey. Mr. Knowlton stated that the final survey was not a requirement of the occupancy permit. Chairman Smith stated that title firms did not pay much attention to what was going on. Mrs. Day inquired as to what was located on lot 18. Mr. Hamilton stated that lot 18 had another Colonial house with a garage. He stated that the property was owned by Mr. Hooser who might have a problem with the variance. Chairman Smith inquired if Mr. Hamilton had notified the title insurance company that they had erred. Mr. Hamilton stated that he had only contacted Mr. Knowlton of the Zoning Office to correct the situation.

Chairman Smith stated that by not requiring the house location survey before occupany, it created a real problem for the property owners. Mr. Knowlton informed the Chairman that in 1973 when the Ordinance changed, that requirement had ceased to exist. Chairman Smith stated that it was mistake. Mr. Knowlton stated that when there was a discrepancy, the Zoning Office suggested the variance route in order to clear the title. Chairman Smith stated that this was certainly not the fault of the property owner. Mr. Hamilton stated that the deck had shown on the plat at the time of settlement. Mr. DiGiulian stated that the title companies do not concern themselves with zoning violations on residential properties.

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

Page 323, April 7, 1981 Board of Zoning Appeals
ROBERT B. & SONDRA J. HAMILTON

R E S O L U T I O N

In Application No. V-81-V-026 by ROBERT B. & SONDRA J. HAMILTON under Section 18-401 of the Zoning Ordinance to allow a deck to remain 10.6 ft. from the rear property line (19 ft. minimum rear yard required by Sect. 2-412) and to allow a dwelling to remain 22.6 ft. from the

RESOLUTION

rear property line (25 ft. minimum rear yard req. by Sect. 3-307) on property located at 8222 Treebrooke Lane, tax map reference 102-4((17))17, County of Fairfax, Virginia, Ms. Day 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 7, 1981; 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(C).
3. The area of the lot is 10,124 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow and shallow and has an unusual condition in the location of the existing buildings on the subject property. This hardship of the applicant was inherited from a former owner who made constructions in error.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0.

Page 324, April 7, 1981, Scheduled case of

11:00 A.M. SHEFFIELD DEVELOPMENT LTD. PARTNERSHIP, appl. under Sect. 3-503 of the Ord. to allow the renewal of S-30-79 without time limit for two unlighted tennis courts, located 7525 & 7571 Pohick Road, Summerhill Subd., 108-1((1))35 & 41, Lee Dist., R-5, 66.2 ac., S-81-L-006.

Mr. Robert Lehman of 11015 West Avenue in Kensington, Md. informed the Board that he was one of the general partners of Sheffield Development Ltd. Partnership. In response to questions from the Board, Mr. Lehman stated that his company had sold Section I and II to Pulte Homes. He stated that his firm was now doing the development work for Ryan Homes. The tennis courts were included in the sale of property to Pulte Homes. Chairman Smith inquired as to who owned the property. Mr. Lehman stated that the tax records indicated that the property was owned by the Sheffield Recreation Association. He stated that he was building the tennis courts for the families of the single family homes and the townhouses. Chairman Smith inquired if the property had been deeded to the homeowners and was informed it had been. Mr. Lehman stated that he had built the tennis courts and had them paved last November. He stated that he could not put the sealer on it until the temperature reached 50° all the time. He informed the Board that the tennis courts should be in operation in a few months. Chairman Smith inquired as to when the property had been deeded to the homeowners and was informed it had been approximately 1 to 1½ years ago.

Chairman Smith inquired as to who was Richard Klass who was shown to be the property owner on the staff report. Mr. Lehman stated that Mr. Klass was his partner. He informed the Board that he and his partner had purchased the property from Mr. Ray Crist. Chairman Smith stated that if it had been a year since the homeowners took title that it should show up in the records of the County. Chairman Smith questioned the comments on the staff report which indicated that Parcel "D" was open space which was to be conveyed to the homeowners association when the subdivision was recorded. The staff report indicated that the conveyance had not taken place in accordance with the Zoning Ordinance and the approved rezoning development plan, so it was recommended that the conveyance be made prior to any further action of the variance application.

Mr. Hyland inquired about the recreational facilities provided. Mr. Lehman stated that they had made some proffers at the time of rezoning. He stated that the trails were to be put in at the end. The tennis courts would be ready in a few months. He stated that they had to be striped and colorcoded. Mr. Lehman stated that there were pathways provided but not any formal trail system as yet. He stated that Pulte Homes had built a tot lot next to the tennis courts. Mr. Lehman stated that the picnic areas would be built at the last when the trails were provided.

Mr. Hyland inquired about the land being sold to Pulte. Mr. Lehman stated that his company had developed the property into five sections. Section II included the tennis courts which had been dedicated. Pulte bought the land. Parcel "D" was also recorded as being dedicated to Sheffield Recreation Association. Mr. Lehman stated that all outlot parcels that belonged to the recreation association had been dedicated. Mr. Hyland stated that he was confused as to whether the property had been deeded or dedicated. Mr. Lehman stated that the property had been deeded and dedicated. All of the outlot parcels now belonged to the homeowners. Chairman Smith stated that Sheffield Development still controlled the property. Mr. Lehman stated that his company only controlled it because there was not enough people to start paying dues for the recreation area. Chairman Smith inquired if Sheffield Development would charge for the recreation. Mr. Lehman stated that the recreation documents had to be approved and would show the maintenance fee that the association would have to pay. Mr. Lehman stated that every homeowner was already a member of the recreation association. Mr. Lehman stated that he still had control because he still owned the majority of the lots. Mr. Lehman informed the Board that every homeowner belonged to the recreation association. He stated that there was an annual budget and the recreation association had to pay dues for the upkeep of the facilities. Chairman Smith inquired if there was any kind of a management agreement with the homeowners. Mr. Lehman stated that the property had initially been managed by Shannon & Luchs. Chairman Smith inquired if the homeowners were required to have a management company and Mr. Lehman stated that he could not remember. Chairman Smith stated that bothered him as the property was supposed to be deeded and managed.

Mrs. Day inquired if there was a written agreement on the finished improvements as to who was going to assume the future maintenance. Mr. Knowlton stated that the property had been conveyed. Mr. Lehman stated that the tennis courts would be turned over to the recreation association. Mrs. Day inquired if the tennis courts would be turned over fully completed by Mr. Lehman with the homeowners having nothing else to do to it and Mr. Lehman assured her that was correct.

There was no one else to speak in support of the application and no one to speak in opposition. Chairman Smith inquired as to when the operation of the tennis courts would be turned over to the homeowners. Mr. Lehman stated that the courts had to be sealed and have the striped put on and then the nets put up. Mr. Lehman stated that the tennis courts were owned by the Sheffield Recreation Association. Chairman Smith inquired if the community was condominium and was informed it was not. Chairman Smith suggested that the Board amend the application to show the name of Sheffield Recreation Association as applicant. Mr. Hyland moved that the application be amended as suggested by the Chairman. Mr. Yaremchuk seconded the motion and it passed unanimously.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-81-L-006 by SHEFFIELD RECREATION ASSOCIATION under Section 3-503 of the Fairfax County Zoning Ordinance to allow renewal of S-30-79 without time limit for two unlighted tennis courts on property located at 7525 & 7571 Pohick Road, tax map reference 108-1((1))35 & 41, 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 7, 1981; 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-5.
3. That the area of the lot is 66.2 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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from thisd date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 326, April 7, 1981, After Agenda Items

Culmore No. 1 and Culmore No. 2, OMNI GROUP CO., V-81-M-035 & V-81-M-036: The Board was in receipt of a request from Verdia L. Haywood, Executive Asst. to the County Executive, and a memorandum from Barbara Lippa, Deputy Director of the Planning Commission, asking the BZA to defer the above two variance applications to the Planning Commission and to await action from the Planning Commission before scheduling the BZA hearing. The Board was also in receipt of a letter from Art Walsh, attorney representing the Omni Group, seeking a BZA hearing in May, if possible.

It was the consensus of the Board to defer the above applications until Thursday, May 14, 1981 at 10:00 A.M.

//

Page 326, April 7, 1981, After Agenda Items

Robert E. Shoun, V-80-C-074: The Board was in receipt of a request from Mr. Robert E. Shoun seeking a minor engineering change on the variance granted by the BZA to allow an addition onto his home 9.8 ft. from the side lot line. Mr. Shoun wanted to extend the proposed addition from 24 ft. to 31.5 ft. which would still be 9.8 ft. from the side lot line. It was the consensus of the Board that the request be denied and the applicant advised that such a change was more than a minor engineering change and would require another variance application.

//

Page 326, April 7, 1981, After Agenda Items

Group Residential Facilities: The Board was in receipt of a memorandum from the Zoning Administrator as to whether the BZA desired a presentation from staff on how Group Residential Facilities were established and approved in the County. It was the consensus of the Board for the Clerk to schedule the presentation for the first available open day meeting.

//

Page 326, April 7, 1981, After Agenda Items

NATIONAL MEMORIAL CEMETARY: The Board was in receipt of a personal letter from Mr. William Hansbarger, attorney at law, requesting a reconsideration of the granting in part of the special permit heard by the Board at a previous meeting. Mr. DiGiulian moved that the Board deny the reconsideration request. Mr. Hyland seconded the motion and it passed by a vote of 5 to 0.

//

Page 327, April 7, 1981, After Agenda Items

Accessory Structures: Mr. DiGiulian inquired as to the status of the proposed amendment to the Zoning Ordinance regarding accessory structures. He stated that the last communication he had from Mr. Yates indicated that the amendment would go before the Board of Supervisors in February. Mr. DiGiulian stated that he did not want the amendment forgotten. Mr. Knowlton stated that he was not aware of where the amendment was in the process as there were over 183 amendments in the process. The Clerk promised to get an answer back to the BZA on the accessory structure matter.

//

Page 327, April 7, 1981, After Agenda Items

Keene Mill Village Joint Venture & Home Owners Association: S-80-S-020: The Board was in receipt of a request from Kenne Mill Village Joint Venture & Home Owners Association to delete parking spaces in order to have tennis courts. It was the consensus of the Board that this request was more than a minor engineering change and requested the Clerk to so advise them.

// There being no further business, the Board adjourned at 1:10 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on NOV. 23, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: December 7, 1982

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 14, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. REHEARING: EUGENE J. CULLINANE, appl. under Sect. 18-401 of the Ord. to allow subd. into 5 lots with proposed lots 3 & 4 each having width of 6 ft. (150 ft. min. lot width req. by Sect. 3-106), located 6518 Georgetown Pk., 22-3((1))5 & 7A, Dranesville Dist., R-1, 5.5589 ac., V-80-D-236. (DENIED BY BZA ON FEBRUARY 3, 1981).

Mr. Douglas Detwiler, an engineer in Fairfax, represented the applicant. He stated that he had requested the Board to hold a rehearing. Chairman Smith inquired as to the ownership of the property and was informed that Mr. Cullinane had purchased the property seven months ago. Chairman Smith noted that the staff report indicated the previous property owner. Mr. Detwiler informed the Board that at the last hearing he had been involved in a personal matter which had taken him out of town and he was unable to attend the hearing. He stated that the gentleman from his office who had represented Mr. and Mrs. Cullinane at the hearing did not have the benefit of information that he had. The variance was denied because a hardship could not be demonstrated. Mr. Detwiler informed the Board that if the variance request were not granted, Mr. Cullinane would be denied the yield that he was entitled to by the Code. He would only get four lots instead of five lots because of the road that would have to be put in. Mr. Detwiler informed the Board that there was a sight distance problem. Mr. Detwiler stated that it was desirable to use a private ingress/egress which was located on Georgetown Pike. He stated that this would enable them to more closely follow the natural contours of the land and keep trees, etc. Mr. Detwiler stated that was the basic reason for the design of the requested subdivision.

Chairman Smith stated that Mr. Detwiler had referred to the variance application as something the applicant was entitled to. Chairman Smith advised Mr. Detwiler that the applicant was entitled to the reasonable use of his property which did not mean that it entitled him to the maximum yield. Chairman Smith stated that the applicant had a reasonable use of the property without any undue hardship. He stated that the minimum yield was not a hardship. Mr. Detwiler stated that he understood the Chairman's position. Mr. Detwiler stated that even if the property was developed into four lots with a street constructed, the aesthetics of the property would be largely destroyed. He stated that the privacy to adjacent property would be destroyed because of the cul-de-sac and the natural screening would be destroyed. Mr. Detwiler stated that there were many reasons that they felt a hardship would be created to develop the property without a variance. Mr. Detwiler presented the Board with two layouts of the property. One layout showed the requested pipestem and the other showed the cul-de-sac. Chairman Smith stated that the property could be developed into four lots with the cul-de-sac. Mr. Detwiler stated that it would ruin the property. In response to questions from the Board, Mr. Detwiler stated that the existing barn was to be removed. He stated that the carport, the existing two story house and the swimming pool would remain on lot 5.

Mrs. Cullinane spoke in support of the variance request. She stated that there were two ways to develop the property. One way would retain the country lane. The other way was to have the old standard blacktop road. She also stated that she wanted the dwelling lowered from Mrs. Schneider's property.

Mrs. Grace Schneider of 6456 Georgetown Pike spoke in opposition to the variance. She stated that she lived next door right on the property line. She questioned the Board about the distance of the driveway from her property line. Mr. Detwiler showed Mrs. Schneider a layout of the proposed subdivision. Mrs. Schneider questioned the screening and fencing as to what would be provided. Mrs. Cullinane stated that they would put in more trees and not take out any. She stated that there was a fence on the left side of the house and more trees would be added there also. She stated that there was a driveway which was very dangerous and it would be taken out. Mrs. Schneider asked that all trees along the fence line remain. She stated that her main complaint was the driveway which came right at her property line. She stated that the existing driveway was not shown on the plat. Mrs. Schneider stated that bothered her because the driveway was right on the property line. Mrs. Schneider stated that her only complaint was the driveway and if it were removed she would not have any complaint. Mr. Detwiler stated that the proposed ingress/egress would be a minimum 60 ft.

He stated that Mrs. Cullinane was going to supplement the plantings on the property line in addition to the natural screening. Mr. Yaremchuk stated that he was not sympathetic to Mrs. Schneider's problem of the driveway as she had to go by two other houses to get to her house. He stated that the Cullinane were doing the same thing. He stated that he did not feel Mrs. Schneider had a hardship.

Page 329, April 14, 1981
REHEARING: EUGENE J. CULLINANE
(continued)

During rebuttal, Mr. Detwiler informed the Board that the driveway would be located 10 ft. off of the property line. Screening would be provided in addition to the natural screening existing on the property. Chairman Smith stated that 10 ft. was not much of an area to provide screening. Mr. Detwiler stated that was more than normal as 5 ft. was the normal buffer provided. He stated that Mrs. Schneider had some screening existing on her property. Mrs. Schneider informed the Board that she only some hemlocks which were not that tall as they were only 6 ft. high. She stated that it was only one row of hemlocks. Mr. Detwiler stated that he would be putting in a second row of hemlocks which would meet the minimum standards of the Code for screening for residential properties. He stated that this residential against residential. Mrs. Schneider stated that she wanted to say one more thing and questioned why they were putting in another driveway when there was already one existing which was not shown on the plat. Mr. Detwiler stated that the existing driveway would pass through the future location of a home on a future lot.

There were no more questions from the Board and no one else to speak in support or opposition.

Page 329, April 14, 1981 Board of Zoning Appeals
REHEARING: EUGENE J. CULLINANE

R E S O L U T I O N

In Rehearing of Application No. V-80-D-236 by EUGENE J. CULLINANE under Section 18-401 of the Zoning Ordinance to allow subdivision into five lots with lots 3 & 4 each having width of 6 ft. (150 ft. minimum lot width req. by Sect. 3-106) on property located at 6518 Georgetown Pike, tax map reference 22-3((1))5 & 7A, 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 14, 1981; and

WHEREAS, the Board had 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 5.5589 acres.
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 location indicated in the plats included with this application only, and is not transferable to other land.

2. This variance shall expire 18 months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

3. This variance is subject to submission of revised plats showing the ingress and egress easement and the driveway to lot 5 being a minimum of 10 ft. from the northeasterly property line.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 2 (Mr. Smith & Mrs. Day).

Page 329, Arpil 14, 1981, Scheduled case of

10:10 A.M. TOBY CEDAR, appl. under Sect. 18-401 of the Ord. to allow an addition to a dwelling to be erected within 10.5 ft. of the front property line (30 ft. min. front yard req. by Sect. 3-307), located 1601 H Street, New Alexandria Subd., 83-4((2))(10)17 & 18, Mt. Vernon Dist., R-3, 7,000 sq. ft., V-81-V-027.

As the required notices were not in order, the variance was deferred until May 14, 1981 at 11:45 A.M.

//

10:20 A.M. JAMES & NANCY MELIA, appl. under Sect. 18-401 of the Ord. to allow the construction of a stable within 20 ft. of the side property line (40 ft. min. side yard req. by Sect. 10-105), located 12001 Seven Hills Lane, Seven Hills Estate Subd., 86-3((8))8, Springfield Dist., R-1, 5 ac., V-81-D-028.

330

Mr. and Mrs. Melia of 317 Avondale Drive in Loundon, Va informed the Board that they were the owners of lot 8 in Clifton, Va. They stated that they were seeking a variance to construct a small stable 20'x40;. The stable was for two ponies for their two children. Mr. Melia stated that Clifton was a rural area and had lots of horses and ponies. People enjoyed the aesthetic charm of Clifton. Mr. Melia stated that in his subdivision, only five acre lots were allowed. He stated that he was bordered on the north and south with five acre lots and there was a 150 acre farm on his left. To the east, there was wooded parkland. Mr. Melia stated that his neighbors were a great distance from his property. The stable would be located beside the woods. He stated that they wanted the stable as close as possible to the woods to keep the sun off of the ponies. He stated that the small ponies were more protected with the trees. In addition, there was a very large overhang to provide good shade during the summer and to break the wind during the winter. Mr. Melia stated that the lower part of his property was in floodplain. He stated that he had two streams running through his property. The woods were located on an eleven acre tract. The woods were in floodplain and had not public access. Mr. Melia stated that by placing the stable 20 ft. from the property line would not detract as it was not near anything. He provided the Board with a letter of support from the owner of the wooded property. Mr. Melia stated that many people were in support of the variance request. He stated that it was humane to help protect the animals. The majority of his property was located in floodplain and Mr. Melia urged the Board to grant the variance since no one objected.

Mrs. Day inquired as to the location of the nearest house to the stable. Mr. Melia stated that the nearest house could not be seen from his property. Mrs. Day inquired if they had arranged for the proper disposal of the manure. Mr. Hyland inquired as to the hardship for not placing the stable elsewhere on the property. Mr. Melia stated that his number one hardship was the ponies. He stated that the majority of his property was floodplain and if the stable were located in the lower portion, it would flood the stable. Mr. Hyland questioned the fact that there was no other place to locate the stable on a five acre lot. Mr. Melia stated that his house was to be located on the large hill and behind it was the septic field. Chairman Smith stated that the stable could be moved 20 ft. and still accommodate everything and keep it out of the floodplain portion of the lot. Mr. Melia agreed that the stable could be moved back but then it would have the protection of the trees for the ponies. Mrs. Day inquired if there was a fence and was informed they were putting in a split-rail fence. Mr. Melia informed the Board that the construction of the stable at the 40 ft. setback did not affect him dollarwise. He was only concerned about the protection of the ponies. He stated that originally he was going to have the stable closer to him and store manure in the rest of the area. However, his father-in-law had suggested the use of the woods for protection of the ponies. Mr. Yaremchuk stated that if Mr. Barnes were still living, he would agree with Mr. Melia. Chairman Smith stated that the fact Mr. Melia had an alternate location did not justify the variance. Mr. Melia stated that he was not planning to construct it so close to the line until his father-in-law suggested placing it back into the trees. Chairman Smith stated that the ponies would have a tree area to get under and that the stable did not need to be located so close to the line. Mr. Melia stated that the back property line did have trees but they were set back. Mr. Yaremchuk stated that the applicant had a hardship as the property was triangular in shape and had floodplain and he was trying to locate the structures to fit the property. Chairman Smith argued that the applicant had an alternate location. Mr. Yaremchuk stated that the Ordinance was not God. Mr. Melia stated that he would argue for the ponies and he stated that the variance would not affect anyone. He stated that he had a letter of support from the property owner. Mrs. Day stated that she agreed with the applicant and thought the Board should consider the four-legged friends. She stated that she supported the variance.

There was no one else 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-81-D-028 by JAMES & NANCY MELIA under Section 18-401 of the Zoning Ordinance to allow the construction of a stable within 20 ft. of the side property line (40 ft. minimum side yard req. by Sect. 10-105) on property located at 12001 Seven Hills Lane, tax map reference 86-3((8))8, County of Fairfax, Virginia, Mr. Hyland 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 14, 1981; 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-1.
3. The area of the lot is 5 acres.
4. That the applicant's property is exceptionally irregular in shape and there is an existing floodplain over a large portion of the property and the Board has received testimony that there is no opposition from the contiguous property owners.

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 eighteen months from this date unless construction has started and is idligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 331, April 14, 1981, Scheduled case of

10:30 A.M. FIRST VIRGINIA BANK, ET. AL, apl. under Sect. 18-401 of the Ord. to allow a cluster subd. of thirteen lots with nine lots having pipestems (3 ft. width)(maximum of five pipestem lots req. by Sect. 2-406), located 6641 Old Chesterbrook Road, 30-4((1))33, 68A; 30-4((28))(1)9; & 30-4((13))4, Dranesville Dist., R-3, 7.0569 ac., V-81-D-029.

Mr. Ron Porter informed the Board that he was with the Albritten Company which was involved in the transaction of the property and that he represented the applicant. Mr. Porter stated that he would present their ability to develop the property without a variance and the effect of the development on the land. Finally, he stated that he would present how they resolved some of the problems incurred by conventional development. Mr. Porter stated that the conventional development of the site would yield eleven single family lots. He stated that a development had standard street which were required to be dedicated into the State Highway Department.

Mrs. Day inquired if Mr. Porter was the developer and was informed he was the real estate agent. Mr. Porter stated that he represented the First Virginia Bank. Chairman Smith inquired as to the length of time the bank had owned the property. Mr. Porter stated that he was not certain as this was an estate settlement. He stated that originally the property was the Fisher Estate property and that the bank was liquidating it. Chairman Smith inquired if the property had been sold by the Fisher Estate. Mr. Porter stated that the bank had taken the property as they were the executors of the will and were selling the property. Mrs. Day inquired if this was being done in accordance with the specified will and Mr. Porter stated that he assumed it was. He stated that the bank and Jim Brooks were the executors of the will and that the trust department of the bank was handling the sale of the property. Chairman Smith inquired if the bank held title to the property and was informed it did. Chairman Smith inquired as to when the bank had taken title and Mr. Porter stated that he was not certain. Mr. Hyland inquired as to how the bank had title to the property. Mr. Porter stated that he was not aware of how they had taken possession. He stated that the property was offered for sale and he was representing Mr. Wills, who was the contract owner of the property at this time. Mr. Hyland inquired if there was a real estate contract which covered the property and Mr. Porter stated that he did have one. Mr. Hyland inquired as to who was shown as the seller on the real estate contract and who was shown as the purchaser. Mr. Porter stated that First Virginia Bank and Jim Brooks were the sellers and P. Reede Wills was the purchaser. He stated that the bank was not going to develop the property but only sell it. Mr. Hyland stated that he could not imagine that if the property was in an estate that it would be transferred to the bank as the co-executor. Chairman Smith stated that it was very unusual. Mr. Hyland stated that he assumed that as co-executor the bank and the other co-executor had signed the contract of sale to Mr. Wills. Mr. Covington stated that the land records indicated ownership as being First Virginia Bank, Trustee.

Mr. Hyland inquired as to who were David and Josephine C. Lombard and Richard M. Carragan. Mr. Porter responded that they were adjacent property owners who owned a piece of property that was included in the variance application.

The Board recessed for five minutes and then returned to continue with the discussion on the variance application of First Virginia Bank. Mr. DiGiulian stated that he needed to get some facts cleared up and inquired as to why the adjoining properties of Mr. and Mrs. Lombard and Mr. Carragan were included in the variance application. Mr. Porter stated that the other properties were included to enable them to meet the minimum area for the cluster subdivision. Mr. Porter advised the Board that a conventional subdivision would only yield eleven lots but that the cluster subdivision would also yield eleven single family lots. Mr. DiGiulian inquired if the other lot owners had any interest in the land. Mr. Porter stated that their land would be increased because of the buffer. Mr. DiGiulian stated that he could not understand how their land would be increased. He asked if the lots had been purchased or whether the other owners were just a party to the application. Mr. Porter stated that they were parties to the variance request. Mr. Porter stated that there was nothing gained as far as lot yield whether the property was developed conventional or cluster. The cluster would allow the private road concept. Chairman Smith inquired if the adjoining land had been purchased or whether the other individuals would retain ownership of the lots. Mr. Porter stated that Mr. Carragan and the Lombards would retain ownership. Chairman Smith stated that this was not a proper application as the other property owners were not a party to this application. Mr. Porter stated that it was a proper application. He stated that Mr. Carragan and Mr. & Mrs. Lombard had joined in on the application. Chairman Smith stated that they might have joined in on the application but they were not a party to the subdivision. Mr. DiGiulian stated that the applicant had indicated that the rear lot line of the two parties would change some and that they would gain some additional land area. Mr. DiGiulian stated that he agreed with the Chairman but he stated that the other parties were included to meet the minimum area requirement. Chairman Smith stated that this was not a property application as there was no hardship on the part of the other property owners. He stated that they had a reasonable use of their existing property. Mr. DiGiulian summized that without the inclusion of the two additional lots, the Fisher property would not meet the minimum area requirement for a cluster subdivision. Mr. Porter stated that was correct. He stated that they would then be forced to develop the property on a conventional basis. Mr. Porter stated that the whole purpose of the variance was to try to avoid development in the conventional nature. Chairman Smith stated that the applicant was going to great lengths. Mr. Porter stated that they were only doing what they were advised to do by Steve Reynolds of Design Review. He stated that this course was suggested by Mr. Reynolds after they had discussed the matter with him.

Chairman Smith stated that he questioned the hardship of Mr. Carragan and Mr. and Mrs. Lombard since they had reasonable use of their property at the present time. Mr. Porter stated that he was trying to save some very large old trees as referenced in a memorandum from the County Arborist. Chairman Smith stated that the pipestem request exceeded the maximum number allowed in a cluster subdivision. Mr. Porter stated that the merits of the proposal were that they were complying with the County specifications for roads, grades, etc. and the proposal would preserve many of the trees and existing vegetation which under a conventional subdivision would have to be destroyed. Mr. Porter stated that it was not their intent to change the County guidelines. He stated that the lot yield would not change but under the conventional development, the trees would have to be destroyed to construct a public road. Mr. Porter stated that the private road allow them to go in at a higher grade than was allowed with a public street.

Mr. Peter Ankonen, President of the Bryn Mar Civic Association located directly across Old Chesterbrook Road, asked for clarification on the variance request. He stated that he was speaking in support but also was in need of clarification. He stated that the Bryn Mar civic association had always been in support of development that added character and value to the neighborhood. Mr. Ankonen stated that they were also aware of new subdivisions becoming "infill" in the area. He stated that there were several large parcels along Old Chesterbrook Road where development was desirable but had unique development problems. Mr. Ankonen stated that they supported the development but hesitant on several points. He was concerned as to whether the BZA action would set a trend for future development along the road for the other "infill" developments. Mr. Ankoken stated that with respect to this particular development, the only thing they were concerned about was the possibility of a trail along the front of the property that would connect existing sidewalks with proposed trails in the Park Valley stream. Mr. Ankonen stated that the major reason for the cluster subdivision was that a good portion of the land was to be dedicated to the park system for a trail along the streams. Mr. Ankonen stated that the trail system was very desirable for the proposed development as well as the other developments in the neighborhood. Mr. Ankonen stated that a private road might cause some problems though because people who bought the property do not necessarily read what they are getting into. Mr. Ankonen stated that he hoped that the rights were clearly stated to the future property owners.

Chairman Smith advised Mr. Ankonen that the BZA considered each application on its own merit and one application was not related to another. Mr. Ankonen stated that he understood that but he stated that development usually followed a trend in density as established by the Board's decision. Chairman Smith stated that density was established by the zone and not by

the BZA's actions. Chairman Smith stated that the only question before the Board was the matter regarding the number of pipestem lots. He stated that the Ordinance allowed the applicant five pipestem lots but he was requesting nine pipestem lots.

The next speaker in support was Mr. Howard Ball of 1615 Wrightson Drive who lived adjacent to the tract of land under application. He presented the Board with a written statement which was a result of a series of meetings with six other homeowners. He stated that they did not oppose the cluster development but did oppose the access road. In addition, he stated that they opposed certain features about the homes which would have an unnecessary grading. He stated that they were opposed to any requirement for widening of the road. Mr. Ball stated that their primary concern was to the maintenance of the tract. He stated that for 25 years, he had enjoyed the benefits of the woods which was a major reason for his selection of a home in the area. He stated that he wanted to save as many trees as possible and assumed that the applicant would take that into account to keep the buffer zone. Mr. Ball stated that he would like to request the BZA to impose a condition on the variance to protect a 25 ft. buffer zone from any grading or cutting of trees. Mr. Ball informed the Board that a standard cul-de-sac design would totally obliverate the woods. He stated that another major side affect was the expansion of the Park Authority holdings. Mr. Ball stated that he was concerned about the road situation having only two lanes. He stated that the road swerved sharply and he hoped that the BZA would ask the VDH&T to look into the sight distance along that stretch of the road. Mr. Ball stated that they welcomed new neighbors and wanted Mr. Wills to discuss the development with them and be open with them.

The next speaker in support was Mr. Clifton Guffy of 6649 Old Chesterbrook Road. He stated that he was also in opposition because of some reservations. Mr. Guffy stated that the applicant could build without putting in a public road and clearing all of the trees. The altervative was the plan for private road with the pipestem approach which would save many of the trees. Mr. Guffy stated that was his desire and he supported the saving of the trees. Mr. Guffy stated that he felt the applicant had followed the letter of the law but not the intent. He stated that the applicant did not have the same willingness to negotiate. Mr. Guffy informed the Board that he wanted a 25 ft. buffer strip and asked the BZA to consider his request for the buffer if it approved the variance plan.

Mrs. Joyce Sutphin spoke in opposition to the requested variance. She stated that she had some concerns about the application and asked that if it were granted, that great care be taken to save the natural beauty of Old Chesterbrook Road by not widening it to accommodate more traffic. She asked to go on record as requesting that this case and all others coming up for public hearing have a comprehensive hearing in order to get the whole picture of the Pimmit Run area. Chairman Smith advised Mrs. Sutphin that the Board heard the applications as they came in and did not know what might come in the future. Mrs. Sutphin informed the Board that the pipestem effect was more desirable because it would not destroy the land. Chairman Smith inquired if Mrs. Sutphin was aware that the maximum number of pipestem lots allowed was five. Mrs. Sutphin stated that she did not want to go on record as being in support of either of the proposals.

During rebuttal, Mr. Dave Counts of the Wills Investment, Inc. representing P. Reede Wills, clarified the minimum district size. He stated that his application was coming across as shady. He stated that what they had done was take an approach to ask for a waiver of the minimum district size. Mr. Counts stated that the purpose of the minimum district size was for open space. He stated that the purpose of the application was to yield the right percentages of open space and that there was nothing shady about the application. The second issue was the disturbance of the property. He stated that it had been expressed enough that the 55 ft. radius would obliverate the property. The cul-de-sac would not benefit the citizens or the purchaser of the property. The major concern of the application was the buffer zone on the western and southern boundary of the property. The adjoining property owners wanted a 25 ft. buffer zone. Mr. Counts stated that the grading and the siting of the houses could not be pinpointed at this point. He stated that they did not want to take down any trees as they would be assets to the property. He stated that he could offer to replant in a 25 ft. buffer if they encroached on the existing vegetation. With respect to the road widening, Mr. Counts stated that was up to the VDH&T. He stated that he would be happy to go along with the citizens and not improve the road but it was not a decision for him to make.

RESOLUTION

In Application No. V-81-D-029 by FIRST VIRGINIA BANK, ET. AL. under Section 18-401 of the Zoning Ordinance to allow a cluster subdivision of thirteen lots with nine lots having pipestems (3 ft. width)(maximum of five pipestem lots required by Sect. 2-406) on property located at 6641 Chesterbrook Road, tax map reference 30-4((1))33, County of Fairfax, Virginia, Ms. Day 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 April 14, 1981; 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 7.0569 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.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Yaremchuk).

Page 334, April 14, 1981, Recess

At 12:10 P.M., the Board recessed for lunch and returned at 12:45 P.M. to continue with the scheduled agenda.

//

Page 334, April 14, 1981, Scheduled case of

10:45 P.M. ROSE HILL BAPTIST CHURCH, appl. under Sect. 3-303 of the Ord. to amend an existing special use permit for a church to allow the addition of a gymnasium and Sunday School classroom, located 4905 Franconia Rd., 82-3((1))5, Lee Dist., R-3, 149,122 sq. ft., S-81-L-007.

As the required notices were not in order, the Board deferred the application until May 14, 1981 at 12:00 noon.

//

Page 334, April 14, 1981, Scheduled case of

11:00 A.M. SLEEPY HOLLOW PRESCHOOL, INC., appl. under Sect. 3-203 of the Ord. to allow the continued operation of Special Permit S-17-78 (exp. date 4/14/81) for nursery school, located 6800 Columbia Pk., Sleepy Hollow Subd., 60-4((1))10, Mason Dist., R-2, 6 ac., S-81-M-008.

Mrs. Jane Karpick of 3433 Rustic Lane informed the Board that she was President of the Sleepy Hollow Preschool. The school served children ages three to four and served the Sleepy Hollow area. She stated that they met in St. Albans church and had been established since 1973. It was a jointly operated school operating from September through May. Mrs. Karpick stated that they had two classes of three year old children with each class consisting of 33 children. The four year old class had 50 children. Mrs. Karpick stated that the school was a non-profit organization. There were three staff teachers in addition to the parent participation who served as helpers once every three weeks. Mrs. Karpick stated that they provided a low cost program being one-half to one-third lower than other preschools. She stated that another dividend was the equipment which was maintained by the parents. Mrs. Karpicks stated that the school did not offer busing but did have carpools with every parent driving once a week. Mrs. Karpick stated that they offered a scholarship program for some of the children and indicated that it was a neighborhood school.

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

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-81-M-008 by SLEEPY HOLLOW PRESCHOOL, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to allow the continued operation of Special Permit S-17-78 (exp. date April 14, 1981) for nursery school on property located at 6800 Columbia Pike, tax map reference 60-4((1))10, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

RESOLUTION

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on April 14, 1981; 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-2.
3. That the area of the lot is 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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 ot 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 of 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 in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of children shall be 100, ages three through four.
8. The hours of operation shall be 9:00 A.M. to 12:00 Noon, Monday through Friday.
9. This permit is granted for a period of five (5) years with the Zoning Administrator empowered to grant three one-year extensions.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 335, April 14, 1981, Scheduled case of

11:15 A.M. BRENTWOOD SCHOOL, INC., appl. under Sect. 3-203 of the Ord. to amend an existing special use permit for school of special instruction to change the corporate structure, located 3725 Nalls Road, Mt. Zephyr Subd., 101-4((1))62, Mt. Vernon Dist., R-2, 4.293 ac., S-81-V-009.

Mr. Thomas Kaney, an attorney in Alexandria, represented the applicant. He stated that Brentwood School had been in existence since 1967 and had been under Fairfax County supervision for some time. Mr. Kaney stated that the only change being requested at the present time was to add the word "incorporated" after the name of the school. Nothing else was to change. Mr. Kaney stated that the reason for requesting the incorporation was that the school was no longer a sole partnership and it would limit the liability of the sole ownership. Mr. Kaney stated that the original school was owned by Mr. and Mrs. Crouch. Mr. Crouch had died in 1977 and Mrs. Crouch had been operating the school since that time. She was worried about liability.

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

RESOLUTION

336

Mr. Hyland made the following motion:

WHEREAS, Application No. S-81-V-009 by BRENTWOOD SCHOOL, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to amend an existing special use permit for school of special instruction to change the corporate structure on property located at 3725 Nalls Road, tax map reference 101-4((1))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 of Zoning Appeals held on April 14, 1981; 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 4.293 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. This special permit is subject to all provisions of S-104-70 not altered by this resolution.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 336, April 14, 1981, Scheduled case of

11:30 A.M. CHONG BUM YI, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to a commercial building within 36.10 ft. of the front property line (40 ft. min. front yard req. by Sect. 4-807), located 2715 Huntington Ave., 83-1((1))36, Mt. Vernon Dist., C-8, 27,941 sq. ft., V-81-V-012. (DEFERRED FROM MARCH 17, 1981 FOR SPECIAL EXCEPTION & NOTICES.)

Mr. Lee represented the applicant. He stated that they were seeking approval for the addition to use as a garage. Part of the garage would be an office and the other part would be a service station. In response to questions from the Board, Mr. Lee stated that Mr. Yi owned the property. Chairman Smith inquired if the Special Exception had been obtained from the Board of Supervisors for the use of the property and was informed it had been granted the previous Monday. Chairman Smith inquired if the Board of Supervisors was aware that a variance was necessary for the construction of the addition to the service station. Mr. Lee stated that they were just adding to the existing building at the same setback. It was a corner lot like a penisula according to Mr. Covington. Chairman Smith inquired as to why it was necessary to have a 16 ft. addition instead of a 12 ft. addition and asked what the hardship was. Mr. Lee stated that the property owner needed the addition for storage, for repair of cars and to have more ease for the workers. Chairman Smith inquired as to the use

of the addition and was informed that the owner wanted it for storage of large mechanical tools and equipment. Chairman Smith inquired as to why the main building could not be used for that purpose and was informed that the main building was too small. It was used as a automobile repair shop only.

Mrs. Day inquired about the use of the building originally and was informed it had been a service station and was not an auto repair shop. Mr. Yi stated that there was not much room and the addition would allow for the customers and storage. Mr. Yi stated that at the present time there were two garages where the mechanics worked. There were two large car lifters and engine jets. There were only two bays so that when vehicles were being repaired, the equipment had to be taken outside of the garage area to allow the mechanics room to work on the engine. Mr. Yi stated that if they moved the tools outside, they had to stay out all day long. The former tenant was also an auto repair shop and had tools stolen during the past two years. Mr. Yi stated that they also had a problem with stealing. People walk by while the mechanics are working and take things. Mr. Yi stated that they were asking for additional building to store the tools and equipment and he indicated that it would not be used as a garage. Chairman Smith inquired as to why the addition could not be 12 ft. wide and accommodate the equipment. Mr. Yi replied that during the night, they had to park cars inside. Chairman Smith stated that it could be used to park cars but it would not be as easy. Mr. Yi stated that they needed as large a room as possible. Mrs. Day inquired if it was possible to put the addition behind the building so as not to need a variance. Mr. Yi stated that the first and most important thing was his father's convenience and the other workers in the shop. It would look better to have the addition on the side. Mrs. Day inquired if there were doors at the back and was informed it was a solid wall. In addition, Mr. Yi stated that there was a hill in the back of the property and it was very steep. Mr. Yi stated that it was possible to build on the other side of the property but it would require about twice the amount of money to build because the office would have to be changed. He stated that you would not want to have the office between the garages and the storage area. Mrs. Day inquired if the hardship was because the applicant could not give security to the customer's equipment. Mr. Yi responded that the main reason was because they were losing so many of their tools and equipment and they wanted to keep them inside the shop. He stated that they had been opern for one year. Mrs. Day inquired as to what was on the adjoining property and was informed it was a hill. He stated that they would only room to build on that side for approximately 10 ft. because of the hill. Chairman Smith inquired if there was parking back there and was informed there was not. Chairman Smith stated that there was room on the back of the building for the addition. Mr. Yi stated that there was room but it was very dangerous.

Mrs. Day made a motion to grant the requested variance because the property had exceptional topographical problems with a hill behind the existing building and had an unusual condition in the location of the existing building on the subject property. Mr. Hyland seconded the motion. Mr. DiGiulian questioned the plat because it did not indicated where the property line was on Huntington Avenue. He stated it could either be 30 ft. of 36 ft. Mrs. Day withdrew her motion and asked that Mr. Yi check with his surveyor to verify the location of the property line on Huntington Avenue so that the Board would have the exact setback. Mr. Hyland moved that the Board defer decision to allow the applicant an opportunity to correct the plats and amend the application. Chairman Smith stated that if the setback was more than 3.9 ft. that the variance would have to be readvertised. It was the unanimous consensus of the Board to grant Mr. Hyland's motion to defer the variance and it was scheduled for April 21, 1981 at 8:30 P.M.

//

Page 337, April 14, 1981, Scheduled case of

11:40 A.M. GERTRUDE K. PEFFER, appl. under Sect. 18-401 of the Ord. to allow 6 ft. high fence to remain in front yard (4 ft. max. front yard req. by Sect. 10-105), located 4555 Lantern Pl., South Kings Forest Subd., 92-1((11))45, Lee Dist., R-3, 11,220 sq. ft. V-81-L-015. (DEFERRED FROM MARCH 17, 1981 FOR NOTICES.)

Mr. Peffer of 4555 Lantern Place informed the Board that one of the problems he had as far as a hardship was that the fence was 6 ft. high in order to provide privacy because of the traffic. He stated that there was a crest of a hill and without a 6 ft. fence, all traffic coming down South Kings Highway would shine into the house. In response to questions from the Board, Mr. Peffer stated that he had not constructed the fence himself. He stated that Long Fence Company had built the fence. Mr. Hyland inquired as to how the matter about the fence came to the attention of the Peffers. Mr. Peffer stated that he had received a letter from the Zoning Office from Betty Tiches. Chairman Smith inquired as to when the fence had been constructed and was informed a year ago. Mr. DiGiulian asked Mr. Peffer to show him the location of the fence on the plat. Mr. Covington informed the Board that he inspected the property and there was not any problem with the fence as far as sight distance. He stated that one could see 1,000 ft. along the highway. Mr. DiGiulian inquired of the applicant if the fence blocked the view of anyone and was informed that it did not. Mr. DiGiulian asked if there was a lot of noise from the traffic and was informed there was. In response to questions, Mr. Peffer stated that the fence was constructed to give them an area of privacy and quiet. Mr. Peffer stated that traffic going northbound on South Kings Highway had a

direct shot into the back yard. He stated that the property next door had a 160 ft. setback from the road. Mr. Peffer stated that since he had put in the fence, he had not been picking up any more beer cans from his yard. Mr. Covington informed the Board that the property received double traffic because of double streets.

Mrs. Peffer informed the Board that she needed the fence because on two occasions people had pulled off of the road and she was worried about the safety of her children. She stated that the fence was alon the side of their yard.

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

Page 338, April 14, 1981 Board of Zoning Appeals
GERTRUDE K. PEFFER

RESOLUTION

In Application No. V-81-L-015 by GERTRUDE K. PEFFER under Section 18-401 of the Zoning Ordinance to allow a 6 ft. high fence to remain in front yard (4 ft. maximum front yard required by Sect. 10-105) on property located at 4555 Lantern Place, tax map reference 92-1((11))45, 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 14, 1981; 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 11,220 sq. ft.
4. That the applicant's property has exceptional topographic problems in the elevation of the lot above South Kings Highway and has an unusual condition in the location of the subject property as it is a corner lot having double front setbacks.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 338, April 14, 1981, After Agenda Items

Three-E Development Company, V-242-78 through V-254-78: The Board was in receipt of a request from Mr. George Wirth, President of the 3-E Development Co. for extensions of the variances granted by the BZA on November 14, 1978. Three previous extensions had been granted by the Board with the third being the absolute last according to the consensus at that time. Mr. Yaremchuk moved that the Board grant another six month extension. Mrs. Day seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

//

Page 339, April 14, 1981, After Agenda Items

Status of Amendment on Accessory Structures: The Board was informed that there were a number of amendments going to the Board of Supervisors over the next year. The amendment on accessory structures was slated to go before the Board in May of 1982. The Zoning Administrator had advised the Clerk that when the package was ready to go before the Board of Supervors the BZA would be furnished a copy. Mr. DiGiulian stated that he had been told by Mr. Yates that the information would be provided to the Board by the end of February. Chairman Smith stated that the Zoning Administrator did not have the information. Mr. DiGiulian stated that Mr. Yates should make an effort to get it. He stated that he wanted to see something in writing before it went to the Board of Supervisors. Mr. Hyland suggested that the BZA request a copy of the proposed amendment by a certain date. Mr. DiGiulian stated that he did not have a problem with that. He stated that he had been requesting the amendment for a long time. He stated that he was not interested in the whole package of amendments at this time but only the draft amendment on accessory structures. Mr. DiGiulian stated that the reason for his original request was for the Board of Zoning Appeals to make an amendment to the Zoning Ordinance. Chairman Smith suggested that the BZA ask for a review of the amendment prior to the submission to the Board of Supervisors and that the BZA be allowed to make recommendations prior to it going before the BOS. Mr. Hyland stated that it was his understanding that the BZA wanted the matter studied and wanted the staff to bring back their ideas with a draft amendment to come back to the BZA. Mr. Hyland stated that the BZA had not received the benefit of the staff's timing and had not received the benefit of their position on the amendment. It was the consensus of the Board to ask Mr. Yates for a report on the accessory structure amendment by May 14th.

//

Page 339, April 14, 1981, After Agenda Items

YMCA: The Board was in receipt of a letter from the Director of the Fairfax YMCA requesting permission to construct a picnic shelter for the summer camp program. It was the consensus of the Board that this type of matter would have to be decided through the benefit of a public hearing.

//

Page 339, April 14, 1981, After Agenda Items

MARVIS DONOVAN: The Board was in receipt of a request from Marvis Donovan seeking permission to expand a nursery school from a two day a week operation to a three day a week operation. She had been issued a special permit no. S-80-S-062 in February of 1980. Chairman Smith stated that the hours of operation were a stated condition and could only be changed by a public hearing.

//

Page 339, April 14, 1981, After Agenda Items

THOMAS & ELIZABETH HOWZE, V-80-P-063: The Board was in receipt of a request from Mr. and Mrs. Thomas Howze for an extension on their variance due to expire on May 13, 1981. It was the consensus of the Board to grant a six month extension and it passed unanimously.

//

Page 339, April 14, 1981, After Agenda Items

THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, S-80-S-001: The Board was in receipt of a request from Mr. Carlton Price to reduce the number of parking spaces from 181 as required by the BZA to 157 parking spaces. It was the consensus of the Board to request a revised plat showing the 157 parking spaces and the location. In addition, the Board stated that it wanted some assurance that the lesser number of parking spaces would be adequate to serve the facility and it s related activities.

//

Page 339, April 14, 1981, After Agenda Items

BETHLEHEM BAPTIST CHURCH: The Board was in receipt of a request from James A. Smith seeking permission to add additional land area in order to construct the pastor's home. The Board stated that it needed a revised plat before any action could be taken.

//

Page 339, April 14, 1981, After Agenda Items

ROBERT SHOUN, V-80-C-074: The Board was in receipt of a request from Mr. Robert E. Shoun for an extension of his variance. Mr. Hyland moved that the Board grant a six month extension. Mr. Yaremchuk seconded the motion and it passed by a vote of 5 to 0.

//

// There being no further business, the Board adjourned at 2:15 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Nov. 23, 1982

APPROVED: December 7, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, April 21, 1981. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk and Ann Day. (Mr. Gerald Hyland was absent).

The Chairman opened the meeting at 8:10 P.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 8 o'clock case of:

8:00 P.M. RONALD A. & MARCIA A. ALTMAN, appl. under Sect. 18-401 of the Ord. to allow a garage to remain 7.9 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 5502 Ferndale Street, Crestwood Subd., 80-1((2))(9)22, Annandale Dist., R-3, 21,678 sq. ft., V-81-A-039.

Mr. Robert Williams of 4101 Majestic Lane in Fairfax represented the applicant who was out of town on business. He informed the Board that he was the contractor. Mr. Williams stated that he had taken out a building permit before the cold weather had set in in order to get the concrete in. At that time, he had taken a plat to the Building Dept. which indicated a no. 50 at the bottom. Mr. Williams stated that he had scaled the setback using the no. 50 and the building permit was issued based on that information. Mr. Williams stated that he only had a permit for the foundation. When he tried to obtain a permit for the garage he was informed a permit had only been granted for the foundation. Mr. Williams walked the new building permit through the County offices and was informed at the Zoning Office of the mistake on the plat. The scale was 40 ft. to an inch instead of the 50 ft. to the inch which he had used to obtain the building permit. Mr. Williams stated that the original permit had been issued because of his information which was in error. Mr. Williams stated that the mistake was not discovered until he tried to obtain the next building permit. Mr. Williams stated that the garage was to be constructed of concrete block and frame on a concrete slab. In response to questions from the Board, Mr. Williams stated that this was the first time he had ever appeared before the Board because of an error he had made.

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

RESOLUTION

In Application No. V-81-A-039 by RONALD A. & MARCIA A. ALTMAN under Section 18-401 of the Zoning Ordinance to allow a garage to remain 7.9 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 5502 Ferndale Street, tax map reference 80-1((2))(9)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 April 21, 1981; 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 21,678 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including converging lot lines and has an unusual condition in the location of the existing building on the subject property as the builder misread the scale on the plat.

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.

RESOLUTION

342

2. This variance shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 342, April 21, 1981, After Agenda Items

Phyllis L. Stewart: The Board was in request of a request from Phyllis L. Stewart for an out-of-turn hearing on her variance application. It was the consensus of the Board to grant her request and the hearing was scheduled for May 19, 1981 at 8:15 P.M.

//

Page 342, April 21, 1981, After Agenda Items

Patricia A. Taylor & Marie Louise Davidson: The Board was in receipt of a request for an out-of-turn hearing on the special permit application of Patricia A. Taylor & Marie Louise Davidson who wanted to operate a summer learning center. It was the consensus of the Board to grant the request and the hearing was scheduled for May 19, 1981 at 8:50 P.M.

//

Page 342, April 21, 1981, After Agenda Items

WOODMILL ESTATE LTD. PARTNERSHIP: The Board was in receipt of a request from Mr. Bernard Fagelson seeking an out-of-turn hearing on the variance applications of Woodmill Estate Ltd. Partnership. It was the consensus of the Board to scheduled the hearings for June 2, 1981 at 12:30 P.M.

//

Page 342, April 21, 1981, Scheduled case of

8:30 P.M. CHONG BUM YI, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to a commercial building within 36.10 ft. of the front property line (40 ft. minimum front yard req. by Sect. 4-807), located 2715 Huntington Ave., 83-1((1))36, Mt. Vernon Dist., C-8, 27,941 sq. ft., V-81-V-012. (DEFERRED FROM MARCH 17, 1981 FOR NOTICES & FOR SPECIAL EXCEPTION AND FROM APRIL 14, 1982 FOR PLATS SHOWING EXACT SETBACK FROM HUNTINGTON AVENUE RIGHT-OF-WAY TO PROPOSED ADDITION.)

The Board was in receipt of the new plats which indicated a setback of 29.47 ft. Chairman Smith advised Mr. Yi that the original plat he had submitted was incorrect. He stated that the Board of Zoning Appeals was not permitted to grant a variance other than for the setback which had been advertised. Chairman Smith informed the applicant that a new application was necessary for scheduling of a new public hearing and advertising of the new application. Chairman Smith advised the applicant that he was seeking a large variance. He stated that the applicant could accomplish the same construction elsewhere on the property. Chairman Smith stated that the Board could only grant the new variance after receipt of a new application, advertising, and new notices and after the applicant had convinced the Board that this was the only location that he could build. Chairman Smith stated that this was a rather significant request and suggested that the applicant consider the time factor in that it would be another six weeks before the Board could consider the application. He stated that the applicant had an alternate location.

Mr. Yi stated that the property owners wanted the rest of the property for future use. Chairman Smith suggested that the applicant use the other area now and come back to the Board at a later date when he needed the room to build on. Chairman Smith stated that until the alternative space was used up, the applicant did not have a choice. Mr. Yi responded that the reason for seeking the variance was to allow construction at the side so that the office could remain at the right. He stated that they would not want to have a garage with the office in the middle and the other garage on the other side as it would be silly. Chairman Smith stated that he had seen the building a long time ago and there was a cinder-block wall there. He stated that the applicant could build a door into the bay to connect it to an addition at the rear. He stated that other stations had to do it that way and he did not see any problem with it being done that way.

Chairman Smith advised the applicant to notify the Clerk if he wished to submit a new application. Mr. Yaremchuk moved that the Board allow the withdrawal of the present application without prejudice so the applicant could refile if he wished to do so. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0 (Mr. Hyland being absent).

//

Page 343, April 21, 1981, After Agenda Items

YMCA: Mr. Bill Cummins and Mr. David Cotton of the Fairfax County YMCA personally appeared before the Board to ask them to reconsider the decision denying the construction of the picnic shelter without a public hearing. Chairman Smith inquired as to why they were present. Mr. Cotton advised the Board that there had been a picnic shelter on the property in the past and it had been very helpful. Chairman Smith stated that the original shelter was not shown on the original plat. Mr. Cotton presented the Board with photographs to show the original shelter which had been torn down in the past. Mr. DiGiulian stated that the shelter was never on any of the plats presented to the BZA. Mr. Covington stated that a couple of minor items had been added to the property over the years which had been allowed as minor engineering changes by the Zoning Office. He stated that the applicants for such things were always in a hurry and had been approved administratively in the past. Chairman Smith stated that the YMCA needed to update the files and the BZA needed a better record. Chairman Smith stated that he was almost certain he had been the one to make the motion to grant the use a long time ago. He stated that the records were not as exacting at that time. In order to protect the Board and the applicant, Chairman Smith stated that it would be better to have updated plats showing all structures on the site.

Mr. Cotton stated that there had been a shelter on the property which had been torn down last spring. He stated that now they were proposing to construct a larger shelter. Chairman Smith stated that he had been on the property several times and he could not remember seeing a shelter of the size specified. Mr. Cotton stated that the original shelter was 10'x12'. Chairman Smith stated that now the applicants were talking about increasing the shelter. He stated that he was certain that in the past Mr. Covington had been very lenient but he indicated that most others had to follow a different procedure. Chairman Smith stated that it was no longer practical to grant these things administratively because the Board needed to take a look at the whole picture.

