The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 28, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; John Ribble; Paul Hammack; Mary Thonen and Gerald Hyland.

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The Chairman opened the meeting at 10:14 A.M. and Mrs. Day led the prayer.

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

10:00 A.M. CLIFFORD A., JUDY D., CLIFFORD ARGYLE & RUTH E. TAYLOR, appl. under Sect. 18-401 of the Ord. to allow expansion of plant nursery with existing gravel driveway and parking lot (dustless surface req. by Sect. 11-102), located 12908 Lee Hwy., R-1, Springfield Dist., 55-4((1))2, 5.1066 ac., VC 83-S-036.

Jane Kelsey reviewed the staff report for the Board. She stated that the application property had a shadehouse and trailer/office on site. The property also contained a residence, garage and shed located further north of the nursery facilities. Ms. Kelsey stated that the Board of Supervisors had approved a special exception for the subject property on June 20, 1983, subject to a variance of the dustless surface requirement for the driveway and parking lot.

Cliff Taylor, 12908 Lee Hwy., presented his application. He was provided with a copy of the staff report since he had not received one prior to the hearing. Mr. Taylor stated that he had obtained special exception approval to try to rectify violations of the Zoning Ordinance. The violations involved construction of the shadehouse and trailer for the existing plant nursery operation without a special exception, building permit and non-residential use permit. Violation of the 100 foot setback from lot lines also occurred. He stated that he had opened this nursery in 1975. At that time, there were no regulations regarding this type of business in an R-1 zone. Mr. Taylor stated that at the time the new Zoning Ordinance was adopted in 1979, he had not entirely completed all the phases for his nursery that he had planned, due to lack of funds. After completing the shadehouse and adding the trailer, he was informed by the Zoning Administrator that he was in violation of the Zoning Ordinance. That decision was appealed to the BZA. The BZA's decision in A-81-S-009 affirmed the Zoning Administrator's ruling and Mr. Taylor appealed to the judicial system. By Court order, Mr. Taylor was required to obtain a special exception for his nursery.

Mr. Taylor stated that the gravel parking lot had been in existence since 1974. He felt that a stone parking lot looked more natural in the community rather than the commercial look of concrete or asphalt. The parking lot had been covered with crush run gravel which had become compacted over the years. Mr. Taylor was concerned that a hard surface driveway would cause water runoff which would result in the contamination of plants from chemicals.

There was no one to speak in support or opposition.

//Mr. Hammack made a motion to deny the application because he felt the applicant had not addressed any of the nine required standards for variances. Mrs. Thonen seconded the motion. After a lengthy discussion, Mr. Hyland made a motion that the motion to deny be withdrawn and the application be deferred for additional testimony. Mr. Hyland felt that the applicant had not had enough time to review the staff report prior to the hearing. The motion to deny was withdrawn and the application was deferred to September 13, 1983 at 10:00 A.M.

Page 1, June 28, 1983, Scheduled 10:10 A.M. case heard at 10:50 A.M.:

10:10 A.M. CLAYTON D. MYERS, appl. under Sect. 18-401 of the Ord. to allow extension and enclosure of existing carport into attached garage 8.8 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8505 Tysons Ct., Tysons Valley Subd., R-3, Providence Dist., 39-1((14))4, 14,136 sq. ft., VC 83-P-054.

William Shoup reviewed the staff report for the Board. He stated that on April 6, 1979, the applicant had obtained a building permit to expand and enclose the existing carport. The applicant proceeded with the proposed construction, however, in May of 1979, he was transferred out of state and had to cease construction. After returning to the area, Mr. Myers applied for a new building permit. Since the side yard requirement had been amended for the R-3 District, a building permit could not be approved without obtaining variance approval.

Clayton Myers presented his variance application. He stated that his lot was unusual in shape in that it was 90 feet wide at the street and 16 feet wide at the back end. He stated that only a portion of the garage required a variance. He had already poured a concrete driveway for the expansion with reinforcing rods installed. Mr. Myers stated that he was transferred to West Virginia about a month after starting the construction. He had rented his house through a rental agency, and while he was away, the building permit expired.

There was no one to speak in support or opposition.

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RESOLUTION

In Application No. VC 83-P-054 by CLAYTON D. MYERS under Section 18-401 of the Zoning Ordinance to allow extension and enclosure of existing carport into attached garage 8.8 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) on property located at 8505 Tysons Court, tax map reference 39-1((14))4, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 28, 1983; 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 14,136 sq. ft.
4. There was a change of the R-3 District. The applicant did not need a variance when he started this construction because he was within the setback. The Ordinance has now been changed. The applicant comes very close to meeting all of the nine conditions set forth in Sect. 18-404. It was unfortunate that the man was transferred out of state and it is impossible to ask someone to come 350 miles to build onto their 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 well as hardship conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to the continuation of construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

Page 2, June 28, 1983, Scheduled 10:20 A.M. case heard at 11:15 A.M.:

10:20 A.M. PAULINE W., ALFRED L. AND SARA E. HANSARD, appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, proposed lot 4B having width of 61.57 ft. (150 ft. min. lot width req. by Sect. 3-106), located 2933 West Ox Rd., R-1, Lacy Acres Subd., Centreville Dist., 25-4((3))4, 10.02 acres, VC 83-C-055.

William Shoup reviewed the staff report for the Board. He stated that there were several environmental and transportation concerns which were addressed in the development conditions.

Bernard Fagelson, an attorney in Alexandria, represented the Hansard estate. He stated that the lot was exceptionally narrow and shallow, and had exceptional topographic conditions. To deny this variance would restrict the use of the property. This property is owned by the heirs of Oakley L. Hansard. As part of settling the estate they wanted to give Mrs. Hansard the house she and Mr. Hansard occupied and the remainder of the property to the children. Mr. Fagelson stated that the requested lots were intended to create one conforming lot and a second lot with sufficient frontage to allow the future dedication of a street intersecting West Ox Road and running along the southeasterly property line. The dedication of this street would terminate the requested variance and create frontage for a resubdivision of Lot 4B. Mr. Fagelson was in agreement with the development conditions listed in the staff report.

George Triplett, 15236 Lewis Mill Drive, the owner of lots 5A thru 5D, spoke in support of the application. He had purchased his land in 1970 with plans to develop the area. He felt that granting this variance would have no adverse affect on his property. Mr. Triplett stated that when the property in Fox Mill Estates was developed, a pipe was placed to carry water from the creek under the road so it would not flood homes.

Carolyn Gambrel, 12843 Tewksbury Drive, lot 59, contiguous to the property in question, spoke in opposition. She stated that many of the surrounding lots in the Lacy Acres Subdivision were long and narrow like this one. There was a creek located behind her house and she was concerned about the impact a road would have on the drainage. Dorothy Baird, 12832 Tewksbury Drive, also spoke in opposition. Her primary concern included the creek area, and she stated that the many existing hardwood trees should be left to protect the tributaries of Horse Pen creek. She stated that a buffer should be provided for any future development.

During rebuttal, Mr. Fagelson stated that he did not disagree with the opposition's desire to maintain the privacy and quiet that they have had all these years from this particular lot. But he did not see that this particular variance had the slightest impact on them in any way. Mr. Fagelson stated that the development conditions were based on the best judgment of staff, and he was willing to comply with them.

R E S O L U T I O N

In Application No. VC 83-C-055 by PAULINE W., ALFRED L. AND SARA E. HANSARD under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, proposed lot 4B having width of 61.57 ft. (150 ft. min. lot width req. by Sect. 3-106) on property located at 2933 West Ox Road, tax map reference 25-4((3))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 June 28, 1983; 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 10.02 acres.
4. This application meets all of the nine requirements as contained in Sect. 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property had exceptional narrowness at the time of the effective date of the 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 variance is approved for the subdivision of the lots as shown on the plat submitted with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. Right-of-way for public street purposes shall be dedicated to forty-five (45) feet from centerline along West Ox Road. If and when a public street is constructed on Lot 4B, the street will be subject to all VDH & T and Department of Environmental Management standards existing at that time.
4. Inter-parcel access shall be provided upon the future subdivision and development of proposed lot 4B.
5. Any future development within 160 feet from the centerline of West Ox Road shall achieve a 65 dBA exterior and a 45 dBA interior noise level.
6. No new dwellings with basements shall be constructed in an area of Calverton and Hyattsville soils.
7. Limits of clearing and grading for any future development on lot 4B shall be approved by the County Arborist to ensure that a maximum number of trees are preserved.

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Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 0 (Mr. Smith and Mrs. Thonen abstained)

Page 4, June 28, 1983, Scheduled 10:30 A.M. case heard at 11:45 A.M.:

10:30 A.M. GEORGE CARR & RITA BELL DAVIS, appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, one of which has a width of 79.93 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 9512 Beach Mill Rd., Carrwood Estates Subd., R-E, Dranesville Dist., 8-1((7))24A, 5.624 acres, VC 83-D-056.

William Shoup reviewed the staff report for the Board. He stated that if this application was approved it would allow for subdivision into 2 lots which would be greater than the plan density of .1-.2 dwelling unit per acre which the staff did not recommend. Staff recognized that because of existing easements, the use of the subject property was limited. However, it was noted that the Carrwood Road easement agreement and the subdivision of Carrwood Estates occurred while the applicants owned the property. Based on these circumstances, it appeared that the applicants created the hardship they cite as their justification for the variance.

Manning Gasch, 8501 Georgetown Pike, McLean, represented the applicants. He stated that the applicants purchased the subject property in 1945 along with an island in the Potomac River. In 1971 the Northern Virginia Regional Park Authority planned to condemn approximately 50 acres of the main tract including the river frontage. To avoid condemnation, a settlement was reached which included a right-of-way to the 50 acres along a route of what is now Carrwood Road. The island was donated to the Natures Conservancy when it became obvious that there was no longer any access to it. Mr. Gasch stated that there were many other two acre lots in the area and that the only five acre estate was located to the west of the subject property. Mr. Gasch felt that the configuration of the two proposed lots was not the best, but it was the best they could come up with due to the steep slopes and erodible soils.

Citizens speaking in opposition included Peter Lubitz, 8214 Flower Avenue, the owner of 212 Carrwood Road; and Frank Quanti, 9500 Sagamore Drive. They both indicated that most of the lots in the area were five acre tracts, and they wanted to maintain the rural character of the subdivision. Mr. Quanti presented some letters in opposition to the Board which included comments from David & Virginia Maloney, 9510 Sagamore Drive; and H. Daughtry, Jr., owner of lot 52 in Riverside Manor.

During rebuttal, Mr. Gasch indicated that the lots in the surrounding area were less than five acres as he had previously stated. He informed the Board that the covenants for Carrwood Estates say that three-fourths of the property owners in the subdivision have to agree with the development of property, and that the applicants had the number of people in agreement that the covenants required.

There was no one else to speak regarding the application.

Page 4, June 28, 1983 Board of Zoning Appeals
GEORGE CARR & RITA BELL DAVIS

R E S O L U T I O N

In Application No. VC 83-D-056 by GEORGE CARR & RITA BELL DAVIS under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, one of which has a width of 79.93 ft. (200 ft. min. lot width req. by Sect. 3-E06) on property located at 9512 Beach Mill Road, tax map reference 8-1((7))24A, County of Fairfax, Virginia, Mrs. 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 28, 1983; 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 5.624 acres.
4. This lot is surrounded by other large lots. It has an existing easement which would limit the use of the property. Carrwood Road divides the property. The lot line would run down the center of the easement. There is a gasoline easement located on a major portion of the site. According to the staff report is appears that the applicants have created the hardship they cite as justification for the variance. In addition to the above, the Environmental analysis states there are several problems including steep slopes, flood plain soils, erodible soils and perculation problems.

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. Hammack seconded the motion.

The motion passed by a vote of 5 - 2 (Messrs. Hyland and DiGiulian)

//The Board recessed for lunch at 12:10 P.M. and returned at 1:05 P.M. to take up the scheduled agenda.

Page 5, June 28, 1984, Scheduled 10:45 A.M. case heard at 1:05 P.M.:

10:45 A.M. PETER G. & NORMA MAE NORDLIE, appl. under Sect. 18-401 of the Ord. to allow subdivision into five lots, proposed lot 4 having width of 12 ft. (150 ft. min. lot width req. by Sect. 3-106), located 1870 Hunter Mill Rd., R-1, Centreville Dist., 27-2((1))15, 6.740 acres, VC 83-C-057.

William Shoup reviewed the staff report for the Board. He stated that if this application was denied, the applicant's would still be able to subdivide into three large lots off the cul-de-sac instead of the four they were proposing. Staff felt that the applicant's would not be denied all reasonable use of the land if they were unable to obtain a variance.

Parnell Porter, an attorney from Vienna, represented the applicants. He stated that lot 1 which borders Hunter Mill Road and had an existing house on it would not be disturbed. As a result of the entrance from Tamarack, this was the only way the road could be brought in. The lots, including lot 1, have a minimum lot size of approximately 55,000 square feet. This exceeds the 33,560 square feet required by the Zoning Ordinance. If this was required to be three lots, you would be spreading 40,000 square feet over the remaining three lots, giving you lots sizes of approximately 64,000 square feet. This would be double the size of surrounding lots. Mr. Porter stated that the hardship was that the length of the property was 11,032 feet, yet the width was only 280 feet. He stated that you couldn't get the best use of the land without putting in a cul-de-sac.

Mr. Hyland stated that this matter had come before the Board of Supervisors. He questioned whether the configuration presented today was the same one the Board of Supervisors had reviewed, which showed a pipestem as far as the development of the lots. Mr. Porter stated that it was not the same configuration presented. The staff had told him he did not have to proffer the plat for the rezoning purposes, and that the applicant's should just apply for a variance if they wanted a pipestem approved. Mrs. Thonen questioned what would happen to all the trees as shown on the plat that were on the property. Mr. Porter stated that Mr. & Mrs. Nordlie had planted the trees and sold them during Christmas. They were not going to continue with their Christmas tree farm after subdividing the property.

Mr. Hyland questioned the hardship other than the fact that more lots would be obtained. Mr. Porter stated that the lot was narrow and would not meet the 150 foot requirement. He stated that if the road that was put in by the developers of Tamarack had been moved about fifty feet more to the right, the applicant's would not have had to apply for a variance.

Mr. Hyland again questioned whether the staff of the Board of Supervisors had known a variance would be required for the development of the property. Mr. Porter stated that they had known, but the staff had not put it in as a proffer. Mr. Shoup stated that the staff report on the rezoning application had included a copy of the plat showing the configuration with a notation that a variance would be required. Mr. Hyland stated that the process seemed inconsistent to the extent that a rezoning was permitted with the fact evident that the Board of Superviors had before it a pipestem configuration with five lots, and the fact that to have the five lots a variance would be required. Then you have the BZA address the issue of the variance and there is a recommendation that there is no justification for the variance. Mrs. Thonen agreed that this was an inconsistent process. She questioned how property could be rezoned without showing access to the property.

Joe Heflin, with the office of Payne and Associates in Arlington, spoke with regard to the application. He stated that there was about 5,000 square feet of excess area in the four lots under consideration. If the cul-de-sac was extended far enough to get the required frontage, the lots would not meet the minimum area requirement.

Mrs. Thonen felt the application should be deferred until the BZA could find out exactly what the Board of Supervisors rezoned and what was being considered. She didn't see how they could have rezoned the property and then told the applicant to come to the BZA to get a variance. Mrs. Thonen made a motion that the application be deferred to allow time to get a legal ruling from the County Attorney's Office, and to obtain any associated information. She wanted to know how the property was rezoned when it needed a variance. She stated that the BZA had no choice but to grant the variance since the property had already been rezoned, and she wanted a legal interpretation. It was the consensus of the Board to defer the variance application to September 13, 1983 at 10:10 A.M.

Page 6, June 28, 1983, Scheduled 11:00 A.M. case heard at 1:30 P.M.:

11:00 A.M. JOHN R. & JANICE L. COVERT, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 25.2 ft. from street line on a corner lot (30 ft. min. front yard req. by Sect. 3-307), located 7631 Holmes Run Dr., Holmes Run Acres Subd., R-3, Providence Dist., 59-2((8))(7)2, 10,006 sq. ft., VC 83-P-059.

William Shoup reviewed the staff report for the Board. John Covert presented his application. He stated that the property was a corner lot with no room for expansion within the side yard setbacks. The area of the property was less than the minimum required for R-3 zoning. Mr. Covert stated that his property had converging lot lines, and that the citing of homes in the Holmes Run Acres subdivision varied greatly in their distances to the street. Many large trees on the site also prevented him from using other buildable space. The proposed addition was to be built as a master bedroom and a bathroom.

Arzydas Barzdukas, the architect at 2103 N. Lincoln Street, Arlington, addressed the Board. He stated that the proposed addition would be 16.8 feet by 24.6 feet. This size was requested because there was a fireplace on the existing house which projected out 2 feet 8 inches. Mr. Barzdukas stated that possibly the addition would be constructed to be 16.8 feet by 36 feet instead of the requested variance under consideration. The Board members determined that the plats did not match the new request. Mr. Hyland stated that the application and plats should be amended to reflect the change. It was the consensus of the Board to defer the application to July 19, 1983 at 9:15 P.M.

//Gerald Hyland left the meeting at 2:00 P.M.

Page 6, June 28, 1983, Scheduled 11:10 A.M. case heard at 2:00 P.M.:

11:10 A.M. AFIF ABOULHOSN, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 4.7 ft. from side lot line (8 ft. min. side yard req. by Sect. 3-307), located 5013 Chanticleer Ave., Canterbury Woods Subd., R-3(C), Annandale Dist., 70-3((5))89, 10,500 sq. ft., VC 83-A-060.

William Shoup reviewed the staff report for the Board. Afif Aboulhosn presented his application. He stated that he wanted to construct a garage with shop space to use for his hobbies. He was unable to construct a detached garage on the property due to the rear of the lot sloping down. A chimney extended into the garage which is why he had requested a width of 14 feet. Mr. Aboulhosn stated that his neighbor's house was approximately 12 feet from the lot line.

There was no one to speak in support or opposition.

Page 6, June 28, 1983 Board of Zoning Appeals
AFIF ABOULHOSN

R E S O L U T I O N

In Application No. VC 83-A-060 by AFIF ABOULHOSN under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 4.7 ft. from side lot line (8 ft. min. side yard req. by Sect. 3-307) on property located at 5013 Chanticleer Avenue, tax map reference 70-3((5))89, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 28, 1983; 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 10,500 sq. ft.
4. That the applicant has failed to satisfy the nine requirements of Sect. 18-404 of the Zoning Ordinance that are necessary to grant the variance he seeks.
5..Mr. Hammack stated that this was one of those circumstances where the house was situated a particular way. It was a logical place for the addition of an enclosed garage, but a carport could be put in as a matter of right. He stated that the Board had to consider the nine requirements of Sect. 18-404 in granting a variance, and he felt there weren't any characteristics of the property that would allow the granting of a variance.

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.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hyland being absent)

//Mr. Ribble left the meeting at 2:25 P.M.

Page 7, June 28, 1983, Scheduled 11:20 A.M. case heard at 2:25 P.M.:

11:20 A.M. DALE W. & MARIE K. EDWARDS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 4.0 ft. from side lot line such that total side yards would be 16.9 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 9517 Vandola Ct., Bent Tree Subd., R-3(C), Springfield Dist., 78-3((5))230, 8,405 sq. ft., VC 83-S-061.

William Shoup reviewed the staff report for the Board. Dale Edwards presented his application. He stated that his lot was irregular in shape with converging lot lines. He wanted to erect a carport for extra off-street parking for his vehicles. Mr. Edwards stated that out of twelve houses on the street, his was the only one without a carport or a garage, and he felt that the builder intended to have one constructed eventually. Mr. Edwards stated that none of the neighbors had any objections to the carport construction.

There was no one to speak in support or opposition.

Page 7, June 28, 1983 Board of Zoning Appeals
DALE W. & MARIE K. EDWARDS

R E S O L U T I O N

In Application No. VC 83-S-061 by DALE W. & MARIE K. EDWARDS under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 4.0 ft. from side lot line such that total side yards would be 16.9 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307) on property located at 9517 Vandola Court, tax map reference 78-3((5))230, 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 28, 1983; 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 8,405 sq. ft.
4. That the applicant does comply with the nine standards in Sect. 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property had exceptional shape at the time of the effective date of the Ordinance, with 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen seconded the motion.

* The motion FAILED by a vote of 2 - 3 (Messrs. Hammack & Smith and Mrs. Day) (Messrs. Hyland and Ribble being absent)

Page 8, June 28, 1983, Scheduled 11:30 A.M. case heard at 2:35 P.M.:

11:30 A.M. PAUL D. HOSMER, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 13.1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 4001 Old Quarry Terr., Stoneybrooke Subd., R-3(C), Lee Dist., 92-2((22))322, 8,852 sq. ft., VC 83-L-062.

William Shoup reviewed the staff report for the Board. Paul Hosmer presented his application. He stated that the house was purchased in 1971. He felt that since his family had increased, that the house was a little small. Mr. Hosmer stated that the property had unusual converging lot lines and extreme topographical problems. The property directly behind his had been affected by the establishment of the Huntley Historic District in 1976. At that time, the County had required the owners to establish a hundred and fifty foot buffer zone to protect the view from the Huntley mansion. Mr. Hosmer stated that he had discussed the proposed addition with the community architectural review board and they had no problems with it.

There was no one to speak in support or opposition.

Page 8, June 28, 1983 Board of Zoning Appeals
PAUL D. HOSMER

R E S O L U T I O N

In Application No. VC 83-L-062 by PAUL D. HOSMER under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 13.1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307) on property located at 4001 Old Quarry Terrace, tax map reference 92-2((22))322, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 28, 1983; 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 8,852 sq. ft.
4. That the strict application of the Ordinance would produce undue hardship and such undue hardship is not shared generally by other properties in the same zoning district in the same facility. The applicant backs up to a buffer zone that cannot be built on. I do not think that the applicant would be encroaching on any other properties. The applicant has letters supporting him from neighbors living in the 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, by the converging of property lines and topographic area, exist which under a strict interpretation of the

Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland and Ribble being absent)

Page 9, June 28, 1983, Scheduled 11:40 A.M. case heard at 2:45 P.M.:

11:40 A.M. JOHN L. JR. & DONNA X. BURKE, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 4 ft. from rear lot line (14 ft. min. rear yard req. by Sects. 3-807 & 2-412), located 1403 McLean Mews Ct., McLean Mews Subd., R-8, Dranesville Dist., 30-2((34))14, 2,921 sq. ft., VC 83-D-063.

William Shoup reviewed the staff report for the Board. Donna Burke presented the application. She stated that the proposed deck would be located behind the townhouse and completely surrounded by a six foot wooden fence. The property on either side of her townhouse was identical in that each structure was a townhouse with a fully enclosed, fenced backyard. She stated that the McLean Mews Homeowners Association had approved and authorized the construction of the deck.

There was no one to speak in support or opposition.

Page 9, June 28, 1983 Board of Zoning Appeals
JOHN L. JR. & DONNA X. BURKE

R E S O L U T I O N

In Application No. VC 83-D-063 by JOHN L. JR. & DONNA X. BURKE under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 4 ft. from rear lot line (14 ft. min. rear yard req. by Sects. 3-807 & 2-412) on property located at 1403 McLean Mews Court, tax map reference 30-2((34))14, County of Fairfax, Virginia, Mrs. 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 28, 1983; 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-8.
3. The area of the lot is 2,921 sq. ft.
4. That the applicants' rear yard is surrounded by a fence. The requested deck will be totally within the confines. The applicant meets the nine requirements as contained in Sect. 18-404 of the Zoning Ordinance, specifically:
   A. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest; due to the fact that it is completely encircled by the fence.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland and Ribble being absent)

Page 10, June 28, 1983, AFTER AGENDA ITEMS:

The Board approved the BZA Minutes for October 27 and November 3, 1981.

Page 10, June 28, 1983, AFTER AGENDA ITEMS:

VC 83-M-107/BRIAN D. JENKINS: The Board was in receipt of a letter requesting an out-of-turn hearing for the referenced variance application. It was the consensus of the Board to deny the request.

Page 10, June 28, 1983, AFTER AGENDA ITEMS:

SPA 80-C-012-1/RESTON ROLLER RINK: The Board was in receipt of a letter requesting a deferral of the captioned special permit scheduled to be heard on July 19, 1983 to allow the applicant time to modify the plans. It was the consensus of the Board to announce their intent to defer the application.

// There being no further business, the Board adjourned at 2:55 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Jan. 2, 1985 APPROVED: January 8, 1985
Date

The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday Night, July 7, 1983. The Following Board Members were present: Gerald Hyland; Ann Day; Paul Hammack; John Ribble and Mary Thonen. (Messrs. Smith and DiGiulian were absent).

As the Chairman and the Vice-Chairman were absent from the Board meeting, Mr. Ribble moved that Mr. Gerald Hyland serve as the Acting Chairman since he was the senior member. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 0 (Messrs. Smith & DiGiulian being absent).

Chairman Hyland opened the meeting at 8:40 P.M. and Mrs. Day led the prayer.

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

8:00 P.M. FAIRFAX HAY & GRAIN, INC., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that appellant's use of subject property is a service service station and quick service food store, both of which are special exception uses in the C-5 District, and that replacement of gasoline tanks and relocation of gas pumps constitute replacement and enlargement of the use requiring approval of a special exception, located 7600 Clifton Rd., C-5, Springfield Dist., 86-4((1))15, 2.894 acres, A-83-S-003.

As the required notices were not in order, it was the consensus of the Board to defer the appeal until September 20, 1983 at 9 o'clock.

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Page 11, July 7, 1983, Scheduled case of

8:30 P.M. REBECCA CORPORATION, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that River Towers Apartment project is non-conforming as to density and therefore no new dwelling units may be constructed and the existing density may not be rearranged or reallocated to create townhouse units on the site, located 6631 Wakefield Dr., R-20, Mt. Vernon Dist., 93-2((10))(1)2 and 93-2((1))7B, 26.8435 acres, A-83-V-004.

Mr. Philip G. Yates, Zoning Administrator, presented his decision that the River Towers Apartment project was non-conforming as to density and, therefore, no new dwelling units could be constructed and the existing density could not be rearranged or relocated to create townhouse units on the site.

Mr. Hyland indicated that there seemed to a provision in the State Code that covered the moving around of buildings and he inquired if there was a similar provision in the Zoning Ordinance. Mr. Yates responded that in his opinion paragraph 2 of Sect. 15-103 did not say his exact words but the thought or thesis was set forth in paragraph 1 of Section 15-103: a non-conforming use shall continue to exist but the structure could not be altered. In paragraph 2, there was a phrase that no use shall occupy any land outside of the building or occupy any greater area of land. Mr. Yates stated that the applicants could not take the non-conforming use and expand it in a larger envelope.

Mr. Hyland stated that if there was not any change to the structure itself but the physical location was changed to another portion of the site, it seemed to him that the Ordinance did address that but did not indicate whether this would trigger the new requirements. Mr. Hyland did not believe the Ordinance specifically addressed it. Mr. Yates agreed. However, this situation involved new structures that would be overlooking townhouses that were being developed elsewhere on the property and the non-conforming density would be expanded.

Chairman Hyland informed Mr. Yates that there five letters in opposition that he should review. Mr. Yates stated that Ms. Harwood had pointed out one thing in the Ordinance which was more specific. There was a subparagraph in Section 15-103 which read: "If any building in which a nonconforming use is conducted is moved for any distance whatever, for any reason, then any future use of such building shall be in conformity with the regulations specified by this Ordinance for the zoning district in which such building is located."

Mr. Steven Fox of Bettius, Fox & Carter, represented the appellant, the Rebecca Corporation. He stated that he had examined the letters in opposition and would address those at the end of his presentation. Mr. Fox informed the Board that the townhouses were on the triangular portion of the plan. In reviewing the decision of the Zoning Administrator, several things had become apparent to Mr. Fox, one of which was that the terms seemed to be taken out of context. He stated that the Zoning Administrator was taking the newly created density and making the leap to non-conforming density to non-conforming use. Mr. Fox informed the Board that this was not a non-conforming use.

The appellant was making the same use of the property which the developer and owner vested almost 20 years ago. The developer built three hi-rise rental apartments during the 1960s. At that time, based on the density in the R-M2 which has become RM-20, he was permitted to build 536 units. He did not build that number but built 512 units. When they were converted to condo, certain residential units were combined and certain accessory uses on the first floor no longer became residential uses. Mr. Fox stated that what the appellant sought to add was what he had always been permitted to do on the site. He stated that they did not want a retail eatery or a motel which were non-conforming uses under the Code. The Zoning Ordinance was defined. Mr. Fox stated that they were not a non-conforming use. They only wanted to use density that had been vested when the buildings were built.

Mr. Fox informed the Board that if the applicant cut off the six acres in question by resubdividing, then they would be subject to the new regulations of the Ordinance which the Zoning Administrator sought to impose. However, Mr. Fox argued that the Zoning Administrator was trying to impose those regulations retroactively when the applicant had every intention of doing something with those six acres. Mr. Fox stated that this was not a use issue but a density issue. The applicant was only trying to use density that had been unused.

Mr. Hyland inquired about paragraph 2 of Section 2-308, Maximum Density, which related to floodplains. Mr. Fox stated that paragraph did not apply to this situation. Mr. Fox stated that they were not trying to exceed the density provision given to them. They only wanted to use the unused density for townhouse construction.

Mr. Hyland inquired as to what authority gave the applicant the right to rearrange density on the site? Mr. Fox stated that it was not covered in the Code. He stated that a landowner operating under a given Ordinance and given density in that same Ordinance was entitled to exhaust that density. Mr. Fox stated that the Public Facilities talked about floodplain which could be developed. Even the three existing buildings were constructed in a floodplain area according to Mr. Fox.

Mr. Fox informed the Board that this matter was not over as the applicant would have to go before the Planning Commission and the Board of Supervisors for a Special Exception. He indicated that the letters received by the Board fell into issues and categories which were not before the BZA. For example, one letter spoke to traffic issues which was not a consideration in an appeal from the Zoning Administrator's decision. Density was the only issue to be decided by the BZA.

Mr. Hammack stated that there did not seem to be any question that River Towers was constructed and developed at a slightly lower density. Mr. Hammack referred to Section 15-1-492 of the State Code and the County Code which stated that any non-conforming use, may be continued but shall not be enlarged or extended, nor shall any structural alteration be made in any building in which such use is conducted. Mr. Hammack stated that the applicant could not get maximum density if he had made his units smaller. Mr. Hammack stated that the applicant lost the density which he had been granted originally by not using it for two years.

Mr. Ribble inquired as to how long the Rebecca Corporation had owned the property. Mr. Fox stated that the Lawlor family had always owned the property. They had founded the corporation and conveyed the entire property to the corporation. Mr. Hyland inquired if the applicant were coming to the County with a development plan under the present Ordinance, whether the density would be conforming. Mr. Fox replied that there was not question that they would not be able to develop it under the present Ordinance. However, he stated that the applicant had vested the density prior to the present Ordinance. Mr. Fox stated that this was a difficult case for the BZA because the situation was not clearly defined in the Ordinance but was a gray area.

Mr. Fox informed the Board that Mr. Allen Rocks and Mr. Alex Lawlor were in support of the appeal. They had sold the property in 1981 and sold the corporation as well.

The following persons spoke in opposition to the appeal: Mr. Arthur F. Blaser of 8800 Old Mt. Vernon Road; Mr. Jeffrey Thordy of the Westgrove Civic Association; and a resident of River Towers. The opposition was concerned about effect of new construction on the Dyke marsh area. They were concerned about increasing the density. It was reported that the Lawlors had not been involved in this project for the past 20 years. The opposition indicated that the tern non-conforming as defined on page 2 of the staff report had to be the controlling factor in this matter as the BZA did not have the authority to make new laws.

Mr. Philip Yates, Zoning Administrator, informed the Board that Ms. Karen Harwood, Assistant County Attorney, would share his testimony. She stated that Section 15.1-492 spoke to land, buildings, structures and uses. Density was part of a use. If the applicant were to come in today with vacant land, he would be allowed 390 units. He had 512 units. She stated that the applicant had a vested right as to what was in the ground and already there. Section 2-308 of the Zoning Ordinance was not retroactive. Ms. Harwood stated that no one had a vested right to certain section of the Ordinance. The applicant did not have the units in the ground so they were stuck with the situation. Ms. Harwood stated that she was not certain whether in 1960 the applicant could have built the townhouses. If he had, he would have had a vested right.

During rebuttal, Mr. Fox stated that the one thing no one had mentioned was a court case, Silver vs. Board of Adjudiants in PA which was characterized as non-conforming uses. It talked about the material right of expansion when you are vested in a non-conforming use.

In response to Ms. Harwood, Mr. Hammack stated that he was assuming that the applicant had a vested right to use the building. For reasons indicated during the hearing, Mr. Hammack stated that he had to support the interpretation and the ruling of the Zoning Administrator on this point. Therefore, he moved that the appeal by the Rebecca Corporation in A 83-V-004 with respect to the River Towers Apartment project be denied. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 0 (Messrs. Smith and DiGiulian being absent).

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Page 13, July 7, 1983, Scheduled case of

8:45 P.M. EXXON COMPANY, U.S.A., appl. under Sect. 18-401 of the Ord. to allow construction of additions to existing service station building to 1 ft. and 11.2 ft., respectively, from rear lot line (20 ft. min. rear yard req. by Sect. 4-507), located 3403 Holly Rd., C-5, Mason Dist., 59-29(4))17A, 15,863 sq. ft., VC 83-M-034. (DEFERRED FROM 5/17/83 AND 6/21/83 AT THE REQUEST OF THE APPLICANT).

Ms. Jane Kelsey presented the staff report. In response to questions from the Board, Ms. Kelsey stated that this property was subject to a Special Exception for the expansion. It had been pointed out to the Board of Supervisors in their staff report that the proposed addition would come within 1 ft. and that a variance would be required. If the variance were not approved, it would have to be removed from the site plan approved by the Board of Supervisors.

Mr. William H. Hansbarger of 10523 Main Street in Fairfax, represented the applicant. For background purposes, he stated that in 1956 the Board of Zoning Appeals had granted a special permit for a service station at this location. At that time, the setbacks were shown on the plats. The only reason a variance came about in this instance was because this is a corner lot. A corner lot was any lot that fronted on two streets. The way the yard areas were construed in the past was that the narrow side abutting the street was considered the front and the side opposite it was the rear. What had changed in 1978, was that with the exception of certain residential classes, all other uses, R-C through R-8 on corner lots had to abide by two sides rather than a front and a rear.

Mr. Hansbarger stated that the setback situation was shown on the plat approved back in 1957. The building was 7.9 ft. from the rear line. The front line on Gallows Road was 130 ft. and the front line on Holly Road was 152 ft. Gallows Road was considered the front. There was not any side yard requirements for commercial. Under today's Ordinance, there was a 20 ft. setback for the rear yard. In addition, there had been a substantial change in the frontage on Gallows Road and Holly Road as 2,500 sq. ft. had been taken for the widening of the roads. Mr. Hansbarger stated that the situation was non-conforming under the existing Ordinance.

Mr. Hansbarger stated that the applicant was proposing a canopy over the pump stations. There would be exterior and interior remodeling of the station. There was an intent to have a third bay. The applicant would construct gutter and sidewalks on Holly Road and meet the landscaping requirement of 20% open space. They were also proposing a driveway into the 7-11 store adjacent to the property. There would not be any adverse impact on the area. Mr. Hansbarger stated that there was no other way to improve the station without violating some regulation.

With regard to the required standards, the property was acquired in good faith. An extraordinary situation existed because a number of Exxon stations had been remodeled without any difficulty such as this. The strict application of the Ordinance would be a hardship as there was not any other place to build. The granting of the variance would alleviate the hardship.

The Board was concerned about the impact of traffic on Holly Road as mentioned in the staff report. Mr. Hansbarger stated that they would not allow that to happen. Any back-up of traffic would affect the 7-11 which would not be tolerated.

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

Board of Zoning Appeals

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-M-034 by EXXON COMPANY, U.S.A. under Section 18-401 of the Zoning Ordinance to allow construction of additions to existing service station building to 1 ft. and 11.2 ft., respectively, from rear lot line (20 ft. min. rear yard req. by Sect. 4-507), on property located at 3403 Holly Road, tax map reference 59-2((4))17A, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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, 1984; 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-5.
3. The area of the lot is 15,863 sq. ft.
4. That the subject property was acquired in good faith.
5. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
6. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
7. That the strict application of this Ordinance would produce undue hardship.
8. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
9. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
10. That authorization of the variance will not be of substantial detriment to adjacent property.
11. That the character of the zoning district will not be changed by the granting of the variance.
12. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 on the plat included with this application and is not transferable to other land or to other structures on the same land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Hyland)(Messrs. Smith & DiGiulian being absent).

Page 15, July 7, 1983, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for November 10, 1981. Mr. Hammack moved that the Minutes be approved as submitted. Mrs. Day seconded the motion and it passed by a vote of 5 to 0 (Messrs. Smith and DiGiulian being absent).

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Page 15, July 7, 1983, After Agenda Items

BERRY LAND DEVELOPMENT COMPANY: The Board was in receipt of an out-of-turn hearing request from Mr. Jerry W. Masters, contract purchaser, regarding the special permit application of Berry Land Development Company. Mr. Masters was moving his family from out of state and had to vacate his home by August 1st. He would be living in temporary housing until his new house was completed. Mr. Masters desired an expedited hearing not only because of the financial hardship on the family but also because of the personal hardship on his family. School began in September and he would have to transport his daughter to school from the temporary accommodations. His son began college in the fall and he would have to pay higher tuition until he obtained permanent Virginia residency.

Mrs. Thonen moved that the out-of-turn hearing be granted. Mrs. Day seconded the motion and it passed by a vote of 5 to 0 (Messrs. Smith and DiGiulian being absent). It was the consensus of the Board to schedule the special permit application for August 2, 1983 at 1:00 P.M.

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Page 15, July 7, 1983, After Agenda Items

PAUL L. & ROSEMARY B. MACHALEK: The Board was in receipt of a request for an out-of-turn hearing on the variance application of Paul & Rosemary Machalek. It was the consensus of the Board to deny the request. The variance remained as scheduled for September 13, 1983.

// 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 Jan. 2, 1985

Daniel Smith
Daniel Smith, Chairman

Approved: January 8, 1985
Date

10

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 12, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen and Gerald Hyland. John Ribble arrived at 11:25 A.M. Paul Hammack arrived at 1:40 P.M.

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

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

10:00 A.M. NANCY JEAN FARMER/STEPHEN DULL, appl. under Sect. 2-419 of the Ord. to allow existing garage to remain 1.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 1326 Ranleigh Rd., Ranleigh Retreat Subd., R-2, Dranesville Dist., 31-2((1))88D, 41,721 sq. ft., SP 83-D-032.

The Chairman announced that the notices were not in order for the special permit application. It was the consensus of the Board to defer the application to September 6, 1983 at 10:00 A.M.

Page 16, July 12, 1983, Scheduled 10:10 A.M. case heard at 10:20 A.M.:

10:10 A.M. EARL W. FEIGEL, appl. under Sect. 18-401 of the Ord. to allow construction of double garage addition to dwelling to 5.0 ft. from side lot line such that total side yards would be 20.7 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), located 9209 Antelope Pl., Orange Hunt Estates Subd., R-2(C), Springfield Dist., 88-2((6))69, 11,052 sq. ft., VC 83-S-065.

Jane Kelsey reviewed the staff report for the Board. Earl Feigel presented his application. He stated that the proposed location was the only practical place on the lot to build the garage. The rear yard was wooded and to provide access to the rear of the lot would require extensive architectural changes to the existing house. He stated that the adjacent property would not be affected by this addition. The slope of the land and the different setbacks of the homes is such that the proposed garage would not be in view. Mr. Feigel stated that his chimney projected out about two feet into the proposed garage.

There was no one to speak in support or opposition.

Page 16, July 12, 1983 Board of Zoning Appeals
EARL W. FEIGEL

RESOLUTION

In Application No. VC 83-S-065 by EARL W. FEIGEL under Section 18-401 of the Zoning Ordinance to allow construction of double garage addition to dwelling to 5.0 ft. from side lot line such that total side yards would be 20.7 ft. (8 ft. min., 24 ft. total min. side yards req. by Sect. 3-207), on property located at 9209 Antelope Place, tax map reference 88-2((6))69, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 12, 1983; 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 11,052 sq. ft.
4. That the applicants' property has an unusual shape. The application does meet some of the provisions of Sect. 18-404.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to the start of construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hammack and Ribble being absent)

Page 17, July 12, 1983, Scheduled 10:20 A.M. case heard at 10:30 A.M.:

10:20 A.M. WARREN H. & CHARLOTTE G. WINCHESTER, appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, one having width of 10 ft. and the other a width of 86 ft. (100 ft. min. lot width req. by Sect. 3-206) and to allow existing dwelling to remain 11.7 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), as granted by V-332-79, expired; located 4304 Robertson Blvd., Mt. Vernon Park Subd., R-2, Mt. Vernon Dist., 110-3((2))27B, 45,100 sq. ft., VC 83-V-066.

Jane Kelsey reviewed the staff report for the Board. She stated that an application for the same variance was approved on February 12, 1980. The subdivision was not recorded within the year specified and the variance became null and void.

Charlotte Winchester presented the application. She stated that this variance request was consistent with other lots in the neighborhood that were being subdivided. The lot had an unusual shape, being over 300 feet in depth and of varying width. Also, the location of the existing dwelling made the use of the back part of the lot extremely limited. She stated that in order to subdivide this lot into two useful residential lots it was necessary to create a front lot with the existing dwelling, and a back pipestem lot. Ms. Winchester stated that she was in agreement with all the suggested development conditions.

There was no one to speak in support or opposition.

Page 17, July 12, 1983 Board of Zoning Appeals
WARREN H. & CHARLOTTE G. WINCHESTER

RESOLUTION

In Application No. VC 83-V-066 by WARREN H. & CHARLOTTE G. WINCHESTER under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, one having width of 10 ft. and the other a width of 86 ft. (100 ft. min. lot width req. by Sect. 3-206) and to allow existing dwelling to remain 11.7 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207) as granted by V-332-79, expired; on property located at 4304 Robertson Blvd., tax map reference 110-3((2))27B, 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 12, 1983; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 45,100 sq. ft.
4. That the applicant meets the standards for variances in Sect. 18-404, specifically: That the subject property had:
   A. Exceptional narrowness at the time of the effective date of the Ordinance.
   B. Exceptional size at the time of the effective date of the Ordinance.
   C. Exceptional shape at the time of the effective date of the 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 variance is approved for subdivision of this lot into two (2) lots and the location of the existing dwelling on lot 27B-1 as shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. If the proposed dwelling is to have a basement, the building plans shall include the necessary engineering which will ensure that the basement will be dry.
4. The building plans and the subdivision plans shall be reviewed and approved by the County Arborist to insure that the access easement is in the best possible location to preserve the existing quality vegetation provided the road does not encroach any closer to the existing dwelling on proposed lot 27B-1.
5. The conditions of this variance shall be included in any deed of conveyance for proposed Lot 27B-2.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hammack and Ribble being absent)

Page 18, July 12, 1983, Scheduled 10:30 A.M. case heard at 10:40 A.M.:

10:30 A.M. CECIL PRUITT, JR., TRUSTEE, appl. under Sect. 18-401 of the Ord. to allow subdivision into thirteen (13) lots, proposed lots 6, 7, 8, 9, & 10 having insufficient depth or width to allow houses in compliance with the 200 ft. min. setback from an interstate highway req. by Sect. 2-414, to allow existing dwelling on proposed lot 7 to remain 26 ft. from I-495 R.O.W., and to allow construction of houses on proposed lots 6, 8, 9 & 10 at distances ranging from 38 ft. to 163 ft. from I-495 R.O.W., located 8009 Cedar St., Woodcroft Subd., R-3, Providence Dist., 49-2((1))192, 4.6226 acres, VC 83-P-067.