Mr. Yaremchuk inquired as to the use of the shelter. Mr. Cotton stated that it would only be a place to keep the campers out of the rain during the summer day camp. It would be an open shelter but it would have a roof. Mr. Yaremchuk inquired if that was considered to be a structure and Mr. Covington stated it was. Mr. Cotton informed the Board that summer camp would begin June 15th and they needed the shelter completed by that date. Mr. DiGiulian suggested that the Board grant an out-of-turn hearing. Mr. Yaremchuk inquired as to why they could not put up a tent on a temporary basis. Mr. Covington stated that it would be kind of hazardous. Mr. Cotton stated that he hesitated to use a tent. Mr. Yaremchuk stated that it was thinking that it might be advisable for a few days. Mr. DiGiulian made a motion that the Board grant an out-of-turn hearing for May 19, 1981 at 9:00 P.M. Mr. Yaremchuk seconded the motion and it passed unanimously.

//

Page 343, April 21, 1981, After Agenda Items

Bethlehem Baptist Church: The Board was in receipt of a request from the Bethlehem Baptist Church to increase the land area from 40,000 sq. ft. to 50,610 sq. ft. It was the consensus of the Board to direct Mr. Covington to approve the new plats administratively.

// There being no further business, the Board adjourned at 9:00 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals .

Submitted to the Board on NOV. 30, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: December 7, 1982
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 28, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman called the meeting to order at 10:10 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. CASE ENTERPRISES, appl. under Sect. 18-301 of the Ord. to appeal the Zoning Administrator's decision that appellant's proposed operation to buy precious metals & gems for wholesale is not a permitted use in the I-5 District as set forth in Sect. 5-502, located 8444 Lee Highway, 49-3((15))2, Providence Dist., I-5, 58,972 sq. ft., A-81-P-003.

Mrs. Jane Kelsey represented the Zoning Administrator and Mr. Robert Flinn represented the appellant. Mrs. Kelsey informed the Board that it was the Zoning Administrator's decision that the buying of precious metals and gems from the general public for resale on a wholesale basis was deemed a retail sales establishment. She stated that paragraph 2 of Sect. 2-302 of the Ordinance stated that "notwithstanding that a given use might be construed to qualify as a use permitted in a district, if such use has characteristics more similar to a particular use listed or defined elsewhere in the Ordinance, then it shall be interpreted that the latter listing or definition shall govern." If there were any questions, the question should be directed to the Zoning Administrator. Mrs. Kelsey stated that it was under those provisions that the Zoning Administrator made the decision that this particular use was a retail sales establishment. She informed the Board that the reason was set forth in the staff report and that she would answer any questions the Board might have.

Mr. Robert Flinn representing Case Enterprises gave the Board a brief description of what Case Enterprises does presently. He stated that they were located across the street from Manhattan Auto and they had a small showroom on the first floor where they had furniture on display and a warehouse upstairs where they stored furniture. He stated that they were both retail and wholesale as authorized by the I-5 District. He stated that back in September when times were slow, Mr. Kassian wanted to supplement his income and decided to store precious gems. He stated that the metals were smelted in Rosslyn and distributed at the subject property. Mr. Flinn stated that Mr. Kassian was granted a permit but was told to check with zoning to see if the use was permitted. He stated that even though the property was in the I-5 district, the use was a retail sales establishment which the zoning office stated was not permitted in the I-5 District and would only be permitted in the commercial districts. Mr. Flinn stated that he referred to the Zoning Ordinance and felt that his client had a reasonaly fair basis to appeal the Zoning Administrator's decision.

Mr. Flinn stated that if the Board would look at the Zoning Ordinance, the basis for the appeal was that the use was not a retail sales establishment when you considered that the proposed use would not be the "traditional" roles of the owner making the sale and the customers buying. He stated that in this case, the roles were reversed. He stated that if that qualified as a retail sales establishment, it did not fit the definition of a retail sales establishment as set forth in the Ordinance. Mr. Flinn read the definition which stated: "RETAIL SALES ESTABLISHMENT: Any building wherein the primary occupation is the sale of merchandise in small quantities, in broken lots or parcels, not in bulk, for use and consumption by the immediate purchaser. For the purpose of this Ordinance, however, retail sales establishments shall not be interpreted to include AUTOMOBILE-ORIENTED USES, QUICK-SERVICE FOOD STORES AND VEHICLE LIGHT SERVICE ESTABLISHMENTS." Mr. Flinn stated that it was his position that the proposed use did not qualify under that definition as a retail sales establishment. He stated that the primary occupation was the storage of furniture and the sale of the furniture on a wholesale basis. Under no stretch of the imagination was the primary purpose to be a retail sales establishment. He stated that a retail sales establishment was not even contemplated and that his client would agree to any conditions the Zoning Administrator would place on the use. Mr. Flinn stated that if the Board applied the reasoning of the Zoning Administrator and reversed the roles, people came in to sell their rings or silver, and these people would be the sellers. He stated that they did not sell their merchandise to Mr. Kassian and it was not for his use and consumption. He stated that Mr. Kassian was not the immediate consumer. He was only trying to get a little cash flow in his business. Mr. Flinn stated that Mr. Kassian would sell the merchandise to a wholesaler on a bulk basis.

Mr. Flinn's second point was the sales would not be made in any purposes for the use and consumption of the immediate purchaser. He stated that the sales Mr. Kassian would make would once he had accumulated enough materials for a wholesaler to smelt down and then the materials would be sold in bulk. For that reason, Mr. Flinn stated that he did not think that the use was a retail sales establishment. The question then was, what is it? He stated that (1) it was either a warehouse; or (2) it was a wholesale trade establishment. Mr. Flinn stated that was exactly what was being proposed. Mr. Kassian wanted to buy and store until the materials could be sold on a wholesale basis. He stated that the use was

an associated retail use but it was primarily a warehouse and nothing about the use would change. Mr. Flinn stated that the metals would be stored in a safe area. He stated that with regard to the furniture business, it would not change either. It would still be a wholesale trade establishment or a warehouse.

Mr. Flinn informed the Board that the subject property was located in the Merrifield area which was a retail, industrial and wholesale area. He stated that as far as a land use impact, it would not be noticeable. Mr. Hyland inquired if Mr. Kassian sold furniture on a retail basis and was informed he did. Mr. Flinn stated that the primary business was on a wholesale basis and that Mr. Kassian was permitted to sell retail under the Zoning Ordinance regulations as long as the bulk of the business was wholesale or warehouse. Mr. Hyland inquired if the purchase of precious metals had commenced yet and was informed by Mr. Flinn that Mr. Kassian had not started that line of his business yet. Mr. Hyland inquired as to the percentage of retail business for the existing business in addition to the proposed use. Mr. Flinn stated that they would not actually know until they saw the income produced from the proposed use. He stated that Mr. Kassian hoped to have $300 to $400 per month to help supplement the mortgage. Mr. Flinn stated that the primary thrust of the business was wholesale and a warehouse operation showroom with furniture. Mr. Kassian had an office and spacewise, the business of the gems did not take up much room. Mr. Hyland inquired if it was Mr. Flinn's position that the definition of retail sales in the Ordinance, in order to fit the business of Mr. Kassian, they would have to be making retail sales as a vender or seller to other persons. He stated that it could not be the other way since it was construed that the persons were making the sales to Mr. Kassian. Mr. Flinn stated that was his position. Mr. Flinn stated that even if the rôles were reversed, it still had to be established that the sales were for the use and enjoyment by the immediate purchaser in order to be a retail sales business. Mr. Hyland stated that he could not understand why Mr. Kassian could not be considered as the immediate purchaser. Mr. Hyland stated that it didn't matter whether he held the materials or goods for sale in bulk, he still had the use and enjoyment of the gems. Mr. Flinn stated that with that line of thinking, there would never be any such thing as non-retail sales. Mr. Hyland inquired as to that Mr. Flinn would categorize a transaction for him to sell something to Mr. Kassian. Mr. Hyland inquired if it would be a sale and Mr. Flinn stated that it would. Mr. Hyland inquired if it would be a retail sale and Mr. Flinn stated it would not as it was a non-retail sale or a wholesale sale. He stated that Mr. Kassian would not be using the goods for his own consumption.

Mr. Hyland inquired of Mr. Yates as to whether the precious metals dealers were considered to be retail sales and Mr. Yates stated that was correct. Mr. Hyland inquired of Mr. Flinn as to how he distinguished his situation as being different from the others. Mr. Flinn stated that he did not distinguish it as being different. He stated that he only disagreed with Mr. Yates interpretation. He stated that he had considered Mr. Kassian's proposed use and could not fit into the definition of the Ordinance. He stated that he also understood that some dealers smelted the productes right on the premises. He stated that Mr. Kassian did not. Mr. Hyland inquired if that should be a distinction as opposed to holding the metals and selling to others for smelting. Mr. Flinn stated that perhaps it should be a distinction.

Mr. DiGiulian inquired about the purchasing of furniture for Mr. Kassian's wholesale business. He asked if Mr. Kassian purchased items in bulk or one piece at a time. Mr. Flinn replied that the furniture was bought in bulk. Mr. DiGiulian inquired as to which was more frequent whether Mr. Kassian purchased two chairs at a time or a whole truckload of furniture. Mr. Flinn stated that he thought it was fair to say that Mr. Kassian bought in large quantities and stored it in his warehouse. Chairman Smith inquired if Mr. Kassian purchased any furniture from an individual who might walk in and wish to sell his furniture. Mr. Flinn stated that Mr. Kassian did not do that. He stated that the business was a furniture factory. Mr. Flinn stated that Mr. Kassian did the bulk of his business as warehousing of furniture but he stated that there were some walk-in trade who made retail sales. Chairman Smith inquired as to the percentage of the walk-in retail sales business and Mr. Flinn stated that he did not know the percentages. He stated that the business was predominantly wholesale or warehousing. Mr. Flinn stated that Mr. Kassian had a very small furniture showroom which was the only thing that could qualify as retail related. Chairman Smith stated that the sales of previous metals would reverse the concept. He stated that the sale of precious metals would generate traffic to this establishment. Chairman Smith stated that the intent of the Zoning Ordinance was to provide parking to accommodate the use which was why retail outlets were in commercial zones. Chairman Smith stated that there were not that many retail businesses in the immediate area other than the candy store. Mr. Flinn stated that Manhattan Auto was across the street and he sold new and used cars. Chairman Smith stated that there was enough parking associated with Manhattan Auto. Chairman Smith stated that if he remembered Mr. Kassian's establishment, the only parking available was in the front of the building. Mr. Flinn stated that there was parking in the rear and that there was a sign on the side of the building which directed people to park in the rear. He informed Chairman Smith that his line of questioning was good but he stated that it was optimistic to imagine that a flock of people would be coming to the establishment. Chairman Smith stated that at times when prices were high, people had to wait in line to sell their metals. Mr. Flinn stated that the price of silver had gone down.

346

Mr. Hyland inquired as to the amount of gross income received from the furniture business. Mr. Flinn stated that he had no idea. Mr. Hyland stated that it was relevant. He stated that he was inclined to agree with the Zoning Administrator but the only thing that bothered him was the primary occupation. Originally, Mr. Kassian had another business going on. Mr. Hyland stated that he wanted to know Mr. Flinn's position on the relationship of the other business going on the property. Mr. Flinn stated that it was difficult to determine income wise what relationship the precious metals would have on the original business. He also stated that he never asked his clients how much money they were making. He stated that he had asked Mr. Kassian how much money he was earning from the precious metals and Mr. Kassian had stated that he made about $300 to $400 per month. Mr. Flinn stated that amount of money would be just a little provider and so was incidental. Mr. Hyland inquired as to the number of persons anticipated to come onto the premises if the precious metals were allowed to be established in relationship to the number of persons coming onto the premises at the present time. Mr. Flinn stated that he had never asked his client. Mr. Hyland stated that it was pertinent. Mr. Flinn stated that he assumed that the previous metals business would cover Mr. Kassian's rent.

Mr. Hyland inquired as to Mr. Flinn's reaction as to whether the precious metals activity with regard to the number of persons coming onto the premises would be the primary occupation. Mr. Flinn stated that if the number of customers for the precious metals exceeded the number of customers for the furniture business, then it would not be a wholesale furniture business any more. Mr. Kassian would be in the sale of metals. Mr. Flinn stated that he did not ask Mr. Kassian how many customers he had in mind for the precious metals because with a monthly income of only $300 to $400, it would not take that many customers to reach that figure. Mr. Hyland stated that may or may not be accurate. Mr. Flinn stated that Mr. Flinn was a small businessman. Mr. Flinn stated that he could not give a precise amount and did not want to give off figures off the top of his head.

For clarification purposes, Mr. Yates stated that the Manhattan Auto property was zoned C-8 and the sale of vehicles was a permitted use by a Special Exception in the C-8 district. Mr. Yates stated that in line with the discussion, there were two separate issues involved. He stated that the BZA had to look at the use of buying and selling of precious metals in general. In any use in Fairfax County, the use had to be considered in relationship to the Zoning Ordinance. He stated that the BZA had to separate it from the ancillary use of Mr. Kassian's furniture business. The precious metals was a secondary source of income. Mr. Kassian had opted to consider the buying of metals. Mr. Yates questioned what if Mr. Kassian had opted to sell ice-cream cones. He stated that he would still have to say "no" because the same principle applied. Mr. Yates stated that the second question was if the BZA should conclude that the retail sales was the one category to characterize the buying of precious metals under the Zoning Ordinance, then the BZA still had to determine whether it was ancillary to a wholesale use. Mr. Yates stated that it was not a clearcut issue. Mr. Yates stated that under the terms set forth in the Zoning Ordinance, he was still convinced that retail sales was the one use that most closely characterized the buying of precious metals. Mr. Yates stated that he had been involved in this interpretation since the last part of the 70s. He stated that the buying of precious metals was almost like a pawn broker establishment.

Mr. Hyland inquired of Mr. Yates as to what significance, if any, did the primary occupation have in the matter. Mr. Yates stated that it was mooted by the first issue he had discussed. Mr. Yates stated that he would not allow the requested activity because it was not associated with the warehousing of the furniture. He stated that the activity of the precious metals was a separate itme and he did not want to make the distinction as to which was the primary occupation. Mr. Hyland and Mr. Yates discussed the matter of primary occupation but Mr. Yates indicated that it was not pertinent to determine which of the two uses were the primary uses as opposed to incidental uses.

There were no further questions from the Board and Chairman closed the public hearing. Mr. DiGiulian moved that the Board uphold the decision of the Zoning Administrator. Mr. Yaremchuk seconded the motion and it passed by a vote of 5 to 0.

//

Page 346, April 28, 1981, Scheduled case of

10:30 A.M. CECIL PRUITT, JR., TR., appl. under Sect. 18-401 of the Ord. to allow a subdivision into 9 lots whereby proposed lots 4, 6 & 7 have insufficient depth to allow construction of houses in compliance with the 200 ft. minimum setback from an interstate highway req. by Sect. 2-414, and to allow the construction of houses on each of the four lots at various distances ranging from 94.05 to 182.23 ft. from the I-95 right-of-way line, located 8009 Cedar Street, Dunn Loring Subd., 49-2((1)) 192, Providence Dist., R-3, 4.6226 ac., V-81-P-030.

Mr. Richard Chase represented Mr. Pruitt. He stated that the subject property was located at the westbound ramp of Rt. 66 and contained 4.6 acres. The applicant was seeking to subdivide the property into 9 building sites. Four of the lots were behind or intersected by the 200 ft. setback line from the interstate 66. Mr. Chase stated that they were seeking a variance to allow the construction of houses on the lots. Mr. Chase stated that proposed

lot 6 was located 95 from the right-of-way line; proposed lot 7 was located 110 ft.; proposed lot 5 had an existing dwelling already located it. Chairman Smith asked Mr. Chase to review the lots that needed a variance and to give the exact distance. Mr. Chase responded that proposed lots 4, 6 and 7 required a variance. The variance for lot 4 was for 45 ft. and the proposed house was to be located 155 ft. from the right-of-way line. Proposed lot 6 required a variance of 105 ft. to locate the house 95 ft. from the right-of-way line. Proposed lot 7 required a 90 ft. variance and the house was to be located 110 ft. from the right-of-way line. Chairman Smith inquired if a variance was necessary for the existing house. Mr. Chase stated that it did not need a variance. He informed the Board that the existing house was located 30 ft. from the right-of-way line but it was his understanding that a variance was not necessary. Chairman Smith inquired if there would be any problem with the rest of the lots in the subdivision and Mr. Chase stated that they would be able to meet the setbacks for all of the other lots. Chairman Smith inquired if the developer was building and dedicating a street and Mr. Chase stated that he was. Chairman Smith inquired if there was any other use that could be made of the land to get reasonable use of the property. Mr. Chase stated that there was not to his knowledge.

Mr. Yaremchuk inquired as to the hardship in this matter. Mr. Chase stated that the hardship stemmed from the fact that in order to maximize the use of the property, they needed relief from the BZA. Mr. Yaremchuk stated that was a financial hardship. He inquired as to the land use hardship besides the fact that I-66 was located there. He stated that the developer could develop the property without a variance but he would not be able to get as many lots. Mr. Chase stated that they were seeking a total of nine lots. He stated that this particular right-of-way line was the access ramp to I-66. Mr. Chase stated that the purpose of the 200 ft. setback was to serve as a noise buffer. He informed the Board that they were willing to save as many trees as possible and could add more trees for insulation. Mr. Chase stated that he believed the client had the right to maximize his property. Mr. Yaremchuk stated that the applicant was not entitle to maximize it but only to have reasonable use of it. Mr. Chase stated that they were maximizing within the scope of the Ordinance. He stated that they did not need a rezoning and were entitled to this number of lots. Mr. Yaremchuk inquired as to the type of barrier the developer would have to keep down the noise. He stated that future residents would complain about the noise and the Highway Department would have to put up a barrier. Mr. Chase stated that the lots would not be the most highly sought after lots in the subdivision but he stated that they would sell.

Mr. DiGiulian inquired as to the minimum lot size for the R-3 district and Mr. Covington responsed that it was 10,500 sq. ft. Mr. DiGiulian stated that just from a rough examination of the site plan, it appeared that the proposed lots averaged 20,000 sq. ft. He stated that would not be making the maximum use of the property. Mr. DiGiulian stated that he was not trying to make a case for the applicant but he informed the Board that there was a stream running through lot 9 which caused lot 9 to be a large lot. He stated that without the problem with the stream and the beltway, the developer would have been able to get 18 lots. Mr. DiGiulian stated that in his opinion, the proposed 9 lots were a minimum number. Chairman Smith stated that the applicant was only asking for half of what he could have gotten for the district size. He stated that the BZA had granted similar variances on up on I-495. Mr. Covington informed the Board that the subdivision should yield 13 lots. Chairman Smith informed the applicant that he was normally opposed to variances but he could appreciate the problem with the setback. Mr. Covington informed the Board that this was only an access ramp and was not the primary highway. Chairman Smith stated that being the case, it should not generate the noise level that the highway would. He stated that it would not be the most ideal place to live but if someone wanted to purchase a house they would be able to observe the highway. Mr. Covington stated that the subdivision would be within walking distance of Metro.

Mr. Hyland inquired as to the existing buffer and Mr. Chase stated that the only buffer was a line of trees. Mr. Hyland inquired as to the width of the stand of trees but Mr. Chase stated that he was not certain of that. Mr. Hyland inquired if there was any other place on the proposed lots for the houses to be located which would not require a variance. Mr. Chase stated that there was not any location. He stated that he had sketched in the setback line and was trying to keep the houses as close as possible. Chairman Smith inquired if the existing house was occupied and Mr. Chase stated that it was. Mr. Chase stated that Mr. Pruitt lived in the house and had owned the property for two years. Chairman Smith inquired if the zoning had changed on the property since Mr. Pruitt purchased it. Mr. Chase replied that he had not handled any rezoning request but he stated that Mr. Pruitt was a developer. Mr. Yaremchuk inquired if Mr. Pruitt was aware of the setback requirements when he purchased the property and Mr. Chase stated that he was. Mr. Covington informed the Board that the setback requirement was only 75 ft. before August of 1978. Then the Ordinance changed and the new setback requirement was 200 ft. Mr. Chase advised the Board that the Northern Virginia Racquet Club was located on the other end of the property. Chairman Smith advised the Board that there was a barrier which would eliminate the noise.

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

RESOLUTION

In Application No. V-81-P-030 by CECIL PRUITT, JR., TRUSTEE under Section 18-401 of the Zoning Ordinance to allow a subdivision into 9 lots whereby proposed lots 4, 6 & 7 have insufficient depth to allow construction of houses in compliance with the 200 ft. minimum setback from an interstate highway required by Sect. 2-414 and to allow the construction of houses on each of the four lots at various distances ranging from 94.05 ft. to 182.23 ft. from the I-95 right-of-way line, on property located at 8009 Cedar Street, tax map reference 49-2((1))192, 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 28, 1981; 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 4.6226 acres.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of a culvert and stream that transverse the 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 eighteen (18) months from this date unelss this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 348, April 28, 1981, Scheduled case of

10:40 A.M. ALBERT I. KASSABIAN & CHARLES J. CARIDI, appl. under Sect. 18-401 of the Ord. to allow gravel surface to be used in lieu of dustless surface as required by Sect. 11-102, located 7223 Poplar Street, Annandale First Subd., 71-1((4))91A & B, Mason Dist., C-3, 16,607 sq. ft., V-81-V-031.

Mr. Albert Kassabian informed the Board that the property was where his present law office was located on Annandale Road. The property was immediately north and adjoining the 7-11 which was located on Annandale Road. Mr. Kassabian stated that he and his partner had taken great pains to keep the property well maintained. He stated that they had been practicing law at this location since 1978. Prior to their use, the property was used by a construction company. Mr. Kassabian stated that the property contained 1,500 sq. ft. of office space. He stated that they wanted to add a one story addition to the office of about 1,600 sq. ft. In order to do so, they had to use up some of the existing parking area which was presently gravelled. Mr. Kassabian stated that they had to add additional parking. The problem was that the land lay in such a way and because of the size of the property, that it would be difficult to have storm water runoff retention on the property. He stated that they could build the addition unless they could handle the water. Mr. Kassabian stated that they best thing they could do to accomplish their goal was to use gravel which would minimize the dust so long as it was rolled after being put in. Mr. Kassabian assured the Board that they would roll the gravel as they did not want to create a dustbowl. Mr. Kassabian informed the Board that their engineer, Mr. Ghent had died over the weekend, but he had informed them that their proposed use of the gravel would permit the permeation of the runoff. Mr. Kassabian stated that their property had contours and would create runoff problems if the parking were paved. In addition, he informed the Board that there were not any storm sewers in the area. He stated that water runoff would become a problem.

Page 349, April 28, 1981
ALBERT I. KASSIAN & CHARLES J. CARIDI
(continued)

Mr. Kassabian informed the Board that he had taken a walk that morning down Poplar Street and counted the number of buildings. He stated that there were 20 buildings on Poplar Street, most of which were commercial office uses. He stated that there were 10 buildings on each side of the street. He further informed the Board that he had counted 16 parking areas for the buildings that were using gravel to some degree either in the parking or the driveway. Mr. Kassabian stated that he felt his request for a gravel parking area was a reasonable request and he asked the Board to grant the variance.

In response to questions from the Board, Mr. Kassabian stated that he had 16 parking spaces at present, some of which would be taken up by the new construction. He stated that he proposed to gravel a larger area for parking. Mr. Hyland inquired as to the number of employees and attorneys working on the property. Mr. Kassabian stated that there were two attorneys and five secretaries, making a total of seven persons working on the premises. Chairman Smith inquired as to the number of additional persons to occupy the building once the addition was completed. Mr. Kassabian stated that he proposed to build a 1,600 sq. ft. addition which he did not plan to use entirely for his law office. He stated that he would be using it as rental property until his office expanded into it.

There was no one else to speak in support of the application. Mr. William Kuck of 7220 Poplar Street informed the Board that he lived across the street on lot 94. Mr. Kuck was in opposition to the proposed request. He stated that there was already dust on one side of the street. He stated that half of the driveways were coated with crusher run which packed down and became very hard. Mr. Kuck stated that experts had advised him that the winds came from the south and the southwest. He informed the Board that he lived east of the property and would get the full blunt of any dust. In addition, he stated that the packed down crusher stone would create a real water problem. Mr. Kuck advised the Board that his property was lower than Poplar Street and he got all of the water that ran off of the hill. Mr. Kuck stated that the answer to the problem was a storm sewer which he did not feel was practical or possible but he indicated that a good compromise would be a ditch to take the water down 150 ft. where there was a drainage ditch. Mr. Kuck stated that culverts were needed under the driveways but he stated that the state does not provide them. Mr. Kuck stated that a 15" pipe would cost $1,500 for each driveway. Mr. Kuck stated that according to the staff report, the gravel would not create any water runoff. Mr. Kuck stated that he did not buy that as the majority of the water would still run off. Mr. Kuck stated that he had heard testimony that there was now 16 parking spaces on the property. He stated that at 9:45 A.M. on Tuesday there were only five cars on the parking lot. Mr. Kuck stated that Tuesday was a good representative for business. He informed the Board that additional parking was not necessary as the parking was adequate. Mr. Kuck stated that there was a plan to enlarge the building and he inquired if the present request should have been included with the request for additional parking. He informed the Board that there was to be a variance for the building because it would come to within 6 inches of a neighbor's property. Mr. Kuck stated that he did not believe the construction was allowed and it should require a variance.

Chairman Smith inquired of Mr. Kassabian if they planned to request a variance for their construction. Mr. Kassabian responded that they had asked for a site plan waiver which was in the process with the County. He stated that the variance request was part of the waiver request. Mr. Kassabian informed the Board that the contiguous property was in the process of being zoned for a C-3 use and the property owner had consented to the site plan waiver which was being processed. Chairman Smith inquired as to the side yard required for the C-3 district and was informed that from C-3 to C-3, there was not any side yard required. Mr. Yaremchuk advised the Board that there was a provision in the Ordinance that if the master plan was for commercial purposes then the Director of Environmental Management could grant a waiver. Chairman Smith stated that was not in keeping with the expanded uses in the area.

Mr. Kuck advised the Board that it was his understanding from Mr. Caridi that a coarse stone would be used for paving. He stated that Mr. Ghent had told him that a coarse stone would not create dust. He stated that a crusher run would create dust. Mr. Kassabian argued that a crusher run would create less dust. He stated that Mr. Kuck wanted a no. 26 stone. Mr. Kassabian stated that the problem with no. 26 stone was that it did not stay put. Mr. Kuck stated that the dust held the crusher stone so it did not roll and it would pack down firmly. He stated that a coarse stone would roll and would not pack as well. Mr. Kassabian informed the Board that they would use any size stone higher than crusher run to satisfy Mr. Kuck. Mr. Kuck stated that if the Board could persuade Mr. Kassabian to use a coarse stone, he would withdraw his objections to the variance.

Chairman Smith stated that the applicant had not provided the Board with the hardship for the variance. Mr. Kassabian stated that the property contained 0.388 acres. The Zoning Ordinance permitted them to build the addition on the property with the required parking. In order to build the addition with the Ordinance limits, additional parking was needed. Mr. Kassabian stated that when they used the parking area, there would not be enough area for storm water retention on the property as the property was not big enough. Mr. Kassabian stated that he had been told by the engineer that the present runoff problem with the present use was more than it would be with the proposed development that they had in mind. He stated that more water ran off the property at present than would in the future.

Mr. Hyland inquired as to how that could occur. Mr. Kassabian stated that with the new development, there would be some grading which would help the situation. The runoff from their property along Poplar was not exclusive of the property. Mr. Kassabian stated that the area flowed down from Poplar Street. He indicated that he had no problem with putting in a culvert through his property. He stated that grading would have some effect. Mr. Kassabian informed the Board that the engineer's representative was present to answer any questions the Board might have on the water situation. Mr. Kassabian also stated that he had no problem with putting in the recommended no. 57 grade stone if it was the desire of the Board. He stated that he had been told that it would not be as effective as putting in the cursher run. However, they both cost the same and he stated that he had no problem with either.

Mr. Kassabian informed the Board that the variance request was a reasonable request. He stated that he did not want to create any kind of problem for his neighbors or anyone else. He reminded the Board of the 16 gravelled driveways on Poplar Street.

Chairman Smith stated that if the property remained in its present situation without the proposed addition, he could not imagine that the water runoff would be greater than if the 1,600 sq. ft. of roof was added. Chairman Smith stated that he could not perceive that but indicated that there might be something that he was not aware of. He informed the applicant that he was taking advantage of the proposed zoning change in order to add the addition which would create a denser use than was presently existing on the property. He stated that the requested variance would only compound the situation. Chairman Smith stated that the buildings had been frame residences which had changed to office use over the years. He stated that the proposed addition exceeded the existing square footage of the existing building. He informed the applicant that he was doubling the use of the property.

Mr. Kassabian stated that he was increasing the square footage of the roof area by 100 sq. ft. Chairman Smith stated that the proposed use would require 16 parking spaces. Mr. Kassabian stated that most of the parking was oriented along Annandale Road.

There was no one else to speak in opposition.

RESOLUTION

In Application No. V-81-V-031 by ALBERT I. KASSABIAN AND CHARLES J. CARIDI under Section 18-401 of the Zoning Ordinance to allow gravel surface to be used in lieu of dustless surface as required by Sect. 11-102 on property located at 7223 Poplar Street, tax map reference 71-1((4))91A & B, County of Fairfax, Virginia, Mr. Hyland 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 28, 1981; 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-3.
3. The area of the lot is 16,607 sq. ft.
4. That the applicant's property has exceptional topographic problems and the gravelled parking area would be more in keeping with the surrounding gravelled parking facilities as the gravelled parking would relieve water runoff.

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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

3. The type of gravel shall be approved by the Director of Environmental Management to minimize impact on the contiguous property owners.

Ms. Day seconded the motion.

The motion *FAILED by a vote of 2 to 3 (Messrs. Smith, DiGiulian & Yaremchuk).

Page 351, April 28, 1981, Scheduled case of

10:50 A.M. POST TRAIL PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow the construction of four buildings within 30 ft. of the front property line (40 ft. min. front yard req. by Sect. 5-407), located 11150 Sunset Hills Road, Reston Subd., 18-3((1))27, Centreville Dist., I-4, 2.52 ac., V-81-C-032.

Mr. Warren Katz of 1942 Upperlake Drive in Reston informed the Board that his property was oddly shaped and restricted. He stated that it was an odd site. He stated that what he had tried to do was to have four small buildings with four small courtyards separating each building instead of one large building which was not as attractive and not in keeping with the concept of the Reston area. Mr. Katz stated that there was a trail behind the property. He stated that if they had to reduce the building and move it back within the setback required, they would only have one large building or perhaps two large buildings and would have a large amount of office space without windows and additional air conditioning which were not necessary under this arrangement.

Chairman Smith inquired as to the reason for hardship other than the size of the property. Mr. Katz stated that there was a Vepco easement behind the property which restricted the property and infringed on a corner of the setback. He stated that the easement did not infringe entirely on the property. Mr. Katz stated that only a corner of the buildings would be within the required setback.

Mrs. Day inquired as to the status of the parking request with Vepco. She stated that the parking situation had a great bearing on the use of the buildings. Mr. Katz stated that he had asked Vepco to respond to his plan. He indicated that while Vepco had not seen anything detrimental, they had not given a response yet. Mrs. Day stated that they applicant needed to have a written agreement with Vepco and she inquired as to what Mr. Katz would do for parking should Vepco decline. Mr. Katz responded that the property would be undevelopable. He stated that he had purchased the property from the Reston Land Corporation and they had sent the letter to Vepco. He stated that the easement would only be used for parking. He stated that Vepco would not respond until they got a site plan. Mrs. Day stated that she could make a motion on the variance with the parking being confirmed. Mrs. Day inquired if Mr. Katz was still negotiating with Vepco. Mr. Katz stated that he had submitted his plans and was just awaiting approval. Mrs. Day stated that her feeling was that the determination of the granting or denial of the request was predicated upon getting the parking approval. She could not see how the BZA could act on the variance without the approval. She informed the applicant he had the cart before the horse. Mr. Katz stated that Reston Land Corp. had requested the parking. He informed Mrs. Day that he shared her concern. Mr. Hyland suggested that the Board condition the variance upon obtaining the specified parking.

Chairman Smith inquired as to the type of easement whether it was a high wire or a distribution area. Mr. Katz stated that it was a tower with transmission lines. Chairman Smith stated that Mr. Katz would have to have permission from Vepco to pave the easement as well as use it for parking. Mr. Katz stated that it would not be setting a precedent because the Post Office was right next door. He stated that they parked under the high wires. Chairman Smith inquired if Mr. Katz owned the property under consideration and was informed he did. Chairman Smith inquired if Vepco had submitted a hold harmless agreement to Mr. Katz and was told they had not. Chairman Smith stated that he assumed that a hold harmless agreement would be necessary for the paving, etc. He stated that he did not realize that Vepco would allow the use of their property without some form of compensation. Chairman Smith inquired if Reston Land Corp. controlled the easement and Mr. Katz that they did not to his knowledge. He stated that he could not see any reason for his request to be turned down. He stated that there was a commuter parking next to his property. On the other side of his property was the Post Office. All of them had parking right under the wires. Chairman Smith inquired if the Planning Commission had addressed this variance request and was informed they had not.

There were no further questions. There was no one else to speak in support of the application and no one to speak in opposition. Mrs. Kelsey informed the Board that the Planning Commission had heard this matter on April 27th and had recommended approval.

RESOLUTION

In Application No. V-81-C-032 by POST TRAIL PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow the construction of four buildings within 30 ft. of the front property line (40 ft. minimum front yard req. by Sect. 5-407) on property located at 11150 Sunset Hills Road, tax map reference 18-3((1))27, County of Fairfax, Virginia, Ms. Day 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 28, 1981; 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-4.
3. The area of the lot is 2.52 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow and triangular and has exceptional topographic problems. Development of the site is limited due to the shape and a 120 ft. wide VEPCO easement that runs the entire length of the 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

3. Development must be in accordance with Rezoning Application No. 80-C-013 and approval by VEPCO of the parking at the rear of the parking in accordance with approval of the site plan.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 352, April 28, 1982, Scheduled case of

11:00 A.M. JAMES F. BARNES, appl. under Sect. 18-401 of the Ord. to allow a garage 12 ft. in height to be constructed within 3 ft. of the side & rear property line (12 ft. min. side & rear yards req. by Sect. 10-105 & 3-307), located 2813 Memorial Street, Memorial Heights Subd., 93-1((18))(K)4, Mt. Vernon Dist., R-3, 6,624 sq. ft., V-81-V-033.

Mr. James F. Barnes of 2813 Memorial Street informed the Board that he had a substandard lot and wanted to build a garage 3 ft. off of the line. He stated that his proposed garage was 24 ft. x 16 ft. In response to questions from the Board, Mr. Barnes stated that he had owned the property for two years. Chairman Smith inquired as to the reason for such a large garage. Mr. Barnes stated that he wanted to restore antique vehicles of his own and that he would only use the garage for his personal use. Chairman Smith inquired as to the size of the existing shed on the property. Mr. Barnes stated that the shed was 9' x 10'. Mrs. Day inquired as to what was behind the property on lot 17. Mr. Barnes stated that there was a house but he was not certain as to the distance of it from the property line. Mrs. Day inquired if Mr. Barnes had discussed the variance with that neighbor. He stated he had. He stated that he had also sent a letter and had not received any objections from anyone. Mrs. Day inquired about the lot on the right, lot 3. Mr. Barnes stated that they did not have any objections either. He advised the Board that he had lived on the property all of his life but it had just become his property within the last few years. He stated that he had purchased the property from his parents.

Page 353, April 28, 1981
JAMES F. BARNES
(continued)

There was no one to speak in support and no one to speak in opposition.

RESOLUTION

In Application No. V-81-V-033 by JAMES F. BARNES under Section 18-401 of the Zoning Ordinance to allow a garage 12 ft. in height to be constructed within 3 ft. of the side and rear property line (12 ft. minimum side and rear yards required by Sect. 10-105 and 3-307) on property located at 2813 Memorial Street, tax map reference 93-1((18))(K)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 April 28, 1981; 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 6,624 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and is a substandard 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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 353, April 28, 1981, Recess

At 12:10 P.M., the Board recessed for lunch and reconvened at 12:55 P.M. to continue with the scheduled agenda.

//

Page 353, April 28, 1981, Scheduled case of

11:10 A.M. MICHAEL A. PROSEUS, appl. under Sect. 18-401 of the Ord. to allow the construction of an addition to dwelling within 19.3 ft. of the rear property line (25 ft. min. rear yard req. by Sect. 3-307), located 4323 Pergate Lane, Greenbriar Subd., 45-3((2))(11)4, Springfield Dist., R-3(C), 10,717 sq. ft., V-81-S-034.

Mr. Michael Proseus of 4323 Pergate Lane informed the Board that he wanted to reemphasize that due to the configuration of his lot and the topography of the lot, that the proposed plan was the best he could have in order to develop the property. He informed the Board that there was a sewer easement on the other side of the property and the plan called for the building of an addition to be placed on the opposite end of that easement. In response to questions from the Board, Mr. Proseus stated that he had owned the property for two years, or that it would be two years in September.

Chairman Smith stated that this was a cluster subdivision. He inquired as to why the applicant could not build the addition on the other side of the property which would not require a variance. Mr. Proseus stated that there was a storm sewer easement on that side.

Chairman Smith stated that there was room on the other side of the property at the end of house from the easement. Mr. Proseus advised the Board that the slope of the lot would prevent it. Mrs. Day inquired if the hill at the rear sloped upwards. Mr. Proseus stated that the hill sloped towards the house and then up again. Mrs. Day advised the applicant that he would not need a variance if he constructed the addition on the right side of his house at the rear. Mr. Proseus advised the Board that there was a natural drainage there in that area and it would cause additional work. Mrs. Day inquired as to whether there were any other additions in the area. Mr. Proseus stated that there were at least eleven.

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

RESOLUTION

In Application No. V-81-S-034 by MICHAEL A. PROSEUS under Section 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling within 19.3 ft. of the rear property line (25 ft. minimum rear yard req. by Sect. 3-307), on property located at 4323 Pergate Lane, tax map reference 45-3((2))(11)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 April 28, 1981; 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(C).
3. The area of the lot is 10,717 sq. ft.
4. That the applicant's property has exceptional topographic problems in the rear yard and has an unusual condition in that the proposed location for the addition is the only location where the applicant could construct a family room and have good access to it.

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 eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 354, April 28, 1981, Scheduled case of

11:20 A.M. KEVIN & HEIDI DELLAFERA EAGLETON, appl. under Sect. 18-401 of the Ord. to allow the subd. of a lot into two lots, one of which will be 24.48 ft. wide (200 ft. min. lot width req. by Sect. 3-E06), located 949 Bellview Road, Prospect Hill Subd., 20-1((1))19, Dranesville Dist., R-E, 4 ac., V-81-D-019.

Mr. Greg Murphy, an attorney at law, represented the applicant. He stated that Mr. and Mrs. Eagleton wished to subdivide an akward 4 acre parcel. The property was "Z" shaped and fronted on Bellview Road and Old Dominion Drive. He stated that the zoning permitted the subdivision but a variance was necessary to allow the back lot to exist. The back lot was served by a pipestem and Mr. Murphy stated that another pipestem was not necessary since it already existed. He informed the Board that the denail of the subdivision would restrict the landowners use of their property. He stated that it was their prerogative to have two

dwelling units on the property. Mr. Murphy stated that without the variance, the applicants could not use lot 2 as it was landlocked.

Mr. Murphy stated that another justification was a practical difficulty to develop the property because of the topography. He stated that the topography was very steep on Bellview Road. Lot 2 would be better served with a pipestem. Mr. Murphy stated that the pipestem would not require anyone to cross anyone else's property to get to the back parcel. Mr. Murphy stated that the only reasonable use was to allow lot 2 to be set up as a separate residential parcel through the use of a pipestem.

Mr. Murphy stated that he was aware of a great deal of opposition to the requested variance and asked the Board to be allowed to rebut at a later point in the meeting. In response to questions from the Board, Mr. Murphy stated that Eagletons had owned the property since 1979. He stated that the property was presently up for sale but it was contingent upon the property being divided. He stated that the Eagletons were moving back to Missouri but would still own the lot next lot which they had purchased in 1976. He stated that lot contained three or four acres. In 1979, the Eagletons had purchased the other property now under consideration for the variance. Mr. Murphy stated that the contract purchaser was an individual who intended to build his retirement home on the property on lot 1. Mr. DiGiulian inquired as to what would be done with lot 2 and Mr. Murphy stated that the individual was not sure yet. Mr. Murphy stated that he believed the individual wanted to sell off lot 2 to another individual who intended to build his retirement home there also. Mrs. Day inquired if when the property was purchased whether the pipestem had been there. Mr. Murphy stated that it had come that way. Mr. Murphy stated that it had been an old road that had served a railroad debut on Old Dominion Drive in 1930. It had remained as an open road until six or seven years ago but was now overgrown with shrub trees. Mr. Murphy stated that the accumulated growth was not very attractive. Mrs. Day stated that the with of the pipestem was only 24.48 ft. wide and inquired if there would be a two-way driveway. Mr. Murphy stated that if he were building it, it would be an ordinary driveway. Mr. Murphy stated that there was a driveway which ran up the left side to serve the house. He stated that there had been a number of trees but a tornado had hit the area and the trees were all down. Mrs. Day inquired if a car coming from lot 2 could be seen from Old Dominion Drive. Mr. Murphy stated that there was a steep grade but it was possible to see up and down.

Mr. Hyland inquired as to the purpose of the Eagletons purchasing the lot in 1979. Mr. Murphy stated that they were living next door and the property was contiguous to theirs. He stated that he believed they were thinking about building lots. Mr. Murphy stated that Mr. Eagleton's plans changed when he had to move. He informed the Board that the Eagletons were not developers. Chairman Smith inquired if the Eagletons planned to use the frontage for lot 2 for the entrance to the lot itself. Mr. Murphy responded that he was sure that was what was contemplated. He stated that when the Eagletons purchased the property, they knew it was two acre zoning. He stated that they were not in any need for additional land for themselves. They had thought that they could subdivide the land. Mr. Murphy stated that he had represented them when they purchased the property. Chairman Smith inquired as to why the Eagletons did not use the entrance from Bellview Road through the other property they owned. Mr. Murphy responded that the ingress and egress was much steeper through the Eagleton property. He stated that the Eaglteon did not want the potential for a driveway coming across the back of the property.

Chairman Smith stated that there was a lot of opposition to the variance request for the pipestem. Mr. Murphy stated that it would be impractical to have a driveway from 947 Bellview Road because the driveway was next to the house where it reached a very steep portion. In addition, he stated that it would make an absolute waste of the Eagleton property. He stated that portion of the land would not serve any purpose. Mr. Murphy stated that the purpose of the pipestem was to serve the lot 2. Mr. Hyland inquired about the use of the land when it was a railroad station. Mr. Murphy stated that the land had been subdivided since that time. However, they had never taken away the pipestem area when they could have. Mr. Hyland stated that the pipestem had not been utilized. Mr. Murphy stated that it had been utilized up until six or seven years ago. He stated that a fence was there but people went through anyway. Mr. Murphy stated that the builder proposed to make an extension of the pipestem which already existed. He stated that to take property away from the Eagletons was not justified. Mr. Hyland stated that he did not understand how it would be unreasonable. Mr. Murphy stated that it had been the purpose of the pipestem when it was constructed to serve the lot. If there was an easement from Bellview Road, then the pipestem had no value to the owner of the lot 2. Mr. Hyland stated that the property owner would still have use of the pipestem but would not be able to transverse it with a car. He stated that the pipestem could be used as a garden or a walk area. Mr. Murphy agreed with Mr. Hyland but he indicated that the pipestem was already there and was in harmony with the area as there were six other pipestem driveways within that immediate area. In addition, he stated that the pipestem was in harmony with what the County had allowed in the past. Mr. Murphy stated that this plan would save as many trees as possible. In addition, he stated that the pipestem would not impact on the surrounding neighbors as there were three properties with swimming pools with high fences so there would not be any visual impact. Chairman Smith stated that there would be an impact on the neighbors along

the pipestem. Chairman Smith stated that in addition to opening up the driveway for lot 2, there would be trespassers. He stated that he could not understand why the Eagletons could not have the driveway affect their own property rather than six other families along the proposed pipestem. Mr. Murphy stated that the pipestem was already existing and could be paved. He stated that there was nothing to prevent it from being paved. Chairman Smith stated that was true but he indicated the applicant would have to develop lot 2 which could not be done without the variance. Mr. Murphy stated that the neighbors objections were to having a driveway going up to lot 2. He stated that could happen anyway. He argued that to have to put the driveway some place else would be difficult because of the steep grade. Mrs. Day informed the applicant that he could alleviate a lot of objections by putting a pipestem on lot 1 as lot 1 had 239.21 ft. of frontage. She stated that there would be ample room and the people would not have any problem with that and the contract purchaser could still build on lot 2. Chairman Smith stated that Mrs. Day's suggestion would involve a lot of redistribution of acreage. He stated that the practical thing to do was to have the pipestem through the Eagleton property. Mr. Murphy informed the Board that they had thought about that arrangement but the property owner felt that it would be taking their property.

Mr. Murphy explained to the Board that the situation would be a totally thing if they were asking for the creation of a pipestem but he stated that the pipestem already existed. Mrs. Day stated that she felt it would alleviate a lot of trouble if the applicants cooperated with the neighbors and put the pipestem elsewhere. Mr. Murphy stated that the land would not have any purpose for the owners of lot 1 & 2.

Chairman Smith informed Mr. Murphy that he would like to see an alternative plan before going any further with the application. He stated that there was adequate land to serve the lot through lot 1. Chairman Smith stated that since the property was under contract, he felt the person purchasing the land should suffer the impact rather than the seven or eight families in the area. Mr. Murphy advised the Board that when the people in Greenway Heights purchased their property, they were aware of the pipestem bordering on their property. Mr. Hyland stated that the question was whether it could be used. Mr. Murphy stated that there was nothing to prevent the landowner from using it. Chairman Smith stated that the impact would be far greater if it was done in this manner which was of great concern to him. He stated that the impact should be borne by the existing property owners or the contract purchaser. He informed Mr. Murphy that the property owners did have a right to clear the pipestem but there was nothing they could use it. Chairman Smith stated that if the applicant used the frontage available, there would be nothing to grant a variance for. Chairman Smith stated that the Board could not grant the variance until the applicant had used up the entire tract of land. Chairman Smith stated that he would not debate that issue with the applicant. Mr. DiGiulian stated that if there had been a house constructed on the back parcel 20 years ago, the Board would grant the variance. Chairman Smith stated that if there was a house built 20 years ago, it would have used the frontage of Old Dominion Drive. Chairman Smith stated that many times the houses were constructed on two lots but the entire tract of land was taken into consideration.

There was no one else to speak in support of the application. The following persons spoke in opposition. Mr. Paul Burns represented each and every one of the homeowners in Greenway Heights. He stated that they were opposed because this was not a pipestem lot as a pipestem lot provided frontage. Mr. Burns stated that there was adequate frontage on Bellview. If two lots were created as proposed, it would create a pipestem lot. Mr. Burns stated that it was his understanding that a pipestem could not be created except under Chapter 2-406 of the Ordinance when deemed necessary to achieve a more creative planning. Mr. Burns stated that it was because of the creation of the two lots that the neighbors had the right to address the pipestem situation. He stated that if there was a house constructed and then the applicant came back to ask for a subdivision, they would also need a variance. At that point, a pipestem lot would have been created which Mr. Burns stated he felt the BZA did not have the authority to do. He stated that he did wish to get into the legalities because it had an impact on the neighborhood. He informed the Board that this particular strip of land had not been used. It was only 20 ft. wide at best. Mr. Burns stated that the land was very narrow and had become a natural buffer. He stated that he could not see how the construction of a driveway would save any trees. Mr. Burns stated that the citizens did not oppose the subdivision as such but the driveway going in back of their property. Mr. Burns stated that he was sure the subdivision could be created by right but if asked that the driveway be placed parallel to the existing Eagleton family residence. He stated that their access was presently through a pipestem or an easement and it could continue to serve that purpose. Mr. Burns informed the Board that there was not any steep grade. Mr. Burns stated that he could not see someone running a 700 ft. driveway when they could run an easement which would not have any impact on the adjoining property owners.

The next speaker in opposition was Mr. Lawrence McCarthy who was the property owner at the south corner of the 24 ft. pipestem. He stated that he had lived there for four years. Mr. McCarthy informed the Board that Old Dominion Drive was one of the main streets in the area and had an excessive amount of traffic. Mr. McCarthy stated that exactly at the point of his driveway was an apex from the west and east and vision was obscured. In addition, Mr. McCarthy stated that the proposed pipestem would allow three driveways immediately adjacent to one another on Old Dominion Drive. Mr. McCarthy informed the Board that the visibility was hazardous at this point because of the long, steep hill. Mr. McCarthy informed the Board that the subject property was not unusual and did not differ from any other lot.

Page 357, April 28, 1981
KEVIN & HEIDI DELLAFERA EAGLETON
(continued)

The next speaker in opposition was Mr. Jay Brown who represented the Greenway Heights Civic Association. He stated that the civic association was opposed to the variance which would allow an additional access point to a very narrow, well-treed and busy section of Old Dominion Drive. He cited the poor visibility at this location and the heavy traffic travelling Old Dominion Drive well in excess of the posted speed limit. Mr. Brown informed the Board that he was a member of the neighborhood watch and he was concerned about the possibility of opening up a long, lonely driveway adjoining the residences of Greenway Heights. He stated that the driveway could be frequented by burglars and he informed the Board of the number of burglaries which had plagued their neighborhood.

The next speaker in opposition was Mr. Richard Hausler, an attorney with Hazel, Beckhorn & Hanes, who represented the Sahnnons. Mr. Hausler informed the Board that the Shannons owned the property immediately adjacent to the long proposed driveway. He stated that they had lived there since 1918. Mr. Hausler stated that he supported the statements made by Mr. Burns about the pipestem. He also addressed the safety of Old Dominion Drive with respect to sight distance. Mr. Hausler presented the Board with some photos to show the problems with sight distance. Mr. Hausler informed the Board that the cars on Old Dominion Drive travelled at 50 m.p.h. Mr. Hausler stated that traffic was very heavy and the sight distance was very limited at the point of access. Mr. Hausler informed the Board that it would be better to access the site from Bellview Road. He stated that area was much flater and traffic moved slower. Mr. Hausler informed the Board that the Shannons did not oppose the construction of a second house on the property but did oppose the access. Mr. Hausler presented the Board with a map of the Eagleton property indicating conceivable points of access. Mr. Hausler suggested to the Board that the requested variance be denied. He stated that the request would be good for development but it was the wrong variance. Mr. Hausler informed the Board that the portion of the 20 ft. outlet road along the Shannon property had not been used since the late 30s. He stated that what had been used was just a small strip. The Shannons has used that strip for access to Bellview Road until the late 60s. Mr. Hausler stated that the Eagletons did not want the access at their front door and the neighbors did not want it at their back door either.

Mr. Hausler introduced Mrs. Shannon who was the property owner of lot 20. She stated that she had lived on the property since July 1918. She believed that Mr. and Mrs. Eagleton had every right to develop their property but there were other lots affected by the access. She stated that a lot of trees would have to removed to create a driveway. Mrs. Shannon informed the Board that there was a very safety factor to consider with having the driveway along Old Dominion Drive. She stated that there had been many accidents at this location and one had been fatal. Mrs. Shannon stated that the access from Bellview Road would only require minor brush removal and the property was flat. She stated that she had walked over that road every day to get to school and her children had walked it.

During rebuttal, Mr. Murphy stated that the neighbors did not want the pipestem used for what it ordinarily was used for which was a driveway. Mr. Murphy stated that a few points were raised about burglaries. He stated that there had been great deal of burglaries but it had been done by one of the sons of the residents so the proposed driveway would not affect anything in that regard. With respect to the fatal accident, Mr. Murphy stated that was over the knoll and not at the proposed access point. Mr. Murphy stated that there were big trees but they could be preserved. He stated that the property was fenced and was grown up with brush and was not very attractive which was why the fence was constructed. Mr. Murphy stated that there was grade from Old Dominion going up to lot 2. He stated that the grade was easy to see and there was no evidence of any danger. Mr. Murphy stated that the matter was really one of choice of access. He stated that the old map referred to it as what it was, an outlet road. He stated that the Eagletons wanted to subdivide their property leaving access the way it was naturally. Mr. Murphy stated that he appreciated the concerns of the neighbors. He informed the Board that the access road across the front of the lot did not exist any longer. In addition, he stated that it would not alleviate the problem of having trees taken down. Mr. Murphy stated that the Eagletons were only asking for two lots which were permitted under the Zoning laws.

Chairman Smith informed the applicants that the Board dould grant a variance to the lot frontage and limit the access. He stated that there was no quarrel with the development. Mr. Murphy stated that if it was the Board's disire to direct access across lot 1, he did not want to lose that opportunity. Chairman Smith stated that if there was a pipestem access across lot 1, it would require a new advertising. Mr. Covington stated that it could be done by an easement. Mr. Murphy stated that it was not his property but his clients and he could not speak to the changing of the pipestem. Chairman Smith stated that the applicants were selling the property and were only going to reap the benefits.

Mr. Hyland informed the Board that his inclination was to not permit the access and egress through the existing pipestem because of the adverse impact of the driveway. He stated that he could support the variance provided that the access came from Bellview Road by the creation of a pipestem or an easement. He stated that the option of a pipestem would require the applicant to come back to the Board. If it was done through an easement, they could do what they wanted. Chairman Smith stated that it would require a resubdivision of plats before it went to subdivision.

Page 358, April 28, 1981
KEVIN & HEIDI DELLAFERA EAGLETON
(continued)

Mr. Hyland moved that the Board adopt the standard variance resolution as the property was irregular in shape being an odd-shaped undeveloped lot. He stated that the pipestem on Old Dominion Drive would create an additional traffic hazard and would have an impact on adjoining property owners. Therefore, Mr. Hyland moved that the variance be granted-in-part with the two standard limitations on the form; and (3) that the applicant provide ingress & egress to the proposed lot 2 from Bellview Road either with an easement or a pipestem across the Eagleton property; and (4) that the applicant provide plats for resubdivision for general review and approval.

The motion failed for lack of a second. Mr. Yaremchuk moved that the Board defer decision to allow viewing of the property and it was unanimously passed. The Board deferred the hearing until May 19th.