FOR DETAILED INFORMATION REGARDING THIS APPLICATION, PLEASE SEE THE VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE.

Page 18, July 12, 1983 Board of Zoning Appeals
CECIL PRUITT, JR., TRUSTEE

R E S O L U T I O N

In Application No. VC 83-P-067 by CECIL PRUITT, JR., TRUSTEE under Section 18-401 of the Zoning Ordinance to allow subdivision into thirteen (13) lots, proposed lots 6, 7, 8, 9, & 10 having insufficient depth or width to allow houses in compliance with the 200 ft. min. setback from an interstate highway req. by Sect. 2-414, to allow existing dwelling on proposed lot 7 to remain 26 ft. from I-495 R.O.W., and to allow construction of houses on proposed lots 6, 8, 9 & 10 at distances ranging from 38 ft. to 163 ft. from I-495 R.O.W., on property located at 8009 Cedar Street, tax map reference 49-2((1))192, County of Fairfax, Virginia, Mrs. 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 12, 1983; 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. The subject property is between heavily traveled highway areas. There is a recognized problem with noise from Rt. 495 regardless of the height above said highway. Although the BZA approved nine lots on March 27, 1981, proposing thirteen lots at this time is over-development on this location. Using the area two plan for 3 - 4 dwellings per acre, the applicant has reasonable use of the land without a variance. The applicant does not meet the nine required Standards for Variances in Sect. 18-404 of the Ordinance.

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 5 - 0 (Messrs. Hammack and Ribble being absent)

Page 19, July 12, 1983, Scheduled 10:45 A.M. cases heard at 11:00 A.M.:

10:45 A.M. CENTREVILLE UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. to allow building and parking lot additions to existing church and related facilities, located 14040 Braddock Rd., R-1, Springfield Dist., 54-4((1))3A, 6.8841 acres, SP 83-S-030.

CENTREVILLE UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow aggregate surface parking lot addition to church and related facilities, (dustless surface req. by Sect. 11-102), located 14040 Braddock Rd., R-1, Springfield Dist., 54-4((1))3A, 6.8841 acres, VC 83-S-090.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit application in accordance with the suggested development conditions. The applicant was requesting an addition to the existing church which would provide space for the uses now conducted from two existing trailers. The trailers were to be removed upon completion and occupancy of the proposed addition.

Keith Sinclair, Brewer-Sinclair & Associates, 10374 Democracy Lane, Fairfax, the engineer for the project, presented the application. He stated that the majority of the parking area was currently paved. The section that the church was requesting a variance for would be paved during the next three years. Mr. Sinclair stated that construction would commence as soon as the building permits were approved which would be within one month, with a completion date of about six months later.

There was no one to speak in support or opposition.

Due to a pending Zoning Ordinance amendment regarding dustless surfaces, the Board deferred the variance application to September 13, 1983 at 11:15 A.M.

Page 19, July 12, 1983 Board of Zoning Appeals
CENTREVILLE UNITED METHODIST CHURCH
SP 83-S-030

R E S O L U T I O N

In Application No. SP 83-S-030 by CENTREVILLE UNITED METHODIST CHURCH under Section 3-103 of the Zoning Ordinance to allow building and parking lot additions to existing church and related facilities, on property located at 14040 Braddock Road, tax map reference 54-4((1))3A, 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 12, 1983; 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 6.8841 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. This approval does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
4. A 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.
5. The site plan shall be reviewed and approved by the Fairfax County Arborist to determine the limits of clearing and which trees should be preserved.
6. Acoustical treatment shall be provided in the proposed addition in order to achieve an interior noise level of 45 dBA Ldn.
7. Best Management Practices shall be implemented in the construction of this addition.
8. The property shall be open for inspection by County personnel during reasonable hours.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 0 (Messrs. Hammack and Ribble being absent)

//Mr. Ribble arrived at 11:25 A.M.

Page 20, July 12, 1983, Scheduled 11:00 A.M. case heard at 11:25 A.M.:

11:00 A.M. OLIVER GASCH & MANNING GASCH, appl. under Sect. 18-401 of the Ord. to allow subdivision into one outlot and two lots, one of which has a width of 25 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 8521 Georgetown Pike, R-E, Dranesville Dist., 20-1((1))36, 5.9794 acres, VC 83-D-068.

Jane Kelsey reviewed the staff report for the Board. She stated that the application did not meet any of the proposed criteria for pipestem lots. It was noted that the total lot width of the property was 500.39 feet which exceeds what would be required for two lots. Therefore, this property could be subdivided into two lots without a variance if the subdivision was redesigned to include at least the front portion of the outlot. The outlot could not be used for building purposes since it did not meet the requirement for minimum lot area or minimum lot width for the R-E District.

William Donnelly, 4069 Chain Bridge Road, an attorney in Fairfax, represented the applicants. He stated that the staff report had overlooked the determining factor, which was the perkability of the land in that area. The site had exceptional topographical and soil conditions. Mr. Donnelly stated that there were several swales that ran through the site, a stream on the southern end of the site, and adjacent steep slopes to that stream. These topographical problems made it difficult to find suitable building and perk sites on the property. He stated that this proposed pipestem plan was the only feasible way to obtain two buildable lots that perk. If the two parcels were to be divided with full frontage on Georgetown Pike, the lower lot nearer to the stream would not perk and would not be a buildable lot. Mr. Donnelly presented a letter to the Board from Glen Wilson, a soil scientist with Washington Testing Incorporated which outlined the problems pertaining to the site.

There was no one to speak in support or opposition.

RESOLUTION

In Application No. VC 83-D-068 by OLIVER GASCH & MANNING GASCH under Section 18-401 of the Zoning Ordinance to allow subdivision into one outlot and two lots, one of which has a width of 25 ft. (200 ft. min. lot width req. by Sect. 3-E06), on property located at 8521 Georgetown Pike, tax map reference 20-1((1))36, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 12, 1983; 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 5.9794 acres.
4. That the applicant has satisfied the Board that the nine conditions in Sect. 18-404 apply to his application, specifically:

That the subject property has:
A. Exceptional topographic conditions.
B. An extraordinary situation or condition of the subject property, because the soil conditions prevent much of the use 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 variance is approved for the subdivision of the subject lot into two (2) lots and an outlot as shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for an extension is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. The applicant shall dedicate twenty (20) feet of right-of-way or as determined by the Director of Environmental Management at the time of subdivision review along the entire frontage of the property for future widening of Georgetown Pike.
4. The parcel identified on the plat as containing 1.2447 acres shall be designated on the record plat as an outlot with a notation that it is not a buildable lot.
5. The applicant shall leave the steep slopes which are in excess of 15% or greater and the and stream channel in an undisturbed state and any clearing shall first be approved by the County Arborist.
6. The dwellings shall be constructed either in an area outside the noise impact zone, or shall be acoustically treated so as to meet the recommended noise standards for residential dwellings.
7. If basements are to be constructed, they shall be engineered to assure dryness and these plans shall be included in the Building Permit plans.
8. The applicant shall submit plans to show that County approved methods of sedimentation and erosion control will be used.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Hammack being absent)

Page 21, July 12, 1983, Scheduled 11:15 A.M. case heard at 11:55 A.M.:

11:15 A.M. JOSEPH F. CLARE, JR., appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 16.2 ft. from the rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 12356 Washington Brice Rd., Fair Oaks Estates, R-3, Centreville Dist., 46-1((22))137, 10,012 sq. ft. VC 83-C-069.

Jane Kelsey reviewed the staff report for the Board. She stated that the subject property had access off of a pipestem driveway which also served two other lots located to the rear of the property. The property also abutted a public street, therefore, there was a requirement for two minimum front yards.

Joseph Clare presented his application. He stated that the variance request was necessitated by the irregular shape of the lot and the crowded positioning of the other homes served by the pipestem. He stated that his rear yard was exceptionally narrow with little usable room for outdoor living. The deck would provide more privacy and break up the direct line of sight into the family living area. Mr. Clare stated that he had the support of his immediate neighbors and the architectural review board.

Patricia Faunhouser, 12354 Washington Brice Road, spoke in support of the application. She stated that she and her husband had reviewed the blueprints and were pleased with the landscaping Mr. Clare would also be providing between the lots.

There was no one else to speak regarding the application.

R E S O L U T I O N

In Application No. VC 83-C-069 by JOSEPH F. CLARE, JR. under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 16.2 ft. from the rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), on property located at 12356 Washington Brice Road, tax map reference 46-1((22))137, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 12, 1983; 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 10,012 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 - 2 (Mrs. Day and Mr. Hyland) (Mr. Hammack being absent)

//The Board members adjourned for lunch at 12:15 P.M. and returned at 1:05 P.M. to take up the scheduled agenda.

Page 22, July 12, 1983, Scheduled 11:30 A.M. case heard at 1:05 P.M.:

11:30 A.M. GILBERT M. BATTS, appl. under Sect. 18-401 of the Ord. to allow construction of 10.25 ft. high detached garage 1.0 ft. from side lot line and 3.0 ft. from rear lot line (10 ft. min. side yard and 10.25 ft. min. rear yard req. by Sects. 3-407 & 10-104), located 3051 Westfall Pl., West Lawn Subd., R-4, Mason Dist., 50-4((17))206, VC 83-M-070.

Jane Kelsey reviewed the staff report for the Board. Gilbert Batts presented his application. He stated that his lot was narrow and shallow, and due to the house location, there was not enough space between the house and the property line to accommodate a garage. He indicated that he had owned the property for eight years, and many of his neighbors had garages placed in similar locations on their lot.

The Board was in receipt of a letter of opposition from Ida M. Graves, a contiguous property owner. There was no one to speak in support or opposition.

RESOLUTION

In Application No. VC 83-M-070 by GILBERT M. BATTS under Section 18-401 of the Zoning Ordinance to allow construction of 10.25 ft. high detached garage 1.0 ft. from side lot line and 3.0 ft. from rear lot line (10 ft. min. side yard and 10.25 ft. min. rear yard req. by Sects. 3-407 & 10-104), on property located at 3051 Westfall Place, tax map reference 50-4((17))206, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 12, 1983; 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 7,200 sq. ft.
4. That the application meets the Standards for Variances as stated in Sect. 18-404 of the Zoning Ordinance, specifically:

That the subject property had:
A. Exceptional narrowness at the time of the effective date of the Ordinance.
B. Exceptional shallowness at the time of the effective date of the 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to the start of construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Hammack being absent)

Page 23, July 12, 1983, Scheduled 11:40 A.M. case heard at 1:25 P.M.:

11:40 A.M. LEIGH CORNERS LIMITED, VICTOR L. BONAT, TRUSTEE, appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, proposed lot 15A2 having width of 82 ft. (150 ft. min. lot width req. by Sect. 3-106), located 10126 Colvin Run Rd., Colvin Run Subd., R-1 & C-8, Dranesville Dist., 12-4((1))15A, 5.0 acres, VC 83-D-071.

William Shoup reviewed the staff report for the Board. He stated that the Leigh House was located at the front of existing lot 15A along with other existing accessory structures, and would be relocated. The Leigh House was on the County's Inventory of Historic Sites. Relocation, if carefully done, should ensure that the structure will remain in use. The remaining structures on lot 15A2 were going to be demolished to allow for future commercial development on that lot. The accessory structure that was going to be relocated was the barn, which would be used for a parking garage. The relocation of the barn prompted several considerations which include: (1) Barns and other structures used in connection with agriculture are not permitted on a lot of less than five acres; (2) The Zoning Administrator previously ruled that detached garages accessory to single family dwelling residences generally should not exceed 600 square feet in area; and (3) The structures which are accessory to the Leigh House may also enjoy a historical status. After reviewing the pertinent fact, the Zoning Administrator had determined that although the structure was designed as a barn it should not be considered as such since

it would not be used for confining animals or for any other agricultural purpose. The Zoning Administrator had concerns over the approval of the structure as a detached garage for reasons of uniformity. Mr. Shoup stated that on this aspect of the application, the Zoning Administrator would appreciate the judgment of the BZA. Mr. Shoup stated that that split zoning of the subject property was an unusual condition, and the application appeared to satisfy most of the required standards.

//Paul Hammack arrived at 1:40 P.M.

The Board members were concerned about the barn being within the Zoning Administrator's interpretation. They felt that he should address the issue and give the Board some guidance as to whether he felt the size of the barn should be reduced. It was the consensus of the Board to recess the application to later on in the hearing to give the Zoning Administrator a chance to come to the hearing and discuss the size of the barn with regard to his interpretation.

Page 24, July 12, 1983, Scheduled 11:50 A.M. case heard at 1:50 P.M.:

11:50 A.M. JAMES T. CLAXTON, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 14.67 ft. from side lot line and with open porch 6.67 ft. from the other side lot line (15 ft. min. side yard for house, 10 ft. min. side yard for porch, req. by Sects. 3-207 & 2-412), located 2604 Stone Hedge Dr., Calvert Park Subd., R-2, Mt. Vernon Dist., 93-3((8))(1)8, 10,000 sq. ft., VC 83-V-072.

Jane Kelsey reviewed the staff report for the Board. James Claxton presented the application to the Board. He stated that the lot was exceptionally narrow, being only 65 feet wide, and the required R-2 setbacks severely restricted the building possibilities on such a narrow lot. He planned to construct a farm house style structure with a wrap around porch. To reduce the size of the porch would result in the structure being out of proportion and limited the utility of the side porch. He stated that he had purchased this lot and the lot adjacent to the southwest approximately three years ago.

There was no one to speak in support or opposition.

Page 24, July 12, 1983 Board of Zoning Appeals
JAMES T. CLAXTON

RESOLUTION

In Application No. VC 83-V-072 by JAMES T. CLAXTON under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 14.67 ft. from side lot line and with open porch 6.67 ft. from the other side lot line (15 ft. min. side yard for house, 10 ft. min. side yard for porch, req. by Sects. 3-207 & 2-412), on property located at 2604 Stone Hedge Drive, tax map reference 93-3((8))(1)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 July 12, 1983; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 10,000 sq. ft.
4. That the application meets the Standards for Variances in Sect. 18-404 of the Ordinance, specifically:
   A. That the subject property had exceptional narrowness at the time of the effective date of the Ordinance; being only 65 ft. wide.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless

construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to the start of construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

Phil Yates stated that he was aware of the questions the Board members had. He stated that the only concern he had was that the barn had been labeled as a garage, which might cause confusion at a later date if the issue was not addressed. As noted in the staff report, he also had concerns about the size of the structure, although he was influenced by the comments presented by the Fairfax County History Commission. They recognized both the house and the barn as being historically significant structures. Mr. Yates stated that he would appreciate the BZA's judgment on this issue.

Robert Panier, 9408 Georgetown Pike, the contract purchaser of the house and the property, spoke in support of the application. He believed that the property met all the required standards for a variance. He stated that the lot was exceptionally narrow in the front and had an extraordinary condition of being zoned residential and commercial. He stated that it was the intention to relocate the barn and call it a garage. He stated that it would not be practical to relocate the house because of the planned development of the commercial property. Russell Hogram, 9748 Leesburg Pike, also spoke in support. He questioned what would happen to all the large trees around the mill. Chairman Smith stated that the question of the trees would come under the development plan for the C-8 District.

Blanca Winter, a contiguous property owner, spoke in opposition. She said she was concerned that the house would be empty for a long period of time, and people would have parties and vandalize it. She asked that the owners have limited time to restore the house so it would not stand empty long.

There was no one else to speak regarding the application.

RESOLUTION

In Application No. VC 83-D-071 by LEIGH CORNERS LIMITED, VICTOR L. BONAT, TRUSTEE under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, proposed lot 15A2 having width of 82 ft. (150 ft. min. lot width req. by Sect. 3-106), on property located at 10126 Colvin Run Road, tax map reference 12-4((1)015A, County of Fairfax, Virginia, Mrs. 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 12, 1983; 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-8.
3. The area of the lot is 5.0 acres.
4. This application poses an unusual condition with respect to the site, it being split zoning with historical significance. The front parcel 15A-1 is zoned C-8 and the rear parcel 15A-1 is zoned R-1. To facilitate the granting of the requested variance for lot 15A-2 for 82 ft. frontage, the applicant will subdivide the parcel into two lots. As a matter of explanation as a result of testimony, the Leigh house will be relocated at the applicants' expense to the rear portion of lot 15A-2. Also, the existing structure formally called a barn or a portion thereof will be relocated behind the house at the rear of lot 15A-2. The three small structures shown on the plat on the front lot will be demolished. The Zoning Administrator has indicated at todays meeting that he is inclined to make an exception in reference to the 600 sq. ft. requirement for max. area of structures due to the historical designation of the so-called barn. Because the existing structures are shown on the plat which was submitted with the application and to expedite and clarify the granting of the variance, the testimony by the Zoning Administrator expressed his foresaid feeling on this exception.

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 and subject to the Zoning Administrator giving a final approval of the size of the so-called barn:

1. This variance is approved for the subdivision of the lots as shown on the plat submitted with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. All necessary permits and approvals shall be obtained prior to the relocation of the structures.
4. All structures shall be located in accordance with all applicable Zoning Ordinance provisions.
5. Any use and location of the accessory structure shall be in accordance with Part 1 of Article 10 of the Zoning Ordinance.
6. Right-of-way for public street purposes shall be dedicated to fifteen (15) feet from the centerline along Walker Road and Colvin Run Road, subject to the approval of the Director, Department of Environmental Management.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. Hammack abstained)
(Mr. DiGiulian being absent)

Page 26, July 12, 1983, Scheduled 12:00 P.M. case heard at 2:35 P.M.:

12:00 Noon RICHARD E. BLUMBERG, appl. under Sect. 18-401 of the Ord. to allow construction of a porch addition to dwelling to 15 ft. from rear and 6.7 ft. from side lot lines, and deck addition 15 ft. from rear lot line (25 ft. min. rear yard and 7 ft. min. side yard for porch, and 19 ft. min. rear yard for deck req. by Sects. 3-307 & 2-412), located 12404 Alexander Cornell Dr., R-3, Fair Oaks Estates, Centreville Dist., 45-2((6))224, 9,266 sq. ft., VC 83-C-073.

Jane Kelsey reviewed the application for the Board. Richard Blumberg presented his application. He stated that the way the builder had placed the house on the lot had made the backyard extremely shallow. The property behind the house was located within the 100 year flood plain, and there will be no development on this adjacent property. Mr. Blumberg stated that he wanted a screened porch because the gnats and mosquitoes were a nuisance due to the wooded, wet area behind the house.

There was no one to speak in support or opposition.

Page 26, July 12, 1983 Board of Zoning Appeals
RICHARD E. BLUMBERG

RESOLUTION

In Application No. VC 83-C-073 by RICHARD E. BLUMBERG under Section 18-401 of the Zoning Ordinance to allow construction of a porch addition to dwelling to 15 ft. from rear and 6.7 ft. from side lot lines, and deck addition 15 ft. from rear lot line (25 ft. min. rear yard and 7 ft. min. side yard for porch, and 19 ft. min., on property located at 12404 Alexander Cornell Drive, tax map reference 45-2((6))224, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 12, 1983; 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 9,266 sq. ft.
4. That the applicants' property is exceptionally irregular in shape and has an unusual condition in the location of the existing buildings on the subject property. The applicant has met the nine Standards for Variances in Sect. 18-404 of the 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. DiGiulian being absent)

Page 27, July 12, 1983, Scheduled 12:10 P.M. case heard at 2:45 P.M.:

12:10 P.M. LYLE D. FRANKLIN, appl. under Sect. 18-401 of the Ord. to allow enclosure of deck as an addition to dwelling to 16.2 ft. from pipestem lot line and 21.9 ft. from rear lot line (25 ft. min. front yard req. by Sect. 2-416; 25 ft. min. rear yard req. by Sect. 3-307), located 7609 Maritime Ln., Lakewood Hills, R-3(C), Springfield Dist., 97-2((3))584A, 9,526 sq. ft., VC 83-S-075.

Jane Kelsey reviewed the staff report for the Board. Lyle Franklin presented his application. He stated that he was contiguous to a pipestem driveway. Because of the way the builder angled the house on the lot there was no way to construct the enclosed deck without a variance. Mr. Franklin indicated that the three immediate adjacent neighbors had no objection to his proposal.

There was no one to speak in support or opposition.

Page 27, July 12, 1983 Board of Zoning Appeals
LYLE D. FRANKLIN

RESOLUTION

In Application No. VC 83-S-075 by LYLE D. FRANKLIN under Section 18-401 of the Zoning Ordinance to allow enclosure of deck as an addition to dwelling to 16.2 ft. from pipestem lot line and 21.9 ft. from rear lot line (25 ft. min. front yard req. by Sect. 2-416; 25 ft. min. rear yard req. by Sect. 3-307), on property located at 7609 Maritime Lane, tax map reference 97-2((3))584A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 12, 1983; 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 9,526 sq. ft.
4. That the applicants' property has an unusual characteristic in that it is a pipestem lot and has set backs not required by other properties in the neighborhood. The applicant proposes no expansion other than what is already on the property. The nine Standards for Variances in Sect. 18-404 of the Ordinance have been satisfied, specifically:

A. That the subject property had exceptional narrowness at the time of the effective date of the 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. DiGiulian being absent)

Page 28, July 12, 1983, AFTER AGENDA ITEMS:

The Board approved the backlogged BZA Minutes for November 17, November 24, December 1, December 4, December 8, and December 15, 1981. Also, January 5, January 12, and January 19, 1982.

//Mr. Ribble recognized his wife, Maureen, who was in the audience. He asked the Board members to confirm the fact about all the evening meetings they had that lasted until 2:00 A.M. Several of the Board members indicated that they were not aware of any evening meetings ever taking place! Mr. Hyland stated that for the record, he could not remember any evening meeting ever lasting until 2:00 A.M.

Page 28, July 12, 1983, AFTER AGENDA ITEMS:

//Mr. Hyland stated that it was his understanding that shortly, the Board of Supervisors was going to have before it the issue of staff support for the Board of Zoning Appeals. This was a follow-up of the temporary approval. He asked that the Board consider a resolution expressing the BZA's support with the effort of staff in terms of the caliber and nature of the physical written reports that had been rendered to the Board. Also, not only the documentation, but the presence of staff. He stated that on a frequent basis, the Board had received laudatory comments from the applicants who had commended the effort of staff in terms of the assistance they had received. Mr. Hyland asked that the Board draft a resolution to be prepared to communicate to the Board of Supervisors the experience they have had with the staffing over the last six to eight months. Mr. Ribble seconded the motion. The motion passed by a unanimous vote.

Page 28, July 12, 1983, AFTER AGENDA ITEMS:

GROVETON BAPTIST CHURCH/SPA 73-V-121-1: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned special permit. It was the consensus of the Board to grant the request and schedule the case for September 27, 1983.

Page 28, July 12, 1983, AFTER AGENDA ITEMS:

STEVEN GOLDBERG & JANE HARVEY/VC 83-M-082: The Board received a request from the applicants to defer the variance application scheduled for July 26, 1983 to allow time to revise the plats. It was the consensus of the Board to announce their intent to defer the variance case until October 11, 1983 at 10:00 A.M.

Page 28, July 12, 1983, AFTER AGENDA ITEMS:

//DISCUSSION PERTAINING TO THE PROPOSED ADMINISTRATIVE APPROVAL OF REQUESTS FOR CHANGE IN NAME ONLY OF SPECIAL PERMIT USES: Mr. Hyland questioned Karen Harwood, Assistant County Attorney, about whether the Board had the legal authority to change a condition that had previously been imposed after a permit had been issued. Ms. Harwood stated that a literal interpretation and application of the Ordinance including special permits that had been granted subject to certain conditions, would beg a "no" answer to that question. She stated that the purpose of this was to address those instances where you

Page 29, July 12, 1983, AFTER AGENDA ITEMS:
SPECIAL PERMIT CHANGE IN NAME ONLY
(continued)

have the same people who came before the Board wishing to continue the use but in a separate corporate entity. An affidavit would insure that the same individuals were running the operation.

Mr. Hyland made a motion that the Board authorize the Zoning Administrator for administrative approval of change in name only special permit applications in accordance with the memo prepared and received by the Board. Mr. Ribble seconded the motion and it passed by unanimous vote.

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

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Jan. 2, 1985 APPROVED: January 8, 1985
Date

The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Monday Night, July 18, 1983. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (arriving at 8:15 P.M.); Gerald Hyland; Ann Day; Paul Hammack; John Ribble, and Mary Thonen.

The Chairman opened the meeting at 8:05 P.M. and Mrs. Day led the prayer.

MATTERS PRESENTED BY BOARD MEMBERS: The Board was in receipt of proposed resolution regarding the support staff provided to the BZA. Mr. Hyland moved that the Board adopt the propose resolution. Mrs. Day seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian not yet having arrived).

R E S O L U T I O N

WHEREAS, in January of this year the staff implemented a program whereby more comprehensive staff reports are provided to this Board; and

WHEREAS, not only has the caliber of the written staff reports improved markedly, the comprehensive information provided and the manner in which staff verbally presents the reports has further enhanced the Board's ability to make decisions based on all available and accurate information; and

WHEREAS, on a frequent basis both applicants and attorneys for applicants have provided this Board with laudatory remarks in terms of the quality of assistance provided by staff;

NOW, THEREFORE, BE IT RESOLVED that the Board of Zoning Appeals would like to express its appreciation to staff for their exemplary performance; and

BE IT FURTHER RESOLVED that this form of appreciation be expressed to the Board of Supervisors with the request for its favorable consideration of the establishment of the necessary positions to enable the staff support to be provided on a continuing basis.

//

The second proposed resolution reviewed by the Board pertained to special permits granted to the applicant only. Mr. Hyland stated that the resolution contained about 99.9% of what the Board had originally discussed. The Board discussed the proposed changes to the resolution.

//

Page 30, July 18, 1983, Scheduled case of

8:00 P.M. CARLTON L. & DIANA J. DOLWICK, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in bldg. location to allow porch to remain 17.1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 6661 New Chandler Ct., R-3(C), Cherry Run Subd., Springfield Dist., 88-1((7))33, 11,897 sq. ft., SP 83-S-033. (DEFERRED FROM JUNE 14, 1983 FOR NOTICES).

The Board was in receipt of a request from the applicants' attorney requesting a further deferral as the applicants were out-of-town. It was the consensus of the Board to defer the application until September 27, 1983 at 10:00 A.M.

//

Page 30, July 18, 1983, Scheduled case of

8:10 P.M. FAIRFAX STATION ASSOCIATES, appl. under Sect. 3-C03 of the Ord. for modification of minimum yard requirements for R-C lot, located 11635 Havenner Rd., Fairfax Station Subd., R-C, Springfield Dist., 76-4((9))1236, 35,175 sq. ft., SP 83-S-039.

Ms. Jane Kelsey presented the staff report which recommended approval of SP 83-S-039 subject to the conditions set forth in Appendix I. Mr. Frank McDermott, an attorney with Hazel, Beckhorn & Hanes, represented Fairfax Station Associates. He stated that the applicants had been before the BZA on previous occasions. The parcel had satisfied the setback requirements under the prior zoning district category. The property had been developed in R-1 cluster. The proposed addition would meet all the requirements in the Ordinance and would be harmonious with the surrounding uses.

There was no one to speak in support and no one to speak in opposition.

RESOLUTION

Mr. Hammack made the following motion:

WHEREAS, Application No. Sp 83-S-039 by FAIRFAX STATION ASSOCIATES under Section 3-C03 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, to allow construction of a dwelling 30 ft. from the front lot line abutting Havenner Court, located at 11635 Havenner Road, tax map reference 76-4((9))1236, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on July 18, 1983; and

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

1. That the property was the subject of final plat approval prior to July 26, 1982.
2. That the property was comprehensively rezoned to the R-C District on July 26, 1982.
3. That such modification in the yard shall result in a yard not less than the minimum yard requirement of the zoning district that was applicable to the lot on July 25, 1982.
4. That the resultant development will be harmonious with existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area.

AND, WHEREAS, the Board has reached the conclusion that the applicant has met the provisions for the approval of modifications to the minimum yard requirement for certain R-C lots as contained in Section 8-913 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED in accordance with the conditions contained in Appendix I of the Staff Report dated July 5, 1983.

Mr. Ribble seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 31, July 18, 1983, Scheduled case of

8:20 P.M. DAVID C. MOLUMBY, INC., appl. under Sect. 18-401 of the Ord. to allow placement of house to 10 ft. from side lot lines (12 ft. min. side yards req. by Sect. 3-307), located 1552 Great Falls St., Hunting Ridge Subd., R-3, Dranesville Dist., 30-3((2))1, 6,667 sq. ft., VC 83-D-074.

Ms. Jane Kelsey presented the staff report. Mr. William Donnelly of McCandlish, Lillard, Rust & Church in Fairfax, represented the applicant. He stated that a side yard variance of 2 ft. each was necessary to move a historical site on lot 1. The applicant owned lot 1 and lot 44. He had purchased the lots some time ago with the intention of moving the old Clark house on lot 1 as he wanted to save it. Mr. Molumby wanted to subdivide the property in the future. He felt that this was the only way to save the historical house. After Mr. Molumby acquired the property, the Zoning Ordinance was amended and the side yards were changed to a more stricter yard area. He could have done what he proposed prior to the change.

Mr. Donnelly went over the required nine standards for the granting of a variance. The property was acquired in good faith. The applicant could have done this prior to the change in the Ordinance. The property was exceptionally narrow as the lot was only 50 ft. wide. Mr. Donnelly stated that this was a unique situation. Mr. Molumby had purchased the two lots with the intention of moving the house and later the Ordinance was amended. The lot was also unusual in that it was a large lot with a historical house on it. This was not a common condition throughout the neighborhood. If the variance were denied, Mr. Molumby could not use the property. The applicant owned two lots. There was not any opposition. Lot 2 now contained the old post office. Mr. Donnelly assured the Board that the granting of the variance would enhance the historic character of the area.

In response to questions from the Board, Mr. Donnelly stated that Mr. Molumby owned lot 44 next door which was a large lot zoned R-3. He planned to subdivide that property. Mr. Donnelly stated that the boundary lines could not be changed because the parcel did not contain one acre. Density was supreme. If they lost 4 ft. or even 1 in., they lost the lot.

There was no one else to speak in support. Mr. Stephen Coffee spoke in opposition to the variance. He informed the Board that he owned the property adjacent to lot #3 on the other side of the post office. Mr. Coffee opposed the variance because it was tantamount to rezoning. Mr. Molumby had attempted to rezone the property to R-5 but was denied. Mr. Coffee objected to the increase in density for the area. He stated that all of the houses in the area had been built on 50 ft. lots. The applicant did not have an undue hardship with respect to the narrow lot as all lots were that way. Mr. Molumby was not that interested in historic preservation according to Mr. Coffee. He had moved the post office to its present site 2½ years ago. To date, only minor restoration had taken place. Mr. Coffee stated that he did not have the resources or inclination to take on a restoration project.

Mr. Greg Henry of 1551 Hunting Avenue of Great Falls also spoke in opposition. He stated that his property was 100 ft. from lot 1. He stated that he had written a letter for the record which covered the same points mentioned by Mr. Coffee.

During rebuttal, Mr. Donnelly stated that neither Mr. Coffee nor Mr. Henry owned property contiguous to lot 1. They owned property contiguous to lot 2 which was not the subject of the hearing. Mr. Donnelly stated that the opposition was concerned about the moving of the old post office onto lot 2. Mr. Donnelly stated that Mr. Molumby was on the verge of bankruptcy and did not have the financial resources to renovate the old post office. Mr. Donnelly stated that the History Commission supported the variance request. Mr. Donnelly informed the Board that Mr. Coffee's house on lot 3 was situated less than 1 ft. from the side lot line. He indicated that it was strange he would oppose someone else requesting to reduce the side yard by 2 ft.

Page 32, July 18, 1983 Board of Zoning Appeals
DAVID C. MOLUMBY, INC.

R E S O L U T I O N

In Application No. VC 83-D-074 by DAVID C. MOLUMBY, INC. under Section 18-401 of the Zoning Ordinance to allow placement of house to 10 ft. from side lot lines (12 ft. min. side yards req. by Sect. 3-307), on property located at 1552 Great Falls Street, tax map reference 30-3((2))1, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 18, 1983; 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 6,667 sq. ft.
4. That notwithstanding the historic value of the house and the fact that the Board would like to see it preserved, the Board of Zoning Appeals cannot justify moving a house and placing it on a non-conforming lot.

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. Hammack seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 32, July 18, 1983, Scheduled cases of

8:30 P.M. TUCKAHOE RECREATION CLUB, INC., appl. under Sect. 3-303 of the Ord. to amend S-82-D-055 for community recreation club to restore pool operating and tennis court lighting hours to 8 A.M. to 10 P.M. and to allow installation of tennis court backboard, located 1814 Great Falls St., R-3, Dranesville Dist., 40-1((1))1, 2 & A and 40-2((1))1B, 9.1574 acres, SPA 82-D-055-1.

Ms. Jane Kelsey presented the staff report. She explained that the applicant was seeking to restore hours for the pool and tennis courts and to allow installation of the tennis court backboard which had been deferred. At the last hearing, the Board asked the applicant to defer the backboard until it could show that there would not be any adverse impact. No lights were proposed for the backboard which would fenced and paved. Chairman Smith stated that there was not any limit on the indoor pool with respect to hours. The limitation or change to hours had been to the outside.

Mr. Dimpfel of 6845 Blue Star Drive in McLean represented Tuckahoe Recreation Club, Inc. He informed the Board that the club had obtained a sample backboard which was laminated and had grids. It had a good bounce. The backboard had been designed to reduce noise; however, the club had not been able to find any data or research to present to the Board. Mr. Dimpfel stated that the backboard was installed in a facility in Richmond and in Vienna at the Westwood Country Club.

In response to questions from the Board, Mr. Dimpfel stated that the noise from the backboard would be less than the noise from a regular tennis court and the backboard absorbed the vibrations.

With regard to the change in hours, Mr. Dimpfel stated that the club had used the requested hours for many years from 8 A.M. to 10 P.M. for the training groups and swim teams. He stated that there were a lot of club members to get on the courts. The members wanted to be able to play from 8 A.M. until 10 P.M., seven days a week.

Mrs. Day stated that she had made the motion at the last hearing to restrict the hours to 9 A.M. to 9 P.M. in keeping with other community pools and because of the complaints of the neighbors. The Board had supported that motion. Mr. Dimpfel replied that he would accept the hours of 9 A.M. to 9 P.M. for the pool but he asked that the hours be changed for the outdoor tennis courts.

In response to questions from the Board, Mr. Dimpfel stated that the backboard court would not be lighted. The nearest house was approximately 90 to 100 ft. from the court. Tennis was a quiet sport according to Mr. Dimpfel. It was not like the swimming teams which were held outdoors. Mr. Dimpfel informed the Board that the indoor pool did not have enough space for the swim team. The club held two swim meets one year with three the following year.

Ms. Gina Thorson and Mr. Brian Costello, officers of Tuckahoe, spoke in support of the application. They explained the club's activities and the need for the extended hours in order to accommodate the swim courses, CPR, basic life support and water safety. These courses were given after the closing of the pool. Mr. Costello presented a petition signed by 170 of the club members asking that the backboard be erected. Mr. John W. Larmer informed the Board that there were a large number of people using the club's facilities. With respect to the swim teams, they required warming times prior to the 9 o'clock starting time.

Mr. Leon Pleasants, Mr. John Bachelor, Mr. Dale Dahl, Mr. Harry Hubbard and Mr. Leslie Shoemaker spoke in opposition. They were concerned about the noise from the new tennis courts and presented a petition from the Great Falls Manor Civic Association. The opposition asked that the hours for the backboard be from 9 A.M. until 8 P.M.

In response to questions from the Board, Ms. Kelsey stated that staff had not restricted hours for the indoor swimming pool as they did not feel there would be any impact. Mr. Hyland questioned the traffic and noise going to the facility 24 hours a day. Ms. Kelsey stated that the staff had not thought about the traffic to be generated. She indicated that the staff had recommended approval based on the original hours when the pool went in. Mr. Dimpfel stated that the club had been granted hours of 8 A.M. until 10 P.M. for all 7½ acres. In the winter, the club had a separate entrance for the indoor pool. The remainder of the grounds were locked up. The indoor pool normally operated from 5 A.M. until 11 P.M.

Other concerns of the opposition were to the foul language used by tennis players and the closeness of the facilities to the residential properties. Some neighbors complained about club traffic through their properties. The noise of the P.A. system during swim meets concerned neighbors.

Mr. Dimpfel stated that the backboard would be constructed to hang on lateral hangers and would become part of the fence. In answer to the Board's questions about swim meets, Mr. Dimpfel stated that the club hosted two meets a year and sometimes three. The meets were held in June, July and half of August.

During rebuttal, Mr. Vallen stated that the club was a very good neighbor and would provide screening for the courts. The club had gone to great lengths to find the backboard to replace the one presently made of pine. He stated that the club only wanted the restoration of the hours as one extra hour of light would be a great help to the members.

R E S O L U T I O N

In Application No. SPA 82-D-055-1 by TUCKAHOE RECREATION CLUB, Inc., under Section 3-305 of the Zoning Ordinance to amend S-82-D-055 for community recreation club to restore pool operating and tennis court backboard on property located at 1814 Great Falls Street, tax map reference 40-1((1))1, 2 & A and 40-2((1))1B, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 18, 1983; and

RESOLUTION

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 9.1574 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the uses indicated on the plans submitted with this application except as qualified below. 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.
3. 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.
4. Transitional screening may be modified to allow a five (5) foot walkway within the 25 foot screening strip as shown on the plat submitted with the application provided the remainder of the 25 foot screening strip is planted in accordance with Article 13, Landscaping, Screening, Transitional Screening 1.
   - o Transitional Screening 1 shall be required between the backboard paving area and the southern lot line of Lot 1B so as to screen the courts and backboard from the residential dwelling to the south and to absorb any noise that might be emitted from these courts.
   - o The barrier shall be as shown on the plat submitted with this application.
5. The hours of operation shall be as follows:
   - o The indoor pool hours shall be from 8 A.M. to 10 P.M.
   - o The hours for the outdoor pools shall be from 9 A.M. until 9 P.M.
   - o The tennis courts to the north shall operate from 9 A.M. to 10 P.M.
   - o The two southerly tennis courts or newer courts shall operate from 9 A.M. to 9 P.M.
   - o The use of the backboard shall be limited to the hours of 9 A.M. to 8 P.M.
   - o No loudspeakers shall be used in conjunction with swimming meets or practices prior to 9 A.M. or after 9 P.M.
6. All loudspeakers, noise and lights shall be confined to the site. The lights for the northerly tennis courts shall be on an automatic timer which turns off at 10 P.M. The lights for the southernly tennis courts shall be on an automatic timer which turns off at 9 P.M.
7. The minimum number of parking spaces shall be 125.
8. After-hour parties for each swimming pool shall be governed by the following:
   - o Limited to six (6) per season.
   - o Limited to Friday, Saturday and pre-holiday evenings.
   - o Shall not extend beyond 12:00 midnight.
   - o Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
   - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after hour party.
9. There shall be a maximum of four swimming meets a year which shall be allowed to begin at 8 A.M. subject to the applicant obtaining prior written permission from the Zoning Administrator.
10. The Zoning Enforcement Division shall make an inspection and take a decibel reading of the noise emitting from the backboard prior to the issuance of the non-rup.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

R E S O L U T I O N

Mr. Hyland seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 35, July 18, 1983, Scheduled case of

8:45 P.M. COLIN B. CALVERT, appl. under Sect. 3-303 of the Ord. for a home professional office (accountant), located 13000 Melville La., Greenbriar Subd., R-3, Providence Dist., 45-4((3))(41)13, 10,862 sq. ft., SP 83-P-035.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. Mr. Jason Smolen, an attorney, represented the applicant. He stated that Mr. Calvert was an accountant and had been licensed for eight years. The office operated during the hours of 9 to 5. All the business was conducted through the mail. Mr. Calvert worked on accounts involving payroll checks and ledgers. Someone would come by to pick up the payroll checks two or three times a week. Parking was provided for two cars. Mr. Smolen stated that staff parking would be expanded. The home had the appearance of a personal residence and was the domicile of Mr. Calvert. The business did not affect the neighborhood and looked like a regular home. Mr. Smolen presented the Board with a letter from one of the neighbors at 12903 Melville Lane who supported the application.

The Board questioned whether this was a one time extension request. Ms. Kelsey explained that a home professional office approved prior to January 24, 1977 could be renewed for one five year period in accordance with the Ordinance in effect at the time of the granting. Thereafter, it would be subject to the provisions of the Ordinance adopted in 1978. She further explained, however, that this home professional office was subject to renewal in accordance with a condition the Board had placed on it at the time of the granting. Home professional offices were permitted in the R-3 districts.

The Board questioned why there was not a time limitation in the recommended conditions. Ms. Kelsey responded that staff had recommended the applicant add screening and widen the entrance. It was up to the Board to determine whether a time limitation should be placed on the special permit. Chairman Smith stated that there was a five year limitation for all home professional offices but the Board could grant it for three.

Mr. Smolen stated that this was Mr. Calvert's home and he asked that the Board grant the special permit for a long period of time. Mr. Calvert would provide screening and shrubbery. The Board questioned where the business was conducted in the home. Mr. Smolen replied that the majority of the work was conducted in the garage which was self-contained. It had three rooms and one bathroom.

Mr. Calvert informed the Board that his wife was associated with the business. All of the employees were from the local area. Mr. Calvert stated that his employees were part-time and worked in shifts. He had four employees. When questioned why he did not rent space elsewhere for his business, Mr. Calvert replied that he worked long hours and preferred to work from his home. His employees did not work on the weekends.

Mr. Smolen informed the BZA that the staff had analyzed the traffic pattern and did not believe that traffic would be a problem if the number of employees were limited to two. Mr. Smolen stated that with regard to parking on the street in the past, there had not been a limitation against it in the original resolution. However, it was a matter that could be taken care of if the Board would allow Mr. Calvert to continue the business he had been conducting for the past three years. Mr. Calvert had been under the impression that the two car parking was sufficient. Staff had indicated that he would need four spaces without tandem parking. Mr. Smolen stated that in the past Mr. Calvert had parked his own car in the street as a resident in the area. The Board questioned the amount of gross income for the business and was informed it was $95,000 per year.

Mr. Donald J. Conway of 13003 Melville Lane spoke in support of the application. He stated that he had been the original owner and had lived there for 14 years. He saw no impact with regard to traffic and urged the Board to approve the special permit.

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

R E S O L U T I O N

In Application No. SP 83-P-035 by COLIN B. CALVERT under Section 3-303 of the Zoning Ordinance to permit a home professional office (accountant) on property located at 13000 Melville Lane, tax map reference 45-4((3))(41)13, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 18, 1983; 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 10,862 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.

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. This approval does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
4. A 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.
5. The property shall be open for inspection by County Personnel during reasonable hours.
6. The hours of operation shall be from 9:00 A.M. to 5:00 P.M., Monday through Friday and until Noon on Saturday.
7. Four (4) parking spaces shall be provided on site without using tandem parking. The entrance shall be widened and the existing driveway flared out to accommodate these spaces.
8. The total number of employees involved in the operation shall be limited to two (2) in addition to the applicant and his wife.
9. The number of visitor vehicles to the site shall be one (1) at any one time.
10. Additional screening such as 6 ft. tall pine trees planted 6 feet on center and low evergreen shrubs shall be provided around the entire parking area and entrance to the office to effectively screen the use from all surrounding residential properties and streets. The types and location of these trees and shrubs shall be as determined by the Director of Environmental Management. A barrier shall not be required.
11. The parking spaces and the screening shall be installed and a new Non-Residential Use Permit obtained within four (4) months from this date, or not later than November 18, 1983 or the use shall cease and this special permit shall no longer be valid and the use shall cease.
12. This special permit is granted for a period of two (2) years with the Zoning Administrator empowered to grant a one (1) year extension provided the applicant demonstrates at the end of the two years that he is in satisfactory compliance. It shall be the applicant's responsibility to request the one year extension in writing to the Zoning Administrator at least thrity (30) days prior to the expiration of the two year period.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 3 (Mr. Smith, Mrs. Day and Mrs. Thonen).

9:00 P.M. TRIANGLE DEVELOPMENT CORPORATION, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location, to allow dwelling to remain 30.7 ft. from front lot line (35 ft. min. front yard req. by Sect. 3-207), located 2807 Glade Vale Way, Oakton Glade Subd., R-2(C), Providence Dist., 47-2((26))17, 20,480 sq. ft., SP 83-P-047.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. The applicant had applied for a special permit to allow the dwelling to remain 30.7 ft. from the front lot line. The applicant was seeking a variance of 4.3 ft.

Mr. Chip Paciulli of Paciulli, Simmons & Associates in Vienna informed the Board that due to an error in measurement, the house had been incorrectly located on the lot and construction began. During a building location check, it had been discovered that the house was situated 30.7 ft. from the property line of Glencroft Road instead of the required 35 ft. Construction was stopped and a special permit was applied for to allow the dwelling to remain.

Mr. Rick Synder of Triangle Development supported the application. In addition, Mrs. Don Laruso of 3058 Bohicket Court informed the Board that she would be the new owner of the property and was also in support of the application.

There was no one else to speak in support 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. SP 83-P-047 by TRIANGLE DEVELOPMENT CORPORATION under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 30.7 ft. from front lot line (35 ft. minimum front yard required by Sect. 3-207), on property located at 2807 Glade Vale Way, tax map reference 47-2((26))17, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on July 18, 1983; and

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

1. The Board has determined that:

A. The error exceeds ten (10) percent of the measurement involved, and
B. The non-compliance was done in good faith and was the result of an error in the location of the building subsequent to the issuance of a Building Permit.
C. Such reduction will not impair the purpose and intent of this ordinance, and
D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
E. It will not create an unsafe condition with respect to both other property and public streets, and
F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

2. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
3. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
4. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

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.

TRIANGLE DEVELOPMENT CORPORATION
(continued) RESOLUTION

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 unanimously by a vote of 7 to 0.

Page 38, July 18, 1983, After Agenda Items

BOARD RESOLUTION: The Board discussed the proposed resolution pertaining to special permits granted to the applicant only. Earlier in the meeting the Board had made suggestions or changes to the resolution which Mr. McDermott had rewritten for review purposes. It was the consensus of the Board to adopt the resolution as amended. The Board directed Mr. McDermott to incorporate the changes into the resolution and bring it back the next evening for Board signature.

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Page 38, July 18, 1983, After Agenda Items

ROBERT J. & JUDITH C. LEWIS:, V-81-D-239: The Board was in receipt of a request from Mr. and Mrs. Robert Lewis seeking an extension of the variance granted on February 9, 1982. Mr. DiGiulian moved that the Board grant a six month extension. Mr. Hammack seconded the motion and it passed by a vote of 7 to 0.

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Page 38, July 18, 1983, After Agenda Items

KOREAN PRESBYTERIAN CHURCH: The Board was in receipt of a letter from Mr. Ken Sanders requesting an out-of-turn hearing on the special permit application for the Korean Presbyterian Church. Mr. Hammack moved that the Board deny the request. Mrs. Day seconded the motion and it passed by a vote of 7 to 0.

// There being no further business, the Board adjourned at 11 o'clock.

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. 2, 1985

Approved: January 8, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Evening, July 19, 1983. The Following Board Members were present: Daniel Smith, Chairman; Ann Day; Gerald Hyland; John Ribble and Paul Hammack.

The Chairman opened the meeting at 8:15 P.M. and Mrs. Day led the prayer.

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

8:00 P.M. JOANN W. ECONOMON, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 4.9 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6507 Lily Dhu Ln., Walters Woods Subd., R-2, Mason Dist., 61-1((9))55, 23,803 sq. ft., VC 83-M-076.

Chairman Smith announced that the notices were not in order for the variance application. It was the consensus of the Board to defer the case to September 13, 1983 at 11:30 A.M.

Page 39, July 19, 1983

8:20 P.M. HALIM Y. KORZYBSKI, appl. under Sect. 3-203 of the Ord. for a home professional office (architect), located 6812 LIttle River Trnpk., Roberts Place Subd., R-2, Mason Dist., 71-2((5))1-4, 36,416 sq. ft., SP 83-M-034.

8:20 P.M. HALIM Y. KORZYBSKI, appl. under Sect. 18-401 of the Ord. to allow home professional office with gravel driveway and parking spaces (dustless surface req. by Sect. 11-102), located 6812 LIttle River Trnpk., Roberts Place Subd., R-2, Mason Dist., 71-2((5))1-4, 36,416 sq. ft., VC 83-M-086.

Chairman Smith announced that the notices were not in order for the special permit and variance applications. It was the consensus of the Board to defer the case to September 13, 1983 at 11:45 A.M.

Page 39, July 19, 1983

8:40 P.M. COLUMBIA BAPTIST CHURCH, appl. under Sect. 3-403 of the Ord. to amend S-31-79 for church and related facilities by eliminating condition #7, thereby permitting continued use of trailer classroom without term, and to allow the use of an existing storage shed, located 6200 Indian Run Pkwy. Bren Mar Subd., R-4, Lee Dist., (formerly Mason Dist.), 81-1((1))9B, 5 acres, SPA 79-M-031-1.

Chairman Smith announced that the notices were not in order for the special permit application. It was the consensus of the Board to defer the case to September 27, 1983 at 10:10 A.M.

Page 39, July 19, 1983

9:00 P.M. RESTON ROLLER RINK, INC., appl. under Sect. 5-503 of the Ord. to amend S-80-C-012 for skating facilities to permit additional land area, 92 additional parking spaces, increase max. occupancy load to 457, and operating hours 24 per day, located 1808 Michael Faraday Ct., and 11160 Sunset Hills Rd., Reston Subd., I-5 & I-4, Centreville Dist., 18-3((5))6 and 18-3((1))26, 2.9030 acres, SPA 80-C-012-1.

The Board was in receipt of a request for a deferral of the special permit application. It was the consensus of the Board to defer the case to October 4, 1983 at 10:00 A.M.

Page 39, July 19, 1983, Scheduled 9:15 P.M. case heard at 9:20 P.M.

9:15 P.M. JOHN R. & JANICE L. COVERT, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 25.2 ft. from street line on a corner lot (30 ft. min. front yard req. by Sect. 3-307), located 7631 Holmes Run Dr., Holmes Run Acres Subd., R-3, Providence Dist., 59-2((8))(7)12, 10,006 sq. ft., VC 83-P-059. (DEFERRED FROM JUNE 28, 1983 FOR NEW PLATS)

William Shoup reviewed the staff report for the Board. John Covert presented his application. He re-stated the testimony presented at the June 28 hearing that the property was a corner lot with no room for expansion within the side yard setbacks. The area of the property was less than the minimum required for R-3 zoning. Mr. Covert stated that his property had converging lot lines, and that the citing of homes in the Holmes Run Acres subdivision varied greatly in their distances to the street. Many large trees on the site also prevented him from using other buildable space. The proposed addition was to be built as a master bedroom and a bathroom.

There was no one to speak in support or opposition.

RESOLUTION

In Application No. VC 83-P-059 by JOHN R. & JANICE L. COVERT under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 25.2 ft. from street line on a corner lot (30 ft. min. front yard req. by Sect. 3-307), on property located at 7631 Holmes Run Drive, tax map reference 59-2((8))(7)12, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 19, 1983; 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 10,006 sq. ft.
4. That the placement of the existing dwelling is back on the southeast corner of the property. There is no other area that could be used except what was stated by the applicant.

A. That the subject property was acquired in good faith.
B. That the subject property has an extraordinary situation or condition of the subject property.
C. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
D. That the strict application of this Ordinance would produce undue hardship.
E. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
F. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
G. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
H. That authorization of the variance will not be of substantial detriment to adjacent property.
I. That the character of the zoning district will not be changed by the granting of the variance.
J. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to the start of construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mrs. Thonen and Mr. DiGiulian being absent)

// There being no further business, the Board adjourned at 9:26 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Jan. 2, 1985 APPROVED: January 8, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 26, 1983. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 1:15 P.M.; departing at 1:55 and returning at 3:15 P.M.); John Ribble (arriving at 10:40 A.M.); and Mary Thonen. (Mr. John DiGiulian was absent).

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

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

10:00 A.M. CHRISTIAN FELLOWSHIP CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-196-77 for church and related facilities to permit addition of land area and construction of additional parking lot with 171 spaces, redesign existing parking lot to increase total parking to 361 spaces and add parking lot lights, located 10237 Leesburg Pike, Dranesville Dist., R-1, 18-2((7))A, B & C, 7.5472 acres, S-82-D-066. (DEFERRED FROM OCTOBER 28, 1982 AT THE REQUEST OF THE APPLICANT, FROM MAY 3, 1983 FOR A PROGRESS REPORT ON THE REVISED SITE PLAN AND TO ALLOW TIME FOR THE APPLICANT TO COMPLETE PAVING AND CONSTRUCTION, AND FROM JUNE 14, 1983 FOR ADDITIONAL INFORMATION AND FOR APPROVED PLATS).

Ms. Jane Kelsey informed the Board that there were numerous problems with the application. There seemed to be a lack of communication between the church and the BZA staff. The church did not understand that the plat they submitted to the Department of Environmental Management did not go to the BZA staff. The plat submitted to DEM had some site plan issues to be resolved. Ms. Kelsey informed the Board that the applicant needed to submit a plat to the BZA staff indicating what they had done in accordance with the original plat approved by the Board.

Mr. Jim Jenson of 1406 Chapman Street in Vienna was a Trustee of the church. He informed the Board that it was critical the church have its application heard as quickly as possible. However, the church's engineer was out of town. Ms. Kelsey informed the Board that the staff needed time to get with DEM for a combination meeting so that everyone understood what needed to be done. In addition to the problems noted, Ms. Kelsey stated that there was the matter of several buses that had not been removed from the property. Mr. Jenson replied that the two construction trailers had been sold and would be hauled away within two weeks. Any inoperable buses would be removed from the property. Mr. Jenson asked that the staff provide a list of things to be done so he could meet with the engineer.

Mr. James Ahlman of 744 Florence Place in Herndon informed the Board that practically all of the buses were operable. Some of the buses needed mechanical work. However, he stated that the church would reduce the size of the bus fleet as they had just discovered that they did not need all the buses. The church owned six buses. Four buses were in use and two were not running.

Ms. Kelsey informed the Board that there had been a problem involving what DEM had approved for transitional screening and barrier requirement and what the church built. The special permit was approved subject to the transitional screening and barrier being approved by the Director of Environmental Management. The Director had allowed a waiver of the four ft. fence requirement. The citizens were concerned about trespassers and headlights. The church had agreed to put in a 4 ft. split rail fence to satisfy Mrs. McGavin's concerns. Mr. Jenson stated that the fence would delineate the property line. With regard to screening, Mr. Jenson explained that the church had already planted trees closer together than required. He believed that the trees together with the fence would satisfy the requirements of the County.

Mrs. McGavin of 10305 Leesburg Pike informed the Board that she had been having communication problems with the church. Several issues had come up during the past years. One issue was the barrier requirements. Mrs. McGavin stated that she had to plead with the church for many of the things that were required by the Ordinance. She asked for protection. Mrs. McGavin stated that she had good dialogue with Mr. Jenson. However, the split rail fence would not resolve the problem of headlights. She wanted something more substantial. The church was hesitant about committing themselves to anything more expensive than the split rail fence.

The Board inquired about the type of notice given to contiguous property owners with respect to waivers. Ms. Kelsey stated that no specific notice was given. The property was posted indicating that a site plan had been submitted for approval. It was up to the citizens to examine the site plan. In response to some Board members comments regarding the waiver procedure, Chairman Smith stated that the Board could require the applicant to do what was necessary to protect the residential area under the special permit process. The applicant was now asking for approval of the expanded parking and the Board could impose a condition on the entire facility. The Board had the right to place a reasonable condition on the use in order to make it compatible with the area.

Mr. Jenson informed the Board that the church had met with Mrs. McGavin and agreed to construct the 4 ft. split rail fence which had been ordered already. Mrs. McGavin indicated that she would be satisfied with the split rail fence if additional plantings were provided by the church. The existing 3 ft. white pines did not block the headlights. She believed that the church was trying to comply with the code but the white pines were too short and the red maple trees were too tall and thin to be sufficient.

It was the consensus of the Board to have the applicant meet with staff and discuss what needed to be done. The Board deferred the application until Tuesday, August 2, 1983 at 1:15 P.M.

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Page 42, July 26, 1983, Scheduled case of

10:10 A.M. DOUGLAS R. & JOANNA S. MITCHEM, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing patio 15.6 ft. from the lot line of a contiguous pipestem (25 ft. min. front yard req. by Sect. 2-416), located 4524 Flintstone Rd., Stonebrooke Subd., R-3(C), Lee Dist., 92-1((10))6005, 8,866 sq. ft., VC 83-L-078.

Mr. William Shoup presented the staff report. In response to questions from the Board as to whether the pipestem was created after construction of the residence on the subject property, Mr. Shoup stated that the lots were created at the same time. However, Section 2-416 of the Ordinance did not come into effect until after the dwelling was constructed. Mr. Hyland inquired as to staff's position with respect to the application since there was not a recommendation in favor or a suggestion that the applicant did not satisfy the standards. Mr. Shoup stated that staff maintained that the application did not meet the standards of the Ordinance. The dwelling had been constructed legally. Mr. Shoup stated that staff had not been addressing how a variance application met the standards of the Ordinance except for the subdivision requests.

Mr. Douglas Mitchem of 4524 Flintstone Road informed the Board that he was a little lost as to what he was to address. He stated that he had acquired the property six years in 1977 just before the Ordinance changed. The property was narrow and was in violation of meeting the pipestem setback. The addition was intended for family use during the winter months as well as the summer months. Strict application would be a hardship and would prohibit the reasonable use of the property. Mr. Mitchem stated that his addition would not cause a hardship to adjacent property and would not change the zoning characteristics of the area. The addition would be in harmony with the spirit and intent of the Ordinance. Mr. Mitchem informed the Board that he had the support of his neighbors.

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

R E S O L U T I O N

In Application No. VC 83-L-078 by DOUGLAS R. & JOANNA S. MITCHEM under Section 18-401 of the Zoning Ordinance to allow enclosure of existing patio 15.6 ft. from the lot line of a contiguous pipestem (25 ft. min. front yard req. by Sect. 2-416), on property located at 4524 Flintstone Road, tax map reference 92-1((10))6005, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 26, 1983; 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 8,866 sq. ft.
4. That the subject property was acquired in good faith.
5. That the subject property has all of the following conditions as the applicant is working around a pipestem:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property.
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

RESOLUTION

6. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonable practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
7. That the strict application of this Ordinance would produce undue hardship.
8. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
9. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
10. That authorization of the variance will not be of substantial detriment to adjacent property.
11. That the character of the zoning district will not be changed by the granting of the variance.
12. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the addition to the dwelling as shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. Due to the type of soils located on this site, special foundation may be required as determined by the Director, Department of Environmental Management.
4. A building Permit shall be obtained prior to construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian & Hammack being absent).

Page 43, July 26, 1983, Scheduled case of

10:20 A.M. ROY R. & LOUANN MEISINGER, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 9.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 8253 The Midway, Chestnut Hill Subd., R-2, Annandale Dist., 70-2((13))72, 21,875 sq. ft., VC 83-A-080.

Mr. William Shoup presented the staff report. Mrs. Day noted that the applicant was asking for a 26 ft. wide garage. She stated that a 20 ft. wide garage would not require a variance. Mr. Roy Meisinger informed the Board that he was the owner of the property. He was unaware of the strict standards for the granting of a variance which had been revised in April or May so that the County Code would strictly follow the State Code. Mr. Meisinger stated that his property was acquired in good faith in 1978. His lot was 125 ft. wide but with the house in the center of the lot, he was prevented from construction of a reasonable size addition. If the house had been moved to one side of the lot, there would have been room for the garage without any problem. Mr. Meisinger stated that he wanted a garage on the west side of his house as the east side contained bedroom areas. He could not build in the back yard because the house was served with a sewer system. There were not any homes in the neighborhood that had garages in front of the houses. Mr. Meisinger stated that he had chosen the west side. There was a basement door at the rear of his house which would give access to the garage. Mr. Meisinger stated that the west side of his property was very low and heavily wooded. The garage would be an improvement in that area.

Mr. Meisinger stated that three additional houses had been constructed in the cul-de-sac in his area within the last eight years. All of the houses had 20 ft. garages. His other neighbors had carports which were constructed when the side yard requirement was only 12 ft. Mr. Meisinger informed the Board that one of his neighbors had received permission to build a 25 ft. garage. Mr. Meisinger stated that it would be an undue hardship if he was restricted to a narrow garage. He stated that the chimney extended from the house and he had designed the garage to accommodate two cars, storage of equipment and the chimney.

The Board questioned the 26 ft. width for the garage because the depth was 32.9 ft. The Board inquired as to why a standard sized garage with that depth would not be sufficient for storage. Mr. Meisinger explained that the garage would not take the full depth. It would be approximately 24 ft. in depth. The garage portion would also house a workbench and workshop area. Mr. Meisinger stated that his house consisted of three bedrooms, a living room, dining room, kitchen and a half-basement.

Mr. Meisinger presented the Board with a sketch of his property. He stated that all of the neighbors were in support of his application. Only one house in the area did not have a garage and that property owner was in Saudia Arabia.

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

R E S O L U T I O N

In Application No. VC 83-A-080 by ROY R. & LOUANN MEISINGER under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 9.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 8253 The Midway, tax map reference 70-2((13))72, County of Fairfax, Virginia, Mrs. 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 26, 1983; 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 21,875 sq. ft.
4. That the applicant does have reasonable use of the property and could build a 20 ft. garage without a variance and have ample room at the rear for storage.

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. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

10:30 A.M. JOHN P. ZEDALIS, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 10.5 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 8723 Gateshead Rd., Eastgate Subd., R-2, Mt. Vernon Dist., 110-1((18))(4)11, 20,000 sq. ft., VC 83-V-081.

Mr. William Shoup presented the staff report. Mr. John Zedalis of 8723 Gateshead Road stated that he had acquired his property in 1963. He stated that his lot was not wide enough to permit him to construct a garage without a variance. Mr. Zedalis stated that he needed the extra space to store bicycles, outboard motors, etc. In addition, his invalid mother-in-law resided with them. His son often stayed at the house. Mr. Zedalis informed the Board that he needed a structure attached to the house as it would give him more flexibility and a small workshop area. The garage would add security to the home. The garage would provide protection for his cars.

In response to questions from the Board, Mr. Zedalis stated that the other houses in the area were constructed in a similar fashion. They all had approximately 20 ft. to the side lot line. The majority of the homes had carports instead of garages. Mr. Zedalis stated that he could not build the garage in the back of his yard because of the slope. It would require a great deal of excavation. He stated that he had considered moving to gain the room he felt he needed. However, it was too costly. Construction of a garage would solve his problems.

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

Mr. Hyland moved that the Board deny the variance application of Mr. Zedalis because he had not presented evidence that he complied with the nine standards set forth in the Ordinance. It was clear that the applicant had reasonable use of the land in so far as building a one car garage although he wanted a two car garage. However, the Ordinance had changed in May and the Board had no option but to deny the request. The change to the Ordinance was done to make it more difficult for a citizen to obtain a variance. Mr. Ribble seconded the motion for denial. The vote on the motion failed by a vote of 3 to 2 (Mrs. Day and Mrs. Thonen).

Mrs. Day stated that the applicant was asking for a 20.7 ft. wide garage 23 ft. long. It would be 10.5 ft. from the side lot line. She stated that this application was different from the previous one. She recognized that the applicant already had a carport. He was only enclosing it.

Page 45, July 26, 1983 Board of Zoning Appeals
JOHN P. ZEDALIS

R E S O L U T I O N

In Application No. VC 83-V-081 by JOHN P. ZEDALIS under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10.5 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 8723 Gateshead Road, tax map reference 110-1((18))(4)11, County of Fairfax, Virginia, Mrs. 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 26, 1983; 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 has presented testimony in response to the nine conditions.

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 variance is approved for the addition to the dwelling as shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

3. A building permit shall be obtained prior to construction.

Mrs. Thonen seconded the motion.

The motion *FAILED by a vote of 2 to 3 (Messrs. Smith, Hyland and Ribble)(Messrs. DiGiulian and Hammack being absent).

Page 45, July 26, 1983, Scheduled case of

10:40 A.M. RJL ASSOCIATES, appl. under Sect. 3-C03 of the Ord. for modification of the minimum yard requirements for R-C lot, located 4401 Pleasant Valley Rd., Pleasant Valley Subd., R-C, Springfield Dist., 33-4((2))49A, 10,500 sq. ft., SP 83-S-036.

Mr. William Shoup presented the staff report. RJL Associates were the owner of the undeveloped lot and proposed to construct a two story dwelling. They were requesting a special permit to allow modification of the minimum yard requirements for the R-C district. Section 3-C03 of the Ordinance required a 40 ft. front and a 20 ft. side yard restriction. The

house would be constructed 39.9 ft. from the front lot line. Mr. Shoup stated that the application met the provisions for modification of the minimum yard requirements and the staff recommended approval.

The Board questioned the standards. Mr. Shoup explained that this was a very simple application based on the criteria set forth in the Ordinance. The special permit process was established by the Board of Supervisors to grant relief in cases where the Ordinance change had certain impacts on the development of certain areas.

Mr. Chip Paciulli of 307 Maple Avenue in Vienna informed the Board that he agreed with the staff's recommendation and felt the application met the standards. There was no one else to speak in support.

Mr. Robert Beaudine of 6210 Greeley Boulevard in Springfield questioned the fact of whether there was any standard size house that would fit on the lot and meet the setback requirements. He did not see the need for the variance. Chairman Smith advised Mr. Beaudine that the Board of Supervisors had changed the property to the R-C category. There had already been considerable development in the area. The Board had to make the determination that the proposed house was in harmony with the usual development for that district. Chairman Smith stated that the smallest house might not be compatible with the other houses in the vicinity.

Mr. Hyland stated that Mr. Beaudine had raised a good point and he asked staff if the Board had to accept what the builder was going to construct on the lot. Mr. Shoup explained that the intent of the special permit was to provide relief where planning and subdivision had been done prior to the rezoning. The staff felt that this application was not detrimental to the surrounding area. One of the standards was that it meet the setbacks prior to the rezoning. Mr. Shoup stated that a good reason these types of situations came before the BZA was to allow the public hearing and hear comments from the public as to whether it would impact the area.

There was no one else to speak in opposition.

R E S O L U T I O N

Mr. Ribble made the following motion:

WHEREAS, Application No. SP 83-S-036 by RJL ASSOCIATES under Section 3-C03 of the Fairfax County Zoning Ordinance for modification of the minimum yard requirements for an R-C lot, located at 4401 Pleasant Valley Road, tax map reference 33-4((2))49A, 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 26, 1983; and

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

1. That the property was the subject of final plat approval prior to July 26, 1982. The plat was approved January 16, 1979. The subdivision was recorded on January 25, 1979.
2. That the property was comprehensively rezoned to the R-C District on July 26, 1982.
3. The requested modification in the yard requirements will result in a yard not less than the minimum yard requirement of the zoning district that was applicable to the lot on July 25, 1982.

Prior to July 26, 1982, the property was zoned R-2 Cluster. The R-2 District requires a side yard of 8 feet with a total minimum of 24 feet and a front yard of 25 feet for a cluster subdivision lot.

4. It appears that the resultant development will be harmonious with existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area.

AND, WHEREAS, the Board has reached the conclusion that the applicant has met the provisions for the approval of modifications to the minimum yard requirement for certain R-C lots as contained in Section 8-913 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED in accordance with the conditions contained in Appendix 1 of the Staff Report dated July 14, 1983 as follows:

1. This approval is for the location and the specific structure indicated on the plat included with this application prepared by Paciulli, Simmons & Associates and is not transferable to other land or to other structures on the same land.

2. A Building Permit shall be obtained prior to the start of construction.

RESOLUTION

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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10:50 A.M. STEVEN T. GOLDBERG & JANE M. HARVEY, appl. under Sect. 18-401 of the Ord. to allow subdivision into four lots, proposed lots 2 & 3 each having width of 5.18 ft. (80 ft. min. lot width req. by Sect. 3-306), and to allow existing dwelling on proposed lot 1 to remain 7.75 ft. from front lot line and 7.7 ft. from side lot line; existing shed on proposed lot 1 to remain 8.15 ft. from pipestem lot line; and existing dwelling on proposed lot 4 to remain 27.25 ft. from front lot line (30 ft. min. front yard and 12 ft. min. side yard req. by Sect. 3-307; 25 ft. min. front yard contiguous to pipestem req. by Sect. 2-416), located 3129 Sleepy Hollow Rd., R-3, Mason Dist., 51-3((1))17A, 1.39786 acres, VC 83-M-082.

The variance application was deferred until October 11, 1983 at 10:00 A.M. to allow the applicant time to amend his application and to submit revised plats.

// The Board recessed the meeting at 12:10 P.M. for lunch and reconvened at 1:00 P.M.

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11:10 A.M. BRUCE M. BARACKMAN, JR., appl. under Sect. 18-401 of the Ord. to allow construction of sunroom addition to dwelling to 17.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 4021 Middle Ridge Dr., Greenbriar Subd., R-3(C), Providence Dist., 45-4((3))(33)6, 8,890 sq. ft., VC 83-P-087.

Mr. William Shoup presented the staff report. He informed the Board that the applicant was requesting a living room space sunroom addition. The dimensions of the addition when submitted were 12'x12'. However, the applicant wanted to alter the dimensions to 12'x16'. Mr. Shoup stated that the dimension to be altered would not bring the addition any closer to the lot line than advertised and would not affect the amount of the variance requested. The variance was for 7.2 ft. which would locate the structure 17.8 ft. from the rear lot line. The addition was next to a pipestem drive that served two lots. Mr. Shoup stated that if the Board wished to grant the variance request, it should condition the approval on submission of revised plats in accordance with the actual dimension proposed. Mr. Shoup stated that the distance from the pipestem was not shown on the plat and it was difficult to determine whether it met the 25 ft. required setback. The setback referred to in the advertising was the rear setback.

Mr. Bruce Barackman informed the Board that he and his wife owned the property on Middle Ridge Drive for the past 11 years. They had acquired the property in good faith. He had applied for a variance because of the exceptional shallowness of the property at the time of the effective date of the Ordinance. Due to the position of the structure on the site, and the location of utility easement at the rear, there was not any way for the addition to be constructed without a variance. Mr. Barackman informed the Board that there were very few pipestem lots in Greenbriar. There were only six other lots similar in nature to his out of 1,200 homes in the subdivision. Mr. Barackman stated that his style house was the smallest in square footage having less than 1,200 sq. ft. of living area. It contained three bedrooms, a living room, den and kitchen. The main area to gather in the house was the living room. Over the years, his family had adopted the pattern of gathering around the kitchen area as it was one of the warmest spots in the house. Mr. Barackman stated that he wanted to add a sunroom onto the kitchen. When they first moved in, they did not have children. With the addition of children, their lifestyle had changed which was another reason for the addition. Mr. Barackman stated that the house was too small for their needs. They could not go out and buy a house to fit their needs in Fairfax County. In Mr. Barackman's opinion, the sunroom addition would enhance the neighborhood and increase property values. He stated that all of his neighbors had given verbal approval for the construction.

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

R E S O L U T I O N

In Application No. VC 83-P-087 by BRUCE M. BARACKMAN, JR. under Section 18-401 of the Zoning Ordinance to allow construction of sunroom addition (12'x12') to dwelling to 17.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 4021 Middle Ridge Drive, tax map reference 45-4((3))(33)6, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 26, 1983; and

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

1. That the owner of the proprty is the applicant.
2. The present zoning is R-3(C).
3. The area of the lot is 8,890 sq. ft.
4. That the subject property was acquired in good faith.
5. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or of property immediately adjacent to the subject property.
6. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable he formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
7. That the strict application of this Ordinance would produce undue hardship.
8. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
9. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
10. That authorization of the variance will not be of substantial detriment to adjacent property.
11. That the character of the zoning district will not be changed by the granting of the variance.
12. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the addition to the dwelling as shwon on the plat, included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian and Hammack being absent).

Mr. Shoup questioned the Board with respect to its motion as to whether they wanted to attach a condition with regard to the submission of revised plats to reflect the altered dimensions. The dimensions would be 12'x16' and would be parallel to the rear lot line so it did not increase the variance.

Chairman Smith stated that the Board had no right to exceed the 12'x12' dimensions shown on the plat. He stated that the increased dimensions did affect the variance because it was an extra 4 ft. Chairman Smith informed the applicant that the Board had no right to extend the dimensions without submission of a new application, advertising, etc. He further stated that an application the BZA had taken action on could not be reheard for a period of one year for substantially the same thing.

Mr. Barackman indicated that he would settle for the 12'x12' addition now and come back later if he wanted to amend it.

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Page 49, July 26, 1983, Scheduled case of

11:20 A.M. JAMES H. & BETTY L. PORTER, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 15.8 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 1312 Rock Chapel Rd., Crestbrook Subd., R-3, Dranesville Dist., 5-4((4))83, 9,800 sq. ft., VC 83-D-088.

Mr. William Shoup presented the staff report. The applicant was requesting a variance in order to construct a 14'x24' deck onto the rear of his house which would be 15.8 ft. from the rear lot line.

Mr. James Porter of 1312 Rock Chapel Road stated that he had acquired the property one year ago. The property was exceptionally narrow and would require a variance no matter where it was located on the property. The lot had a 15% slope. Only two lots in the area had pipestems. There were easements on both sides of the house. Mr. Porter stated that the builder had set his house back on the lot in order to stagger the houses. The purpose of the deck would be for entertainment. Mr. Porter stated that the other lots had a deep enough yard to construct a substantial size deck. He wanted a deck large enough to entertain people. Mr. Porter stated that he could extend his deck to the right of the house because of the air conditioning unit and the heat pumps. If the deck was wrapped around the house, it would extend into the side easement. Mr. Porter stated that he was restricted by the Ordinance to building a 10.8 ft. deck, it would require people to stand elbow to elbow with no access around tables, etc. The deck would not change the character of the zoning district. The structure on lot 82 behind Mr. Porter's property faced away from the back of his house.

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

R E S O L U T I O N

In Application No. VC 83-D-088 by JAMES H. & BETTY L. PORTER under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 15.8 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), on property located at 1312 Rock Chapel Road, tax map reference 5-4((4))83, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 26, 1983; 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 9,800 sq. ft.
4. That the applicants' property has an unusual condition in that it is only one of two developed lots that have a pipestem behind it and also that the house was sited to the rear of the property. The applicant has met the standards as presented in the 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.

RESOLUTION

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

1. This variance is approved for the addition to the dwelling as shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

3. A Building Permit shall be obtained prior to construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

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11:30 A.M. YOUNG HO KIM & WUL SOON KIM, appl. under Sect. 3-303 of the Ord. for an antique shop, located 6919 Old Dominion Dr., West McLean Subd., R-3, Dranesville Dist., 30-2((7))(11)9, 10 & 11, 11,250 sq. ft., SP 83-D-040.

&

11:30 A.M. YOUNG HO KIM AND SUL SOON KIM, appl. under Sect. 18-401 of the Ord. to allow antique shop in building with enclosed porch 9 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 6919 Old Dominion Dr., R-3, West McLean Subd., Dranesville Dist., 30-2((7))(11)9, 10 & 11, 11,250 sq. ft., VC 83-D-102.

Mr. William Shoup presented the staff report. The property was located on Old Dominion in the Central Business District. The property to the north was zoned C-5 and was bounded on the east and west by single family dwellings. The antique shop would be operated by Mrs. Kim. No additional employees were anticipated. There would be an average of ten customers a day.

The variance was requested to allow the use 9 ft. from the side lot line. Standards for all Group 7 uses required the compliance with the bulk regulations. In addition, the use was permitted only in structures built prior to January 1, 1949.

Mr. Robert Young represented the applicants. He stated that Mr. & Mrs. Kim had become the owners of record on May 11, 1983. They had purchased the property knowing that it had been under a special exception for an office. No one had recognized the need for the variance at the time of the special exception. Mr. Young stated that the variance came about as a result of the diligent staff work. The West McLean Citizens Association unanimously approved the applications of Mr. and Mrs. Kim. Mr. Young informed the Board that all other regulations and transitional yards including landscaping would be met at the rear yard.

In response to questions from the Board, Mr. Young stated that eight parking spaces existed on the site but the staff had asked that the parking be reduced to five in order to meet the transitional yard requirement. Mr. Young informed the Board that the Kims were not going to live on the property. Mr. Young stated that the need for the variance had not been discovered until after settlement of the property. Members of the Planning Commission had not discovered the problem with the side yard. Mr. Young stated that it would have been hard to discover because the side yard was not indicated on the plat.

Mrs. Thonen questioned why the staff had recommended approval of the special permit and not the variance. Chairman Smith stated that the Board has to determine whether variances meet the requirements of the Code. Mr. Hyland stated that in this case, the variance was tied to the special permit. He understood the position of staff. Mr. Hyland stated that the BZA kept struggling with variances. In this case, if the Board followed the strict application of the nine standards, there would be a problem with granting the variance. However, this seemed to be the perfect case where bending was in order.

Mr. Shoup explained to the Board that the standards for a group 7 Special Permit Use required that it meet the 12 ft. side yard. The structure was not in violation of the side yard because it had been built at a time when it complied with the setback. The structure did not meet the side yard restricted required by the current Ordinance. Mr. Hyland commended staff for the response as it was a reasonable approach.

Mr. Steven Hubbard, President of the West McLean Citizens Association, informed the Board that the request conformed to the Master Plan. The association had reviewed the variance request. In their opinion, the addition to the site had existed for many years and there was not any problem with the pre-existing part being included in the application. He read a letter of support from Maya Huber of the Planning and Zoning Committee of McLean.

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

R E S O L U T I O N

In Application No. SP 83-D-040 by YOUNG HO KIM & WUL SOON KIM under Section 3-303 of the Zoning Ordinance for an antique shop, on property located at 6919 Old Dominion Drive, tax map reference 30-2((7))(11)9, 10 & 11, County of Fairfax, Virginia, Mrs. 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 26, 1983; 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 11,250 sq. ft.
4. That compliance with the Site Plan Ordinance is required.
5. That the property is in a transition area. The Planning Commission has future plans for the area for townhouses and the proposed antique shop is a temporary use until December 31, 1987.

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

THAT the applicant has presented testimony indicating compoiance 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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. The parking lot and the driveway shall be established in accordance with the Public Facilities Manual.
5. A total of five (5) parking spaces shall be provided within that area now enclosed by the existing stockade fencing. No required parking spaces shall be located in a required side or rear yard.
6. The existing six (6) foot stockade fencing shall be retained except where removal is necessary to ensure compliance with other applicable standards.
7. That area within the stockade fencing which is within the twenty-five (25) foot required minimum rear yard shall be seeded and/or landscaped in such a manner as to ensure that it is not used for parking.
8. Transitional screening and barrier requirements may be modified provided additional evergreen plantings are provided in the twelve (12) foot strips between the stockade fencing and the property lines in accordance with the McLean Central Business District design standards as determined by the Director, Department of Environmental Management.
9. There shall be no freestanding sign associated with this use. One (1) building-mounted sign may be erected in accordance with Article 12 of the Zoning Ordinance, Signs.
10. This special permit shall expire on December 31, 1987.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

RESOLUTION

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be jsutified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

RESOLUTION

In Application No. VC 83-D-102 by YOUNG HO KIM AND WUL SOON KIM under Section 18-401 of the Zoning Ordinance to allow antique shop in building with enclosed porch 9 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 6919 Old Dominion Drive, tax map reference 30-2((7))(1)9, 10 & 11, County of Fairfax, Virginia, Mrs. 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 26, 1983; 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 11,250 sq. ft.

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 variance is approved for the location and the dwelling shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

3. This variance shall expire at such time as the Antique Shop operation is terminated.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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11:45 A.M. DAVID C. BUCKIS, appl. under Sect. 3-103 of the Ord. for a home professional office (dentist), located 3238 West Ox Rd., R-1, Centreville Dist., 35-4((1))35, 19.944 acres, SP 83-C-041.

Mr. William Shoup presented the staff report. Mr. David Buckis of 1709 Gallows Drive in Vienna informed the Board that he concurred with the staff report and sought approval as conditioned in Appendix I of the report. Mr. Buckis stated that he was the contract purchaser for the property and had a contigency for Board approval. The dwelling would be his home. The property consisted of woods at the present time. Mr. Buckis stated that he planned to construct his home and provide the required paved parking area.

A neighbor at 12506 Bennett Road spoke in support of the special permit application. Mr. Robert Beaudine of 6210 Greeley Boulevard in Springfield spoke in opposition. He indicated that he wanted to make sure the applicant understood the development conditions, especially condition 10 with regard to the soils.

In response to questions from the Board, Mr. Shoup stated that the comments on soils came from the Environment and Policy Division of OCP who worked with the County Soils Scientist. Mr. Shoup stated that a separate soils survey had not been required.

There was no one else to speak in support and no one to speak in opposition. During rebuttal Mr. Buckis stated that he was not an engineer but wanted to comply with the environmental concerns. He stated that he would bend the driveway if he had to. Mr. Buckis was aware that the special permit covered the entire 19 acres of land which could not be used for anything else during the course of the permit. Ten parking spaces were to be provided. The space nearest to the building would be handicapped parking.

In response to a question from the Board regarding time limitations on the use, Mr. Shoup stated that staff had not considered there to be a need for a time factor. Chairman Smith stated that he felt a time limitation should be placed on the use. He inquired if Mr. Buckis had an office elsewhere and was informed there was an office in Centreville which would be continued for awhile.

Mr. Hyland moved that the Board adopt the standard resolution and approve the special permit in accordance with the development conditions set forth in the staff report. Mr. Ribble seconded the motion. Chairman Smith and Mrs. Day expressed a need for a time limitations in the resolution. Mr. Hyland responded that the staff did not have a problem with the special permit application. There was not any opposition to the use. Mr. Hyland stated that to put a time limitation on the use would have a chilling effect. Any change in the use would require the dentist coming back to the Board. Chairman Smith was concerned about the continuation of the use if the dentist retired as the permit was not limited to one dentist. Mr. Hyland stated that the special permit would be granted to the applicant only and that Mr. Buckis could not bring in another dentist. He had to continue the use personally or he would lose the business.

Mr. Shoup informed the Board that as long as Mr. Buckis was operating the use, he could have another dentist. Mrs. Thonen suggested amending condition no. 8 to exclude any other dentist. Mr. Hyland stated that he would add that to his motion. Chairman Smith inquired about the time limitation. Mrs. Thonen indicated she did not have a problem of not requiring a time factor.

Mr. Hyland inquired of the applicant as to his position on the ten year limitation. Mr. Buckis indicated that he could not agree to it. The Board recessed the meeting to discuss the matter and returned at 2:55 P.M. Mr. Buckis then informed the Board that apparently the permit would not be approved without the limitation so he would accept the ten year limitation.

R E S O L U T I O N

In Application No. SP 83-C-041 by DAVID C. BUCKIS under Section 3-103 of the Zoning Ordinance for a home professional office (dentist), on property located at 3238 West Ox Road, tax map reference 35-4((1))35, 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 fo 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 26, 1983; 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 19.944 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

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 non transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. The total number of parking spaces provided for this use shall be ten (10). One parking space of the standard handicapped size shall be for handicapped use, that space being the closest to the structure.
5. Where possible, existing vegetation shall remain and additional plantings shall be provided where necessary to ensure that the parking area is screened from adjacent properties and West Ox Road at the determination of the Director of Department of Environmental Management (DEM).
6. Dedication of right-of-way to 45' from the centerline of West Ox Road will be required along the site frontage to the satisfaction of the Director of DEM.
7. Vegetation shall be cleared and other measures taken to provide adequate sight distance for the driveway entrance and a deceleration lane may be required along West Ox Road as determined by the Director, DEM.
8. The maximum number of employees shall be three (3) including the applicant but excluding any other dentist.
9. The normal hours of operation shall be established between 8:30 A.M. to 6:30 P.M., Monday through Friday. Occasional emergency visits outside normal business hours will be permitted.
10. The Environmental Quality Corridor (EQC), as defined by the limits of 1A + soil, shall be preserved in an undisturbed, natural state.
11. A ten foot wide dedication for trail purposes shall be provided along West Ox Road, pursuant to the County Wide Trail.
12. One sign shall be permitted on the subject property in accordance with Article 12, Signs.
13. This special permit is granted for a period of ten (10) years.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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Page 54, July 26, 1983, Scheduled case of

12:00 NOON NATIONAL EVANGELICAL FREE CHURCH, appl. under Sect. 3-303 of the Ord. for addition of new sanctuary, bus garage and parking spaces to existing church and related facilities, located 3901 Gallows Rd., W. L. Clark Subd., R-3, Mason Dist., 60-3((24))9A & 10, 4.78143 acres, SP 83-M-042.

Mr. William Shoup presented the staff report. He stated that the church was not under a special permit but this application brought the entire church under the special permit. Mr. Shoup stated that the addition would require the removal of parking spaces so the church had to replace those parking spaces. It was the staff judgement that the special permit was in conformance with the standards of the Ordinance and they recommended approval.

Mr. Reuben Johnson, Chairman of the Planning Committee of the National Evangelical Free Church, residing at 10108 Moorefield Hill Place in Vienna, informed the Board that with regard to the buses mentioned in the staff report, the church only had vans. Mr. Johnson stated that the church was seeking approval of the special permit. There were 86 parking spaces existing but after completion of the additional spaces, the total would be 89. Handicapped parking spaces would be provided next to the sanctuary. With regard to comments in the staff report, Mr. Johnson stated that screening existed around the property already.

Mr. Shoup stated that the church was confusing fencing with the screening requirement. There was an existing 6 ft. chain link fence across the back and along the sides of the church property. Chairman Smith stated that someone needed to determine whether the existing fencing met the requirements of the Ordinance with regard to screening. He stated that the Board did not have the right to waive those requirements.

Mr. Shoup explained that at the time the original site plan was approved there was not any requirement in the Ordinance for barriers. The church has existed for a long time. Mr. Shoup stated that there were only certain instances where the Director of DEM could waive the requirements. He stated that the Board might want to consider amending the condition to leave the barrier requirement up to the Director of DEM but provide some guidelines as to what the BZA might find appropriate.