//

Page 358, April 28, 1981, After Agenda Items

Way of Faith, S-80-P-095: The Board was in receipt of a revised site plan for the Way of Faith Christian Training Center. The VDH&T would not allow access from Arlington Boulevard so the school had to change its entrance to Chichester Lane. It was the consensus of the Board to approve the change as a minor engineering change.

//

Page 358, April 28, 1981, After Agenda Items

Vinson E. Allen & John F. McMahon, V-81-79: The Board was in receipt of a memorandum from Phil Garman regarding the Allen Building seeking approval from the BZA with respect to the transitional screening. Mr. DiGiulian informed the other Board members that he had discussed the matter with Oscar Hendrickson. He indicated that Site Review was satisfied with the transitional screening and so was the Planning Commissioner and the adjacent property owner. Accordingly, Mr. DiGiulian moved that the Board approve the revised site plan as a minor engineering change. Mr. Hyland seconded the motion and it passed unanimously.

// There being no further business, the Board adjourned at 2:40 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

APPROVED: December 21, 1982

Submitted to the BZA on December 14, 1982

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 5, 1981. The following Board Members were present: Daniel Smith, Chairman; John Yaremchuk; Gerald Hyland and Ann Day. (Mr. John DiGiulian was absent).

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

MATTERS PRESENTED BY BOARD MEMBERS: Chairman Smith instructed the Clerk to change the BZA meeting date in October from the 20th to the 21st.

//

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. DAGMAR H. STAPLETON, appl. under Sect. 18-406 of the Ord. to allow a detached garage to remain 8.7 ft. from the side property line (12 ft. minimum side yard req. by Sect. 3-307), located 1523 Cedar Ave., West McLean Subd., 30-2((7))(2)34, Dranesville Dist., R-3, 11,250 sq. ft., V-81-D-017. (Deferred from March 31, 1981 for Notices).

Ms. Dagmar Stapleton of 1523 Cedar Avenue in McLean informed the Board that she had moved to McLean in September. Previously she had resided in Arlington and was not aware of the zoning laws. She stated that she had wanted a garage built on her property. Her friend had started work on the garage and when she contacted the Zoning Office, she thought they said a garage had to be eight ft. from the side line. She stated that she had let her friend start the garage when he had the free time and later found out that the garage had to be twelve ft. from the side line. Ms. Stapleton informed the Board that her old garage in Arlington was only 2 ft. from the property lines so she had thought 8 ft. was reasonable. She informed the Board that she was in error.

In response to questions from the Board, Ms. Stapleton stated that the height of the garage was 10'1". Chairman Smith stated that the rear setback was all right. Ms. Stapleton stated that the garage set 11.9 ft. from the fence. Mr. Yaremchuk inquired if the County allowed a garage to be 2 ft. from the lot lines and Mr. Covington stated that was under a previous Code. Ms. Stapleton informed the Board that she had letters from her neighbors who were in support of the variance. Chairman Smith stated that Ms. Stapleton had three lots and had plenty of room for the garage. Mr. Covington stated that all the lots were substandard. Mr. Yaremchuk stated that if the garage were moved over 12 ft. from the side line, there would be a problem getting in and out of the garage. Ms. Stapleton advised the Board that Mr. Yaremchuk was correct. She stated that she would have to make a sharp angle and she stated that even now it was a little difficult getting in and out of the garage. Mr. Hyland inquired as to how far along the construction was on the garage. Ms. Stapleton stated that the trusses were up. She stated that her friend had started putting on the roof but it was not complete. Mr. Hyland stated that there was not much left to be done on it and Ms. Stapleton stated that it needed to be enclosed to keep out the weather.

Chairman Smith inquired about the unusual construction of the garage. He stated that it appeared there were windows at the top of it. Ms. Stapleton replied that she was trying to make the design like the house. Chairman Smith stated that the garage looked like it was over 10 ft. in height. He inquired as to why Ms. Stapleton did not get a building permit before beginning construction. Ms. Stapleton stated that she had to go on a business trip at the time. Chairman Smith stated that the whole problem was caused by the fact that the applicant started construction before getting the building permit. Mr. Yaremchuk stated that people are human and make mistakes.

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

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. V-81-D-011 by DAGMAR H. STAPLETON under Section 18-406 of the Fairfax County Zoning Ordinance to allow garage to remain 8.7 ft. from side property line (12 ft. minimum side yard req. by Sect. 3-307), on property located at 1523 Cedar Avenue, tax map reference 30-2((7))(2)34, 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 May 5, 1981; and

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

RESOLUTION

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:

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. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 360, May 5, 1981, Scheduled case of

10:10 A.M. JAMES G. GORE, JR., appl. under Sect. 18-301 of the Ord. to appeal the Zoning Administrator's denial of a building permit application, located 1935 Franklin Avenue, Franklin Forest Subd., 41-1((8))21A, Dranesville Dist., R-2, 12,471 sq. ft., A-81-D-002. (DEFERRED FROM APRIL 7, 1981 FOR RECONSIDERATION OF DECISION.)

For testimoney received at the hearing, please refer to the verbatim transcript on file in the Clerk's Office. At the conclusion, Mr. Hyland moved that the Board defer until there were five Board members present. Mrs. Day seconded the motion and the matter was deferred until May 12, 1981 at 10:00 A.M.

//

Page 360, May 5, 1981, Scheduled case of

10:20 A.M. CHARLES E. SCHAUSS, appl. under Sect. 18-401 of the Ord. to allow construction of a garage 4 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1800 Baldwin Drive, West Lewinsville Heights Subd., 30-3((17))34, Dranesville Dist., R-3, 12,035 sq. ft., V-81-D-037.

Mr. Chuck Schauss of 1800 Baldwin Drive in McLean informed the Board that he owned the property which was the subject of the variance and he pointed out is location on the map. He stated that behind his property was the Dulles Access Road which was to be completed in the next year or two. Mr. Schauss informed the Board that he wanted to construct a garage on his property. The requested width was necessary to accommodate a chimney which extended out 2.5 ft. from his house and to allow a foot between the chimney and the garage door. In addition, he stated that he wanted to have a standard 16 ft. garage door. The requested 28 ft. depth would provide adequate space for two sedans and a covered storage space for garden equipment. Mr. Schauss stated that dry storage space was necessary as his basement had been finished to provide an extra bedroom for his family. Mr. Schauss stated that he had provided for the extra runoff. Mr. Schauss stated that it was not possible to build the garage in the back because of a large maple tree and the fact that it would limit his back yard. Due to the construction of the Dulles Access Road behind his property, any removal of trees would not aid in noise abatement.

In response to questions from the Board, Mr. Schauss stated that he would have to remove an evergreen and a large maple if he constructed the garage in the back yard. In addition, he stated that he had trees along the property line. Mr. Schauss stated that he would have to remove a minimum of two trees in the back. Chairman Smith inquired if most of the homes in the subdivision had the same lot size. Mr. Schauss stated that they were the same size. Chairman Smith stated that the lots all had a general condition and that the applicant was not entitled to a variance. Mr. Schauss stated that the construction of the two car garage would be compliementary to the area. He stated that presently there were 45 homes that had 2 car garages, almost all having the same design. Mr. Schauss stated that he had presented a map highlighted in yellow with all of the homes in his area having two car garages. He stated that his immediage neighbors did not object to his requested variance. In addition, he stated that one of his neighbors had received a variance on July 11, 1972 for a two car carport on Xavier Court to build within 3.74 ft. Mr. Schauss stated that he felt the variance should be granted since no one objected to it. He informed the Board that he had lived on the property for 6 years and would be there a good deal longer. He stated that his narrow lot was causing him to seek the variance. He stated that his lot was fairly shallow. Mr. Yaremchuk stated that a 83 ft. wide lot was not narrow as that was the average lot width in Fairfax County. Mr. Schauss stated that he had a wide house. Mr. Schauss informed the Board that the garage would match the construction of his house.

Page 361, May 5, 1981
CHARLES E. SCHAUSS
(continued)

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

Page 361, May 5, 1982 Board of Zoning Appeals
CHARLES E. SCHAUSS

RESOLUTION

In Application No. V-81-D-037 by CHARLES E. SCHAUSS under Section 18-401 of the Zoning Ordinance to allow construction of a garage 4 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 1800 Baldwin Drive, tax map reference 30-3 ((17))34, County of Fairfax, Virginia, Mr. Hyland 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 5, 1981; 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-3.
3. The area of the lot is 12.035 sq. ft.
4. That the applicant's property is exceptionally irregular in shape 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 361, May 5, 1981, Scheduled case of

10:30 A.M. EDWARD W. BERNHART, appl. under Sect. 18-401 of the Ord. to allow the construction of an addition within 13.2 ft. of the side property line (20 ft. min. side yard req. by Sect. 3-E07), located 9200 Weant Drive, Weant Subd., 8-4((3))19, Dranesville Dist., R-E, 28,602 sq. ft., V-81-D-038.

Mr. Edward Bernhart of 9200 Weant Drive in Great Falls informed the Board that his lot was substandard as the lot was only 100 ft. wide. Mr. Covington informed the Board that the lot was zoned R-E and had a septic tank and a well located on it. Mr. Bernhart stated that the well was in his back yard and the septic tank was in the front yard. He stated that if he used his existing driveway and went around the left hand side of his house, the topography dropped off very sharply. Coming in from the other side, would put one on top of the septic tank. In response to questions from the Board, Mr. Bernhart stated that he had owned his property for a year and three months. He stated that he had redone the inside of the house. Chairman Smith stated that the location of the septic fields were not shown on the plat. Mr. Bernhart replied that he was naive in thinking that he did not need it. Mr. Bernhart advised the Board that the septic tank was located right off of the concrete slab and the drain field was diagonally across from it some 40 to 50 ft. from the house. Mrs. Day inquired if there were any pipes crossing the septic field and was informed there were not. Chairman Smith informed the applicant that he had a lot of ground to build the addition. Mr. Bernhart stated that the one area had a very steep grade.

362

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

Board of Zoning Appeals

RESOLUTION

In Application No. V-81-D-038 by EDWARD W. BERNHART under Section 18-401 of the Zoning Ordinance to allow the construction of an addition within 13.2 ft. of the side property line (20 ft. minimum side yard required by Sect. 3-E07), on property located at 9200 Weant Drive, tax map reference 8-4((3))19, County of Fairfax, Virginia, Ms. Day 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 5, 1981; 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 28,602 sq. ft.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of the existing buildings on the subject property and the location of a well in the front of the property and septic field and steep grade in the rear of the 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 362, May 5, 1981, Scheduled case of

10:40 A.M. JERRY A. & BETTY C. REAGAN, appl. under Sect. 18-401 of the Ord. to allow the construction of a garage addition within 10.2 ft. of the side property line (15 ft. min. side yard req. by Sect. 3-207), located 6830 Silver Lane, Hillbrook Forest Subd., 71-4((15))3, Annandale Dist., R-2, 20,000 sq. ft., V-81-A-040.

Mr. Jerry Reagan informed the Board that his house was situated on a half-acre lot with part of the lot being very irregular in shape. He stated that his lot was a large pie-shape with the lot sloping upwards toward the roadway. Mr. Reagan informed the Board that he wanted to build a two car garage. He stated that he had an existing carport which he wanted to tear down in order to build the two car garage. Mr. Reagan stated that the area was completely paved. Located 24 ft. from the house was a retaining wall on the right. Mr. Reagan stated that the shape of the lot and the slope of the lot necessitated the variance.

In response to questions from the Board, Mr. Reagan stated that the neighbor's house was 50 ft. away and he had a large wooded lot. Mr. Yaremchuk inquired if the applicant was a certified engineer as his name appeared on the certified plat. Mr. Reagan stated that he was licensed in the State of Virginia. He informed the Board that he had owned the property for ten years and had lived there for eight.

Page 363, May 5, 1981
Jerry A. & Betty C. Reagan
(continued)

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

Page 363, May 5, 1981 Board of Zoning Appeals
JERRY A. & BETTY C. REAGAN

RESOLUTION

In Application No. V-81-A-040 by JERRY A. & BETTY C. REAGAN under Section 18-401 of the Zoning Ordinance to allow the construction of a garage addition within 10.2 ft. of the side property line (15 ft. minimum side yard required gy Sect. 3-207) on property located at 6830 Silver Lane, tax map reference 71-4((15))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 May 5, 1981; 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 20,000 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 363, May 5, 1981, Scheduled case of

10:50 A.M. CARL RICHARD BOEHLERT, appl. under Sect. 18-401 of the Ord. to allow subdivision into 10 lots, with proposed lots 3, 4, 5 & 6 having width of 6 ft. & proposed lots 7 & 9 having width of 9 ft., (70 ft. min. lot width req. by Sect. 3-407), located 2310 & 2320 Great Falls St., 40-4((1))17A & 19, Dranesville Dist., R-4, 2.5087 ac., V-81-D-044.

Charles Runyon, an engineer located at 7649 Leesburg Pike in Falls Church, represented the applicant. Chairman Smith advised Mr. Runyon that there were only four Board members present. He informed Mr. Runyon that he could have the decision deferred if he wished to allow the fifth Board member to review the proceedings or the entire hearing could be deferred. After receiving testimony from Ms. Barbara Pierce of 2314 Great Falls Street regarding the deferral it was the consensus of the Board to defer the hearing until there was a full Board present. The matter was deferred until June 16, 1981 at 8:00 P.M. for full Board and to accommodate Ms. Pierce's schedule.

//

11:00 A.M. EPIPHANY OF OUR LORD BYZANTINE CATHOLIC CHURCH, appl. under Sect. 3-203 of the Ord. to permit temporary classroom for school of religious education & cultural education in conjunction with an existing church, located 3410 Woodburn Road, 59-1((1))21, Providence Dist., R-2, 4.7809 ac., S-81-P-012.

Mr. Robert Hudock, an attorney located at 8150 Leesburg Pike in Vienna, represented the church. In addition, Mr. Robert Matrich, a representative of the church was also present. Mr. Hudock informed the Board that the application was to allow a temporary school building on the church property located at 3410 Woodburn Road. He stated that the church had a building plan underway but it had been delayed because of the economy. Mr. Hudock informed the Board that the previously granted permit for the temporary classroom had expired the month before. Mr. Hyland inquired about the time limitations on the previously granted special permits as one had been granted for a period of three years with the Zoning Administrator empowered to grant two one-year extensions. Then there was another special permit which had been granted during the same period. The Clerk informed the Board members that a permit had been granted in 1973 for a period of three years with two extensions. Another permit was granted in 1978 for a period of three years without any extensions. Mr. Hudock informed the Board that they were only asking for a continuation of the use and to put in an additional extension. He stated that it was their intent to build a new church and the existing church would be converted to classrooms.

Mr. Robert Matrich of 3341 Brackenridge Court, a Trustee of the Church, informed the Board that the existing church building was a white elephant. It was too small for a church and too small for a social hall. It would be converted to classrooms later on. Mr. Matrich informed the Board that after the special permit was approved in March of 1978, the church had contacted their Bishop who had given them approval to hire an architect. The architect came up with the preliminary site plan. When the second site plan was run through the County it was over $100,000. Mr. Matrich stated that because they had to run everything through committees, the church had become caught in a money scrunch. He stated that the church had gone on a money drive from the diocese in New England to Florida. Mr. Matrich stated that it was very difficult to run a building fund with the interest rates. Mr. Matrich informed the Board that the church's life blood were its children. The church had 145 children but Mr. Matrich stated that attendance dropped off when school was not in session. He stated that parents were not seeing to their children's religious education as in the past. Mr. Matrich stated that it was impossible to maintain any program with that type of situation

Mr. Yaremchuk inquired as to what had cost $100,000 in the construction plans. Mr. Matrich stated that the main thing was the water retention. The new facility would be a 8,000 sq. ft. addition that would run out at an angle and the main structure would be a hall underneath which would require five water retention wells in the field outside of the existing parking lot on the plat. Mr. Matrich stated that the architect had run the plan through the County for a $68 fee to determine what the County would require as far as site improvements. Mr. Matrich stated that the $100,000 would be just for the structure itself and not interior finishing. Mr. Matrich informed the Board that the church wanted the trailer removed but it was economically infeasible at the present time.

Chairman Smith advised Mr. Matrich that the trailer was only a temporary structure which was where the problem lay. Chairman Smith stated that he had a problem with the structure because as it was a temporary structure, it did not have to meet all of the standard construction procedures. Now, the church was asking for a continued use of the structure for religious purposes. Mr. Yaremchuk stated that it could be granted for five years. Chairman Smith stated that temporary structures were treated differently. Mr. Covington stated that he could not see why the BZA would want to put a time limit on it. Chairman Smith inquired as to the length of time the site plan waiver was granted for and indicated that the Board should not grant the temporary trailer for a period longer than the site plan waiver.

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

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-81-P-012 by EPIPHANY OF OUR LORD BYZANTINE CATHOLIC CHURCH under Section 3-203 of the Fairfax County Zoning Ordinance to permit temporary classroom for school of religious education and cultural education on conjunction with an existing church on property located at 3410 Woodburn Road, tax map reference 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 of Zoning Appeals held on May 5, 1981; and

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

365

RESOLUTION

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 4.7809 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students for the classes shall be a maximum of 25.
8. This permit is granted for a period of five (5) years.
9. The hours of operation shall be normal church hours.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 365, May 5, 1981, Recess

At 11:55 A.M., the Board recessed for lunch and reconvened at 12:35 P.M. to continue with the scheduled agenda.

//

Page 365, May 5, 1981, Scheduled case of

11:15 A.M. GOPAL S. PAL, D.D.S, appl. under Sect. 3-203 of the Ord. to permit an addition to an existing non-conforming home professional office (dental office), located 4401 Wakefield Chapel Woods Subd., 70-1((22))14, Annandale Dist., R-2, 18,680 sq. ft., S-81-A-011.

Dr. Gopal Pal informed the Board that he was a dentist who had been practicing for seven years. He proposed to build an addition to his residence to house his office. He stated that he would have additional space for his patients and did not anticipate any patient load increase. In response to questions from the Board, Dr. Pal stated that at the present time he saw about two patients an hour. Sometimes he scheduled long appointments for a period of two hours. Dr. Pal stated that he averaged about 8 or 9 patients a day. Dr. Pal stated that his wife was also a dentist and practiced for Fairfax County. Dr. Pal stated that he did not anticipate adding another dentist to his practice but informed the Board that his wife might work for him part-time. Dr. Pal stated that at the present time, he only worked four days a week. He stated that he had owned the property and lived on it for seven years and had been practicing out of his home for the entire seven years. Chairman Smith inquired as to the type of permit Dr. Pal had which allowed him to practice dentistry. Dr. Pal stated that a copy of his permit was filed with the application. Chairman Smith stated that the use was non-conforming. He stated that if the use was expanded, Dr. Pal would then come under the new Ordinance which would require more parking than Dr. Pal had at the present time. Dr. Pal informed the Board that he was not expanding his office. He stated that he had four chairs. The waiting room was too small and he did not have a private consultion office. Chairman Smith inquired as to the need for four chairs. Dr. Pal

responded that the four chairs were used by himself and one hygenist and one dental assistant. Dr. Pal stated that his wife did not see any patients in his practice. Chairman Smith inquired if Dr. Pal was using four rooms and he responded that he sometimes had as many as three patients at one time. He stated that he also had the x-ray facilities.

Chairman Smith advised Dr. Pal that under the present Ordinance with the use of four chairs, that more than five parking spaces would have to be provided. Mr. Yaremchuk inquired of Mr. Knowlton as to whether a home office was allowed in 1974 even with living there. Mr. Knowlton advised the Board that home occupations and home professional offices were allowed by right up until about 1974. Mr. Yaremchuk inquired of Dr. Pal if it had been intent when he purchased the property to practice out of the house. Dr. Pal stated that was his intent. Mr. Yaremchuk inquired as to why Dr. Pal located his practice in a residential area rather than a commercial area. Dr. Pal responded that the practice from his home was cheaper. He stated that he started his practice as soon as he purchased the home. Mr. Yaremchuk inquired as to why Dr. Pal did not move to a commercial area since he wanted to expand his operation. Dr. Pal stated that he was not expanding his operation. He stated that his father lived with him and his grown children needed more room to play. Dr. Pal stated that he wanted to have a family room and some storage room. He stated that he was basically expanding his living area and not his practice. Dr. Pal stated that he was only changing the existing waiting room into an office. Mr. Yaremchuk inquired if Dr. Pal could continue functioning with the area he had now if the Board denied the request. Dr. Pal responded that he did not wish to displease any of his neighbors. Mr. Yaremchuk stated that Dr. Pal did not really need the special permit at all. Dr. Pal stated that he did not have any more living quarters. Mr. Yaremchuk stated that it might be coming in the back door. Mr. Hyland stated that if Dr. Pal had just made an addition to his home and let his practice spill over into it, no one would have known the difference. Instead, Dr. Pal came to the County with an up front approach and was putting it on the table. He stated to the Board what his intentions were and the fact that he wished to expand his waiting room.

Chairman Smith stated that the applicant had a good situation. He was using the dwelling for his home and his practice. He stated that the applicant did not meet the parking required under the special permit requirements. Chairman Smith inquired of Mr. Knowlton as to whether Dr. Pal was allowed two employees under the old sytem. Mr. Knowlton stated that prior to May 28, 1978, the Code allowed two employees. Mr. Hyland inquired as to whether any of the current employees ever parking in the street. Dr. Pal stated that his employees sometimes parked in the street. Mr. Hyland inquired if that was because there was insufficient parking on the premises but Dr. Pal stated that it was because he sometimes had emergencies and there were more cars. Mr. Hyland inquired as to the number of parking spaces available on site and was informed the parking area could accommodate five or six cars. Dr. Pal stated that most times, his employees parked on his property or in front of his house. Chairman Smith stated that the employees were not supposed to park in the street. Dr. Pal responded that there was not any sign prohibiting it. Chairman Smith stated that parking in the street was normally permitted but not for a home office use. He stated that if Dr. Pal's practice came under a special permit, he would be more confined. Dr. Pal informed the Board that a lot of the community college students parked in front of his house. In addition, he stated that there was a metro bus stop in front of his house. Mr. Hyland stated that with connection to the current operation, six parking spaces would be required. If the wife also practiced at home, then twelve parking spaces would be required. Mr. Yaremchuk stated that was not feasible.

There was no one else to speak in support of the application. The following persons spoke in opposition to the application. Mr. Jim Hughes of 4311 Wakefield Chapel Road stated that he was speaking on behalf of himself and 15 families who were in opposition to the request. He stated that Dr. Pal had been practicing the office on the corner since July of 1974 and now wanted to build a substantial addition, part of which would be used as a waiting room for his patients. Mr. Hughes stated that many persons had provided him with their objections since they were unable to stay through the meeting. All of the persons lived in close proximity to the use in question. Mr. Hughes stated that there were three major reasons for the opposition. One was that the patients would continue to aggravate the parking situation on Briar Creek Drive. Mr. Yaremchuk noted that the neighborhood would get a lot of the parking problems from the community college. Mr. Hughes stated that the neighbors felt the home office would have a negative impact on the neighborhood. His reasons for that statement were because the appearance of the area would change because of the sign and the expanded parking area. Mr. Hyland informed Mr. Hughes that Dr. Pal was operating by right and could continue to operate by right so whatever impact existed had been there for some time. Mr. Hyland inquired as to what extent the addition would alter the character of the area. Mr. Hughes stated that he had not seen the detailed plans but it appeared to be a commercial business and the potential would be there for expansion. Mr. Hughes reminded the Board that Dr. Pal had requested the expansion of the non-conforming use. Chairman Smith stated that he was not sure that the use was a non-conforming use as it was permitted by right. He stated that the advertising was in error. Chairman Smith stated that it was his belief that the use was conforming as to the use under a prior Code.

Mr. Hughes informed the Board that with respect to parking, he was certain that Dr. Pal's driveway could not accommodate enough parking spaces for his own cars and his patients. He informed the Board that most of the patients parked on Wakefield Chapel Drive. He stated that it was difficult for people turning on Briar Creek Drive to see traffic. He informed the Board of an accident occurring recently in which there was an injury. Mr. Hughes stated that the number of cars varied greatly because of the hours. He stated that parked cars were a problem because there were not any sidewalks. Mr. Hughes stated that if the application were approved, the character of the area would change from residential to commercial He stated that the property was clearly marked with a sign and the sign was visibly different. Mr. Hughes stated that there was not any other business in the immediate area. Mr. Hughes stated that he had not seen the plans but he had been told that the addition would be substantial being two stories high. He stated that he opposed the continuing use of the property. Mr. Hughes stated that there was no way to effectively monitor the practice as both husband and wife were licensed dentists. Mr. Hughes informed the Board that the use of the addition would be for Dr. Pal's Amway distributorship. He stated that Dr. Pal had held at least one meeting and stored Amway products on his property. Mr. Hughes stated that the neighbors were opposed to this.

Mr. Hyland inquired about the parking tabulation presented by Mr. Hughes and asked what indication there was that the cars in the area were from Dr. Pal's patients. Mr. Hughes stated that he could not say for sure. Mr. Hyland asked if the cars regularly parked on both sides of the street. Mr. Hughes stated that they did but he indicated that the cars parked more on Wakefield Chapel Drive. Chairman Smith inquired if there was any more information regarding the Amway Distributorship and Mr. Hughes stated there was not. He stated that there had been a meeting in the home and people had been invited to participate on a salesman basis.

Mrs. Gopal Pal informed the Board that she worked for Fairfax County. She stated that another dentist she worked with was involved in the Amway products. Mrs. Pal stated that she had held one meeting in her home and only one couple attended. She stated that the interest in Amway had been hers but she was no longer interested in it. Chairman Smith inquired as to when the meeting had been and Mrs. Pal stated that it was held in February. Mr. Hyland stated that there was not reason to pursue the matter as there was no indication that they were operating out of the home. Chairman Smith stated that he only wanted to make the applicant aware that they were pursuing a product that was not allowed as a business in a residential home. Mr. Yaremchuk inquired if the applicant had ever stored the product in their home and Mrs. Pal stated that she only used it for her own benefit.

The next speaker in opposition was Mr. Bob Fleming of 8436 Briar Creek Drive. He stated that he lived across the street from Dr. Pal. He stated that he was a member of the architectural control committee. He invited the Board's attention to the fact that Dr. Pal had not yet complied with the covenants or had his building plans reviewed by the architectural control committee. He stated that the plans had to be approved or disapproved by the committee. Mr. Fleming advised the Board that he had been asked to draft a letter to Dr. Pal to remind him of the conditions of the covenants.

The next speaker in opposition was Supervisor Moore of the Annandale District. She stated that she had a few statements to make regarding the application and also had a statement from the Annandale District Council which she wanted to present to the BZA. She stated that the Council was opposed because they believed that the additional facilities would be used for additional patients. She stated that the business was very good and that Dr. Pal was very successful. She stated that he had caused a problem with traffic. She stated that she and the community felt that Dr. Pal had the right to use his home for his office but now he was expanding the use. Supervisor Moore stated that Dr. Pal and his wife might find that the business would increase and there would be more parking problems. She stated that if the applicants needed more room for their home, she would hope that they considered making an office in a commercial area. Mrs. Moore felt that the business could be conducted in a more appropriate place.

Mr. Hyland questioned Mrs. Moore as to whether her position would remain the same assuming that Dr. Pal was correct in stating that his patient load would not increase. Mrs. Moore stated that it would be crazy for anyone to establish a good practice and then turn patients away. She stated that she would think he would want to take in additional patients. Mrs. Moore stated that if the Pals needed more of their home for their living space, then now was the time to get a commercial office. She stated that this was an expansion as he did not have room for his practice.

The next speaker in opposition was Russell Krieger of 8418 Briar Creek Drive who was the Past President of the Wakefield Chapel Estates Civic Association. He stated that the area had retained his residential character and he reminded the Board of the law that stated any addition would be such that it would maintain the appearance of a single dwelling or residence. He stated that the proposed addition would lose that atmosphere. Mr. Krieger informed the Board that he doubted that any of the college students were parking on Briar Creek Drive as the parking problem only existed on the corner.

There was no one else to speak in opposition. During rebuttal, Mr. Yaremchuk inquired if he understood correctly that Dr. Pal's father was going to move in with him. Dr. Pal responded

that his father was already living with him. He stated that he was expanding his family room into a 14'x36' room. Mr. Yaremchuk inquired that if the house had been the same for seven years, why did Dr. Pal wish to change it now. Dr. Pal stated that his office was in the basement. Mr. Yaremchuk inquired as to where the patients would wait and Dr. Pal stated that they would wait in the basement. Mr. Yaremchuk questioned the expansion of the family room and Dr. Pal stated that he had two children who needed room to play. Mr. Yaremchuk inquired as to the number of college students parking on Dr. Pal's side of the street. Dr. Pal stated that people park in front of his house all the time. Mr. Yaremchuk inquired if Dr. Pal kept his patients on a schedule and he responded that he was giving long appointments at the present time. He stated that he may see a patient for one or two hours. He stated that there would only be three cars at the most at any one time.

Mr. Yaremchuk stated that as he recalled the road, it was very wide and there would be room for traffic. Mr. Yaremchuk inquired if the children walked to school since there were no sidewalks. Dr. Pal stated that the children were bussed. Mrs. Day stated that she thought the opposition indicated that the street was narrow at this point. Dr. Pal stated that Wakefield Chapel changed from four to two lanes at the intersection of Briar Creek Drive just past his property lines.

Chairman Smith inquired if the applicant had any questions and there were not any. He informed the applicant that no matter what happened, he would still be able to continue the use as it presently existed. He stated that he could see a lot of problems if the applicant had to comply with the special permit requirements. Chairman Smith stated that the applicant would need about 13 parking spaces and there were only 5 or 6 provided. Dr. Pal stated that he would only be required to increase the parking if he increased his patient load. Chairman Smith advised him that the 13 parking spaces would be required for the present patient load.

Page 368, May 5, 1981 Board of Zoning Appeals
GOPAL S. PAL, D.D.S.

R E S O L U T I O N

Ms. Day made the following motion:

WHEREAS, Application No. S-81-A-011 by GOPAL S. PAL, D.D.S. under Section 3-203 of the Fairfax County Zoning Ordinance to permit an addition to an existing non-conforming home professional office (dental office) on property located at 4401 Wakefield Chapel Road, tax map reference 70-1((22))14, 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 5, 1981; 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 18,680 sq. ft.

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 8-006 of the Zoning Ordinance, and

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

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 368, May 5, 1981, Scheduled case of

11:30 A.M. COMMUNITY PRESCHOOL, appl. under Sect. 6-301 of the Ord. to allow amendment of S-72-76 (preschool) to permit change of children in ages from 3 - 5 years to 2 - 5 years, located 1625 Wiehle Avenue, Reston Subd., 18-1((1))15, Centreville Dist., PRC, 6.141 ac., S-81-C-010.

The above-captioned application was deferred until July 14, 1981 at 10:00 A.M.

//

Page 369, May 5, 1981, After Agenda Items

Way of Faith Christian Training Center: The Board was in receipt of a request from Ellen Blackwell of the Way of Faith Christian Training Center requesting clarification as to when the temporary classroom trailer had to be removed from the premises. It was the consensus of the Board to extend the use of the trailer for a period of three years effective the date of the granting of the last special permit which was December 9, 1980.

//

Page 369, May 5, 1981, After Agenda Items

Luck Quarries: The Board was in receipt of a letter from Royce Spence concerning an extension of hours for Luck Quarries. It was the consensus of the Board to defer the matter for a period of one week.

//

Page 369, May 5, 1981, After Agenda Items

Sunrise Valley School: The Board was in receipt of a request for an out-of-turn hearing for the Sunrise Valley School. It was the consensus of the Board to grant the request and the hearing was scheduled for June 9, 1981.

//

Page 369, May 5, 1981, After Agenda Items

Elwood Pollis: The Clerk asked the Board for clarification in its resolution regarding the granting-in-part of the variance to Elwood Pollis in which the Board had directed that the two story shed not exceed a maximum height of ten feet. The Clerk asked for direction on the amount of time intended by the Board for the removal of the shed to the ten foot height. It was the consensus of the Board that it had been their intent to allow a period of ninety (90) days for Mr. Pollis to comply with the resolution effective from the date of the hearing of March 17, 1981. The Clerk was directed to so notify Mr. Pollis and Zoning Enforcement.

//

Page 369, May 5, 1981, After Agenda Items

Aline Blake Imler: The Board was in receipt of a letter from Mrs. Aline Blake Imler requesting an extension of the variance, V-80-C-084. It was the consensus of the Board to grant a six month extension which extended the variance until December 10, 1981.

//

Page 369, May 5, 1981, After Agenda Items

F. W. McGrail III & Martha A. McGrail, V-80-S-061: The Board was in receipt of a request from Mr. and Mrs. McGrail for an extension of their variance. It was the consensus of the Board to grant a six month extension which extended the variance until November 6, 1981.

//

There being no further business, the Board adjourned at 2:50 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Jan. 7, 1983

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: January 11, 1983

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 12, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

At 9:15 A.M., the Chairman, Mr. Hyland and Mrs. Day met with Mr. Yates, Mrs. Kelsey, Ms. Harwood and Mr. Covington to discuss the variances filed for Culmore Apartments.

// The Chairman called the meeting to order at 10:35 A.M. and Mrs. Day led the prayer.

Page 370, May 12, 1981, Scheduled case of

10:00 A.M. RECONSIDERATION OF DECISION OF BZA ON MARCH 31, 1981 on JAMES G. GORE, JR., appl. under Sect. 18-301 of the Ord. to appeal the Zoning Administrator's denial of a building permit application, located 1935 Franklin Avenue, Franklin Forest Subd., 41-1((8))21A, Dranesville Dist., R-2, 12,471 sq. ft., A-81-D-002. (DEFERRED FROM MAY 5, 1981 FOR FULL BOARD).

Mr. DiGiulian moved that the Board of Zoning Appeals overrule the decision of the Zoning Administrator in the James Gore appeal. Mr. Yaremchuk seconded the motion. The motion failed by a vote of 2 to 3 (Messrs. Hyland, Smith & Mrs. Day).

Mrs. Day moved that the Board of Zoning Appeals uphold the decision of the Zoning Administrator. Mr. Hyland seconded the motion and it passed by a vote of 3 to 2 (Messrs. DiGiulian and Yaremchuk).

//

Page 370, May 12, 1981, Scheduled case of

10:00 A.M. PATRICK J. & AMBER KEOGH, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition within 9.7 ft. of the side property line (12 ft. minimum side yard req. by Sect. 3-307), located 6881 Churchill Road, Beverly Manor Subd., 30-2((4))(A)9, 10, 11 & 12, Dranesville Dist., R-3, 13,806 sq. ft., V-81-D-042.

Mrs. Amber Keogh of 6881 Churchill Road in McLean informed the Board that she wanted to add a garage to their house. In order to be able to do so, they would have to build to the side lot line closer than allowed by the Zoning Ordinance. She stated that they applied to the Board for a variance under the hardship section. In response to questions from the Board, Mrs. Keogh stated that they owned the property for four years. Chairman Smith inquired as to the reasons the applicant could not construct the garage on the opposite side of the house which would not require a variance. Mrs. Keogh stated that they would probably run into the same problem. She stated that it would be a physical impossibility to build a garage on the opposite side because there was a sharp drop into a little creek that ran into the storm sewer. Mrs. Keogh stated that they could not build anything on that side of the house.

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

Page 370, May 12, 1981 Board of Zoning Appeals
PATRICK J. & AMBER KEOGH

R E S O L U T I O N

In Application No. V-81-M-042 by PATRICK J. & AMBER KEOGH under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition within 9.7 ft. of the side property line (12 ft. minimum side yard req. by Sect. 3-307) on property located at 6881 Churchill Road, tax map reference 30-2((4))(A)9, 10, 11 & 12, 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 May 12, 1981; 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 13,806 sq. ft.
4. That the applicant's property has exceptional topographic problems and has an unusual condition in the location of the existing buildings 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 371, May 12, 1981, Scheduled case of

10:10 A.M. ISMAEL A. & ANA MARIA ZAMUDIO, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport into a garage 12 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6508 Lake View Drive, Lake Barcroft Subd., 61-3((14))383, Mason Dist., R-2, 15,500 sq. ft., V-81-M-045.

Mrs. Ana Maria Zamudio of 6508 Lake View Drive informed the Board that she wanted to enclose an existing carport within 12 ft. of the side lot line. In response to questions from the Board, she stated that they had owned the property for a little more than one year. Mrs. Day inquired as to what was located on each side of the house, particularly on the side of the proposed garage. Mrs. Zamudio stated that at the present time, there was a carport and then the lot dropped off down to the lake. Mrs. Day inquired about what was on the lot next door. Mrs. Zamudio stated that there was a little barn where the neighbor put his trash.

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

Page 371, May 12, 1981 Board of Zoning Appeals
ISMAEL A. & ANA MARIA ZAMUDIO

RESOLUTION

In Application No. V-81-M-045 by ISMAEL A. & ANNA MARIA ZAMUDIO under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport into a garage 12 ft. from side lot line (15 ft. minimum side yard req. by Sect. 3-207), on property located at 6508 Lake View Drive, tax map reference 61-3((14))383, County of Fairfax, Virginia, Mr. Hyland 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 12, 1981; 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 15,500 sq. ft.
4. That the applicant's property has exceptional topographic problems in that the lot is traversed by a large sanitary sewer easement and the lot has converging lot lines.

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 nad/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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 372, May 12, 1981, Scheduled case of

10:20 A.M. LEILA J. & ROBERT M. GAINER, appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, one of which would have a width of 12.5 ft. & the other a width of 29.97 ft. (150 ft. min. lot width req. by Sect. 3-106), located 6419 Chapel View Rd., Chapel View Estates Subd., 76-4((5))3, Centreville Dist., R-1, 5 ac., V-81-C-046.

Mr. Chip Paciulli of Paciulli, Simmons & Associates represented Mr. & Mrs. Gainer. He stated that the application involved a tract of land which was made up of steep slopes. The property was zoned R-1 which would permit five lots but the applicants were only asking for two lots. Mr. Paciulli stated that it was his feeling that this case was such that the strict enforcement of the Ordinance would prevent reasonable use of the land. In response to questions from the Board members, Mr. Paciulli stated that Mr. & Mrs. Gainer had owned the property for five years and planned to continue to live in the existing house. Mrs. Day inquired if the width of the ingress & egress on Chapel View Road was 25.97 ft. Mr. Paciulli stated that the width was 29.97 ft. at the building restriction line. Mrs. Day stated that it looked like Chapel Road narrowed right at the point of the ingress & egress to the property. Mr. Paciulli stated that it was his understanding that it did not and that the road maintained the same width all the way. Mrs. Day questioned the length of the pipestem as it was 340 ft. She inquired as to what was on the property at the present time. Mr. Paciulli stated that there was an existing road on the property which AT&T had built in order to service a line that crossed through the parcel behind the lot. Mrs. Day inquired if there were any letters from neighbors in response to the variance request and Mr. Paciulli stated that they had not received any. Mrs. Day inquired if the applicant's had the permission of AT&T to use the existing road and Mr. Paciulli stated that AT&T would vacate the road once it was built. He stated that Mr. Gainer still owned the road. Mr. Hyland stated that AT&T would give up their right to use the easement.

There was no one else to speak in support of the application. Mr. Dean Gordon Wilson of 6414 Chapel View Road spoke in opposition. He stated that he represented a number of residents who asked him to make a statement on their behalf. Mr. Wilson informed the Board that they had previously delivered a petition to the Board which he assumed was in the file. He informed the Board that the granting of the variance would open the door to further development to the Fairfax Station area through Chapel Road. He stated that the property was one mile from Rt. 123 and that Chapel Road could not accommodate a great deal of traffic He stated that the road was narrow and there had been many accidents. In addition, he stated that the splitting of the pipestem would create a precedent for other property for Chapel Road and would lessen the density. He stated that the residents were greatly concerned about the density. Mr. Wilson informed the Board that a previous attempt to subdivide the adjacent property was denied. Mr. Wilson stated that he believed the denial was because of the amount of frontage which was not satisfactory. Mr. Wilson informed the Board that the opening of Chapel Road to increased traffic would represent a safety problem because of the line of sight. The property was in dense foliage and there had been many accidents. He stated that Chapel Road did indeed narrow at the point of the property in question. Mr. Wilson stated that according to the plat he obtained, it was difficult to determine what the applicants were subdividing as it was not designated on the plan that was mailed out. Mr. Wilson was concerned that the development of the property would tie into an access from Fairfax Station which would create heavy traffic and increase the density on a very narrow road. He stated that the area was heavily populated.

Mr. Hyland questioned the fact that a subdivision for two houses would create additional traffic problems. Mr. Wilson stated that if the Gainers were allowed to subdivide, what would prevent someone else from doing the same thing. He stated that there was no reason to say that the other lots could not be divided in the same manner. Mr. Wilson stated that he was directly across the street from the Gainer property. He stated that the road could not handle the additional traffic. Mr. Wilson stated that most of the neighbors bought their property four or five years ago and liked the seclusion. Mr. Hyland inquired as to the

size of the other lots in the area. Mr. Wilson stated that the normal size was five acre lots. Mrs. Day informed Mr. Wilson that the pipestem would only create access for the two lots and that it would be a private road if it was approved. Mr. Wilson stated that was true but he informed the Board members that Chapel View was a private road but it did not keep people from using it. Mrs. Day inquired as to the width of Chapel View and was informed it was 20 ft. wide. Mrs. Day inquired if it had through traffic on it. Mr. Wilson responded that there was a cul-de-sac at the end of Chapel View. Mr. Hyland inquired as to what indication the residents had that the access would be cut through into the back subdivision. Mr. Wilson stated that he had walked back there and there was construction going on. Mrs. Day inquired if the construction was on smaller lots or whether the development was keeping the five acre sites. Mr. Wilson stated that he did not know the size of the lots.

Chairman Smith questioned Mr. Wilson about the five acre development on a private road. He asked if the road was built to state standards and Mr. Wilson stated that it was not.

The next speaker in opposition was Mr. Vincent Pizzurro of 11401 Chapel Road. He stated that he owned a five acre parcel with two driveways directly across from the pipestem. Mr. Pizzuro stated that he had lived there for 12 years and owned additional acreage in the area. Mr. Pizzurro stated that the problem with the variance was that once it was subdivided, the road would lead to Fairfax Station behind the subject property. Mr. Pizzuro informed the Board that he saw no reason why the developer could not pave that area for a road. Mr. Hyland inquired as to what right he would have to pave that road. Mr. Pizzurro stated that there was nothing to keep the developer from buying it. Mr. Pizzuro stated that Chapel View had two or three accidents during the past year.

There was no one else to speak in opposition. During rebuttal, Mr. Paciulli stated that AT&T had vacated the easement. He stated that as far as access to Fairfax Station, the development plans had been approved and the developer was in the process of building streets. There was no intent to hook up streets between the subdivisions. Mr. Paciulli informed the Board that he was the engineer on the other development and that all of the streets fed out through Fairfax Station. Mr. Hyland inquired if it was possible for the street to come through the subdivision under question and Mr. Paciulli stated that he did not know. He stated that the street was only 40 ft. wide and could not meet the State standards. Mr. Paciulli stated that it was doubtful that a state approved right-of-way could be built through the subject property because of the steep slopes. Mr. Hyland inquired as to who owned the property behind the Gainer lot. Mr. Paciulli stated that the Gainers owned the road. The area was a five acre subdivision. He stated that there were other one acre and half-acre lots in the area also. Mr. Paciulli stated that there were some larger lots but the majority of the lots were 20,000 sq. ft. or 25,000 sq. ft.

Mr. Paciulli stated that there was sight distance from the driveway. He stated that he was concerned about the driveway when he drove in because of the trees to the left. He stated that they had permission to keep the trees trimmed in that area in order to have sight distance.

Chairman Smith stated that the original subdivision was developed into five acre lots and did not come under Subdivision Control. He stated that he could understand why the people were concerned because they felt it would remain that way and are paying for the maintenance of the road in order to keep the area that way. Mr. Paciulli stated that the two lots were out on Chapel Road and they had the right to subdivide if they chose. Chairman Smith stated that may be correct if they could comply with the Ordinance. However, the applicants were asking for a variance in order to subdivide. Chairman Smith stated that he failed to see a hardship. He stated that the applicants had purchased the property knowing the conditions and knowing that it was developed under the 5 acre development plan.

Mr. Charles Frick of 1156 Chapel Road informed the Board that he was the owner of lot 1 and was the President of civic association. He informed the Board that he had purchased his lot from Mr. and Mrs. Williams. Mr. Frick stated that his concern was the density of the area. He stated that he was concerned about further development in this area.

R E S O L U T I O N

In Application No. V-81-C-046 by LEILA J. & ROBERT M. GAINER under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, one of which would have a width of 12.5 ft. and the other a width of 29.97 ft. (150 ft. minimum lot width required by Sect. 3-106) on property located at 6419 Chapel View Road, tax map reference 76-4((5))3, County of Fairfax, Virginia, Ms. Day 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 May 12, 1981; 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 5 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 reasonable use of the land and/or buildings involved.

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

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 2 (Messrs. DiGiulian and Yaremchuk).

Page 374, May 12, 1981, Scheduled case of

10:30 A.M. MELVIN KAUFMAN, appl. under Sect. 18-401 of the Ord. to allow construction of additions to residence to 7 ft. from side lot line (15 ft. minimum side yard req. by Sect. 3-207), located 4109 Duncan Drive, Chestnut Hills Subd., 59-3((11)) 8, Annandale Dist., R-2, 22,000 sq. ft., V-81-A-047.

Mr. Melvin Kaufman of 4109 Dundan Drive in Annandale informed the Board that the topography of his lot did not allow for the construction of the garage anywhere else on the property other than as proposed. He stated that the driveway was very steep. Mr. Kaufman stated that several times during snow, he had to park his cars and put on the brakes and the car had rolled back. Mr. DiGiulian inquired if the applicant were going to enclose an existing area and was informed he was. Mr. Kaufman stated that he had a screened porch behind the garage next to the pool area.

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

RESOLUTION

In Application No. V-81-A-047 by MELVIN KAUFMAN under Section 18-401 of the Zoning Ordinance to allow construction of additions to residence to 7 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 4109 Duncan Drive, tax map reference 59-3((11))8, 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 12, 1981; 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 22,000 sq. ft.
4. That the applicant's property has exceptional topographic problems 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:

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 375, May 12, 1981, Scheduled case of

10:40 A.M. DENNIS AND ABBY BROWN, appl. under Sect. 18-401 of the Ord. to allow the construction of an addition to dwelling to 16.4 ft. from the rear lot line (25 ft. min. rear yard req. by Sect. 3-207) located 1724 Hollinwood Drive, Mason Hill Subd., 93-3((18))52, Mt. Vernon Dist., R-2, 19,500 sq. ft., V-81-V-049.

Mr. Dennis Brown of 1724 Hollinwood Drive informed the Board that he was asking for a variance in order to build an extension on their kitchen area. He presented the Board with additional photographs and architectural plans for their review. Mr. Brown discussed the problem he had which necessitated the request for the variance. He informed the Board that photos no. 1 & 2 showed the steep terrain which caused the house to be built at the rear of the lot. Photo no. 3 showed the steep and heavily wooded terrain adjacent to the kitchen. Photo no. 4 showed the facade of the house.

In summary, Mr. Brown stated that the steep and wooded site with the house all the way to the rear of the lot necessitated the request for the variance. Mr. Brown stated that at the present time, they had a small galley kitchen which they wished to extend. He stated that they had sent letters to all of their neighbors and five of them approved of the addition. Mr. Brown stated that his house was old and he had been improving it over the last five years. He stated that most of his neighbors were in favor of the improvements.

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

RESOLUTION

In Application No. V-81-V-049 by DENNIS & ABBEY BROWN under Section 18-401 of the Zoning Ordinance to allow the construction of an addition to dwelling to 16.4 ft. from the rear lot line (25 ft. minimum rear yard required by Sect. 3-207) on property located at 1724 Hollinwood Drive, tax map reference 93-3((18))52, 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 May 12, 1981; 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 19,500 sq. ft.
4. That the applicant's property has exceptional topographic problems 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 376, May 12, 1981, Scheduled case of

10:50 A.M. JOHN T. GEARY, appl. under Sect. 18-401 of the Ord. to allow the construction of dwelling to 25 ft. from a street line (30 ft. minimum front yard req. by Sect. 3-407), located 6230 Radcliff Road, Belle Haven Subd., 83-3((14))(13)10, Mt. Vernon Dist., R-4, 12,894 sq. ft., V-81-V-050.

Mr. John T. Geary and Mrs. Sally Geary of 1503 Wake Forest Drive in Alexandria informed the Board that their property was located at the corner of Belle Haven Drive and Radcliffe in the Belle Haven subdivision. Mr. Geary stated that there were approximately 288 homes in the subdivision. He stated that the R-4 zoning required a 30 ft. front setback. He told the Board that his corner lot had double front setback requirements. Mr. Geary explained to the Board that he was requesting a variance in order to build 25 ft. from Belle Haven and he would retain the 30 ft. from Radcliff. Mr. Geary presented the Board with a sketch of his proposed dwelling. He informed the Board that the adjacent home to the west was 25 ft. from the property line. The adjacent home on the other side belonged to the Flynns and was also located 25 ft. from the property line. He also stated that another home next to him was located 15 ft. from the property line and was situated on a cul-de-sac. Mr. Geary stated that the original homes for Belle Haven were for the most part situated at the 25 ft. setback. Mr. Geary stated that he had a contract for the property in 1978 at such a time when the setback requirement was only 25 ft. and it was later changed to 30 ft.

Mr. Geary informed the Board that the sidewalks on Belle Haven were an additional strip of land so that the distance from the curb would actually be 52 ft. instead of 25 ft. He stated that there was a large visual setback because of the right-of-way of Belle Haven Road. Mr. Geary stated that he would be in conformance with the adjacent homes if his variance was approved.

Mr. Hyland inquired if there was any other way to locate the house without requiring a variance. Mr. Geary stated that this was the only way his proposed dwelling would fit according to his engineers, Copeland and Kephart. He stated that he did not have any flexibility whatsoever. Under the present configuration, the building would be crammed into the minimum distance on three sides and it would touch the building restriction line on three sides as it was that tight. Mr. Geary read a portion of a letter of support from the Belle Haven civic association.

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

RESOLUTION

In Application No. V-81-V-050 by John T. Geary under Section 18-401 of the Zoning Ordinance to allow the construction of dwelling to 25 ft. from a street line (30 ft. minimum front yard required by Sect. 3-407) on property located at 6230 Radcliffe Road, tax map reference 83-3((14))(13)10, County of Fairfax, Virginia, Mr. Hyland 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 12, 1981; 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 12,894 sq. ft.
4. That the applicant's property is a corner lot with double front yard requirements and the proposed location of the house would conform to existing Belle Haven properties.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 377, May 12, 1981, Scheduled case of

11:00 A.M. PETER & W. A. KLAASSEN, appl. under Sect. 18-401 of the Ord. to allow an addition to dwelling within 19 ft. of front property line (35 ft. min. front yard req. by Sect. 3-207), located 9657 Blake Lane, Willow Point Subd., 48-3((19((3, Providence Dist., R-2, 43,957 sq. ft., V-81-P-051.

Mr. Peter Klaassen of 9657 Blake Lane in Fairfax informed the Board that when they had granted his wife a special permit to operate a preschool on the property next door, he and his wife bought this property in August of 1979 and moved into it in October of 1979. Mr. Klaassen informed the Board that the house had been built about the turn of the century and was moved to its present location in 1920. Mr. Klaassen stated that the house was very narrow and was not very well insulated. In 1955, some of the property had been sold off. Mr. Klaassen stated that the house was non-conforming because in 1955, 25 ft. had been dedicated to public use. Chairman Smith stated that the house was non-conforming only as to the setback and not the use. Mr. Klaassen stated that the house was old and had quite a few deficiencies. He stated that he and his wife wanted to take advantage of the house by adding an addition which would extend the existing living room area and enclose the porch. Mrs. Day inquired if the porch was existing and was informed by Mr. Covington that it was. Mr. Klaassen informed the Board that he wanted to put in a solar system with glass panels and he was asking for a variance.

Chairman Smith inquired if this house was the one with the preschool and Mr. Klaassen told him the preschool was located on the property next door. Chairman Smith inquired as to why the addition could not be built elsewhere on the property. Mr. Klaassen stated that he wanted to extend the living room and dining room and not use the other side. He stated that he wanted to make it a general area with light and heat. The addition would be used for a sum room. He stated that the proposed changes would make the addition parallel all the way across. Chairman Smith inquired if there would be any teaching at this house and Mr. Klaassen stated that his wife taught at the property next door. Mr. Klaassen informed the Board that he would be coming back to the Board in a short period of time to build an addition at the school. Chairman Smith informed Mr. Klaassen that there was a lot of room at the back of the house on which to build the addition. Mr. Klaassen stated that the addition had to be functional. Mrs. Day inquired as to what was in the back yard. Mr. Klaassen stated that the back yard was all grass with treees and was very open. Mrs. Day stated that it appeared there was a shed which was very close to the lot line. Mr. Klaassen informed her that the shed was there when he purchased the property.

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

RESOLUTION

In Application No. V-81-P-051 by PETER & W. A. KLAASSEN under Section 18-401 of the Zoning Ordinance to allow an addition to dwelling within 19 ft. of the front property line (35 ft. minimum front yard required by Sect. 3-207), on property located at 9657 Blake Lane, tax map reference 48-3((19))3, County of Fairfax, Virginia, Ms. Day 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 12, 1981; 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 43,957 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property as 25 ft. was dedicated for street use and the proposed addition will be parallel with the existing 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 378, May 12, 1981, Recess

At 11:55 A.M., the Board recessed for lunch and reconvened at 12:40 P.M. to continue with the scheduled agenda.

//

Page 378, May 12, 1981, Scheduled case of

11:15 A.M. BARBARA SMITH REALTY, appl. under Sect. 3-203 of the Ord. to permit home professional office (real estate), located 2651 Oakton Glen, Oakton Glen Subd., 38-3((39))71, Centreville Dist., R-2(C), 10,500 sq. ft., S-81-C-013.

Ms. Barbara Smith of 2651 Oakton Glen Drive informed the Board that she was asking for a home professional office. She stated that she worked primarily with builders in her office and needed the office for her mail. She stated that she did need additional parking spaces and would not have anyone in the office. Chairman Smith inquired if Ms. Smith was a broker and she stated that she was. Chairman Smith inquired as to the number of people to be employed. Ms. Smith stated that three people worked with her but all worked directly for a builder and were not required to be licensed. Mrs. Day inquired as to how the people worked for a builder but were considered to be employees of Mrs. Smith. Mrs. Smith stated that they were really the builder's employees but she held their license as a courtesy. Ms. Smith stated that she worked with builders and had done a number of studies in addition to working on subdivisions. Mrs. Day inquired if Ms. Smith advertised any of the properties. Ms. Smith stated that she needed a sign to comply with the Virginia license laws. Mrs. Day inquired as to what Ms. Smith did if people came to her door. Ms. Smith responded that the entrance to her office would be at the rear of the house and she intended to place the sign at the rear. Mrs. Day inquired as to why Ms. Smith needed the office at her home. Ms. Smith stated that the office was necessary to house her computer and to receive her mail. In response to further questions from the Board, Ms. Smith stated that she had had her broker's license for about 5 years. Chairman Smith inquired as to what part of the office would contain the office. Ms. Smith stated that she had a 12'x12' room which was separated from her house and had a separate entrance. She stated that it was at the rear of her garage and set on a slab behind the garage. Mrs. Day stated that as a broker, Ms. Smith could expand her business right away. Ms. Smith stated that she did not have the space in

Page 379, May 12, 1981
BARBARA SMITH REALTY
(continued)

her home for anyone but herself. She stated that she intended to stay that way and continue with what she was working on. Mrs. Day stated that if that was the case, Ms. Smith could set up an office at the builder's office. Ms. Smith stated that it was a nightmare to keep going through the moving process and going through the whims of the builder. Mrs. Day stated that her concern was that Ms. Smith would expand the business at her home. She was afraid that Ms. Smith would not be able to control the clients and advertising. Ms. Smith informed Mrs. Day that the builders did their own advertising and sent the prospects to another location. She stated that she was the owner of her home and did not intend to detract from her home.

Mr. DiGiulian inquired if Ms. Smith would have any employees working for her at the home and was told she would not. Chairman Smith inquired if there were any employees to answer the phone. Ms. Smith stated that she had an answering machine and her son. Chairman Smith inquired about the square footage of the office. Ms. Smith stated that the room was 12'x12' Mrs. Day inquired if Ms. Smith was going to depreciate that portion of her home for her business. Ms. Smith stated that she had not ever done that in the past and would have to ask her tax advisor. Chairman Smith inquired as to how long she had owned the property and she informed him she purchased it 2½ years ago and was the original owner.

There was no one else to speak in support of the application. Mr. Normand Fisette of 2658 Oakton Glen Drive informed the Board that he was speaking neither for or against the proposed use. He stated that he had spoken with Ms. Smith and could sympathize with her problem. He stated that the only question he had was that if this special permit were granted, would it preclude any others from establishing an office in their home. Chairman Smith advised Mr. Fisette that every application was considered on its own merit without constraints. Mr. Fisette informed the Board that he could not object to the request since there was no traffic.

Chairman Smith inquired as to whether the sign Ms. Smith referred to would be visible from the street. Ms. Smith stated that the sign would be at the rear of the residence over the door to the room. Chairman Smith stated that the 12'x12' room would be the only one that could be used in the business and that Ms. Smith could not have any employees. Ms. Smith stated that she could not afford a secretary at the present time.

Page 379, May 12, 1981 Board of Zoning Appeals
BARBARA SMITH REALTY

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-81-C-013 by BARBARA SMITH REALTY under Section 3-203 of the Fairfax County Zoning Ordinance to permit home professional office (real estate) on property located at 2651 Oakton Glen, tax map reference 38-3((39))71, 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 12, 1981; 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(C).
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 8-006 fo 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 furthe action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
3. This approval is granted for the buildings and uses indicated on the plans submitted with this application. Any additional structures of any kind, ghanges 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

RESOLUTION

approval of 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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

7. There shall be no employees.

8. The sign shall be located in the rear of the dwelling.

9. This permit is granted for a periof of three years.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Smith).

Page 380, May 12, 1981, Scheduled case of

11:30 A.M. ST. STEPHEN'S UNITED METHODIST CHURCH PRESCHOOL & MOM'S FREE DAY, appl. under Sect. 3-203 of the Zoning Ord. to amend S-120-79 for existing preschool for children 6 months through 5 years & to expand the enrollment from 100 to 200 children, located 9203 Braddock Road, 69-4((1))19A, C, D & E, Annandale Dist., R-2, 7.184 ac., S-81-A-014.

Ms. Jean Gordon of Springfield informed the Board that she was requesting to amend an existing special permit to expand the enrollment at the preschool from 100 to 200 children. She stated that they wished to increase the number since the church was now on sewer. She informed the Board that the church had been restricted back in 1973 and had developed a long waiting list of about 75 children. Chairman Smith informed the Board that the original permit was granted for a period of 5 years with the Zoning Administrator empowered to grant three one-year extensions. Chairman Smith advised the Board that the only changes requiring amendment were the ages of the children and the number of children allowed. Ms. Gordon stated that the hours and the ages would remain the same as before. She stated that they only wished to increase the number of children.

Mr. Covington advised the Board that the school had never obtained an occupancy permit and would need someone to come in and obtain one. Ms. Gordon stated that the school was part of the church and she thought it would come under the same occupancy permit as the church. Mr. Covington advised her that they were separate uses and required separate occupancy permits.

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

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-81-A-014 by ST. STEPHEN'S UNITED METHODIST CHURCH PRESCHOOL AND MOM'S FREE DAY under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-120-79 for existing preschool for children 6 months through 5 years and to expand the enrollment from 100 to 200 children, on property located at 9203 Braddock Road, tax map reference 69-4((1))19A, D & 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 Appeals held on May 12, 1981; 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 7.184 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

381

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 200.
8. The hours of operation shall be 8:30 A.M. to 3:30 P.M., Monday through Friday.
9. The number of parking spaces shall be 167.
10. All other requirements of S-120-79 not altered by this resolution shall remain in effect.
11. This special permit is subject to the applicant obtaining an occupancy permit.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 381, May 12, 1981, After Agenda Items

John Hanson: The Board was in receipt of a request from John Hanson for an out-of-turn hearing for the variance application of Charlene B. Oliver, V-81-M-087. It was the consensus of the Board to grant the request and the hearing was scheduled for June 23, 1981.

//

Page 381, May 12, 1981, After Agenda Items

C. S. Koch: The Board was in receipt of a request from Mrs. C. S. Koch for an out-of-turn hearing for a variance application. It was the consensus of the Board to grant the request and the hearing was scheduled for June 16, 1981.

//

Page 381, May 12, 1981, After Agenda Items

Eleanor Thompson: The Board was in receipt of a request from Mrs. Eleanor Thompson for an extension of the variance V-80-P-080. It was the consensus of the Board to grant a six month extension.

//

Page 381, May 12, 1981, After Agenda Items

Luck Quarries: The Board was in receipt of a request from Mr. Royce Spence for an extension of hours for Luck Quarries. After a long discussion regarding the request, it was the consensus of the Board that such a change could only be accomplished through a public hearing process and not as a minor engineering change. The Clerk was instructed to so notify Mr. Spence and to provide him the forms for filing an amendment.

//

Page 382, May 12, 1981, After Agenda Items

Church of Jesus Christ of Latter-Day Saints, S-80-S-001: The Board was in receipt of a request from Mr. Carlton Price for approval of a revised site plan involving the Mormon church located at 6944 Sydenstricker Road in Springfield to reduce the number of parking spaces to be provided from 181 to 166. It was the consensus of the Board to grant the request since the 166 parking spaces met the minimum amount of parking required based on the seating capacity of the sanctuary.

//

Page 382, May 12, 1981, After Agenda Items

David C. Molumby, V-212-79: The Board was in receipt of a request from Mr. William E. Donnelly, III seeking an extension of the variance for David C. Molumby which allowed a subdivision into 5 lots. It was the consensus of the Board to grant the request and allow a six month extension which would expire on November 20, 1981.

//

Page 382, May 12, 1981, After Agenda Items

Monastery of the Poor Clares: The Board was in receipt of a request from Mr. Bill Enderlee regarding the screening for the monastery of the Poor Clares. The trees which were planted outside of the monastery were dying off because of a lack of water. The nuns were not allowed to leave the confines of the monastery and could not take water to the trees. Mr. Enderlee was seeking permission from the Board of Zoning Appeals not to have to replace the trees. It was the consensus of the Board to refer the matter to the County Arborist.

//

Page 382, May 12, 1981, After Agenda Item

Roderick M. & Virginia E. Gillies, V-259-78: The Board was in receipt of a request from J. E. Rinker & Associates seeking approval to resubdivide lots 5, 6, 19A & 19B in order to relocate a 20 ft. driveway for the variance granted to Roderick M. & Virginia E. Gillies. The Board of Zoning Appeals denied the request as it involved land which was not originally included in the variance application and, therefore, could not be resubdivided as a minor engineering change.

// There being no further business, the Board adjourned at 1:50 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Jan. 7, 1983

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: January 11, 1983
Date

The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, May 14, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. MICHAEL T. & SANDRA K. HALEY, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 15 ft. from rear lot line (19 ft. minimum rear yard req. by Sects. 3-307 & 2-412), located 7693 Middle Valley Drive, Middle Valley Subd., 98-1((5))9, Springfield Dist., R-3(C), 9,348 sq. ft., V-81-S-052.

Mr. Michael T. Haley of 7693 Middle Valley Drive informed the Board that his neighbors would not be affected by his proposed deck as his lot was located on a cul-de-sac which backed up to parkland containing a floodplain easement. Mr. Haley stated that the Park Authority had no objections to his plans to construct a deck. He stated that his neighbor to the right had a lot of trees and his house set far back on the property so that the deck would not be visible. Mr. Hyland inquired if there were trees on the left to screen the deck but Mr. Haley stated there were not. However, the lot at the left was at an angle. Mr. Haley informed the Board that his proposed location for the deck was the only place on his property where a deck could be constructed because his lot was very narrow.

There was no one else 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-81-S-052 by MICHAEL T. & SANDRA K. HALEY under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 15 ft. from rear lot line (19 ft. minimum rear yard required by Sects. 3-307 & 2-412) on property located at 7693 Middle Valley Drive, tax map reference 98-1((5))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 May 14, 1981; 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(C).
3. The area of the lot is 9,348 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

RESOLUTION

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 384, May 12, 1981, Scheduled case of

10:10 A.M. JAMES R. & PATRICIA G. LARKIN, appl. under Sect. 18-401 of the Ord. to allow construction of family room addition to dwelling to 22.8 ft. from rear lot line (25 ft. minimum rear yard req. by Sect. 3-207), located 7725 Timon Drive, McLean Hamlet Subd., 29-2((5))52, Dranesville Dist., R-2, 11,051 sq. ft., V-81-D-053.

Mr. Lawrence Boehly of Boehly-Young Partnership of 1091 Rocky Run Road in McLean represented Mr. & Mrs. Larkin. He stated that he was an engineer and had been asked to speak on Mr. & Mrs. Larkin's behalf as they were not able to attend the hearing. Mr. Boehly informed the Board that the rear yard was significantly encroached on and the rear lot line was overgrown with plants. He stated that the lot was small and irregular in shape. Mr. Boehly stated that due to the shape of the house, the proposed location for the addition was the ideal location. He stated that the addition would be a sun-room to reduce the heating requirements as it would have solar capacities. In addition, there would be a place for plants and it would create a lighted area for the Larkins.

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

RESOLUTION

In Application No. V-81-D-053 by JAMES R. & PATRICIA G. LARKIN under Section 18-401 of the Zoning Ordinance to allow construction of family room addition to dwelling to 22.8 ft. from rear lot line (25 ft. minimum rear yard req. by Sect. 3-207), on property located at 7725 Timon Drive, tax map reference 29-2((5))52, 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 May 14, 1981; 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 11,051 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0.

Page 385, May 14, 1981, Scheduled case of

10:30 A.M. CULMORE NUMBER TWO, INC. & OMNI GROUP CO., CONTRACT OWNER, appl. under Sect. 18-401 of the Ord. to vary the R-20 district min. yard requirements set forth in Sect. 3-2007 and to vary the peripheral parking lot landscaping requirements of Sect. 13-107 to allow the conversion of an existing multiple-family development to condominium. The variance application may be viewed in the Clerk to the Board of Zoning Appeals' Office, property located at Leesburg Pike & Glen Carlyn Drive, Section Two, Culmore Subd., 61-2((19))1, Mason Dist., R-20, 9.9 ac., V-81-M-035.

&

CULMORE NUMBER ONE, INC. & OMNI GROUP CO., CONTRACT OWNER, appl. under Sect. 18-401 of the Ord. to vary the R-20 District min. yard requirements set forth in Sect. 3-2007 and to vary the peripheral parking lot landscaping requirements of Sect. 13-107 to allow the conversion of an existing multiple-family development to condominium. The variance application may be viewed in the Clerk to the Board of Zoning Appeals' Office, property located at Leesburg Pike & Glen Carlyn Drive, Section One, Culmore Subd., 61-2((13))1, Mason Dist., R-20, 16.07 ac., V-81-M-036.

Mr. Hyland informed the applicant that he had several questions and concerns regarding the variance applications. He stated that he had read the staff report and the Planning Commission's recommendation. Mr. Hyland stated that his concern was whether the application was properly before the Board of Zoning Appeals because of the existing Ordinance which required a condo conversion to be considered a subdivision and if there was a question of a variance with respect to condo conversion, he felt it should be more appropriately before the Board of Supervisors by way of a Special Exception. He stated that each BZA member had received a request from Supervisor Moore and four other Board members asking the BZA to request a change in the Ordinance to make these applications a matter of a Special Exception. Mr. Hyland moved that the Board defer decision on the applications for a period of 60 days to give the Board of Supervisors an opportunity to consider emergency legislature to permit this type of matter to come before the Board of Supervisors as a matter of a Special Exception. Mrs. Day seconded the motion. Mr. DiGiulian asked that the applicant be given an opportunity to address the motion. Mr. DiGiulian stated that he did not agree with the motion and that he felt the application was a proper application and that the BZA should proceed with the hearing. Chairman Smith stated that he felt the BZA had the right to defer it for a period of 60 days and it would not be an inconvenience.

Mr. Martin D. Walsh of 1336 Linn Lane in McLean represented the applicants. He stated that the applications were filed under the existing Ordinance and the Board of Zoning Appeals had the authority to hear it. He stated that the applications were filed 60 days ago and the applicants had been waiting patiently for the hearing. He stated that the Board of Supervisors had had adequate time to enact emergency Ordinances if they wanted. He stated that he felt the matter should be decided by the BZA as scheduled. Mr. Walsh stated that he felt it was unfair to defer the applications at this point. He stated that he did not feel that the matter was terribly controversial. Mr. Walsh informed the Board that the settlement date was scheduled for June 30th. Both the land owner and the contract owner were present at the hearing. Mr. Walsh stated that they had done everything they were legally obligated to do according to the Zoning Ordinance. He requested the Board to hear the application and make a decision this date.

Chairman Smith stated that it appeared that there were a number of Board members who were concerned about the number of variances being sought in both of the applications. He stated that in all probability, the BZA did not have jurisdiction to make a decision in the matter simply because of the number of variances. He stated that some Board members felt that the legislative body should be given an opportunity to review the matter. Mr. Walsh argued that the BZA did have the right to grant the variances. He stated that the impact was only a few feet and that the impact and type of variances were not severe. He did agree that there were a number of variances being sought. Mr. Walsh stated that there was not adequate parking but he stated that it could be provided by cutting down trees and using some of the open space for more parking. He informed the BZA that the parking matter would have to go before the Board of Supervisors. Mr. Walsh stated that if the applications were deferred for a period of 60 days, the BOS would not act until the 60th day. Then if they had to file a special exception, they would have to wait another 60 days and possibly the matter would be deferred for another 30 days. Mr. Walsh stated that it was unreasonable.

Chairman Smith stated that the property owner did not have a hardship. Mr. Hyland informed Mr. Walsh that he was missing one point which he wanted to make for the record. Mr. Hyland stated that there was some concern on the part of the BZA members which may or may not make up a majority that the matter before them was not properly before the BZA. Mr. Walsh argued that it was a legal question. Mr. Hyland agreed but he stated that the applicants would have to live with the results. Mr. Hyland stated that it was the conversion which created the hardship. Some of the BZA members felt that it should more appropriately be handled by the Board of Supervisors. Mr. Hyland stated that if the applicants did not get three votes, they would not gain anything. Mr. Hyland informed the applicant that he would be willing to defer the matter for a period of 30 days if it helped the applicant. Mrs. Day seconded the motion. Mr. Walsh argued that this type of variance had been presented and decided and litigated by the BZA in Arlington by a tenant group. He stated that the matter had been upheld by Judge Brown in Arlington. Mr. Walsh stated that he thought the County Attorney's Office should comment on whether the applications were properly before the BZA.

Mr. Yaremchuk inquired if the matter was properly before the BZA or whether there was some question about the application. Ms. Karen Harwood of the County Attorney's Office stated that the Zoning Ordinance permitted variances to setbacks in yard requirements to be heard by the BZA. She stated that she believed what Mr. Hyland and Chairman Smith were concerned about was Sect. 15.145 of the Ordinance which dealt with the powers and duties of the BZA and which stated that the BZA did not have the power to rezone property. She stated that they were questioning that if the variance were granted, that the variance in effect was changing the setbacks and bulk regulations for the district. Mr. Yaremchuk stated that the property was zoned R-20 and had been for quite some time. Ms. Harwood stated that when Culmore was built, it conformed with the Ordinance in effect at that time. She stated that it was the change of converting Culmore to condominium which caused the non-conformity. Ms. Harwood stated that some of the Board members were concerned about the number of variances requested changing the bulk regulations. Mr. Yaremchuk stated that if the applicant was changing the zoning or the land use that it should go to the Board of Supervisors. Mr. Yaremchuk stated that in this case, it was not a change of use. He stated that the BZA had had as many 20 different variances for houses along Braddock Road but the BZA granted the variances from a safety standpoint. Mr. DiGiulian stated that the buildings were all existing in this variances and no one was moving anything. He stated that this was just a change in the setback requirements because of the new Ordinance. Mr. DiGiulian stated that he felt the BZA had a proper application before it and should proceed with the hearing. Mr. Yaremchuk inquired as to the feeling of the Zoning Administrator regarding the applications. Ms. Kelsey stated that this was a proper application for a variance and it had been accepted for a hearing by the BZA. Mr. Yaremchuk inquired as to what had happened since it was accepted to make the majority of the Board members feel differently. Chairman Smith stated that the BZA only wanted to defer the matter for a period of 30 days. He stated that this was the first case the BZA had ever had with respect to condo conversion.

Mr. William Frogale, President and owner of Culmore No. 1 and 2, informed the BZA that the Omni Group had a contract which would not hold up. He stated that he did not need to go to the Board to convert to condominium and could convert without going to any Board. He stated that what concerned him was the elderly citizens. He stated that many of the elderly citizens were being chased into Prince William County. Mr. Frogale stated that he had not raised the rent for the past six months. Mr. Frogale stated that all of the surrounding property had been converted. Mr. Frogale stated that he was not making any money on this project. Mr. Frogale stated that he felt his rights were being jeopordized. He stated that he knew Judge Brown, Sr. and the judge had always kept the BZA apolitical. Mr. Hyland informed Mr. Frogale for the record that the motion he made, he would have made whether he received the letter from Supervisor Moore or not. Chairman Smith stated that Mr. Frogale was making this a political issue. He stated that the BZA was appointed by the judges. Chairman Smith stated that he felt the BZA did not have the authority to hear the applications. He stated that was the question that had been under discussion for several days. He stated that the deferral would have happened whether the BZA received the request from the Board of Supervisors. Mr. Frogale stated that he had been the property owner for the Salvation Army property and he indicated that this was a repeat of the Salvation Army hearing proceedings. Chairman Smith informed Mr. Frogale that the BZA had nothing to do with the Salvation Army hearing. Chairman Smith stated that this application was an unusual case and was the first case the BZA had ever received with respect to conversions. He stated that the BZA had some concern. Mr. Frogale stated that there should be some law about the Board of Supervisors trying to influence this. He informed the Board that the County could not afford to knock out businesses. Chairman Smith stated that Mr. Frogale was being unfair to the BZA and perhaps the hearing should not continue. Mr. Frogale informed the BZA that he was the only landlord that gave his senior citizens a discount. Chairman Smith stated that Mr. Frogale had the right to argue the merits of the case at the time of the public hearing. Mr. Frogale stated that the BZA could not defer the hearing. Mr. Hyland inquired as the date of settlement. Mr. Frogale stated that the contract specified that conversion be by May 31st.

Mr. Frank Standerall of 4755 Winterset Drive in Columbus, Ohio, informed the BZA that he was the contract purchaser. He stated that the partnership was in Ohio and that the Omni Group consisted of two other partners. Mr. Standerall stated that Mr. Walsh was correct that closing had be to completed by June 30th but he stated that the contract also provided that the variances be secured by May 31st. On May 31st, Omni could proceed or terminate the contract. He stated that Mr. Frogale always had the right to terminate the contract. Mr. Standerall stated that the property could be converted with the zoning but it would be a costly procedure. He stated that if the BZA was really concerned, they should consider that factor. He stated that the developer could not assume that cost and the additional cost would not benefit the consumer at all. Mr. Yaremchuk inquired if the apartments were going to be refurbished. Mr. Standerall stated that they would be. He informed the Board that Omni Group had converted the Claremont Project and had been very successful. Mr. Yaremchuk inquired if a price had been set and was informed not at this time. Mr. Standerall stated that they would have degrees of pricing for the same unit. Mr. Yaremchuk inquired as to the time market. Mr. Standerall stated that it was hard to say but he indicated that they would start the conversion in the fall of 1981 or the first quarter of 1982. Mr. Yaremchuk inquired as to why a 30 day deferral would hurt them. Mr. Standerall stated that Omni

would not have any rights under the contract after May 31st. Chairman Smith stated that this was an existing building and it did not infringe on any contract as far as the variance. He stated that if Mr. Frogale and the Omni Group were patient, then the interests of the residents and the elderly could be protected and it would not cause an unreasonable hardship on the applicants. Mr. Walsh stated that he had talked to the Zoning Administrator. He stated that the BZA had a list of unauthorized variance and no where did it say that the BZA could not grant more than one variance. Chairman Smith stated that the request for the deferral was to see if there was a better way to handle the application. Chairman Smith stated that his position on the matter would not have changed whether or not the BZA had received any communication from the Board of Supervisors. He stated that he only wanted to determine if there was a better way of handling the application. Mr. Yaremchuk inquired as to why the Chairman was trying to find a problem or creating problems. Chairman Smith stated that he was finding it hard to see the hardship in the application. Mr. Yaremchuk stated that if that was the case, what would the 30 day deferral accomplish. Chairman Smith stated that it would allow the staff an opportunity to determine if there was a better way to handle the variance.

After further discussion, Mr. Hyland withdrew his motion because he had strong feelings that the contract should not fall through because of the deferral. He stated that would be a very undesirable result. Mr. Yaremchuk stated that it was asset to have an attorney on the BZA. Chairman Smith informed the BZA that there was a meeting with staff scheduled for 11:30 A.M.. He also stated that the BZA schedule was at a point where a special meeting could be scheduled before the end of May to accommodate the variance applications. The Board recessed the hearing at 11:40 A.M. to meet with staff and to have lunch. At 12:50 P.M., the Board reconvened the meeting and the hearing on the variance was initiated.

Mr. Martin D. Walsh, an attorney, represented the applicants. He informed the Board that the Culmore Apartments were developed in 1950 in compliance with the Zoning Ordinance in effect at that time. The condominium conversion was considered a subdivision and required compliance with the existing Zoning Ordinance. Mr. Walsh stated that they had applied for variances to correct the non-conformity. He indicated that there would not be a change in the property physically. They would maintain the residential mode but it would no longer be a rental situation. He stated that if the apartments continued in the rental mode, the conditions would not have to be varied. Mr. Walsh stated that the variances fell into several classes. The first class was the building to building variance requests. Mr. Walsh outlined the requested variances for Culmore, Section 2, as follows:

Var. No.	Bldg. to Bldg. or Prop. Line		Req. Setback	Exist. Setback	Var. Requested
1	32	33	22.00 Feet	19.61 Feet	2.39 Feet
2	37	Rear	25.00 Feet	13.58 Feet	11.42 Feet
3	39	Rear	25.00 Feet	21.39 Feet	3.61 Feet
4	34	35	45.00 Feet	44.90 Feet	0.10 Feet
5	36	37	30.00 Feet	24.84 Feet	5.16 Feet
6	37	38	45.00 Feet	37.70 Feet	7.30 Feet
7	38	39	45.00 Feet	29.93 Feet	15.07 Feet
8	39	40	23.00 Feet	20.93 Feet	2.07 Feet
9	40	41	45.00 Feet	23.36 Feet	21.64 Feet
10	41	42	45.00 Feet	29.97 Feet	15.03 Feet
11	42	43	20.00 Feet	19.79 Feet	0.21 Feet
12	43	Rear	25.00 Feet	9.21 Feet	15.79 Feet

Mr. Walsh stated that they were willing to comply with the voluntary guidelines addressed in the staff report and he indicated that they had made that representation before the Planning Commission. Chairman Smith stated that Mr. Walsh had outlined the requested variances and now he inquired as to the hardship of the peripheral parking. Mr. Walsh stated that the parking lot was located on an abutting property which was presently vacant. Mr. Walsh stated that there was a request to waive the required setback from the parking to the property line. Chairman Smith inquired as to the owner of the abutting property and was informed that Mr. Frogale owned it. Chairman Smith stated that it could not be considered a hardship. Mr. Yaremchuk questioned the 45 ft. required setback for variances 9 & 10. Mr. Doug Fall of Dewberry & Davis, 8411 Arlington Blvd., informed Mr. Yaremchuk that three buildings were situated in a certain relation to each other so that the rear or front of one building projected into the front or rear of another building. He stated that it was that relation that established the setback in the Ordinance. Mr. Yaremchuk stated that a casual, visual inspection made the buildings appear the same. Mr. Fall stated that was correct. He stated that the buildings presented to danger or threat to the health or safety of anyone.

Chairman Smith stated that the variances were requested in order to allow the conversion of a multi-family development to a condominium. He informed Mr. Walsh that the applicants did not have a hardship as they were allowed to use the property as rental property. Mr. Walsh stated that was true. However, he stated that should a fire occur, the buildings would not be allowed to be reconstructed. Mr. Walsh stated that the standards for variances

as addressed in Sect. 18-404 were met by the applications. In addition, he stated that the State Code stated that the strict application of the terms of the Ordinance should not unreasonably restrict the use of the property. He argued that it had been shown in Arlington cases that by restricting or by not allowing the conversion of property to condominium was considered a hardship. Mr. Walsh stated that it approached confiscation. Chairman Smith stated that Mr. Walsh was citing a case in Arlington that did not reflect the issues as in this case. Mr. Hyland inquired if the factors were the same. Mr. Walsh stated that they were as it produced a hardship which was not generally shared by other properties. Mr. Hyland asked Mr. Walsh to show him a copy of the case cited. Chairman Smith stated that the matter under consideration was somewhat different from the case in Arlington. Mr. Walsh stated that there had been a number of the condo conversions that had not been before the BZA. Chairman Smith stated that any similar conversion to condominium should be done through a Special Exception process. Mr. Yaremchuk stated that was not before the BZA at this time.

Mr. John Rose of 3606 Whispering Lane in Falls Church informed the Board that he was not speaking against the converstion but he wished to speak in reference to the manner in which it was being done. He stated that he lived in the Lake Barcroft area. He stated that he had been asked by Father Nagle to respond to the public hearing. Mr. Rose stated that he had a deep involvement with the Vietnam refugees. He stated that his experience with the Vietnam citizens had been influenced by such conversions. Mr. Rose stated that there was a connection between these conversions. He stated that after his first Vietnamese family had resided in his home for one year, they had left a level of family relationships. Mr. Rose stated that he had been advisor, father, and had enjoyed long evening talks with his Vietnamese family for a period of years. He stated that he had gained insights that he could not have obtained any other way. Mr. Rose stated that one insight was that the bridge to support a new refugee involved low income housing. He stated that for the low income housing to be such a bridge, it had to be located in a certain place. It had to be within reach of special schools and have all other factors for mobility. Mr. Rose stated that the Culmore Apartments represented such a bridge. Mr. Rose stated that the churh's objections involving the condominumum conversion dealt with a loss of dignity and pride and sense of hope that recovery was possible. Mr. Rose stated that the Vietnamese needed to be self-sufficient within the first six months of their growth. He stated that they needed to add to the tax base rather than to the welfare rolls. Mr. Rose stated that the manner to achieve those gaols was to restrict the families to developing within the homes of those Vietnamese who had been here for a number of years. The second step was to get them on their own and move them with their first job. He stated that many were not able to work at high paying jobs because of the language barrier. They attend school and many work for low wages. Mr. Rose stated that a definite part of the critical phase was to move the families into their own apartment that they were paying for to give them their dignity and pride. Mr. Rose stated that if the rent were paid by welfare, it was very hard for them to make the switch after four of five years of welfare. Mr. Rose stated that they had to move out of the support stage from one individual or Uncle Sam and begin paying their way with their own paychecks. Mr. Rose stated that these individuals were on a fixed income. Mr. Rose stated that he did not come to the public hearing with the idea of stopping the conversion. He stated that the owner should be benefitted. He recognized that it would be a disservice to say that the owner could not convert to condominium. Mr. Rose stated that he hoped the Board would consider the fact that the conversions could sweep through the whole community making a short term profit but leaving little islands in a sea of welfare. He stated that serious consideration should be given to allowing discounts for critical cases of elderly and refugee populations. Mr. Rose urged the BZA to follow the guidelines set up by the Board of Supervisors.

There was no one else to speak in support or opposition to the variance applications. Mr. Walsh presented the information pertaining to the second variance request. He stated that Section I was zoned R-20 and consisted of 16.07 acres with 258 units. Omni Group was the contract purchaser. The buildings had been constructed in 1950 in compliance with the Code in effect at that time. Mr. Walsh stated that the conversion to condominium was considered a subdivision and necessitated variances to the Ordinance because of the non-conformity which had existed since 1950. Mr. Walsh stated that they would make the same use of the property as before except that it would condominium ownership. Mr. Walsh outlined the requested variances to Section I as follows:

Var. No.	Bldg. to Bldg. or Prop. Line		Req. Setback	Exist. Setback	Var. Requested
1	2	3	35 Feet	29.99 Feet	5.01 Feet
2	5	6	30 Feet	29.97 Feet	0.03 Feet
3	11	12	20 Feet	19.25 Feet	0.75 Feet
4	12	14	20 Feet	19.90 Feet	0.10 Feet
5	16	17	45 Feet	29.57 Feet	15.43 Feet
6	17	7	35 Feet	25.01 Feet	9.99 Feet
7	17	18	30 Feet	24.59 Feet	5.41 Feet
8	18	19	30 Feet	25.00 Feet	5.00 Feet
9	19	20	30 Feet	24.25 Feet	5.75 Feet
10	22	23	33 Feet	25.52 Feet	7.48 Feet
11	24	25	30 Feet	25.01 Feet	4.99 Feet

Page 389, May 14, 1981
CULMORE NUMBER ONE, INC. & OMNI GROUP CO., CONTRACT OWNER
& CULMORE NUMBER TWO, INC. & OMNI GROUP CO., CONTRACT OWNER
(continued)

Mr. Walsh stated that the waiver for landscaping was outlined in red at the north end of the property which abutted land owned by Mr. Frogale. Mr. Walsh stated that at the present time the parking was located right on the property line. The property next door could be developed into commercial. If so, the developer would be required to provide transitional screening between the commercial development and the existing R-20 on Sections I & II.

In summary, Mr. Walsh informed the Board that the situation regarding the setbacks had existed since 1950. He stated that the hardship was the fact that the buildings were in compliance until the time of the conversion. Mr. Walsh stated that when the property was listed, the lender could require the property to meet the existing zoning just to obtain the refinancing. Mr. Walsh stated that Sect. 18-404 included the location of the buildings on the property which was the primary reason for the variances being requested. Mr. Walsh stated that the property did not conform to the parking and the building setbacks. He stated that the strict application of the Code would unreasonably restrict the use of the property. He stated that the hardship in these applications were not shared generally by the other properties. He indicated that the granting of the variances would not be a detriment to the area.

Chairman Smith informed Mr. Walsh that his comments regarding refinancing where a lender would require the investor to obtain a variance did not seem accurate since the property would be in compliance. Mr. Walsh stated that one of the assurances the lending institutions wanted was what if the project burned down as to whether it could be rebuilt. Mr. Yaremchuk stated that if more than 50% of the project burned, it could be rebuilt within the existing footings. Ms. Harwood stated that the Board might be splitting hairs. She stated that the zoning requirements had to be considered as a whole. She indicated that because of the change in the Ordinance, the building was considered non-conforming and was not illegal but only non-conforming. Mr. Walsh again stated that the applicants agreed to comply with the voluntary guidelines of the Planning Commission. He further stated that it was the practice of the Omni Group to offer discounts to the elderly and the handicapped. He stated that the low income situation would be addressed. Mr. Hyland stated that Mr. Rose had been concerned about the refugees and the possibility that there be a meeting between the purchaser and Housing and Community Development in terms of the conversion project. Mr. Walsh stated that they would be willing to meet with H&CD. He stated that all requests would be considered on an individual basis. For the record, Mr. Hyland again asked as to Mr. Walsh's position that the hardship was or was not created by the condo conversion itself. Mr. Walsh stated that the hardship related to the buildings and the change in the Ordinance which deemed them to be in non-conplfance. He stated that the buildings were non-conforming under the definition of the Zoning Ordinance. He indicated that the fact that the applicant could continue to use the property as a rental had nothing to do with the condominiums. Mr. Walsh stated that the buildings were non-conforming as to the rental. Mr. Walsh stated that the property could continue to be rented but it would not change the non-conformity. Chairman Smith stated that the applicant had the use of the property and the use had not been affected in any way.

Chairman Smith closed the public hearing. Mr. Hyland stated that the consensus of the BZA was to defer decision on the variance matter until Tuesday evening, May 19th. Mr. Hyland stated that he wanted to make it very clear that he was sensitive to the contract provisions no matter what the Board of Supervisors might do during the coming week which might affect this particular case or any other case. Mr. Hyland stated that he would be prepared to vote on the matter on May 19th unless the Board of Supervisors provided the applicants with the relief that they were seeking from the BZA. Mr. Hyland informed the applicant that he thought they were entitled to the relief but he had some concern about the source of the relief. Mr. Hyland moved that the Board defer decision in the matter until Tuesday evening, May 19th at 9:30 P.M. Mrs. Day seconded the motion and it passed by a vote of 4 to 1 (Mr. DiGiulian).

//

Page 389, May 14, 1981, Scheduled case of

11:15 A.M. SPRINGFIELD SWIMMING AND RACQUET CLUB, INC., appl. under Sect. 3-303 of the Ord. to permit construction of admissions control booth and closing of entrance to parking lot, located 7401 Highland Street, Crestwood Subd., 80-1((5))(52)1, Springfield Dist., R-3, 3.7492 ac., S-81-S-017.

Mr. Dale R. Joerling, Member of the Board of Directors for the Springfield Swim and Racquet Club, located at 5807 Amelia Street in Springfield informed the BZA that this was a community pool with 525 members. He stated that the club operated a pool and four tennis courts. Mr. Joerling stated that the club directors had decided to make two minor modifications to the club property. He indicated that the club had not considered them major enough to come back to the Board. He stated that since that time the club had been informed that the construction of the admissions control booth to monitor the people entering or leaving the pool would require a public hearing. Mr. Jerling stated that the booth was within the fence confines surrounding the pool itself and was not visible from the street. He added that,

390

unfortunately, the booth had been constructed rather quickly without benefit of a building permit. Mr. Joerling stated that the second change involved the closing of the entrance to Amelia Street from the parking lot. He stated that four iron posts had been set in cement to close off the entrance. Mr. Joerling stated that kids liked to race their cars there and squel their tires. In addition, the kids used the parking lot to slide their cars around on the snow and ice. Mr. Joerling stated that the parking lot situation had been a serious situation. Cars had been struck on Amelia Street by cars racing through and going out of control destroying property and shrubbery. Mr. Joerling stated that people living in the area used this street to go to and from the pool including women with baby carriages.

Mr. Hyland inquired as to the other entrances to the club and was informed that Highland Avenue was the main entrance. Mr. Hyland inquired as to the reason for the second entrance on Amelia Street and Mr. Joerling stated that he was not certain. Mr. Hyland stated that it made it more difficult to control with two entrances. Mr. Joerling stated that the club had checked with the Fire Department before closing off the Amelia Street entrance and was informed that the entrance was too small and steep for the fire equipment. Mr. Joerling stated that in December, the club had presented a petition to take immediate action to close the entrance to its club members at the annual meeting. He stated that at the annual meeting, only one club member had expressed any displeasure to the closing. Mr. Joerling informed the BZA that the club had decorated the area with flags to make people aware of the closed entrance.

Mrs. Patricia Stasik of 5805 Amelia Street stated that she had lived across the street from the pool's entrance for 13 years. She stated that she personally considered the entrance to be a public nuisance particularly since there was another entrance which was available to all automobiles. She stated that the children walking and on bicyles could still use the entrance on Amelia Street and would be protected from the auto traffic on Highland Avenue. Mrs. Stasik stated that the open entrance on Amelia Street was dangerous to the children playing on the sidewalk. She stated that during the 13 years she had resided there, she had witnessed many incidents which were considered dangerous. She stated that in the early years of the club's existence, she had experienced tire tracks in her yard. She stated that she could picture someone driving into the side of her home. Mrs. Stasik stated that another time, her neighbor had a car go into the parking lot from the Highland Street entrance and had missed the turn and ended up in the neighbor's yard. Over the years, there had been any number of youngsters driving their cars at high speed and exiting at Amelia Street. She stated that if they missed the turn, they would end up in someone's yard. Mrs. Stasik stated that she felt it was a safety measure to close off the entrance from Amelia Street.

Mr. George Bousselaire informed the Board that he had been a member of the club since 1964 and was opposed to the closing of Amelia Street. He indicated that perhaps speed bumps at both entrances would have been a better alternative. Mr. Bousselaire stated that the Board of Directors had acted unilaterally on the closing of the entrance at the end of the season. Mr. Bousselaire stated that with respect to accidents, there were not any police records indicating that any accidents had occurred at that location. He stated that traffic went up and down Highland Street just as much as Amelia. Mr. Hyland inquired if the subject of the closing of Amelia Street had been on the Board's agenda at the annual meeting and Mr. Bousselaire stated that it had. Mr. Hyland inquired as to the number of persons present at the meeting and was informed there was a quorum consisting of about 30 people. Mr. Bousselaire stated that the only action at the meeting was not a vote but a statement that the club would file an application with the BZA to close Amelia Street driveway. Mr. Boysselaire stated that the vote to file had passed by a majority vote.

Mrs. Virginia Kohls of 7214 Doncaster in Springfield informed the BZA that she lived on a corner lot and had experienced people cutting across her lot. Mrs. Kohls stated that she was concerned that the closing of Amelia Street had taken place when the pool was closed. She indicated that once it had happened, there was not much interest in the letter sent out by the Board of Directors. Mrs. Kohls stated that she had some concern for some of the same reasons as stated by Mr. Bousselaire. She stated that she was concerned about the children playing in the parking lot as the parking lot was rather small. She stated that there was not any place to back up when people were leaving all at once. She stated that the parking lot was not lined. Mrs. Kohls stated that the club was established with two entrances. She stated that Amelia was good place to leave the parking lot because it had good visibility. She stated that there were brick pillars and trees on Highland Avenue which obstructed the view of the drivers. By closing Amelia, it forced all of the traffic onto a very busy street. She stated that the traffic referred to with regard to squealing tires came from the park and not the club. Mrs. Kohls stated that the Board of Directors should have considered other alternatives rather than closing Amelia Street. She stated that the parking lot should be lined off and should have speed bumps put in. Mrs. Kohls informed the Board that the admissions control booth was a very good structure and she was not opposed to it. Mrs. Kohls was concerned that people used to using Amelia Street would continue to use it by parking their cars in the street. She stated that at the annual meeting, there was not an agenda as such and the closing was not listed as an agenda item. She stated that the subject had been raised in the general letter sent out. Mrs. Kohls stated that she had talked to several members and they felt that the BZA should make the decision in this matter. Mr. Hyland informed Mrs. Kohls that he felt it was the club's decision to make.

Page 391, May 14, 1981
SPRINGFIELD SWIMMING AND RACQUET CLUB, INC.
(continued)

Mrs. Kohls informed the BZA that 3 of the Board of Directors lived on Amelia Street. She stated that 13 of 15 members voted and the 3 that lived on Amelia Street were not a majority. Mr. Hyland advised Mrs. Kohls that if the BZA decided to let the entrance stay closed, then when the members started using it and wanted it changed back, it would take another public hearing. Chairman Smith stated that the application was approved under the plat that was submitted and he indicated that it would take action by the BZA to change anything. He stated that he had not heard justification for closing the entrance and he felt it would better serve the interests of the club to keep it open. Mr. DiGiulian stated that he was not a BZA member at the time of the original granting. However, he stated that he did know that the entrance on Highland was close to the intersection with Amelia Street and was heavily travelled. Mr. DiGiulian stated that he wanted an opportunity to take a look at the club site on a Saturday.

Mr. Bousselaire stated that if the decision was left to the membership, he wanted the entrance left open. He stated that it had been illegally closed and the barriers were already up. He stated that the Board of Directors had not gone to the County before taking the action to close it. Mr. Hyland stated that was why the matter was before the Board at this time.

During rebuttal, Mr. Joerling presented the BZA with a copy of the fall newsletter which was sent to the membership of the club. He stated that a copy of the portion pertaining to the closing of the pool was prominently displayed. He stated that the Highland Street entrance was used by a vast majority of their membership. He stated that he had tested the entrance and there was not any visible problems. Mr. Joerling stated that he did not want the BZA to get the wrong idea about the Board of Directors. He stated that if the membership had come to them and raised concerns, they would have considered other alternatives. Mr. Hyland inquired if there were any proxies at the annual meeting and Mr. Joerling stated that he was only aware of two. Mr. Joerling stated that the closing of Amelia Street was to keep people from congregating after school in the club parking lot. He stated that the closing had solved what they were concerned about.

Mrs. Day moved that the BZA defer decision on the matter until the Board members could go and inspect the property. Mr. DiGiulian seconded the motion and it passed unanimously. The Board scheduled the decision for June 2, 1981 at 12:35 P.M.

//

Page 391, May 14, 1981, Scheduled case of

11:45 A.M. TOBY CEDAR, appl. under Sect. 18-401 of the Ord. to allow an addition to a dwelling to be erected within 10.5 ft. of the front property line (30 ft. min. front yard req. by Sect. 3-307), located 1601 H Street, New Alexandria Subd., 83-4((2))(10) 17 & 18, Mt. Vernon Dist., R-3, 7,000 sq. ft., V-81-V-027. (Deferred from April 14, 1981 for Notices.)

Mr. Toby Cedar of 1601 H Street in Alexandria informed the Board that he wanted to add an 16'x25' addition to his home which would stick out from the present building lines. He stated that he had a substandard lot and that his house was presently within the requirement. Mr. Cedar stated that he needed a variance to build in the front as it was impossible to build on the side because he had a very narrow lot. In addition, he informed the Board that he had a corner lot. In response to questions from the Board, Mr. Cedar stated that he had owned the property for five years.

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

Page 391, May 14, 1981 Board of Zoning Appeals
TOBY CEDAR

R E S O L U T I O N

In Application No. V-81-V-027 by TOBY CEDAR under Section 18-401 of the Zoning Ordinance to allow an addition to a dwelling to be erected within 10.5 ft. of the front property line (30 ft. minimum front yard required by Sect. 3-307) on property located at 1601 H Street, tax map reference 83-4((2))(10)17 & 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 14, 1981; and

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

RESOLUTION

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 7,000 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in the location of the existing buildings on the subject property and is a substandard 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 392, May 14, 1981, Scheduled case of

12:00 NOON ROSE HILL BAPTIST CHURCH, appl. under Sect. 3-303 of the Ord. to amend an existing special use permit for a church to allow the addition of a gymnasium and Sunday School classroom, located 4905 Franconia Road, 82-3((1))5, Lee Dist., R-3, 149,122 sq. ft., S-81-L-007. (Deferred from April 14, 1981 for Notices.)

The Board was in receipt of a letter from Pastor Upshaw seeking a cancellation of the hearing. It was the consensus of the Board to allow a deferral for a period of 90 days to accommodate the church.

//

Page 392, May 14, 1981, After Agenda Item

Leila J. & Robert M. Gainer, V-81-C-046: The Board was in receipt of a letter from Mr. Chip Paciulli requesting a rehearing or reconsideration of the variance application of Leila J. & Robert M. Gainer which was denied by the BZA. Mr. Hyland moved that the Board grant the request and hold a reconsideration hearing. Mr. DiGiulian seconded the motion. The motion passed by a vote of 4 to 1 (Mr. Smith). The matter was scheduled for July 7, 1981 at 10:00 A.M.

//

Page 392, May 14, 1981, After Agenda Item

Doniphan and Brown, V-80-D-041: The Board was in receipt of a request for an extension on the variance granted to Mr. Doniphan and Mr. Brown. Mr. DiGiulian moved that the Board grant a six month extension. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

//

Page 392, May 14, 1981, After Agenda Items

Congressional School: The Board was in receipt of a telephone request from the Congressional School seeking permission to build a 24'x10' temporary shed to house horses for its summer program. Chairman Smith informed the Board that the school had had a lot of problems in the past and he urged them to request the school to submit their construction plans. It was the consensus of the Board to follow the Chairman's direction.

//

393

Page 393, May 14, 1981, After Agenda Item.

EXECUTIVE SESSION: At 2:30 P.M., the Board recessed the meeting to meet in Executive Session to discuss legal matters involving the Exxon Station court case from 1976. Mr. Symanski of the County Attorney's Office discussed a settlement of the court case with the BZA. At 3:00 P.M., the Board reconvened into public session.

Mr. Hyland moved that the BZA authorize the County Attorney to settle the following law suits in accordance with the terms of the provisions agreed upon which were presented to the BZA in Executive Session: Wagner vs. BZA, At Law No. 139065; Board of Supervisors vs. BZA, At Law No. 39115; Wagner vs. BZA At Law No. 39525 and Wagner vs. BZA, In Chancery No. 52581. Mr. DiGiulian seconded the motion and it passed by a vote of 5 to 0.

// There being no further business, the Board adjourned at 3:05 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the BZA on January 7, 1983

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: January 11, 1983
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, May 19, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman called the meeting to order at 8:15 P.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 8:05 P.M. case of

8:05 P.M. TIMOTHY L. BRYAN, appl. under Sect. 18-401 of the Ord. to allow construction of detached one-car garage 15.5 ft. in height, 2 ft. from side lot line & 1 ft. from rear lot line (10 ft. min. side yard req. by Sects. 3-407 & 10-105), located 2106 Forest Hill Rd., Belle Haven Subd., 83-3((14))(19)15, Mt. Vernon Dist., R-4, 7,500 sq. ft., V-81-V-041.

Mr. Timothy Bryan of 2106 Forest Hill Road in Alexandria informed the Board that he had purchased his home in April of 1978 and had lived on the property for a little over three years. He stated that he had planned to continue living at the property for the rest of his life. Mr. Bryan stated that he was interested in his building proposals to be in the best interests of Fairfax County, his neighbors and himself. He informed the Board that when he had purchased his house in April, the Board of Supervisors amended the Zoning Ordinance. He stated that when he purchased the older home, he had anticipated some improvements. Mr. Bryan stated that he proposed to build a garage but it required a variance. The justification for the variance was that the lot was very small and shallow. Mr. Bryan stated that his lot was substandard as it contained only 7,500 sq. ft. Mr. Bryan informed the BZA that his house was not in compliance with the current Zoning Ordinance. Mr. Bryan stated that by the fact that his lot was substandard, it was impossible to comply with the Ordinance requirements and still be able to negotiate the driveway. He stated that his lot was sloped at a little to the left side and that there was a 1½ ft. brick retaining wall to keep the ground from moving onto the driveway and into the terrace. Mr. Bryan stated that it would be a deep financial hardship if he had to abolish the retaining wall. In addition, he stated that he was not certain what effect it would have on the drainage. Mr. Bryan stated that there was only 20½ ft. between the property line and the retaining wall. He stated that he proposed to build a garage in that area. He informed the Board that there was a very lovely tree on the property line which he would do whatever he had to in order not to damage it. Mr. Hyland inquired as to the location of the tree. Mr. Bryan stated that it was on the left side of the property nearby where the front portion of the proposed garage would be. Mr. Bryan stated that if he had to narrow the garage to keep the tree, he would do so.

Mr. Bryan stated that another point which was critical to the variance, was that the location proposed, in the opinion of his neighbors and in the opinion of a real estate person, was that it would be the ideal location for a detached garage. He stated that if the garage was put in the corner of the property, that it would impact less on the three remaining properties behind him. He stated that the garage would be lower and have less impact at his proposed location. He stated that if he had to meet the Ordinance requirements, the garage would be much higher as his property sloped and therefore, would be more visible to the other three properties. Mr. Hyland inquired as to where the water would be channeled that came off of the roof. Mr. Bryan stated that he had asked his architect to address the question of runoff He stated that the garage would be sloped to divide the impact of the water. He stated that his architect had informed him that there would not be any significant amount of drainage other than what had already existed. He stated that he would increase the size of his driveway which would also enhance his property. Mr. Bryan stated that he was very confident that the drainage would not affect the adjoining properties. Mr. Hyland inquired as where the water would flow and was informed that the slope ran towards the back of the property.

Mrs. Day inquired as to what was located on lot 14 that would be parallel to the proposed garage. Mr. Bryan responded that his neighbor had a house that was 40 years old which had a porch on it that was non-livable. He stated that the house was up very high and looked out over his property. He stated that the Board would be hearing from this neighbor. Mrs. Day inquired if there was anything in the back corner of lot 14 and was informed that the area was undeveloped as it was very rough. Mr. Bryan stated that the property owners of lot 4 would be also speak about the variance later. Mrs. Day inquired about lot 5 and was informed that the neighbor was very much in favor of the variance. He stated that he had signed statements from this neighbors immediately behind, lot 4 and lot 5. In addition, he stated that his neighbor to the east did not object and was in favor of the garage.

Chairman Smith inquired as to why a 15 ft. building was necessary. Mr. Bryan responded that he was trying to keep the garage compatible with the area he was living in. He stated that the slope of the garage would match the slope of the house. Chairman Smith inquired if the applicant planned to have a loft in the garage and Mr. Bryan stated that he would use the area for storage and it would have steps which was the reason for the 15 ft. height. Mr. Bryan asked to introduce his architect to talk to the beauty of the garage but Chairman Smith stated that he was only interested in the reason for the infringement on the rear setback.

Page 395, May 19, 1981
TIMOTHY L. BRYAN
(continued)

Mr. Yaremchuk stated that the lot was shallow and that prior to 1978, the applicant could have built the detached garage 2 ft. from the rear and side lot lines without any kind of a variance. Chairman Smith stated that it could not be constructed under the current Ordinance and the Board did not need to go into the previous Ordinance. Mr. Yaremchuk stated that the subdivision was 40 years old and that most of the garages in the area were within 2 ft. of the lot lines. He stated that now the applicant was caught and had to get a variance because of the change in the Ordinance. Mrs. Day inquired of Mr. Bryan as to how he would get around the garage if he had to make repairs. Mr. Bryan stated that there was a fence on the property line but he indicated that the structure would be such that it would not have much repair. Mrs. Day stated that a wood frame would have to be painted. Mr. Bryan stated that with the treatment he would put on it, it would not require much maintenance in the future. Mr. Hyland stated that a wood structure would have to be painted at some time in the future. He asked if it was possible to paint it from inside the property line or whether the applicant would have to go onto the neighbor's property. Mr. Bryan stated that it would be maintained on his property.

Mr. Frank Quinn of 2110 Forest Hill Road spoke in support of the variance. He stated that he resided two houses away to the west. He informed the Board that he would be able to see the garage from his back yard. He stated that the overall design would enhance the neighborhood. He informed the Board that the Belle Haven community was one of the oldest communities. Mr. Quinn stated that they needed to get the cars off of the street. He stated that he believed a majority of the neighbors supported the variance. Mr. Yaremchuk inquired if there were a lot of garages in the area. Mr. Quinn responded that there were some detached and attached garages. Some of the garages were on the property lines. He indicated that it varied from house to house. He stated that directly across the street from his house was a two car garage right on the property line.

The next speaker in support of the application was Mr. Robert Nichols who owned the property with Mr. Russell. He stated that they were the owners of lot 4 which was behind Mr. Bryan's home. Mr. Nichols stated that he moved to Belle Haven in the 40s. He stated that he had seen many changes in the community as well as new residents. Mr. Nichols stated that he found the plans of Mr. Bryan to be very pleasant and pleasing to the eye. He stated that the garage would affect him greatly but it would afford him some privacy. He stated that he had a converted garage which presently served as a den. Mr. Nichols stated that he was looking forward to the privacy. Mr. Nichols stated that he was in support of the variance.

There was no one else to speak in support of the application. Mr. Miller Blair, an adjacent property owner to the west, spoke in opposition. Mr. Blair stated that he was concerned about the impact of the garage and the integrity of the restrictions. He presented the BZA with photographs and the layout of his property. He stated that the pictures were taken from the east side. He informed the Board that his lot sloped from the front to the back. Mr. Blair stated that the living room was at one level and the basement was at ground level. He stated that he had porch at the back of the house which he lived in 5 months of the year. He stated that the porch was glassed in with a sliding glass doors. He stated that the tree which was discussed by Mr. Bryan was supported by poles which were 15 ft. high. Mr. Blair stated that the topography on Mr. Bryan's property sloped towards his property. Mr. Blair stated that the garage in addition to being 15 ft. high, would have a 2 ft. foundation. Mr. Blair stated that the 17 ft. high garage would affect his porch on the back of his house. He stated that the nearest corner of his porch was 20 ft. from the garage. He stated that due to the length of the proposed garage, it would block his view. Mr. Blair stated that most of the people who had looked at the plans including contractors had volunteered that the construction would affect the tree and damage its roots. Mr. Blair stated that the sale value of his property would be impaired by the garage. He gave the BZA a letter from a real estate firm confirming his statement. Chairman Smith stated that the Board would accept the letter for the record. Mr. Yaremchuk stated that the citizens should have gone to the County's Assessments Office for a real estate statement. Mr. Blair stated that there was a difference between the assessment and what the home could be sold for. Mr. Blair stated that with respect to other garages, most of the people in the area did not park their cars in them because they were much too narrow for today's cars. He stated that half of the garages had been converted to permanent rooms for one thing or another. With respect to the integrity of the restrictions, Mr. Blair stated that the citizens relied on them when they purchased their homes. He stated that he did not see where there should be any changes in the restrictions. Mr. Blair stated that the applicant had not shown that by not granting the variance that his property would be restricted.