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

R E S O L U T I O N

In Application No. SP 83-M-042 by NATIONAL EVANGELICAL FREE CHURCH under Section 3-303 of the Zoning Ordinance for addition of new sanctuary, bus garage and parking spaces to existing church and related facilities, on property located at 3901 Gallows Road, tax map reference 60-3((24))9A & 10, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 26, 1983; 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 4.78143 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Transitional screening shall be provided in accordance with the provisions of Article 13 with the existing screening used to satisfy these requirements if deemed adequate by the Director of Department of Environmental Management. Additional plantings shall be provided to ensure that the use is screened from Gallows Road at the determination of the Director, Department of Environmental Management. The barrier shall be provided unless otherwise waived by the Board of Zoning Appeals. That if the Director of the Department of Environmental Management felt a barrier fence in existence meets the Zoning Ordinance, then no further requirement would be required.
5. The additional parking spaces and driveways shall be determined by the Director, Department of Environmental Management, in accordance with State and County requirements.
6. The seating capacity in the main worship area shall be three hundred fourty-four (344).
7. Eight-nine (89) parking spaces shall be provided.
8. The property shall be made available for inspection to County personnel during reasonable hours.

RESOLUTION

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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Page 56, July 26, 1983

Mr. Paul Hammack returned to the Board meeting at 3:15 P.M. and remained for the remainder of the scheduled agenda.

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Page 56, July 26, 1983, Scheduled case of

12:15 P.M. & MEADOWBROOK ASSOCIATES, appl. under Sect. 4-203 & 3-303 of the Ord. to amend S-7-72 for commercial recreation uses to permit change of permittee, expansion of use to add land area and outdoor tennis court, convert indoor tennis court to swimming pool and exercise room, add parking facilities and building addition for racquetball courts and add a proposed deck, located 1472 Old Chain Bridge Rd., West McLean Subd., C-2 & R-3, Dranesville Dist., 30-2((7))(1)1-6 & 57-61, 2.5868 acres, SPA 72-D-007-1.

12:15 P.M. MEADOWBROOK ASSOCIATES, appl. under Sect. 18-401 of the Ord. to allow expansion of commercial recreation facilities such that a 10 ft. high fence and a tennis court are located less than 30 ft. from street lines (30 ft. min. front yard req. by Sect. 3-307), located 1472 Old Chain Bridge Rd., West McLean Subd., C-2 & R-3, Dranesville Dist., 30-2((7))(1)1-6 & 57-61, 2.5868 acres, VC 83-D-083.

Ms. Jane Kelsey presented the staff report. Chairman Smith noted that there was a request from Mr. Eubanks concerning the applications. He asked that the applications be deferred. However, it was the consensus of the Board to proceed with the hearing. The request was to add additional land area to the site and to construct an addition to house four racquetball courts and an indoor tennis court without lights. Since there were townhouses across from the facility, it was important that sufficient screening be provided. Ms. Kelsey informed the Board that it did not appear that the application was in conformance with standards so staff was recommending denial. If the application was amended, the staff would be able to recommend approval.

Mr. Marc Bettius represented the applicant. He stated that this request was reasonable use of the land. Mr. Bettius did not feel that there was a problem with the screening requirement as the Director of Environmental Management had the right to waive the requirement in a Central Business District. Because staff had a problem with the proposed deck which extended into the rear yard area and had not been included in the advertising, Mr. Bettius stated he would drop that request if necessary. Mr. Bettius informed the Board that the subject property had four front yards; Old Chain Bridge on the south, Meadowbrook on the north, Buena Vista on the top and Ingleside at the bottom. The C-2 zoning category was at the bottom portion of the property. Mr. Bettius stated that at the time the original facility was constructed, a row of fences and hedges were constructed. If the applicant was compelled to widen Buena Vista, pave it and improve it, it would diminish the area for screening. Mr. Bettius stated that the road was going to be widened. If the special permit was not granted, the area for the widening would come off the citizens' front yards. Therefore, the issue of screening was a large one. Mr. Bettius stated that if Meadowbrook was allowed to enclose the four racquetball courts, they would put in any amount of screening in that 10 ft. area between the courts and the property line.

Mr. Bettius stated that the applicant wanted to orient traffic through the site into Ingleside and out Meadowbrook. There was some concern about the facility using Meadowbrook and Buena Vista. Mr. Bettius stated that it was not fair for the applicant to have improve the streets and then not be able to use them.

In response to questions from the Board, Mr. Bettius stated that the applicant had to give up 10 ft. on two sides of the property and 15 ft. on another side for the widening of the streets in the area.

There was no one else to speak in support. Mr. Steven Hubbard of 1444 Cedar Avenue spoke in opposition. He stated that he represented the West McLean Citizens Association who approved the use but not the enclosure of the outside tennis courts. Mr. Hubbard stated that Meadowbrook Associates had proferred only a fraction of the 35 ft. for the road widening. The citizens objected to the second entrance on Meadowbrook Avenue as it would only compound the traffic situation. He had been asked by the citizens to present a petition against the outdoor tennis facilities.

The next speaker in opposition was Ms. Maya Huber of the McLean Citizens Association. She had also been the Chairman of the PLUS task force which planned the present Central Business District area of McLean. Ms. Huber explained the geography of the area. She asked that the new access be off Ingleside Avenue. She asked that a buffer area be provided the tennis courts. Ms. Huber asked that 12½ ft. yard area be provided with a wall. Ms. Huber stated that the citizens wanted to be screened from the parking lot and not the tennis courts. She indicated that there was not a real need for street widening.

Mrs. Mary Hutchison of 1522 Buena Vista Avenue informed the Board that she had lived in the area for 11 years. She had noticed that the traffic noises and parking on the residential streets was generated by the tennis players. Mrs. Hutchison was opposed to the outdoor tennis court. She wanted to protect her property. There was insufficient screening for the club and the headlights were terrible.

Mrs. Cornelia McBray of 1514 Buena Vista Avenue stated that she had purchased the property two years ago. She also objected to the outdoor tennis court. She was concerned about the increased traffic in the small residential area and asked that the Board deny the application

During rebuttal, Mr. Bettius stated that the membership would not increase in the facility. The facility was surrounding by commerical and one residential area. The whole area was used as an escape for traffic and it was not from the tennis courts. There were a number of streets of substandard width. Mr. Bettius stated that the facility could provide a good plan. The facility was within the Central Business District. The proposed tennis court was next to the Giant parking lot.

Mr. Larry Burg from the Office of Transporation was present to answer any concerns regarding the access on Ingleside Avenue. He stated that the office was concerned that the use would create additional left turn movements that could be eliminated with a single left turn onto Meadowbrook and then having an access point onto the subject property.

Ms. Kelsey responded to the inquiry from Mr. Eubanks regarding the notices for the application. Mr. Covington informed the Board that Mr. Eubanks was notified. Ms. Kelsey stated that the computer had verified that the owners of lot 1 were James Covington and Frank G. Eubank, Jr., Trustees. Meadowbrook Associates were the owners of the other parcels. Ms. Kelsey indicated that the only discrepancy in the application was the fact that the name of the property owner was listed as Meadowbrook Associates only. Even the affidavit on the back showed the name as Meadowbrook Associates and did not reflect the names of the other owners of the other lot. It was a requirement under the Ordinance to submit a listing of names and last known addresses of all applicants, title owners and contract purchasers. That was the only discrepancy in the application. The conflict between Mr. Eubanks and the current applicant was something the staff could not get involved in.

Chairman Smith inquired as to why Mr. Eubank was not notified. Mr. Bettius responded that when the original affidavit was completed, it listed the name of Mr. Eubank. However, the front portion of the application had not been completed. Staff had requested the applicant to complete the front portion of the application. When the application was resubmitted, the applicant had inadvertently left out the information regarding Mr. Eubank. Mr. Eubank did not agree with Meadowbrook Associates on the amendment to the special permit.

R E S O L U T I O N

In Application No. SPA 72-D-007-1 by MEADOWBROOK ASSOCIATES under Section 4-203 & 3-303 of the Zoning Ordinance to amend S-7-72 for commercial recreation uses to permit change of permittee, expansion of use to add land area and outdoor tennis court, convert indoor tennis court to swimming pool and exercise room, add parking facilities and building addition for racquetball courts and add a proposed deck, on property located at 1472 Old Chain Bridge Road, tax map reference 30-2((7))(1)1-6 & 57-61, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 26, 1983; and

RESOLUTION

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 C-2 & R-3.
3. The area of the lot is 2.5868 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 C & R Districts as contained in Section 8-006 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART (to change a permittee from Buena Vista Associates and George Blandford to Meadowbrook Associates; to allow for the acquisition of additional land area of 0.36963 acres; for the permission to build an addition containing 3,062 sq. ft. to house four additional racquetball courts; for the construction of 33 additional parking spaces; and for the replacement of an existing indoor tennis court with an indoor swimming pool and exercise room) 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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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, 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.
3. This approval does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
4. The hours of operation for the indoor facility shall be from 7:00 A.M. to 12:00 P.M.
5. The transitional screening and barrier requirements may be modified to allow no less than a 25 ft. foot planted strip along Buena Vista and Meadowbrook Avenues. If this is provided the barrier requirement shall be waived in these areas. The type of planting shall be of a type equivalent to those required for Transitional Screening 2 as determined by the Director of the Department of Environmental Management. As an alternative, at the discretion of the Director of Environmental Management, a 12½ ft. screening barrier with a barricade in the middle may be provided as testified to by Mrs. Huber.
6. There shall be a total of 72 parking spaces for this commercial recreational facility.
7. If lights are to be installed in the parking lot, they shall be no higher than eight (8) feet and shall illuminate the parking lot only and shall be screened in the direction of the lot owner so as not to illuminate or result in any glare of the surrounding residential neighborhood.
8. The applicant shall provide road widening and dedication along Buena Vista, Meadowbrook and Ingleside Avenues as determined by the Director of Environmental Management at the time of site plan review and shall be generally as shown on the plat submitted with this application.
9. The travel aisle shall be one way with exiting only to Meadowbrook Avenue.
10. There will be no food served on the premises except vending machines.
11. The use of the facilities shall be restricted to members of the club and will not be open to the general public.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

RESOLUTION

In Application No. VC 83-D-083 by MEADOWBROOK ASSOCIATES under Section 18-401 of the Zoning Ordinance to allow expansion of commercial recreation facilities such that a 10 ft. high fence and a tennis court are located less than 30 ft. from street lines (30 ft. min. front yard req. by Sect. 3-307), on property located at 1472 Old Chain Bridge Road, tax map reference 30-2((7))(1)1-6 & 57-61, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 26, 1983; 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-2 & R-3.
3. The area of the lot is 2.5868 acres.

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

THAT the applicant has not presented testimony that demonstrates compliance with the nine standard requirements for the Board of Zoning Appeals to grant a variance, specifically, a variance for a 15 ft. variance on the front yard requirement.

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

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

Page 59, July 26, 1983, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for January 26, 1982. Mrs. Day moved that the minutes be approved as submitted. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 with 2 abstentions (Mr. Ribble and Mrs. Thonen)(Mr. DiGiulian being absent).

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Page 59, July 26, 1983, After Agenda Items

PIERRE L. SALES: The Board was in receipt of a request from Mr. Pierre L. Sales for an out-of-turn hearing on his variance application presently scheduled for October 4, 1983. It was the consensus of the Board to deny the request.

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Page 59, July 26, 1983, After Agenda Items

KENNY W. FIELDS: The Board was in receipt of a request for an out-of-turn hearing for the special permit application of Kenny W. fields. The Board was also in receipt of a letter from Supervisor Moore endorsing the out-of-turn request of Mr. Fields. Mr. Hammack moved that the Board deny the request. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

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Page 59, July 26, 1983, After Agenda Items

ARTERY ORGANIZATION: The Board was in receipt of a request from the Artery Organization for an out-of-turn hearing on the special permit application for a recreational facility. There was also a letter from Supervisor Moore endorsing the request. Mr. Hammack moved that the Board deny the request. Mrs. Thonen seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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Page 59, July 26, 1983, After Agenda Items

ROBERT E. JOHNSON: The Board was in receipt of a request for an out-of-turn hearing on the variance application of Mr. Robert E. Johnson. Mrs. Thonen moved that the Board grant the request. Mrs. Day seconded the motion. However, the motion failed by a vote of 2 to 4 (Messrs. Smith, Hyland, Hammack & Ribble)(Mr. DiGiulian being absent).

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Page 60, July 26, 1983, After Agenda Items

GROVETON BAPTIST CHURCH: The Board was in receipt of a request from the Groveton Baptist Church for further consideration of an out-of-turn hearing. The BZA had previously granted their request and scheduled the special permit application for a hearing on September 27, 1983. However, the church was requesting that the hearing be moved to September 6, 1983. It was the consensus of the Board to deny the request as the original out-of-turn hearing request was granted at the earliest date convenient for the Board.

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Page 60, July 26, 1983, After Agenda Items

EXECUTIVE FITNESS PLUS: The Board was in receipt of a request from Executive Fitness Plus for an out-of-turn hearing on the special permit application. It was the consensus of the Board to deny the request.

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Page 60, July 26, 1983, After Agenda Items

The Board discussed a memorandum from Phil Yates regarding the Board of Supervisors' Discussion with respect to the BZA policy on variances. Mr. Hyland suggested that the BZA members make contact with the Board member in their district and discuss the BZA's position.

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Page 60, July 26, 1983, After Agenda Items

BEUFORD H. MILLS, S-82-P-096: The Board was in receipt of a request from Mr. Beuford H. Mills regarding an extension of time in which to comply with condition no. 2 of the resolution granted January 25, 1983. Condition no. 2 required Mr. Mills to obtain a Non-Rup within six months. He indicated that landscaping and screening requirements prevented him from compliance with the condition.

Following discussion, it was the consensus of the Board to deny the request.

// There being no further business, the Board adjourned at 5:30 P.M.

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

Daniel Smith, Chairman

Submitted to the Board on Jan. 2, 1985

Approved: January 8, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, August 2, 1983. The Following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack and Mary Thonen. John DiGiulian arrived at 11:00 A.M.

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

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

10:00 A.M. VICTOR & RUTH LAZAROWITZ, appl. under Sect. 18-401 of the Ord. to allow solar heated greenhouse addition to dwelling to 10.0 ft. from side lot line such that side yards total 31.8 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), located 1513 Gingerwood Ct., Cinnamon Creek Subd., R-1(C), Dranesville Dist., 19-3((7))81, 21,000 sq. ft., VC 83-D-058.

Mrs. Lazarowitz stated that she had not received a copy of the staff report. It was the consensus of the Board to defer the variance application to September 13, 1983 at 12:00 Noon to allow the applicants time to review the staff report.

Page 61, August 2, 1983, Scheduled 10:10 A.M. case heard at 10:25 A.M.:

10:10 A.M. BURTON M. & JANE H. P. COFFMAN, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 28.5 ft. from street line of a corner lot (34 ft. min. front yard req. by Sects. 3-107 & 2-412), located 2710 Hunter Mill Rd., R-1, Providence Dist., 37-4((1))13, 0.6816 acres, VC 83-P-077.

Jane Kelsey reviewed the staff report for the Board. Mr. Coffman presented his application. He stated that due to the increased traffic on Hunter Mill Road, he and his family couldn't use the front porch like they usually did. He stated that the house was built in 1945 and was purchased by his wife in 1972. In 1969, the owner of the property north of his, dedicated land for Samaga Drive, thereby creating a front yard in a location where a side yard had existed. Mr. Coffman stated that it was his desire to build a deck on the rear of the house with a raised walkway. He wanted the walkway to be wide enough to accommodate a wheelchair and allow room for the door to open. Mr. Coffman stated that there was no other place to put the door leading to the deck without tearing out plumbing in the bathroom, radiators in the dining room, or the stove in the kitchen.

There was no one to speak in support or opposition.

Chairman Smith indicated that he had a problem with this application. He felt that Mr. Coffman had no hardship, since the road was already dedicated when the house was bought. Also, he felt that the door could be placed in another location, even if the radiators had to be relocated in the dining room. Mr. Hammack made a motion that the Board recess the case to a later date to give the applicant the opportunity to present further testimony so all the absent Board members could participate in the hearing, and also to give the Chairman the opportunity to view the property. It was the consensus of the Board to defer the application to September 6, 1984 at 12:00 Noon.

(FOR DETAILED INFORMATION ON THIS APPLICATION, PLEASE SEE VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE)

Page 61, August 2, 1983, Scheduled 10:20 A.M. case heard at 10:45 A.M.:

10:20 A.M. TEMPLE BAPTIST CHURCH, appl. under Sect. 18-401 of the Ord. to amend V-89-78, variance to dustless surface requirement to allow a three year extension of time, located 1545 Dranesville Rd., R-3, Dranesville Dist., 10-2((1))7, 6.25 acres, VC 83-D-079.

Jane Kelsey reviewed the staff report for the Board. She stated that the new Zoning Ordinance amendment regarding dustless surfaces was still pending before the Board of Supervisors and would not be heard before March of 1984. Staff recommended denial of this application and asked the Board to request the Director of the Department of Environmental Management to consider granting a one year waiver. This would give the Board of Supervisors an opportunity to hear the amendment and make a decision. Ms. Kelsey indicated that the entrance and the handicapped parking spaces were paved.

Pastor David J. Barton, the church's representative, stated that this church had used the gravel parking lot for over two years. He stated that the church wanted to preserve the rural atmosphere of the area. The dust had no impact on adjacent properties because they were a good distance away from the church which owned over six acres of property.

//Mr. DiGiulian arrived at 11:00 A.M.

Jane Kelsey indicated that she had talked to the Zoning Administrator. He had indicated that the variance application being amended, V-89-78, would remain valid until such time as the Board of Supervisors had an opportunity to act on the amendment.

There was no one to speak in support or opposition.

Page 62, August 2, 1983 Board of Zoning Appeals
TEMPLE BAPTIST CHURCH

R E S O L U T I O N

In Application No. VC 83-D-079 by TEMPLE BAPTIST CHURCH under Section 18-401 of the Zoning Ordinance to amend V-89-78, variance to dustless surface requirement to allow a three year extension of time, on property located at 1545 Dranesville Road, tax map reference 10-2((1))7, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 2, 1983; 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 6.25 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 GRANTED IN PART with the following limitations:

1. This variance is approved for the parking lot and parking areas as shown on the plat submitted with this application.
2. This variance is approved for an extension of the dustless surface for a period of one (1) year to expire on June 6, 1984.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Ribble and Hyland being absent).

Page 62, August 2, 1983, Scheduled 10:30 A.M. case heard at 11:05 A.M.:

10:30 A.M. CARL V. PRATT, appl. under Sect. 3-C03 of the Ord. for modification to minimum yard requirements for R-C lot, located 4337 Carls Ct., Hollymeade Subd., R-C, Springfield Dist., 33-4((2))222, 11,206 sq. ft., SP 83-S-046.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit application subject to the suggested development conditions. Carl Pratt presented his application. He stated that when he purchased his home in 1981, the area was zoned R-2(C), and he planned to build a deck on the rear of the house. Under the R-2(C) zoning the deck would not have required BZA approval. The down-zoning of the area to RC made it impossible for the deck to be built without a special permit. Mr. Pratt proposed to construct an attached near ground level deck and a freestanding gazebo with connecting walkways.

There was no one to speak in support or opposition.

Page 62, August 2, 1983 Board of Zoning Appeals
CARL V. PRATT

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 83-S-046 by CARL V. PRATT under Section 3-C03 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, to allow construction of an attached deck with a gazebo 30 ft. from front lot line and 8 ft.

from side lot line (40 ft. front yard required and 20 ft. side yard required by Sect. 3-C03 of the Ord.), located at 4337 Carls Court, tax map reference 33-4((2))222, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on August 2, 1983; and

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

1. That the property was the subject of final plat approval prior to July 26, 1982. The plat was approved August 21, 1978. The subdivision was recorded on November 25, 1978.
2. That the property was comprehensively rezoned to the R-C District on July 26, 1982.
3. The requested modification in the yard requirements will result in a yard not less than the minimum yard requirement of the zoning district that was applicable to the lot on July 25, 1982.
Prior to July 26, 1982, the property was zoned R-2. The R-2 District requires a front yard of 30 ft. and a side yard of 8 ft. with a total minimum of 24 ft. for a cluster subdivision.
4. It appears that the resultant development will be harmonious with the existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area.

AND WHEREAS, the Board has reached the conclusion that the applicant has met the provisions for the approval of modifications to the minimum yard requirement for certain R-C lots as contained in Section 8-913 of the Zoning Ordinance.

NOW, THEREFORE BE IT RESOLVED that the subject application is GRANTED in accordance with the conditions contained in Appendix 1 of the Staff Report dated July 20, 1983, as follows:

1. This approval is for the location and the specific structure indicated on the plat included with this application, and is not transferable to other land or to other structures on the same land.
2. A Building Permit shall be obtained prior to the start of construction.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Residential use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of the approval of the Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Ribble and Hyland being absent).

Page 63, August 2, 1983, Scheduled 10:40 A.M. case heard at 11:20 A.M.:

10:40 A.M. ERICH E. & BEVERLY A. LENGYEL, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 22.6 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), located 1705 Dalewood Pl., Elnido Estates, R-1, Dranesville Dist., 30-4((37))15, 14,352 sq. ft., VC 83-D-089.

Jane Kelsey reviewed the staff report for the Board. Richard Cregger, 6824 Elm Street, McLean, represented the applicants. He stated that the lot was an irregular pie shape, since it was located on a cul-de-sac. Mr. Cregger stated that the residence was essentially rectangular in shape, with an indented L-shaped area where the proposed addition was desired. In filling in this dent, only the furthest corner of the proposed addition would encroach in the required rear setback. There was no other place to construct the addition due to the slope of the rear yard. There was no opposition from the adjacent neighbors most affected by this proposed addition.

There was no one to speak in support or opposition.

07

RESOLUTION

In Application No. VC 83-D-089 by ERICH E. & BEVERLY A. LENGYEL under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 22.6 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107) on property located at 1705 Dalewood Place, tax map reference 30-4((37))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 August 2, 1983; 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 14,352 sq. ft.
4. That the applicant's property has an unusual condition in the location of the house on the lot and the fact that the encroachment into the setback area is minimal and would only cover four (4) square feet.
5. That the applicants property meets the following required standards for variances from Sect. 18-404 of the Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
C. That the subject property has exceptional topographic conditions.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of this Ordinance would produce undue hardship.
F. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
G. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
H. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
I. That authorization of the variance will not be of substantial detriment to adjacent property.
J. That the character of the zoning district will not be changed by the granting of the variance.
K. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application an is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Ribble and Hyland being absent).

Page 65, August 2, 1983, Scheduled 10:50 A.M. case heard at 11:25 A.M.:

10:50 A.M. GREGORY R. & JUDITH A. MENSINGER, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 4 ft. from side lot line (10 ft. min. side yard req. by Sects. 3-407 & 10-104), located 7422 Paxton Rd., Pimmit Hills Subd., R-4, Dranesville Dist., 40-1((5))(J)4, 10,210 sq. ft., VC 83-D-091.

Jane Kelsey reviewed the staff report for the Board. Gregory Mensinger presented his application. He stated that he had purchased the property in 1976. His lot was very narrow, and to move the garage any further to the middle of the yard would make any entrance to the garage very difficult. Also, it would occupy too much of the available yard space. Mr. Mensinger stated that there was some shrubbery in the rear yard which would be relocated during the construction of the garage.

There was no one to speak in support or opposition.

Page 65, August 2, 1983 Board of Zoning Appeals
GREGORY R. & JUDITH A. MENSINGER

R E S O L U T I O N

In Application No. VC 83-D-091 by GREGORY R. & JUDITH A. MENSINGER, under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 4 ft. from side lot line (10 ft. min. side yard req. by Sects. 3-407 & 10-104) on property located at 7422 Paxton Road, tax map reference 40-1((5))(J)4, County of Fairfax, Virginia, Mrs. 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 August 2, 1983; 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 10,210 sq. ft.
4. That the applicant's property meets the following standards for variances from Sect. 18-404 of the Ordinance:

A. That the subject property was acquired in good faith and at that time the applicant was allowed to build within four (4) feet of the property line.
B. That the subject property had exceptional narrowness at the time of the effective date of the Ordinance;
C. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property. The applicant cannot move the garage over as it would be on a patio that was existing when he bought the property.
D. That authorization of the variance will not be of substantial detriment to adjacent property.
E. That the character of the zoning district will not be changed by the granting of the variance.
F. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application an is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

*The motion failed by a vote of 3 - 2 (Messrs. Smith and Hammack) (Messrs. Ribble and Hyland being absent).

Page 66, August 2, 1983, Scheduled 11:00 A.M. case heard at 11:35 A.M.:

11:00 A.M. FRIENDS OF FAIRFAX STATION, INC., appl. under Sect. 18-401 of the Ord. to allow museum with gravel parking lot (dustless surface req. by Sect. 11-102), located 11120 and 11123 Fairfax Station Rd., R-C, Springfield Dist., 76-2((1))9, 5 acres, VC 83-S-092.

Chairman Smith announced that the notices were not in order for the variance application. It was the consensus of the Board to defer the application to September 27, 1984 at 10:20 A.M.

Page 66, August 2, 1983, Scheduled 11:15 A.M. cases heard at 11:40 A.M.:

11:15 A.M. CHURCH OF THE BLESSED VIETNAMESE MARTYRS, appl. under Sect. 3-303 of the Ord. for addition of land area, building and parking lot to existing church and related facilities, located 7424 Masonville Dr. and 3460 & 3464 Annandale Rd., R-3, Providence Dist., 60-1((1))36, 37 & 46A, 1.3070 acres, SP 83-P-044.

11:15 A.M. REVEREND MONSIGNOR JOHN P. HANNAN, appl. under Sect. 18-401 of the Ord. to allow additions to existing church and related facilities with gravel parking lots (dustless surface req. by Sect. 11-102), located 7424 Masonville Dr. and 3460 & 3464 Annandale Rd., R-3, Providence Dist., 60-1((1))36, 37 & 46A, 1.3070 acres, VC 83-P-084.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit application subject to the suggested development conditions listed. William Enderle, 200 N. Glebe Road, Arlington, represented the applicant. He indicated that there were about 100 families that belonged to the church. This property was not large enough for much future expansion, therefore, the location of the church would probably be moved in about five years. Mr. Enderle asked that condition #6, which stated that the existing driveway entrance closest to Masonville Drive located on Annandale Road shall be removed and be replaced with landscaping, should be changed to say "barricaded" instead of "removed". He did not want to have to remove the existing curb cut. Mr. Enderle stated that presently there was a split rail fence across the driveway entrance. He indicated that any other screening would cause a problem with the site line distance.

With regard to condition number eleven which addressed dedication, Mr. Enderle stated that the church had already dedicated 15 feet from the centerline of Masonville Drive to the edge of pavement. He asked that until Masonville Drive had been designated to be widened, that the church not be required to participate. Also, he asked that the two 30 foot wide entrances also be deferred until such time as the widening takes place. The church did not want to construct curb and gutter since there was none in the area yet. Mr. Hammack stated that he was familiar with the property. It seemed to him that the applicant was expanding the use by acquiring a piece of property, but he was not intensifying the use.

Mr. Enderle stated that there were two masses on Saturday and two masses on Sunday. There was a bible study class conducted in conjunction with the services. There was an eight o'clock mass every weekday.

Citizens speaking in opposition included Bruce Elton, 3546 Annandale Road, adjacent to the subject property on the north side; Ruth Minker, 7435 Mason Lane; and Geraldine Meana, 7430 Masonville Drive. They were concerned that the gravel parking lot had been enlarged without any approval or permits. The neighbors indicated that the gravel caused a big problem with dust when cars used the lot. Mr. Elton stated that he had called Zoning Enforcement in May when the church had started trucking in the gravel. The area with the gravel that had previously been grass caused a severe run-off of water onto his property. Mr. Elton stated that the split rail fence the church had put up was located partially on his property. Mrs. Meana indicated that the church had constructed a tool shed right on the property line adjacent to her lot the previous summer. Also, she asked that the church be required to construct a stockade fence to help block the noise created by the vehicle traffic. The Board indicated that the shed was not a part of the request in this application, and the church had not obtained approval for the shed.

The Board members were concerned that the church had expanded, been using the adjacent property, put in a parking lot and put up a fence without obtaining special permit approval. They asked why this information had not been included in the staff report. Ms. Kelsey stated that she was under the impression that this was a proposed use for this building. She had spoken to Mr. Bakos, a Zoning Inspector, and he had indicated that he had asked the church to cease any improvements until the special permit had been obtained.

During rebuttal, Mr. Enderle stated that the plat prepared for the hearing was a recent survey. He was sure that if anything was encroaching on a neighbors property, it would have shown up in the survey. Mr. Enderle stated that the church would be glad to install any transitional screening the neighbors requested. With regard to the parking lot surface, he stated that the church would be glad to pave it within a years time if the money was available.

CHURCH OF THE BLESSED VIETNAMESE MARTYRS

R E S O L U T I O N

In Application No. SP 83-P-044 by CHURCH OF THE BLESSED VIETNAMESE MARTYRS under Section 3-303 of the Zoning Ordinance for addition of land area, building and parking lot to existing church and related facilities, on property located at 7424 Masonville Drive and 3460 and 3464 Annandale Road, tax map reference 60-1((1))36, 37 & 46A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 2, 1983; 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 1.3070 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Any future remodeling of the buildings on this property shall include proper acoustical treatment measures to the structure(s) so that a 45 dBA ldn interior noise level is achieved.
5. A sign shall be placed near the driveway that is used as an entrance and access to lot 46B to indicate that it is a private driveway. The sign shall be in accordance with Article 12, Signs. The area between the driveway and the church property shall be adequately screened with shrubs so as to prevent use of this driveway for access to the church property.
6. The existing driveway entrance closest to Masonville Drive located on Annandale Road shall be removed and be replaced with landscaping shrubs and low evergreen plantings. The type and size of these plantings shall be determined by the Director, Department of Environmental Management (DEM).
7. Interior parking lot landscaping shall be provided in accordance with Article 13.
8. The maximum number of parking spaces shall be 56 three of which shall be designated as handicapped. The handicapped spaces must meet the provisions of Par. 2 of Sect. 11-102. This total number may be reduced to provide interior parking lot landscaping, provided the minimum required 28 parking spaces is provided.
9. Transitional Screening shall be provided along the north and west lot lines. A modification to the requirement for transitional screening and a barrier along the eastern lot line shall be allowed provided the existing trees remain and are supplemented with low evergreen shrubs. A modification to the requirement of transitional screening and a barrier along the southern lot line shall be allowed provided the existing fence remains and low evergreen shrubs are planted between the trees and along the south side of the building. The extent and type of shrubs shall be determined by the Director, DEM, and shall be of a nature which will not prevent adequate sight distance in accordance with the requirements of DEM and VDH&T.

10. Two (2) 30 foot wide entrances along Masonville Drive shall be provided as indicated on the plat submitted with this application and shall meet all VDH&T standards including being paved 25 feet into the site.
11. Dedication of 26 feet from the centerline of Masonville Drive shall be required.
12. Construction of road improvements shall be required at the discretion of the Director, DEM, at the time of site plan approval.
13. All site improvements as required by this approval shall be completed within one (1) year.
14. Storm water detention facilities shall be provided on site so that no larger quantity of water runoff shall be allowed after development than what had occurred before development of the site.
15. The shed shall be relocated to conform with the Zoning Ordinance provisions of transitional screening.
16. A six (6) ft. high solid wood fence shall be constructed contiguous to all residential property.
17. There shall be no waiver of the dustless surface requirement.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

*The motion failed by a vote of 3 - 2 (Mrs. Day and Mrs. Thonen) (Messrs. Ribble and Hyland being absent).

Page 68, August 2, 1983
REVEREND MONSIGNOR JOHN P. HANNAN/VC 83-P-084

It was the consensus of the Board to withdraw the referenced variance application, without prejudice.

//The Board recessed for lunch at 12:50 P.M. and returned to take up the scheduled agenda at 1:50 P.M.

Page 68, August 2, 1983, Scheduled 11:30 A.M. case heard at 1:55 P.M.:

11:30 A.M. ST. AMBROSE CHURCH, appl. under Sect. 3-103 & 3-203 of the Ord. to amend S-86-76 for church and related facilities to permit construction of additional parking facilities and garage addition to rectory, located 3901 Woodburn Rd., Ilda Subd., R-1 & R-2, Mason Dist., 59-3((1))11A, 14.1991 acres, SPA 76-M-086-1.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit application subject to the suggested development conditions. William Enderle, 200 N. Glebe Road, Arlington, represented the applicant. He stated that the church wanted to expand their parking area. Mr. Enderle felt that the existing screening was adequate. There was a solid forest of pine trees in the area between the new planned parking lot all the way up to Woodburn Road. Mr. Enderle stated that there was no problem with any of the development condition, however, the church asked that they not be asked to provide any barriers adjacent to any existing properties. The church felt that there was already sufficient existing wooded areas.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. SPA 76-M-086-1 by ST. AMBROSE CHURCH under Section 3-103 & 3-203 of the Zoning Ordinance to amend S-86-76 for church and related facilities to permit construction of additional parking facilities and garage addition to rectory, on property located at 3901 Woodburn Road, tax map reference 59-3((1))11A, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 2, 1983; 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 R-2.
3. The area of the lot is 14.1991 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. This approval does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
4. A 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.
5. Unless waived by the Director, Department of Environmental Management, a site plan will be submitted for approval in accordance with the provisions of Article 17.
6. Interior parking lot landscaping in accordance with Article 13 of the Zoning Ordinance shall be required.
7. The number of seats in the main worship hall of the church shall not exceed 600.
8. The number of parking spaces shall be 192 reduced by such number as may be needed to provide interior parking lot landscaping in the expanded area.
9. Transitional Screening shall be provided between the parking area and Woodburn Road in accordance with Article 13 of the Zoning Ordinance. The exact location and type of plantings shall be determined by the Director of Department of Environmental Management. The requirement for a barrier may be waived.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Ribble and Hyland being absent).

Page 69, August 2, 1983, Scheduled 11:45 A.M. cases heard at 2:00 P.M.:

11:45 A.M. ST. CATHERINE OF SIENA CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-80-D-021 for church and related facilities to permit an addition of an overflow gravel parking lot of 100 parking spaces, located 1020 Springvale Rd., Lockmeade Subd., R-1, Dranesville Dist., 12-1((1))32B & 32C, 14.0344 acres, SPA 80-D-021-1.

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11:45 A.M. REVEREND MONSIGNOR JOHN P. HANNAN, appl. under Sect. 18-401 of the Ord. to allow gravel surface overflow parking lot addition to church and related facilities (dustless surface req. by Sect. 11-102), located 1020 Springvale Rd., Lockmeade Subd., R-1, Dranesville Dist., 12-1((1))32B & 32C, 14.0344 acres, VC 83-D-085.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit application subject to the development conditions. William Enderle, 200 N. Glebe Road, Arlington, represented the applicant. He stated that the church was requesting an additional parking area with a gravel surface. Mr. Enderle stated that this church was dedicated about two and a half years ago. There was still a very large debt owed on the church, and they were requesting a gravel parking lot for that reason. Other than that, they planned to pave the lot as soon as they got the money to do it. Mr. Enderle stated that this site was entirely wooded on the south and east section, creating an effective barrier to those adjoining property owners. To the west is a floodplain area that is attractively wooded. The north and eastern portion of the boundary is Springvale Road. He stated that the church had planted sufficient landscaping.

Philip Olson, 320 Cheasapeake Drive, Great Falls, spoke in support of the application. He stated that the additional parking would be a benefit to the motorists on Springvale Road, and would not have any negative impact on the neighbors due to the densely wooded area around the church. There was no one to speak in opposition to the request.

ST. CATHERINE OF SIENA CHURCH

R E S O L U T I O N

In Application No. SPA 80-D-021-1 by ST. CATHERINE OF SIENA CHURCH under Section 3-103 of the Zoning Ordinance to amend S-80-D-021 for church and related facilities to permit an addition of an overflow gravel parking lot of 100 parking spaces, on property located at 1020 Springvale Road, tax map reference 12-1((1))32B & 32C, 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 August 2, 1983; 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 14.0344 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. This approval does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
4. Unless waived by the Director, Department of Environmental Management, a site plan will be submitted for approval in accordance with the provisions of Article 17.
5. Where there is existing vegetation, such may be substituted for the required Transitional Screening and shall be supplemented if it is deemed necessary by the Department of Environmental Management. Transitional Screening 1 shall be required to screen the proposed parking areas from the adjacent residential land. A barrier shall not be required.

6. Seating capacity in the principal area of worship shall not exceed 454.
7. Interior parking lot landscaping in accordance with Article 13 of the Zoning Ordinance shall be required.
8. The total number of parking spaces shall be 217 if such a number can be obtained within the same parking area as shown on the plat with the provision of interior parking lot landscaping in the proposed parking area. If not, such a number may be reduced to comply with this requirement.
9. Dedication shall be required for the right-of-way for the realignment of Springvale Road as shown on the original approved site plan or a formal agreement shall be executed between the applicant and the County to assure dedication is provided at some future date.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Ribble and Hyland being absent).

R E S O L U T I O N

In Application No. VC 83-D-085 by REVEREND MONSIGNOR JOHN P. HANNAN under Section 18-401 of the Zoning Ordinance to allow gravel surface overflow parking lot addition to church and related facilities (dustless surface req. by Sect. 11-102) on property located at 1020 Springvale Road, tax map reference 12-1((1))32B & 32C, County of Fairfax, Virginia, Mrs. 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 August 2, 1983; 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 14.0344 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. Hammack seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Ribble and Hyland being absent).

Page 71, August 2, 1983, Scheduled 12:00 Noon case heard at 2:20 P.M.:

12:00 Noon ANDREW CHAPEL METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. for bell tower and building addition to existing church and related facilities, located 1301 Trap Rd., R-1, Dranesville Dist., 19-4((1))47, 5.8364 acres, SP 83-D-045.

William Shoup reviewed the staff report for the Board which recommended approval of the special permit subject to the development conditions listed. Geoffrey Coon, an architect at 11484 Washington Plaza, Reston, presented the application. Mr. Coon stated that the proposed addition would provide additional classroom space, a storage room for

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general church supplies, and storage space for choir robes. He stated that due to the size of the project and the impact on site, the church wanted to have conditions number 7, 8, 9 & 10 deleted from the application until such time as they participated in a major expansion of the building. The church expected no impact on the existing traffic patterns and parking requirements.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. SP 83-D-045 by ANDREW CHAPEL METHODIST CHURCH under Section 3-103 of the Ordinance for bell tower addition to existing church and related facilities, on property located at 1301 Trap Road, tax map reference 19-4((1))47, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 2, 1983; 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 5.8364 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan will be submitted for approval in accordance with the provisions of Article 17.
5. Seating capacity in the principal area of worship shall remain two hundred (200).
6. Sixty (60) parking spaces shall be provided, two of which shall be designated as handicapped parking spaces. The location of the handicapped parking spaces shall be at the determination of the Director, Department of Environmental Management.
7. Peripheral parking lot landscaping shall be provided in accordance with Article 13.
8. The transitional screening and barrier requirement may be modified to recognize existing vegetation.
9. Dedication of right-of-way for public street purposes shall be required along Trap Road and Leesburg pike. The amount of dedication shall be determined at the time of site plan review by the Director, Department of Environmental Management upon coordination with the Office of Transportation.
10. Construction of improvements within the dedicated right-of-way shall be required at the determination of the Director, DEM.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Ribble and Hyland being absent).

Page 73, August 2, 1983, Scheduled 12:15 P.M. case heard at 2:30 P.M.:

12:15 P.M. OAKTON BAPTIST TEMPLE, appl. under Sect. 3-103 of the Ord. for a church and related facilities, located 2828 Hunter Mill Rd., Rice Subd., R-1, Providence Dist., 47-2((12))8, 2.0 acres, SP 83-P-048.

(FOR DETAILED INFORMATION ON THE HEARING, PLEASE REFER TO THE VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE)

The referenced special permit application of the Oakton Baptist Temple was deferred to September 27, 1984 at 10:30 A.M. for decision only.

Page 73, August 2, 1983, Scheduled 12:30 P.M. case heard at 3:15 P.M.:

12:30 P.M. TYSONS-BRIAR, INC., appl. under Sect. 3-103 of the Ord. to amend S-82-C-025 for community swimming and tennis club to change hours of operation, located 9117 Westerholme Way, R-1, Centreville Dist., 28-4((1))45A & 47, 6.696 acres, SPA 82-C-025-1.

Jane Kelsey reviewed the staff report for the Board which recommended approval, in part, of the special permit application subject to the suggested development conditions. William Donnelly, an attorney in Fairfax, represented the applicants. Mr. Donnelly stated that when a previous permit had been amended on November 27, 1979 in application S-134-78, to permit two additional tennis courts, the hours of operation were changed to 9:00 A.M. to dusk. He believed that this was inadvertent since the hours of operation were not the subject of that meeting. Mr. Donnelly stated that this error was carried forward in the latest amendment granted on January 11, 1983 in application S-82-C-025, relating to the elimination of a proposed parking lot. Mr. Donnelly stated that he felt the requested hours were reasonable.

Citizens speaking in support included Rosemary Lampher, 1752 Wexford Way; Francine Decker, 1754 Wexford Way; and the President of the Wexford Community Association. There was no one to speak in opposition.

R E S O L U T I O N

In Application No. SPA 82-C-025-1 by TYSONS-BRIAR, INC. under Section 3-103 of the Zoning Ordinance to amend S-82-C-025 for community swimming and tennis club to change hours of operation, on property located at 9117 Westerholme Way, tax map reference 28-4((1))45A & 47, 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 August 2, 1983; 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 6.696 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is for a change in the hours of operation for the facility as follows:
   o Pool, 9:00 A.M. to 9:00 P.M. with six (6) special swim and diving functions per year being allowed to begin at 8:00 A.M.
(Management and lifeguards can be in the pool area for maintenance and cleanup outside of the specified hours of operation, but the pool cannot be open for business.)

After hour parties for the swimming pool shall be governed by the following:

   o Limited to six (6) per season.
   o Limited to Friday, Saturday and pre-holiday evenings.
   o Shall not extend beyond 12:00 midnight.
   o Shall request at least (10) written days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
   o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after hour party.
   o Tennis, 7:00 A.M. to 10:00 P.M. The lights are to be controlled by an automatic timing devise to shut off at 10:00 P.M.

3. No loudspeakers shall be allowed except for the special swim and diving meets.
4. All other conditions of S-82-C-025 shall remain in full force and effect.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Ribble and Hyland being absent)

Page 74, August 3, 1983, Scheduled 12:45 P.M. case heard at 3:30 P.M.:

12:45 P.M. ALFRED M. AND LORE K. ARAUJO AND SYDENSTRICKER SCHOOL, INC., appl. under Sect. 3-103 of the Ord. to amend S-745-67 for a school of general education to permit deletion of land area, located 7001 Sydenstricker Rd., R-1, Springfield Dist., 89-1((1))12, 4.167 acres, SPA 67-S-745-1.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit subject to the development conditions. Ms. Kelsey stated that there were no major problems with this application provided that there is an easement executed that would assure permanent availability of the driveway across parcel A to give permanent access to the school. This had been included in the development conditions. There were no changes proposed in the existing school.

Steven Araujo, 7313 Golden Irish Court, Springfield, presented the application. He agreed to comply with all the development conditions listed in the staff report. Mr. Araujo handed the Board members several letters in support from neighboring property owners. He stated that this lot was being deleted from the special permit in order to create a lot for a single family dwelling for the applicant's.

Debra Murphy, 8804 Side Saddle Road, spoke in support of the application.

R E S O L U T I O N

In Application No. SPA 67-S-745-1 by ALFRED M. AND LORE K. ARAUJO AND SYDENSTRICKER SCHOOL, INC. under Section 3-103 of the Zoning Ordinance to amend S-745-67 for a school of general education to permit deletion of land area, on property located at 7001 Sydenstricker Road, tax map reference 89-1((1))12, County of Fairfax, Virginia, Mrs. 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 August 2, 1983; 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 4.167 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. A subdivision plat shall be submitted and approved by the Director, Department of Environmental Management (DEM).
5. An easement shall be recorded among the land records of Fairfax County to provide for the permanent entrance and access to Lot B through Lot A.
6. The number of children for this school shall be a total of 70 children in each of the two sessions per day.
7. The hours of operation shall be 9 A.M. to 4 P.M., Monday through Friday.
8. There shall be a total of ten (10) parking spaces.
9. The owners of parcel B shall be required to maintain the easement year round .

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 - 1. (Mr. Smith) (Messrs. Ribble and Hyland being absent)

Page 75, August 2, 1983, Scheduled 1:00 P.M. case heard at 3:50 P.M.:

1:00 P.M. BERRY LAND DEVELOPMENT COMPANY, appl. under Sect. 8-901 of the Ord. for modification to minimum yard requirements for an R-C lot to allow construction of dwelling 12 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-C07), located 6900 Winners Circle, Canterberry Estates II, R-C, Springfield Dist., 87-1((8))21, 25,822 sq. ft., SP 83-S-052.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit application subject to the development conditions listed in the report. Chip Paciulli, 307 Maple Avenue West, Vienna, represented the applicant. He stated that the property was approved and recorded as of March, 1982 and was rezoned to the R-C District on July 26, 1982. At the date of it's recordation, the 12 foot side yard was the required setback. This was used in siting other homes in the development which were built prior to the downzoning. Mr. Paciulli felt that this granting would allow the siting of the home to be harmonious with the existing development.

There was no one to speak in support or opposition.

RESOLUTION

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 83-S-052 by BERRY LAND DEVELOPMENT COMPANY under Section 8-901 of the Fairfax County Zoning Ordinance for modification to minimum yard requirements for an R-C lot, to allow construction of dwelling 12 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-C07; 12 ft. min. side yard req. by Sect. 3-107), located at 6900 Winners Circle, tax map reference 87-1((8))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 August 2, 1983; and

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

1. That the property was the subject of final plat approval prior to July 26, 1982.
2. That the property was comprehensively rezoned to the R-C District on July 26, or August 2, 1982.
3. That such modification in the yard shall result in a yard not less than the minimum yard requirement of the zoning district that was applicable to the lot on July 25, 1982.
4. That the resultant development will be harmonious with existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area.

AND WHEREAS, the Board has reached the conclusion that the applicant has met the provisions for the approval of modifications to the minimum yard requirement for certain R-C lots as contained in Section 8-913 of the Zoning Ordinance.

NOW, THEREFORE BE IT RESOLVED that the subject application is GRANTED in accordance with the conditions contained in Appendix 1 of the Staff Report dated July 14, 1983 as follows:

1. This approval is for the location and the specific structure indicated on the plat included with this application prepared by Paciulli, Simmons & Associates and is not transferable to other land or to other structures on the same land.
2. A Building Permit shall be obtained prior to the start of construction.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinance, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 0 (Messrs. Ribble and Hyland being absent)

Page 76, August 2, 1983, Scheduled 1:15 P.M. case heard at 4:00 P.M.:

1:15 P.M. CHRISTIAN FELLOWSHIP CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-196-77 for church and related facilities to permit addition of land area and construction of additional parking lot with 171 spaces, redesign existing parking lot to increase total parking to 361 spaces and add parking lot lights, located 10237 Leesburg Pike, Dranesville Dist., R-1, 18-2((7))A, B, & C, 7.5472 acres, S-82-D-066. (DEFERRED FROM OCTOBER 28, 1982 AT THE REQUEST OF THE APPLICANT, FROM MAY 3, 1983 FOR A PROGRESS REPORT ON THE REVISED SITE PLAN AND TO ALLOW TIME FOR THE APPLICANT TO COMPLETE PAVING AND CONSTRUCTION, FROM JUNE 14, 1983 FOR ADDITIONAL INFORMATION AND FROM APPROVED PLATS, AND FROM JULY 26, 1983 TO ALLOW THE CHURCH AN OPPORTUNITY TO WORK WITH CITIZENS ON THE SCREENING AND TO PROVIDE THE STAFF WITH PLATS)

Jane Kelsey reviewed the staff report for the Board. She stated that the applicant had submitted the new plats requested by the Board and they contained all the information that staff felt was necessary for the Board to make a decision. They combined the proposed parking lot with the existing church lot. They showed the play area and the steps going up to the parking lot and the driveway. Ms. Kelsey stated that the transitional screening and barrier had been included on the plat, although she had asked that it be left off. She felt that the neighbors and the applicant had never reached any

firm conclusion regarding the required transitional screening, and she wanted comments from the Board members. Mrs. Kelsey indicated that the storm drainage pond had not been constructed because the site plan was not yet approved. The interior parking lot landscaping islands had been constructed and some plantings had been installed, however, it did not appear to be complete. The lower parking lot along Leesburg Pike had been installed but had not yet been paved. Screening had not yet been provided between that parking lot and Leesburg Pike. Ms. Kelsey stated that there were eight busses and one construction trailer on site. Three of the busses were used for storage, one was without a tire, two had invalid inspection stickers, and that left two which might be operable. The applicant indicated that they were endeavoring to sell the busses, although they had remained on the property for quite some time.

Jim Jansen, a trustee with the church, 1406 Chopin Street, Vienna, spoke regarding the application. He stated that the church had applied for a waiver of the storm water detention system. The County inspector as well as the construction manager on the job were under the impression that it had been granted. As it turned out, it was not granted. The pond was to be built on the adjacent five acres. Mr. Jansen stated that drawings had been submitted to the County, and it was his understanding that it was approved the day before. During questioning from the Board, Mr. Jansen stated that the church had a non-residential use permit for the building only.

Virginia McGavin, 10305 Leesburg Pike, spoke in opposition to the application. She asked that the Board include the storm water detention pond in the development conditions to assure the neighbors that it would be installed. Ms. McGavin stated that she felt that the church should construct a solid wood fence to prevent headlight glare and prevent people from cutting through the properties. She was concerned about getting assurance that the church would construct the fence and install transitional screening promptly. Ms. McGavin stated that her greatest concerns were the water detention issue and the transitional screening, some of which appears to be substandard.

Charles Steinmetz, 1304 Tulip Poplar Lane, an adjoining property owner, spoke in opposition. He stated that he was opposed to the granting of this amendment to the original church permit, until such time as all the deficiencies on lots A & B are corrected. He felt that at this point the Board had some leverage to get the church to comply with all the conditions. Mr. Steinmetz stated that even under the microscope of the BZA, the church still goes ahead and does everything in a substandard manner. Chairman Smith stated that the applicant had indicated that all the deficiencies would be corrected and completed within six months of the granting of this special permit. It was his understanding that no work would commence on lot C unless everything was completed on the other two lots.

Brent Miller, 1301 Tulip Poplar Lane, an adjoining property owner, spoke in opposition. His concern was that the past performances of the church were an indication that this organization was not going to apply itself to the completion of the existing deficiencies. He stated that his lot was downhill from the proposed parking lot, and he was concerned about the drainage problems he might suffer. Mr. Miller stated that the church was already using the property on a regular basis for a parking lot, and had been for over a year. Chairman Smith replied that it was the job of the Zoning Enforcement to take care of problems such as that. He stated that the Board had no jurisdiction in that area. Mr. Hammack stated that he differed with the Chairman's statement. There was a whole page in the staff report of things the church had not done to comply with the prior special permits, and some of the responsibility had to come back to the BZA. Mr. Hammack stated that the Board had a good case for denying this use permit, because they had not been able to correct deficiencies in a timely manner. Mr. DiGiulian stated that there should be some way the neighbors could be assured that the site work required on the first phase on construction will be completed in a manner acceptable to Fairfax County, prior to any construction on the back parking lot or any use of that area.

James Ahlemann, the pastor of the church, spoke regarding the application. He stated that the church had such rapid growth that they had outgrown the parking lot. He stated that he had informed the neighbors that he was submitting a site plan for a parking area on Parcel C. At the time the plan was submitted to Fairfax County, he learned that the church was not in compliance with the other two parcels. Rev. Ahlemann stated that before the church started parking on Parcel C, he had talked to the neighbors to get their feelings on the subject. He indicated that the neighbors had given their approval.

Mrs. Thonen stated that she was upset that so many deficiencies still existed. The busses were still there, and a new amendment from the Board of Supervisors stated that it was illegal to store any vehicles that were not operating. Rev. Ahlemann stated that they were delinquent on moving the busses, and that he had some being hauled away and two for sale. He stated that at this point, four busses would be kept on site.

Mr. Hammack questioned Rev. Ahlemann about the lower parking lot that was approved with the original application that had not been paved. Rev. Ahlemann stated that they had just added that parking lot a few months ago. He hoped that they could pave that lot and parcel C at the same time. Rev. Ahlemann stated that he had tried to get the site plan approved, because the parking situation was so desperate. He stated that during the two services, attendance was over 1,200 people. Mr. Hammack stated that the church could schedule more services and spread the congregation out a little bit. Rev. Ahlemann stated that the church now had three services every Sunday.

Jim Jansen stated that the church was operating as fast as they could to rectify the problems. He stated he wanted to put special trees in the parking lot, maple crimson king in particular. They were not available at that time, therefore, those plantings were not done. Mr. Jansen stated that the church had planted 88 trees already. He showed the Board a copy of the contracts from the nursery showing what the church had purchased, which showed 70 white pines and 18 maple crimson kings. Mr. Hammack stated that the church had had plenty of time to complete the plantings since the October BZA hearing. He stated that the Board had gone around on the plantings several times with the church, and he felt the Board had a hard time getting the church moving. Mr. Jansen stated that since the church had found out they were in violation, they had consistently tried to rectify the problems. He stated that the church needed this permit approved so they could take dirt from the upper parking lot to use in the dam. This would also help shield the neighbors from headlight glare.

There was no one else to speak regarding the special permit application.

Page 78, August 2, 1983 Board of Zoning Appeals
CHRISTIAN FELLOWSHIP CHURCH

R E S O L U T I O N

In Application No. S-82-D-066 by CHRISTIAN FELLOWSHIP CHURCH under Section 3-103 of the Zoning Ordinance to amend S-196-77 for church and related facilities to permit addition of land area and construction of additional parking lot with 171 spaces, redesign existing parking lot to increase total parking to 361 spaces and add parking lot lights, on property located at 10237 Leesburg Pike, tax map reference 18-2((7))A, B & C, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 2, 1983; 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 7.5472 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. This approval does not constitute an exemption from the legal and procedural requirements of this County and State. The applicant shall obtain a Non-Residential Use Permit for the entire site.
4. 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.
5. Transitional Screening 1 and Barrier F shall be required along the northwestern, southern and eastern boundaries of the proposed parking lot. Transitional Screening of six (6) foot trees and additional low evergreen screening shall be provided along these boundary lines as well as the eastern boundary line of the existing parking lot which is adjacent to parcel H as may be determined by the Director of the Department of Environmental Management (DEM) to assure that vehicle headlights are adequately screened from the residential development. A barrier F shall be provided which is a six (6) foot stockade fence along the eastern boundary of the existing lot adjacent to parcel H. This shall be accomplished within six (6) months from this date.
6. Interior and peripheral parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance as may be determined by the Director of DEM.

7. Parking lot lights for the proposed lot shall be no higher than eight (8) feet and shall be directed on site.
8. The buses that are being uses for storage and not operating must be removed twenty-one (21) days after approval of S-82-D-066.
9. Off-site storm retention shall be provided with approved engineering plans to accommodate run-off from this site prior to the approval of a Non-Residential Use Permit.
10. There shall be no use of the property (parcel C) until all deficiencies are cleared up in Phase I. The dirt can be removed from parcel C to put in the detention pond, but parcel C cannot be used for parking.
11. Parking on parcel C must come in conformance with the Ordinance.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Hyland and Ribble being absent)

Page 79, August 2, 1983, AFTER AGENDA ITEMS:

DR. DEBORAH K. TABB/SP 83-D-060: The Board was in receipt of a letter requesting an out-of-turn hearing on the referenced special permit application. It was the consensus of the Board to deny the request.

Page 79, August 2, 1983, AFTER AGENDA ITEMS:

SEOL PRESBYTERIAN CHURCH/S-81-S-021 & V-81-S-056: The Board was in receipt of a letter requesting an extension of the referenced permits. It was the consensus of the Board to deny the request.

//There being no further business, the Board adjourned at 5:00 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: Jan 15, 1985 Approved: Jan 22, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held at Luther Jackson Intermediate School on Tuesday, September 6, 1983. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble; and Mary Thonen. (Mr. John DiGiulian was absent).

The Chairman opened the meeting at 10:25 A.M. and Mrs. Day led the prayer.

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

10:00 A.M. NANCY JEAN FARMER/STEPHEN DULL, appl. under Sect. 2-419 of the Ord. to allow existing garage to remain 1.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 1326 Ranleigh Rd., Ranleigh Retreat Subd., R-2, Dranesville Dist., 31-2((1))88D, 41,721 sq. ft., SP 83-D-032. (DEFERRED FROM JULY 12, 1983 FOR NOTICES.)

The Clerk informed the Board the required notices were in order. Ms. Kelsey presented the staff report. Mr. Hyland inquired as to whether staff was able to determine how the previous owners, the Hansoms, had not complied with the side lot line restriction. Ms. Kelsey stated that the Hansoms had not constructed the garage. It had been constructed after they sold the property to another owner. However, there was not any record to confirm that. The Hansoms had owned this lot and a contiguous lot and had sold it to the Wards. Ms. Farmer had purchased the property from the Wards and was now selling the property to Mr. Dull.

The Board questioned how this came to the attention of Zoning. Mr. Dull replied that he had examined the plat and noticed that the garage did not meet the side lot restrictions. Mr. Dull stated that he was the contract purchaser of the property. Mr. Dull resided at 4601 S. 31st Street in Arlington. He stated that the garage was a part of the house and he had filed the variance to allow it to remain. Unbeknown to Mrs. Farmer, the garage did not meet the requirements of the Ordinance. In response to questions from the Board, Mr. Dull stated that he had discovered the problem before settlement of the property. Mrs. Farmer had purchased the property in March of 1982 and had tried to sell the house shortly after that. The Board questioned why Mrs. Farmer had not come to the BZA for a variance when she purchased the property. Mr. Dull replied that perhaps Mrs. Farmer was reluctant not to close the deal on the property because it was obtained through a bankruptcy. She got a good deal on the house.

Mr. Dull stated that the garage was a small woodframe structure which could house two cars. Mr. Dull stated that the garage did not affect the adjacent lots. The property had been subdivided in the past. Mr. Dull informed the Board that no one objected to the garage.

Mr. Larry Becker, an attorney in McLean, represented Mr. Hansom, owner of lots 2 and 3. Mr. Hansom was the one who sold lot 1 to Mr. and Mrs. Ward who built the garage. Mr. Hanson was opposed to the garage as it was an eyesore and not very well constructed. He stated this was a very exclusive neighborhood and the garage did not fit into the surrounding area. Mr. Hansom wanted to develop his property and had negotiations with the Wards at the time they built the garage to keep the easement through the property. They were never able to work out an agreement. Mr. Becker stated that when the property was sold to Mrs. Farmer, she was made aware of the objection of Mr. Hansom. During this time, there were negotiations to swap land to bring the garage into compliance and to provide the easement for Mr. Hansom. Since that time, Mr. Hansom had made other arrangements to build his own road rather than using the easement.

During questioning, it was determined that the garage was constructed in non-compliance. It was an unusual situation because there was not enough land to utilize the facility. The garage was not usable for anything other than storage. Mr. Hanson stated that the garage was almost on his property. The concrete did extend onto his property which he objected to.

There was no one else to speak in opposition. During rebuttal, Mr. Dull stated that the garage was not unsightly and of poor construction. Mr. Hansom had renovated the house in 1980. The garage was identical to the house. The roof was cedar shake. The paint was in good condition. The roof and the siding were comparable to the house. The garage was finished on the inside. It lacked windows but was very servicable.

Mr. Dull stated that he had talked to Mr. Hansom earlier in the year because he was curious about his plans for development. He stated that he had not heard anything from him since then. Mr. Dull stated that he had always gotten his information secondhand. He stated that he had talked to the Wards about the garage and they had used the easement on lot 2.

Mr. Hammack inquired if the Wards lived in the State of Virginia and whether there had ever been an application made for a variance. Chairman Smith stated that even a variance would not have legalized the garage because there was not a building permit for the construction of the garage.

September 6, 1983
NANCY JEAN FARMER/STEPHEN DULL
(continued)

Mr. Hammack stated that Mr. Dull had bought into the property with some knowledge of the situation and Mrs. Farmer was aware of the violation but went ahead and settled anyway. Mr. Hammack stated that before the BZA made its decision, he was very much disinclined to approve a special permit that was so contrary to the statutes which would require a trespass on adjacent property or the relocation of the existing garage door. Mr. Hammack stated that Mr. Dull had some kind of recourse against Mrs. Farmer. Whatever the BZA did would set off a chain reaction of recourses. The only other course of action was a slap on the wrist which could affect Mr. Hansom and the other two lots. Mr. Hammack stated that his inclination was to defer decision for 30 to 60 days to work out the easement necessary for Mr. Hansom and the development of the adjacent lots and allow Mr. Dull to retain the existing garage. Mr. Hammack stated that he wanted to encourage all parties to negotiate fairly. It was suggested that the Board defer the decision until October 11, 1983 at 12:15 P.M. Mr. Hyland inquired whether 30 days would be sufficient time to work out the problem.

It was the consensus of the Board to defer decision until November 1, 1983 at 10:30 A.M. Chairman Smith suggested that Mrs. Farmer be present at the next hearing. During the meantime, the Board requested staff to research whether there was ever a variance filed by Mr. Eric B. Ward. Mrs. Thonen asked if the garage could be inspected by the County officials. Ms. Kelsey responded that DEM did not inspect until a building permit has been issued. The applicant could not obtain a building permit until the special permit has been approved.

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Page 81, September 6, 1983,

10:10 A.M. PETER W. MORGAN, appl. under Sect. 18-401 of the Ord. to allow construction of screened porch and deck addition to dwelling to 15.2 ft. from rear lot line (25 ft. min. rear yard for porch req. by Sect. 3-507), located 9420 Wrought Iron Ct., Starlit Ponds Subd., R-5, Annandale Dist., 58-3((16))117, 5,081 sq. ft., VC 83-A-093.

Ms. Jane Kelsey presented the staff report. She informed the Board that the applicant could build the porch but was not allowed to build the deck without a variance. Mr. Peter W. Morgan of 9420 Wrought Iron Court in Fairfax informed the Board that he had purchased the property from Ryan Homes. He had a very small lot and did not realize how restrictive the Ordinance could be when he opted to have a sliding glass door built in his dining room. The door went nowhere but to a 5 ft. drop. Mr. Morgan stated that some sort of structure needed to be built there. What he was allowed to build would be very minimal so he had opted for a variance in order to have a usable structure. Mr. Morgan stated that his proposed addition was aesthetically pleasing and would architectually blend in with the rest of the buildings in the development.

In response to questions, Mr. Morgan stated that he had owned the property for 2½ years. It was a new house and a new subdivision. Mr. Morgan stated that Ryan Homes had offered a deck as an option but he had not been satisfied with what was offered. Mr. Morgan stated that he started getting bids on his proposal and discovered that he needed to apply for a variance. Mr. Morgan stated that he got the idea for his proposed addition from his parents as they had a similar structure on their home. Mr. Morgan stated that his immediate neighbors all had decks. One of the decks was larger than what he proposed and two were smaller. None of the others had a screened porch because of the procedure for a variance.

When informed he could build the deck without a variance, Mr. Morgan replied that he did not feel an open deck was protection from insects. Mr. Morgan informed the Board that he felt the nine standards were satisfied in his case. He had a small, shallow lot with an exceptional topographic condition. Chairman Smith stated that the shallow lot was a characteristic of all the lots in the subdivision. The builder had allowed room for a 6 ft. deck at the rear of the house. Mr. Morgan stated that all of the decks exceeded 6 ft. although not all of the lots had the same square footage and the same distance from the house to the rear lot line. Mr. Morgan stated that this was a reasonable addition and would enhance his family lifestyle and the value of his home.

Mr. Morgan stated that it would cause a hardship if the variance were not granted. He stated that he was a new homeowner and was not aware of all the regulations. Ryan Homes had not clued him in on the regulations. Mr. Morgan stated that his hardship was ignorance and he was not an ignorant person. He stated that he was not proposing something unreasonable and only wanted to build an addition to his home.

After much discussion among the Board members as to the requirements of the Ordinance and the convenience of the homeowners, the Chairman stated that this was a general condition in the subdivision. If the Board felt that the applicant should be allowed to put additions onto a large home which was situated on small lots, then there should be some general regulation by the Board of Supervisors to provide that.

Mr. Howard Young of Oliver Street in Fairfax spoke in support of the variance. He stated that he was a contractor and had looked at Mr. Morgan's house. He did not have any other way to come off the back of the house except at the sliding glass door. A 6 ft. addition would not be feasible and was not worth constructing.

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

R E S O L U T I O N

In Application No. VC 83-A-093 by PETER W. MORGAN under Section 18-401 of the Zoning Ordinance to allow construction of screened porch and deck addition to dwelling to 15.2 ft. from rear lot line (25 ft. min. rear yard for porch req. by Sect. 3-507), on property located at 9420 Wrought Iron Ct., tax map reference 58-3((16))117, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 6, 1983; 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-5.
3. The area of the lot is 5,081 sq. ft.
4. That the applicant meets all of the following conditions:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject propery or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship. The applicant has sliding glass doors on the back of his house and that's his only exit. Several of the other houses do have porches.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific additions shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

R E S O L U T I O N

3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion *FAILED by a vote of 2 to 4 (Messrs. Smith, Hyland, Hammack and Ribble)(Mr. DiGiulian being absent).

Page 83, September 6, 1983, Scheduled case of

10:20 A.M. ROBERT J. KELLEY & WILLIAM C. BROWN, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, proposed lot 2 having area of 13,648 sq. ft. and proposed lots 1, 2 & 3 having widths of 78.5 ft., 81.4 ft. and 98.8 ft. respectively (15,000 sq. ft., mon. lot area and 100 ft. min. lot width req. by Sect. 3-206), located 2411 Popkins Ln., R-2, Mt. Vernon Dist., 93-3((1))19A & 19B, 68,293 sq. ft., VC 83-V-094.

The variance application was deferred until October 4, 1983 at 12:00 Noon to be heard in conjunction with a special permit application.

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Page 83, September 6, 1983, Scheduled case of

10:30 A.M. HOBART B. PILLSBURY, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 5.7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 5633 Inverchapel Rd., Ravensworth Subd., R-3, Annandale Dist., 79-2((3))(24)7, 13,699 sq. ft., VC 83-A-095.

Ms. Jane Kelsey presented the staff report. Mr. Hobart Pillsbury of 5633 Inverchapel Road informed the Board that his house was situated in the center of the property which left a choice of encroaching on one side or the other. The driveway was already located on the lefthand side of the lot. The driveway sloped down. The lot sloped up to the right. Mr. Pillsbury stated that his neighbor had a short back yard. The house on the other side had a lot of ground. Mr. Pillsburg stated that his neighbor on the left had excavated his property in order to build a garage. Mr. Pillsburg stated that he had chosen the most practical place to place his garage. There was a brick wall which had been built 16 years ago. Mr. Pillsbury stated this was his retirement house. There were two sheds on the lot. Mr. Pillsburg stated that he wanted a place to store equipment and to get rid of the other buildings.

In response to questions from the Board, Mr. Pillsburg stated that he had owned the property for 16 years. When he first bought the property, it was not to be his retirement home. However, Mr. Pillsbury stated that he had two children in college. Mr. Pillsbury informed the Board that his neighbor had constructed a garage 6 or 7 ft. from the lot line with a variance.

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

Page 83, September 6, 1983 Board of Zoning Appeals
HOBART B. PILLSBURY

R E S O L U T I O N

In Application No. VC 83-A-095 by HOBART B. PILLSBURY under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5.7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 5633 Inverchapel Road, tax map reference 79-2((3))(24)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 September 6, 1983; 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 13,699 sq. ft.
4. That the applicant's property has exceptional topographic conditions to the rear which restricts placement of a garage in that location. The logical location for a garage would be on either side of the structure and there's an existing concrete driveway on the end of it. The size of the garage appears to be reasonable being 14 ft. wide. The garage could not be located elsewhere without requesting a variance. This is not a general condition in the area. It is noted that a variance was granted for 10t 8 and, further, that there's a garage located 6 ft. from the property line parallel to the proposed garage.

RESOLUTION

IN ADDITION TO THESE MATTERS, the applicant has satisfied the standards below:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the grnating of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific additions shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional is approved by the BZA because of the occurrence of condition- unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

3. A Building Permit shall be obtained prior to the start of construction.

Mr. Ribble seconded the motion.

The motion *FAILED by a vote of 3 to 3 (Messrs. Smith, Hammack and Mrs. Thonen)(Mr. DiGiulian being absent).

Page 84, September 6, 1983, Scheduled case of

10:40 A.M. IRVING & PHYLIS CASSELL, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 4.0 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), located 3804 Tall Oak Ct., Sleepy Hollow Woods Subd., R-3, Mason Dist., 60-4((16))(C)5, 12,399 sq. ft., VC 83-M-096.

Ms. Jane Kelsey presented the staff report. Mr. Irving Cassell of 3804 Tall Oak Court in Annandale informed the Board that he and his wife had owned the property for 23 years. They had purchased the property before construction started. At that time, a carport was not a determination. During the years, however, he had found it difficult to clean the cars. Two years ago, Mr. Cassell had broken his neck in 3 places stepping out on his porch. A carport would eliminate ice and snow. Mr. Cassell stated that the only practical place to place the carport was on the right side of the house. The other side was ½ ft. wider but would still require a variance and with none of the advantages. Mr. Cassell stated that he could not in the back because of the pool.

In response to questions from the Board, Mr. Cassell stated that there were many other carports built in the surrounding area. However, he was not aware of any carport built by a variance procedure. Mr. Cassell stated that many of the other lots had a wider front than his lot. There were other lots like his which would also require a variance. Mr. Cassell stated that his neighbor's house on lot 4 was located about 16.6 ft. from the side lot line. They did not have a garage or a carport. However, 50% of the neighborhood had garages or carports. Mrs. Day inquired if the proposed 16 ft. carport could be built smaller and was informed it could not.

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

Page 85, September 6, 1983 Board of Zoning Appeals
IRVING & PHYLIS CASSELL

R E S O L U T I O N

In Application No. VC 83-M-096 by IRVING & PHYLIS CASSELL under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 4.0 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), on property located at 3804 Tall Oak Ct., tax map reference 60-4((16))(C)5, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 6, 1983; 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 12,399 sq. ft.
4. That the applicants' property has to comply with all nine standards as listed below:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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. Hammack seconded the motion.

The motion passed by a vote of 3 to 3 (Mr. Hyland, Mrs. Day and Mrs. Thonen)(Mr. DiGiulian being absent).

Page 86, September 6, 1983, Scheduled case of

10:50 A.M. OLAM TIKVAH PRESCHOOL, INC., appl. under Sect. 3-103 of the Ord. to amend S-81-P-068 for nursery school to permit relocation to new facilities on site and to permit continuation of the use beyond its present term ending January 12, 1984, located 3800 Glenbrook Rd., Sunny Hills Subd., R-1, Providence Dist., 58-4((9))17, 17A, 17B, 18A & 18B, 4.25205 acres, SPA 81-P-068-1.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit application subject to the conditions set forth in Appendix I. Ms. Enid Leiss represented the nursery school. She informed the Board that the school was a separate entity from the synagogue. Some Board members questioned the traffic issues, etc. that had been discussed at the last hearing with respect to the synagogue. Ms. Leiss stated that the traffic study which had been conducted by the County had included the nursery school. The Bridge Club had been removed. Ms. Leiss stated that the nursery school encouraged carpooling by the parents. They had not received any complaints. The school had 67 children with a maximum of 40 at any one time. The reason for the special permit application was to seek continuation of the school as well as a physical relocation into the synagogue building. The present location of the nursery school had been given as housing for the caretakers of the property.

In response to questions from the Board, Ms. Leiss stated that the synagogue was operating a religious school in addition to the nursery school. She stated that the nursery school operated during the day and the religious school operated during the afternoon. Ms. Leiss stated that she was seeking continuation without term. The only reason the Board had placed a time limit on it was because the school would be moving into the other building stated Ms. Leiss. The nursery school was a parent cooperative. They had a liaison member to the Board of Directors for the synagogue. The nursery school followed conservative Jewish guidelines. They were a unique operation. They were not under a lease or contract to the synagogue but gave a voluntary donation to it each year. There was a letter in file from Mr. Jacobs stating that the nursery school had permission to use the facilities of the synagogue.

There was no one else to speak in support of the application. Mr. Umberger of 9028 Denise Lane and Mr. Lou E. Cook of 3817 Glenbrook Road informed the Board that they did not object to the preschool but were concerned about certain conditions of the special permit for the synagogue not being completed yet. One concern was the screening. Trees had been planted but some had died and needed to be replaced. The trash had not been enclosed. The new addition was not completed. The grounds were not being maintained and weeds were growing taller than the trees. The public address system was annoying to the neighbors. With regard to traffic, the synagogue had aerobic dancing, bingo, art shows, etc. Lights were a problem to Mr. Cook as the ground for the driveway had been raised 8 ft. and the headlights shone in his windows. The site plan had been changed from what the citizens had reviewed. The ground was raised to put in a storm sewer and a holding tank. Zoning Enforcement had been contacted regarding the problems but had not been able to do anything about it. Mr. Cook was asking for additional screening to shield the lights. The citizens were concerned about the little house which had been used for the caretakers. Now that the caretakers were moving into the large brick house, they wondered what the little house would be used for. Chairman Smith advised everyone that the little house could not be used for anything other than residential purposes.

The Board members were concerned about the problems of the citizens. However, the problems should not have an impact on the nursery school as they were problems associated with the special permit for the synagogue. It was the consensus of the Board to defer the application of the nursery school until the end of the agenda to allow Ms. Leiss an opportunity to contact a representative of the synagogue to come to the hearing and address the concerns of the citizens.

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Page 86, September 6, 1983, Scheduled case of

11:10 A.M. JOHN M. MATTES, appl. under Sect. 18-401 of the Ord. to allow subdivision into eight (8) lots, proposed lot 6 having width of 15 ft. (80 ft. min. lot width req. by Sect. 3-306), located 7211 Danford Ln., R-3, Springfield Dist., 89-3((1))18A, 3.23 acres, VC 83-S-097.

As the required notices were not in order, the Board deferred the variance application until October 11, 1983 at 12:15 P.M.

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Page 86, September 6, 1983, Scheduled case of

11:20 A.M. DORIS W. WOOD, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage to 12.9 ft. from front lot line (35 ft. min. front yard req. by Sect. 3-207), located 6131 Franklin Park Rd., R-2, Dranesville Dist., 41-1((1))26A, 18,939 sq. ft., VC 83-D-098.

Ms. Jane Kelsey presented the staff report. Mr. Charles Runyon of 7649 Leesburg Pike in Falls Church represented the applicant. He stated that this application had been before the Board on two previous occasions. They had been before the Board with respect to the house type which had been changed by Ms. Wood. Mr. Runyon stated that the lot had a very steep rear yard and more than 50% of the lot was in the floodplain. It was very steep from the

building restriction line. Mr. Runyon stated that he was seeking a variance because of a plat change. They had added a deck from the garage to better fit the topography of the land. The house was under construction. Mr. Runyon stated that they had stayed back from the edge of the floodplain. He presented a letter of support from the neighbor across the street.

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

Page 87, September 6, 1983 Board of Zoning Appeals
DORIS W. WOOD

R E S O L U T I O N

In Application No. VC 83-D-098 by DORIS W. WOOD under Section 18-401 of the Zoning Ordinance to allow construction of detached garage to 12.9 ft. from front lot line (35 ft. min. front yard req. by Sect. 3-207), on property located at 6131 Franklin Park Road, tax map reference 41-1((1))26A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 6, 1983; 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 18,939 sq. ft.
4. That the applicant's property has exceptional topographic conditions which justifies the hardship in this case and the applicant has met the other conditions outlined in the Ordinance as well.

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 variance is approved for the location shown on the plat included with this application and is not transferable to other land.

2. A Building Permit shall be obtained prior to the start of construction.

3. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 87, September 6, 1983, Scheduled case of

11:30 A.M. FREDERICK J. HAGEMAN, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport as living space addition to dwelling 18.6 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 4065 Doveville Ln., R-1, Doveville Subd., Annandale Dist., 58-4((5))7, 24,182 sq. ft., VC 83-A-099.

As the required notices were not in order, the Board deferred the variance until October 11, 1983 at 12:30 P.M.

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Page 88, September 6, 1983, Scheduled case of

11:40 A.M. STUART A. SPARKS, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 14.9 ft. from a street line on a corner lot, where the existing dwelling is 14.9 ft. from the same street line and 13.3 ft. from the other (20 ft. min. front yard req. by Sect. 3-507), located 6817 Eighteenth Century Ct., R-5, Ben Franklin Park Subd., Lee Dist., 90-1((13))63, 6,411 sq. ft., VC 83-L-100.

The Board was in receipt of a letter from the applicant seeking withdrawal of the variance. Mr. Hammack moved that the Board allow withdrawal without prejudice. Mrs. Thonen seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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Page 88, September 6, 1983, Scheduled case of

11:50 A.M. JULIA J. EVANS, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 0.9 ft. from side lot line on a corner lot (8 ft. min., 20 ft., total min. side yard req. by Sect. 3-307), located 9102 Home Guard Dr., R-3(C), Signal Hill Subd., Annandale Dist., 78-2((16))462, 11,320 sq. ft., VC 83-A-101.

Ms. Jane Kelsey presented the staff report. Ms. Julia Evans of 9102 Home Guard Drive in Burke informed the Board that she had an unusual situation in the fact that her house was sited at an angle. The proposed deck was where the living space was located in the house. The right hand side of the house was all bedroom area. There were three sliding glass doors where the deck was proposed. The lot sloped and Ms. Evans did not wish to change the terrain. The request was in proportion to the size of the house. The deck would be in plain view of the community. She presented the Board with letters of support from Mr. and Mrs. Ward and the neighbor of lot 463. In addition, she presented pictures that showed the floorplan of the deck.

With regard to the required nine standards, Ms. Evans stated that she felt she met the conditions. The property had been acquired in good faith. She stated that when she first checked about building a deck, she had been informed she could build up to the property line with a concrete deck. Ms. Evans stated that she was not aware of anyone else with a deck that close to the property line but no one else had the same situation. The others had good back yards.

Page 88, September 6, 1983 Board of Zoning Appeals
JULIA J. EVANS

R E S O L U T I O N

In Application No. VC 83-A-101 by JULIA J. EVANS under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 0.9 ft. from side lot line on a corner lot (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), on property located at 9102 Home Guard Dr., tax map reference 78-2((16))462, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 6, 1983; 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 11,320 sq. ft.

AND, WHEREAS, the Board finds that the applicant has met the nine standards as listed below:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

R E S O L U T I O N

4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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:

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 2 (Messrs. Smith and Hammack)(Mr. DiGiulian being absent).

Page 89, September 6, 1983, Scheduled case of

12:00 NOON BURTON M. & JANE H. P. COFFMAN, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 28.5 ft. from street line of a corner lot (34 ft. min. front yard req. by Sects. 3-107 & 2-412), located 2710 Hunter Mill Rd., R-1, Providence Dist., 37-4((1))13, 0.6816 acres, VC 83-P-077. (DEFERRED FROM AUGUST 2, 1983 TO GIVE APPLICANT TIME TO PRESENT FURTHER INFORMATION AND TO ALLOW BOARD MEMBERS TIME TO VIEW THE PROPERTY).

Chairman Smith inquired if there were any questions. Mrs. Thonen stated that she had looked at the property and it was well screened with bamboo and evergreens. In response to questions from the Board, Mr. Coffman stated that he had moved into the house in 1974. His wife bought the house in 1972. The house had been built in 1945. Ms. Kelsey informed the Board that Samaga Drive had been constructed when the subdivision went in. This particular lot was not part of the subdivision. What had once been a side yard was now a front yard. Mr. Coffman was proposing to remove some existing steps and replace them with an walkway to the main portion of the deck at the back of the house. He wanted the deck to extend around the house because the sun was too hot at certain times of the day.

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

R E S O L U T I O N

In Application No. VC 83-P-077 by BURTON M. & JANE H. P. COFFMAN under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 28.5 ft. from street line of a corner lot (34 ft. min. front yard req. by Sects. 3-107 & 2-412), on property located at 2710 Hunter Mill Road, tax map reference 37-4((1))13, County of Fairfax, Virginia, Mrs. 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 September 6, 1983; 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 0.6816 acres.
4. That the applicants' house was built in 1945 and was purchased in 1972. Samaga Drive was constructed in 1976. The construction of the road served as a detriment to the applicant and cut down his side yard.

RESOLUTION

WHEREAS, the Board finds that the applicant meets the nine standards as specified below:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application, with the exception of the steps which shall either be relocated to be no closer than 28.6 ft. from the front lot line, or a subsequent variance must be obtained.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Page 90, September 6, 1983, Recessed case of

OLAM TIKVAH PRESCHOOL, INC., SPA 81-P-068-1: The special permit application had been recessed earlier in the day to allow Ms. Leiss an opportunity to contact a representative for the synagogue. Ms. Leiss presented Mr. Steven Wolf, Executive Director and Chief Financial Officer for the synagogue. The Board expressed concerns to Mr. Wolf that:

- the preschool was scheduled to move into the syangogue building at the time renovation was completed;
- screening was to be completed prior to the time the preschool moved in;
- the additional driveway had not been allowed in order to keep lights out of the residential area. The lights were affecting the residents because the drainage had been changed;
- the non-residential use permit had not been issued for the new addition so the preschool could not move into it anyway;
- the use of the existing buildings be approved by the Board of Zoning Appeals.

Mr. Wolf responded that he had not been present at the earlier hearing for the addition to the synagogue but Ms. Leiss had transmitted the concerns. Mr. Wolf stated that the revisions to the site plan were taken care of. The preschool was important to the operation of the synagogue. Trees had been planted in accordance with the site plan. A new fence had been constructed around the property. Mr. Wolf stated that he was unaware of any complaints from the citizens.

In response to questions from the Board, Mr. Wolf stated that eight trees had been stolen from the synagogue. The County Arborist had advised them not to replant the trees until September or they would die. Mr. Wolf stated that none of the trees originally planted had died but were stolen.

The Board informed Mr. Wolf that at the original public hearing, Mr. Cook had testified with respect to the lights. The Board had been very concerned about the lights and felt comfortable that with the revised driveway, lights would not be a problem and that adequate screening would be provided. Now, the Board had learned that the site plan had been revised and the ground had been raised 6 to 8 ft. which created an even greater problem. It also appeared that no screening was provided in that area. Mr. Wolf responded that the trees would not grow to substantial height for 6 or 7 years. It was suggested by the Board that the area be fenced to screen that area.

Mr. Wolf informed the Board that he had applied for a non-residential permit for the whole facility. The last two checks had been completed. The non-rup had been approved and mailed out.

With regard to trash, Mr. Wolf stated that the synagogue had obtained a new trash vendor. He was not aware that the trash was to be enclosed. Chairman Smith advised that the trash storage area was to be part of the structure.

Mr. Wolf informed the Board that the preschool had now relocated to the downstairs social hall. The custodians would move into the house vacated by the preschool. The synagogue planned to use the house vacated by the custodians as a youth center. Chairman Smith advised Mr. Wolf that the use had not been approved by the Board under the special permit for the synagogue. If the use was changed, the synagogue would have to file an amended application.

Mr. Wolf questioned as to how all this interfaced with the preschool. Mr. Hammack agreed with Mr. Wolf that the Board was having him defend issues that the temple may or may not have done. The issue was whether the Board was going to allow the preschool to move into the main facility. Mr. Hammack stated that there was not any violation for the preschool as far as he could determine. The preschool was not shining lights into Mr. Cook's yard. Mr. Hammack stated that the preschool was not responsible for the deficiencies if there were any.

In summary, Mr. Wolf stated that whatever had been shown on the approved site plan had been completed. If something had not been done, it was a matter of not following up on it. Mr. Wolf stated that the builders were doing the work and he had tried to see that everything was done so they would not lose the bond. The synagogue had complied with everything the County had required them to do.

With respect to the outside broadcasts, Mr. Wolf stated that was news to him. If it went off, it might have been an accident. Mr. Wolf assured the Board that he would continue dialogue with the citizens. A fence would be costly but the synagogue could plant trees.

Chairman Smith stated that the synagogue had to provide adequate screening. Ms. Kelsey reported that the preschool was not moving into the new portion of the facility but in the old portion of the synagogue. Chairman Smith stated that he had no problem with allowing the school to move in but within 30 days the issues had to be addressed and corrected.

R E S O L U T I O N

In Application No. SPA-81-P-068-1 by OLAM TIKVAH PRESCHOOL, INC. under Section 3-103 of the Zoning Ordinance to amend S-81-P-068 for nursery school to permit relocation to new facilities on site and to permit continuation of the use beyond its present term ending January 12, 1984, on property located at 3800 Glenbrook Road, tax map reference 58-4((9))17A, 17B, 18A and 18B, County of Fairfax, Virginia, Mrs. 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 September 6, 1983; and

RESOLUTION

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

1. That the applicant is the lessee.
2. The present zoning is R-1.
3. The area of the lot is 4.25205.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance by the provisions of Article 17.
5. Transitional Screening 1 shall be provided between the play area and the northern lot line. There shall be live, healthy trees used to satisfy this requirement at the discretion of the Director.
6. The play area shall be fenced as required by the Fairfax County Health Department.
7. The preschool shall be limited to a total enrollment of 67 children with no more than 40 at any one time.
8. The hours of operation shall be 9:00 A.M. to 3:15 P.M., Monday through Friday.
9. This special permit shall expire should the temple withdraw its authorization for the preschool to operate on its present premises. This special permit shall expire at the end of two years. The Zoning Administrator is authorized to grant two additional one-year extensions if he is satisfied that the applicant has conducted all phases of this permit in a satisfactory manner holding to the number of pupils.
10. This special permit is granted provided that Olam Tikvah synagogue furnishes a letter indicating its authorization of the preschool to use its facilities.
11. Within thirty (30) days of this date, September 6, 1983, the synagogue shall address and correct issues regarding loudspeakers outside, trash being enclosed inside the building, the lights which shine toward Mr. Cook's house across Glenbrook Road, correction of tree screening, some of which have died or been stolen, the missing trees are to be replaced in accordance with the original recommendations on screening, and to provide transitional screening for the easterly property line to shield lights shining towards Mr. Cook's house across Glenbrook Road.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion pa-sed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

At 4:10 P.M., Mr. Ribble left the meeting.

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Page 93, September 6, 1983, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for February 2, 1982; February 9, 1982; February 11, 1982; February 16, 1982; and February 23, 1982. It was the consensus of the Board to approve the Minutes as submitted.

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Page 93, September 6, 1983, After Agenda Items

WILLIAM SIEBERT, VC 83-M-123: The Board was in receipt of an out-of-turn hearing request on Mr. Siebert's variance application to allow a subdivision into two lots. The application was currently scheduled for October 25, 1983. Mr. Hammack moved that the request be denied. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Ribble and Mrs. Thonen being absent).