Mr. Yaremchuk informed Mr. Blair that the pictures of his yard indicated that he had a beautiful yard. Mr. Yaremchuk inquired if Mr. Blair would accept a modification to the variance if the height of the garage were lowered. Mr. Blair stated that it would not help his situation because of the elevation of the property. He stated that because there was a difference in elevation, the garage would still be higher than his porch. Mr. Blair stated that he did not want a garage in the back corner at all.

Mrs. Kathryn Paulsen of 2200 Forest Hill Road also spoke in opposition. She stated that her home was located two lots away from Mr. Bryan. She stated that a free standing building of the sort requested was out of character with the Belle Haven area where 85% of the garages were attached. She stated that the back yards were open and that such a garage would change

and alter the neighborhood. Chairman Smith stated that the garage was not in harmony with the area.

The next speak in opposition was Mr. Jack Donovan who informed the Board that he had lived in the Belle Haven community for 35 years. He stated that he was opposed to any type of garage in the back of the houses. He stated that once you allowed one to have one, then the whole character of the area would change.

During rebuttal, Mr. Bryan stated that his proposed garage was not out of character as there were numerous other garages which he had outlined in yellow on a map. He stated that many people did not have ready access to the back yards. Mr. Bryan presented the Board with a sketch of his garage showing that it would blend in with the character and setting of the Belle Haven area. Mr. Bryan reemphasized his hardship to the Board which was that his lot was very shallow and the location of the retaining wall limited the location for the proposed garage. He stated that if he moved his garage over into the middle of the back yard, he would have to landscape the entire back yard. In addition, he stated that it would put the garage more in view of the neighbors towards the back. Mr. Hyland inquired if it was possible to construct the garage in the back yard and still comply with the requirements. Mr. Bryan responded that he thought he could but it would be very difficult and it would impact on the neighbor's porch still. Chairman Smith inquired as to why the applicant could not turn the proposed garage around and drive into it. Mr. Bryan stated that it would still have to be moved back 15 ft. and it would knock down a retaining wall and it would still not change the view of the neighbor. Mr. Bryan stated that his neighbor's objections was not to the variance but to the garage itself. In addition, he stated that it would impact on five neighbors. Mr. DiGiulian suggested that the applicant turn the garage 90° and meet a rear setback of 7 ft. Mr. Bryan stated that it would still impact on 3 of his neighbors.

Page 396, May 19, 1981 Board of Zoning Appeals
TIMOTHY BRYAN
(continued)

R E S O L U T I O N

In Application No. V-81-V-041 by TIMOTHY L. BRYAN under Section 18-401 of the Zoning Ordinance to allow construction of detached one-car garage 15.5 ft. in height, 2 ft. from side lot line & 1 ft. from rear lot line (10 ft. minimum side yard required by Sects. 3-407 & 10-105) on property located at 2106 Forest Hill Road, tax map reference 83-3((14))(19)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 May 19, 1981; 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 7,500 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 1 (Mr. Hyland).

Page 396, May 19, 1981, Scheduled case of

8:15 P.M. PHYLLIS LANGTON STEWART, appl. under Sect. 18-401 of the Ord. to allow construction of swimming pool in front yard (accessory structure or use in any front yard on any lot containing 36,000 sq. ft. or less not permitted by Sect. 10-105), located 1403 Kurtz Rd., Salona Village Subd., 30-2((14))19, Dranesville Dist., R-2, 22,653 sq. ft., V-81-D-066.

Dr. Stewart of 1403 Kurtz Roard informed the Board that her front yard was the only place where she could construct a pool because the property was situated on a corner lot and had double front yard requirements. Dr. Stewart advised the Board that her house was situated further back on the lot than was required by the Ordinance and was more than 60 ft. from the

front property line. She stated that because of the location of her home on the lot, the area she had to build was greatly reduced. The only other area available at the back of the lot was not suitable because of the erosion problem and the drainage. She stated that she had purchased the property in May 1979 & had a house with water every time it rained. She stated that she solved the problem of water in her basement by moving dirt and grading the yard. The builder had advised her not to disturb that area since it had stabilized and she stated that she did not want a wet basement again.

Dr. Stewart pointed out to the Board that the pool was for therapeutic reasons and not for pleasure. She informed the Board that she had been in an auto accident in 1978 and needed to have a place for swimming when she came home late at night. Dr. Stewart informed the Board that there was another pool built in the front yard in her area which had been constructed 8 years ago when a variance was not required. Dr. Stewart stated that she had a letter from the Salona Village civic association indicating that they did not make favorable recommendations towards zoning variances but indicating that they had not received any opposition from the neighbors with respect to her request. Dr. Stewart informed the Board that her neighbors were not offended by her request. She stated that she had gone to all of her neighbors including the Wilson and no one objected.

Mr. Yaremchuk stated that he was interest in the back yard of Dr. Stewart's property as there was not any curb or gutter. He asked if there was any catch basin along the street. Dr. Stewart replied that she did not remember if there was one. She stated that the area behind her home was spread out and it all drained out towards her basement area. She stated that she had dug a trench all the way around the house. Mr. Yaremchuk inquired if she could construct a pool in the back yard. Dr. Stewart stated that if constructed in the back yard, it would have to have heavy retaining walls to hold the water. In addition, there were 12 trees in the back which would have to be removed. Mr. Yaremchuk stated that he was concerned about pools in the front yard. He stated that if it was feasible, it would be more desirable to build the pool in the back. He realized that it would cost more and he also stated that he was aware that the pool people wanted to take the area with the least resistance. Mr. Covington informed Mr. Yaremchuk that if the lot contained 36,000 sq. ft. or more, the pool could go in the front yard by right. Chairman Smith stated that the restriction was a reasonable one. He indicated that there was a way around it by attaching it to the home. He asked Dr. Stewart if she planned to cover the pool. Dr. Stewart stated that she did not plan to cover it but it would be heated and used from April through November. She stated that she would have a 4 ft. fence around the pool. Chairman Smith stated that a corner lot was a general condition which existed throughout Fairfax County. He advised Dr. Stewart that he was sympathetic to her need but not to the variance to the square footage requirement. He stated that it was part of the Ordinance, whether it was right or wrong. Dr. Stewart informed the Board that there was a precedent for having pools in the front yard. Chairman Smith stated that he was not aware of anytime the BZA granted a variance to this particular requirement. He stated that it had never happened. Mr. Yaremchuk inquired as to the number of months Dr. Stewart intended to use the pool since it was to be heated. She responded that it would be used from April through November and that it would have a spa in it. She advised the Board that she had tried swimming at the Smith Center and at Watergate but it did not work out because of her work schedule.

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

RESOLUTION

In Application No. V-81-D-066 by PHYLLIS LANGTON STEWART under Section 18-401 of the Zoning Ordinance to allow construction of swimming pool in front yard (accessory structure or use in any front yard on any lot containing 36,000 sq. ft. or less not permitted by Section 10-105) on property located at 1403 Kurtz Road, tax map reference 30-2((14))19, 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 May 19, 1981; 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 22,653 sq. ft.
4. That the applicant's property has exceptional topographic problems and has a substantial amount of trees that would have to be removed if the pool were constructed in accordance with the setback requirements.

398

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 398, May 19, 1981, Scheduled case of

8:25 P.M. SOMERSET-OLDE CREEK RECREATION CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend existing Special Use Permit for community recreation club to allow construction of a 22'x27' picnic pavilian, located 9705 Laurel St., Somerset Subd., 58-3((12))A1, Annandale Dist., R-2(C), 5.091 ac., S-81-A-015.

Mr. Calvin Allen, President of the Board of Directors of the swim club and residing at 4111 Maple Avenue in Fairfax, informed the BZA that the swim club had operated since September 15, 1966. He indicated that the hours of operation were from noon to 9 P.M., seven days a week, and that the club consisted of 50 family memberships totalling 219 members. Mr. Allen stated that there were usually 3 to 4 lifeguards on the premises. He stated that there was not much traffic & the general area served was the local community. Mr. Allen informed the BZA that the club needed the picnic pavilian to enhance its facilities and to increase the enjoyment of their members.

There was no one else to speak in support of the application. The following persons spoke in opposition. Mr. George Everett Hopson of 9719 Limoges Drive informed the Board that he was an adjacent property owner to the pool. He stated that he also represented the property owners at 9715 Limoges Drive; 9717 Limoges Drive; 4217 Minton Drive; 4219 Minton Drive and 4215 Minton Drive. He informed the Board that all of these people had all been adjoining property owners for 15 years or more. He stated that they recognized that the pool had made application to build a 22'x27' pavilian but they had concerns which needed to be raised to the BZA. Mr. Hopson advised the BZA that the original special permit stated that a fence would be placed at the entranceway around the pool to discourage entrance to anyone else's property. He stated that condition had never been complied with. He stated that there had been continued trespassing at 9717 and 9715 Limoges Drive where members of the pool used the lots for access to the pool. In addition, at other times of the year, the lots were trespassed and used as an accss to get to Woodson High School or Frost Intermediate School. Mr. Hopson advised that the neighbors were asking that if permission were given to construct the pavilian that it be conditioned upon the club complying with the original special permit granted in 1966. Secondly, he stated that they were concerned about the public infringement on the wooded area which adjoined their properties. He stated that the area was in the rear of all of their homes and had a minimum barrier. He stated that the noise level at the pool was very high and any expansion of the use into the barrier would be a detriment. Mr. Hopson stated that he had a petition indicating that consideration be given to the construction of the pavilian provided that compliance with the original special permit was met by the club and that no further expansion of the club take place into the wooded area of the adjacent property owners.

Mr. Ernest P. Fakoury of 9717 Limoges Drive informed the BZA that he was a member of the swim club and had been a resident of the area for 15 years. He wanted to reemphasize some of the points made by Mr. Hopson. He stated that he had a continuous problem every year with people crossing his yard to get to the pool area. The fence which had been required in 1966 would have helped cut down on the pedestrian traffic. Mr. Hyland inquired as to the reason the fence was never constructed. Mr. Fakoury stated that the reason he was given was because there were not enough funds and the club could not afford to do so. Mr. Hyland inquired as to the cost of the construction of the fence. Mr. Fakoury stated that he believed in the financial statements he had seen that it would cost $3,000 but he stated that the BZA should ask Mr. Allen about it. Mr. Fakoury stated that in addition to the fence, over the past 15

Page 399, May 19, 1981
SOMERSET-OLDE CREEK RECREATION CLUB, INC.
(continued)

years, the Board of Directors of the club changed every 2 years. He stated that about every 3 years, efforts had been made to institute improvements at the club by adding tennis courts or picnic pavilians in the wooded area. He stated that in the past, most of the efforts had been defeated by a majority vote of the membership. He stated that he was not certain whether the pavilian was supported. He stated that the membership in the past had expressed the opinion that the pool was their main interest and they did not want to add picnic pavilians, playgrounds or tennis courts. Mr. Fakoury stated that the club had a very limited area.

Mr. Hyland inquired as to what indication Mr. Fakoury had that the barrier would be affected by the plans of the swim club to build the pavilian. Mr. Fakoury stated that the only change he was aware of was the pavilian and he indicated that he would like to support the structure because it was inside the pool but he wanted it conditioned upon the fence being constructed reassurances that any future expansion would not take place in the wooded area.

The next speaker in opposition was Mr. O'Laughlen of 9715 Limoges Drive. He stated that he was one of the adjacent neighbors to the pool property. He stated that his property area had been subjecged to trespassers by many members of the pool and his property had experienced vandalism on occasion with eggs. He strongly felt that the funds for the construction of the fence which had previously been required preceded any other expansion of the pool itself. Mr. O'Laughlen stated that the fence was required by the initial special permit in 1966. He informed the Board that he also supported the statements of the other speakers who opposed the expansion into the wooded area due to the fact that the wooded area was the only stopgap the neighbors had to abate the noise during the summer.

Chairman Smith informed the opposition that it was the intent of the BZA in 1966 that the fence be constructed. Mr. Hyland inquired as to the position of the opposion if the fence had been built. Mr. O'Laughlen stated that the fence should be constructured. The newsletter sent out announced the club's intention to expand the fence on the west side which added to the buffer.

During rebuttal, Mr. Allen stated that he could not answer to the original special permit conditions. He stated that he had purchased his property in 1977 and had been the President of the club for the past three years. He informed the BZA that they held an annual membership meeting but the turnout at the public hearing was the largest group he had seen. Mr. Allen informed the BZA that the club had a fence around the pool area which was 6 ft. high and had a jagged edge. Chairman Smith that the fence referred to by Mr. Allen was required by the State Code. He stated that the BZA was talking about the fence required in accordance with the resolution pertaining to the original granting. Mr. Allen stated that he had a copy of the staff comments from the original hearing and it had indicated that there should be a fence. He advised the BZA that he had only joined the club the last few years and did not know what had taken place in 1966. He stated that he was only trying to explain about the fence the club did have. Mr. Allen stated that the present 6 ft. fence did not deter any vandalism of the pool area and that by moving the fence out to the perimeter of the property would not be any more of a determent either. He stated that the club did have a natural wood screen all the way around the pool. He stated that the wooded area had been conveyed to the club by the Bo-bud Construction Company which was the builder for the community. Mr. Allen advised that any additions or picnic area to be built would be entirely on the club property. Mr. Hyland inquired if Mr. Allen agreed or disagreed about the problems of the adjacent neighbors with trespassers cutting through to get to the pool. Mr. Hyland informed Mr. Allen that unless he convinced him otherwise, he was going to require the fence in his motion because it served a purpose. Mr. Hyland asked Mr. Allen for his reaction. Mr. Allen responded that he was opposed to it for two reasons. One was because there was a natural wooded screen around the pool and the second reason was because the club had never had a full membership. Mr. Allen stated that the special permit allowed 250 members but the club only had 219 members. Mr. Allen stated that the club had had success with its recent membership drive and presently had more than 219 members. He stated that their membership dues were their only source of money. Mr. Hyland inquired as to the cost for the construction of the fence. Mr. Allen stated that the fence that had been mentioned was to extend some 400 ft. and would cost about $2,800. Mr. Allen stated that if the fence were constructed, the club would not be able to construct the pavilian. Mr. Hyland inquired if Mr. Allen was saying that there was not a problem with trespassers. Mr. Allen replied that he was not saying that the neighbors were wrong but he stated that the neighbors' children probably used the path more than anyone else. Mr. Yaremchuk stated that perhaps the neighbors should construct a fence.

For summary, Mr. Allen stated that the club was a community pool and was a non-profit pool. It was a community recreation facility and did not cost the County any money. Mr. Allen stated that the club would still have the same use but was only requesting permission to enhance its facilities. Mr. Hyland inquired about the suggestion in the newsletter which indicated that the club planned additional expansions. Mr. Allen stated that the expansion would be in the area donated to by the builder and were not under the special permit. Mr. Hyland inquired if any trees would be taken down at the back of the property. Mr. Allen stated that the club proposed to have a volleyball court back in the woods. Mr. Hyland stated that the neighbors had a legitimate concern about the woods as it was the only buffer. Mr. Allen stated that the area that would be cleared for volleyball was on the far side of the club property away from the existing houses. He stated that the houses were on the right

and the volleyball courts would be on the left. Mr. Hyland inquired as to how to solve the problem of people trespassing through the neighbors' properties. Mr. Allen stated that had the club known, they might have been able to take steps to avoid it. He stated that now was a difficult time to hear about it.

Mr. Yaremchuk stated that the neighbors were concerned and wanted something done about it. He suggested that the BZA defer action as he did not feel that the Board should get in the middle of the problem. Chairman Smith stated that the BZA had given the club permission to move its fence but it had not stated that any trees could be removed or that a volleyball court could be put in as it would have required a public hearing. Mr. Allen responded that he was not trying to avoid any of the requirements. Chairman Smith stated that the citizens felt that the club was going to remove the trees. Chairman Smith stated that the club should put up the fence to protect its property. An unidentified speaker inquired if the club was not required to construct the fence since it had been a condition of the original special permit. Chairman Smith stated that the matter of the fence should be left to the Zoning Administrator to enforce. He also stated that there was not an occupancy permit granted for the use until 1973. Apparently, the club had been in operation before it had obtained an occupancy permit. Mr. Yaremchuk moved that the matter be deferred for the President of the Board of Directors and the neighbors to get together and work out a solution. He further stated that no matter what the BZA did, it would not satisfy everyone. Mrs. Day seconded the motion and it passed by a vote of 5 to 0. The matter was deferred until June 16, 1981 at 9:15 P.M.

//

Page 400, May 19, 1981, Scheduled case of

8:35 P.M. CANTERWOOD HOMEOWNERS ASSOCIATION, appl. under Sect. 3-E03 of the Ord. to permit community tennis courts and equestrian facilities, located 444 Seneca Rd., Canterwood Subd., 2-4((1))4, Dranesville Dist., R-E, 10.2001 ac., S-81-D-016.

&

8:35 P.M. CANTERWOOD HOMEOWNERS ASSOCIATION, appl. under Sect. 18-401 of the Ord. to allow gravel drive and parking for community tennis courts and equestrian facilities (dustless surface req. by Sect. 11-102), located 444 Seneca Rd., Canterwood Subd., 2-4((1))4, Dranesville Dist., R-E, 10.2001 ac., V-81-D-048.

Mr. Howell Simmons of Paciulli, Simmons & Associates, represented the applicants. The special permit application was to allow community tennis courts, horse stables and a riding ring. The variance application was to allow a dustless surface. Mr. Simmons stated that the subdivision was 44 lots with 35 lots being two acres in size and nine lots being five acres. Mr. Simmons stated that the special permit was being requested as an additional service to Canterwood. The facility would be located at the west end of the property surrounded by five acre lots and by Loundon County to the west. In response to questions from the Board, Mr. Simmons stated that each of the lots could have their own barn. Mrs. Day inquired as to the number of stalls and how it was proposed to dispose of the manure. Mr. Simmons stated that he was not certain as to how they would handle it.

Mr. DiGiulian inquired about the requested variance to the dustless surface because as he interpreted the Ordinance, the dustless surface requirement could be waived by the Director of Environmental Management for a temporary use. He inquired if the Board had the authority to grant the variance. Mr. Covington stated that the BZA did have the authority but he agreed with Mr. DiGiulian that the DEM could have granted a waiver. Chairman Smith stated that he had a problem with the variance being so elaborate. Mr. DiGiulian stated that he did not have a problem with granting the variance but needed to know the justification. Mr. Simmons stated that with an equestrian facility, it was better to run the horses on gravel and dirt rather than on asphalt. Chairman Smith informed Mr. Simmons that the use would be restricted to the homeowners of the subdivision and would not be a commercial facility. He stated that boarding would be allowed.

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

Page 400, May 19, 1981 Board of Zoning Appeals
CANTERWOOD HOMEOWNERS ASSOCIATION

R E S O L U T I O N

Ms. Day made the following motion:

WHEREAS, Application No. S-81-D-016 by CANTERWOOD HOMEOWNERS ASSOCIATION under Section 3-E03 of the Fairfax County Zoning Ordinance to permit community tennis courts and equestrian facilities on property located at 444 Seneca Road, tax map reference 2-4((1))4, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements; and

Page 401, May 19, 1981 Board of Zoning Appeals
CANTERWOOD HOMEWONERS ASSOCIATION
(continued)

R E S O L U T I O N

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on May 19, 1981; 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 10.2001 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, 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. Membership shall be restricted to residents of the Canterwood subdivision.
8. Hours of operation shall be daylight hours for both tennis and horseback riding.
9. The maximum number of horses to be kept on the property shall be twelve (12).
10. Boarding of horses shall be restricted to owners of the 44 lot subdivision of Canterwood.
11. There shall be an approved method of disposal of manure.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0.

Page 401, May 19, 1981 Board of Zoning Appeals
CANTERWOOD HOMEOWNERS ASSOCIATION

R E S O L U T I O N

In Application No. V-81-D-048 by CANTERWOOD HOMEOWNERS ASSOCIATION under Section 18-401 of the Zoning Ordinance to allow gravel drive and parking for community tennis courts and equestrian facilities (dustless surface required by Section 11-102) on property located at 444 Seneca Road, tax map reference 2-4((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 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 May 19, 1981; 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 10.2001 acres.
4. That the applicant's property has a special purpose trail with very limited traffic and a gravel surface would be more in keeping with the rural nature and surrounding environment.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 402, May 19, 1981, Scheduled case of

8:50 P.M. PATRICIA A. TAYLOR & MARIE-LOUISE DAVIDSON, appl. under Sect. 3-203 of the Ord. to permit school of special education (summer clinic in reading and math), located 1205 Dolley Madison Blvd., Trinity Subd., 30-2((32))1, 2, 3, 4 & 6, Dranesville Dist., R-2, 7.308 ac., S-81-D-023.

Ms. Marie-Louise Davidson of 5880 Jackson's Oak Court in Burke and Ms. Patricia Taylor of 2114 Twin Mill Lane in Oakton informed the BZA that they proposed to have a summer learning clinic for reading from June 29th through July 31st for four hours a week during 1981. The hours of operation would be from 8:30 A.M. to 12:30 P.M. for grades 1 through 6. They stated that they would have 23 children. The clinic would be located in the Trinity Methodist Church. The church had a school and other activities. Ms. Taylor informed the BZA that the clinic needed a large room and the church was providing a 30'x40' room with plenty of windows and fire escapes.

Chairman Smith stated that this was only a summer use on a temporary basis. There was no one else to speak in support of the application and no one to speak in opposition.

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-81-D-023 by PATRICIA A. TAYLOR & MARIE-LOUISE DAVIDSON under Section 3-203 of the Fairfax County Zoning Ordinance to permit school of special education (summer clinic in reading and math) on property located at 1205 Dolley Madison Boulevard, tax map reference 30-2((32))1, 2, 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 by the Board of Zoning Appeals held on May 19, 1981; and

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

1. That the owner of the subject property is the Trinity United Methodist Church and the applicant is the lessee.
2. That the present zoning is R-2.
3. That the area of the lot is 7.308 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:

Page 403, May 19, 1981 Board of Zoning Appeals
PATRICIA A. TAYLOR & MARIE-LOUISE DAVIDSON
(continued) RESOLUTION

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 Countyof Fairfax during the hours of operation of the permitted use.
6. Landscaping and screening may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students shall be 30, grades 1 through 6.
8. The hours of operation shall be 8:30 A.M. to 12:30 P.M., five days a week from June 29th through July 31st.
9. Continuation of the special permit on an annual basis shall be allowed provided applicant furnishes the Zoning Administrator with a valid lease at least 30 days prior to the beginning date of operation.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 403, May 19, 1981, Scheduled case of

9:00 P.M. YMCA OF METROPOLITAN WASHINGTON, FAIRFAX COUNTY BRANCH, appl. under Sect. 3-103 of the Ord. to amend existing special permit for recreational community use (relidious) to allow construction of 20'x40' picnic shelter, located 9124 Little River Turnpike, Westchester Subd., 58-4((1))50, Providence Dist., R-1, 4.6 ac., S-81-P-024.

Mr. David Cotten, Executive Director of the YMCA, Fairfax County Branch, of 4205 Olley Lane in Fairfax, informed the BZA that the YMCA facility had been operating at 9124 Little River Turnpike for the past 22 years. He stated that they proposed to construct a 20'x40' picnic shelter to serve the day camp during the summer and to serve families using the pool. Mr. Cotton stated that the proposed shelter would not change the site in any way and it would help with the summer day camp program.. He stated that they were seeking permission from the Board to proceed with the project.

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

Page 403, May 19, 1981 Board of Zoning Appeals
YMCA OF METROPOLITAN WASHINGTON,
FAIRFAX COUNTY BRANCH
RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-81-P-024 by YMCA OF METROPOLITAN WASHINGTON, FAIRFAX COUNTY BRANCH under Section 3-103 of the Fairfax County Zoning Ordinance to amend existing special permit for recreational community use (religious) to allow construction of 20'x40' picnic shelter, on property located at 9124 Little River Turnpike, tax map reference 38-4((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 of Zoning Appeals held on May 19, 1981; 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 lit is 4.6 acres.
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; 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen (18) months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. This permit is subject to all other provisions of the previously granted Special Permit No. 1911.
8. Unless otherwise qualified herein, extended hours for parties or other activities of outdoor community swim clubs or recreation associations shall be governed by the following:
   (A) Limited to six (6) per season.
   (B) Limited to Friday, Saturday and pre-holiday evenings.
   (C) Shall not extend beyond 12:00 midnight.
   (D) Shall request at least 10 days in advance and receive prior written permission from the Zoning Administrator for each individual party.
   (E) Requests shall be approved for only one (1) such party at a time, and such requests will be approved only after the successful conclusion of a previous extended-hour party or for the first one at the beginning of a swim season.
   (F) Requests ahll be approved only if there are no pending violations of the conditions of the Special Permit.
   (G) Any substantiated complaints shall be cause for denying any future requests for extended-hour parties for that season; or, should such complaint occur during the end of the swim season, then this penalty shall extend to the next calendar year.

Ms. Day seconded the motion.

The motion passed by a vote of 5 to 0.

Page 404, May 19, 1981, Scheduled case of

9:15 P.M. KEVIN & HEIDI DELLAFERA EAGLETON, appl. under Sect. 18-401 of the Ord. to allow the subd. of a lot into two lots, one of which will be 24.48 ft. wide (200 ft. min. lot width req. by Sect. 3-E06), located 949 Bellview Rd., Prospect Hill Subd., 20-1((1))19, Dranesville Dist., R-E, 4 ac., V-81-D-019. (DEFERRED FROM MARCH 17, 1981 FOR NOTICES AND FROM APRIL 28, 1981 FOR VIEWING OF SITE AND FOR DECISION ONLY)

Mr. Greg Murhpy, attorney for the applicant, was present to answer any questions of the Board. As there were not any, the Board proceeded with the decision.

RESOLUTION

In Application No. V-81-D-019 by KEVIN & HEIDI DELLAFERA EAGLETON under Section 18-401 of the Zoning Ordinance to allow the subdivision of a lot into two lots, one of which will be 24.48 ft. wide (200 ft. minimum lot width required by Section 3-E06), on property located at 949 Bellview Road, tax map reference 20-1((1))19, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

Page 405, May 19, 1981 Board of Zoning Appeals
KEVIN & HEIDI DELLAFERA EAGLETON
(continued)

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 28, 1981 being deferred from March 17, 1981 for notices; and deferred until May 19, 1981 for decision; 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 4 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.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 2 (Messrs. DiGiulian and Yaremchuk).

Page 405, May 19, 1981, Scheduled case of

9:30 P.M. CULMORE NUMBER ONE, INC. & OMNI GROUP CO., CONTRACT OWNER, appl. under Sect. 18-401 of the Ord. to vary the R-20 District min. yard requirements set forth in Sect. 3-2007 and to vary the peripheral parking lot landscaping requirements of Sect. 13-107 to allow the conversion of an existing multiple-family development to condominium. The variance application may be viewed in the Clerk to the Board of Zoning Appeals' Office, property located at Leesburg Pike & Glen Carlyn Drive, Section One, Culmore Subd., 61-2((13))1, Mason Dist., R-20, 16.07 ac., V-81-M-036. (DEFERRED FROM MAY 14, 1981 FOR DECISION).

Page 405, May 19, 1981 Board of Zoning Appeals
CULMORE NUMBER ONE, INC. & OMNI GROUP CO.,
CONTRACT OWNER

RESOLUTION

In Application No. V-81-M-036 by CULMORE NUMBER ONE, INC. & OMNI GROUP CO., CONTRACT OWNER under Section 18-401 of the Zoning Ordinance to vary the R-20 District minimum yard requirements set forth in Section 3-2007 and to vary the peripheral parking lot landscaping requirements of Section 13-107 to allow the conversion of an existing multiple-family development to condominium, on property located at Leesburg Pike and Glen Carlyn Drive, tax map reference 61-2((13))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 May 14, 1981; and deferred for decision until May 19, 1981; 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-20.
3. The area of the lot is 16.07 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property which met all setback requirements at the time of construction. And Subsequent amendments to the Zoning Ordinance have made the buildings in violation of the setback requirements under the current Ordinance.

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 406, May 19, 1981 Board of Zoning Appeals
CULMORE NUMBER ONE, INC. & OMNI GROUP CO.,
CONTRACT OWNER
(continued)

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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 406, May 19, 1981, Scheduled case of

9:30 P.M. CULMORE NUMBER TWO, INC. & OMNI GROUP CO., CONTRACT OWNER, appl. under Sect. 18-401 of the Ord. to vary the R-20 District min. yard requirements set forth in Sect. 3-2007 and to vary the peripheral parking lot landscaping requirements of Sect. 13-107 to allow the conversion of an existing multiple-family development to condominium. The variance application may be viewed in the Clerk to the Board of Zoning Appeals' Office, property located at Leesburg Pike & Glen Carlyn Drive, Section Two, Culmore Subd., 61-2((10))1, Mason Dist., R-20, 9.9 ac., V-81-M-035. (DEFERRED FROM MAY 14, 1981 FOR DECISION).

Page 406, May 19, 1981 Board of Zoning Appeals
CULMORE NUMBER TWO, INC. & OMNI GROUP CO., CONTRACT OWNER

RESOLUTION

In Application No. V-81-M-035 by CULMORE NUMBER TWO, INC. & OMNI GROUP CO., CONTRACT OWNER under Section 18-401 of the Zoning Ordinance to vary the R-20 District minimum yard requirements set forth in Section 3-2007 and to vary the peripheral parking lot landscaping requirements of Section 13-107 to allow the conversion of an existing multiple-family development to condominium on property located at Leesburg Pike and Glen Carlyn Drive, tax map reference 61-2((10))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 May 14, 1981 and deferred until May 19, 1981 for decision; 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-20.
3. The area of the lot is 9.9 acres.
4. That the applicant's property has an unusual condition in the location of the existing buildings on the subject property which met all setback requirements at the time of construction. And subsequent amendments to the Zoning Ordinance have made the buildings in violation of the setback requirements under the current Ordinance.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 407, May 19, 1981, After Agenda Items

J. Ronald Fisher: The Board was in receipt of a request for an out-of-turn hearing for Mr. J. Ronald Fisher. It was the consensus of the Board to grant the request and the hearing was scheduled for July 7, 1971.

// There being no further business, the Board adjourned at 10:45 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the BZA on Jan 19, 1982

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: January 19, 1983
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 2, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland (arriving at 11:00 A.M.) and Ann Day.

The Chairman opened the meeting at 10:25 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. SERGASCO CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of addition to service station building to 7 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 4-507), located 2600 Sherwood Hall Lane, 102-1((7))(7)17B, Mt. Vernon Dist., C-5, 17,531 sq. ft., V-80-V-111. (DEFERRED FOR S.E.).

As the Special Exception was deferred until June 15th, the BZA took action to defer its variance application until July 14, 1981 at 10:15 A.M.

//

Page 408, June 2, 1981, Scheduled case of

10:10 A.M. LEE H. KANAGY, appl. under Sect. 18-401 of the Ord. to allow resubdivision into two lots, one having width of 136.50 ft. & the other a width of 136.51 ft. (150 ft. min. lot width req. by Sect. 3-106), located 11519 Warren Lane, 56-4((3))4, Springfield Dist., R-1, 2.158 ac., V-81-S-054.

Mr. Lee H. Kanagy of 11519 Warren Lane in Fairfax informed the BZA that one of the reasons he wished to subdivide his property was because of taxes. He stated that his property consisted of more than two acres and that he was over 65 years old. He stated that he wished to subdivide the lot but because of its long rectangular shape, it was longer than it was wide. In order to develop the property, a variance was necessary since the property only had 136 ft. of frontage. Mr. Yaremchuk inquired as to the hardship since the property was almost as wide as it was long. Mr. Kanagy responded that his hardship was that there was not enough frontage. He stated that he did not know how else to divide the property. In response to questions from the Board, Mr. Kanagy stated that he had owned the property since 1974. Chairman Smith inquired if the other lot had been perced. Mr. Kanagy responded that if the variance were approved, then he would have the lot tested for perc. Mr. Kanagy stated that the lot should perc as it had been perced previously. Chairman Smity inquired if public water or sewer were available and was informed it was not. Mr. Kanagy stated that there was not any public water but there was public sewer on Shirley Gate Road. Mrs. Day inquired as to the location of the septic for the lot that was improved and was informed it was in front of the house.

Chairman Smith advised the applicant that there were only four Board members present and that he could request a deferral to allow the absent Board member an opportunity to listen to the tapes.

There was no one else to speak in support of the application and no one to speak in opposition. The matter was deferred until June 16, 1981 at 9:00 P.M. for decision only.

//

Page 408, June 2, 1981, After Agenda Items

Pohick Church: The Board was in receipt of a request from Rev. Jones for an out-of-turn hearing for the Pohick Church. It was the consensus of the Board to grant the request for July 7, 1981.

//

Page 408, June 2, 1981, After Agenda Items

Edward H. Schirmer vs. Board of Zoning Appeals, In Chancery No. 70705: The Board was in receipt of a petition to Intervene from the Board of Supervisors regarding the Edward H. Schirmer court case. Chairman Smith directed the Clerk to send a memorandum to the County Executive immediately seeking funds to hire an attorney from the outside.

//

Page 408, June 2, 1981, After Agenda Items

Lawrence Ziemanski, S-80-D-035: The Board was in receipt of a request from Dr. Ziemanski seeking an extension on his special permit for a home professional office. Mr. DiGiulian moved that the BZA grant a six month extension. Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 0. Included in the approval was permission for a change in the structure of the building as long at it did not exceed the square footage of the original building.

//

Page 409, June 2, 1981, After Agenda Items

Thomas S. Roehr: The Board was in receipt of a request for an extension of the special Permit S-91-79. It was the consensus of the Board to grant a six month extension.

//

Page 409, June 2, 1981, Arrival of BZA Member

At 11:00 A.M., Mr. Hyland arrived and was present for the remainder of the scheduled agenda.

//

Page 409, June 2, 1981, Scheduled case of

10:20 A.M. KEWAR ASSOCIATES, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's denial of a new free-standing identification sign for a commercial use on appellant property, located 6315-A Leesburg Pike, Claude W. Owen Subd., 51-3((17)) 4-A-2, Mason Dist., C-8, 9,866 sq. ft., A-81-M-005.

For testimony presented at the appeal, please refer to the verbatim transcript on file in the Clerk's office.

At the conclusion of the public hearing, Mrs. Day moved that the Board of Zoning Appeals uphold the decision of the Zoning Administrator. Mr. Hyland seconded the motion. The motion passed by a vote of 3 to 2 (Messrs. DiGiulian and Yaremchuk).

//

Page 409, June 2, 1981, Scheduled case of

11:00 A.M. ANGEL RIOS, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport into garage 7.75 ft. from side lot line, such that total side yard would be 16.45 ft. (8 ft. min. & 20 ft. total min. side yard req. by Sect. 3-307), located 3502 Pence Court, Holmes Run Village Subd., 59-4((17))52, Mason Dist., R-3(C), 8,400 sq. ft., V-81-M-055.

As the required notices were not in order, the Board deferred the hearing until June 23, 1981 at 1:00 P.M.

//

Page 409, June 2, 1981, Scheduled case of

11:10 A.M. EDWIN E. & ELIZABETH M. PROPPS, appl. under Sect. 18-401 of the Ord. to allow construction of a 12 ft. high detached garage 4 ft. from side & rear lot lines (10 ft. min. side yard & 12 ft. min. rear yard req. by Sects. 3-407 & 10-105), located 6607 Dorset Drive, Virginia Hills Subd., 92-2((2))(11)10, Lee Dist., R-4, 10,006 sq. ft., V-81-L-057.

Mr. Edwin Propps of 6607 Dorset Drive informed the BZA that he was seeking permission to allow the garage 4 ft. from the line. Mr. Propps stated that his driveway was 13 ft. wide. He informed the BZA that if he built the garage according to the setback requirements, he would not be able to turn into the garage. Chairman Smith inquired as to the distance of the proposed building from the rear of the house. Mr. Propps stated that there was about 20 to 22 ft. and if he located the garage 4 ft. from the rear line there would be about 16 to 18 ft. Chairman Smith stated that he felt it was possible for Mr. Propps to rearrange some of the other uses of the property and meet the setbacks for the garage. In response to further questions from the Board, Mr. Propps stated that he had not received any opposition from his neighbors. He stated that he had owned the property for 8 years.

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

Page 409, June 2, 1981 Board of Zoning Appeals
EDWIN E. & ELIZABETH M. PROPPS

R E S O L U T I O N

In Application No. V-81-L-057 by EDWIN & ELIZABETH M. PROPPS under Section 18-401 of the Zoning Ordinance to allow construction of a 12 ft. high detached garage 4 ft. from side & rear lot lines (10 ft. minimum side yard & 12 ft. minimum rear yard required by Sect. 3-407 & 10-105) on property located at 6607 Dorset Drive, tax map reference 92-2((1))(11)10, 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

RESOLUTION

410

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 2, 1981; 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 10,006 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 410, June 2, 1981, Scheduled case of

11:20 A.M. SCOTT R. AND BARBARA S. CASSADA, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport into a single garage 10.1 ft. from side lot line such that total side yard would be 18.3 ft. (8 ft. min. & 20 ft. total min. side yard req. by Sect. 3-107), located 5505 Andrews Chapel Court, Middleridge Subd., 77-1((6))334, Annandale Dist., R-3(C), 13,564 sq. ft., V-81-A-058.

Mr. Scott Cassada of 5505 Andrew Chapel Court informed the BZA that he was only asking to enclose an existing carport and would not extend any closer to the lot line. He stated that he had owned the property for 2½ years.

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

RESOLUTION

In Application No. V-81-A-058 by SCOTT R. & BARBARA S. CASSADA under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport into a single garage 10.1 ft. from side lot line such that total side yard would be 18.3 ft. (8 ft. min. & 20 ft. total min. side yard req. by Sect. 3-307) on property located at 5505 Andrews Chapel Road, tax map reference 77-1((6))334, 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 2, 1981; 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(C).
3. The area of the lot is 13,564 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing buildings 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 411, June 2, 1981, Scheduled case of

11:30 A.M. ALBERT L. JARRETT, appl. under Sect. 18-401 of the Ord. to allow construction of a two-car open carport addition to dwelling to 1 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-107 & 2-412), located 3700 Highland Place, Fairfax Farms Subd., 46-4((2))43A, Centreville Dist., R-1, 1.2014 ac., V-81-C-059.

Mr. Albert Jarrett of 3700 Highland Place informed the BZA that he had applied for a variance two years ago. He stated that his lot consisted of 1.2014 acres and that the house was situated on the lot in an odd manner. Mr. Jarrett stated that the only reasonable place for the carport was where he proposed it because of the driveway. He stated that to the right of his property was an easement for drainage as well as a power easement. Mr. Jarrett informed the BZA that his variance was denied two years ago. He stated that he did not want to build a one car structure as he had two vehicles and a motorcycle. Mr. Jarrett stated that he needed an enclosure for the vehicles.

In response to questions from the Board, Mr. Jarrett stated that the property to his left was inimproved. In addition, there was about 300 to 400 ft. of distance between his house and the house to his right.

Mrs. Kidwell spoke in support of the variance as she felt that Mr. Jarrett should be allowed have a carport. She stated that there was not any place else for the carport to be constructed. In addition, there were a lot of trees on the property which dripped onto his cars. Mr. Yaremchuk inquired whether Mrs. Kidwell would have a problem with the variance if she were the owner of lot 44 since the structure would be 1 ft. from the side lot line. Mrs. Kidwell stated that lot 44 was unimproved. In addition, she stated that the lots were big enough.

Mrs. Frances Weeks of 3642 Highland Place spoke in support of the variance. She stated that she was the next door neighbor and had lived there for 19 years. She stated that before Mr. Jarrett had purchased the property in 1975, the house had remained the same. There had not been any improvements to the house or property. After he purchased the property, it had become a showcase to the community.

Mr. George Ray of 11400 Valley Road stated that he was the owner of the property located at 3714 Highland Place. He stated that his property was undeveloped. He stated that Mr. Jarrett was a good neighbor and that his property was an asset to the community. Mr. Ray stated that there was also an easement on his property which took up about 50 ft. so that any development on lot 44 would have to be on the part of the property next to Mr. Jarrett. Mr. Hyland inquired as to how the variance would affect the value of Mr. Ray's property. Mr. Ray stated that two years ago, Mr. Jarrett had asked him if he had any opposition. He indicated that since that time, his plans have changed and that at some time in the future he would selling his property. He indicated that a future buyer would look at a reduced price. Mr. Ray stated that every foot would add value to his property.

Mr. Hyland questioned Mr. Jarrett as to how he would maintain the structure without going onto his neighbor's property and in what direction the water would go. Mr. Jarrett replied that the carport would be open with a planter wall. There would be a gate going down to the patio. Mr. Jarrett stated that he did not believe the carport addition would decrease the property values. Mr. Jarrett stated that his lot was 1.2 acres but if the house were situated more to the right, he would not have any problem with construction. Mr. Yaremchuk inquired if Mr. Jarrett had received a reduced price on the property because of the problem of expansion. Mr. Jarrett stated that the previous owner had sold off 4½ acres and had to

add an access road to the rear lot. Mr. Jarrett stated that he was only aware of that problem. He stated that he had not known there would be a problem with a carport at this location. He informed the Board that the carport would be convenient at this location.

412

Page 412, June 2, 1981 Board of Zoning Appeals
ALBERT JARRETT

RESOLUTION

In Application No. V-81-C-059 by ALBERT L. JARRETT under Section 18-401 of the Zoning Ordinance to allow construction of a two-car open carport addition to dwelling to 1 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-107 & 2-412) on property located at 3700 Highland Place, tax map reference 46-4((2))43A, County of Fairfax, Virginia Mr. Hyland 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 2, 1981; 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 1.2014 acres.
4. That the applicant's property has an unusual condition in that it has a storm drainage easement and a power company easement that limit the construction of the proposed carport as well as the location of an existing septic field in the rear of the 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 412, June 2, 1981, Scheduled case of

11:40 A.M. STEPHEN T. SCHUNEMAN, appl. under Sect. 18-401 of the Ord. to allow enclosure & extension of carport into garage to 9 ft. from side lot line such that total side yard would be 20 ft. (8 ft. min., but 24 ft. total min. side yard req. by Sect. 3-207), located 2207 Abbotsford Drive, Tanglewood Subd., 38-1((22))106, Centreville Dist., R-2(C) 10,500 sq. ft., V-81-C-060.

Lt. Col. Stephen T. Schuneman of 2207 Abbotsford Drive informed the Board that he had looked for alternative locations on his property in order to build his carport but it was not feasible because of the shape of the lot. He stated that his lot was long and narrow and there was a slope to the rear of the property. He stated that his building plans included extending the concrete slab 6 ft. to the rear to coordinate with the rear line of the house. He stated that the side would remain the same. The back extension would be used for storage of lawn equipment, etc. Col. Schuneman stated that the present carport was 9 ft. from the side lot line.

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

RESOLUTION

In Application No. V-81-C-060 by STEPHEN T. SCHUNEMAN under Section 18-401 of the Zoning Ordinance to allow enclosure and extension of carport into garage to 9 ft. from side lot line such that total side yard would be 20 ft. (8 ft. minimum but 20 ft. total minimum side yard req. by Sect. 3-207) on property located at 2207 Abbotsford Drive, tax map reference 38-1 ((22))106, County of Fairfax, Virginia, Ms. Day 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 2, 1981; 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 10,500 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and has exceptional topographic problems, i.e., rear yard is very steep.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 413, June 2, 1981, Recess

At 12:30 P.M., the Board recessed the meeting for lunch and reconvened the meeting at 1:20 P.M. to continue with the scheduled agenda.

//

Page 413, June 2, 1981, Scheduled case of

11:50 A.M. KENNETH MORELAND, ET. AL., appl. under Sect. 18-401 of the Ord. to allow subdivision into 10 lots with proposed lot 8 having 20 ft. width (100 ft. min. lot width req. by Sect. 3-206), located 9714 Old Keene Mill Rd., Spring Lake Farms Subd., 88-1((2))9, Springfield Dist., R-2, 5.3769 ac., V-81-S-061.

Mr. Ken Moreland of 3403 Prince William Drive in Fairfax informed the BZA that this same variance request had been approved two years ago but had expired. He stated that the plans called for a subdivision of 10 lots. The Planning Commission has asked that access not be provided from Old Keene Mill Road. Mr. Moreland stated that all of the lots were ½ acre. He stated that he felt this was a reasonable request. Chairman Smith inquired if this plat was the identical plat as what had been approved previously and was informed it was.

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

RESOLUTION

In Application No. V-81-S-061 by KENNETH MORELAND, ET. AL. under Section 18-401 of the Zoning Ordinance to allow subdivision into 10 lots with proposed lot 8 having 20 ft. width (100 ft. min. lot width req. by Sect. 3-206) 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 2, 1981; 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 5.3769 acres.
4. That 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 the 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 included with this application only, and is not transferable to other land.

2. This variance shall expire eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Smith abstaining).

Page 414, June 2, 1981, Scheduled case of

12:00 NOON — THE SEOUL PRESBYTERIAN CHURCH, appl. under Sect. 18-401 of the Ord. to allow gravel parking lot for church (dustless surface req. by Sect. 11-102), located 12116 Braddock Road, 67-1((1))26, Springfield Dist., R-1, 19.783 ac., V-81-S-056.

&

12:00 NOON — THE SEOUL PRESBYTERIAN CHURCH, appl. under Sect. 3-103 of the Ord. to permit church and related facilities, located 12116 Braddock Road, 67-1((1))26, Springfield Dist., R-1, 19.783 ac., S-81-S-021.

Mr. Paul Scanlon, an attorney located at 8303 Arlington Blvd., Suite 204 in Fairfax, represented the church. He stated that Dr. Lee was the Chairman of the Trustees. Rev. Shaw and Mr. Shay, the engineer, were also present. The special permit application was to allow construction of a church to be used by the Korean community. The property was zoned R-1. Chairman Smith inquired about the architecture and was informed that the construction would be the standard architecture for a church serving 300 adults. Chairman Smith stated that the plat indicated a seating capacity of 500 and Mr. Scanlon responded that the congregation consisted of 300 adults plus children. Mr. Scanlon stated that the congregation currently occupied a church in Vienna which they had outgrown. The property had been purchased in 1979.

Chairman Smith inquired as to how the church proposed to mark the parking lot if they did not have a dustless surface. Mr. Scanlon responded that the only way would be to have concrete stops as it was not possible to draw lines on gravel.

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

RESOLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-81-S-021 by THE SEOUL PRESBYTERIAN CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit church and related facilities on property located at 12116 Braddock Road, tax map reference 67-1((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 2, 1981; 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 19.783 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum seating capacity for the church shall be 500.
8. The hours of operation shall be hours of normal church activities.
9. The number of required parking spaces is 125 but the site plan indicates there will be 153 parking spaces.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 415, June 2, 1981, Continuation of Variance Request for the Seoul Presbyterian Church

Chairman Smith asked for more justification on the variance to the dustless surface requirement. Mr. Scanlon stated that there was a 20 ft. access road which was asphalt and entered into a gravel parking lot. He stated that the purpose of the gravel parking lot was the cost. In addition, the minimum required parking spaces were 125 and the church was proposing 153 parking spaces. Mr. Scanlon stated that there was more than adequate space to handle the cars. Simply stated, the variance was requested because of cost. He stated that one had to consider that cost was an important factor in building the church. Mr. Scanlon stated that the church had to watch its pennies and had to be in full compliance with the law which is why they were before the BZA seeking a variance. Mr. Scanlon stated that the parking lot would not be used on a daily basis and the amount of dust raised would be minimal. He stated that it would be minimal in the sense of the number of uses per week and the frequency of uses.

Mr. Hyland inquired as to the cost to the church to pave the parking lot as opposed to the cost of the gravel parking lot. Mr. Scanlon stated that the church had planned to spend $5,000 for the parking lot and $500,000 to $700,000 for the church building.

Mr. Shay, the engineer, informed the Board that the need for the variance was because of the unavailability of sewer at the present time. He stated that the sewer would be available within four to five months. Mr. Shay informed the Board that the only traffic would be on Sunday. The speed in the parking lot would be very low. He stated that he did not see any problem with the variance to the dustless surface. In addition, the Park Authority which was located nearby had a gravel parking lot.

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

Page 416, June 2, 1981 Board of Zoning Appeals
THE SEOUL PRESBYTERIAN CHURCH

R E S O L U T I O N

In Application No. V-81-S-056 by THE SEOUL PRESBYTERIAN CHURCH under Section 18-401 of the Zoning Ordinance to allow gravel parking lot for church (dustless surface required by Sect. 11-102) on property located at 12116 Braddock Road, tax map reference 67-1((1))26, 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 2, 1981; 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 19.783 acres.
4. That the applicant's property has an unusual condition in that the property is rural in nature and that the gravel surface would be more in keeping with the surrounding area and would reduce the runoff onto adjoining 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thrity (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 416, June 2, 1981, Scheduled case of

12:15 P.M. WESTMINSTER SCHOOL, INC., appl. under Sect. 3-103 of the Ord. to amend S-63-77 for a private school of general education to permit building addition, located 3819 Gallows Road, W. L. Clark Subd., 60-3((24))4 & 5, Annandale Dist., R-3, 3.7358 ac., S-81-A-020.

As there was not anyone present at the hearing to present the case, the Board passed over the application until later in the day.

//

Page 417, June 2, 1981, Scheduled case of

12:30 P.M. LONG & TRAVERS LTD. PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling on proposed lot 26 to 0' from floodplain (15 ft. min. req. by Sect. 2-415), located 8669 Richmond Hwy., Woodmill Estates Subd., 110-1((1))2, Mt. Vernon Dist., R-3, 11,474 sq. ft., V-81-V-074.

Mr. Bernard Fagelson, an attorney at law in Alexandria, and Mr. William Gordon, an engineer in Reston, represented the applicant. He stated that he had originally planned to go before the Board of Supervisors to seek a Special Exception but was informed he would need a variance from the floodplain distance. Then the Board of Supervisors would be in a position to remove the proffer made at the time of the rezoning. Mr. Gordon stated that there was a proffer condition that no lots contain portions of the floodplain. He further stated that the Department of Public Works Project #X-032 to rechannel the North Fork of Dogue Creek would lower the 100 year floodplain 2 feet in elevation so that the proposed dwellings would then be in conformance with the 15 ft. setback requirement. Mr. Gordon advised the Board that the variance was really only temporary in nature.

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

Page 417, June 2, 1981 Board of Zoning Appeals
LONG & TRAVERS LTD. PARTNERSHIP

R E S O L U T I O N

In Application No. V-81-V-074 by LONG & TRAVERS LTD. PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed lot 26 to 0 ft. from floodplain (15 ft. minimum req. by Sect. 2-412) on property located at 8669 Richmond Highway, tax map reference 110-1((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 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 2, 1981; 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 11,474 sq. ft.
4. That the applicant's property has an unusual condition in that no portion of lot 26 will be in the floodplain once the County construction project is completed. The floodplain is only a temporary 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thrity (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 417, June 2, 1981, Scheduled case of

12:30 P.M. LONG & TRAVERS LTD. PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling on proposed lot 28 to 12' from floodplain (15 ft. min. req. by Sect. 2-415), located 8669 Richmond Hwy., Woodmill Estates Subd., 110-1((1))2, Mt. Vernon Dist., R-3, 10,680 sq. ft., V-81-V-075.

Mr. Bernard Fagelson, an attorney at law, represented the applicant. He stated that the variance requested was only temporary in nature as there was a project pending to rechannel the North Fork of Dogue Creek so that eventually the proposed dwelling would meet the setback from the floodplain.

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

Page 418, June 2, 1981 Board of Zoning Appeals
LONG & TRAVERS LTD. PARTNERSHIP
V-81-V-075 RESOLUTION

In Application No. V-81-V-075 by LONG & TRAVERS LTD. PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed lot 28 to 12 ft. from floodplain (15 ft. minimum req. by Sect. 2-415) on property located at 8669 Richmond Highway, tax map reference 110-1((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 thepublic, a public hearing was held by the Board on June 2, 1981; 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 10,680 sq. ft.
4. That the applicant's property has an unusual condition in that Dogue Creek will be channelized and the water will be restricted to the channel which would take it out of the floodplain.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 418, June 1, 1981, Scheduled case of

12:30 P.M. LONG & TRAVERS LTD. PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling on proposed lot 29 to 0' from floodplain (15 ft. min. req. by Sect. 2-415), located 8669 Richmond Hwy., Woodmill Estates Subd., 110-1((1))2, Mt. Vernon Dist., R-3, 9,212 sq. ft., V-81-V-076.

MR. Bernard Fagelson informed the Board that the variance was requested as a temporary measure to allow the construction of a dwelling on lot 29 to 0' from the floodplain. He stated that Dogue Creek would be rechanneled which would eliminate the floodplain problem.

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

RESOLUTION

In Application No. V-81-V-076 by LONG & TRAVERS LTD. PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed lot 29 to 0 ft. from floodplain (15 ft. minimum req. by Sect. 2-415), on property located at 8669 Richmond Highway, tax map reference 110-1((1))2, County of Fairfax, Virginia, Mr. Hyland 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 2, 1981; 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 9,212 sq. ft.
4. That the applicant's property has a temporary condition in the existence of a floodplain which will be removed as a result of the channelization of Dogue Creek.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Ms. Day seconded the motion.

The motion passed by a vote of 5 to 0.

Page 419, June 2, 1981, Scheduled case of

12:30 P.M. LONG & TRAVERS LTD. PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling on proposed lot 30 to 0' from floodplain (15 ft. min. req. by Sect. 2-415), located 8669 Richmond Hwy., Woodmill Estates Subd., 110-1((1))2, Mt. Vernon Dist., R-3, 10,238 sq. ft., V-81-V-077.

Mr. Bernard Fagelson informed the BZA that the requested variance was to allow construction of a dwelling on lot 30 to 0 ft. from the floodplain. He stated that the variance was only temporary as the rechannelization of Dogue Creek would eliminate the problem of setback and then the dwelling would conform to the requirements.

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

RESOLUTION

In Application No. V-81-V-077 by LONG & TRAVERS LTD. PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed lot 30 to 0 ft. from floodplain (15 ft. min. req. by Sect. 2-415) on property located at 8669 Richmond Highway, tax map reference 110-1((1))2, County of Fairfax, Virginia, Ms. Day 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

420

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 2, 1981; 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 10,238 sq. ft.
4. That the applicant's property has an unusual condition in that Dogue Creek will be channelized to alleviate floodplain conditions on the existing lot of the applicant's property and that no portion of the lot will be in the floodplain area.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0.

Page 420, June 2, 1981, Scheduled case of

12:30 P.M. LONG & TRAVERS LTD. PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling on proposed lot 32 to 12' from floodplain (15 ft. min. req. by Sect. 2-415), located 8669 Richmond Hwy., Woodmill Estates Subd., 110-1((1))2, Mt. Vernon Dist., R-3, 10,689 sq. ft., V-81-V-078.

Mr. Barnard Fagelson stated that the applicant wished to construct a dwelling on lot 32 which would be 12 ft. from the floodplain. Because of the proposed rechannelization of Dogue Creek, the requested variance would be temporary in nature as the dwelling would confrom to the setback requirements once the project was completed.

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

RESOLUTION

In Application No. V-81-V-078 by LONG & TRAVERS LTD. PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed lot 32 to 12 ft. from floodplain (15 ft. minimum req. by Sect. 2-415) on property located at 8669 Richmond Highway, tax map reference 110-1((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 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 2, 1981; 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 10,689 sq. ft.
4. That the applicant's property has an unusual condition in that the location of the existing floodplain is a temporary condition; that the channelization of Dogue Creek will lower the floodplain elevation so that no portion of the lot will be in the floodplain.

RESOLUTION

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 421, June 2, 1981, Scheduled case of

12:30 P.M. LONG & TRAVERS LTD. PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling on proposed lot 37 to 5 ft. from floodplain (15 ft. min. req. by Sect. 2-415), located 8669 Richmond Hwy., Woodmill Estates Subd., 110-1((1))2, Mt. Vernon Dist., R-3, 11,098 sq. ft., V-81-V-079.

Mr. Bernard Fagelson stated that the situation with respect to lot 37 was similar to all of the other lots presently under consideration for a variance. There was a problem with the setback from the floodplain which would be eliminated once the rechannelization of Dogue Creek was completed. At that time, the dwelling would comply with the setback requirements as the rechannelization would lower the elevation of the floodplain.

There was no one else to speak in support or in opposition to the request.

RESOLUTION

In Application No. V-81-V-079 by LONG & TRAVERS LTD. PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow construction of a dwelling on proposed lot 27 to 5 ft. from floodplain (15 ft. min. req. by Sect. 2-415) on property located at 8669 Richmond Highway, tax map reference 110-1((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 June 2, 1981; 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 11,098 sq. ft.
4. That the applicant's property has an unusual condition in that Dogue Creek will be channelized and the water will be restricted to the channel which would take it out of the floodplain.

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:

422

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 422, June 2, 1981, Scheduled case of

12:30 P.M. LONG & TRAVERS LTD. PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling on proposed lot 38 to 0' from floodplain (15 ft. min. req. by Sect. 2-415), located 8669 Richmond Hwy., Woodmill Estates Subd., 110-1((1))2, Mt. Vernon Dist., R-3, 8,590 sq. ft., V-81-V-080.

Mr. Bernard Fagelson stated that his client wished to construct a dwelling on lot 38 which would be at the edge of the floodplain. He stated that this would be a temporary variance in as much as the Department of Public Works was working on a project to rechannel Dogue Creek which would lower the elevation of the floodplain. Once the project was completed, the proposed dwelling would be in compliance with the setback requirements.

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

Page 422, June 2, 1981 Board of Zoning Appeals
LONG & TRAVERS LTD. PARTNERSHIP
V-81-V-080 RESOLUTION

In Application No. V-81-V-080 by LONG & TRAVERS LTD. PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed lot 38 to 0 ft. from floodplain (15 ft. minimum req. by Sect. 2-415) on property located at 8669 Richmond Highway, tax map reference 110-1((1))2, County of Fairfax, Virginia, Mr. Hyland 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 2, 1981; 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 8,590 sq. ft.
4. That the applicant's property has a temporary condition in the existence of a floodplain which will be removed as a result of the channelization of Dogue Creek.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Ms. Day seconded the motion.

The motion passed by a vote of 5 to 0.

Page 423, June 2, 1981, Scheduled case of

12:30 P.M. LONG & TRAVERS LTD. PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling on proposed lot 39 to 0' from floodplain (15 ft. min. re. by Sect. 2-415), located 8669 Richmond Hwy., Woodmill Estates Subd., 110-1((1))2, Mt. Vernon Dist., R-3, 9,556 sq. ft., V-81-V-081.

Mr. Bernard Fagelson, an attorney at law, represented the applicant. He stated that the variance requested was to allow construction of a dwelling on lot 39 at the floodplain line. There was a project being performed by the Department of Public Works to rechannel Dogue Creek which would lower the elevation by 2 ft. changing the floodplain line. Therefore, he stated that the variance was only temporary because eventually the proposed dwelling would comply with the setback requirements once the rechannelization was completed.

There was no one to speak in support or in opposition to the request.

Page 423, June 2, 1981 Board of Zoning Appeals
LONG & TRAVERS LTD. PARTNERSHIP
V-81-V-081 RESOLUTION

In Application No. V-81-V-081 by LONG & TRAVERS LTD. PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed lot 39 to 0 ft. from floodplain (15 ft. min. req. by Sect. 2-415), on property located at 8669 Richmond Highway, tax map reference 110-1((1))2, County of Fairfax, Virginia, Ms. Day 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 2, 1981; 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 9,556 sq. ft.
4. That the applicant's property has an unusual condition in that Dogue Creek will be channelized to alleviate the floodplian condition on the existing lot of the applicant's property and no portion of the lot will be in the floodplain area.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0.

Page 423, June 2, 1981, Passed Over Case of

WESTMINSTER SCHOOL, INC.; S-81-A-020. At 2:20 P.M., Chairman Smith recalled the special permit application of Westminster School, Inc. which had been passed over for lack of representation earlier in the meeting. Mr. Stephen L. Best, an attorney at law, located at 4069 Chain Bridge Road in Fairfax, was present to represent the school. He informed the Board that the Westminster School was a private school located in Annandale. He stated that the school was being built in a triangular manner with a atrium in the center. It was also being built in stages. Mr. Best stated that the school had obtained three special permits to build in these stages. Mr. Best stated that the present application was to allow construction of another building addition. The school contained schools K through eighth and had a maximum enrollment of 300 students. No other changes were being requested.

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

RESOLUTION

Ms. Day made the following motion:

WHEREAS, Application No. S-81-A-020 by WESTMINSTER SCHOOL, INC. under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-63-77 for a private school of general education to permit building addition on property located at 3819 Gallows Road, tax map reference 60-3((24))4 & 5, 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 on June 2, 1981; 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-3.
3. That the area of the lot is 3.7358 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with the Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. All other requirements of S-63-77 not altered by this resolution shall remain in effect.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0.

Page 424, June 2, 1981, Scheduled case of

12:35 P.M. SPRINGFIELD SWIMMING AND RACQUET CLUB, INC., appl. under Sect. 3-303 of the Ord. to permit construction of admissions control booth and closing of entrance to parking lot, located 7401 Highland Street, Crestwood Subd., 80-1((5))(52)1, Springfield Dist., R-3, 3.7492 ac., S-81-S-017. (DEFERRED FOR VIEWING OF SITE.)

Mr. DiGiulian informed the Board that he had visited the site and felt that the closing of Amelia Street would be a dangerous situation. Chairman Smith stated that he concurred with Mr. DiGiulian.

SPRINGFIELD SWIMMING AND RQCQUET CLUB, INC.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-81-S-017 by SPRINGFIELD SWIMMING & RACQUET CLUB under Section 3-303 of the Fairfax County Zoning Ordinance to permit construction of admissions control booth and closing of entrance to parking lot on property located at 7401 Highland Street, tax map reference 80-1((5))(52)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 June 2, 1981; 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-3.
3. That the area of the lot is 3.7492 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 IN PART (to allow construction of admissions control booth and to deny the closing of the entrance to the parking lot from Amelia Street) 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. All other requirements of previous use permits shall remain in effect.
8. Unless otherwise qualified herein, extended-hours for parties or other activities of outdoor community swim clubs or recreation associations shall be governed by the following:
   (A) Limited to six (6) per season.
   (B) Limited to Friday, Saturday and pre-holiday evenings.
   (C) Shall not extend beyond 12:00 midnight.
   (D) Shall request at least 10 days in advance and receive prior written permission from the Zoning Administrator for each individual party.
   (E) Requests shall be approved for only one (1) such party at a time, and such requests will be approved only after the successful conclusion of a previous extended-hour party or for the first one at the beginning of a swim season.
   (F) Requests shall be approved only if there are no pending violations of the conditions of the Special Permit.
   (G) Any substantiated complaints shall be cause for denying any future requests for extended-hour parties for that season; or, should such complaints occur during the end of the swim season, then this penalty shall extend to the next calendar year.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 426, June 2, 1981, After Agenda Items

Luck Quarries: Royce Spence personally appeared before the Board regarding his previous request for an extension of hours for the quarry. Mr. Hyland stated that the BZA had already made a decision that such a change would require a public hearing. Mr. Spence stated that perhaps he had not adequately explained the details of his request and informed the Board that they had previously granted such extensions as an after agenda item. Chairman Smith advised Mr. Spence that the BZA did not have the authority to grant such a request without benefit of a public hearing. Mr. Spence stated that he was seeking permission to operate the extended hours during the summer on a controlled basis and that he would apply for an amendment to the Special Permit in October at which time he would be able to know the effect the extended hours had on the people in the area. After further discussion of the matter, Mr. Spence withdrew his request.

426

//

Page 426, June 2, 1981, After Agenda Items

Grasshopper Green/Kenwood School, S-80-A-026: Mrs. Mildred Frazer personally appeared before the BZA seeking permission to have a temporary increase in the number of children allowed at the summer day camp program. She informed the Board that the brochure had gone out about the summer camp and that the registration fee was lowered for all applications returned before June 1st. Mrs. Frazer informed the Board that the applications received far exceeded the number of children allowed under the special permit. She stated that she had a waiting list of 27 children. Mrs. Frazer asked the BZA to allow an additional number of children as a minor change to the special permit. Mr. Hyland advised Mrs. Frzer that if she filed an amendment to the special permit, he would not have a problem with granting such a request. It was the consensus of the Board that Mrs. Frazer file an amendment as soon as possible to be heard at the earliest available date.

//

Page 426, June 2, 1981, After Agenda Items

Kevin & Heidi Dellafera Eagleton, V-81-D-019: Mrs. Day stated that at the time of the public hearing on the variance which resulted in a denial, it was her understanding that the neighbors had not objected to the subdivision of the property but only its access. She stated that the BZA had denied the variance and the attorney, Mr. Murphy, was requesting a reconsideration. Chairman Smith stated that the Board could move to reconsider but it could not change the consequences of the last action without a public hearing. Mr. Hyland stated that the BZA had the right to reconsider which he felt meant that it could come back and reverse its action.

Page 426, June 2, 1981, Reconsideration as an After Agenda Item Board of Zoning Appeals
KEVIN & HEIDI DELLAFERA EAGLETON
V-81-D-019 R E S O L U T I O N

In Reconsideration of Application No. V-81-D-019 by KEVIN & HEIDI D. EAGLETON under Section 18-401 of the Zoning Ordinance to allow the subdivision of a lot into two lots; one of which will be 24.48 ft. wide (200 ft. minimum lot width required by Sect. 3-E06), on property located at 949 Bellview Road, tax map reference 20-1((1))19, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals reconsider its original motion of May 19, 1981 and adopt 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 28, 1981; being deferred from March 17, 1981 for notices; and deferred until May 19, 1981 for decision; 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 4 acres.
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 IN PART (to allow subdivision of a lot into two lots and to allow a 15 ft. access easement to proposed lot 2 from proposed lot 1 on Bellview Road. No access shall be permitted from Old Dominion Drive with the following limitations:

RESOLUTION

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 18 months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Discussion of BZA's reconsideration of the Kevin & Heidi D. Eagleton variance: Mr. Yaremchuk stated that the action taken by the BZA to reconsider was in accordance with its policy to take such an action at the next meeting of the Board. Mr. Yaremchuk stated that this meeting was the earliest meeting following the denial and that its action to reconsider was in accordance with the BZA's policies and laws. Mr. DiGiulian stated that he was supporting the motion but indicated that he had not seen anything wrong with the original application.

//

Page 427, June 2, 1981, After Agenda Item

Meadowbrook Associates, S-306-78: The Board was in receipt of a request for an extension of the special permit granted January 29, 1980. It was the consensus of the Board to allow a six month extension.

//

Page 427, June 2, 1981, After Agenda Item

Burke Centre Day School, Inc., S-80-S-056: The Board was in receipt of a request from Mrs. Frances Batchelder for an extension of the special permit granted January 30, 1980. It was the consensus of the Board to allow a six month extension.

// 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

Submitted to the Board on Jan. 18, 1983

Approved: January 25, 1983

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 9, 1981. All Board Members were Present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:30 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. BURTON J. RUBIN, appl. under Sect. 18-301 of the Ord. to appeal determination by the Zoning Administrator that non-elderly persons may be housed in a building constructed pursuant to a Special Exception for Housing for the Elderly, A-81-004.

For information regarding the testimony presented at the appeal, please refer to the verbatim transcript located on file in the Clerk's Office.

At the closing of the hearing, Mr. DiGiulian moved that the Board uphold the decision of the Zoning Administrator. Mr. Yaremchuk seconded the motion and it passed by a vote of 5 to 0.

//

Pate 428, June 9, 1981, Scheduled case of

10:30 A.M. CLYDE A. MILLER, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 17 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), located 3436 Skyview Terrace, Valley Brook Subd., 60-2((30))22, Mason Dist., R-2, 17,850 sq. ft., V-81-M-062.

Mr. Clyde A. Miller of 3436 Skyview Terrace in Falls Church informed the BZA that the basis for requesting the addition was to permit the dining room and the kitchen to be extended. He stated that the present area was only 8 ft. wide for a family of seven. He stated that the kitchen and dining room were very small. He proposed to extend them outward 11½ft. to enlarge the rooms. In response to questions from the Board, Mr. Miller stated that he had owned the property since 1974, about 7 years. Chairman Smith inquired if the construction was for Mr. Miller's benefit and not for the benefit of resale purposes. Mr. Miller responded that the enlargement would be for his family's use.

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

Page 428, June 9, 1981 Board of Zoning Appeals
CLYDE A. MILLER

R E S O L U T I O N

In Application No. V-81-M-062 by CLYDE A. MILLER under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-207), on property located at 3436 Skyview Terrace, tax map reference 60-2((30))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 June 9, 1981; 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 17,850 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:

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 429, June 9, 1981, Scheduled case of

10:40 A.M. JIMMY D. LAWSON, appl. under Sect. 18-401 of the Ord. to allow the construction of a deck within 16.2 ft. of the rear property line (25 ft. min. rear yard req. by Sect. 3-307), located 1603 Bayou Ct., Kingston Chase Subd., 10-2((4))382, Dranesville Dist., R-3(C), 9,867 sq. ft., V-81-D-063.

Mr. Jimmy D. Lawson of 1603 Bayou Court in Herndon informed the BZA that the location of his home was such that the rear yard was only 28 ft. He stated that he was proposing to build a wooden deck 12'x20' which would extend out into the required setback area. He stated that the justification for the request was that the deck would add to the appearance of his home and the neighborhood in general. He stated that the lots to his rear were open farmland. The other home to his left was on a lot which was very deep. He stated that his deck would not be any intrusion on any one's privacy.

A representative from the Kingston Chase Civic Association spoke in support of the application. He informed the Board that the only objection came from two people in the association who were concerned that this request would start a precedent for everyone in the community even though each case would be reviewed on an individual basis. Mr. Yaremchuk inquired if the two people objecting to the variance were adjacent property owners and was informed they were not.

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

RESOLUTION

In Application No. V-81-D-063 by JIMMY D. LAWSON under Section 18-401 of the Zoning Ordinance to allow the construction of a deck within 16.2 ft. of the rear property line (25 ft. minimum rear yard required by Sect. 3-307) on property located at 1603 Bayou Court, tax map reference 10-2((4))382, County of Fairfax, Virginia, Mr. Hyland 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 9, 1981; 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(C).
3. The area of the lot is 9,867 sq. ft.
4. That the applicant's property is exceptionally irregular in shape in that it is a shallow lot and has an unusual condition in that the property has a utility easement that crosses the rear and side lot lines.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 430, June 9, 1981, Scheduled case of

10:50 A.M. CLEO Y. ADKERSON & HOWARD F. YOUNG, appl. under Sect. 18-401 of the Ord. to allow subdivision into three lots, two of which would have a width of 7 ft. & 7.14 ft. (80 ft. min. lot width req. by Sect. 3-306), located 3724 Munson Rd., 61-4((1))58 & 61, Mason Dist., R-3, 43,531 sq. ft., V-81-M-043.

Mr. Howard F. Young stated that he was the agent and contract purchaser. Mr. Young informed the BZA that the property was L-shaped and consisted of one acre. He stated that he had a few people who wished to locate in the area if they could build a house. Mr. Young stated that the property was zoned R-3. On edge of the property was a storm sewer easement. In response to questions from the Board, Mr. Young stated that the average lot size for the area was half-acre. Mrs. Day stated that the lots in the area would be much larger than the proposed lots since one would be 11,200 sq. ft. and the other was only 10,100 sq. ft. Mr. Young stated that the other lots had been subdivided before the area was zoned R-3. Chairman Smith stated that the density for the area was still two to three dwelling units per acre. He stated that two lots would be a reasonable use of the land as the maximum density would allow three. Mr. Young stated that the lot in the rear was his lot. He also stated that within one block of the property were townhouses. Mrs. Day inquired if Mr. Young was the contract buyer and he stated he was. She inquired if the owner had contacted the neighbors. Mr. Young stated that he had talked to several neighbors and they did not have any objections. Mrs. Day inquired if the adjoining lots were developed and was informed that most of them were. Mr. Young stated that there was quite a bit of vacant land to the rear and to the right of the property. Mrs. Day was concerned that the proposed pipestem would potentially serve five lots but Mr. Covington informed her it was not possible. Mrs. Day inquired if proposed lot 1 met the requirements for a corner lot and was informed it did.

Mr. Robert Hawkins spoke in support of the application. Mr. Hawkins stated that he resided on an adjacent lot and wanted to ask a question about the proposed variance. He inquired of the Board as to how this variance would affect his property or the surrounding property. He asked if his taxes would be affected if the variance were approved. Chairman Smith stated that he could not answer the question regarding taxes. He stated that he assumed any house constructed would sell at a high figure but he did not believe it would have any tremendous effect on the surrounding property since any tax would be based on what was actually on the property. Chairman Smith stated that the only effect might be that it would appreciate the value of Mr. Hawkins' property. Mr. Yaremchuk stated that taxes go up every year anyway. He stated that three new homes should enhance the area. Mr. Hawkins stated that he understood one of the proposed lots did not have any outlet to the road and he inquired as to how anyone would get to it. Chairman Smith stated that the lot would be served by a 7 ft. pipestem.

During rebuttal, Mr. Young stated that he did not believe the construction of houses on the property would cause Mr. Hawkins' property taxes to increase. He also stated that the new construction would be in the same range as the existing houses. Chairman Smith inquired if Mr. Young meant what the houses originally sold for or what they were presently valued at. Mr. Young stated that a $70,000 to $80,000 house was selling for about $125,000. Chairman Smith stated that was very reasonable.

RESOLUTION

In Application No. V-81-M-043 by CLEO Y. ADKERSON & HOWARD F. YOUNG under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, two (2) of which would have a width of 7 ft. & 7.14 ft. (80 ft. minimum lot width required by Sect. 3-306), on property located at 3724 Munson Road, tax map reference 61-4((1))58 & 61, County of Fairfax, Virginia, Ms. Day 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 June 9, 1981; 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 43,531 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow which precludes the applicant from meeting the minimum lot width requirements of the Zoning Ordinance.

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 18 months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

3. This variance is subject to lot 1 meeting the standard setback requirements.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 431, June 9, 1981, Scheduled case of

11:00 A.M. GEORGE N. & CAROL I. DAVIS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 10.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6917 Alpine Drive, Alpine Subd., 71-2((3))25, Mason Dist., R-2, 27,543 sq. ft., V-81-M-064.

The Board recessed for ten minutes to allow the Clerk to check the required notices. Mr. and Mrs. Davis of 6917 Alpine Drive in Annandale informed the Board that the proposed addition was to allow extra living space and to provide a dining room. Mr. Davis stated that this was the only location in which to build because there was a well in the front of the property. He stated that the original location of the house was dictated by a storm sewer on the east side which placed the house in the center of the lot. Mr. Davis stated that the lot was very narrow. He stated that there was a lot of room in the rear but he was not able to build in rear. Mr. Davis stated that his home was one of the smallest in the area. He stated that the addition would make his home more compatible. In response to questions from the Board, he stated that he had owned his property for four years and planned to continue living there.

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

RESOLUTION

In Application No. V-81-M-064 by GEORGE N. & CAROL I. DAVIS under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.8 ft. from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 6917 Alpine Drive, tax map reference 71-2((3))25, 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 9, 1981; and

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

RESOLUTION

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 27,543 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow with converging lot lines and has an unusual condition in the location of a storm sewer along the east side of the 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 432, June 9, 1981, Recess

At 12:15 P.M., the Board recessed the meeting for lunch and did not reconvene until 1:00 P.M. to continue with the scheduled agenda.

//

Page 432, June 9, 1981, Scheduled case of

11:10 A.M. COSTAIN WASHINGTON INC., appl. under Sect. 18-406 of the Ord. to allow dwelling to remain 20.9 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 5560 Renoir Port Lane, Southport Subd., 78-2((19))3, Annandale Dist., R-3, 11,135 sq. ft., V-81-A-065.

Mr. Robert Freeman of 10710 Lee Highway represented the applicant. He informed the BZA that originally a grading plan was submitted to the County for approval. He stated that they had submitted a set of plans that they had intended to use. However, during the listing program, they had decided to increase the size of the house itself. He stated that they had resubmitted their building permit and got approval on them. However, they had neglected to inform Greenhorne & O'Meara that they had increased the house 5 ft. which created an encroachment on the setback. Mrs. Day inquired as to who Mr. Freeman represented and was informed he represented Costain Washington, Inc. Mr. DiGiulian inquired if they had made any changes to the grading plans and Mr. Freeman stated that they only made a change to the building plans as they were not aware that they had to change anything else. Mr. DiGiulian inquired if they had resubmitted the grading plans and Mr. Freeman stated that they had but it was revised on a by lot basis. Then they went back and changed from one house type to another. Mr. DiGiulian again inquired if the grading plan for this particular lot had been changed and Mr. Freeman stated it had not been changed. He stated that they had changed the building permit to indicate the additional square footage but had not submitted a grading plan for the lot 3 because they were unaware they were encroaching. Mr. Freeman stated that there had a breakdown in communications. Mr. DiGiulian inquired as to when the building permit had been revised. Mr. Freeman stated that it was after construction had started and after the engineer had staked out the layout. Mr. DiGiulian inquired if they had changed the building permit as soon as they had discovered the error and was informed they had. Chairman Smith inquired as to the number of houses built by Costain in this area. Mr. Freeman stated that there were 25 houses in this subdivision and he indicated that this was the first error made by Costain to his knowledge.

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

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. V-81-A-065 by COSTAIN WASHINGTON INC. under Section 18-406 of the County Zoning Ordinance to allow dwelling to remain 20.9 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-307) on property located at 5560 Renoir Port Lane, tax map reference 78-2((19))3, 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 June 9, 1981; 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 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. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 433, June 9, 1981, Scheduled case of

11:20 A.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 1 to 79.5 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located 6700 Fisher Avenue, 40-4((1))47, Dranesville Dist., R-4, 8,519 sq. ft., V-81-D-067.

As the required notices were not in order, the Board deferred the application until July 16, 1981 at 10:00 A.M. and requested that the property be reposted.

//

Page 433, June 9, 1981, Scheduled case of

11:20 A.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 2 to 82 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate Highways req. by Sect. 2-414), located 6700 Fisher Avenue, 40-4((1))47, Dranesville Dist., R-4, 8,619 sq. ft., V-81-D-068.

As the required notices were not in order, the Board deferred the application until July 16, 1981 at 10:05 A.M. and requested that the property be reposted.

//

Page 433, June 9, 1981, Scheduled case of

11:20 A.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 3 to 104 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate Highways req. by Sect. 2-414), located 6700 Fisher Avenue, 40-4((1))47, Dranesville Dist., R-4, 8,739 sq. ft., V-81-D-069.

As the required notices were not in order, the Board deferred the application until July 16, 1981 at 10:10 A.M. and requested that the property be reposted.

//

Page 434, June 9, 1981, Scheduled case of

11:20 A.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 4 to 149 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located 6700 Fisher Avenue, 40-4((1))47, Dranesville Dist., R-4, 11,182 sq. ft., V-81-D-070.

As the required notices were not in order, the Board deferred the application until July 16, 1981 at 10:15 A.M. and requested that the property be reposted.

//

Page 434, June 9, 1981, Scheduled case of

11:20 A.M. HOWARD BROCK AND HOWARD BROCK, JR., appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 9 to 121 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located 6701 & 6705 Fisher Avenue, 40-4((1))46, Dranesville Dist., R-4, 11,200 sq. ft., V-81-D-071.

As the required notices were not in order, the Board deferred the application until July 16, 1981 at 10:20 A.M. and requested that the property be reposted.

//

Page 434, June 9, 1981, Scheduled case of

11:20 A.M. HOWARD BROCK, JR., appl. under Sect. 18-401 of the Ord. to allow construction of house on proposed lot 11 to 30 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located 6705 Fisher Avenue, 40-4((1))47, Dranesville Dist., R-4, 12,571 sq. ft., V-81-D-072.

As the required notices were not in order, the Board deferred the application until July 16, 1981 at 10:25 A.M. and requested that the property be reposted.

//

Page 434, June 9, 1981, Scheduled case of

11:40 A.M. DONNY BROOK DEVELOPMENT COMPANY, appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 lots one of which would have width of 10 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 11111 DeVille Estates Drive, DeVille Estates Subd., 27-3((1))21, Centreville Dist., R-E, 5.0857 ac., V-81-C-073.

As the required notices were not in order, the Board deferred the application until July 16, 1981 at 10:30 A.M. and requested that the property be reposted.

//

Page 434, June 9, 1981, Scheduled case of

11:50 A.M. JULIANA CAMPAGNA, appl. under Sect. 3-E03 of the Ord. to permit private school, of general education, with summer day camp, located 1616 Hunter Mill Road, Lester C. Cooper Subd., 18-3((3))1, Centreville Dist., R-E, 5 ac., S-81-C-030.

Ms. Juliana Campagna of 11428 Purple Beach Drive in Reston informed the BZA that she was interested in starting a private day school with a summer day camp facility at property located at 1616 Hunter Mill Road. She stated that she presently owned a child care center in Reston and served the areas of Great Falls, Reston, Herndon and Sterling Park. She stated that she served 3 and 4 years olds between the hours of 6:30 A.M. to 6:30 P.M. Ms. Campagna stated that she had her own private kindergarten and had been operating for three years. Ms. Campagna stated that she wished to extend that facility to include a private school. The property she had looked at on Hunter Mill Road contained five acres. It had a pond and a two story brick house which could contain five classrooms. Ms. Campagna stated that the property was very deep and very narrow and was heavily wooded. Behind the house was a garden with a pasture and a two horse stable to be used for outdoor shelter. She stated that there was also a play area. Ms. Campagna stated that she would not have to change the property very much. She planned to widen the driveway which required the removal of one tree. Ms. Camgagna stated that the reason she wanted this facility was for children who lived in townhouses or a mostly concrete area to learn to appreciate the trees and the animals. Ms. Campagna stated that the pond was stocked with fish and there was wildlife on the property. She stated that she planned to have a very disciplined school. She wanted to have a program to teach the children self-respect for property. She stated that every piece of ground she had looked at for possible expansion had not been as conducive as this property. She stated that she had been operating a summer camp for five years and a day care for three years. She informed the Board that there was only one other day camp in the area. She stated that she proposed a different type of camp activity as it would be organized. Ms. Campagna stated that in the past she had rented space from churches and had to fit in with the church's regulations for use of church grounds.

Page 435, June 9, 1981
JULIANA CAMPAGNA
(continued)

Ms. Campagna stated that there were some concerns about there being another school in the area. However, she stated that she was not a Christian school so it would not be a duplication. She stated that there were public schools in Reston which were all overcrowded. She stated that there was a need for a school of this type in the area.

Ms. Campagna stated that she had some concerns about the traffic which was also shared by the neighbors. She stated that most of the people already use Hunter Mill Road and Crowell Road going to and from work so that she would not be generating a great deal more traffic. She stated that traffic was bumper to bumper on Rt. 7, Hunter Mill Road or Lawyers Road. Ms. Campagna stated that the hours of her school would be from 9 A.M. and would end at 3 P.M so it would not interfere with rush hour traffic. Ms. Campagna stated that she owned three school buses and would dismiss some of the children from her other center.

Ms. Campagna stated that the proposed facility had a very narrow driveway. She stated that she would cut back the landscaping so that the driveway had adequate sight distance. She informed the BZA that it was her understanding that there had been a plan presented to the community several years ago to have the road widened and straightened but it was rejected. She stated that she was concerned with the safety of the children. She stated that she would like to see a three way stop sign put in to eliminate traffic problems. Ms. Campagna stated that a traffic light would be better though. Ms. Campagna stated that there was a great speed problem on the road. She suggested that an option would be to have an access road along the back of the property from Sunset Hills which would mean instead of traffic going through Hunter Mill Road, it would go through the back yards.

Another concern was the property values in the area. Ms. Campagna stated that neighbors were concerned that the values would go down. She stated that a good, qualified day school would not detract from the property values and that people would be able to get the fair market value for their property. She informed the Board that she had found that all schools were located in residential communities. Most schools were in the middle of a residential community with a two lane road access to them. In addition, most private schools had started in a residential community. Mrs. Campagna stated that when she first started her other day school there had been a great deal of upset in the community because people felt it would detract and lower their property values. She stated that in the four years she had been operating the school, the noise level had not bothered anyone. In addition, the people who had been concerned were not using the facility themselves. She stated that the community of 65 were now friends and the school was no longer considered an enemy. Mrs. Campagna stated that she had done a great deal of landscaping at the present school.

Ms. Campagna stated that with regard to landscaping at the proposed location, she would have to put up some wooden fences and add some trees such as evergreens. Mrs. Campagna presented the Board with letters of support from neighbors of her other facility to give the Board an indication as to the type of facility she operated. Mrs. Campagna stated that she wanted an opportunity to provide the people in the community with a school on a site unlike any other in the County. A team inspection had been performed on the property and very little needed to be done. Mrs. Campagna stated that she had a great deal of respect for five acres. She stated that the school would have between 60 and 80 children. There would not be any food preparation on the property. The ages of the children would be between six and ten years.

Mrs. Johnna Prior spoke in support of the application. She stated that she had been one of the 65 families that opposed the initial day care center on Sunrise Valley Drive in Reston. Mrs. Prior stated that she had been at the top of the list as far as opposing Mrs. Campagna's center four years ago. She stated that Mrs. Campagna had been a wonderful neighbor to the community and that no one in the community had had any problems with the center. Mrs. Campagna had planted 200 to 300 trees along the property to help screen the center. Mrs. Prior stated that one of her biggest concerns had been that children from the center might come onto her property but she stated that had never happened. She stated that she had even enrolled her son in Mrs. Campagna's day care center. Mrs. Prior stated that she had not had any problem with the noise. She stated that this year, Mrs. Campagna had done some extra landscaping on the property. Mrs. Prior stated that she felt Mrs. Campagna would show the same kind of concern to the new proposed center.

The next speaker in support was Mrs. Virginia Bidick of Herndon, Va. She stated that she has known Mrs. Campagna for three years. Mrs. Bidick stated that in her professional business she had occasion to come into contact with people who were just coming into the community. One of the first prerequisites for the people were the schools. Mrs. Bidick stated that as a matter of general procedure, she always furnished the people with a list of the schools available. Of all of the information given out, the majority of the people enrolled in Mrs. Campagna's facility as it was an outstanding day care center. Mrs. Bidick stated that the center was professionally run and the programs run by the people were an asset to the community.

The next speaker in support was Mr. Ed Bidick of 12337 Lawyers Road who informed the Board that he worked in Reston. He stated that he supported the wonderful operation of Mrs. Campagna. He stated that the community held her facility in high esteem. He stated that Mrs. Campagna had a waiting list of people wanting to enroll their children into her program. Mr. Bidick stated that it was a great pleasure to support her application for a new facility.

An employee of the Sunrise Valley School also spoke in support of the application. She stated that she had worked with Mrs. Campagna for three years as a comp coordinator and a camp counselor. She stated that the children were well disciplined.

Another employee, Janet George, stated that she had worked with Mrs. Campagna for three years and had worked with children for nine years. She stated that the school was wonderful and the children loved it. She stated that the community needed more places like it as the children learned a lot. She stated that she could not see how the Board could deny such a school.

Mr. Jonathan Pearlman spoke in opposition to the request. He stated that he lived in the Crowell Road area. He stated that he was a teacher and a member of the Board of Directors for Crowell Corner Homeowners Association. Mr. Pearlman presented the Board with a letters from people in the community who were unable to attend the public hearing. Mr. Pearlman stated that the proposed facility should be denied for three reasons. First, there was a dangerous intersection in the area. He stated that left turns would be impossible into the proposed center and it would back up traffic. He stated that the buses transporting children would be in grave danger of being rear-ended. Mr. Hyland questioned whether Mr. Pearlman felt that because of the additional number of cars or buses to the facility that it would create an additional hazard. Mr. Pearlman responded that was not his position. He stated that 50,000 cars already pass by that area. He stated that an additional 80 students would not noticably increase the traffic but the cars and buses would be making turns into the facility which were unnatural to the area. Mr. Pearlman stated that the second reason for denial was the shape of the property as it was ill-suited for a school. The property was very deep and narrow. Mr. Pearlman stated that he was concerned there would be a lot of undue noise which would affect the residents. The third reason was the name of the proposed school which was named after a street in Reston. Mr. Pearlman stated that the school would be used by people in Reston. He stated that Reston had wide streets, paths, lakes and nature trails and everything which was desired by the applicant. Therefore, he found it strange that a second location outside of Reston was being proposed by the applicant. Mr. Pearlman stated that the Crowell Road area was very fragile. It did not have any covenants and it was a rural area. He informed the Board that the area's only protector was the BZA and he urged the Board to please consider the arguments and listen to the reasons.

The next speaker in opposition was Jeannette Toomey, an attorney, residing at 1504 Brookmeade Place in Vienna, Va. She stated that she opposed the request as it had the potential for a major impact on her neighborhood, Ridgelynn Hunt whose entrance was 200 yards from the proposed school site. She stated that her area consisted of 27 homes and that most families there had young children. People had moved there because of the quiet nature of the area. Mrs. Toomey stated that it was her feeling that any exception to the Comprehensive Plan should only be allowed if there was evidence that a special permit was needed and was compatible with the existing uses and that it would not prevent any homeowner on existing property from enjoying their property. Mrs. Toomey stated that she found no special merit to this application. She stated that there were important reasons why a school should not be operated on the property. There was nothing to indicate that the property was suitable for the operation of a school as it was a long, skinny lot and had a mud-filled pond which was unsuitable for swimming or boating. Mrs. Toomey stated that the home on the property would not meet the needs of 80 children. In addition, she stated that the people in her area did not feel there was a need for another school as several private schools already existed in addition to the public schools. Mrs. Toomey stated that the application presented did not show adequate treatment of the traffic on Hunter Mill Road. She stated that Hunter Mill Road was presently grossly inadequate to handle the traffic flow and could not handle the additional traffic generated by the pick ups and deliveries of the 80 children school. Mrs. Toomey was concerned about the safety of the children from her area when walking or riding bicycles along Hunter Mill Road as there were no sidewalks or shouulders on Hunter Mill Road. Mrs. Toomey stated that she opposed the application and represented the people from the Ridgelynn Hunt subdivision as well as the 59 people surrounding the area of Crowell Corners, Windstone and Colvin Run Estates who had signed petitions in opposition to the use.

Mrs. Toomey further stated that Mrs. Campagna was in a hurry to begin her school because of the risky financial situation she had placed herself in. She had already purchased the property before receiving approval of the special permit. Mrs. Toomey urged the Board not to rush its decision by relaxing the general standards for a special permit. Mrs. Toomey felt that the applicant had not met the general standards so that the BZA did not have the authority to approve the application. Mrs. Toomey stated that the application was deficient with regard to item no. 4 of Section 18-006 of the general standards with respect to traffic. Mr. Hyland stated that the traffic in the area was already a horrible situation with or without the proposed school. Dr. Damewood had been trying to solve that problem for a long time according to correspondence given to the BZA. Mr. Hyland stated that the proposed school would not make the traffic that much worse. Mrs. Toomey argued that the additional increase in number would aggravate the traffic more. She stated that she would hate to have some child hurt before the County took the situation seriously.

Mrs. Toomey stated that contrary to the assurances that Hunter Mill Road would become a four lane road, she had a planning commission report which indicated that Hunter Mill Road improvements only called for improvements to the existing two lane road. Such improvements were not planned to be performed within this century for anything than the existing road. Mrs. Toomey stated that 75 accidents had occurred within 200 yards of the proposed school facility. She stated that the intersection was heavily travelled because Reston residents used the road as a shortcut to Rt. 7.

In addition to the deficiency to the application with regard to the traffic, Mrs. Toomey stated that the applicant failed to indicate that there would be adequate outside play areas for the children. She stated that 200 sq. ft. of play area was to be provided per child for grades K through third and 430 sq. ft. of play area for grades four and five. Mrs. Toomey stated another deficiency was failure to specify that there was the proper indoor space necessary for 80 children. She indicated that the application left a question in her mind as to whether Mrs. Campagna was as professional as had been presented. Mrs. Toomey questioned the number of parking spaces provided as there were only ten shown on the plat. Mrs. Toomey was concerned about the unloading of children in the front yard. She stated that if the application were granted, it would be an unnecessary unloading of the master plan onto the taxpayers who had relied upon it.

The next speaker in opposition was Mr. Damewood who informed the Board that he had sent in correspondence regarding the proposed facility. He stated that his letter spoke for itself and he would speak for the neighbors. The lot was very narrow and the existing house was situated very close to the road. He stated that even if Mrs. Campagna cut away the bank at the driveway, it would not help the situation. He was concerned about the traffic and the busing of children because of the possibility of killing a lot of children at one time. Mr. Damewood stated that he had no doubt that Mrs. Campagna ran a fine school in Reston. However, he stated that if you put a fence in it was a good invitation for children to climb over it. Mr. Damewood stated that the property was unsuitable for a school because the pond was full of silt and wire. The back of the property sloped off into a gulley which was full of snakes. He stated that there were grey foxes in this area. Mr. Damewood stated that the citizens were not anti-children but the facility was a commercial enterprise and the people had a lot of money tied up in their property. Mr. Yaremchuk stated that he lived near a high school and that everybody had to tolerate some problems. He stated that the road improvement situation was denied when Mrs. Pennino was on the Board as the citizens did not want the road improved. Mr. Damewood stated that those people had moved away.

The next speaker in opposition was Mr. Roper of 1628 Hunter Mill Road who stated that he had been against the improvements on Hunter Mill Road as it would increase the speed on Hunter Mill Road. People presently travel 45 to 60 m.p.h. and it was impossible to stop when the road was wet. Mr. Roper stated that the proposed property was high and that the bank would still be there making it impossible to see traffic until it was too late. He stated that this was a dangerous spot and there were not any improvements which could correct it.

The next speaker in opposition was Mr. W. Gould of Hunter Mill Road. He stated that he lived across ~~the street~~ from the proposed facility. Mr. Gould stated that during the last three or four years he had noticed that most of the accidents did not occur after 4 o'clock in the evening but occurred in the center of the day when people drove faster on the road. He stated that the State would not do anything to hinder people from being killed. Mr. Gould stated that the house proposed for the child care center was not large enough to hold 80 children and an addition would have to be added later. The well was being worked on. Mr. Gould was concerned about people turning into the property. Mrs. Day inquired as to the previous owners of the property and whether they had any difficulty in getting in or out of the driveway. Mr. Gould stated that the previous owners had to stop and wait to exit onto the road. However, he stated that they worked and were only in and out a few times a day.

The next speak in opposition was Mr. George Adler of 1620 Hunter Mill Road who stated that he was the immediate neighbor to the property. Mr. Adler stated that everyone was talking about technicalities. He stated that he was from Argentina and had come to the hearing because one of the most valuable things people had was the right to chose. He informed the Board that they were talking about making a decision which affected several lives. He stated that after several years of hard work, he had completed his dream of owning a home with woods and forest for this two daughters. Mr. Adler stated that he had lived in Reston and was not against progress. However, he felt the need for privacy for himself and his family. After a careful study of the area, they had purchased their home because of its privacy and the value. Now he found that a school would be built in his back yard. He stated that Mrs. Campagna had the right to choose her school but he indicated he had rights too. He stated that it was not only his rights being affected but the rights of the other eight immediate neighbors. Mr. Adler stated that he would be the one most impacted by the school and was trying to express that to the BZA for its consideration. He asked that they respect his choice to make his dream come true. Mr. Adler stated that he fed about 200 birds and owned two dogs. There were other wild animals in the area. Mr. Adler stated that there were so many other beautiful places where a school could be located. He stated that he was settled in a group of woods. Mr. Adler stated that he was afraid that the wildlife would be affected and that eventually the presence of the children would pressure the animals into leaving the area.

The next speaker in opposition was Mr. Claiborne Kisner of 1519 Hunter Mill Road. He stated that he wanted to set the record straight about Hunter Mill Road. The reason people did not want the road improved was because it would increase the speed limit on Hunter Mill Road. Mr. Kisner stated that the improvements already done on the road were dangerous. He stated that the State had tried to make the road better but they had left it the way it was. He stated that it was difficult to get out of his driveway because of the people coming up the hill. Mr. Kisner stated that the road was a difficult problem.

During rebuttal, Mrs. Campagna stated that she shared Mr. Adler's deep concern about the animals. One of the reasons she loved the location for a day care center was because she wanted to share those animals with the young children. Other problems had been mentioned during the hearing. With regard to the after school program, Mrs. Campagna stated that she would be willing to adjust the times of the program. She was also deeply concerned about the safety of the children. The present facility was located on Sunrise Valley Drive. Mrs. Campagna stated that she wanted to help the community. She stated that the problems mentioned had existed before she purchased the property. With regard to the pond, she informed the BZA that Fairfax County had helped to build it. The pond was not good for swimming because it was so cold. There were three springs feeding the pond. She stated that the pond was cold enough to stock with trout. Mrs. Campagna stated that she had a swimming pool at her present location. She wanted this property for use as an aquatic lab. Mr. Pricci from the Health Department had inspected the property. With regard to the play area, she stated that all 80 children would not be playing at the same time just like they all would not be eating at the same time. She stated that if she had to increase the parking, she would meet the Code requirements. Mrs. Campagna stated that she had met or surpassed all of the County Codes. She stated that the Fire Marshal had indicated that fire exists were necessary for the top floor and he had given her a design to use. Mrs. Campagna stated that she would use the well for summer camp but had started to dig another well. With regard to landscaping, one tree would have to come down. She stated that it was situated in the middle of the driveway. Mrs. Campagna stated that she hoped with the school situation that it would rekindle the community to do something about Hunter Mill Road. She stated that all of Northern Virginia was dangerous at rush hour. Mrs. Campagna stated that the property had a long historic value which she respected and wanted to share with the children.

Mr. Yaremchuk stated that the school would come under site plan approval. Mrs. Campagna stated that she had plans to widen the driveway and to cut the road back. Mr. Hyland inquired as to the number of trips generated. Mrs. Campagna stated that the school bus would make one run in the morning. She stated that the buses would also be used for field trips. She stated that she had three buses between the two centers. Mrs. Campagna stated that there were about 50 car trips except for after school hours. Rather than have parents make two trips, she stated that she would have the bus take the children back to the other school. Mr. Hyland inquired as to the number of additional cars and/or buses coming onto the proposed site between the hours of 7 A.M. and 9 A.M. every morning. Mrs. Campagna stated that there would be about 50 cars in the morning and about the same number in the afternoon. Mr. Hyland inquired as to the number of children and was informed there would be between 60 and 80. Mrs. Campagna stated that the 48 car trips was based on 60 children. Chairman Smith inquired as to the size of the school buses and was informed there were two Dodge Maxi-vans.

Chairman Smith closed the public hearing. During discussion, Mr. Hyland stated that he had listened to both sides and that both sides had made a number of points. He stated that the major consideration was the traffic. Mr. Hyland noted that the site analysis was based on a proposal that the school would be 48 children and 60 children respectively. Mr. Hyland stated that he wanted to look at the site and would like an analysis by the staff for a reference as to the number of trips that are going to be generated by this school. He moved that the decision be deferred until the BZA received that information. Mr. DiGiulian seconded the motion and it passed by a vote of 3 to 2 (Messrs. Smith & Yaremchuk). Mr. Hyland stated that the traffic analysis should be from the Office of Transportation. The Board deferred the matter until June 23, 1981 at 11:00 A.M.

//

Page 438, June 9, 1981, After Agenda Items

Tysons Briar, T/A Cardinal Hill Swim & Racquet Club: The Board was in receipt of a letter of complaint from Mr. Donald Rellins regarding a security guard of the Cardinal Hill Swim & Racquet Club playing tennis at midnight. It was the consensus of the Board to refer the matter to Zoning Enforcement for a report to be provided within two weeks.

//

Page 438, June 9, 1981, After Agenda Items

Approval of BZA Minutes: The Board was in receipt of Minutes for November 27, 1979 and December 4, 1979. It was the consensus of the Board to approve the Minutes as submitted.

//

439

Page 439, June 9, 1981, After Agenda Items

Schirmer Vs. Board of Zoning Appeals: The Board had received permission from the County Executive to seek outside counsel for the litigation involving Schirmer vs. BZA. The Clerk was directed to contact Mr. Brian McCormack to determine if he was interested in handling the case.

//

Page 439, June 9, 1981, After Agenda Items

Andrea Field, V-81-D-024: Mr. Howell Simmons informed the Board that he was requesting two changes with respect to the variance granted to Andrea Field. One change involved a sight distance profile. Mr. Simmons stated that he was keeping the same width for each of the three lots as was previously approved but he was relocating the entrance downhill. Mr. DiGiulian stated that there was not any change as far as the variance to the width of the pipestem. Accordingly, he moved that the BZA accept the change as a minor engineering change Mr. Yaremchuk seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

Mr. Simmons stated that the second change involved was that when the variance was approved, the plat indicated that the lot would be on public sewer. Mr. Simmons stated that what he wanted to do was to have the three lots on approved septic fields. He stated that he could show the Board overlays where this change would minize the grading and construction on the property. Chairman Smith stated that the public sewer vs. approved septic was not a condition of the BZA's variance.

//

Page 439, June 9, 1981, After Agenda Items

Franconia Assembly of God: The Board was in receipt of a request for an out-of-turn hearing for Franconia Assembly of God. It was the consensus of the Board to grant the request and it was scheduled for July 16, 1981 at 10:30 A.M.

// There being no further business, the Board adjourned at 4:00 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the BZA on Jan. 18, 1983

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: January 25, 1983
Date

440

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, June 16, 1981. The Following Board Members were Present: Daniel Smith, Chairman; John Yaremchuk; Gerald Hyland and Ann Day. (Mr. DiGiulian was absent).

The Chairman opened the meeting at 8:10 P.M. and Mrs. Day led the prayer.

MATTERS PRESENTED BY BOARD MEMBERS:

Chairman Smith informed the BZA members that Mr. Brian McCormack had agreed to handle the case of Schirmer vs. Board of Zoning Appeals.

//

Page 440, June 16, 1981, Scheduled case of

8:00 P.M. CARL RICHARD BOEHLERT, appl. under Sect. 18-401 of the Ord. to allow subdivision into 10 lots, with proposed lot 3, 4, 5 & 6 having width of 6 ft. & proposed lots 7 & 9 having width of 9 ft. (70 ft. min. lot width req. by Sect. 3-407), located 2310 & 2320 Great Falls St., 40-4((1))17A & 19, Dranesville Dist., R-4, 2.5087 ac., V-81-D-044. (DEFERRED FROM MAY 5, 1981 FOR HEARING BY FULL BOARD).

As there was not a full Board, the BZA again deferred the variance application of Carl Richard Boehlert until July 16, 1981 at 12:15 P.M.

//

Page 440, June 16, 1981, After Agenda Items

The BZA was in receipt of a request from the Planning Commission to defer its hearing of the Rainwater Appeal scheduled for June 23rd. The Planning Commission had pulled the appeal and had scheduled its own public hearing for July 15th. Chairman Smith suggested that the BZA hear the appeal but leave the record open for a decision. The BZA discussed the history or background of the appeal so as to determine why the Planning Commission had pulled it. It was the consensus of the Board to hold its hearing as scheduled but defer decision until July 21, 1981 in order to allow the Planning Commission to forward its recommendation.

//

Page 440, June 16, 1981, Scheduled case of

8:15 P.M. RONALD H. & CAROL S. KOEHNE, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 15.9 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 13135 Pelfrey Lane, Greenbriar Subd., 45-1((3))(60)6, Springfield Dist., R-3, 9,072 sq. ft., V-81-S-086.

Mr. Ronald Koehne of 13135 Pelfrey Lane presented the Board with a petition signed by his neighbors supporting his variance request. Mr. Koehne stated that he was planning the addition to his home which he intended to reside in for many years. Mr. Koehne stated that his house was a rambler. He stated that he did not wish to build in the front as it would make his house horseshoe shaped. Instead, he intended to build at the back which would allow him to take advantage of the solar hear in the winter. He stated that after adding the addition, his house would have an overall balanced look at the front and the back. Mr. Koehne stated that his neighbor's sunlight would not be affected by his proposed addition and the shadows from the addition would not fall on any neighbor's home. Mr. Koehne stated that the reason for the variance was because his house was a rambler and sat further back on the lot which made it impossible or very difficult to build in the rear. Mr. Koehne stated that his proposed addition would be 16 ft. from the rear property line. After the addition was completed, Mr. Koehne stated that his house would look typical. In response to questions from the Board, Mr. Koehne stated that there were gas and power line easements on his property. He stated that he had owned his home for 11 years. Mr. Koehne stated that his house contained three bedrooms with no recreation room. Mr. Koehne stated that his family has started growing and he wished to add either a recreation room or a den. He stated that at the present time, his bedroom contained equipment for exercising. Mr. Koehne stated that he had to take medicine daily which required him to also exercise on routine basis. He stated that if he did not exercise, he stiffened up. Mrs. Day inquired as to the type of materials to be used for the addition. Mr. Koehne stated that he would use 2x6s and the addition would have aluminum siding which was typical of the rest of the house. The front of the house was brick but the back was all aluminum siding. Mr. Koehne stated that his next door neighbors had a house just like his with a brick patio in the back.

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

Page 441, June 16, 1981 Board of Zoning Appeals
RONALD H. & CAROL S. KOEHNE

RESOLUTION

In Application No. V-81-S-086 by RONALD H. & CAROL S. KOEHNE under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.9 ft. from rear lot lines (25 ft. minimum rear yard req. by Sect. 3-307), on property located at 13135 Pelfrey Lane, tax map reference 45-1((3))(60)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 June 16, 1981; 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(C).
3. The area of the lot is 9,072 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including shallow and has an unusual condition in that the proposed location for the addition is the only feasible location because of the location of the existing dwelling on the 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 441, June 16, 1981, Scheduled case of

8:30 P.M. FAIRFAX MEMORIAL PARK, appl. under Sect. 3-103 of the Ord. to amend S-68-77 for cemetery to permit addition to existing office building, located 4401 Burke Station Road, 69-1((1))1 & 12, Annandale Dist., R-1, 128.1386 ac., S-81-A-022.

Mr. Kenneth Hanes of 4377 Harvester Farm Lane in Fairfax represented the cemetery. He stated that he was the superintendent for Fairfax Memorial Park. Mr. Hanes informed the BZA that the office was too small and they wished to add two rooms onto the office in order to allow another person to occupy the office and to have additional room onto the back of the office. Mr. Hanes stated that the property consisted of 128 acres and that the office was 60 ft. from Burke Station Road. He stated that the property was well kept. Chairman Smith inquired as to where the addition would be located and was informed it would be on the back of the existing office. Mr. Hanes stated that ten parking spaces presently existed. Mrs. Day inquired as to the number of employees and was informed there were five. Chairman Smith advised the Board that the office was once part of the Calvery Memorial Park cemetery and had been consolidated with Fairfax Memorial Park. Mr. Hanes advised the Board that the construction would consist of frame with redwood siding and asphetos shingles. The office would be for sales personnel and office personnel.

Mr. Calvin Allen, President of the Somerset-Olde Creek Recreation Club, Inc. took the opportunity to inform the Board that he supported the proposal of the cemetery. There was no one else to speak in support of the application and no one to speak in opposition.

Page 441, June 16, 1981 Board of Zoning Appeals
FAIRFAX MEMORIAL PARK

RESOLUTION

Mr. Hyland made the following motion:

RESOLUTION

WHEREAS, Application No. S-81-A-022 by FAIRFAX MEMORIAL PARK under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-68-77 for cemetery to permit addition to existing office building on property located at 4401 Burke Station Road, tax map reference 69-1((1)) 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 of Zoning Appeals held on June 16, 1981; 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 128.1386 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. This permit is subject to all conditions of S-68-77 previously granted by the Board and conditions of Special Permits Nos. 13445 and 16060 granted in 1956 and 1957 respectively.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 442, June 16, 1981, Scheduled case of

8:45 P.M. CHURCH OF THE GOOD SHEPHERD, appl. under Sect. 3-103 of the Ord. to permit addition of parking lot and access drive and use of existing house for church activities for an existing church and related facilities, located 9350 Braddock Road, 69-4((1))6 & 7, Annandale Dist., R-1, 8.856 ac., S-81-A-025.