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Page 93, September 6, 1983, After Agenda Items

Church of the Blessed Vietnamese Martyrs, SP 83-P-044 and VC 83-P-084: The Board was in receipt of a letter from Joseph Gartlan regarding the BZA's action on August 2, 1983 involving the Church of the Blessed Vietnamese Martyrs. He was seeking reconsideration of the actions taken by the BZA. Mr. Hyland moved that the Board take the matter under advisement in order to seek an opinion from the County Attorney regarding the Board's authority to reconsider denied cases. Mrs. Day seconded the motion. The motion passed by a vote of 3 to 1 (Mr. Smith)(Messrs. DiGiulian, Ribble and Mrs. Thonen being absent).

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Page 93, September 6, 1983, After Agenda Items

BROWNIE SCHOOL, INC., S-81-L-035: The Board was in receipt of a memorandum from the Zoning Administrator forwarding a request for a change in name for the Brownie School, Inc. to BSI, Inc. It was the consensus of the Board to approve the request in accordance with the memorandum.

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Page 93, September 6, 1983, After Agenda Items

LITTLE PEOPLE'S PLACE, S-81-V-005: The Board was in receipt of a memorandum from the Zoning Administrator forwarding a request for a change in name from Little People's Place to Little People's Place, Inc. It was the consensus of the Board to approve the request in accordance with the memorandum.

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Page 93, September 6, 1983, After Agenda Items

KOREAN PRESBYTERIAN CHURCH OF WASHINGTON, S-81-S-002: The Board was in receipt of a letter from Wilson L. Kirby, P.E. regarding an extension of a special permit for the Korean Presbyterian Church of Washington. It was the consensus of the Board to allow a 60 day extension from the expiration date. The Board required that all site work and inspections be completed and an occupany permit issued prior to the new expiration date as it was very reluctant to grant the additional extension.

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Page 93, September 6, 1983, After Agenda Items

St. Johns Lutheran Church, SP 83-L-072: The Board was in receipt of a request from Pastor James Roseman seeking an out-of-turn hearing on the special permit application of St. Johns Lutheran Church for the operation of a day care center. The application was currently scheduled for November 29, 1983. It was the consensus of the Board to deny the request.

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Page 93, September 6, 1983, After Agenda Items

Neil R. McDonald, S-82-D-011: The Board was in receipt of a request from Neil R. McDonald for an extension of his special permit application for a home professional office. It was the consensus of the Board to grant a six month extension. It was noted that the non-residential use permit be issued and operation of the use begin prior to the new expiration date.

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James B. Sevenson: The Board was in receipt of a request from Mr. James B. Sevenson seeking an out-of-turn hearing on his variance application to construct a pool enclosure. It was the consensus of the Board to deny the request.

// There being no further business, the Board adjourned at 4:40 P.M.

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

Daniel Smith, Chairman

Submitted to the Board on Jan 15, 1985

Approved: Jan 22, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 13, 1983. The Following Board Members were present: Daniel Smith, Chairman; Paul Hammack; Mary Thonen; Gerald Hyland, and John Ribble. Ann Day arrived at 1:10 P.M. John DiGiulian was absent.

The Chairman opened the meeting at 10:25 A.M. and Mr. Hyland led the prayer.

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

10:00 A.M. CLIFFORD A., JUDY D., CLIFFORD ARGYLE & RUTH E. TAYLOR, appl. under Sect. 18-401 of the Ord. to allow expansion of plant nursery with existing gravel driveway and parking lot (dustless surface req. by Sect. 11-102), located 12908 Lee Hwy., R-1, Springfield Dist., 55-4((1))2, 5.1066 acres, VC 83-S-036. (DEFERRED FROM JUNE 28, 1983 FOR ADDITIONAL TESTIMONY AND OPINION FROM DEM.)

Jane Kelsey stated that the hearing had been deferred to allow DEM time to state their position with regard to the paving of the parking lot. She stated that it was DEM's position that any drainage problems would be handled by on-site water detention facilities that would be required at the time of site plan approval for this use. Ms. Kelsey stated that the Board of Supervisors were aware that in granting the special exception, a variance would be necessary, but they did not address this during their hearing.

Mr. Hyland stated that he would be interested in the proposed Zoning Ordinance amendment regarding dustless surfaces before making any decision in this case. It was the consensus of the Board to defer the application pending the Zoning Ordinance amendment to be heard by the Board of Supervisors in February 1984. Gary Davis, the attorney representing the applicant, stated that the deferral was acceptable to his client. Ms. Kelsey stated that the Zoning Administrator also was in agreement with the deferral, provided that the applicant complied with all the other conditions of his special exception. The application was deferred to March 13, 1984 at 10:00 A.M.

Page 95, September 13, 1983, Scheduled 10:10 A.M. case heard at 10:40 A.M.:

10:10 A.M. PETER G. & NORMA MAE NORDLIE, appl. under Sect. 18-401 of the Ord. to allow subdivision into five lots, proposed lot 4 having width of 12 ft. (150 ft. min. lot width req. by Sect. 3-106), located 1870 Hunter Mill Rd., R-1, Centreville Dist., 27-2((1))15, 6.740 acres, VC 83-C-057. (DEFERRED FROM JUNE 28, 1983 FOR LEGAL OPINION AND FURTHER INFORMATION)

Parnell Porter, the applicant's attorney, stated that he had not received a copy of the revised staff report. Mr. Shoup provided him with a copy.

Chairman Smith stated that in a memo received from the Zoning Administrator, it detailed the fact that the rezoning action by the Board of Supervisors on this property had no bearing on the variance request. The variance case was to be considered on its own merits. Mr. Shoup stated that staff felt that the applicant could enjoy reasonable use of the property absent a variance, and that the application did not satisfy the nine required standards for a variance.

Parnell Porter stated that the lot was long and narrow and the subdivision would be in conformity with the surrounding neighborhood. He stated that one subdivision abutting the property had over 20 pipe stem lots, and another had 32 pipe stem lots.

There was no one else to speak regarding the application.

Page 95, September 13, 1983 Board of Zoning Appeals
PETER G. & NORMA MAE NORDLIE

R E S O L U T I O N

In Application No. VC-83-C-057 by PETER G. & NORMA MAE NORDLIE under Section 18-401 of the Zoning Ordinance to allow subdivision into five lots, proposed lot 4 having width of 12 ft. (150 ft. min. lot width req. by Sect. 3-106), on property located at 1870 Hunter Mill Road, tax map reference 27-2((1))15, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1983; 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 6.740 acres.
4. I have read the letter from Mr. Yates and the staff report. There doesn't seem to be a problem environmentally, or as far as the Master Plan or transportation goes. This application satisfies the following standards for variances in Section 18-404 of the Zoning Ordinance.
A. That the subject property was acquired in good faith.
B. That the subject property had exceptional narrowness at the time of the effective date of the Ordinance.
C. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
D. That the subject property had an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
E. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
F. That the strict application of this Ordinance would produce undue hardship.
G. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
H. That authorization of the variance will not be of substantial detriment to adjacent property.
I. That the character of the zoning district will not be changed by the granting of the variance.
J. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific subdivision shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. The subdivision and development of the property shall be in accordance with the proffered conditions approved in conjunction with RZ 82-C-020..

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mrs. Day and Mr. DiGiulian being absent)

Page 96, September 13, 1983, Scheduled 10:20 A.M. case heard at 11:10 A.M.:

10:20 A.M. EARL J. & KATHRYN J. HARDGROVE, appl. under Sect. 18-401 of the Ord. to allow enclosure of deck into screened porch 18 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 10906 Rippon Lodge Dr., R-3(C), Middleridge Subd., Annandale Dist., 68-3((11))27, 11,274 sq. ft., VC 83-A-104.

William Shoup reviewed the staff report for the Board. He stated that the existing deck was constructed in violation of the Zoning Ordinance, and a larger deck was constructed that what was shown on the building permit. If this application was denied, the applicant would be required to bring the deck into compliance with the Zoning Ordinance provisions.

Mr. Hardgrove presented the facts for his application. He stated that his property was an irregular shape. The property was situated on a cul-de-sac and as a result, the house sat further back on the property than neighboring houses. Mr. Hardgrove stated that the back property line bordered on an undeveloped woodland lot. He stated that at the time he constructed the deck he made an error in siting the deck.

There was no one to speak in support or opposition.

RESOLUTION

In Application No. VC-83-A-104 by EARL J. & KATHRYN J. HARDGROVE under Section 18-401 of the Zoning Ordinance to allow enclosure of deck into screened porch 18 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 10906 Rippon Lodge Drive, tax map reference 68-3((11))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 13, 1983; 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 11,274 sq. ft.
4. We have received testimony from the applicant that the subject property sits on a cul-de-sac. A review of the plat shows that the improvements and the structure on the property are set back from the front property line. It is also clear from a review of the plat that the property does have an exceptional shape. We have received testimony that at the present time there is existing a deck to the rear of the property which is located 18 ft. from the rear property line. We have received testimony indicating that the applicant's did receive authority to build a deck 19 ft. from the property line but apparently an error was made in location in the siting of the deck. There has been no testimony from any of the abutting property owners raising any objections to the subject request to enclose the existing deck as a screened in porch. This application satisfies the following standards for variances in Section 18-404 of the Zoning Ordinance.

A. That the subject property was acquired in good faith.
B. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
C. That the strict application of this Ordinance would produce undue hardship.
D. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That authorization of the variance will not be of substantial detriment to adjacent property.
H. That the character of the zoning district will not be changed by the granting of the variance.
I. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3 A Building Permit shall be obtained prior to the start of construction.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mrs. Day and Mr. DiGiulian being absent)

Page 98, September 13, 1983, Scheduled 10:30 A.M. case heard at 11:40 A.M.:

10:30 A.M. PAUL L. & ROSEMARY B. MACHALEK, appl. under Sect. 18-401 of the Ord. to allow construction of carport/porch addition to dwelling to 16 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 7624 Long Pine Dr., R-3, North Spfd. Subd., Annandale Dist., 79-2((2))10F, 11,810 sq. ft., VC 83-A-105.

William Shoup reviewed the staff report for the Board. Rosemary Machalek presented the facts regarding her application. She stated that the desired construction design included a carport to be constructed on an existing concrete slab, the depth of the house, and an attached screened porch. Ms. Machalek indicated that the existing house was situated on an irregular lot and sited further to the rear of the lot than required. Most of the homes in the area had carports, and none of the neighbors in the immediate area had any objections.

There was no one to speak in support or opposition.

Page 98, September 13, 1983 Board of Zoning Appeals
PAUL L. & ROSEMARY B. MACHALEK

R E S O L U T I O N

In Application No. VC-83-A-105 by PAUL L. & ROSEMARY B. MACHALEK under Section 18-401 of the Zoning Ordinance to allow construction of carport/porch addition to dwelling to 16 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 7624 Long Pine Drive, tax map reference 79-2((2))10F, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1983; 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 11,810 sq. ft.
4. That the applicant fully addressed the problems in conjunction with all nine of the standards for variances in Section 18-404 of the Zoning Ordinance, specifically:
A. That the subject property had exceptional shallowness at the time of the effective date of the Ordinance.
B. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
C. That the subject property has exceptional topographic conditions.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3 A Building Permit shall be obtained prior to the start of construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mrs. Day and Mr. DiGiulian being absent)

//The Board recessed for lunch at 11:55 P.M. and returned at 1:10 P.M. to take up the scheduled agenda. (Mr. Hammack returned at 1:25 P.M.)

Page 99, September 13, 1983, Scheduled 10:40 A.M. case heard at 1:10 P.M.:

10:40 A.M. BRIAN D. JENKINS, appl. under Sect. 18-401 of the Ord. to allow construction of living space and porch addition to dwelling to 6 ft. from side lot line and 9.25 ft. from rear lot line of a corner lot (15 ft. min. side yard req. by Sect. 3-207), located 4916 Chowan Ave., Weyanoke Subd., R-2, Mason Dist., 72-3((8))(F)71-74, 11,183 sq. ft., VC 83-M-107.

William Shoup reviewed the staff report for the Board. Brian Jenkins presented his application. He stated that the property was an irregular shape, and the existing house was built an at angle to, rather than parallel with, the lot lines. Mr. Jenkins indicated that he could not construct on the south side of the home due to an existing freestanding garage, and the north side would also require a variance. He stated that there was a steep incline in the front of his property, and a large maple tree. Mr. Jenkins informed the Board that the property immediately to the rear of his home was vacant, on a steep incline, and heavily wooded.

There was no one to speak in support or opposition.

Page 99, September 13, 1983 Board of Zoning Appeals
BRIAN D. JENKINS

R E S O L U T I O N

In Application No. VC-83-M-107 by BRIAN D. JENKINS under Section 18-401 of the Zoning Ordinance to allow construction of living space and porch addition to dwelling to 6 ft. from side lot line and 9.25 ft. from rear lot line of a corner lot (15 ft. min. side yard req. by Sect. 3-207), on property located at 4916 Chowan Avenue, tax map reference 72-3((8))(F)71-74, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1983; 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 11,183 sq. ft.
4. That the applicants' property is exceptionally irregular in shape and their existing home is set at such an angle that you have parallel lot lines. It looks as though a lot of land is going vacant and cannot be used. The applicant does not have reasonable use of his land. On the right there is a free-standing garage. Even if he could build over that way he would still need a variance because the garage is at an angle and would preclude building in that location. There is a large maple tree. There is a steep incline in the front of the property which would preclude building there. The application meets the following standards for variance under Section 18-404 of the Zoning Ordinance:

A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the strict application of this Ordinance would produce undue hardship.
D. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That authorization of the variance will not be of substantial detriment to adjacent property since it backs up to a wooded lot and we have a letter from the neighbor saying that they do not object.
G. That the character of the zoning district will not be changed by the granting of the variance.
H. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3 A Building Permit shall be obtained prior to the start of construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mrs. Day and Mr. DiGiulian being absent)

Page 100, September 13, 1983, Scheduled 10:50 A.M. cases heard at 1:30 P.M.:

10:50 A.M. BARBARA J. BLAGG, appl. under Sect. 18-401 of the Ord. to allow family day care home with partly gravel driveway and parking spaces (dustless surface req. by Sect. 11-102), located 4207 Kilbourne Dr., R-2, Rutherford Subd., Annandale Dist., 69-2((6))178, 15,000 sq. ft., VC 83-A-103.

10:50 A.M. BARBARA J. BLAGG, appl. under Sect. 3-203 of the Ord. for a family day care home, located 4207 Kilbourne Dr., R-2, Rutherford Subd., Annandale Dist., 69-2((6))178, 15,000 sq. ft., SP 83-A-049.

The Board was in receipt of a letter from the applicant requesting a withdrawal of the referenced applications. It was the consensus of the Board to allow the withdrawal of the variance and special permits applications without prejudice.

Page 100, September 13, 1983, Scheduled 11:00 A.M. case heard at 1:35 P.M.:

11:00 A.M. MOON HO KIM, appl. under Sect. 3-103 of the Ord. for a private school of special education (martial arts), located 2701 Chain Bridge Rd., R-1, Providence Dist., 48-1((1))50, 1.2850 acres, SP-83-P-003.

Chairman Smith announced that the notices were not in order for the special permit application. The hearing was deferred to October 4, 1983 at 12:15 P.M.

Page 100, September 13, 1983, Scheduled 11:15 A.M. case heard at 1:50 P.M.:

11:15 A.M. CENTREVILLE UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow aggregate surface parking lot addition to church and related facilities (dustless surface req. by Sect. 11-102), located 14040 Braddock Rd., R-1, Centreville Dist., 54-4((1))3A, 6.8841 acres, VC 83-C-090.

Jane Kelsey reviewed the staff report for the Board. It was the consensus of the Board to defer the application due to a pending Zoning Ordinance amendment regarding dustless surfaces. The application was deferred to March 13, 1984 at 10:10 A.M.

Page 100, September 13, 1983, Scheduled 11:30 A.M. case heard at 2:25 P.M.:

11:30 A.M. JOANN W. ECONOMON, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 4.9 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6507 Lily Dhu Ln., Walters Woods Subd., R-2, Mason Dist., 61-1((9))55, 23,803 sq. ft., VC 83-M-076. (DEFERRED FROM JULY 19, 1983 FOR NOTICES)

William Shoup reviewed the staff report for the Board. Stanley Wilson, 5020 Oglethorpe Street, Riverdale, Maryland, represented the applicant. He explained that the applicant proposed to enclose the existing carport and convert it into a family room. The applicant further proposed to construct a two-car garage on the existing twenty foot wide concrete pad adjacent to the carport. Mr. Wilson stated that due to the topography of the lot, the existing open street culvert, and existing vegetation, no other location on the lot was feasible for the two-car garage. He stated that the lot was highest on the north rear corner and dropped off to the south rear corner over a distance of 65 feet. To locate the garage in the rear of the lot would require extensive grading and potential altering of the existing erosion patterns.

Joann Economon spoke regarding her application. She stated that she had purchased the house in August of 1982. She indicated that this was the only home in the area without a two car garage.

There was no one to speak in support or opposition.

RESOLUTION

In Application No. VC-83-M-076 by JOANN W. ECONOMON under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 4.9 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 6507 Lily Dhu Lane, tax map reference 61-1((9))55, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1983; 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 23,803 sq. ft.
4. We occasionally have applications from people that want to maximize the additions to their property. The applicant only requests a 10.1 ft. variance which is roughly one half of her two car garage. I feel she could enclose her existing carport into a family room, and construct a one car garage which would allow her reasonable use of her property without the necessity of a variance. I would note that she may need a tenth of a foot variance. I don't feel that with a lot this size and from looking at the photographs that there's that much of a topographical problem that justifies the 10.1 ft. variance requested. *In order to construct a one car garage we will grant a variance of one tenth of a foot.

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 with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3 A Building Permit shall be obtained prior to the start of construction.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 - 0 (Mrs. Day and Mr. DiGiulian being absent)

Page 101, September 13, 1983, Scheduled 11:45 A.M. cases heard at 2:50 P.M.:

11:45 A.M. HALIM Y. KORZYBSKI, appl. under Sect. 3-203 of the Ord. for a home professional office (architect), located 6812 Little River Trnpk., Roberts Place Subd., R-2, Mason Dist., 71-2((5))1-4, 36,416 sq. ft., SP 83-M-034. (DEFERRED FROM JULY 19, 1983 FOR NOTICES)

11:45 A.M. HALIM KORZYBSKI, appl. under Sect. 18-401 of the Ord. to allow home professional office with gravel driveway and parking spaces (dustless surface req. by Sect. 11-102), located 6812 Little River Trnpk., Roberts Place Subd., R-2, Mason Dist., 71-2((5))1-4, 36,416 sq. ft., VC 83-M-086. (DEFERRED FROM JULY 19, 1983 FOR NOTICES)

William Shoup reviewed the staff report for the Board. Halim Korzybski presented his application. He stated that his house had been overlooking Little River Turnpike for over 75 years. The house was surrounded by large trees at the boundaries that screened any view from the neighborhood. Mr. Korzybski stated that he wanted to use it as a studio for his firm which specialized in the construction of passive solar homes and consultations for energy saving methods. Mr. Korzybski indicated that he did not expect any change to the residential change of the neighborhood because he did not anticipate

more than two to three customers per day. He stated that he planned to enlarge the parking area to accommodate nine cars. He asked the Board if it was possible for him to place a sign on the hill in front of his home overlooking the main road.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. SP 83-M-034 by HALIM Y. KORZYBSKI under Section 3-203 of the Zoning Ordinance for a home professional office (architect), on property located at 6812 Little River Turnpike, tax map reference 71-2((5))1-4, 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 13, 1983; 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-2.
3. The area of the lot is 36,416 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.

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Right-of-way dedication for public street purposes shall be provided along Little River Turnpike as determined by the Department of Environmental Management (DEM) at the time of site plan review.
5. The driveway and entrance shall be subject to all applicable State and County standards at the determination of the Director, Department of Environmental Management.
6. A waiver of the service drive requirement may be permitted subject to the recommendation of the Director, Department of Environmental Management and approval of the County Executive.
7. Existing vegetation shall be retained. Supplemental evergreen plantings shall be provided to ensure that this use is adequately screened from adjacent residential properties. The amount and type of plantings shall be at the determination of the Director of the Department of Environmental Management.
8. Any future remodeling of the dwelling shall incorporate the following attributes:
   - o Exterior walls should have a laboratory sound transmission class (STC) of at least 39, and
   - o Doors and windows should have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they should have the STC specified for exterior walls.
   - o Adequate measures to seal and caulk between surfaces shall be provided.
9. Three (3) parking spaces in addition to the two (2) parking spaces in the carport shall be provided as shown on the plat submitted with this application.
10. No more than one (1) employee shall be associated with the Home Professional Office.
11. The number of clients on the property on any given day shall not exceed two (2) persons.
12. Hours of operation shall be 9:00 A.M. to 5:00 P.M., Monday through Friday.
13. A 3 x 2 ft. sign shall be placed in front of the trees on the embankment in the front of the property.
14. The property shall be open for inspection by County personnel during reasonable hours.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 2 (Mr. Smith and Mrs. Day) (Mr. DiGiulian being absent)

Page 103, September 13, 1983 Board of Zoning Appeals
HALIM Y. KORZYBSKI/VC 83-M-086

R E S O L U T I O N

In Application No. VC-83-M-086 by HALIM Y. KORZYBSKI under Section 18-401 of the Zoning Ordinance to allow home professional office with gravel driveway and parking spaces (dustless surface req. by Sect. 11-102), on property located at 6812 Little River Turnpike, tax map reference 71-2((5))1-4, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1983; 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 36,416 sq. ft.

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

THAT the applicant failed to satisfy the nine conditions of Sect. 18-404 of the Zoning Ordinance and did not show a hardship.

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

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Hyland) (Mr. DiGiulian being absent)

Page 103, September 13, 1983, Scheduled 12:00 Noon case heard at 3:30 P.M.:

12:00 Noon VICTOR & RUTH LAZAROWITZ, appl. under Sect. 18-401 of the Ord. to allow solar heated greenhouse addition to dwelling to 10.0 ft. from side lot line, such that side yards total 31.8 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), located 1513 Gingerwood Ct., Cinnamon Creek Subd., R-1(C), Dranesville Dist., 19-3((7))81, 21,000 sq. ft., VC 83-D-058. (DEFERRED FROM AUGUST 2, 1983 TO ALLOW APPLICANT MORE TIME TO STUDY THE STAFF REPORT)

William Shoup reviewed the staff report for the Board. Victor Lazarowitz presented the application. He stated that he and his wife had lived at this location since 1979. They proposed to construct a solar heated hobby greenhouse to store his wife's collection of orchids. He stated that the house was situated at the highest elevation of the property. The front of the lot sloped up from the street, and the lot sloped down from the rear. The only level ground was on the right side of the house facing south and adjacent to the garage. Mr. Lazarowitz stated that there was no way to attach the greenhouse to the rear of the house due to the location of power and telephone lines, the air conditioning compressor, and the existing elevated porch constructed by the previous owner.

Albert Phelan, 1505 Gingerwood Court and Nicole Mengel, 1515 Gingerwood Court spoke in support of the application. They felt that the greenhouse would enhance the appearance of the neighborhood.

There was no one else to speak regarding the application.

RESOLUTION

In Application No. VC-83-D-058 by VICTOR & RUTH LAZAROWITZ under Section 18-401 of the Zoning Ordinance to allow solar heated greenhouse addition to dwelling to 10.0 ft. from side lot line, such that side yards total 31.8 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), on property located at 1513 Gingerwood Court, tax map reference 19-3((7))81, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1983; 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 21,000 sq. ft.
4. That the applicants have fully addressed the nine standards for variances in Section 18-404 of the Ordinance, specifically:
A. That the subject property has exceptional topographic conditions.
B. That the subject property has an extraordinary situation or condition of the subject property, being the airconditioning unit and electrical and utility lines in the back of the house.

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

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

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

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. Hammack abstained) (Mr. DiGiulian being absent)

Page 104, September 13, 1983, AFTER AGENDA ITEMS:

JACK CHOCOLA/V-251-79: The Board was in receipt of a letter requesting a thirty day extension of the referenced variance application. It was the consensus of the Board to grant the requested thirty day extension. The new expiration date for the permit was November 23, 1983.

Page 104, September 13, 1983, AFTER AGENDA ITEMS:

JAMES B. SORENSON/VC 83-S-162: The Board was in receipt of a letter requesting further consideration for an out-of-turn hearing request that had been denied previously. It was the consensus of the Board to grant the request and schedule the variance application for October 25, 1983.

Page 105, September 13, 1983, AFTER AGENDA ITEMS:

ANDREW J. DELISLE, D.D.S./SP 83-S-066: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned special permit application. It was the consensus of the Board to deny the request.

Page 105, September 13, 1983, AFTER AGENDA ITEMS:

KIMBERLY SUE BIRD/VC 83-P-163: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned variance application. It was the consensus of the Board to deny the request.

//There being no further business, the Board adjourned at 4:10 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: Jan 15, 1985 Approved: Jan 22, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September/20, 1983. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble; and Mary Thonen.

The Chairman opened the meeting at 8:20 P.M. and Mrs. Day led the prayer.

Chairman Smith called the scheduled case of:

8:00 P.M. MONTEBELLO ASSOCIATES, appl. under Sect. 18-301 of the Ord. to appeal the Director of Department of Environmental Management's decision to revoke the approval of the revision to Site Plan 3898-SP-01-C-2, located 5900 Mount Eagle Dr., Mt. Vernon Dist., R-30, 83-3((1))86, 1,504,903 sq. ft., A-83-V-005.

Mr. Philip G. Yates, Zoning Administrator, set forth the issues in this appeal which involved the revision to the Site Plan and whether or not the Director of the Department of Environmental Management (DEM) had the authority to revoke the approval. Revocation was based upon noncompliance with Par. 4 of Sect. 17-109, which requires revisions to site plan to be processed in the same manner as originally approved. A subissue of this appeal is whether the Director erred in the original decision to approve the site plan revision absent compliance with the noficiation requirements of Sect. 17-106. Par. 4 of Sect. 17-106 requires that any site plan may be revised in the same manner as originally approved which is to require notification. The notification was not done in this instance. The Board discussed whether the citizens are renotified when a site plan is revised and were informed that the procedures have been revised to require renotification in all future site plan revisions.

The Board discussed Fairfax County's authority to grant access to a public road controlled by the Virginia Department of Highways & Transportation (VDH&T). Ms. Karen Harwood, Assistant County Attorney, stated that Section 15.491-H of the State Code gives the County the authority to review development plans to determine whether or not they comply with the Zoning Ordinance and other Code requirements, but only VDH&T has the authority to grant a permit for a given entrance.

The site plan revision no. 3898-SP-01-C-2 was for a limited-purpose access from the property to Mt. Vernon Drive. On February 23, 1983, the revision was approved by DEM and no appeal of this decision was filed within the ten days after the approval as required by Sect. 17-110 of the Zoning Ordinance. In a letter, to Montebello Associates dated March 29, 1983, Mr. Coons, the then Director of Environmental Management, revoked the approval of the revision to the Site Plan as of that date.

Mr. John Chilton, Deputy Director, Division of Design Review, and William Rucker, Deputy Director of the Department of Environmental Management, responded to Mr. Hyland's question as to whether or not there had been a transportation analysis made on the impact of the site plan revision changing the location of the access road, responded that there had not been such an analysis done. The plan was revised for access to come from the Montebello site to Mt. Vernon Drive. An analysis would be done in terms of a rezoning application before the Board of Supervisors, but in connection with a site plan, a transportation analysis would not generally be done. Generally, the Department of Environmental Management would not approve this type of an access where there are incompatible uses and incompatible traffic flows of high density neighborhoods through low density neighborhoods. It has been the policy of DEM to bring to the Director's attention any type of revision that would have an impact on the adjoining community. This was not done in this case because of staff oversight. The Assistant Branch Chief in the Design Review Branch signed off on the revision. Ninety-five (95%) percent of the revisions are signed at that level because they are minor.

Ms. Harwood explained the nature of the appeal to the Planning Commission. The Planning Commission, based on an opinion of the County Attorney's office, agreed that the appeal was not properly filed. Therefore, the Planning Commission didn't hear anything. That decision of the Planning Commission not to hear the appeal is what is now being appealed to the Board of Supervisors. It is scheduled before the Board of Supervisors but no specific date has been set and it does not require a public hearing. The appeal has been pending before the Board of Supervisors for several months since there has been ongoing negotiations. If the appellant is successful with the Board of Supervisors, they will go back to the Planning Commission and have their case heard as an appeal. They have the option of going back to the Board of Supervisors if there is an adverse result. An adverse result from the Board of Zoning Appeals is an appeal to the Circuit Court.

Mr. Howard Middleton, an attorney, represented Montebello Associates. His position is set forth in the detailed position paper contained in the staff report. He briefly summarized his position by informing the Board that VDH&T does have the power to control the highways and secondary road systems. Mt. Vernon Drive is considered to be a secondary road. Mr. Middleton felt that they were entitled to the site plan revision even though they were not required to send out notices. He indicated that the site plan went through its normal review and was approved.

Mr. Bill Helwig of 5838 Mt. Vernon Drive and Mr. Albert W. Alsmith, President of the Montebello Unit Owners Association spoke in support of the Zoning Administrator's position.

During rebuttal, Mr. Middleton reiterated that the issue of the appeal was whether or not the Director of DEM had the right to revoke the site plan and the validity of the site plan revision. Drainage is not an issue. With regard to parking , Mr. Middleton stated that they had received a reduction in parking based on the nearness of the Metro station. Ms. Harwood stated that County officials do not have the right to amend or violate the Ordinance regardless of custom or practice.

At the close of the public hearing, Mr. Hammack made a motion to defer decision of the appeal for a period of 90 days to allow the appellant an opportunity to work out problems with Ramada or any other parties. Mr. Hammack indicated that the decision on the appeal could be rescheduled for the first available meeting in December. Mr. Hyland seconded the motion as he preferred not to have to rule on the appeal for many reasons. He indicated that if there is a way to avoid that, the BZA should defer decision. The vote on the motion to defer failed by a vote of 2 to 5 (Messrs. Smith, DiGiulian, Ribble, Mrs. Day and Mrs. Thonen).

Mr. DiGiulian moved that the Board overrule the decision of the Zoning Administrator based on testimony that the practice in the Department of Environmental Management had been to process site plan revisions without requiring notices. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 2 (Messrs. Hyland and Hammack).

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Page 107, September 20, 1983, Recess

The Board recessed its meeting at 11:00 P.M. and reconvened at 11:10 P.M. to continue with the scheduled agenda.

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Page 107, September 20, 1983, Scheduled case of

8:30 P.M. W. JOHN LAYNG, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that appellant's existing plant nursery is limited to wholesale only, and is not permitted to include retail sales absent approval of a special exception, located 8341 Sparger St., R-E, Spring Hill Subd., Dranesville Dist., 20-3((1))24, 3.5379 acres, A-83-D-006.

Mr. Philip G. Yates, Zoning Administrator, informed the Board that his position was set forth in the memorandum dated September 15, 1983 which set forth the background of the appeal. The issue concerned an appeal of the Zoning Administrator's decision that the retail sale of plants, pots and other items from this property constitutes an enlargement of a use which now requires a special exception. Absent the approval of a special exception, the enlargement of the use is a violation of Par. 2 of Section 15-101.

Mr. Robert Lawrence, an attorney in Fairfax, represented the appellants, Mr. and Mrs. Layng. For background purposes, Mr. Lawrence stated that the when the Layngs purchased the property, it was zoned residential but there was a greenhouse on the property. Mr. Layng obtained a Non-Residential Use Permit for the greenhouse. It was not until after Mr. Layng quit his $58,000 a year government job that he received a letter three years later from the Zoning Administrator indicating that he had made a mistake. The letter stated that Mr. Layng could not have retail sales on the property but could enjoy only wholesale use of the property.

The issue of the appeal is simple. If there were retail sales prior to August 1978 and there was not a period of non-use for a period of two years, then the retail sales were a vested right under State and County Law. The issue was whether there were retail sales prior to 1978 and whether it was discontinued. Mr. Lawrence informed the Board that he could provide affidavits indicating that there have been retail sales continually on the property since 1957.

In response to questions from the Board, Mr. Lawrence stated that there has been modification to the site since the change of ownership but nothing substantial. The stone road was paved for part of the parking area which added about ten parking spaces. Mr. Lawrence submitted affidavits from the previous property owner and several former employees indicating that retail sales have taken place on the property prior to 1978.

In response to questions from the Board, Mr. Lawrence stated that Mr. Layng was cited by the Zoning Ordinance for expanding his use. He indicated that was a separate issue and that Mr. Layng had been mislead by the actions of the Zoning Administrator's Office.

The following employees of Mr. Layng testified that they personally sold merchandise on a retail basis although they encouraged people to patronize the facility on Rt. 7 for the majority of the retail sales. These employees were: Mr. McInvain, Mr. James Bailey, and Mrs. Evelyn Walsh.

The following citizens testified that the intensity of retail sales changed dramatically with the closing of the Rt. 7 facility. The citizens were concerned with the increased traffic, noise, and commercial activity on the subject property. The speakers were: Mr. Jay Wright, Spring Hill Citizens Association; Mrs. Leeta Dail, representative of Supervisor Falck's Office; Mr. Ray Lettle, 8430 Brook Road; Ms. Eileen Temp of 8429 Brook Road; and Mr. Kyle H. Woodbury

At the close of the public hearing, Mr. Hyland indicated that the Board of Zoning Appeals had received conflicting testimony. On one hand, the Board received testimony indicating that there has been incidental occasions of retail use on the premises and three employees indicated that they had been involved in those retail sales. On the other hand, the Board received testimony indicating that at least twenty persons or more have been refused the opportunity to purchase items on a retail basis at the site. Mr. Hyland concluded that there has been some retai· sales albeit very minor and incidental to 1978. In addition, testimony from the citizens indicated that beginning in 1983 the nature of the use of the property has changed dramatically whereas before it was predominantly wholesale use. Now, it appears that it might well be predominantly a retail use far exceeding the prior incidental retail use of the property.

Mr. Hyland felt that the Zoning Administrator's decision that the property has been enlarged to include a substantial retail operation is a correct conclusion. The Board has received testimony indicating that physically the property has changed to the extent that parking has now been provided for retail customers whereas that parking was not provided before which indicates an expansion of the facility to accommodate the retail use. Mr. Hyland felt that physical change in the property was a matter of law under the Zoning Ordinance and would have required the applicant to come in and request permission to so expand the property which has not been done.

Mr. Hyland acknowledged the inconsistency in the granting of the non-rup in 1980 as it did indicate a greenhouse plant nursery but the record is clear that from 1980 until 1982, the facility continued to be operated as a wholesale operation and did not change to a retail operation until 1983 when the other facility was closed.

Accordingly, Mr. Hyland moved to uphold the decision of the Zoning Administrator. The motion was seconded by Mr. Ribble and passed by a vote of 5 to 2 (Mr. DiGiulian and Mrs. Thonen).

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Page 108, September 20, 1983, Recess

The Board recessed its meeting at 1:30 A.M. and reconvened at 1:40 A.M. to continue with the scheduled agenda.

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Page 108, September 20, 1983, Scheduled case of

9:00 P.M. FAIRFAX HAY & GRAIN, INC., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's decision that appellants' use of subject property is a service station and quick service food store, both of which are special exception uses in the C-5 District, and that replacement of gasoline tanks and relocation of gas pumps constitute replacement and enlargement of the use requiring approval of a special exception, located 7600 Clifton Rd., C-5, Springfield Dist., 86-4((1))15, 2.894 acres, A-83-S-003. (DEFERRED FROM JULY 7, 1983 FOR NOTICES).

Mr. Philip G. Yates, Zoning Administrator, informed the Board that his position was set forth in the memorandum dated June 28, 1983 which set forth the background of the appeal. The issue of the appeal concerned the Zoning Administrator's decision that the appellant's use of the subject property is a service station and quick-service food store, both of which are special exception uses in the C-5 District, and that the replacement and relocation of the gasoline pump islands constitutes a replacement and enlargement of a use requiring a special exception.

In response to questions from the Board, Mr. Yates stated that the Zoning Ordinance defines a retail sales establishment, quick-service food store, and a service station. This particular store is not considered a retail sales establishment because it is less than 5,000 square feet. Accordingly, Mr. Yates indicated that he had to pick a term that has the characteristics most similar to this particular use which is a quick-service food store and a service station.

The Board questioned the wording "primary" use. Mr. Yates stated that he felt the primary use was a service station. The Board questioned that interpretation as there was nothing in the staff report that determined the dollar value of gasoline or food sales or indicated that the primary use is pumping gasoline. The Board questioned why this is not considered a retail sales establishment as two-thirds of the store contains equipment similar to a Southern States or a Giant Food store. Mr. Yates responded that he did not have any latitude under the Ordinance. If the net floor area is less than 5,000 square feet, it is deemed a quick-service food store.

Mr. Yates referred the Board to Interpretation No. 5 contained in the staff report which sets forth the criteria for determination as to how much change to an existing service station is permitted without the necessity of obtaining a speci-l exception. The Board responded that it did not feel that Interpretation No. 5 was a precedent in this case.

Mr. Paul C. Kincheloe, Jr., an attorney in Fairfax, represented the appellants. He explained that a country-type store has been operated on the subject property for many years. One of the existing fuel tanks developed a leak and had to be removed from underground. The Fire Marshal suggested that the appellant move the pump island away from the front of the building. On that pump island was a single pump and a dual pump. An additional island was put out front and the leaky fuel tank was replaced and relocated. All other fuel tanks were also replaced at the same time resulting in five fuel tanks and five pumps.

In response to questions from the Board, Mr. Kincheloe stated that there had been a problem with all of the old fuel tanks. The tank beside the building was removed from underground and the pump was removed leaving two pumps at this location. The Board questioned the capacity of the fuel tanks. Mr. Kincheloe stated that the old fuel tanks held approximately 550 gallons but were replaced with tanks of a capacity for 2,000 gallons and 6,000 gallons. Mr. Kincheloe did not believe that the increased capacity of the fuel tank or the addition of another tank necessitated the requirement to come in under a special exception. He informed the Board that the appellants would not have moved the fuel tank if the Fire Marshall had not requested it.

The following persons spoke in opposition to the Zoning Administrator's position: Mr. Gerry Wright; Mr. Rick Gaylor of 11821 Lakewood Lane; Mrs. Elizabeth Knakmuhs of 7601 Clifton Road; and Mr. George Knakmuhs of 7603 Clifton Road.

At the close of the public hearing, Mrs. Thonen moved that the Board uphold the decision of the Zoning Administrator. She indicated that the law was clear that if the use is expanded, the appellant has to apply for a special exception. Mr. DiGiulian seconded the motion. However, the motion failed by a vote of 3 to 4 (Messrs. Hyland, Hammack, Ribble and Mrs. Day).

Mr. Hammack moved that the Board overrule the decision of the Zoning Administrator. Mrs. Day seconded the motion and it passed by a vote of 4 to 2 (Mr. Smith and Mrs. Thonen)(Mr. DiGiulian being absent).

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Page 109, September 20, 1983, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for March 9, 1982. It was the consensus of the Board to approve the Minutes as submitted.

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Page 109, September 20, 1983, After Agenda Items

APPROVAL OF BZA SCHEDULED MEETING DATES FOR 1984: The Board was in receipt of the proposed scheduled meeting dates for 1984. It was the consensus of the Board to formally adopt the calendar as its official meeting dates.

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Page 110, September 20, 1983, After Agenda Items

McLEAN PRESBYTERIAN CHURCH, SPA 73-D-150-1: The Board was in receipt of an out-of-turn hearing request from Mr. Thomas Dugan regarding the special permit application of the McLean Presbyterian Church to permit an addition of land area and parking facilities. It was the consensus of the Board to deny the request. Accordingly, the special permit application remained scheduled for November 29, 1983.

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There being no further business, the Board adjourned at 3:10 A.M.

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

Submitted to the Board on Jan. 31, 1985

Daniel Smith
Daniel Smith, Chairman

Approved: Feb 5, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 27, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-chairman; Mary Thonen; Gerald Hyland; Ann Day; and John Ribble. Paul Hammack arrived at 10:30 A.M.

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

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

10:00 A.M. CARLTON L. & DIANA J. DOLWICK, appl. under Sect. 2-419 of the Ord. to allow porch to remain 17.1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 6661 New Chandler Ct., R-3(C), Cherry Run Subd., Springfield Dist., 88-1((7))33, 11,897 sq. ft., SP 83-S-033. (DEFERRED FROM JULY 18, 1983 AT THE APPLICANT'S REQUEST)

Jane Kelsey reviewed the staff report for the Board. She stated that the applicant had hired a contractor to construct the porch. A review of the files indicated that no building permit had been obtained. Ms. Kelsey stated that staff had requested additional information from the applicant regarding whether or not there was a contract between the two parties, and whether or not the contractor was licensed in the State of Virginia. Since staff had insufficient information and were unable to tell whether or not the applicant met the provisions of Sect. 8-006, they could not recommend approval of the application.

Jeffrey Silverstein, a lawyer at 5205 Wyngate Court, Burke, represented the applicants. He stated that the house was originally purchased in June of 1981. At that time, there was a semi-completed porch, with a floor and several layers of brick laid. This uncompleted construction had been done by the previous owner. Mr. Silverstein stated that when the Dolwicks purchased the property they had every intention of cleaning up the mess and fixing up the porch. He submitted a plat to the Board which the Dolwicks had received when they purchased the property. The location of the porch showed it to be a concrete patio and did not show the setback from the lot line. Mr. Silverstein stated that the Dolwicks bought the house based on the representation of a plat, their closing attorney, their realtor, and the Veterans Administration's approval of the loan. The Dolwicks entered into a contract with Herman Blankenship to complete the porch, after checking to see that he had a Business, Professional, Occupation License. Mr. Silverstein stated that the Dolwicks had acted reasonably in this matter.

Carlton Dolwick stated that the contractor, Mr. Blankenship, had assured him that when the porch was completed it would meet all Fairfax County requirements. He was unaware when he purchased the house that the porch was in violation of the required setbacks.

//Mr. Hammack arrived at 10:30 A.M.

There was no one to speak in support or opposition.

R E S O L U T I O N

Mrs. Thonen made the following resolution:

WHEREAS, Application No. SP 83-S-033 by CARLTON L. & DIANA J. DOLWICK under Section 2-419 of the Fairfax County Zoning Ordinance to allow porch to remain 17.1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 6661 New Chandler Court, tax map reference 88-1((7))33, 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 September 27, 1983; AND,

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

In the staff report it states .."whether or not there was a contract between the parties and if that contract placed the responsibility for obtaining the necessary permits upon the contractor..." so evidentially if may be a rule of thumb that the contractor obtains the permits.

WHEREAS, the Board made the following conclusions of law:

1. The Board has determined that:
   A. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required. The applicant apparently took great steps in trying to make sure he was legal.
   B. Such reduction will not impair the purpose and intent of this Ordinance, and

C. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity. We have letters supporting this applicant, both what was in the folder and the letters that have been handed in today.

D. It will not create an unsafe condition with respect to both other property and public streets. They have cleared up an unsafe condition that existed before they bought the property.

E. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.

F. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

2. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance. We are only granting a 7.9 ft. special permit which is necessary to clear up and make the structure legal.

3. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.

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

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

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

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

1. This approval is granted for the location and structure indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land without prior approval of this Board.