Mrs. Susan Price of 10305 Firefly Circle in Fairfax Station represented the applicant. Mrs. Price informed the Board that at this point in time, many people from the church were parking on Braddock Road across from the church causing havoc to themselves and the traffic. She stated that the present egress was creating a bottleneck. In addition, the sight distance was not what it should be for the site. Mrs. Price stated that the church was proposing to add an access road from Olley Lane which would eliminate the problem. In addition she stated that the church wanted to have the right use the existing house which consisted of two bedrooms for a counseling center or a youth activities center. Chairman Smith inquired as to the size of the dwelling and was informed it was one story with a basement. Mrs. Day inquired as to the number of additional parking spaces to be proved and whether it would be paved. Mrs. Price stated that the parking area would be paved. Mrs. Day inquired if the existing dwelling would be used for a church school and was informed it would not. Mrs. Price stated that the house would be used for youth activities or counseling in the basement and an expanded office. She stated that the church gave a lot of time and space to Alcoholics Anonymous and the boy scouts. She stated that there were a lot of community activities taking place at the church. Mrs. Day stated that the Board needed to know the

hours the dwelling would be used during the day. Mrs. Price stated that most times, the hours would be from 9 A.M. until 10 P.M. every day. Mrs. Day stated that she was concerned about the hours because of the traffic that would going in and out.

443

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

R E S O L U T I O N

Ms. Day made the following motion:

WHEREAS, Application No. S-81-A-025 by CHURCH OF THE GOOD SHEPHERD under Section 3-103 of the Fairfax County Zoning Ordinance to permit addition of parking lot and access drive and use of existing house for church activities for an existing church and related facilities on property located at 9350 Braddock Road, tax map reference 69-4((1))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 of Zoning Appeals held on June 16, 1981; 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 8.856 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months 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. A request for an estension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 conspcuous 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 in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of parking spaces shall be 50 on a paved area.
8. The hours of operation shall be normal church hours with use of the dwelling allowed for office space, counseling and other church activities.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 443, June 16, 1981, Scheduled case of

9:00 P.M. LEE H. KANAGY, appl. under Sect. 18-401 of the Ord. to allow resubdivision into two lots, one having width of 136.50 ft. and the other a width of 136.51 ft. (150 ft. min. lot width req. by Sect. 3-106), located 11519 Warren Lane, 56-4((3))4, Springfield Dist., R-1, 2.158 ac., V-81-S-054. (DEFERRED FROM JUNE 2, 1981 FOR DECISION OF FULL BOARD.)

Chairman Smith advised Mr. Kanagy that there were only four Board members present but Mr. Kanagy elected to proceed with the decision.

444

RESOLUTION

In Application No. V-81-S-054 by LEE H. KANAGY under Section 18-401 of the Zoning Ordinance to allow resubdivision into two lots, one having width of 136.50 ft. and the other a width of 136.51 ft. (150 ft. minimum lot width required by Sect. 3-106) on property located at 11519 Warren Lane, tax map reference 56-4((3))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 2, 1981 and deferred for decision until June 16, 1981; 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 2.158 acres.
4. That the applicant's property is exceptionally irregular in shape including narrow and has an unusual condition from the standpoint that the applicant could not legally divide his property into two lots without a variance because it does not meet the lot width requirements but does comply with all other requirements of the R-1 zoning district.

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 18 months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. DiGiulian being absent).

Page 444, June 16, 1981, Scheduled case of

9:15 P.M. SOMERSET-OLD CREEK RECREATION CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend existing Special Use Permit for community recreation club to allow construction of a 22'x27' picnic pavilion, located 9705 Laurel St., Somerset Subd., 58-3((12))A1, Annandale Dist., R-2(C), 5.091 ac., S-81-S-015. (DEFERRED FROM MAY 19, 1981 FOR DECISION AND FOR APPLICANT TO WORK WITH SURROUNDING PROPERTY OWNERS REGARDING THE FENCE.)

Mr. Calvin Allen, President, 4111 Maple Avenue, Fairfax, informed the Board that he had a few marked up plats illustrating what the Board of Directors of the club had decided to do. Mr. Allen stated that on May 19th when the pavilion was first considered, three property owners spoke in opposition. Their opposition was not to the pavilion but to separate unrelated issues. One, the opposition wanted a fence to prevent trespassing. Secondly, they were opposed to the plan to extend the fence to provide space for picnics for the pool members. Mr. Allen stated that the picnic area was a totally separate issue. He stated that the pavilion would be within the pool area and would be constructed with or without the extension of the fence. However, he stated that the club did not want to add the picnic area without first meeting all of the requirements of the County. He stated that the BZA had asked the Board of Directors to meet with the neighbors to resolve their differences. He stated that the meeting had taken place the Thursday before as one neighbor had been out of town for ten days. Mr. Allen stated that the club was prepared to offer a

compromise which had not yet been presented to the neighbors due to the lateness of the meeting. The neighbors had requested that the club reprioritize its funds and construct the fence before the pavilion. Mr. Allen stated that the club would construct the fence even though it meant that they had to defer construction of the pavilion. Mr. Allen stated that the club had searched its files to determine why it was never constructed previously but was unable to find a reason. Mr. Allen stated that some adjacent property owners had not pursued the fence problem because it would have been a hardship on the club and instead had asked that the club enforce trespassing. Mr. Allen stated that the club did not feel it would possible to administer a trespassing rule and agreed that a fence would be the solution.

Chairman Smith inquired if the fence would meet the requirements of the special permit. Mr. Allen stated that he felt it would meet the requirements of the original special permit. Chairman Smith inquired about trespassers. Mr. Allen stated that the fence would begin and extend to the northwest corner of the club property and turn the corner for 10 ft. He stated that the property owners on Laurel Street for lots 91, 92 and 93 did not want the fence. Chairman Smith stated that what the BZA was looking for was compliance with the original special permit or an agreement that would satisfy the property owners. He stated that if the owners of lots 91, 92 & 93 did not want the fence then the BZA should amend the requirements to satisfy the Code and the needs of the people. He stated that the club was going to have to comply with the Code requirements or get an agreement from the property owners. Chairman Smith stated that the original fencing requirement was to have the fence around the property all the way to the driveway. He stated that if the people did not want the fence at a certain location, all was well and good. Mr. Allen responded that the owners of lots 91, 92 & 93 did not want the fence along their property but he stated that the club could extend it, if requested, at a later date. Mr. Allen stated that when the club proposed this plan to the opposition, Mr. Fakoury objected and insisted that the fence go all the way to the driveway. Mr. Allen stated that the club had considered the problems of the owners of lots 118 and 117 but felt that a fence along the parking lot would exlude the members from their own property. In addition, Mr. Allen stated that most of the opposition had indicated that the trespassers were not pool related. He stated that a fence along the property line would not do anything to prevent trespassers. The owners of the lots along the parking lot did not want a 6 ft. high chain link fence along the property line. Mr. Allen stated that the club believed its proposal was a reasonable solution.

Mr. Allen stated that the second issue was the extension of the fence to allow for a rustic picnic area. The property owners had objected to any use of the land west of the pool. Mr. Allen stated that this area had been set aside for community use and was deeded to Old Creek for residential uses. Mr. Allen stated that the club members had paid the property taxes on the land for the past 15 years. He stated that to deny the club the use of the land was unfair.. Mr. Allen stated that the club wanted to keep the land as much as the neighbors. Mr. Allen stated that the club would not cut down any trees without first checking with the County. Mr. Allen stated that he had been out of order at the previous hearing when he stated that the club planned to build a volleyball court at that location because there were not any definite plans to do it at this time. However, he stated that the club would cut down about a half-dozen trees so that a portable net could be set up. However, he stated that this would be about 200 ft. from any screening adjoining residential properties. Mr. Allen stated that Mr. O'Laughlen wanted an alternate location for the picnic and the club had considered it but most of the park land was unsuitable because there was a steep bank. Mr. Allen stated that unless the land could be fenced, it would mean that the club would need to have an extra gate with extra personnel. Mr. Allen stated that the Fairfax Memorial Park wanted to use part of the land for access but the club did not wish to expand in that location while the picnic location was being considered.

Mr. Allen stated that the area would not be lighted so it would not be usable at night. He stated that the club had prioritized its funds and had offered to construct more fencing if the property owners could agree on a designated area and pay part of the expense. He stated that the club had agreed not to cut any trees at this time. Mr. Allen stated that the club had made a good faith effort to resolve any problem and wished to construct the picnic area and asked that the BZA confine its decision to the pavilion issue. Mr. Hyland inquired what would happen if the property owners of lots 117 and 118 did not agree with the type of fencing or agree to contribute towards the cost of construction. Mr. Allen stated that in that case, the club would construct a chain link fence. Mr. Hyland inquired if the original special permit specified the type of fence. Chairman Smith stated that it was to be durable and that the upkeep for a chain link fence would be very little. Chairman Smith stated that he had made the motion to grant the special permit at the time of the original hearing and it had been his thought that there should be a chain link fence of 6 ft. at the rear and 4 ft. in the front. He stated that it would be a fair and equitable approach to the situation. He stated that if the property owners did not want the fence, they could come to the club and agree not to construct it. However, Chairman Smith stated that the club had to comply with the original special permit or obtain something in writing from the property owners.

446

Mr. Yaremchuk was concerned that the Board was trying to get an agreement from the applicant without allowing the adjoining property owners an opportunity to speak on their own behalf. Chairman Smith called for testimony and Mr. Victor O'Laughlen, owner of lot 117, spoke regarding the club's plans. Mr. O'Laughlen stated that none of the adjoining property owners had had an opportunity to examine the club's new proposal. Mr. O'Laughlen stated that the minutes of the original hearing required the fence to surround the entire property. Mr. O'Laughlen stated that he only cared about what could be worked out at this hearing. If the property owners could not agree, then someone was going to be unhappy. He stated that Mr. Allen had requested a deferral and the property owners stated that they would agree to it. Mr. Yaremchuk stated that he was concerned about deferral as the matter had already been deferred once for the club to work out the problem with the citizens. Mr. Allen stated that the club had met with the citizens on June 11th and had not had an opportunity to show them the new proposal. Mr. Allen stated that the club had been trying to accommodate everybody involved and had not been able to get together sooner because an owner had been out of town for ten days. He stated that no one else could speak on his behalf.

Chairman Smith stated that he did not feel there was anything being resolved and suggested that the Board allow additional time for the club to meet with the property owners regarding the new proposal. Chairman Smith stated that he felt fencing was reasonable. There was a statement from the owners of lots 91, 92 & 93 agreeing that fencing was not necessary along their property lines. Mrs. Day stated that she wanted the neighbors to have a copy of the club's proposal. Mr. Yaremchuk stated that if the club held another meeting that they should show their proposals to the neighbors before the next BZA meeting. Mr. Allen stated that there was nothing implied that the neighbors could not have looked at the proposal.

The Board continued to discuss the matter of deferral. After further discussion with Mr. O'Laughlen regarding the wooded area and the screening buffer provided by the underbrush, it was the consensus of the Board to further defer the hearing until July 14th at 12:30 p.m.

//

Page 446, June 16, 1981, After Agenda Items

Forthway Center for Advanced Study: Mr. Michael Giguere requested permission for the Forthway Center for Advanced Study to give a small portion of their land area to a neighbor. It was the consensus of the Board to defer the matter until the next meeting.

//

Page 446, June 16, 1981, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for November 6, 1979; November 13, 1979 and November 20, 1979. It was the consensus of the Board to defer approval until the next meeting.

// There being no further business, the Board adjourned at 10:35 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on _____

Daniel Smith, Chairman

APPROVED: _____
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 23, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman called the meeting to order at 10:25 A.M and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. P. RAY RAINWATER & RAINWATER CONCRETE CO., INC., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that deposition and processing of non-composted sewage sludge on appellant's property is not a non-conforming use; that such use constitutes a "solid waste disposal and treatment facility", a Category 2 Special Exception Use; and that such use is not permitted in the R-1 District, located 9917 Richmond Highway, 113-2((1))57, 58, 59 & 42, Mt. Vernon Dist., R-1, 124 ac., A-81-V-006.

For testimony regarding the appeal, please refer to the verbatim transcript on file in the Clerk's Office.

The appeal was deferred until July 21, 1981 at 8:15 P.M. for additional information.

//

Page 447, June 23, 1981, Scheduled case of

10:30 A.M. JOHN NIEMI, appl. under Sect. 18-401 of the Ord. to allow construction of workshop and partially open carport addition to dwelling to 10.6 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 11501 Leehigh Dr., Kiels Garden Subd., 56-4((2))16, Springfield Dist., R-1, 21,904 sq. ft., V-81-S-082.

Mr. John Niemi of 11501 Leehigh Drive informed the BZA that in order to put in a carport with an attached workshop at any other location on his property would necessitate a variance. In response to questions from the Board, Mr. Niemi stated that he wanted to construct a carport with a workshop in order to house two cars which would be located 10.6 ft. from the side lot line. If the carport were placed on the other side of his house, it would be the same situation. If it were placed in the rear, it would interfere with the septic field. Mr. Niemi stated that this proposed location was the one most suitable and requested the BZA to grant the variance. Mr. Hyland commented that the lot was substandard as far as width and lot area. He stated that it appeared that this was the only location Mr. Niemi could construct the carport. Mr. Hyland inquired if there was any opposition to Mr. Niemi's plans. Mr. Niemi stated that he had talked to all of his neighbors but one and there was not anyone present at the hearing.

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

Page 447, June 23, 1981, Board of Zoning Appeals
JOHN NIEMI

R E S O L U T I O N

In Application No. V-81-S-082 by JOHN NIEMI under Section 18-401 of the Zoning Ordinance to allow construction of workshop and partially-open carport addition to dwelling to 10.6 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107) on property located located at 11501 Leehigh Drive, tax map reference 56-4((2))16, 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 23, 1981; 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 21,904 sq. ft.
4. That the applicant's property is exceptionally substandard and has an unusual condition in the location of the existing buildings on the subject property and the location of a drain field.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Yaremchuk being out of the room).

Page 448, June 23, 1981, Scheduled case of

10:40' A.M. KENNETH S. HARRIS, appl. under Sect. 18-401 of the Ord. to allow a 10 ft. fence to be constructed on one side of property (8 ft. maximum height for a fence in any yard of an industrial use req. by Sect. 10-105), located 7965 Twist La., Fullerton Industrial Park Subd., 98-2((9))3, Springfield Dist., I-5, 116,026 sq. ft., V-81-S-083.

As the required notices were not in order, the variance was deferred until July 30, 1981 at 10:00 A.M.

//

Page 448, June 23, 1981, Scheduled case of

10:50 A.M. MEHRDAD & CHERI NIKZAD, appl. under Sect. 18-406 of the Ord. to allow deck attached to dwelling to remain 14.1 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-107 & 2-412), located 6504 Twin Oak Pl., Sleepy Hollow Subd., 51-3((7))9, Mason Dist., R-1, 28,325 sq. ft., V-81-M-085.

There was a request from the applicant for a deferral of the variance. It was the consensus of the Board to grant the request and the variance was deferred until July 30, 1981 at 10:10 A.M.

//

Page 448, June 23, 1981, Scheduled case of

11:00 A.M. JULIANA CAMPAGNA, appl. under Sect. 3-E03 of the Ord. to permit private school of general education with summer day camp, located 1616 Hunter Mill Rd., Lester C. Cooper Subd., 18-3((3))1, Dranesville Dist., R-E, 5 ac., S-81-D-030. (DEFERRED FROM JUNE 9, 1981 FOR OFFICE OF TRANSPORTATION TRAFFIC STUDY & FOR DECISION. TESTIMONY TO BE LIMITED TO TRAFFIC STUDY ONLY.)

Mr. Hyland inquired as to type of improvements contemplated by the applicant to assist with the visibility problem. Ms. Campagna responded that she proposed to widen the entrance and exit to 40 ft. and clear back the bushes in order to have a clearer view of the road. She informed the Board that the property had a one-way circular driveway.

Ms. Jeanette Toomey, an attorney at law, spoke in opposition to the transportation study. She stated that she respresented the 85 people who signed a petition in opposition to the special permit. Ms. Toomey stated that there was one new fact that had not been taken into account at the hearing on June 9th which was that the school had planned activities at the site until 5:30 P.M. Ms. Toomey stated that the Office of Transportation did not take that into account in their report. In addition, she stated that the site access was extremely poor and appeared inappropriate from a transportation perspective. Even though Ms. Campagna would widen the entrance and cut down trees and shrubbery, Ms. Toomey stated that Ms. Campagna did not have control over the shrubbery on adjoining property and could not cut down the hill. Mr. Yaremchuk advised Ms. Toomey that if the special permit were granted it would subject to site plan control and the applicant would have to provide adequate sight distance.

Mr. Harold Miller, an attorney for the applicant informed the Board that if the hours were stated inproperly in the application that Ms. Campagna would agree to abide by the confines

of the special permit. Mr. Miller presented the Board with a written statement for the record as well as a petition in support of the special permit signed by the parents of the existing school operated by Mrs. Campagna. He stated that the school would provide bus transportation which would carry about 40% of the children which would decrease the impact of traffic on the community. In response to questions from Chairman Smith, Mr. Miller stated that the buses were well marked and were in excellent condition. Mr. Miller stated that with regard to the traffic situation, he had called the VDH&T about highway statistics on Crowell Road. Chairman Smith informed Mr. Miller that the Board had a count on the traffic. Mr. Hyland inquired as to the extent of the after hour activities proposed for the school. Mr. Mill stated that there would not be anything after 5 o'clock.

Ms. Toomey inquired about a comment made regarding the bulk of the students and asked what number of students would be leaving the school at 5 o'clock. Mr. Miller stated that only 1/3 of the children would be staying after school and 100% of those children would be leaving by bus. The children who left earlier in the day would be transported by bus and by private vehicles.

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. S-81-D-030 by JULIANA CAMPAGNA under Section 3-E03 of the Fairfax County Zoning Ordinance to permit private school of general education with summer day camp on property located 1616 Hunter Mill Road, tax map reference 18-3((3))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 June 9, 1981; and deferred until June 23, 1981 for traffic study and decision; 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 presnet zoning is R-E.
3. That the area of the lot is 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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless rnewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of students and staff shall be limited to 80 persons if food is not prepared and 53 if food is prepared.
8. The hours of operation shall be 8:00 A.M. to 3:00 P.M. with occasional after school activity until 5:pp P.M.

RESOLUTION

9. The number of parking spaces shall be 10.
10. The ages of the students shall be 6 through 10 years, grades 1 - 5.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 5 to 0.

Page 450, June 23, 1981, Scheduled case of

11:10 A.M. ESTATE OF CHARLENE B. OLIVER, appl. under Sect. 18-401 of the Ord. to allow subd. into 4 lots, with proposed lots 3 & 4 each having width of 6 ft. (80 ft. min. lot width req. by Sect. 3-306), located 4011 Gallows Rd., 60-3((1))18, Mason Dist., R-3, 1.5423 ac., V-81-M-087.

The Board was in receipt of a request for a deferral of the application. Mr. John Hanson, attorney for the applicant, stated that he preferred to proceeed with the variance. The request for the deferral was because some of the military owners of property were out of the area and did not have time to study the variance proposal. Mr. Hanson stated that the request was only for two lots. The existing lot had a house on it. Mr. Hanson stated that a variance was necessary to subdivide into two lots because of the lack of frontage.

Mr. Edward Ballard of 3913 Long Street Court in Broyhill Crest informed the BZA that there was a letter dated June 18, 1981 signed by the President of the Civic Association, Mr. Jones, seeking a deferral of the variance. He stated that in view of the short notice and the lack of notice to the association, they were requesting a deferral in order to prepare their comments. In addition, to be fair to the association, they were requesting that the hearing take place at night.

Mr. Hyland moved that the Board grant the request for deferral. Mr. DiGiulian seconded the motion and it passed by a vote of 5 to 0. The variance was deferred until July 21, 1981 at 8:45 P.M.

//

Page 450, June 23, 1981, Recess

At 1:00 P.M., the Board recessed the meeting for lunch and did not reconvene until 1:50 P.M. Mr. Hyland left the meeting at 1:00 P.M. and was absent for the remainder of the meeting.

//

Page 450, June 23, 1981, Scheduled case of

11:20 A.M. DAVID B. BAXA, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 6.3 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1217 Priscilla La., Waynewood Subd., 102-4((5))(18)4 Mt. Vernon Dist., R-3, 10,589 sq. ft., V-81-V-088.

Mr. David Baxa of 1217 Priscilla Lane informed the Board that his lot was relatively small for the R-3 zone and barely met the minimum lot area required. In addition, the width of the lot barely met the width requirement. Mr. Baxa stated that his house was built with more than the required side yard but he stated that his reasonable use of the side yard was constrained by the unusual conditions of the lot area and width. In response to questions from the Board, Mr. Baxa stated that he had owned the property since March 21, 1981. Chairman Smith inquired as to the year the house was built and was informed it was in 1960. Mrs. Day inquired as to the type of construction of the house and was informed it was built of 50% brick and 50% siding. Mr. Baxa stated that he proposed to match the siding and planned to architecturally match the garage to the house so it appeared they were built together originally.

Mrs. Day inquired as to what was situated on the neighbor's lot that would face the proposed garage. Mr. Baxa stated that his neighbor's house backed up to the proposed garage. He stated that the back of the house contained a screened in porch. Mr. Baxa stated that his neighbor did not object to the garage. Mrs. Day stated that the applicant had room in the rear of his property to build. Mr. Baxa stated that he had considered the rear yard but wanted to reserve as much play area as possible for his children. In addition, he stated that he was concerned about safety. Mr. Baxa stated that he proposed to have a ½ story above the garage in order to expand a half-bath into a full bath. He stated that the roof of the garage would match the pitch of the present roofline.

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

RESOLUTION

In Application No. V-81-V-088 by DAVID B. BAXA under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 6.3 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) on property located at 1217 Priscilla Lane, tax map reference 102-4((5))(18)4, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

451

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 23, 1981; 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 10,589 sq. ft.
4. That the applicant's property has an unusual condition in the location of the existing building on the subject property being 14.6 ft. further toward rear of lot than required by the Ordinance and the property has a larger left side yard than required.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 451, June 23, 1981, Scheduled case of

11:30 A.M. DOUGLAS W. OLMS, appl. under Sect. 18-401 of the Ord. to allow subd. into 2 lots, one of which would have width of 139.07 ft. & the other 141.65 ft. (150 ft. min. lot width req. by Sect. 3-106) and to allow shed to remain on proposed lot B-2 14.5 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-307 & 10-105), located 7217 Sydenstricker Road, 89-3((1))18, Springfield Dist., R-1, 90,241 sq. ft., V-81-S-089.

Mr. Douglas Olms of 7217 Sydenstricker Road in Springfield informed the Board that he was requesting a variance to subdivide his property into two lots. He stated that without the variance, he would be deprived the reasonable use of the land. Mr. Olms stated that the master plan called for R-2 and R-3 zoning in the area which would permit a smaller road frontage. In response to questions from the Board, Mr. Olms stated that he had owned the property for 2½ years and lived on the property. Chairman Smith inquired about the shed. Mr. Olms stated that the shed was 14.5 ft. from the proposed dividing line and did not comply with the setback requirements. Mrs. Day inquired about the construction of the shed and was informed it was a frame structure built around the turn of the century. Mr. Olms stated that it was a tool shed.

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

RESOLUTION

In Application No. V-81-S-089 by DOUGLAS W. OLMS under Section 18-401 of the Zoning Ordinance to allow subd. into 2 lots, one of which would have a width of 139.07 ft. and the other 141.65 ft. (150 ft. min. lot width req. by Sect. 3-107) and to allow shed to remain on

RESOLUTION

proposed lot B-2 14.5 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-307 & 10-105), tax map reference 89-3((1))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 June 23, 1981; 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 90,241 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow and has an unusual condition that will not allow the development of the property in accordance with the 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 included with this application only, and is not transferable to other land.

2. This variance shall expire 18 months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 452, June 23, 1981, Scheduled case of

11:45 A.M. BROOKFIELD SWIMMING CLUB, INC., appl. under Sect. 3-303 of the Ord. to amend S-16-75 for swim club to permit increase in membership from 300 to 450, located 13611 Pennsboro Dr., Brookfield Subd., 44-2((1))15, Springfield Dist., R-3, 2.6166 ac., S-81-C-027.

Mr. Charles L. Shumate, attorney at law, represented the applicant. He stated that the application was for an increase in size of the membership from the existing 300 permitted in 1967 to a size of 450 members. Mr. Shumate stated that there were no additional changes being requested. The pool began operation after approval of a special permit in 1967. The size of the membership was based on the existing development in the area. Since that time, development had increased three-fold. Mr. Shumate stated that a vast majority of the people were excluded from the pool. Mr. Shumate stated that the pool was for neighborhood particapation and was located within the community so as to be suitable for pedestrian and bicycle access. Mr. Shumate stated that never in the usage of the pool had the usage exceeded 125 members at any one time or the parking lot exceeded 101 cars. Mr. Shumate stated that the existing parking was more than adequate. He stated that the club wanted to better serve the community and asked the BZA to grant the increase in membership.

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

Page 452, June 23, 1981 Board of Zoning Appeals
BROOKFIELD SWIMMING CLUB, INC.

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-81-C-027 by BROOKFIELD SWIMMING CLUB, INC. under Section 3-303 of the Fairfax County Zoning Ordinance to amend S-16-75 for swim club to permit increase in membership from 300 to 450 on property located at 13611 Pennsboro Drive, tax map reference 44-2((1))15, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

RESOLUTION

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 23, 1981; 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-3.
3. That the area of the lot is 2.6166 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 Stanards 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of memberships shall be 450 families.
8. The hours of operation shall be 8:00 A.M. to 9:00 P.M., seven days a week.
9. The number of parking sapces shall be 100.
10. All limitations set forth in special permit S-16-75 not altered by this resolution shall remain in effect.
11. Unless otherwise qualified herein, extended-hours for parties or other activities of outdoor community swim clubs or recreation associations shall be governed by the following:
    (A) Limited to six (6) per season.
    (B) Limited to Friday, Saturday and pre-holiday evenings.
    (C) Shall not extend beyond 12:00 midnight.
    (D) Shall request at least 10 days in advance and receive prior written permission from the Zoning Administrator for each individual party.
    (E) Requests shall be approved for only one (1) such party at a time, and such requests will be approved only after the successful conclusion of a previous extended-hour party or for the first one at the beginning of a swim season.
    (F) Requests shall be approved only if there are no pending violations of the conditions of the Special Permit.
    (G) Any substantiated complaints shall be cause for denying any future requests for extended-hour parties for that season; or, should such complaints occur during the end of the swim season, then this penalty shall extend to the next calendar year.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 453, June 23, 1981, Scheduled case of

12:00 NOON MESSIAH LUTHERAN CHURCH, appl. under Sect. 3-403 of the Ord. to amend S-92-78 for church and related facilities to permit addition of land area with a dwelling on it, and use or part of the dwelling for church purposes, located 1906 Belleview Boulevard, Belle Haven Estates Subd., 93-1((25))(1)1, 2, 3, 4, 10 & 11, Mt. Vernon Dist., R-4, 69,050 sq. ft., S-81-V-028.

Mr. Jerry Kintz of 8710 Mercedes Court represented the church. He stated that at the present time there were a lot of community groups such as scouts, AA, etc. that wished to use the space next to the fellowship hall.- Mr. Kintz stated that the church owned the house next door and wished to use the lower level for these community meetings. Mr. Kintz stated that in the winter months, the gas bill at the church was running over $600. He stated that they could save on utilities and continue to provide the services to the community through the use of the dwelling. He stated that the house had been used as a dental office with the office located in the lower level.

In response to questions from the Board, Mr. Kintz stated that the present membership of the church consisted of 150 families. He stated that the use of the dwelling would be for activities that were interdenominational. Mr. Kintz stated that they were not increasing the amount of parking or activities but only switching them from the fellowship hall to the adjoining house. He stated that the church had owned the house for 14 years. The upstairs level had been rented out to a family who took care of the church property. The house was a one story brick and frame building. Mrs. Day inquired about the hours of use for the different activities and was informed that activities took place from 10 A.M. until 9 P.M. Chairman Smith inquired if the house had been included in the original special permit for the church. Mr. Kintz stated that the church had purchased the house which had its own special permit and then found out that the special permit expired with the sale of the property.

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

Page 454, June 23, 1981 Board of Zoning Appeals
MESSIAH LUTHERAN CHURCH

R E S O L U T I O N

Ms. Day made the following motion:

WHEREAS, Application No. S-81-V-028 by MESSIAH LUTHERAN CHURCH under Section 3-403 of the Fairfax County Zoning Ordinance to amend S-92-78 for church & related facilities to permit addition of land area with a dwelling on it and use of part of the dwelling for church purposes on property located at 1906 Belleview Blvd., tax map reference 93-1((25))(1)1, 2, 3, 4, 10 & 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 of Zoning Appeals held on June 23, 1981; 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 69,050 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The lower level of the dwelling shall be used during the week on a non-denominational basis.
8. The hours of operation for counseling shall be 9 A.M. to 9 P.M.
9. The number of parking spaces shall be as shown on the site plan.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 455, June 23, 1981, Scheduled case of

12:15 P.M. BURKE STATION NURSERY SCHOOL, INC., appl. under Sect. 3-303 of the Ord. to amend S-80-S-062 for a nursery school to increase max. no. of students to 52 and to change hours of operation to 9:00 A.M. to 2:30 P.M., five days a week from Sept. 1 through May 31, located 5820 Ridgeford Rd., Burke Station Square Subd., 78-2((1)) 16A, Springfield Dist., R-3, 1.6 ac., S-81-S-031.

Mrs. Donovan represented the applicant. Mrs. Donovan informed the Board that the notification letters had been delayed by two days. She asked to be allowed to explain what happened to the Board. Chairman Smith stated that the Ordinance was very specific about the 15 day notice requirement. The special permit was deferred until July 14, 1981 at 12:45 P.M. for notices.

//

Page 455, June 23, 1981, Scheduled case of

12:30 P.M. MRS. JANE A. ROGERS, appl. under Sect. 3-E03 of the Ord. to amend S-273-75 for school of general education to permit continuation of the use, located 1426 Crowell Rd., Wright Subd., 18-2((3))4, Dranesville Dist., R-E, 6.4 ac., S-81-D-032

Mr. Ross F. Rogers of 1426 Crowell Road in Vienna represented the applicant. He stated that at the time he had made application for their other facility, Tara School, they were not sure that they would have the enrollment. However, he stated that they had an over-enrollment and now they needed to continue the Crowell Road facility. He stated that the use of the special permit would be for the Christian education of 4 to 5 year olds. In response to questions from the Board, Mr. Rogers stated that the Crowell Road facility was the original school. Mr. Rogers stated that they would have a maximum of 25 children. The original special permit was granted in 1972 for to 4 to 5 year olds from 8:30 A.M. until 12:30, nine months a year. Chairman Smith inquired if the buses were painted and was informed they were.

Mr. David B. Williams of 925 Royal Street spoke in support of the application. He stated that he was the father of five children, two of which were being educated by the Rogers. He urged the Board to continue the special permit.

There was no one else to speak in support. Mrs. Roberts Cameron of 1422 Crowell Road spoke in opposition to the request. She stated that she represented people who opposed the renewal of the permit. She stated that no one was opposed to a Christian education and no one doubted that Mr. and Mrs. Rogers operated an A-1 school. She stated that the question was the location of the school and all of the other activities that take place with a school. in a residential area. She stated that she had lived in the area since June 1968. The area was fully residential. She stated that people in the area had believed that no one would know that there was a little school when it was first established. They had believed that the Rogers had no intention of expanding it. She stated that the special permit had only been granted against overwhelming opposition because the adjoining property owners had not objected to it. However, within six weeks a sign went up on the property. She stated that the school had many buses. The Rogers distributed advertisements throughout the immediate area and in Reston. Now, the school had expanded to 130 children.

In July 1974, the school expanded to a branch school at the Bethel Baptist Church. The branch had been in operation for seven years. Mrs. Cameron stated that by September of 1974, the school buses were being refueled and repaired at the Crowell Road location. She stated that buses came and went and circled in the front yard for loading and unloading. She stated that two sessions would be running simultaneously. Mrs. Cameron stated that when the new location was being considered for a special permit, Mrs. Rogers had informed the neighbors it was because she had decided not to have a school in her house any longer. The new school should be ready by fall according to Mrs. Cameron. Mrs. Cameron stated that she was surprised to receive notice about the renewal for Crowell Road. Mrs. Cameron presented the Board with a petition signed by the neighbors opposing the continuation. Some of the reason for objection were because the school was set at the end of a deadend road. She stated that the school served children from all over. The community could not understand why the children could not be accommodated in the new facility on Sunset Hills

Road. Mrs. Cameron stated that as long as the school remained, the sign would remain. The community wanted their neighborhood returned to a residential area. Chairman Smith inquired if the sign exceeded the standards set forth in the Ordinance and Mr. Rogers stated it did not.

The next speaker in opposition was Stephanie Cogshell of 1432 Crowell Road. She stated that she resided on the property adjacent to the Rogers on the other side from Mrs. Cameron. She stated that she found the buses very objectionable as they were parked there year round and the traffic from the buses was very excessive. Ms. Cogshell stated that the area was a quiet residential street. She had been given to understand that when the new school went up, that the Rogers would withdraw the students from Crowell Road. Ms. Cogshell stated that the area was zoned residential and she wanted to see it return to residential again.

Mrs. Ann Seger of 1420 Crowell Road, a contiguous property owner to the Rogers, also spoke in opposition. She emphasized what Mrs. Cameron had stated that the people were not in opposition to the school as such. However, they had been given to understand that once Tara School was completed, the Crowell Road facility would no longer serve as a school. She stated that the Rogers had agreed to that compromise. Ms. Seger opposed the motorpool and the flow of buses and the use of the Crowell Road property as a takeoff for buses to the other locations. Ms. Seger stated that the neighbors had achieved a compromise to keep one bus at the Crowell Road facility. The neighbors had built their homes in the area and wanted to keep the rural residential atmosphere. Ms. Seger stated that she spoke for a vast majority of the people who had signed the petition against the continuation of the school. Chairman Smith inquired as to the number of buses being parked on the property and Ms. Seger stated there were four small buses and one large one.

During rebuttal, Mr. Rogers stated that the parking lot was very secluded. He stated that the big bus had been moved six weeks ago when school let out. He stated that two buses had been brought in three times but four buses had also been removed. Mr. Rogers stated that he would move two buses. Chairman Smith inquired as to the number of buses used for the 25 student school and Mr. Rogers stated he used only one bus. Chairman Smith stated that if one bus was used for the Crowell Road facility, that was all that should be parked there. Mr. Rogers stated that he used all of the buses last year to help the parents save gas. They brought their children in a carpool to the Crowell Road facility and then the children were bused over to the Towlston facility. Mr. Rogers stated that the busing would continue but he would do it from the Sunset Hills Road location as well. Mr. Rogers stated that their office was contained at the Sunset Hills Road location and people coming in for an interview would go to that location. Chairman Smith stated that the only activities that should take place at the Crowell Road facility was the enrollment of the 25 children. He stated that he had no problem with the 25 children but he did have a problem with all of the buses being parked or stored there. He informed Mr. Rogers that he did not have the right to store the buses there. Mr. Rogers stated that the buses kept at the property were undergoing maintenance. Chairman Smith stated that Mr. Rogers did not have the right to maintain the buses there. Mr. Rogers stated that he had done that last year and all the years before. Chairman Smith stated that it didn't make it right just because he had been doing it all along. Chairman Smith stated that Mr. Rogers should not be performing mechanical work in a residential area. Mr. Rogers stated that he was a mechanic. The buses were secure at the Crowell Road facility. He stated that when they parked elsewhere, they were vandalized. Chairman Smith stated that the only bus to be parked there should be the one used in the operation of the 25 student school. He stated that was the only bus the BZA intended Mr. Rogers to have there. He stated that the special permit did not allow Mr. Rogers to store buses, repair buses, etc. He inquired of Mr. Rogers as to the length of time he would need to get rid of the other buses. Mr. Rogers stated that the school did not operate during the summertime and that's when the buses underwent maintenance. He stated that the parking area for the buses was secluded. Chairman Smith stated that Mr. Rogers was not allowed to keep the buses in a residential zone and the maintenance of the buses was not allowed.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-81-D-032 by MRS. JANE A. ROGERS under Section 3-E03 of the Fairfax County Zoning Ordinance to amend S-273-75 for school of general education to permit continuation of the use on property located at 1426 Crowell Road, tax map reference 18-2((3))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 23, 1981; and

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

RESOLUTION

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 6.4 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of children shall be 25, ages 4 to 5 years.
8. The hours of operation shall be 8:30 A.M. to 12:00 P.M., five days a week, 9 months a year.
9. The number of parking spaces shall be 15.
10. Maximum of one school bus allowed on the site at any one time. The site shall be inspected by Zoning Enforcement on a periodic basis to insure compliance with the limitation on the number of buses.
11. This special permit is granted for a period of three (3) years.
12. Any other requirements of S-273-75 not altered by this resolution shall remain in effect.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 457, June 23, 1981, Scheduled case of

12:45 P.M. HANS TYLER JANECKA, appl. under Sect. 5-503 of the Ord. to permit Holistic Fitness Center (Health Club Facility), located 8501 Lee Highway, 49-3((1))49, Providence Dist., I-5, 20,978 sq. ft., S-81-P-026.

There was a request from the applicant for a withdrawal of the special permit. It was the consensus of the Board to allow the withdrawal without prejudice and no refund.

//

Page 457, June 23, 1981, Scheduled case of

1:00 P.M. ANGEL RIOS, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport into garage 7.75 ft. from side lot line such that total side yard would be 16.45 ft. (8 ft. min. & 20 ft. total min. side yard req. by Sect. 3-307), located 3502 Pence Ct., Holmes Run Village Subd., 59-4((17))52, Mason Dist., R-3(C), 8,400 sq. ft., V-81-M-055. (DEFERRED FROM JUNE 2, 1981 FOR NOTICES.)

Becky Steward of the J. D. Steward Construction Co. of 8300 Oak Tree Court in Springfield represented the applicant. She stated that Mr. Rios wanted to convert his present carport into a garage for security reasons. He wanted to have a place for his tools, bicycles, cars, etc. At present, Mr. Rios was using a bedroom in the basement for storage. Chair-

man Smith inquired as to when the house was constructed and was informed it had been built during the summer of 1980. Chairman Smith stated that the area was a cluster subdivision and that the enclosure of the carport was not allowed. He stated that this was a new subdivision. Ms. Steward stated that the carport was already there and would remain in the same area when converted to a garage. Chairman Smith inquired as to the number of other homes in the area with carports. Mr. Covington stated that he did not know. However, he stated that no other lot had a storm sewer easement along the side property line. Mr. Yaremchuk stated that the lot was only 69 ft. in width.

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

Page 458, June 23, 1981 Board of Zoning Appeals
ANGEL RIOS

RESOLUTION

In Application No. V-81-M-055 by ANGEL RIOS under Section 18-401 of the Zoning Ordinance to permit enclosure of existing carport into garage 7.75 ft. from side lot line such that total side yard would be 16.45 ft. (8 ft. min. & 20 ft. total minimum side yard required by Sect. 3-307), on property located at 3502 Pence Court, tax map reference 59-4((17))52, 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 23, 1981; and deferred from June 2, 1981 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(C).
3. The area of the lot is 8,400 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 had 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 458, June 23, 1981, After Agenda Items

Forthway Center for Advanced Studies: The Board was in receipt of a request from the Forthway Center for Advances Studies to remove 0.73 acres out of their special permit. It was the consensus of the Board that they had no problem with that conveyance as long as there was a substitution of plats in the file.

//

Page 458, June 23, 1981, After Agenda Items

Cardinal Hill Swim & Racquet Club: The Board was in receipt of a request from the Cardinal Hill Swim & Racquet Club for permission to perform maintenance beyond the 9 P.M. operating hours of the club for a two night procedure involving striping the parking lot. It was the

Page 459, June 23, 1981, After Agenda Items
CARDINAL HILL SWIM & RACQUET CLUB
(continued)

consensus of the Board that the maintenance could take place as long as it did not take more than the two nights to perform it and it was done by 11 o'clock.

//

Page 459, June 23, 1981, After Agenda Items

Gerald Waldman: The Board was in receipt of a request for a one year extension of the variance V-80-A-125 to allow a subdivision into 6 lots with proposed lot 6 having a width of 20 ft. Mr. DiGiulian moved that the one year extension be granted. Mr. Yaremchuk seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

// There being no further business, the Board adjourned at 3:45 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on Feb. 8, 1983

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: February 22, 1983
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 7, 1981. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk and Ann Day. (Mr. Hyland was absent due to military reserve duty).

The Chairman opened the meeting at 10:15 A.M. led with a prayer by Mrs. Day.

The Chairman informed the applicants there were only four BZA members present due to a member's obligation of military reserve duty. He advised that Mr. Hyland would be on duty for two weeks. The Chairman informed applicants that they could request a postponement if they so desired.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. RECONSIDERATION: LEILA J. & ROBERT M. GAINER, appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, one of which would have a width of 12.15 ft. & the other a width of 25.97 ft. (150 ft. min. lot width req. by Sect. 3-106), located 6419 Chapel View Rd., Chapel View Estates Subd., 76-4((5))3, Centreville Dist., R-1, 5 ac., V-81-C-046.

Mr. Chip Paciulli of 307 Maple Avenue in Vienna represented the applicant and requested a postponement for a full Board hearing. The reconsideration of V-81-C-040 was deferred until September 29, 1981 at 8:00 P.M.

//

Page 460, July 7, 1981, Scheduled case of

10:10 A.M. CHONG BUM YI, appl. under Sect. 18-401 of the Ord. to allow construction of addition to commercial building to 29.47 ft. from front lot line (40 ft. min. front yard req. by Sect. 4-807), located 2715 Huntington Ave., 83-1((1))36, Mt. Vernon Dist., C-8, 27,221 sq. ft., V-81-V-090.

Mr. Chum Bum Yi, the son of the applicant, informed the BZA that this was a new variance application based on the correct measurements from the street. He stated that they were seeking a 10.53 ft. variance. Chairman Smith asked the applicant to explain why he was attaching a building at this location. Mr. Yi stated that at the present time there were only two bays for the mechanics to work. Large tools had to stay outside which was a problem as tools were stolen. In addition, ten automobiles had been stolen. Mr. Yi stated that in order to prevent that, they proposed to construct an additional building next to the site of the working bays. The purpose of the additional building was to store jacks, wheel-balancers and other large tools in a storage room while the cars were being worked on. He stated that unless they had the additional building, the tools would have to stay outside. Mr. Yi stated that there was a security fence around the property but it did not prevent people from stealing the large equipment. Mr. Yi stated that the requested variance was 10.53 ft. Under the Ordinance, a minimum of 40 ft. was required for the front setback and there would only be 29.47 ft. to the front after construction. Mr. Yi stated that he felt these reasons were adequare for the granting of the variance.

Mr. Yaremchuk stated that from looking at the pictures, there appeared to be a topographic problem in the back of the building which would prevent construction in the back. He stated that he assumed it would not be practical to build on the side as you would not want to go through the office to get to the tools. Mr. Yaremchuk stated that if the Highway Department had not condemned some of the frontage, there would probably have been enough area to meet the requirements. Mr. Yaremchuk stated that there were several reasons for requesting the variance. Mr. Yaremchuk stated that if the building had already been there and then the highway was widened, noboby would have done anything about it.

In response to questions from the Board, Mr. Yi stated that they had owned the property for two years. Chairman Smith stated that there was considerable land area to the rear of the building even though the photographs indicated that there was some problem with a high spot. Chairman Smith stated that there was enough flat land to build on. He informed the Board members that he had viewed the property and was familiar with it. Mr. Yi stated that if they built at the rear, it would only allow a 10 ft. width. He stated that in order to construct a similar size building as proposed, it would necessitate taking down the hill. Mr. Yi stated that there was a house at the top of the hill in which people were living. Chairman Smith stated that it was possible to build at the rear. He stated that they could even utilized the back of the property for parking. He advised the applicant that as they had owned the property for two years, they were aware of the limitations of the building at the time they purchased it. Chairman Smith stated that there were any number of these buildings in the County that had the same problems and they had built on at the rear in order to get another bay.

Page 461, July 7, 1981
CHONG BUM YI
(continued)

Mr. Yi stated that he had measured the back and there was only 12 ft. which would not need a variance. Mr. Yi stated that the proposed addition was 29 ft. by 16 ft. He stated that the length could not be chanted. Mr. Yi stated that if they constructed at the rear, they would have to have a large gate so that the cars could be moved without hurting the mechanics. Chairman Smith stated that the applicants were aware of the limitations when they purchased the property and the number of people that would be able to work there. Chairman Smith stated that the variance was a matter of convenience and was not a hardship to the applicant.

Mr. Yaremchuk stated that he could not disagree with the Chairman more as the applicant had already stated three reasons for requesting the variance. He stated that the applicant had a right to request a variance. Chairman Smith stated that the applicant purchased the property and was aware of the limitations. Mrs. Day informed Mr. Yaremchuk that she had not made up her mind. She stated that he was more familiar with the property than she was and inquired as to why the applicant could not move the four parking spaces. Mr. Yaremchuk stated that the applicant did not want to construct on the other side where the office was located. The four parking spaces were adjacent to the office. Mr. Yaremchuk stated that what the applicant was proposing was sensible, practical and economical. Chairman Smith argued that it was matter of convenience. He stated that the applicant would be better off to have his office in between all of the bays as it was a central location. Mr. Yaremchuk stated that the Highway Department took away the land when they widened the road. Chairman Smith stated that the applicant bought the land in this condition and was aware of the limitations and was not entitled to relief. Mrs. Day stated that only a corner of the building would be too close to the front lot line. Mr. Covington stated that the applicant had double front yards. Mr. DiGiulian stated that this was irregular corner lot. There was only a half-acre of ground and a small building. Due to the configuration of the lot and the building and the topographics in the rear, the applicant was limited as to where he could construct or expand the building. Mr. DiGiulian stated that this was not overutilization of the property.

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

Page 461, July 7, 1981 Board of Zoning Appeals
CHONG BUM YI

R E S O L U T I O N

In Application No. V-81-V-090 by CHONG BUM YI under Section 18-401 of the Zoning Ordinance to allow construction of addition to commercial building to 29.47 ft. from front lot line (40 ft. minimum front yard req. by Sect. 4-807) on property located at 2715 Huntington Avenue, tax map reference 83-1((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 July 7, 1981; 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 27,221 sq. ft.
4. That the applicant's property has exceptional topographic problems 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before

the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 462, July 7, 1981, Scheduled case of

10:20 A.M. MR. STANLEY WESTREICH, appl. under Sect. 18-401 of the Ord. to allow construction of a dwelling 12.4 ft. from front lot line (35 ft. min. front yard req. by Sect. 3-207), located 6131 Franklin Park Road, 41-1((1))26A, Dranesville Dist., R-2, 18,939 sq. ft., V-81-D-091.

As the required notices were not in order, the Board deferred the variance until August 4, 1981 at 11:15 A.M.

//

Page 462, July 7, 1981, Scheduled case of

10:30 A.M. SIDNEY M. SKJEI, JR., appl. under Sect. 18-401 of the Ord. to allow construction of 5½ ft. fence partially in a front yard (4 ft. maximum height for fence in front yard req. by Sect. 10-105), located 13400 Brookfield Dist., 45-1((2))773, Springfield Dist., R-3(C), 18,267 sq. ft., V-81-S-084.

Mr. Sidney Skjei of 13400 Brookfield Drive in Chantilly informed the BZA that he had been residing in Fairfax County for six years. His former home was not large enough for the family's lifestyle. Mr. Skjei stated that he had three children and three animals, one of which was a large shepherd. Mr. Skjei stated that he had purchased a home on a corner lot. At the time, he was not aware that corner lots had two front yard requirements. When he attempted to put up a fence, he was advised by Long Fence Company that he needed a variance.

Mr. Skjei stated that there were unusual circumstances which justified the granting of this variance. The usable space was restrained. Mr. Skjei stated that this was a very windy area and required a wind break. The location of the house on the lot was such that if the fence was not allowed, it would mean that the vegetable garden on the property could not be fenced in. Mr. Skjei stated that would cause problems as the area was travelled by high school students walking to Chantilly High School. In addition, Mr. Skjei stated that a 5½ ft. fence was necessary because of his german shepherd. He stated that his dog could clear a 3 ft. fence but was contained by the 5 ft. fence at his last home. Mr. Skjei stated that the photographs would show that the fence did not cause any effect to the visibility as his lot was higher at the front than at the rear.

Some other activities that occurred on the property was occasional babysitting and Mr. Skjei felt that the fence would add to the security of the children. He informed the Board that there had been cases of molestation in his area. The fence would be a board spaced fence similar to a picket fence. Mr. Skjei stated that his neighbors supported his variance request. In fact, the owner of lot 766 beside him was even paying half the cost of the fence. Mr. Skjei stated that he did not allow his dogs to run free and the fence would help contain them. Mr. Skjei stated that if his lot was not a corner lot, he would be allowed the 5½ ft. fence.

There was no one else 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-81-S-084 by SIDNEY M. SKJEI, JR. under Section 18-401 of the Zoning Ordinance to allow construction of 5½ ft. fence partially in a front yard (4 ft. maximum height for fence in front yard required by Sect. 10-105), on property located at 13400 Brookfield Drive, tax map reference 45-1((2))773, 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 7, 1981; and

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

Page 463, July 7, 1981 Board of Zoning Appeals
SIDNEY M. SKJEI, JR.
(continued)

RESOLUTION

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 18,267 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, being a corner lot with having to meet two front yard setbacks.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Ms. Day seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 463, July 7, 1981, Scheduled case of

10:40 A.M. JAMES R. & MARGARET C. FISHER, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 17.3 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-207), located 3404 Barger Drive, Barcroft Lake Shores Subd., 61-1((11))741, Mason Dist., R-2, 16,517 sq. ft., V-81-M-092.

Mr. James Ron Fisher of 3404 Barger Drive in Falls Church informed the Board that he had resided on his property for four years and had four children. He stated that he needed to increase the size of his home, particularly the kitchen area. Mr. Fisher stated that his lot was irregularly shaped and had a sloping back yard. The southeast corner of the house was presently 27.6 ft. from the rear lot line. Mr. Fisher proposed to build an addition which would extend out 12 ft. from the house at ground level and 10 ft. at the upper level. He stated that the proposed addition would be more attractive than the existing appearance of the back of the house.

Mr. Fisher informed the Board that he proposed to add solar heat and needed to trap water. He stated that the main reason for requesting the variance was due to the location of his house on the lot and the sloping rear yard.

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

Page 463, July 7, 1981 Board of Zoning Appeals
JAMES R. & MARGARET C. FISHER

RESOLUTION

In Application No. V-81-M-092 by JAMES R. & MARGARET C. FISHER, appl. under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17.3 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-207), on property located at 3404 Barger Drive, tax map reference 61-1((11))741, 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 7, 1981; 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 16,517 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.

RESOLUTION

464

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 464, July 7, 1981, Scheduled case of

10:50 A.M. ROBERT L. & SARA J. SEGAL, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 6.7 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 9708 Turnbuckle Drive, Longwood Knolls Subd., 88-3((3))225, Springfield Dist., R-3(C), 8,749 sq. ft., V-81-A-093.

Mr. Robert Segal of 9708 Turnbuckle Drive in Burke stated that it was his and his wife's desire to construct a deck onto the rear of their home. Mr. Segal stated that without a variance he could only go out 8 ft. to the rear because of the 19 ft. setback requirement. Mr. Segal informed the Board that he was requesting a variance because of topographic problems. He stated that his back yard was very shallow and had a sloping terrain. Mr. Segal stated that his back yard was extremely shallow consisting of 27 ft. to the rear lot line. He stated that most of the other homes in his area had twice as much back yard so they could construct a deck. Mr. Segal stated that if he constructed a deck in accordance with the setbacks, he would be restricted to an 8 ft. deck.

With regard to the sloping terrain, Mr. Segal stated that his back yard was basically unusable for anything than aesthetics. The rear property line bordered on a common property line easement. Mr. Segal stated that the closest property was approximately 100 ft. on the other side of the easement. He stated that the foliage was such that it would be difficult to see from one home to another.

Mr. Segal stated that the construction of his deck would enhance his lifestyle and enable him to utilize his property. He urged the Board to make a favorable consideration of his request. In response to questions from Mrs. Day regarding the rear of his lot, Mr. Segal stated that the easement was undeveloped land owned by the homeowners association and could not be built on. He stated that it was a wooded buffer strip. He stated that no one would be able to see his deck except in the winter. However, he stated that the buffer was quite extensive.

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

RESOLUTION

In Application No. V-81-A-093 by ROBERT L. & SARA J. SEGAL, appl. under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 6.7 ft. from rear lot line (19 ft. minimum rear yard required by Sects. 3-307 & 2-412) on property located at 9708 Turnbuckle Drive, tax map reference 88-3((3))225, County of Fairfax, Virginia, Ms. Day 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 7, 1981; and

Page 465, July 7, 1981 Board of Zoning Appeals
ROBERT L. & SARA J. SEGAL
(continued)

RESOLUTION

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

1. That the owner of the property is the applicant.
2. The presnet zoning is R-3(C).
3. The area of the lot is 8,749 sq. ft.
4. That the applicant's property is exceptionally irregular in shape being shallow and has exceptional topographic problems and has an unusual condition in the location of the existing buildings on the subject property. The proposed deck will have no adverse effect on neighbors due to an easement area behind the subject property which acts as a buffer strip between adjoining houses.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 465, July 7, 1981, Scheduled case of

11:00 A.M. J. RONALD MAZURIK, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 6.4 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8250 Toll House Road, Chapel Square Subd., 70-2((7)) 25, Annandale Dist., R-3, 12,325 sq. ft., V-81-A-094.