2. A Building Permit shall be obtained for the existing porch.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Hammack abstained)

Page 112, September 27, 1983, Scheduled 10:10 A.M. case heard at 10:35 A.M.:

10:10 A.M. COLUMBIA BAPTIST CHURCH, appl. under Sect. 3-403 of the Ord. to amend S-31-79 for church and related facilities by eliminating condition #7, thereby permitting continued use of trailer classroom without term, located 6200 Indian Run Pkwy., Bren Mar Subd., R-4, Lee Dist. (formerly Mason Dist.), 81-1((1))9B, 5 acres, SPA 79-M-031-1. (DEFERRED FROM JULY 19, 1983 FOR NOTICES)

William Shoup reviewed the staff report for the Board. He stated that the trailer was used as additional classroom space at the church to conduct adult religious classes. Concerning the storage shed, it had been in use for several years, without benefit of special permit approval.

William Higgins, Assistant Pastor of the church, 7012 Leesville Blvd. Springfield, presented the application. He stated that when the trailer was installed on the location, it was put in according to all the code requirements. He stated that the trailer aided the church in providing space for additional adult classes for one hour a week. Rev. Higgins asked the Board to delete one of the development conditions that required the installation of storm doors and windows on the trailer. He felt that the cost was not warranted by the use. In response to questions from the Board, Mr. Shoup stated that this had been based on the Environmental and Policy division analysis, because the use was located close to a railroad. Staff felt that for noise mitigation measures, storm doors and storm windows would be appropriate. Rev. Higgins stated that the front of the trailer faced the railroad. He stated that he had been in the trailer when the trains went by and there was never any noise problem.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. SPA 79-M-031-1 by COLUMBIA BAPTIST CHURCH under Section 3-403 of the Zoning Ordinance to amend S-31-79 for church and related facilities by eliminating condition #7, thereby permitting continued use of trailer classroom without term, and to

allow the use of an existing storage shed, on property located at 6200 Indian Run Parkway, tax map reference 81-1((1))9B, 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 27, 1983; and

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

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

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. This approval does not constitute an exemption from the legal and procedural requirements of this County and State. THIS SPECIAL PERMIT IS NOT VALID UNTIL A NON-RESIDENTIAL USE PERMIT IS OBTAINED.
4. The maximum seating capacity in the main worship area shall be one hundred (100).
5. Thirty (30) parking spaces shall be required.
6. The trailer shall only be used as a classroom or for other church related purposes.
7. No more than twenty-five (25) adults shall use the trailer at any one time.
8. Any future remodeling of the trailer shall incorporate the following acoustical attributes:
   - o Exterior walls shall have a laboratory sound transmission class (STC) of at least 39, and
   - o Doors and windows shall have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they shall have the STC specified for exterior walls.
   - o Adequate measures to seal and caulk between surfaces shall be provided.
9. The existing vegetation shall remain undisturbed.
10. The use of the trailer shall be permitted for a two year period with the Zoning Administrator empowered to grant two one-year extensions.
11. The property shall be made available for inspection by Fairfax County personnel during reasonable hours.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 7 - 0.

Page 114, September 27, 1983, Scheduled 10:20 A.M. case heard at 11:05 A.M.:

10:20 A.M. FRIENDS OF FAIRFAX STATION, INC., appl. under Sect. 18-401 of the Ord. to allow museum with gravel parking lot (dustless surface req. by Sect. 11-102), located 11120 and 11123 Fairfax Station Rd., R-C, Springfield Dist., 76-2((1))9, 5 acres, VC 83-S-092. (DEFERRED FROM AUGUST 2, 1983 FOR NOTICES)

Jane Kelsey reviewed the staff report for the Board. Mr. Hyland stated that he felt this should be further deferred to allow time for the Board of Supervisors to consider an amendment regarding dustless surfaces. He felt that according the the current Zoning Ordinance provisions, the Board had no authority to approve dustless surface applications. Ms. Kelsey stated that Paragraph 14 of Section 11-102 of the Ordinance allows the Director of DEM to approve a waiver of the dustless surface requirement if such facilities were for a temporary purpose. She stated that at this time, this was the only way a dustless surface could be considered without filing a variance application.

Fred Bruney, 12515 Paradise Spring Road, Clifton, represented the applicant. He stated that the architect and engineer of the project recommended a gravel surface for conservation purposes and also to keep the project as realistic in it's original appearance as possible. Mr. Bruney stated that this building had historical value, and was being rebuilt as a Civil War museum. He stated that the parking area was completely surrounded by trees.

Mr. Hammack made a motion to deny the application due to the fact that the Board had no authority to grant a waiver of the dustless surface at this time. The motion failed due to lack of a second. Mr. Hyland made a motion that the Board defer any action or decision until such time that the Board of Supervisors handled the pending Zoning Ordinance amendment. The application was deferred to March 13, 1984 at 10:20 A.M.

Page 114, September 27, 1983, Scheduled 10:30 A.M. case heard at 11:30 A.M.:

10:30 A.M. OAKTON BAPTIST TEMPLE, appl. under Sect. 3-103 of the Ord. for a church and related facilities, located 2828 Hunter Mill Rd., Rice Subd., R-1, Providence Dist., 47-2((12))8, 2.0 acres, SP 83-P-048. (DEFERRED FROM AUGUST 2, 1983 FOR DECISION ONLY)

(FOR DETAILED INFORMATION PERTAINING TO THE HEARING, PLEASE REFER TO THE VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE AND IN THE APPLICATION FOLDER)

Page 114, September 27, 1983 Board of Zoning Appeals
OAKTON BAPTIST TEMPLE

R E S O L U T I O N

In Application No. SP 83-P-048 by OAKTON BAPTIST TEMPLE under Section 3-103 of the Zoning Ordinance for a church and related facilities, on property located at 2828 Hunter Mill Road, tax map reference 47-2((12))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 September 27, 1983; 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 2.0 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, DEM, a site plan will be submitted for approval in accordance with the provisions of Article 17.
5. The driveway shall be a minimum width of twenty-two feet and shall be constructed in accordance with all applicable standards as determined by the Director, DEM.
6. If not already provided, permanent access easements permitted access to adjacent lots 11, A, and B shall be provided and shall be recorded among the land records of Fairfax County.
7. The designated EQC shall remain in an undisturbed open space. Any future expansion shall be subject to this limitation. Prior to final site plan approval, the Environment and Policy Division of the Office of Comprehensive Planning shall review the site plan to ensure compliance with the intent of the Environmental Quality Corridor.
8. A trail shall be provided along the frontage of the property in accordance with the Countywide Trails Plan.
9. The permanent church building shall be constructed with the following acoustical attributes:
o Exterior walls shall have a laboratory sound transmission class (STC) of at least 39, and
o Doors and windows shall have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they shall have the STC specified for exterior walls.
o Adequate measures to seal and caulk between surfaces shall be provided.
10. Transitional Screening 1 shall be provided along the east side of the property. The transitional screening and barrier requirements along the north, west and south sides of the property may be modified as follows:
NORTH: existing fencing shall be retained and a strip of evergreen plantings shall be provided as determined by the Director of DEM
WEST: existing vegetation along the stream shall be retained
SOUTH: plantings shall be provided in the area between the driveway and the parking lot and landscaping shall be provided in that area south of the church building and west of the parking lot in accordance with a landscaping plan approved by the Director of DEM
11. The seating capacity in the main worship area shall not exceed seventy-five (75).
12. Nineteen (19) parking spaces shall be provided.
13. A mobile trailer, not exceeding the dimensions shown on the plat, may be temporarily used to conduct religious services. Such a trailer must comply with all applicable codes and standards.
14. A Non-Residential Use Permit shall be required for the trailer prior to occupancy. The Non-Residential Use Permit for the trailer shall not be issued until the required screening along the east side of the property and the required parking and access have been provided.
15. The approval for the use of the trailer shall expire three (3) years from this date or upon the issuance of a Non-RUP for the permanent church structures, whichever occurs first.
16. The trailer shall be removed from the property within thirty (30) days after the permission for its use has expired.
17. The Director of DEM may grant a temporary exemption to the required dustless surface for the parking lot and driveway in accordance with the provisions of Article 11 of the Zoning Ordinance. The entrance shall be paved twenty-five (25) feet from the right-of-way of Hunter Mill Road as may be determined by the Director, DEM. Upon the expiration of such exemption or if no exemption is granted, the dustless surface requirement shall be satisfied.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 3 (Mr. Hammack, Mrs. Day and Mrs. Thonen)

Page 116, September 27, 1983, Scheduled 10:40 A.M. case heard at 11:45 A.M.:

10:40 A.M. LESTER R. HENRY, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 8.5 ft. from the reverse frontage lot line along I-66 (25 ft. min. rear yard req. by Sects. 2-413 & 3-207), located 10718 Oak Pl., Fairfax Acres Subd., R-2, Providence Dist., 47-3((7))85, 8,584 sq. ft., VC 83-P-108.

Chairman Smith announced that the notices were not in order for the variance application. It was the consensus of the Board to defer the case to October 25, 1983 at 12:00 Noon.

Page 116, September 27, 1983, Scheduled 10:50 A.M. case heard at 11:50 A.M.:

10:50 A.M. TERRY O. WACHTELL, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow deck to remain 7.1 ft. from rear lot line (14 ft. min. rear yard req. by Sects. 3-507), located 6519 Coachleigh Way, Amberleigh Subd., R-5, Lee Dist., 90-4((10))48, 1,420 sq. ft., SP 83-L-050.

The Clerk informed the Board that the notices were not in order. The applicant had failed to notify one contiguous property owner, the Fairfax County Park Authority. Mr. Wachtell presented a letter from the Park Authority waiving their 15 days required notice, and it was the consensus of the Board to accept the waiver and hear the testimony. Bill Shoup reviewed the staff report for the special permit application.

Terry Wachtell presented his application. He stated that he had contracted with a builder, Thomas Hatchell, 4328 Birch Lake Court, Alexandria, to provide all labor and materials. At that time, he believed that the contractor was licensed and familiar with all the applicable County standards. Mr. Wachtell stated that denial of the permit would cause him to have to remove seven feet of the existing structure and necessitate a complete redesign of the structure. He stated that the deck was completely enclosed by a fence and was not in view of any neighbors.

Richard DeKane, an adjacent property owner, spoke regarding the application. He stated that he had no problem with the size of the length of the deck, but the construction of the deck had caused additional water to run off onto his property. The area in front of the deck had been landscaped, and slate had been placed which helped to cause the problem. Mr. DeKane said he didn't know who was responsible for the problem, but he had had a drainage problem even before the construction of the deck.

Mr. Wachtell stated that he had already talked to Mr. DeKane about the water run-off problem, and he was going to work with a contractor and re-landscape to try to correct it. Also, he had already run some pipes out to the back of his property to try to re-direct the water flow.

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

Page 116, September 27, 1983 Board of Zoning Appeals
TERRY O. WACHTELL

R E S O L U T I O N

Mr. Hyland made the following motion:

WHEREAS, Application No. SP 83-L-050 by TERRY O. WACHTELL under Section 8-901 of the Fairfax County Zoning Ordinance for reduction to min. yard requirements based on error in building location to allow deck to remain 7.1 ft. from rear lot line (14 ft. min. rear yard req. by Sects. 3-507), on property located at 6519 Coachleigh Way, tax map reference 90-4((10))48, 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 September 27, 1983; AND,

WHEREAS, the Board made the following conclusions of law:

1. The Board has determined that:
   A. The error exceeds ten (10) percent of the measurement involved, and
   B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and

C. Such reduction will not impair the purpose and intent of this Ordinance, and
D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
E. It will not create an unsafe condition with respect to both other property and public streets, and
F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
2. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
In this case we are allowing a 7.1 ft. variance. This is a reasonable reduction necessary to provide reasonable relief.
3. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.

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

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

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

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

1. This approval is granted for the location of the deck indicated on the plat submitted with this application and is not transferable to other land.
2. A Building Permit shall be obtained and the house location plat shall be amended to reflect the yards as approved by the Board of Zoning Appeals.
3. We have heard testimony from the applicant and also his neighbor. The water aggravation problem which the neighbor has testified to and which is acknowledged by the applicant resulting from the construction of the deck and particularly the running of the pipe through the back yard to the rear of the property, indicates that perhaps the drain is inadequate to carry that water away which could result in increased water coming on the neighbors property. The applicant has indicated that he will take steps to alleviate that problem by carrying that water away from the property. I would condition this permit upon his doing that.

Mrs. Day seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

//The Board adjourned for lunch at 12:30 A.M. and returned at 1:35 P.M. to take up the scheduled agenda.

Page 117, September 27, 1983, Scheduled 11:00 A.M. case heard at 1:35 P.M.:

11:00 A.M. SURINDER K. KHANNA, appl. under Sect. 18-401 of the Ord. to allow an existing outlot to become a buildable lot having width of 20.80 ft. (100 ft. min. lot width req. by Sect. 3-206), located 6725 Alpine Dr., Roberts Place Subd., R-2, Mason Dist., 71-2((5))outlot B1, 27,252 sq. ft., VC 83-M-109.

Jane Kelsey reviewed the staff report for the Board. Surinder Khanna presented his application. He stated that he acquired two buildable lots (C & B) on February 4, 1983. These two lots had been recorded among the land records of the County since April 1982. Mr. Khanna stated that in May of 1983, he learned that the lots did not meet the frontage requirements. In view of options presented by Fairfax County, he submitted a lot line adjustment making lot C 100 feet wide so that the lot could be sold. This action made the second lot, lot B, non-buildable due to lack of required frontage. Mr. Khanna submitted letters from adjacent property owners in support of the request.

Gerald Waldman, a contiguous property owner, spoke in support of the application. He stated that this was a heavily wooded lot, and would not cause any detriment to the neighborhood.

There was no one else to speak regarding the application.

SURINDER K. KHANNA

RESOLUTION

In Application No. VC-83-M-109 by SURINDER K. KHANNA under Section 18-401 of the Zoning Ordinance to allow an existing outlot to become a buildable lot having width of 20.80 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 6725 Alpine Drive, tax map reference 71-2((5))outlot B1, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 27, 1983; 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 27,252 sq. ft.
4. That the applicant has met the nine Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
A. That the subject property was acquired in good faith.
B. That the subject property had exceptional narrowness at the time of the effective date of the Ordinance.
C. That the subject property had an extraordinary situation or condition of the subject property, in that the applicant went to the County and had a lot line adjustment and was led to believe he had two buildable lots, and then was later told that this was not the case.

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 variance is approved for Lot B1A as shown on the plat submitted by this applicant.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

Page 118, September 13, 1983, Scheduled 11:10 A.M. case heard at 1:55 P.M.:

11:10 A.M. LESLIE E. & FLORIS D. BOWMAN, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 8.7 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 8909 Higdon Dr., Ankerdale Subd., R-1, Centreville Dist., 28-4((10))32, 32,147 sq. ft., VC 83-C-110.

William Shoup reviewed the staff report for the Board. He indicated that in 1978 with the adoption of the current Ordinance, the zoning designation for the property had been changed from RE-1 to R-1. Following that, amendment 79-13 was adopted which changed the side yard requirement from 15 feet to 20 feet in the R-1 District.

Minter Farnsworth, a licensed home contractor from Gaithersburg, Maryland, represented the applicant's. He stated that the builder had originally located the house on the lot in such a manner that a garage could not be built without a variance. The zoning change gave the applicant's even less of a side yard to build on. An existing chimney would extend about two feet into the garage. Mr. Farnsworth stated that the applicant's were in their 60's and wanted protection from the weather when going from the car into the house.

There was no one to speak in support or opposition.

RESOLUTION

In Application No. VC-83-C-110 by LESLIE E. & FLORIS D. BOWMAN under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 12.0 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), on property located at 8909 Higdon Drive, tax map reference 28-4((10))32, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 27, 1983; 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 32,147 sq. ft.
4. That the applicant has met the following Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
C. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
D. That the strict application of this Ordinance would produce undue hardship.
E. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
F. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
G. That authorization of the variance will not be of substantial detriment to adjacent property.
H. That the character of the zoning district will not be changed by the granting of the variance.
I. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

Page 119, September 27, 1983, Scheduled 11:20 A.M. case heard at 2:10 P.M.:

11:20 A.M. NATIVITY LUTHERAN CHURCH, appl. under Sect. 3-303 of the Ord. for addition of a building and parking lot to existing church and related facilities, located 1300 Collingwood Rd., R-3, Mt. Vernon Dist., 102-4((1))13B, 3.1055 acres, SP 83-V-051.

William Shoup reviewed the staff report for the Board. The staff recommended approval of the special permit subject to the development conditions. Farley Kojappa, 3510 Aaron Chapel Road, Alexandria, represented the church. He stated that the church had a

three-phase building plan. Phase 1 was comprised of the existing fellowship hall. Phase 2 called for the addition of a 250 seat sanctuary. Phase 3 would be a religious education wing, which was tentatively planned to be built within the next five years. The church also planned to expand the existing parking lot in Phase 2. The proposed sanctuary would be a one-story structure. An earth berm would surround the property to serve as a gravel filter area for the roof drains.

Basil Paddock, the owner of lot 15C, adjacent to the church property, spoke in support of the application. He stated that there were many large trees at the border of the property that he would not like to see cut down during the building process.

There was no one else to speak regarding the application.

R E S O L U T I O N

In Application No. SP 83-V-051 by NATIVITY LUTHERAN CHURCH under Section 3-303 of the Zoning Ordinance for addition of a building and parking lot to existing church and related facilities, on property located at 1300 Collingwood Road, tax map reference 102-4((1))13B, 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 27, 1983; 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 3.1055 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management (DEM), a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. Transitional screening 1 shall be provided along the northern and northeastern sides of the property generally in accordance with the plat submitted by the applicant to ensure adequate screening of the proposed parking lot . Where deemed appropriate by DEM, existing vegetation shall be uses to satisfy this requirement. Supplemental plantings shall be provided as determined by the Director. Additional plantings shall be provided on the southeastern side of the parking lot to screen the view from Fort Hunt Road. Transitional screening may be modified along the remaining portion of the eastern side of property provided existing vegetation on site is retained where removal is not necessary to accommodate construction subject to the approval of the County Arborist's office. Final determination on the adequacy of screening shall be made by the Director, DEM.
6. Transitional screening may be modified on the western side of the property provided that existing seventeen (17) foot strip remains undisturbed and evergreen plantings are provided to screen vehicle headlights from adjacent Lot 16 as determined by the Director, DEM.
7. The seating capacity in the main worship area shall be two hundred fifty (250).
8. Ninety-six (96) parking spaces shall be provided, except that the number may be

reduced to ninty-four (94) to accommodate the transitional screening requirement at the northeast portion of the site.
9. A soils report may be required as determined by the Director, DEM.
10. A trail (sidewalk) shall be provided along Fort Hunt Road and Collingwood Road in accordance with the Trails Plan except that a waiver may be permitted in conformance with established policy.
11. On-site drainage shall be provided as determined by DEM.
12. Dedication of right-of-way for public street purposes and road improvements shall be provided as determined by DEM at the time of site plan review.
13. Prior to final site plan approval, the Office of Transportation and the Department of Public Works shall approve the site plan in accordance with any requirements of Road Bond Project #6405.
14. The phased development of the proposed facilities shall be permitted, provided that Phase 2, which is the addition of a sanctuary and parking lot, is implemented in accordance with the provisions of Sect. 8-015 of the Zoning Ordinance.
15. The remaining proposed facilities shall be implemented in accordance with all applicable standards and ordinances in effect at time of implementation.
16. Conditions #1 through #13 shall be satisfied prior to the use of any of the proposed facilities.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 7 - 0.

Page 121, September 27, 1983, Scheduled 11:40 A.M. case heard at 2:30 P.M.:

11:40 A.M. FOSTER W. MORSE, appl. under Sect. 18-401 of the Ord. to allow construction of porch addition to dwelling to 14.3 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-E07), located 8009 Apollo St., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))136, 22,076 sq. ft., VC 83-V-111.

Mary Burton reviewed the staff report for the Board. Foster Morse presented the facts for his application. He stated he had purchased the property 14 years ago, and that the house had been built on the rear portion of the lot. He stated that due to the steep terrain, this was the best location for the porch. Mr. Morse submitted aerial photographs to the Board of his property.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC-83-V-111 by FOSTER W. MORSE under Section 18-401 of the Zoning Ordinance to allow construction of enclosed workroom/porch addition to dwelling to 14.3 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-E07), on property located at 8009 Apollo Street, tax map reference 113-4((6))136, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 27, 1983; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 22,076 sq. ft.
4. That the applicant has met the following Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
C. That the subject property has exceptional topographic conditions.
D. That the subject property has an extraordinary situation or condition of the subject property, due to the shape of the lot lines and the terrain in the back where it really drops down.

E. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
F. That the strict application of this Ordinance would produce undue hardship. I feel since he has the terrain problem , the topographic problem, the situation of the pool and the strict dropoff, all of these produce undue hardship. This is not shared generally by other property owners in the immediate vicinity.
G. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
H. That authorization of the variance will not be of substantial detriment to adjacent property.
I. That the character of the zoning district will not be changed by the granting of the variance.
J. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

Page 122, September 27, 1983, Scheduled 11:50 A.M. case heard at 2:40 P.M.:

11:50 A.M. OTTO C. DOERFLINGER, appl. under Sect. 18-401 of the Ord. to allow construction of sun porch addition to dwelling to 20.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 1812 Lansing Ct., Birchwood Subd., R-3, Dranesville Dist., 31-3((17))7, 12,949 sq. ft., VC 83-D-112.

Mary Burton reviewed the staff report for the Board. Otto Doerflinger presented the facts for his application. He stated that he had purchased the property in 1981, and had been unaware of any setback requirements. He stated that the porch would be constructed over and existing concrete patio. The property was on a cul-de-sac and had an unusual pie shape. Mr. Doerflinger indicated that he had two other options. First, he could reduce the depth of the porch, but felt that a depth of less than 7 feet was not adequate. Second, he could move the location of the porch, but that would result in the outside door no longer connecting to the house.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC-83-D-112 by OTTO C. DOERFLINGER under Section 18-401 of the Zoning Ordinance to allow construction of sun porch addition to dwelling to 20.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 1812 Lansing Court, tax map reference 31-3((17))7, County of Fairfax, Virginia, Mrs. 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 September 27, 1983; and

OTTO C. DOERFLINGER
(continued)

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 12,949 sq. ft.
4. The sun porch would be built over the existing concrete patio. The applicant is requesting a 4.2 ft. variance. The lot is on a cul-de-sac which is pie-shaped and has an unusual configuration. The rear lot lines form a point. There is an existing door from the house to the patio or the proposed sunporch which precludes sensibly locating it elsewhere. It is noted that the front corner of the house is 12.7 ft. from the side lot line, whereas the existing rear corner of the patio is 20.8 ft. from the rear lot line. The porch will be situated in the center of the rear of the house, thus not abutting neighboring properties.
5. That the applicant has met the following Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
C. That the subject property has exceptional topographic conditions.
D. That the subject property has an extraordinary situation or condition of the subject property.
E. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
F. That the strict application of this Ordinance would produce undue hardship.
G. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
H. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
I. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
J. That authorization of the variance will not be of substantial detriment to adjacent property.
K. That the character of the zoning district will not be changed by the granting of the variance.
L. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 7 - 0.

Page 123, September 27, 1983

12:00 Noon FAHMI SHAMMAS, appl. under Sect. 18-401 of the Ord. to allow the enclosure of the existing carport for family room addition to dwelling 10.4 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7406 Estaban Pl., N. Spfd. Subd., R-3, Annandale Dist., 80-1((2))(72)21, 13,830 sq. ft., VC 83-A-113.

Chairman Smith announced that the notices were not in order for the referenced variance application. It was the consensus of the Board to defer the application to November 22, 1983 at 10:00 A.M.

Page 124, September 27, 1983

12:15 P.M. GROVETON BAPTIST CHURCH, appl. under Sect. 3-403 of the Ord. to allow 70 additional parking spaces for existing church and related facilities, located 5611 Richmond Hwy., Groveton Heights, R-4, Mt. Vernon Dist., 93-1((7))1 and 93-1((1))27, 2.579 acres, SP 83-V-054.

Chairman Smith announced that the notices were not in order for the referenced special permit application. It was the consensus of the Board to defer the application to November 22, 1983 at 10:10 A.M.

Page 124, September 27, 1983, AFTER AGENDA ITEMS:

PLEASANT VALLEY ASSOCIATES/SP 83-S-076: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned special permit application. It was the consensus of the Board to grant the request and schedule the hearing for October 25, 1983 at 12:15 P.M.

Page 124, September 27, 1983, AFTER AGENDA ITEMS:

CHURCH OF THE BLESSED VIETNAMESE MARTYRS/SP 83-P-044 & VC 83-P-084: The Board was in receipt of a letter from Joseph Gartlan requesting a reconsideration of the above referenced cases. The Board felt they needed an opinion from the County Attorney's Office regarding the authority of the Board to reconsider denied cases. It was the consensus of the Board to convene for an Executive session with Karen Harwood, Assistant County Attorney. Upon reconvening the meeting, the Board indicated that they could not reconsider any action that had been taken, but that they could waive the twelve month period that must elapse before a new application could be heard. This was referenced in Section 18-108 of the Zoning Ordinance. The Board indicated that they would consider a request for a waiver of the twelve month waiting period, and asked that Mr. Gartlan write a letter to the Board and stated the reasons for the request.

Page 124, September 27, 1983, AFTER AGENDA ITEMS:

MICHAEL L. THOMAS/A 83-C-007: The Board was in receipt of a memo from Philip Yates requesting them to make the determination that the appeal was complete and timely filed, and to set a hearing date. The Board accepted the appeal and scheduled the hearing for November 1, 1983 at 10:00 A.M.

Page 124, September 27, 1983, AFTER AGENDA ITEMS:

MOUNT AUTO REPAIR/A 83-L-008: The Board was in receipt of a memo from Philip Yates requesting them to make the determination that the appeal was complete and timely filed, and to set a hearing date. The Board accepted the appeal and scheduled the hearing for December 20, 1983 at 8:15 P.M.

//There being no further business, the Board adjourned at 4:30 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman

Submitted to the Board on: Jan. 31, 1985 Approved: Feb 5, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 4, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 1:05 P.M.); and John Ribble. (Mrs. Mary Thonen was absent).

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

10:00 A.M. RESTON ROLLER RINK, INC., appl. under Sect. 5-503 of the Ord. to amend S-80-C-012 for skating facilities to permit additional land area, 92 additional parking spaces, increase max. occupancy load to 457, and operating hours 24 per day, located 1808 Michael Faraday Ct. and 11160 Sunset Hills Rd., Reston Subd., 18-3((1))26, 2,9030 acres, SPA 80-C-012-1. (DEFERRED FROM JULY 19, 1983 FOR NOTICES AND TO ALLOW APPLICANT TO MODIFY PLANS).

The Clerk informed the Board that the notices were not in order. Chairman Smith advised the Board that there was not a provision in the Ordinance for waiving the notice requirements. Mr. Hyland stated that in view of the Board's discussion the previous week that it seek advice from the County Attorney on the matter, the matter was still an open issue. Mr. Hyland noted that the Planning Commission and the Board of Supervisors had accepted waivers in the past.

Accordingly, Mr. Ribble moved that the Board accept the notices as being in order and proceed with the public hearing. Mrs. Day seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith).

Mr. William Shoup presented the staff report. Mr. John Hanson of 7297-D Lee Highway in Falls Church represented the applicant. He stated that the building was designed to accommodate 1,000 people. However, because of the parking, they were limited to 175 people at any one time. Mr. Hanson stated that additional parking was not needed as most of the patrons were driven to the facility. There were never more than 15 to 20 cars in the parking lot. The only space available for additional parking was the piece of property across the street. Additional land on the site was available but was too steep to be used for parking. Mr. Hanson urged the Board to grant the special permit request.

In response to questions from the Board, Mr. Hanson stated that the applicant concurred with the development conditions in Appendix I of the staff report. There was another roller rink in the area which was open 24 hours a day.

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

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 80-C-012-1 by RESTON ROLLER RINK, INC. under Section 5-503 of the Fairfax County Zoning Ordinance to amend S-80-C-012 for skating facilities to permit additional land area, 92 additional parking spaces, increase max. occupancy load to 457 and operating hours 24 per day, on property located at 1808 Michael Faraday Court, tax map reference 18-3((1))26, 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 4, 1983; 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 I-5 & I-4.
3. The area of the lot is 2.9030 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 I Districts as contained in Section 8-503; 5-403 and 5-503 of the Zoning Ordinance.

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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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance by the provisions of Article 17. Erosion and stormwater management controls shall be provided as determined by DEM.
5. Evergreen plantings shall be provided on Lot 26 to ensure that the parking lot is completely screened from Sunset Hills Road as determined by DEM.
6. At such time as the Northern Virginia Regional Park Authority determines that users of the parking lot on Lot 26 present an adverse impact on the adjacent W & O D trail, the applicant shall provide appropriate screening and/or fencing to the satisfaction of the Regional Park Authority. A written agreement to this effect shall be signed by the applicant and a representative of the Northern Virginia Regional Park Authority and submitted to DEM as part of the site plan approval request. A copy shall also be submitted to the Zoning Administrator to be made part of the file, prior to the issuance of the Non-Residential Use Permit.
7. Interior and peripheral parking lot landscaping shall be provided in accordance with the provisions of Article 13.
8. Approval of this special permit shall be contingent upon the Board of Supervisors' approval of the parking arrangements on Lot 26 in accordance with the provisions of Sect. 11-102 of the Zoning Ordinance.
9. The provision of compact car parking spaces shall be subject to all applicable standards and policies as determined by the Director, DEM, and to the approval of an enforcement plan by the Board of Supervisors.
10. The total number of parking spaces to be provided on the subject properties shall be determined by the Director, DEM, at the time of final site plan approval subsequent to compliance with Condition No. 8 above. Under no circumstances shall the total number of parking spaces exceed one-hundred forty-one (141).
11. The maximum number of employees on site at any one time shall be six (6).
12. The occupancy load for the structure shall be determined by the Director, DEM, based on the total number of parking spaces approved in accordance with Condition No. 10 above. The approved occupancy load limit shall then be posted in the facility by the Building Inspector's Office. Under no circumstances shall the occupancy load exceed four-hundred (400) patrons plus six (6) employees.
13. There shall be no limit on the hours of operation.
14. If required by DEM, the applicant shall provide documentation of VEPCO approval of the parking located within their easement on Lot 26.
15. Pedestrian access shall be provided on Lot 26 in accordance with proffered condition No. 2 of RZ 80-C-013.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. Hammack and Mrs. Thonen being absent).

10:20 A.M. VIRGINIA K. & M. L. CLARK TYLER, appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, proposed corner lot having width of 82.72 ft. (175 ft. min. lot width req. by Sect. 3-106), located 889 Dolley Madison Blvd., R-2, Dranesville Dist., 31-2((1))141, 2.65475 acres, VC 83-D-114.

Ms. Mary Burton presented the staff report. Mrs. Virginia K. Tyler of 889 Dolley Madison Boulevard informed the Board that the property was acquired in good faith. The property was exceptionally shallow and had been created during the 1920s or 1930s. Mrs. Tyler informed the Board that the subdivision would not create a shortened property line than had existed for the past 50 or 60 years. It would be a hardship to the applicant if the variance were not approved as she would have to sell the entire property. Then someone else would develop it. Mrs. Tyler did not feel that selling off one lot would be detrimental to the residential district.

Mrs. Tyler questioned the suggestions made by Transportation with respect to the driveway. She felt it was safer to go out her front driveway because she had 300 ft. of sight distance. The location proposed by Transportation was at a bend in the road with a blind curve. Mrs. Tyler stated there had been 29 accidents in five years at that curve.

The Board questioned staff regarding Transportations comments. Mrs. Kelsey stated that this was viewed as any other subdivision and Transportation had strived to keep traffic off of Rt. 123 onto subdivision streets where it was safer. Mrs. Kelsey stated that the other alternative was to have lot 2-A access Rt. 123 and cut off access for lot 2-B. Then Lot 2-A could not access from Merchant Lane. Mrs. Tyler stated that it was not her intention to grant Lot 2-B an easement for all that traffic. They would have a driveway from Merchant Drive and would not be able to access Rt. 123.

Mrs. Kelsey informed the Board that she had contacted the Office of Transportation. Mr. Moore was in a meeting and could not come to the hearing. When asked if he had any further remarks regarding this application, he stated that Rt. 123 was a major arterial road. It was not good planning to have one lot exit on Rt. 123. If the applicant wanted to maintain the status quo, then she should not subdivide. Also, there was concern that the property would be further subdivided in the future.

Mr. Hyland stated that future subdivisions would come under the same scrutiny. He was concerned that just because the applicant wished to subdivide her property, she would be denied access that she had had for 18 years. Mr. Hyland stated that was not good planning but confiscation.

Mr. DiGiulian informed the Board that when the property was subdivided, it could delete one entrance. However, the neighbor next door was using that driveway. So no matter what the BZA did, the driveway could not be closed. Chairman Smith indicated that someday there might be a way to curtail that use for a better traffic pattern.

In response to questions from the Board regarding the use of the stable if the property was subdivided, Mrs. Tyler stated it would be used for storage. Presently, the Tylers boarded a horse but it would not be able to stay if the property was subdivided.

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

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-D-114 by VIRGINIA K. & M. L. CLARK TYLER under Section 18-401 of the Fairfax County Zoning Ordinance to allow subdivision into two lots, proposed corner lot having width of 82.72 ft. (175 ft. min. lot width req. by Sect. 3-106) on property located at 889 Dolley Madison Blvd., tax map reference 31-2((1))141, County of Fairfax, Virginia, Mrs. 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 October 4, 1983; 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 2.65475 acres.

RESOLUTION

AND, WHEREAS, this application meets the following required standards for variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the subdivision of this lot to two (2) lots as shown on the plat submitted with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and must be filed with the Zoning Administrator.
3. At the time of recordation of the subdivision, an easement shall be recorded among the land records of Fairfax County to provide for the permanent entrance and access to Lot 2A through Lot 2B.
4. The applicant shall discontinue use of the shed/stable upon approval of this application, or obtain the approval of the Board of Zoning Appeals to continue use by applying for a variance of Sect. 2-512 of the Fairfax County Zoning Ordinance.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. Hammack and Mrs. Thonen being absent).

Page 128, October 4, 1983, Scheduled case of

10:30 A.M. PIERRE L. SALES, appl. under Sect. 18-401 of the Ord. to permit construction of addition to residence to 18.09 ft. from rear lot line and 17.62 ft. from side lot line (25 ft. min. rear yard and 20 ft. min. side yard req. by Sect. 3-107), located 6349 Linway Terrace, R-1, Dranesville Dist., 31-3((1))37, 19,086 sq. ft., VC 83-D-115.

Ms. Mary Burton presented the staff report. She informed the Board that in 1980, a variance had been granted to allow an addition 12.8 ft. from the rear lot line. Now the applicant was requesting a variance for a one story addition to the east side of the dwelling 18.09 ft. from the rear and 17.62 ft. from the side lot lines.

Mrs. Sales of 6349 Linway Terrace represented her husband. The variance was minimal according to Mrs. Sales. She stated that the addition would abutt Mrs. Lockwood's property who was present to give her own testimony. Mrs. Sales stated that the Board had already granted a more prominent variance. The current request would add to the appearance of existing building.

In response to questions from the Board, Mrs. Sales stated that the addition approved in 1980 was to be used for guests. The house was very small. The four children often visited with their children. Mrs. Sales' mother-in-law lived at the house constantly. She stated that the proposed addition would not come any closer to the rear lot line than the structure approved in 1980. The Board inquired as to why Mrs. Sales was seeking a variance to both the side and rear. Mrs. Sales stated that to meet the rear setback would take away too much space. The proposed addition was 26.5 ft. x 33 ft. It would be used for a bedroom with a bath. Mrs. Sales stated that the new bedroom was large but it would be used for all purposes and would add to the beauty of the house.

Mrs. Lockwood spoke in support of the variance. She stated that the Sales had done a beautiful job with the property. Mrs. Lockwood stated that she had one lot and did not want this variance to have any bearing on her property. There was no one else to speak in support and no one to speak in opposition.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-D-115 by PIERRE L. SALES under Section 18-401 of the Fairfax County Zoning Ordinance to permit construction of addition to residence to 18.09 ft. from rear lot line and *17.62 ft. from side lot line (25 ft. min. rear yard and 20 ft. min. side yard req. by Sect. 3-107), on property located at 889 Dolley Madison Blvd., tax map reference 31-2((1))141, 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 4, 1983; 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 19,086 sq. ft.

AND, WHEREAS, this application meets the following required standards for variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

   The applicant's property has exceptional characteristics in the development of the property immediately adjacent; it has double street frontages and an unusual placement of the existing building on the property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

RESOLUTION

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART *(to permit construction of addition to residence to 18.09 ft. from rear lot line but to deny the side yard variance request thereby having the applicant comply with the 20 ft. side yard requirement) with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrences of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to the start of construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. Hammack & Mrs. Thonen being absent).

Page 130, October 4, 1983, Scheduled case of

10:40 A.M. FAIRFAX UNITARIAN CHURCH, appl. under Sect. 18-401 of the Ord. to allow building addition to existing church having gravel parking lot (dustless surface req. by Sect. 11-102), located 2709 Hunter Mill Rd., R-1, Providence Dist., 37-4((1))23, 10.575 acres, VC 83-P-116.

&

10:40 A.M. FAIRFAX UNITARIAN CHURCH, appl. under Sect. 3-103 of the Ord. for addition of new sanctuary building to existing church and related facilities, located 2709 Hunter Mill Rd., R-1, Providence Dist., 37-4((1))23, 10.575 acres, SP 83-P-053.

Ms. Mary Burton presented the staff report. Mr. Stephen Cockrell of 2005 Cutwater Court in Reston represented the church. He stated that 22 years ago, the church had plans to construct a sanctuary up on the hill. Since that time, they had been meeting in sunday school buildings. The church wanted to carry out its plans and build a sanctuary which would give them more space. They were concerned with nature and conservation. Mr. Cockrell presented photographs to the Board showing the driveway for the church and the parking lot next door. Mr. Cockrell stated that the church's parking area was dustless. They did not want to increase stormwater runoff. They questioned having to pave over the lot and wished to continue it as it presently existed. Mr. Cockrell presented letters of support from the neighbors. Mr. Cockrell stated that the church did not see the need for increased parking. The current parking had been used for over 20 years.

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

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 83-P-053 by FAIRFAX UNITARIAN CHURCH, under Section 3-103 of the Fairfax County Zoning Ordinance for addition of new sanctuary building to existing church and related facilities, on property located at 2709 Hunter Mill Road, tax map reference 37-4((1))23, County of Fairfax, Virginia, Mr. DiGiulian 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 4, 1983; 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 10.575 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance by the provisions of Article 17.
5. Seating capacity in the principal area of worship shall be three hundred (300).
6. Seventy-six (76) parking spaces shall be provided, four (4) of which shall be designated as handicapped parking spaces. The location of the handicapped parking spaces shall be along the circular driveway leading to the proposed sanctuary. The exact location shall be determined by the Director, Department of Environmental Management (DEM) in accordance with Sect. 11-102 of the Zoning Ordinance.
7. Interior parking lot landscaping shall be provided in accordance with the provisions of Article 13.
8. The transitional screening and barrier requirement may be modified to recognize existing vegetation provided supplemental screening is provided if deemed necessary by the Director, DEM.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Hammack and Mrs. Thonen being absent).

With regard to the variance application of the Fairfax Unitarian Church, Mr. Ribble stated that to be consistent with past actions taken by the BZA in these matters, he moved that the Board defer the application until after the Board of Supervisors amends the Ordinance in February of 1984. Mr. DiGiulian seconded the motion. It was the consensus of the Board to defer the variance until March 13, 1984 at 10:30 A.M.

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Page 132, October 4, 1983, Recess

At 12:10 P.M., the Board recessed the meeting for lunch and reconvened at 1:00 P.M. to continue with the scheduled agenda.

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Page 132, October 4, 1983, Scheduled case of

11:00 A.M. CAROLYN AND BEAT ZUTTELL, appl. under Sect. 18-401 of the Ord. to allow construction of a second-story addition to existing dwelling 7.5 ft. from south side lot line and 8.4 ft. from the north side lot line (10 ft. min. side yard req. by Sect. 3-407), located 2841 Cameron Rd., Green Way Downs, R-4, Providence Dist., 50-4((4))31, 6,250 sq. ft., VC 83-P-117.

Ms. Mary Burton presented the staff report. In response to questions from the Board, Ms. Burton stated that the proposed addition would not result in the structure being any closer to the side lot line than it was presently located. Mrs. Carolyn Zuttell of 2841 Cameron Road informed the Board that the addition was needed to accommodate her family. They wanted to raise the rear roof which would conform architecturally with the other additions in the neighborhood. In response to questions from the Board, Mrs. Zuttell stated that they purchased the property in April. They had not realized that to raise the roof would require a variance. They had found it out when they applied for a building permit last spring.

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

Page 132, October 4, 1983 Board of Zoning Appeals
CAROLYN AND BEAT ZUTTELL

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-P-117 by CAROLYN & BEAT ZUTTEL under Section 18-401 of the Fairfax County Zoning Ordinance to allow construction of a second-story addition to existing dwelling to 7.5 ft. from south side lot line and 8.4 ft. from the north side lot line (10 ft. min. side yard req. by Sect. 3-407), on property located at 2841 Cameron Road, tax map reference 50-4((4))31, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 4, 1983; 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 6,250 sq. ft.

AND, WHEREAS, this application meets the following required standards for variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has exceptional narrowness at the time of the effective date of the Ordinance;
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific additions shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and must be filed with the Zoning Administrator.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 0 (Mrs. Thonen being absent).

Page 133, October 4, 1983, Scheduled case of

11:10 A.M. CENTEX HOMES OF WASHINGTON, D.C., INC., appl. under Sect. 3-103 of the Ord. to amend SP 83-D-025 for temporary sales office to permit a construction trailer on the site, located 811 Ridge Dr., Langley Oaks, R-1, Dranesville Dist., 21-2((7))209, 20,000 sq. ft., SPA 83-D-025-1.

Ms. Jane Kelsey presented the staff report. In response to questions from the Board, Ms. Kelsey stated that the previous special permit had been for a sales office. The present application was for a construction office which would expire at the same time as the sales office. There were 80 houses remaining to be sold.

Ms. Minerva Andrews, an attorney in Fairfax, represented Centex Homes. The application was to locate the construction trailer behind the sales office. There would not be any additional activities.

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

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 83-D-025-1 by CENTEX HOMES OF WASHINGTON, D.C., INC. under Section 3-103 of the Fairfax County Zoning Ordinance to amend SP 83-D-025 for temporary sales office to permit a construction trailer on the site, on property located at 811 Ridge Drive, tax map reference 21-2((7))209, 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 4, 1983; 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 20,000 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.

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance by the provisions of Article 17.
5. Parking shall be provided on-site to accommodate two employees and two customers at any one time. If it is determined by the Zoning Administrator that additional parking is necessary to provide all parking on-site, a new plat shall be submitted for the BZA's approval showing the location of such parking in accordance with the provisions of Sect. 8-014.
6. Hours of operation shall be from 6:00 A.M. to 8:00 P.M., seven days a week.
7. This permit is granted for a period of two years from June 14, 1983, the date of approval of SP 83-D-025.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 to 0 (Mrs. Thonen being absent).

Page 134, October 4, 1983, Scheduled case of

11:20 A.M. KENNY WAYNE FIELDS, appl. under Sect. 5-503 of the Ord. for a commercial swimming pool, tennis and racquetball courts, located 5610 Guinea Rd., I-5, Annandale Dist., 77-2((1))pt. of 29, 6.4742 acres, SP 83-A-055.