Mr. Mazurik stated that his reason for requesting a variance was because of the 12 ft. setback requirement. He stated that the overall size of his lot was approximately 12,500 sq. ft. He stated that his second problem was the back portion of the lot which was full of trees. Mr. Mazurik preferred to keep as many trees as possible. Mr. Mazurik stated that in order to construct a garage, it would have to be attached to the side of his house which would require a variance to the side yard. Mr. Mazurik informed the Board that he had talked to his neighbors and the Wilsons next door did not object. Mr. Mazurik stated that his house did not have any storage and there was not any garage to house his automobile. He stated that he had an eight year old daughter and and preferred to have a garage for her bicycle instead of lugging it up and down the steps from the basement.

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

Page 465, July 7, 1981 Board of Zoning Appeals
J. RONALD MAZURIK

RESOLUTION

In Application No. V-81-A-094 by J. RONALD MAZURIK under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 6.4 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 8250 Toll House Road, tax map reference 70-2((7))25, 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 7, 1981; and

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

RESOLUTION

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 12,325 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 466, July 7, 1981, Scheduled case of

11:10 A.M. JIMMIE R. & SUSAN H. HEIL, appl. under Sect. 18-401 of the Ord. to allow construction of a detached garage 4 ft. from a side lot line (12 ft. min. side yard req. by Sects. 3-307 & 10-105), located 5017 Cockney Court, Stone Haven Subd., 70-3 ((6))66, Annandale Dist., R-3, 15,586 sq. ft., V-81-A-095.

Mr. Heil of 5017 Cockney Court in Annandale stated that he was requesting a variance to have a two car garage, 24'x28'. Mr. Heil stated that the two car garage was desired for several reasons, one being to alleviate the overcrowding of parked cars on the street. He informed the Board that all residents had at least two or more cars in his area. In addition, he stated that his proposed garage would protect the vehicles from the elements and vandalism. Mr. Heil stated that one of his cars had been broken into. The garage would also replace a storage shed on the property and would accommodate bicycles currently stored in the basement.

Mr. Heil stated that his proposed location was the optimum location for a garage. He stated that if he complied with the 12 ft. side yard requirement, the garage would be offset 4 ft. from the house and would require sharp angle negotiations to get in and out of the garage. In addition, it would block the sliding glass door. Mr. Heil stated that if he angled the garage, he would have to remove a lot of trees and it would cause some terrain problems as it would require a high retaining wall to support the structure. Mr. Heil stated that his proposed location would preserve the trees and utilize the land to its best advantage.

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

RESOLUTION

In Application No. V-81-A-095 by JIMMIE R. & SUSAN H. HEIL under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage 4 ft. from a side lot line (12 ft. minimum side yard required by Sects. 3-307 & 10-105), on property located at 5017 Cockney Court, tax map reference 70-3((6))66, 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 7, 1981; and

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

RESOLUTION

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 15,586 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remian valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 467, July 7, 1981, Scheduled case of

11:30 A.M. IMMANUEL CHRISTIAN SCHOOL, INC., appl. under Sect. 3-203 of the Ord. to permit school of general education, located 5211 Backlick Road, Leewood Subd., 71-4((1)) 36 & 37, Annandale Dist., R-2, 7.3293 ac., S-81-A-029.

Chairman Smith left the meeting for a brief period of time and Mr. DiGiulian acted as Chairman of the meeting in his absence. Mr. William Kalaris, Jr. of 8307 Molene Place in Springfield represented the applicant. He stated that the plans were for a school of general education. There were ten classes of pre-kindergarten. Mr. Kalaris stated that the church believed the traffic would be minimal. The school had been operating at another site. The church building was to be completed by Sept. 1st. and it was the intent of the applicants to move the church and the existing school to this location together at the same time.

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

RESOLUTION

Ms. Day made the following motion:

WHEREAS, Application No. S-81-A-029 by IMMANUEL CHRISTIAN CHURCH, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to permit school of general education on property located at 5211 Backlick Road, tax map reference 71-4((1))36 & 37, 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 on July 7, 1981; 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 7.3293
4. That compliance with the Site Plan Ordinance is required.

AND, WHEREAS, the Board of Zoning Appeals 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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 250 including 25 preschool children.
8. The hours of operation shall be 8:45 A.M. to 3:00 P.M.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 3 to 0 (Mr. Smith being out of the room)(Mr. Hyland being absent).

Page 468, July 7, 1981, Recess

At 11:40 A.M., the Board recessed the meeting for a brief period and reconvened the meeting at 11:55 A.M. to continue with the scheduled agenda.

//

Page 468, July 7, 1981, Scheduled case of

11:45 A.M. BEACON DAY CARE INC., appl. under Sect. 3-403 of the Ord. to permit continuation of child care center as permitted by S-94-75, now expired, except with a maximum of 120 children, ages 2-12, located 6511 Richmond Highway, Groveton Subd., 93-1((1))27, Mt. Vernon Dist., R-4, 2.565 ac., S-81-V-033.

Mrs. Mary Jane Oldham represented the applicant. She stated that she was applying for a renewal of her special permit, S-45-75 which had expired. Mrs. Oldham informed the Board that she also wanted to change the enrollment from 50 children to 120 children and the ages of the children to be from 2 - 12. She stated that the hours would be the same as before. In response to questions from the Chairman, Mrs. Oldham stated that the special permit had expired six months previously. Chairman Smith stated that this application would not be a continuation but a new a new application. Chairman Smith inquired as to the term of the prior special permit and was informed it had been granted for a one year period with annual renewals. Mrs. Oldham had missed one of the renewal periods which caused the permit to expire. The school was still operating from the Groveton Baptist Church. The lease was on a year to year basis. Chairman Smith stated that the school would be allowed to continue as before as long as Mrs. Oldham presented the Board with a copy of the lease 30 days in advance of the expiration date. The hours were stated as being from 7 A.M. to 6 P.M.

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

Page 469, July 7, 1981 Board of Zoning Appeals
BEACON DAY CARE, INC.

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-81-V-033 by BEACON DAY CARE, INC. under Section 3-403 of the Fairfax County Zoning Ordinance to permit continuation of child care center as permitted by S-94-75, now expired, except with a maximum of 120 children, ages 2 through 12, on property located at 6511 Richmond Highway, tax map reference 93-1((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 of Zoning Appeals held on July 7, 1981; 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-4.
3. That the area of the lot is 2.565 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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The maximum number of children shall be 120, ages 2 through 12 years.
8. The hours of operation shall be 7 A.M. to 6 P.M., Monday through Friday.
9. The number of parking spaces shall be 122.
10. This permit is granted for a period of one (1) year with the Zoning Administrator empowered to grant annual extensions upon presentation of a valid lease submitted at least 30 days prior to the expiration date.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 469, July 7, 1981, Scheduled case of

12:00 NOON CHILDREN'S WAY SCHOOLS, appl. under Sect. 3-103 of the Ord. to amend S-253-79 for child care center to permit change of owner-operator & change hours of operation to 6:30 A.M. - 6:30 P.M., Monday through Friday, located 2558 Flint Hill Road, 38-3((1))30 & 30A, Centreville Dist., R-1, 1.145 ac., S-81-C-034.

Reverend Roger Varly, Chairman of the Board of Trustees, informed the Board that they had applied for a change in an existing special permit located on Flint Hill Road. Rev. Varly stated that they were requesting a change in the hours from 7:00 A.M. to 7:00 P.M. to 6:30 A.M. to 6:30 P.M.. He stated that the reasons for the change were outlined in the written statement. Chairman Smith inquired if Children's Way School had signed an agreement to purchase the property presently owned by Mr. Phillips and whether they were currently operating the school. Rev. Varly stated that they were not operating at the present time

at this location. They had four other locations such as St. Marks Episcopal Church in Alexandria; Fairfax Christian Church in the City of Fairfax and another one in Arlington, and the Presbyterian Church in Parkington. Mrs. Day inquired as to the ages of the children and was informed that the previous permit specified three months through 4 years of age. Mrs. Day was concerned about the early hours because of neighbors next door having to hear car doors slamming. Rev. Varly stated that they had pioneered in flexible scheduling. He stated that not every parent had flexible working hours so the center needed to accommodate everyone. Mrs. Day inquired as to the number of employees and was informed they would have the number required by the County. Rev. Varly stated that with infants, the ratio was 1 adult for every 4 infants and with the older children the ration was 1 adult for every 10 children. Mrs. Day stated that the school was secluded and had a great deal of privacy. She was familiar with it as she drove by it every day. Rev. Varly stated that they would not move any shrubbery. He stated that the location was an indeal environment for young children.

There was no one else to speak in support 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-81-V-034 by CHILDREN'S WAY SCHOOLS under Section 3-103 of the Fairfax County Zoning Ordinance to amend S-253-79 for child care center to permitchange of owner/operator and change in hours of operation to 6:30 A.M. to 6:30 P.M., Monday through Friday 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 of Zoning Appeals held on July 7, 1981; and

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

1. That the applicant is the contract purchaser.
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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

RESOLUTION

7. The number of students shall be 60, ages 3 months through 4 years.
8. The hours of operation shall be 6:30 A.M. to 6:30 P.M., five days a week.
9. The number of parking spaces shall be 7.
10. This permit is granted for a period of three (3) years with the Zoning Administrator empowered to grant three (3) one year extensions.
11. All previous conditions set forth in S-253-79 not altered by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 471, July 7, 1981, Recess

At 12:15 P.M., the Board recessed for lunch and reconvened at 1:00 P.M. to continue with the scheduled agenda.

//

Page 471, July 7, 1981, Scheduled case of

12:15 P.M. BROWNE SCHOOL, INC. appl. under Sect. 3-403 of the Ord. to amend Special Use Permit #181 & #5221 for private school of general education & related uses to permit enlargement of building by enclosing porch, located 5917 Telegraph Road, 82-4((1))32, Lee Dist., R-4, 9.9025 ac., S-81-L-035.

Mr. Robert Lawrence, an attorney in Fairfax, represented the applicant. He informed the Board that the Browne School had been operating for over forty years. The purpose of this application was to enlarge one of the buildings on the property by enclosing a porch. The size of the porch was 10'x26.8'. Mr. Lawrence stated that would not be an increase in the number of students. The request was only to accommodate the existing school.

In response to question from Mrs. Day, Mr. Lawrence stated that the materials for construction would be brick to match the existing structure with aluminum siding. Mrs. Day inquired as to whether the four school buses were painted according to regulations and was informed by Mr. Lawrence they were. Chairman Smith stated that the Browne School buses were one of the first ones painted. Mrs. Day inquired as to the length of term for the special permit and was informed that it was indefinite. Mr. Lawrence stated that Browne School was one of the oldest private schools in the County. Chairman Smith stated that in view of the fact that the school was only enclosing an existing porch that the Board would not change any of the conditions of the previous granting.

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

RESOLUTION

Ms. Day made the following motion:

WHEREAS, Application No. S-81-L-035 by *BROWNE SCHOOL, INC. under Section 3-403 of the Fairfax County Zoning Ordinance to amend Special Use Permit #181 and #5221 for private school of general education and related uses to permit enlargement of building by enclosing porch on property located at 5917 Telegraph Road, tax map reference 82-4((1))32, 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 7, 1981; 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 9.9025 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

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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shall be 250.
8. The hours of operation shall be 7 A.M. to 5:30 P.M., Monday through Friday.
9. The number of parking spaces shall be ~~35~~ 33 -ell

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Yaremchuk)(Mr. Hyland being absent). *BZA approved name change to BSI, Inc. on 9/6/83 -ell

---

Page 472, July 7, 1981, Scheduled case of

12:30 P.M. POHICK EPISCOPAL CHURCH, appl. under Sect. 3-103 of the Ord. to permit Sunday School Nursery building addition to existing church & related facilities, located 9301 Richmond Highway, 108-1((1))27, Lee Dist., R-1, 39.5 ac., S-81-L-037.

Mr. Ken Hooper, an architect, represented the applicant. His office address was 3203 Grace Street in Washington, D.C. Mr. Hooper stated that his client desired to put a one story addition onto the side of the parish hall building. The church has been in existence since 1774. The parish hall was completed in the mid 1950s. Mr. Hooper stated that this was the first construction since that time and would only be a one story structure. Mr. Hooper advised the Board that this addition was part of a long range master plan to be built over a period of years. He stated that the brick used in the addition would match the original historical structure. The addition would be used to house the educational departments of the church. At present, the educational departments were located in a house on the site. Mr. Hooper stated that this was the first step towards the building program.

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

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. S-81-L-037 by POHICK EPISCOPAL CHURCH under Section 3-103 of the Fairfax County Zoning Ordinance to permit Sunday school nursery building addition to existing church and related facilities on property located at 9301 Richmond Highway, tax map reference 108-1(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 of Zoning Appeals held on July 7, 1981; and

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

RESOLUTION

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 39.5 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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 473, July 7, 1981, Scheduled case of

12:45 P.M. VIVLOW AND COMPANY & OR MILDRED W. FRAZER, appl. under Sect. 3-203 of the Ord. to amend S-80-A-026 for school of general education to permit increase in maximum number of children at summer camp to 250, located 4955 Sunset Lane, 71-4((1))12 & 23, Annandale Dist., R-2, 2.83 ac., S-81-A-039.

Ms. Mildred Frazer of 4913 Sunset Lane in Annandale informed the Board that her special permit allowed 220 children. She stated that in past years, the limitation of 220 children had been satisfactory. However, she stated that this year they had an unusual enrollment of pre-school children. Normally only 65 pre-schoolrtd signed up which allowed 155 summer campers. Mrs. Frazer stated that the numbers in the younger group had increased and she was asking for permission to have an additional 30 children during the summer camp program. She stated that 96 preschoolers had preregistered and 154 had preregistered for summer camp.

In response to questions from the Board, Mrs. Frazer stated that the hours of operation would be from 8:30 A.M. to 4:00 P.M. but she did have occasional hours as early as 7 A.M. and as late as 6 P.M. in the evening. Mrs. Frazer stated that her special permit went until 10 P.M. Chairman Smith questioned Mr. Covington about the previous permit which had a three year limitation on it. He was informed that Mrs. Frazer had come back to the Board and had the term removed at a previous hearing. Mr. Yaremchuk inquired as to the days of operation. Mrs. Frazer stated that the camp would be five days a week. Mrs. Day inquired if the increase in children affected the number of teachers or parking. Mrs. Frazer stated that it did not. She stated that she had plenty of parking available and the staff report only required 27 spaces. Chairman Smith stated that it appeared there were 27 parking spaces available. Chairman Smith inquired if the school was able to accommodate 250 children during a normal school year. Mrs. Frazer responded that the 250 children would be from June through September.

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

474

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-81-A-039 by VIVLOW & COMPANY AND/OR MILDRED W. FRAZER under Section 3-203 of the Fairfax County Zoning Ordinance to amend S-80-A-026 for school of general education to permit increase in maximum number of children at summer camp to 250 on property located at 4955 Sunset Lane, tax map reference 71-4((1))12 & 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 July 7, 1981; 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 2.83 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of children shall be 250 during the months of June, July and August.
8. The hours of operation shall be 7:00 A.M. to 10:00 P.M., five days a week.
9. The number of parking spaces shall be 27.
10. All other conditions of S-80-A-026 not altered by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 0 (Mr. Hyland being absent).

Page 474, July 17, 1981,

For the record, Mrs. Frazer discussed the Chairman's comments regarding the painting of school buses. She informed him that she took exception to his statement that all good schools painted their buses. Chairman Smith stated that it was a personal opinion. He stated that he thought it was a good policy for the private schools to paint their buses for the safety of the children. Mrs. Frazer informed Mr. Smith that as Chairman of the Board of Zoning Appeals, his public statements had a great impact. Mrs. Day inquired as to why Mrs. Frazer did not want to paint her buses? Mrs. Frazer replied that it was not a requirement that vans be painted. She stated that all of the private schools used to have their own colors. Mrs. Frazer stated that her vans were painted green and white with school lettering. She stated that the vans stopped in front of the children's houses and that the service was door to door. Mrs. Frazer stated that she did not wish to have the identity as she wished to maintain the school's identity. She informed the Chairman that

Page 475, July 7, 1981
Discussion between Mrs. Frazer
and Chairman Smith

the small vans had a very low accident rate. Mrs. Frazer stated that because of the BZA's requirement to paint the vans, there had been a great deal of difficulty between the BZA and herself. Mrs. Frazer stated that the courts had decided it was not in the purview of the BZA to govern the motor vehicle laws and regulations.

For that reason, Mrs. Frazer stated that she felt the comments made by the Chairman during the public hearing had been out of place. Chairman Smith stated that he had made that statement many times and still contended that any good private school should paint their buses. However, Chairman Smith stated that the courts did not indicate whether the BZA could or could not condition the special permit with respect to the painting of school buses. He stated that the only question decided by the courts had been the wording of vans and non-vans in the State Code. Chairman Smith stated that Mrs. Frazer had prevailed in the courts and then tried to persuade all of the other private schools not to paint their buses. Mrs. Frazer informed the Chairman that she would be glad to show him the judgement from the courts which stated that the painting of vans was not in in the purview of the BZA. Chairman Smith stated that it had been a very narrow issue and that Mrs. Frazer had a very capable attorney. Mrs. Frazer stated that the County had very capable attorneys also.

Mrs. Frazer informed the Board that she felt insulted by the Chairman's remarks earlier in the day. Chairman Smith apologized to Mrs. Frazer. Mrs. Frazer informed the Chairman that she wanted to lay the matter to rest once and for all. She stated that the issue had been resolved. Chairman Smith promised never to bring it up again.

//

Page 475, July 7, 1981, After Agenda Items

Andrea Field: The Board was in receipt of a revised plat on a subdivision of five lots. Mr. DiGiulian reviewed the plat and indicated that he had no problem with the revision as it did not affect the pipestem.

// There being no further business, the Board adjourned at 1:45 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the BZA on February 15, 1983

K. Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: February 22, 1983
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 14, 1981. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John Yaremchuk; Gerald Hyland and Ann Day.

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock case of:

10:00 A.M. COMMUNITY PRESCHOOL, appl. under Sect. 6-301 of the Ord. to allow amendment of S-72-76 (preschool) to permit change in ages of children from 3 - 5 years to 2 - 5 years, located 1625 Wiehle Avenue, Reston Subd., 18-1((1))15, Centreville Dist., PRC, 6.141 ac., S-81-C-010. (Deferred from May 5, 1981 at request of applicant).

Mrs. Elizabeth Shultz of 2240 Coquine Drive in Reston represented the school. She stated that they were requesting a change in the ages of the children to have 2 to 5 years olds in the coop. Mrs. Shultz informed the Board that the parents participated in the preschool and the hours were from 8:30 A.M. until 4:30 P.M. She stated that they had two classes and they met five days a week. The preschool wanted a class for two year olds which would meet from 9:30 A.M. until 11:30 A.M. The maximum size of the class would be 25 children. She stated that at no time would there ever be more than 25 students. Mrs. Shultz informed the Board that the coop had one paid teacher per class and from two to four parents in every class per day. All of the teachers were qualified and experienced in preschool.

With regard to traffic impact, Mrs. Shultz stated there would not be any additional traffic. She stated that the current special permit did not limit the school to only three days a week as it assumed that the school was operating five days a week. She stated that there would be a maximum of 50 vehicle trips per day on Tuesdays and Thursdays. The students would be dropped off between 9:15 A.M. and 9:30 A.M and picked up between 11:30 A.M. and 11:45 A.M. The teachers would leave by noon. The area to be served by the preschool was Reston.

Mrs. Shultz addressed some of the staff comments. She stated that the school had a team inspection on April 14th and had followed it up with Mr. Bertoni and Capt. Peck of the Fire Marshal's office. She stated that the school was working with the County and the landlord in order to comply with the requirements concerning the age groups. In response to questions from the Board, Mrs. Shultz stated that the preschool was operated in a church.

There was no one else to speak in support 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-81-C-010 by COMMUNITY PRESCHOOL under Section 6-301 of the Fairfax County Zoning Ordinance to allow amendment of S-72-76 (preschool) to permit change in ages of children from 3 to 5 years to 2 to 5 years on property located at 1625 Wiehle Avenue, tax map reference 18-1((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 July 14, 1981; and

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

1. That the applicant is the lessee.
2. That the present zoning is PRC.
3. That the area of the lot is 6.141 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 on the application and is not transferable to other land.

RESOLUTION

2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of children shall be 25, ages 2 to 5 years.
8. The hours of operation shall be 9:00 A.M. to 3:30 P.M., five days a week.
9. All other limitations set forth in S-72-76 not altered by this resolution shall remain in effect.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 477, July 14, 1981, Scheduled case of:

10:15 A.M. SERGASCO CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of addition to service station building to 7 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 4-507), located 2600 Sherwood Hall Lane, 102-1((7))(7)17B, Mt. Vernon Dist., C-5, 17,531 sq. ft., V-80-V-111. (Deferred from June 2, 1981 for Special Exception).

The Board of Zoning Appeals was advised that the Special Exception had been denied by the Board of Supervisors the previous week. It was the consensus of the Board to further defer the variance application until September 22, 1981 at 10:00 A..M.

//

Page 477, July 14, 1981, Scheduled case of:

10:30 A.M. BERT G. & DEBBIE D. PIGGE, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's revocation of temporary Special Permit (TSP-092-80) for contractor's office, located 3132 Annandale Road, Bernard Lieb Subd., 50-4((1))3A, Mason Dist., R-4, 0.393 ac., A-81-M-007.

Mr. Bert Pigge of 3132 Annandale Road was the appellant. Mr. Philip G. Yates, Zoning Administrator, informed the Board that the issue was rather straight forward as set out in his memorandum dated July 10, 1981. The application was an appeal of his decision that a contractor's office could not be occupied as a dwelling. Mr. Hyland inquired if a contractor's office could be occupied by a caretaker and was informed by Mr. Yates that it could not. Mr. Hyland inquired if the permit had been erroneous to the effect that it had permitted a caretaker and Mr. Yates stated that was correct. Chairman Smith stated that the permit had been granted for a night watchman and that someone would sit up and watch the property. He indicated that the person would have to stay up. Mr. Hyland stated that the permit indicated that it was to "quarter a night watchman". Mr. Hyland stated that the permit had been intended to be more than just for temporary occasions. Mrs. Day stated that quarters could be temporary. Mr. Hyland stated that there was not any indication on the permit as to whether it was to be temporary or permanent. He stated that this was an unfortunate case as the individual had relied upon that permit and now the BZA found itself in a position of being asked to retract the permit. Mr. Hyland inquired if the house had been completed. Mr. Pigge stated that the house was about 30 to 45 days from being completed. He stated that if he had been left alone by the County, the house would have been completed but the County had put him behind schedule. Mr. Pigge informed the Board that Environmental Health had been to the site. He stated that he had to see an attorney regarding this matter. His wife had to file for the appeal and process the notification letters.

Mr. Pigge stated that he had obtained the trailer and put it on the property. When the trailer was up, Mr. Bakos from the County informed him that there was a complaint and had given Mr. Pigge the application to follow through with the appeal. Mr. Pigge informed the Board that the permit to occupy the trailer had been issued by Mr. Knowlton. Mr. Pigge was advised by Mr. Knowlton that he considered Mrs. Pigge and the dog to be caretakers of the property. Mr. Pigge thought everything was fine with the trailer. He had applied for a permit for plumbing for the trailer and the staff person contacted Mr. Berger in Environmental Health. Mr. Pigge stated that he had been in the trailer for six months.

Chairman Smith advised Mr. Pigge that the fact he had been there for six months did not make it legal. He stated that Mr. Pigge had misinterpreted the permit and it was not in keeping with the Zoning Ordinance. Mr. Yaremchuk inquired as to how Mr. Pigge was to have known that the permit was erroneous. Mr. Yaremchuk inquired as to how long the permit had been issued before Mr. Pigge was notified that it was in violation. Mr. Pigge stated that the trailer had been there for six months. Mr. Pigge informed the Board that he was aware of two other trailers being used in the same circumstances which was where he got the idea. Mr. Yaremchuk stated that the appellant was only acting in good faith.

In response to questions from the Board, Mr. Pigge stated that one of the two trailers was used by Gene May in Evermay subdivision. There was a laborer who worked on the job and lived in the trailer. Chairman Smith stated that apparently it was illegally hooked up. Mr. Pigge stated that his trailer was a 24 ft. camper. Chairman Smith inquired if the trailer in Evermay was a construction trailer and was informed it was. Mr. Pigge stated that the other trailer was across from All-amatic Transmissions on Rt. 29-211. Chairman Smith stated that area was tourist cabins which were grandfathered under the Ordinance. Mr. Pigge stated that the area had a mobile home there which was about 67 ft. long. Mr. Covington advised the Board that it had replaced a previous trailer of comparable size. Chairman Smith stated that the area was zoned commercial and the activities were allowed.

Mr. Pigge inquired as to how the Zoning Office could issue a permit and after he had put all of his money into the project and was about 90% completed inform him that it was illegal. Chairman Smith stated that Mr. Pigge's interpretation that he was legal was incorrect. Mr. Pigge inquired as to where he was supposed to live. He stated that this property had been vacant for many years. Chairman Smith advised the appellant that his statements were not relevant to the issue. He advised Mr. Pigge that the only issue was whether the use of the camper trailer was legal. Mr. Hyland stated that the Chairman may not feel that the comments were relevant; however, he stated that one of the reasons for having the camper trailer on the property was because of the problem of vandalism and the fact that the appellant felt that he had to protect his investment. Mr. Hyland stated that he felt the statements were relevant and the applicant had even included the testimony in his written statement. Mr. Hyland stated that the best way to have a home carried away was to leave it unguarded. He stated that it was unfortunate that the property had been left for so long at the beginning. Mr. Hyland stated that the problem the BZA had was whether they would force the appellants out of the trailer when they were almost finished with the construction of the house. Mr. Hyland stated that he did not feel the BZA should ignore what had happened.

Mr. Covington stated that the problems in the past had been when someone would move into a trailer under the premise that they were going to build a house and then it would never materialize. The trailer would end up being the permanent residence. Mrs. Day stated that she could not see the difference of the Pigges living in the trailer so that they could move into the house before cold weather. She stated that if Mr. May could have his caretaker live on the premises then why couldn't the Pigges live in their camper. Mrs. Day stated that this was not a permanent situation as they would move into their home when it was completed.

Chairman Smith stated that he did not know all of the other circumstances involving the use of the other trailers. Some were non-conforming situations and were not comparable to this siutation. He stated that he was not familiar with the May situation but assumed it was a large subdivision and that the trailer was hooked up to a well. Chairman Smith stated that he understood the Pigges' concern of protecting their home. Chairman Smith stated that Mr. Yates was correct in his interpretation of the Ordinance. Chairman Smith stated that he was sympathetic with the Pigges as they were young but he indicated that the Zoning Administrator had to do his job and see that the Zoning Ordinance was carried out in a just and fair manner.

Mr. Hyland stated that the Zoning Administrator had been very candid in his report. This was a classic case of having messed up. The permit for the trailer was granted by Mr. Knowlton which included a proviso for a caretaker. He stated that if the BZA applied the rules strictly, it would be to the detriment of the Pigges. Mr. Hyland stated that he wondered whether that was the kind of result the BZA really wanted. Mr. Hyland stated that

Mr. Yates was right in that it was a violation and it was very clear in the Ordinance. But the County had been a party to what had gone on which was the reason the trailer was located on the property. Mr. Hyland inquired of the Zoning Administrator as to whether there was any other solution.

Chairman Smith offered a suggestion that the BZA uphold the decision of the Zoning Administrator and give him 30 days to abide by it. Mr. DiGiulian stated that if the appellants had plenty of money to spend, they could drag the matter out in court. Therefore, he felt the BZA should try to find some way to give the Pigges more time to complete their house. Mr. Yaremchuk stated that he was willing to give them 60 days. Chairman Smith stated that he did not know whether the BZA had the authority to give them 60 days. He asked for some concurrence from the Zoning Administrator rather than having the appellants go to court for a stay and having to spend a lot of money. However, Chairman Smith stated that the Board should uphold the Zoning Administrator. He stated that he was really concerned about the statement that the County had held up construction of the house. Mr. DiGiulian stated that if the appellant felt harassed by the County, it would have held up his construction.

Mr. Yaremchuk stated that he was really bothered by the fact that this was a young couple who were trying to build a house. Other areas of the County allowed caretakers and the Pigges were trying to build the house right. He inquired as to why Environmental Health had to get involved in the matter. Mr. Yaremchuk stated that it appeared that Mr. and Mrs. Pigge were harassed and held up during the construction. He stated that they only had the BZA to turn to for help. Mr. Yaremchuk stated that he had worked for the County for years and had never practiced this kind of situation and did not believe in it. Chairman Smith stated that the County personnel were only doing their jobs. Mr. Yaremchuk stated that there were right and wrong ways to do a job.

Mr. Hyland restated that he was interested in working out a way for the BZA to accommodate the Pigges. He indicated that he would make a motion to grant the appeal but did not want to do it as the Zoning Administrator had a good point. Mr. Yates suggested that the solution might be for the BZA to defer decision for 60 days. Chairman Smith inquired of Mr. Pigge as to the length of time necessary to finish construction of the house. Mr. Pigge stated that it would take approximately 30 to 45 days if everything went according to plan. He stated that he was doing the work himself. Chairman Smith inquired if the camper trailer was hooked up and Mr. Pigge stated that it was hooked up to his neighbor's house.

Chairman Smith inquired if the Zoning Administrator had any problem with the BZA upholding his decision and giving the Pigges 35 to 50 days to clear the violation. Mr. Yates asked to make a comment as to his authority for relief. He stated that he appreciated the dilemna in which everyone found themselves. He admitted that the County had been responsible. Mr. Yates informed the Board that if there had been any authority to accommodate the situation then the issue would not have been before the BZA. Mr. Yates stated that he did not have the authority to grant the relief. Chairman Smith stated that he felt the BZA did have the authority and inquired if Mr. Yates had any problem with it. Mr. Yates stated that there were two considerations. He informed the BZA that he had notified Mr. Pigge of the violation on April 23rd and had given him time to terminate the use of the trailer. Mr. Pigge had filed the appeal which gave him another 60 days. Mr. Yates stated that any other time given to the appellant should be a minimum. He stated that any other residence in the County would be subject to the Health Department requirements. Chairman Smith stated that the sanitary requirements were not under appeal. Chairman Smith stated that the BZA did have the right to uphold the Zoning Administrator and give the appellant a reasonable time which should be a minimum amount of time in which to clear the violation. Chairman Smith stated that he felt this would be a proper approach.

Mr. Yaremchuk stated that he did not agree with the minimum time period. He stated that if Mr. Pigge had an attorney, he could go to court and the judge would allow him 60 days. Chairman Smith stated that Mr. Pigge had to meet the requirements as far as the Health Department were concerned. Chairman Smith stated that the appellant could work out the sanitary problems if he was interested in working them out. Mr. Pigge stated that he was using a chemical toilet which he disposed of at his parents' house. Mr. Yates was concerned that the BZA was approving the trailer as a residence for a period of time. Chairman Smith stated that the Board was not doing that but merely allowing the appellant time to clear the violation. Mr. Yates suggested that it might be in the best interest to require that an occupancy permit be obtained. Mr. Yates stated that there may be electrical deficiencies as well as the sanitary problems. Mr. Yates stated that he would feel a lot safer if Mr. Pigge had a complete inspection and was issued a temporary residential permit. Mr. Yaremchuk stated that he had a problem with that. Mr. Yates stated that no other agency had inspected the trailer from a safety or health standpoint. Mr. Yaremchuk stated that it was a state law for Mr. Pigge to meet the Health requirements. Mr. DiGiulian inquired if the BZA was saying that the trailer could be

hooked up to public water for a period of 60 days. Mr. Yates advised the BZA that no matter what action they took, the Health Department could take its own action. Mr. DiGiulian suggested that the BZA defer the matter for a period of 60 days.

Chairman Smith stated that there were other alternatives for Mr. Pigge. He stated that the BZA could not condone what Mr. Pigge had done and did not want to condone anything that might be a health hazard to him and his family or the neighbors. Chairman Smith stated that the Zoning Administrator should be upheld because he was right. However, Chairman Smith stated that the BZA was trying to keep the matter from going to court. He stated that if Mr. Pigge was willing to cooperate, the BZA would come up with something.

There was no one else to speak in support or in opposition to the appeal. Mr. Hyland moved that the BZA defer decision on the appeal for a period of 60 days. Mr. DiGiulian seconded the motion. The vote to defer was unanimous. Mr. Yaremchuk stated that he supported the motion as a way of solving the problem. For the record, Mr. Yates informed the Board that he would notify Mr. Berger of the Health Department of the BZA's action and any further action to be taken would be on Mr. Berger's shoulders. Mr. Yaremchuk stated that the BZA could not interfere with the sanitary conditions of the Health Department.

The decision was scheduled for September 15, 1981 at 10:00 A.M.

//

Page 480, July 14, 1981, Scheduled case of

11:10 A.M. C. PETER & ELAINE B. ANDREWS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 3703 MacGregor Court, Weadley Subd., 59-4((15))2, Mason Dist., R-3, 12,000 sq. ft., V-81-M-096.

Mr. C. Peter Andrews of 3703 MacGregor Court in Annandale informed the Board that he proposed to contruct a one story addition to his quarters. He stated there was 40 ft. between his house and the house next door and 15 ft. from his house to the side lot line. Mr. Andrews stated that he planned to go out 7 ft. which would require a variance. Mr. Andrews stated that he had considered building in the back but it would be impractical because of the incline and it would run the patio and the landscaping. In addition, he stated that it would ruin the family room which was well lighted.

In response to questions from the Board, Mr. Andrews stated that he had owned his house since 1966 and it would be his permanent residence. Chairman Smith inquired as whether the zoning had changed. Mr. Andrews replied that it had. He informed the Board that the setback used to be 15 ft. and was presently 12 ft. Mr. Andrews stated that he wanted to give his son a room of his own and wanted him close at home at night. Mr. Andrews stated that he would be retiring from the Air Force in the future and wanted to build a game room. Mr. Andrews stated that there were several boys on his street who were willing to help with the construction.

Chairman Smith inquired as to why the applicant could not build in the back. Mr. Andrews stated that he was prevented from building in the back because of the location of the house, the incline, the brick patio and landscaping. Mrs. Day inquired as to the neighbor's (owner of lot 30) reaction to the proposed addition. Mr. Andrews stated that his next door neighbors were delighted as they had college age children. Mr. Andrews stated that the addition would add to the appearance and floor area of the house. Mrs. Day inquired if the addition would be closed on the side facing the neighbors and Mr. Andrews responded it would. He stated that he would construct the addition in brick. He informed the Board that he had added an extension onto his house in 1966 and the same brick was still available. Mrs. Day inquired as to what was located on the lot to the rear of Mr. Andrews and he stated it was woods.

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

Page 480, July 14, 1981 Board of Zoning Appeals
C. PETER ANDREWS

RESOLUTION

In Application No. V-81-M-096 by C. PETER ANDREWS under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 3703 MacGregor Court, tax map reference 59-4((15))2, County of Fairfax, Virginia, Ms. Day 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 14, 1981; 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 12,000 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 the rear yard slants to the rear lot line.

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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith).

Page 481, July 14, 1981, Recess

At 11:25 A.M., the Board recessed for a short break and reconvened at 11:40 A.M. to continue with the scheduled agenda.

//

Page 481, July 14, 1981, Scheduled case of

11:30 A.M. LUTHER G. & MARILYN M. TROEN, appl. under Sect. 18-401 of the Ord. to allow construction of garage shop addition to dwelling to 6.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 6409 Meriwether Lane, York Manor Subd., 81-3((15))2, Lee Dist., R-3, 20,335 sq. ft., V-81-L-098.

Mr. Luther Troen of 6409 Meriwether Lane in Springfield informed the Board that he wanted to build a garage which at the front would be 8 ft. from the side lot line but at the rear would be 6.5 ft. fromt the side lot line. Mr. Troen stated that he wished to construct the garage a little longer than usual because he wanted to have a shop area. He informed the Board that he could not build behind his house because it was too congested and he would have to do a lot of excavation. He stated that if he were to build the garage in the back, he would have to move a lot of pool pumps, etc. and put in a driveway. He stated that the driveway would have to be over 100 ft. long and that he would have to construct a retaining wall which would put the garage over 100 ft. from the house.

Mr. Troen informed the Board that his neighbors did not want the garage in the back and preferred that he build in the front as proposed. Mr. Troen stated that the setbacks had changed in 1979. The previous setback had been that one could build no less than 8 ft. on each side with a total overall side yard of 20 ft. Presently, the 8 ft. was changed to a 12 ft. minimum.

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

RESOLUTION

In Application No. V-81-L-098 by LUTHER G. & MARILYN M. TROEN under Section 18-401 of the Zoning Ordinance to allow construction of garage shop addition to dwelling to 6.5 ft. from side lot line (12 ft. minimum side yard required by Sect. 3-307), on property located at 6409 Meriwether Lane, tax map reference 81-3((15))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 July 14, 1981; 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 20,335 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow and has exceptional topographic problems 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Ms. Day seconded the motion.

The motion passed by a vote of 3 to 1 (Mr. Smith)(Mr. DiGiulian abstained).

Page 482, July 14, 1981, Scheduled case of

11:40 A.M. ELOISE M. BEAN, appl. under Sjct. 18-401 of the Ord. to allow construction of greenhouse & deck additions to dwelling to 4.7 ft. & 3 ft. respectively, from side lot line (12 ft. minimum side yard for greenhouse req. by Sect. 3-307; 4 ft. min. distance from side lot line for deck req. by Sejct. 2-412), located 3333 Elm Terrace, Holmes Run Acres Subd., 59-2((8))(7)3, Providence Dist., R-3, 11,486 sq. ft., V-81-P-099.

Mrs. Eloise M. Bean of 3333 Elm Terrace in Falls Church stated that she needed a variance in order to build a solar device (greenhouse) and a small deck. Mrs. Bean stated that the solar device was necessary for two reasons, primarily being for solar heat to the dining room and living room area in order to save on natural gas. The second reason was that she wanted to have the eating area in the greenhouse as she enjoyed the plants. Mrs. Bean informed the Board that she had submitted the type of greenhouse with her application and it was energy efficient. She stated that the opening presently existed in the house through the sliding glass door. She stated that she had furnished as much material as she could through the brick wall and the floor made of tile.

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

RESOLUTION

In Application No. V-81-P-099 by ELOISE E. BEAN under Section 18-401 of the Zoning Ordinance to allow construction of greenhouse & deck addition to dwelling to 4.7 ft. & 3 ft. respectively from side lot line (12 ft. minimum for greenhouse required by Sect. 3-307; 4 ft. minimum distance from side lot line for deck required by Sect. 2-412), on property located at 3333 Elm Terrace, tax map reference 59-2((8))(7)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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 14, 1981; 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 11,486 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including narrow 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 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. Yaremchuk seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)

Page 483, July 14, 1981, Scheduled case of

11:50 A.M. GEORGE CONTIS, appl. under Sect. 18-401 of the Ord. to allow subdivision into two into(2) lots, each having width of 12.53 ft. (150 ft. min. lot width req. by Sect. 3-106), located 9102 Leesburg Pike, 19-4((1))22, Dranesville Dist., R-1, 2.0825 ac., V-81-D-100.

Mr. William H. Hansbarger, an attorney in Fairfax, represented Mr. Contis. He informed the Board that the variance request was to allow a two lot subdivision with less than the minimum lot width. Mr. Hansbarger stated that it had come about because of the irregular shape of the lot. He stated that the property contained some 90,000 sq. ft. Mr. Hansbarger stated that they were trying to develop it under the R-1 zoning district category. He informed the Board that each of the lots would be larger than required and would have more than the minimum of 36,000 sq. ft.

Mr. Hansbarger stated that the width of the lot was measured at the front yard setback which was 40 ft. from Leesburg Pike. The width at that distance was only 25 ft. which would allow each lot to have 12.53 ft. Mr. Hansbarger informed the Board that each of the lots more than met the other requirements of the R-1 zoning district. Mr. Hansbarger stated that this was an unusual situation and did not occur in other lots in the district. Mr. Hansbarger requested the BZA to grant the variance.

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

RESOLUTION

In Application No. V-81-D-100 by GEORGE CONTIS under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, each having width of 12.53 ft. (150 ft. minimum lot width required by Sect. 3-106) on property located at 9102 Leesburg Pike, tax map reference 19-4((1))22, County of Fairfax, Virginia, Mr. Hyland 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 14, 1981; 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 2.0825 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 eighteen (18) months from this date unless this subdivision has been recorded among the land records of Fairfax County. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)

Page 484, July 14, 1981, Scheduled case of

12:00 NOON RESTON PRESBYTERIAN CHURCH, appl. under Sect. 3-E03 of the Ord. to permit church use for Sunday School, adult meetings & vacation Bible class, in space and facilities of a private school of general education, located 1724 Sunset Hill Road, C.R. Ball Subd., 18-3((20)5, Centreville Dist., R-E, 4.85 ac., S-81-C-036.

Mr. Richard Rash of 11248 Chestnut Grove Square in Reston represented the church. He stated that they wanted to use the classroom facilities of Tara School which was located up the road from their present church. Mr. Rash stated that the church wanted to use the classrooms for their leadership meetings, vacation bible school and for Sunday school facilities on Sunday mornings. He stated that the hours would be between 9:30 A.M. to 11:30 A.M. The service was over at noon. He stated that any Sunday meetings would be from 6:30 P.M. until 9:30 P.M. In addition on Wednesday evenings they would have an early evening meeting. Mr. Rash stated that the church had 30 to 35 children in its program. He stated that he was requesting permission for 60 children who would be supervised by 10 to 12 teachers. The children would be separated into groups from the youngest to high school age.

Mr. Rash informed the Board that the church was a reformed presbyterian church. He stated that the traffic impact would be minimal because it would occur during off peak hours. Chairman Smith inquired if any of the use would occur during the time the Tara School was in session and he was informed it would not. Chairman Smith inquired if there was a lease agreement and Mr. Rash stated that Mr. Rogers had written up a tentative agreement. Chairman Smith inquired as to the term outlined in the agreement and Mr. Rash stated that he was not certain a term was mentioned in it. Chairman Smith inquired if a five year time frame would take care of the term. Mr. Rash stated that he was in the process of planning the time and indicated that a five year term should cover the time period he was looking for.

Page 485, July 14, 1981
RESTON PRESBYTERIAN CHURCH
(continued)

Mrs. Day noted that the staff report indicated there was not an occupancy permit issued for the private school. Mr. Covington stated that this was a new building and that an occupancy permit had been obtained after the staff report was written.

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

Page 485, July 14, 1981 Board of Zoning Appeals
RESTON PRESBYTERIAN CHURCH

R E S O L U T I O N

Ms. Day made the following motion:

WHEREAS, Application No. S-81-C-036 by RESTON PRESBYTERIAN CHURCH under Section 3-E03 of the Fairfax County Zoning Ordinance to permit church use for Sunday School, adult meetings and vacation Bible class in space and facilities of a private school of general education on property located at 1724 Sunset Hills Road, tax map reference 18-3((2))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 July 14, 1981; 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-E.
3. That the area of the lot is 4.85 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of children shall be 60 with 10 teachers.
8. The hours of operation shall be 9:30 A.M. to 1:30 P.M. on Sundays and from 6:30 P.M. to 9:00 P.M. on Sundays and Wednesdays.
9. This special permit is granted for a period five (5) years.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0.

Page 486, July 14, 1981, Recess

At 12:10 P.M., the Board recessed for lunch and returned at 1:00 P.M. to continue with the scheduled agenda.

//

Page 486, July 14, 1981, Scheduled case of

12:15 P.M. MICHAEL L. SUDDARTH, appl. under Sect. 18-406 of the Ord. to allow attached garage to remain & to be converted to a family room 5.18 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 6206 Pioneer Drive, Springfield Estates Subd., 80-4((5)()(9)522, Lee Dist., R-4, 8,542 sq. ft., V-81-L-104.

Mr. John Suddarth, the father of the applicant, informed the Board that his son was not adding another structure except that a garage door would be removed and a bay window would be added. Mr. Suddarth stated that the garage was not used and had not been used as a structure for some time. He stated that at the time of purchase in 1978, the garage was shown as a carport and not an enclosed garage. Chairman Smith inquired if Mr. Suddarth had enclosed the carport and was informed it had been enclosed in 1978 when his son purchased the property. Mrs. Day inquired if the conversion would extend beyond the present lines and was informed it would not. Mr. Suddarth stated that the requested variance was only to change the interior. He stated that the only change would be about 20" when they put in the bay window and removed the garage door. Chairman Smith stated that this was one of the highest areas as far as air pollution.

Mr. J. D. Walter Alexander spoke in support of the application. He informed the Board that the garage had been on the property since 1966. He stated that he had no objection to the garage being converted to a family room addition. There was no one else to speak in support and no one to speak in opposition.

Page 486, July 14, 1981 Board of Zoning Appeals
MICHAEL L. SUDDARTH

RESOLUTION

In Application No. V-81-L-104 by MICHAEL L. SUDDARTH under Section 18-401 of the Zoning Ordinance to allow attached garage to remain and to be converted to a family room 5.18 ft. from side lot line (10 ft. minimum side yard required by Sect. 3-407) on property located at 6206 Pioneer Drive, tax map reference 80-4((5))(9)522, 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 14, 1981; 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 8,542 sq. ft.
4. That the applicant's property is exceptionally irregular in shape including converging lot lines and has an unusual condition in that the structure was built fifteen years prior to the applicant purchasing the 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 eighteen months from this date unless construction has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty days before the expiration date and the variance shall remain valid until the extension is acted upon by the BZA.

Page 487, July 14, 1981
MICHAEL L. SUDDARTH
(continued)

Board of Zoning Appeals

RESOLUTION

Ms. Day seconded the motion.

The motion passed by a vote of 5 to 0.

Page 487, July 14, 1981, Scheduled case of

12:30 P.M. SOMERSET-OLDE CREEK RECREATION CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend existing Special Use Permit for community recreation club to allow construction of a 22'x27' picnic pavilian, located 9705 Laurel St., Somerset Subd., 58-39(12))A1, Annandale Dist., R-2(C), 5.091 ac., S-81-A-015. (Deferred from May 19, 1981 and from June 16, 1981 for decision. Applicant to work out problems relating to fencing.)

Chairman Smith advised the Board that the special permit application had been deferred for decision only and to receive information from the adjoining property owqners. Mr. Calvin Allen, President of the Somerset-Olde Creek Recreation Club, informed the BZA that the owners of lots 91, 92 and 93 had stated that they did not want a fence. Mr. Hyland stated that this was not the first time the club had been before the Board on this matter. Mr. Allen stated that the special permit was only for the construction of the picnic pavilian. Mr. Allen presented the Board with a plat outlined in yellow which he stated the club was prepared to build. He stated that Mr. and Mrs. O'Carroll did not want a 10 ft. fence put up at the back of the property. Chairman Smith noted that the fence would be constructed along the property line as shown in yellow on the plat with the exception of lots 91, 92 and 93 being exempt at the request of the individual property owners. Chairman Smith stated that the plat was dated June 15, 1981.

Page 487, July 14, 1981
SOMERSET-OLDE CREEK RECREATION CLUB, INC.

Board of Zoning Appeals

RESOLUTION

Mr. Yaremchuk made the following motion:

WHEREAS, Application No. S-81-A-015 by SOMERSET-OLDE CREEK RECREATION CLUB, INC. under Section 3-203 of the Fairfax County Zoning Ordinance to amend existing Special Permit for community recreation club to allow construction of a 22'x27' picnic pavilian on property located at 9705 Laurel Street, tax map reference 58-3((12))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 of Zoning Appeals held on July 14, 1981; 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(C).
3. That the area of the lot is 5.091 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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

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 in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. That the fence will be constructed as shown by the yellow line on the plat prepared by Richard Spencer dated June 15, 1981 with the exception of lots 91, 92 & 93 which owners specifically requested that no fence be constructed along their common boundary line.
8. All other requirements of the previously granted Special Permit not altered by this resolution shall remain in effect.
9. Unless otherwise qualified herein, extended hours for parties or other activities of outdoor community swim clubs or recreation associations will be governed by the following:
(A) Limited to six (6) per season.
(B) Limited to Friday, Saturday and pre-holiday evenings.
(C) Shall not extend beyond 12:00 midnight.
(D) Shall request at least 10 days in advance and receive prior written permission from the Zoning Administrator for each individual party.
(E) Requests shall be approved for only one (1) such party at a time, and such requests will be approved only after the successful conclusion of a previous extended-hour party or for the first one at the beginning of a swim season.
(F) Requests shall be approved only if there are no pending violations of the conditions of the Special Permit.
(G) Any substantiated complaints shall be cause for denying any future requests for extended-hour parties for that season; or, should such complaints occur during the end of the swim season, then this penalty shall extend to the next calendar year.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0.

Page 488, July 14, 1981, Scheduled case of:

12:45 P.M. BURKE STATION NURSERY SCHOOL, INC., appl. under Sect. 3-303 of the Ord. to amend S-80-S-062 for a nursery school to increase max. no. of students to 52 and to change hours of operation to 9:00 A.M. to 2:30 P.M., five days a week from Sept. 1 through May 31, located 5820 Ridgeford Rd., Burke Station Square Subd., 78-2((1))16A, Springfield Dist., R-3, 1.6 ac., S-81-S-031. (Deferred from June 23, 1981 for Notices.).

Mrs. Marvis Donovan of 9066 Brook Ford Road was the Director of the school. She informed the Board that she wanted to amend the existing special permit to allow a maximum number of days and a maximum number of children in order to have some flexibility to accommodate the needs of the community. Mrs. Donovan stated that she wished to expand the school to a five day operation. The school had been operating for one year and was very successful. She stated that they had met all of the requirements under the Ordinance and had received support from the swim club which had 350 families.

In response to questions from the Board, Mrs. Donovan stated that the hours of operations were from 10 A.M. to 2 P.M. The Board discussed the terms of the lease issued by the swim club to the school. Mr. Hyland noted that it was unfortunate to make the school come back every year. Mrs. Day inquired as to how the BZA would know that the lease had been renewed if they did not come back. Mr. DiGiulian stated that the landlord would not let the school continue if the lease was not renewed. Chairman Smith informed the Board that the application had not requested to change the condition no. 9 of the previous special permit. Mr. Yaremchuk stated that the BZA had granted some schools a special permit without any time limitations on them. Chairman Smith stated that he would not argue about it and the Board could change the condition if they so desired. However, he stated that if the applicant felt that condition no. 9 was an unreasonable condition, she should have asked to change it in the application. Mr. Hyland stated that he was only raising the question as a point of information as it seemed a waste to make her keep coming back every year.

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

RESOLLUTION

Mr. Hyland made the following motion:

WHEREAS, Application No. S-81-A-031 by BURKE STATION NURSERY SCHOOL, INC., formerly known as MARVIS DONOVAN under Section 3-303 of the Fairfax County Zoning Ordinance to amend S-80-S-062 for a nursery school to increase maximum number of students to 52 and to change

RESOLUTION

hours of operation to 9:00 A.M. to 2:30 P.M., five days a week from September 1 through May 31 on property located at 5820 Ridgeford Road, tax map reference 78-2((1))16A, 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 14, 1981; 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-3.
3. That the area of the lot is 1.6 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 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 on the application and is not transferable to other land.
2. This special permit shall expire eighteen months from this date unless operation has started and is diligently pursued or unless renewed by action of this Board prior to any expiration. A request for an extension shall be filed in writing thirty (30) days before the expiration date and the permit shall remain valid until the request for extension is acted upon by the BZA.
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 may be required in accordance with Article 13 of the Zoning Ordinance at the discretion of the Director of Environmental Management.
7. The number of students shalkl be 52.
8. The hours of operation shall be 9:00 A.M. to 2:30 P.M., five days a week from September 1 through May 31.
9. All other requirements of Special Permit S-80-S-062 not altered by this resolution shall remain in effect.

Ms. Day seconded the motion.

The motion passed by a vote of 5 to 0.

Page 489, July 14, 1981, After Agenda Items

Mr. Mazurik: The Board was in receipt of a request from Mr. Mazurik for permission to add onto the back of his proposed construction which had been granted a variance. The proposed addition was 5'x5.4'. It was the consensus of the Board to deny the request.

//

Page 489, July 14, 1981, After Agenda Items

Church of Jesus Christ of Latter Day Saints (Mt. Vernon): Jim Rees, attorney for the Mt. Vernon Mermom Church, requested approval of a temporary construction access from Prices Lane. He informed the Board that the National Park Service would not grant permission for truck traffic to use the George Washington Memorial Parkway. Chairman Smith informed Mr. Rees that the BZA did not control the construction process. He stated that the site plan had not shown a fire exit either and he assumed that one would be necessary in the future. Chairman Smith stated that it was up to the Board to decide. He stated that he had no

problem with the construction entrance and admitted that the Board had not considered it at the time of the public hearing. However, he advised that the access could only be used for construction traffic.

Mr. Yaremchuk stated that he had made the motion on the granting of the special permit and was concerned about opening up the 25 ft. strip on Prices Lane. Mr. Yaremchuk stated that he felt the church should be allowed to use Prices Lane for construction purposes but was concerned that the people involved be notified. Chairman Smith stated that perhaps another street could be used but Mr. Rees stated that Vernon View Drive was even worse as it had a sight distance problem. In addition, he stated that Lucia Lane was a private lane. Mr. Yaremchuk stated that this was a technical matter and he did not feel that the Board should sanction the entrance without the people in the area being notified. The special permit had a restriction about the 25 ft. and Mr. Yaremchuk did not feel that the Board could legally change the condition without a public hearing. He stated that if the Board approved it without a public hearing, he did not want to be a party to it. Mr. Yaremchuk reminded the Board that it had felt very strongly about the application at the time of the public hearing. He stated that he did not wish to unduly delay construction but preferred a public hearing to change the condition.

Mr. Rees stated that the situation the church was faced with was that a contractor had been approved and they were ready to begin construction. The alternative was to run a road along Vernon View Drive but he was concerned about the safety aspects. Mr. Rees stated that the access would only be for construction for a temporary period. Mr. Yaremchuk stated that if it was that simple a matter that it should not have been brought before the Board. Chairman Smith stated that the BZA could not consider amending the special permit without a public hearing. He stated that if the church got a permit from the Highway Department they would have permission to use it. However, without a public hearing, the BZA would not sanction the request.

// There being no further business, the Board adjourned at 2:00 P.M.

By Sandra L. Hicks
Sandra L. Hicks, Clerk to the
Board of Zoning Appeals

Submitted to the Board on March 1, 1983

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: March 8, 1983
Date