Ms. Mary Burton presented the staff report. Mr. Kenny Wayne Fields of 5829 Boothe Drive in Burke informed the Board that he was seeking a special permit for a commercial indoor racquet club for winter operation. It would serve Burke and the surrounding area. Mr. Fields stated that the developer was planning to delay construction of the tennis courts for six months to get the indoor racquet courts in place first. A meeting had been held with Supervisor Moore which was attended by some of the neighbors across the road. Mr. Fields stated that he had held an open meeting with the residents of the townhouses across from the proposed facility. There had not been any opposition.

In response to questions from the Board, Mr. Fields stated that the building would have steel siding but the facade would be stone and wood to blend in with the area. The basic colors would be neutral tones, dark brown with beige exterior. Mr. Fields stated that two-thirds of the proposed building would be within the current treeline, approximately 90 ft. from Guinea Road. The parking area would come off Sandy Lewis Drive.

Ms. Kelsey informed the Board that the condition in the staff report relating to the waiver had not been worded correctly. Ms. Kelsey informed the Board that the staff had no objection to a waiver of the barrier requirement.

Some Board members questioned the hours of operation as it might impact the residential structures. They questioned the waiver of the barrier. Mr. Fields responded that the trees were existing and very little light would shine through. The trees were better than a wall barrier according to Mr. Fields.

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

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 83-A-055 by KENNY WAYNE FIELDS under Section 5-503 of the Fairfax County Zoning Ordinance for a commercial swimming pool, tennis and racquetball courts, on property located at 5610 Guinea Road, tax map reference 77-2((1))pt. of 29, County of Fairfax, Virginia, Mrs. 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 October 4, 1983; and

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

1. That the applicant is the contract purchaser.
2. The present zoning is I-5.
3. The area of the lot is 6.4742 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 I Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance by the provisions of Article 17.
5. The applicant shall remove only the trees and vegetation necessary for construction of the proposed facilities as may be determined by the County Arborist and the Director of the Department of Environmental Management (DEM), at the time of site plan review.
6. The total maximum membership shall not exceed 2,000 members.
7. Left and right turn lanes shall be provided on Guinea Road into the site which shall conform to VDH&T's minimum design standards.
8. The hours of operation shall be 6:00 A.M. to 12:00 Midnight for the indoor facilities seven (7) days a week. The hours of operation shall be 6:00 A.M. to 10:00 P.M. for the outdoor facilities seven (7) days a week.
9. The maximum number of employees shall be six (6) unless additional parking is provided in accordance with all applicable Fairfax County regulations.
10. Transitional screening 2 shall be provided along the northern lot line. Supplemental planting shall be provided as determined by the Director of Environmental Management. A waiver of the Barrier requirement may be allowed.
11. Any signs associated with this use shall be in accordance with Article 12, Signs.
12. There shall be 108 parking spaces with five (5) spaces designated as handicapped parking spaces.

RESOLUTION

13. Any lighting associated with this use shall be low intensity and shall be in accordance with Article 14, Performance Standards.
14. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance.
15. A trail easement shall be provided at time of site plan review.
16. A soils report and location of the storm water detention shall be provided at the time of site plan review.
17. The applicant shall provide an updated valid contract to the Zoning Office.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 (Mrs. Thonen being absent).

Page 136, October 4, 1983, Scheduled case of

11:40 A.M. THE ARTERY ORGANIZATION, INC., appl. under Sect. 3-803 of the Ord. to amend S-80-77 for community recreation facilities to permit change of permittee, additional land area and construction of a basketball court in place of a tennis court, change hours of operation and increase membership, located 5638 Guinea Rd., Colony Park Subd., R-8, Annandale Dist., 77-2((5))G & F, 3.01 acres, SPA 77-A-080-1.

Mr. William Shoup presented the staff report. Mr. Larry Berg of the Office of Transportation presented his department's position with respect to condition no. 6 of the proposed development conditions. He stated that the proposed facility access would not be a public right-of-way but a driveway. However, it would function as a four lane intersection because of the full lane for turning which would conflict with turning and the sight distance. It would cause stacking which was a safety hazard.

Mr. Marc Bettius, an attorney in Fairfax, represented the applicant. He presented the history of the application to the BZA. The BZA had heard this application in a previous special permit in 1977. Subsequent to the hearing, the developer began to build the facility and the bathhouse but became a casualty of the market.

In response to questions from the Board, Mr. Bettius stated that the proposed access had been changed from what had been approved in 1977. Mr. Bettius stated that the improvements to the site were subject to vandalism. The property had never been conveyed to the homeowners. The residents were disappointed by the original developer as the property was an eyesore and a nuisance to the community.

Mr. Bettius thanked the staff for the thinking put into the staff report. However two development conditions caused great difficulty to the applicant. Mr. Bettius was concerned with connection to the trail as it would be difficult for the developer to reconfigure the land use. Mr. Bettius stated that the realignment of the roads would require a common sense approach. He stated that this was a seasonal facility and the access was nothing more than a driveway. There was not a street on the side. Mr. Bettius stated that Roberts Road was to be the main circulator with a grade separated by the railroad. Mr. Bettius asked the BZA to modify the staff conditions and allow the relocation of the entrance. To construct the access where staff proposed would require the developer to build a road alignment that would not do much. Mr. Bettius questioned why staff wanted to align a private driveway with a entrance for commercial or industrial use.

In response to questions from the Board as to whether the road would ever be extended to the point requested by staff, Mr. Berg stated that it was a real possibility but had not been scheduled by VDH&T in the six year plan. However, the master plan did show the road crossing as proposed in the development conditions.

Mr. Robert Greenspan of the Woodlynne Community Association informed the Board that the community had no funds to build through the property to parcel F. He stated that the association was scrambling for funds to start up the pool and there were not any funds for trails, etc. The residents did not want any trail now or anytime in the future. He stated that Country View Drive was to have a sidewalk and would be a safe and adequate route. The proposed trail was on the side of the County property in a quiet, deserted area. Mr. Greenspan urged the Board to support Mr. Bettius and the Artery Organization in the proposal.

There was no one else to speak in support and no one to speak in opposition. In response to testimony presented by Mr. Bettius and Mr. Greenspan, Mr. Shoup informed the Board that since the facility was to be used by the residents in the Woodlynne Community, staff felt it was good to have an internal trail system. The proposed sidewalk system did not tie in with the existing sidewalks in the community. The staff recognized that parcel D was not owned by the applicant; therefore, condition no. 12 was worded to take that into account.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 77-A-080-1 by THE ARTERY ORGANIZATION, INC. under Section 3-803 of the Fairfax County Zoning Ordinance to amend S-80-77 for community recreation facilities to permit change of permittee, additional land area and construction of a basketball court in place of a tennis court, change hours of operation and increase membership, located 5638 Guinea Road, tax map reference 77-2((5))G & F, 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 4, 1983; and

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

1. That the applicant is the contract purchaser.
2. The present zoning is R-8.
3. The area of the lot is 3.02 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant. However, upon conveyance of the subject parcels to the Colony Park Community Association, this approval will transfer to the Association. This approval is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance by the provisions of Article 17.
5. Transitional screening and barrier requirements may be modified provided the facilities are adequately screened from the view of adjacent residential properties with evergreen plantings of a type to be determined by the Director, DEM.
6. Forty (40) parking spaces shall be provided.
7. The facilities shall have no artificial lighting other than security lighting.

RESOLUTION

8. The maximum hours of operation shall be as follows:
   Swimming pool - 10:00 A.M. to 9:00 P.M.
   Basketball & Tennis courts - 8:00 A.M. to 9:00 P.M.
9. After-hour parties for the swimming pool shall be governed by the following:
   - o Limited to six (6) per season.
   - o Limited to Friday, Saturday and pre-holiday evenings.
   - o Shall not extend beyond 12:00 midnight.
   - o Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
   - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
10. Memberships shall be limited to the 498 dwelling units.
11. The use of the pool facility shall be limited to the maximum number of people allowed to use the facility as determined by Fairfax County Health Department.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mrs. Thonen being absent).

Page 138, October 4, 1983, Scheduled case of

12:00 NOON — ROBERT J. KELLEY, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow dwelling to remain 12 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 2411 Popkins Ln., R-2, Mt. Vernon Dist., 93-3((1))19A, 24,650 sq. ft., SP 83-V-071.

&

12:00 NOON — ROBERT J. KELLEY & WILLIAM C. BROWN, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, proposed lot 2 having area of 13,648 sq. ft. and proposed lots 1, 2, and 3 having widths of 78.5 ft., 81.4 ft. and 98.8 ft. respectively (15,000 sq. ft. min. lot area and 100 ft. min. lot width req. by Sect. 3-206), located 2411 Popkins Ln., R-2, Mt. Vernon Dist., 93-3((1))19A & 19B, 68,293 sq. ft., VC 83-V-094. (DEFERRED FROM 9/6/83 TO ALLOW APPLICANT TIME TO SUBMIT A SPECIAL PERMIT APPLICATION TO BE HEARD CONCURRENT WITH THIS APPLICATION).

Mr. William Shoup informed the Board that there was a discrepancy in the variance application in that the application showed the dwelling to be located 12 ft. but the new plat submitted by the engineer indicated 11.8 ft. Mr. John Kephart, the engineer for the applicant, informed the Board that during the wall check, they had determined the building to be situated 11.8 ft. instead of the 12 ft. originally represented in the application.

Chairman Smith advised the applicant that readvertising of the variance would have to take place. Mr. Hyland moved that the Board not hear the special permit application until until the variance was amended and new plats submitted which corresponded with the written statement. Mr. Hammack seconded the motion and it passed by a vote of 6 to 0 (Mrs. Thonen being absent).

It was the consensus of the Board to defer both applications until November 1, 1983 at 12:30 P.M. and 12:45 P.M. respectively.

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12:15 P.M. MOON HO KIM, appl. under Sect. 3-103 of the Ord. for a private school of special of special education (Martial arts), located 2701 Chain Bridge Rd., R-1, Providence Dist., 48-1((1))50, 1.2850 acres, SP 83-P-003. (DEFERRED FROM SEPTEMBER 13, 1983 FOR NOTICES).

Ms. Jane Kelsey presented the staff report. In response to questions from the Board as to whether this was a commercial use, Ms. Kelsey stated that it was a profit making organization. Ms. Kelsey informed the Board that this was the only special permit of special education for this type of use in the area. There was nothing in the definition of a school of special education to preclude the martial arts school. Chairman Smith questioned the hours of operation until 9:30 P.M. as a normal school operated from 9 A.M. to 3 P.M. Ms. Kelsey stated that the applicant would operate from 10 A.M. until 4:30 P.M. on a limited basis.

Mr. Dan Robey, an attorney with an office at 311 Park Avenue in Falls Church, represented the applicant. Mr. Robey informed the Board that Mr. Kim intended to renovate the building by adding an addition on the back. Someone would be living in the residence and the addition would be a classroom. The structure would remain a house and the addition would blend in with the house. Mr. Robey stated that the special permit did not follow the land. If Mr. Kim sold the property, the special permit would not transfer. The property was run down before Mr. Kim purchased it in 1979. The house had come unoccupied. The foundation was crumbling. The property consisted of 1.2+ acres. Mr. Kim proposed to turn the eyesore of overgrown weeds and rubbish into a school and reclaim the property.

The present access to the property was from Chain Bridge Road. Mr. Kim proposed to build a new driveway off of Sutton Road. Next door, the C & P office building almost touched Mr. Kim's property. Mr. Kim would clean up the property by removing old dilapidated buildings. The property was presently rented. Mr. Kim and his family had never lived on the property.

Mr. Robey informed the Board that the Planning Commission had heard the application. They were opposed to it because it was a commercial enterprise. Mr. Robey stated that this was a school of special education and he disagreed with the Planning Commission's recommendation. With regard to the master plan, Mr. Robey stated that it was a little late to determine whether this was consistent with the plan. The building was legal and there were special permits already in the area.

Mr. Hyland stated that the Comprehensive Plan wanted to reduce commercial uses and that commercial uses should be established in other than residential areas. Mr. Robey argued that the Comprehensive Plan did not state that a use could be placed on one lot and not on another. In 1979, the Board of Supervisors had to use the same Comprehensive Plan and had decided that the special permit for the C & P office building was consistent with the plan. It was also a money making venture.

Mr. Robey stated that the Code defined a school located in residential areas. In response to questions as to the curriculum to be taught, Mr. Robey stated that Mr. Kim would conduct classes for children. There would be 2 or 3 classes per day and some private lessons. The school would open at 9 A.M. or 10 A.M. in the morning. There would be about 30 students per day. Mr. Robey explained that the teaching of martial arts was like exercise. The children would be taught how to stretch to prepare for instruction in hand-to-hand self defense. Mr. Kim was presently operating a martial arts academy in Falls Church. The Board questioned whether Mr. Kim would live at the proposed facility and was informed there Mr. Kim did not have any specific plans. He might live there or have his mother and father live on the property.

During further questioning as to the teaching methods, Mr. Robey stated that Mr. Kim used a book from Korea which had forms telling a story. The students would start classes and for each of the levels they would have to take a test of reciting and performing the physical tasks to earn belts equivalent to the different instruction levels.

Mr. Hammack inquired as to why during the last four years Mr. Kim had not cleaned up the weeds and rubbish on the property. Mr. Robey stated that the property was well kept and that Mr. Kim had made great strides. When the renovation process was complete, the property would be cleaned up.

Several students and parents of students familiar with Mr. Kim spoke in support of the special permit application. The following persons spoke in opposition: Ms. Carol Steere, 9700 Courthouse Rd.; Mr. Martin Scheina, 2722 Chain Bridge Rd.; Mr. Dale Whiteis, 2731 Hidden Rd.; Ms. Dorothy Isaacson, 2710 Sutton Rd.; Ms. Bernice Tate, 2744 Sutton Rd.; Ms. Judy Myers, 9822 Courthouse Rd.; Mrs. Margaret Yocum, 2729 Sutton Rd., Mrs. Lilliam Blackwell, 2723 Sutton Rd.; and Mr. Charles Hammon of the Waterford Homeowners Association. The opposition was concerned about subsequent requests for rezonings and the establishment of a precedent for a commercial venture. According to the opposition, there was plenty of commercial space available to establish the business. The use was out of character for the residential R-1 zoning district. Parking was inadequate. The opposition did not want strip commercial development and supported the Comprehensive Plan. Traffic was a problem during rush hour and would only get worse with the opening of the Metro station.

During rebuttal, Mr. Robey stated that a lot of the opposition lived closer to Oakton High School than to this proposed facility. With regard to traffic, the County had required a transportation impact study which indicated that the facility would not have a negative impact. Mr. Robey stated that the C & P office building was just as commercial as the proposed martial arts school.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 83-P-003 by MOON HO KIM, under Section 3-103 of the Fairfax County Zoning Ordinance for a private school of special education (martial arts), on property located at 2701 Chain Bridge Road, tax map reference 48-1((1))50, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 4, 1983; 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 1.2850 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 not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

First, in a residential area, you have to satisfy the requirements that this is a school of general or special education. In my own mind, I am not completely satisfied that a school that teaches what is essentially physical discipline falls into those requirements. The applicant's attorney has characterized the school as more akin to a dance school. The disciplines that it teaches are more something that could be taught through other athletic type disciplines. Football teaches the same types of disciplines. I suppose a ballet school could teach the same discipline. There are physical and to some extent a mental discipline and I suppose that all works out to give people a good sense of feeling about themselves and their body and everything. But the school does not have any kind of academic discipline other than what is taught in order to explain the physical disciplines that go along with it.

Secondly, the hours of operation are largely in the evening although they would cover all day and on Saturdays, it would be requested for Saturday morning. And in my estimation, the schools of special and general education, the ones we deal mostly with are the public schools during the daytime and they operate during the normal daytime hours. This would introduce an operation into the evening, albeit sure there are colleges that have classes at night, Northern Virginia Community College is another such place, I think this is removed from that kind of operation. I really feel that a school for karate is more akin to racquetball, court operation or possibly a health spa or a commercial school of some sort than a school of special or general education. I think that one of the things I worry about a little bit is that if you accepted Mr. Robey's arguments and I am not saying that a couple of points he raised are not good, you could have a large commercial enterprise come in and establish a school of special education. I mean if you want to carry it to an extreme, IBM could come in and set up a school for teaching typewriting, all evening classes. I doubt if you would have much doubt in our minds about that kind of thing.

But, furthermore, the proposed addition, while it's not obtrusive is really not a residential addition and isn't really completely compatible with a residential neighborhood. But I have doubts about the school and whether it fits the definition to be put into the residential neighborhood. But the real reason, at least an equally important reason to me, is that it doesn't satisfy the requirements in the master plan and the first item under Section 8-006 of our general standards in order for us to grant this kind of use says that the purpose at the specified location shall be in harmony with the adopted comprehensive plan and this particular part of the Vienna-Oakton area has been addressed specifically. We are not left with any ambiguity in the master plan itself. So I think that the application fails to satisfy the very first standard under the general standard.

RESOLUTION

Furthermore, the second standard requires that the proposed use shall be in harmony with the general purpose and intent of the applicable Zoning District regulations and that really deals more with my own doubts as to whether this qualifies as a school or general education and whether it would, therefore, be allowed in a R-1 district. And, in my own mind, I think it fails to satisfy that standard.

The third standard is that the proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of the use of the neighboring properties and it goes on for a way. Well, we have had the Planning Commission's opinion as to the compatibility of this proposed use within the neighborhood and also dealing with the comprehensive plan. I think I have to give some deference to their opinions on the subject possibly as well as to Supervisor Scott who has written us a letter saying that there has been a great deal of effort on the part of the County to keep commercial enterprises from locating between the Vienna and Oakton community. So, I think it fails on the item 3.

No. 4, that the proposed use shall be such that pedestrian and vehicular traffic associated will not be hazardous. Again, it would introduce a change in traffic patterns. I am familiar with the two lane roads. The student body for the most part would come and go in the evening and introduce additional vehicular traffic during the evening hours. And, basically, I think those are the basic reasons that I would oppose this use.

Maybe one final comment. There has been a lot of discussion about the C & P Building being located there. Frankly, to this member, that was just totally almost all not relevant testimony because I think a telephone company is a public utility and is regulated in a different way and while this Board might have some say in where buildings are located or expansion at times, I doubt if there are very many people who would want to go without telephones. Sure, it's a commercial activity but its...I don't think you can compare apples with oranges. And the fact that its there doesn't justify putting another what I view as an essentially commercial activity right next to it.

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

Mrs. Day seconded the motion.

The motion passed by a vote of 6 to 0 (Mrs. Thonen being absent).

Page 141, October 4, 1983, After Agenda Items

ANDREA FIELDS, ET. AL., V-81-D-024: The Board was in receipt of a letter from Nancy Jo Cranmer of Paciulli, Simmons & Associates requesting a one year extension to the variance application of Andrea Fields. Mrs. Day moved that the Board grant a six month extension with the stipulation that no further extensions be granted. Mr. Hyland seconded the motion and it passed by a vote of 4 to 1 (Mr. Ribble)(Mr. DiGiulian and Mrs. Thonen being absent). The new expiration date of the variance was April 7, 1984.

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Page 141, October 4, 1983, Board Policy

Chairman Smith announced that in the future the staff should review and comment on all after agenda items.

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Page 141, October 4, 1983, After Agenda Items

Ms. Kelsey informed the Board that staff wanted to schedule a BZA meeting for November 10, 1983 since the pending applications were being scheduled for January 1984. It was the consensus of the Board to schedule the meeting for November 17, 1983.

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Page 141, October 4, 1983, After Agenda Items

DOUGLAS GREENE: The Board was in receipt of a request for an out-of-turn hearing on the special permit application of Douglas Green. It was the unanimous consensus of the Board to grant the out-of-turn hearing request. The application was scheduled for November 17, 1983 at 10:00 A.M.

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Page 142, October 4, 1983, After Agenda Items

NORTHERN VIRGINIA CHRISTIAN CHILDCARE CENTER, INC., SP 83-D-083: The Board was in receipt of a request from Ms. Sue Arnold for an out-of-turn hearing for the special permit application of Northern Virginia Christian Childcare Center, Inc. It was the consensus of the Board to deny the request. Accordingly, the application remained scheduled for January 10, 1984.

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Page 142, October 4, 1983, After Agenda Items

ANDROWES KULEY, S-82-M-020 and V-82-M-037: The Board was in receipt of a letter from Mr. George W. Lawson representing Mr. Androwes Kuley requesting an extension of the special permit and variance granted by the BZA on May 18, 1982 expiring November 18, 1983. It was the consensus of the Board to defer the request pending a review of the applications by staff to ensure compliance with the current Ordinance provisions. The Board directed staff to provide a report by its next meeting, October 11, 1983.

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Page 142, October 4, 1983, After Agenda Items

ARTHUR & EVELYN METZGER, V-81-D-164: The Board was in receipt of a request from Mr. and Mrs. Metzger for an extension of the variance granted to allow subdivision into 3 lots, with proposed lot 501 having width of 124.62 ft. It was the consensus of the Board to seek further review of the request. Staff was directed to respond back to the BZA by its next meeting on October 11, 1983.

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Page 142, October 4, 1983, After Agenda Items

BLESSED VIETNAMESE MARTYRS, SP 83-P-044: The Board was in receipt of a request from Mr. Joseph V. Gartlan, Jr. seeking a waiver of the twelve month requirement for filing of applications pursuant to the provisions of paragraph 1 of Section 18-108 of the Zoning Ordinance. It was the consensus of the Board to grant the waiver request and allow the reapplications to be made on behalf of the Church of the Blessed Vietnamese Martyrs. In addition, the Board directed that such applications be heard in an orderly manner.

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There being no further business, the Board adjourned at 4:50 P.M.

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

DANIEL SMITH, CHAIRMAN

Submitted to the Board on Jan. 31, 1985

APPROVED:: Feb 5, 1985

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 11, 1983. The Following Board Members were present: Daniel Smith, Chairman; Mary Thonen; Ann Day; John Ribble and Paul Hammack. John DiGiulian and Gerald Hyland being absent.

The Chairman opened the meeting at 10:10 A.M. and Mrs. Day led the prayer.

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

10:00 A.M. STEVEN T. GOLDBERG & JANE M. HARVEY, appl. under Sect. 18-401 of the Ord. to allow subdivision into four lots, proposed lots 2 & 3 each having width of 5.18 ft. (80 ft. min. lot width req. by Sect. 3-306), and to allow existing dwelling on proposed lot 1 to remain 7.75 ft. from front lot line and 7.7 ft. from side lot line; existing shed on proposed lot 1 to remain 8.15 ft. from pipestem lot line; and existing dwelling on proposed lot 4 to remain 27.25 ft. from front lot line (30 ft. min. front yard and 12 ft. min. side yard req. by Sect. 3-307; 25 ft. min. front yard contiguous to pipestem req. by Sect. 2-416), located 3129 Sleepy Hollow Rd., R-3, Mason Dist., 51-3((1))17A, 1.39786 acres, VC 83-M-082. (DEFERRED FROM JULY 26, 1983 TO GIVE APPLICANT TIME TO AMEND APPLICATION AND SUBMIT REVISED PLATS)

The applicant requested that the Board defer the hearing to allow him time to submit another set of revised plats. It was the consensus of the Board to defer the case to November 17, 1983 at 10:00 A.M.

Page 143, October 11, 1983, Scheduled 10:20 A.M. cases heard at 10:20 A.M.:

10:20 A.M. BATTLEFIELD EQUESTRIAN CENTER, INC., appl. under Sect. 3-C03 of the Ord. for a riding and boarding stable, located 16009 Lee Hwy., R-C, Springfield Dist., 63-2((1))9, 85.919 acres, SP 83-S-056.

10:20 A.M. BATTLEFIELD EQUESTRIAN CENTER, INC., appl. under Sect. 18-401 of the Ord. to allow riding and boarding stable with portions of driveways having gravel surface (dustless surface req. by Sect. 10-102), located 16009 Lee Hwy., R-C, Springfield Dist., 63-2((1))9, 85.919 acres, VC 83-S-118.

Jane Kelsey reviewed the staff report for the Board. Dexter Odin, an attorney at 10505 Judicial Drive, Fairfax, represented the applicants. He stated that the property was owned by Oscar and Mary Sanders and that they were leasing it to their son. He indicated that three-hundred thousand dollars in improvements had already been made to the property. Mr. Odin stated that this piece of property was ideally located for the use and the existing trails would accommodate the equestrian center and the community. The people served by this use would be from the surrounding communities. He addressed some restrictions that the staff report suggested. He was not in agreement with the condition that stated no riding lessons would be permitted on the property. It was a practice with horse people to hire teachers to come to the location where the horse was being boarded to give lessons. He felt that this was an unnecessary restriction to place on the equestrian center.

As far as the dustless surface, Mr. Odin stated that the impact, if any, would be on the Saunders. There was only one other house located on the access road. Mr. Odin stated that the entrance to the parking area was already paved. As far as the widening of the road, he stated that the existing road compared with other operations such as this. Also, this entrance to the property was an easement, and the applicant did not own the land or have unlimited rights to the easement. At the entrance to this road there was a pub, and Mr. Odin felt that if the road was paved it would attract the wrong kind of traffic.

There was no one to speak in support or opposition.

Page 143, October 11, 1983 Board of Zoning Appeals
BATTLEFIELD EQUESTRIAN CENTER, INC.

R E S O L U T I O N

In Application No. SP 83-S-056 by BATTLEFIELD EQUESTRIAN CENTER, INC. under Section 3-C03 of the Zoning Ordinance for a riding and boarding stable, on property located at 16009 Lee Hwy., tax map reference 63-2((1))9, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

BATTLEFIELD EQUESTRIAN CENTER, INC.
(continued)

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1983; and

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

1. That the applicant is the lessee.
2. The present zoning is R-C.
3. The area of the lot is 85.919 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. The number of horses which can be boarded at this facility shall be limited to 42.
6. There shall be no group riding lessons given to the public. (This would allow the boarders and their guests to participate in riding lessons which are an ancillary use to a riding stable.) There shall be no more than four (4) horse shows per year.
7. This permit shall be approved for a three (3) year period with the Zoning Administrator empowered to grant two (2) one-year extensions in accordance with the provisions of Sect. 8-012. At the expiration of this time limit, the permit shall be subject to renewal in accordance with the provisions set forth in Sect. 8-013.
8. The manure collected from the barns shall be covered to prevent storm water runoff from carrying manure nutrients into the watershed streams. The area shall be located away from any drainageways as approved by DEM.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 0 (Messrs. Hyland and DiGiulian were absent)

Page 144, October 11, 1983
Battlefield Equestrian Center, Inc.
VC 83-S-118

It was the consensus of the Board to defer the variance application pending a Zoning Ordinance amendment to be heard by the Board of Supervisors. The application was deferred to March 13, 1984 at 10:40 A.M.

Page 145, October 11, 1983, Scheduled 10:40 A.M. case heard at 11:12 A.M.:

10:40 A.M. THE KOREAN CENTRAL PRESBYTERIAN CHURCH, appl. under Sect. 3-103 of the Ord. for a church and related facilities, located 8526 Amanda Pl., R-1, Matilda Haight Subd., Providence Dist., 49-1((1))38, 3.5528 acres, SP 83-P-057.

William Shoup reviewed the staff report for the Board, which recommended approval of the special permit subject to the development conditions. Ken Sanders, an attorney in Fairfax, represented the applicant. He stated that at the 5:30 A.M. services there would only be about 20 people present and the evening sessions would not exceed 50 people. He indicated that the site was over three acres and was adjacent to a school. This property was planned ultimately for a townhouse development. Mr. Sanders stated that the Transportation Office had no problems with the proposal, and indicated that there would be no adverse impact of any kind on the neighborhood. At the present time there were about 300 members. On a temporary basis the members were currently using the McLean Presbyterian Church for their services. Mr. Sanders stated that the church would try to preserve as many existing trees and as much open space as possible.

There was no one to speak in support or opposition.

Page 145, October 11, 1983 Board of Zoning Appeals
THE KOREAN CENTRAL PRESBYTERIAN CHURCH

R E S O L U T I O N

In Application No. SP 83-P-057 by THE KOREAN CENTRAL PRESBYTERIAN CHURCH under Section 3-103 of the Zoning Ordinance for a church and related facilities, on property located at 8526 Amanda Place, tax map reference 49-1((1))38, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1983; 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 3.5528 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. Complete Transitional Screening 1 shall be provided along all property lines. Additional low, evergreen plantings shall be provided to the south and east of the parking lot to completely shield vehicle lights from adjacent residential properties.
6. The barrier requirements shall be waived.
7. The seating capacity in the main worship area shall not exceed five-hundred (500).
8. One-hundred twenty-five (125) parking spaces shall be provided.
9. Signs shall be permitted subject to the provisions of Article 12, Signs.

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This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Hyland and DiGiulian were absent)

Page 146, October 11, 1983, Scheduled 11:00 A.M. case heard at 11:25 A.M.:

11:00 A.M. EDGAR L. STEPHENSON, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport attached to dwelling 8.6 ft. from side lot line such that total side yard would be 18.0 ft. (18 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 4767 Tapestry Dr., R-3(C), Kings Park West Subd., Springfield Dist., 68-2((5))1620, 15,912 sq. ft., VC 83-S-119.

William Shoup reviewed the staff report for the Board. Edgar Stephenson presented the facts for his application. Mr. Stephenson stated that the house directly next door was of the same dimension and design as his, but it had not required a variance to enclose the carport into a garage. He stated that he planned to enclose the existing carport following the current roof line and existing concrete slab.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC-83-A-119 by EDGAR L. STEPHENSON under Section 18-401 of the Zoning Ordinance to allow enclosure of carport attached to dwelling 8.6 ft. from side lot line such that total side yard would be 18.0 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), on property located at 4767 Tapestry Drive, tax map reference 68-2((5))1620, County of Fairfax, Virginia, Mrs. 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 October 11, 1983; 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 15,912 sq. ft.
4. That the applicants' property has an unusual condition in the location of the existing building on the subject property. The applicant's carport roof, the dimensions of the concrete slab and the beams will remain the same. The proposed structure will be used as a garage and not as additional living space.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
B. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
C. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
D. That authorization of the variance will not be of substantial detriment to adjacent property.
E. That the character of the zoning district will not be changed by the granting of the variance.

F. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland and DiGiulian were absent)

Page 147, October 11, 1983, Scheduled 11:10 A.M. case heard at 11:35 A.M.:

11:10 A.M. TOM SAKSA, DIANA DAVIES & DIANE HOUFF T/A EXECUTIVE FITNESS PLUS, appl. under Sect. 6-303 of the Ord. for a health club, located 2336 Hunters Woods Village Shopping Center, PRC, Centreville Dist., 26-1((7))3A, 15.2809 acres, SP 83-C-058.

William Shoup reviewed the staff report for the Board. Bill Grady, 1778 Wainwright Drive, Reston, represented the applicant. He stated that the facility offered physical fitness programs to men, women and children of all ages. He stated that everything pertaining to the use had been presented in the statement shown in the staff report. Mr. Grady stated that the applicants were in full agreement with the development conditions listed, and offered to answer any questions the Board might have.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. SP 83-C-058 by TOM SAKSA, DIANA DAVIES & DIANE HOUFF T/A EXECUTIVE FITNESS PLUS under Section 6-303 of the Zoning Ordinance for a health club, on property located at 2336 Hunters Woods Village Shopping Center, tax map reference 26-1((7))3A, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1983; and

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

1. That the applicant is the lessee.
2. The present zoning is PRC.
3. The area of the lot is 15.2809 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 PRC 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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. Fourteen (14) parking spaces within the Hunters Woods Village Center shall be allocated for this use; however, such spaces need not be designated as reserved parking spaces.
6. The total number of employees on site at any one time shall not exceed four (4).
7. The total number of patrons on site at any one time shall not exceed thirty (30).
8. One (1) building-mounted sign may be erected in accordance with Article 12.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Hyland and DiGiulian were absent)

//The Board adjourned for lunch at 11:45 A.M. and returned to take up the scheduled agenda at 12:45 P.M.

Page 148, October 11, 1983, Scheduled 11:30 A.M. case heard at 12:50 P.M.:

11:30 A.M. DIFFERENT DRUM, INC., appl. under Sect. 3-103 of the Ord. to amend S-190-79 for school of general education to permit second story deck addition to building and continuation of the use without term, located 7150 Telegraph Rd., R-1, Lee Dist., 91-4((1))13, 2.81 acres, SPA 79-L-190-1.

The Chairman announced that the notices were not in order for the referenced special permit amendment application. It was the consensus of the Board to defer the hearing to November 17, 1983 at 10:30 A.M.

Page 148, October 11, 1983, Scheduled 11:45 A.M. case heard at 12:55 P.M.:

11:45 A.M. COMMONWEALTH SWIM CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend S-75-79 for community swimming and tennis club to increase the permitted memberships from 350 to 425, located 9800 Commonwealth Blvd., R-2, Kings Park West Subd., Springfield Dist., 69-3((5))B, 5.48539 acres, SPA 79-S-075-1.

The Chairman announced that the notices were not in order for the referenced special permit amendment application. It was the consensus of the Board to defer the hearing to November 17, 1983 at 10:45 A.M.

Page 149, October 11, 1983, Scheduled 12:00 Noon case heard at 1:00 P.M.:

12:00 Noon DR. DEBORAH K. TABB, appl. under Sect. 3-303 of the Ord. for a home professional office (dentist), located 1600 Dolly Madison Blvd., R-3, Dranesville Dist., 30-1((1))94 & 95, 23,848 sq. ft., SP 83-D-060.

The applicant requested a deferral to allow time for her to work out screening and engineering problems with staff and the neighbors. It was the consensus of the Board to defer the application to November 17, 1983 at 11:00 A.M.

Page 149, October 11, 1983, Scheduled 12:15 P.M. case heard at 1:05 P.M.:

12:15 P.M. JOHN M. MATTES, appl. under Sect. 18-401 of the Ord. to allow subdivision into eight (8) lots, proposed lot 6 having width of 15 ft. (80 ft. min. lot width req. by Sect. 3-306), located 7211 Danford Ln., R-3, Springfield Dist., 89-3((1))18A, 3.23 acres, VC 83-S-097. (DEFERRED FROM SEPTEMBER 6, 1983 FOR NOTICES)

It was brought to the Board's attention that this application could not be acted upon until the Board of Supervisors had approved a proffered condition amendment to rezoning case RZ 77-S-044. It was the consensus of the Board to defer the application to November 17, 1983 at 11:15 A.M.

Page 149, October 11, 1983, Scheduled 12:30 P.M. case heard at 1:10 P.M.:

12:30 P.M. FREDERICK J. HAGEMAN, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport as living space addition to dwelling 18.6 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 4065 Doveville Ln., R-1, Doveville Subd., Annandale Dist., 58-4((5))7, 24,182 sq. ft., VC 83-A-099. (DEFERRED FROM SEPTEMBER 6, 1983 FOR NOTICES)

William Shoup reviewed the staff report for the Board. Barbara Hageman presented the facts for the application. She stated that she wished to enclose an existing carport to provide extra living space to accommodate a growing family. She stated that none of the neighbors had any objections to the construction. Mrs. Hageman mentioned that there was a pool in the backyard that was not shown on the plat.

There was no one to speak in support or opposition.

Page 149, October 11, 1983 Board of Zoning Appeals
FREDERICK J. HAGEMEN

R E S O L U T I O N

In Application No. VC-83-A-099 by FREDERICK J. HAGEMAN under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport as living space addition to dwelling 18.6 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), on property located at 4065 Doveville Lane, tax map reference 58-4((5))7, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1983; 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 24,182 sq. ft.
4. This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

A. That the subject property was acquired in good faith.
B. That the subject property had an extraordinary situation or condition of the subject property at the time of the effective date of the Ordinance.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of this Ordinance would produce undue hardship.

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F. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
G. The strict application of the Zoning ~~Ordinance~~ would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
H. That authorization of the variance will not be of substantial detriment to adjacent property.
I. That the character of the zoning district will not be changed by the granting of the variance.
J. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Hyland, DiGiulian and Hammack were absent)

//There being no further business, the Board adjourned at 1:20 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith, Chairman

Submitted to the Board on: Jan. 31, 1985 Approved: Feb 5, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Evening, October 18, 1983. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 8:10 P.M.); and Mary Thonen. (Messrs. John DiGiulian and John Ribble were absent).

The Chairman opened the meeting at 8:05 P.M. and Mrs. Day led the prayer.

Chairman Smith called the scheduled case of:

8:00 P.M. VIRGINIA KOREAN BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. for a church and related facilities, located West Ox Rd., R-1, Centreville Dist., 35-2((1))5, 9.913 acres, SP 83-C-059.

As the required notices were not in order, the Board deferred the special permit application until December 20, 1983 at 9:00 P.M.

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Page 151, October 18, 1983, Scheduled case of

8:15 P.M. NORTHERN VIRGINIA BUILDERS, INC., appl. under Sect. 18-401 of the Ord. to allow an existing outlot to be a buildable lot having width of 12 ft. (150 ft. min. lot width req. by Sect. 3-106), located 2102 Helmwood Ct., Helmwood Ridge Subd., R-1, Centreville Dist., 38-1((36))A, 43,603 sq. ft., VC 83-C-120.

Ms. Jane Kelsey presented the staff report. She informed the Board that the Planning Commission had heard the application and recommended approval. Mr. Michael Vanderpool, an attorney at law, represented the applicant. Mr. John Harris, the applicant's engineer, was also present. Mr. Vanderpool informed the Board that the applicant did not have any problems with the conditions set forth in the staff report. For background purposes, he stated that the original farm house had been located on lot 2 and access had been through an easement onto a small portion of Clark's Crossing Road. It was a 15 ft. former dirt road occupied by mature trees. A road could not be constructed without condemning the property. Lot 2 had always used that access. The access onto the highway was not paved and was quite dangerous. The Office of Transportation preferred that the access not be continued. The applicant had stated that the owner would not use the easement.

Mr. Vanderpool informed the Board that the property had been a subject of a variance in 1977. The variance had been granted to allow the same requested outlot and pipestem. One of the owners of the property had an illness and the variance had expired. The Planning Commission had reviewed the application because they were concerned about the environmental aspects but had recommended approval.

Mr. Vanderpool informed the Board that the overall shape of the subdivision was unusual. Lot 5-A was not a part of the subdivision. It was oddly shaped making it difficult to layout any subdivision. It also had topographic problems as the land was very hilly. Mr. Vanderpool stated that it would be impossible to extend Helmwood Ct. up to the property. There was a house on lot 2. Any effort to extend into that area would cause problems with erosion providing risk to the structure. Mr. Vanderpool stated that Clarks Crossing Road could not be developed to serve the site.

With regard to the standards for variances, Mr. Vanderpool stated that the property was acquired in good faith. The property had an unusual shape, unusual topography, and an unusual condition with respect to the layout of the subdivision and the existing roadway. Mr. Vanderpool stated that this was a unique situation and hardship to the applicant. Without access, the property would be landlocked and unusable.

Some Board members questioned the applicant's hardship as the staff report conclusion indicated any hardship was self-created. There was no one else to speak in support and no one to speak in opposition.

Page 151, October 18, 1983 Board of Zoning Appeals
NORTHERN VIRGINIA BUILDERS, INC.

R E S O L U T I O N

In Application No. VC 83-C-120 by NORTHERN VIRGINIA BUILDERS, INC. under Section 18-401 of the Zoning Ordinance to allow an existing outlot to be a buildable lot having width of 12 ft. (150 ft. min. lot width req. by Sect. 3-106), on property located at 2102 Helmwood Court, tax map reference 38-1((36))A, County of Fairfax, Virginia, Mr. Hammack 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 18, 1983; 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 43,603 sq. ft.
4. That the property was subject of another variance which was previously granted by the BZA although it was allowed to lapse by the inaction of the petitioner.

This application meets the following Required Standards for Variances in Section 18-401 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has exceptional shape at the time of the effective date of the Ordinance and exceptional topographic conditions;
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the lot shown on the plat submitted with this application.
2. This variance is not transferable to another lot or for a different configuration than that which is on the plat submitted with this application.
3. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
4. The applicant shall not use the access along the southern lot line which serves as access to Lot 2.
5. The applicant shall provide effective erosion and siltation control measures during construction as required by the Department of Environmental Management.
6. The Fairfax County Arborist shall review and approve the proposed dwelling site in an effort to preserve the monarch speciman trees which are on the property.

Mr. Hyland seconded the motion.

The motion *FAILED by a vote of 2 to 3 (Mr. Smith, Mrs. Day and Mrs. Thonen)(Messrs. DiGiulian and Ribble being absent).

8:30 P.M. ROBERT F. & MARY C. JOHNSON, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 22.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 2414 Lexington Rd., Falls Hill Subd., R-3, Providence Dist., 40-3((3))124, 12,570 sq. ft., VC 83-P-121.

Ms. Jane Kelsey presented the staff report. Mr. Robert Johnson of 2414 Lexington Road in Falls Church informed the Board that his property was acquired in good faith. It was a pie-shaped lot and the dwelling was situated far back on the lot. The lot had topographic conditions. From the upper corner of the lot, there was a terracing effect dropping over 15 ft. There was not any way to build an addition to the dwelling without a variance. Mr. Johnson stated that the other lots in the area did not have the same situation or unusual shape. The granting of the variance would alleviate a hardship. Mr. Johnson stated that the addition was to be used for his parents who were moving in because of medical problems. They needed a large area to move around in because of the special chairs. With respect to the retaining wall, it was built at the time the house was built and had been there since April 1959.

Ms. Kelsey explained to the Board that there had not been any record of a building permit. As the foundation was not firm, the staff wanted to ensure that the ground did not start to slip. Mr. Johnson assured the Board that his addition would have the proper foundation and be on solid ground.

In response to questions from the Board, Mr. Johnson stated that part of the addition was to upgrade the kitchen to have more space for the dual families. Any extension out the other side of the house would be self-defeating. The Board questioned the plat as it had not been updated to show the existing patio. Mr. Johnson stated that his engineer updated the old house location survey. He was a professional engineer in the State of Virginia and worked for the Department of the Navy.

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

R E S O L U T I O N

In Application No. VC 83-P-121 by ROBERT F. & MARY C. JOHNSON under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 22 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307) on property located at 2414 Lexington Road, tax map reference 40-3((3))124, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 18, 1983; 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 12,570 sq. ft.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has exceptional shape (being pie-shaped) at the time of the effective date of the Ordinance and has exceptional topographic conditions.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application an d is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be required for the construction of the addition and another building permit would be necessary for the existing retaining wall if it is required by DEM.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian and Ribble being absent)

Page 154, October 18, 1983, Scheduled case of

8:40 P.M. GUNSTON BAPTIST CHURCH, appl. under Sect. 3-E03 of the Ord. for an addition of a parsonage to existing church and related facilities, located 10226 Gunston Rd., R-E, Mt. Vernon Dist., 114-3((1))2, 1.996 acres, SPA 73-V-121-1.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit amendment subject to the development conditions contained in Appendix I of the staff report.

Mr. Wilson Kirby of Sterling, Va. represented the church. He stated that the proposed addition would be a one story wooden modular structure. The side yard setback would be 21 ft. The rear setback would be 120 ft. The living room portion would also be used as a sunday school meeting space as the church was very small. There were only 40 members per Sunday attendance. Mr. Kirby stated that this was not a growing church and the members were not financially able to undertake the building. However, the pastor had provided the funds for the building.

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

RESOLUTION

In Application No. SPA 73-V-121 by GUNSTON BAPTIST CHURCH under Section 3-E03 of the Zoning Ordinance to permit addition of parsonage to existing church and related facilities on property located at 10226 Gunston Road, tax map reference 114-3((1))2, County of Fairfax, Virginia, Mrs. 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 October 18, 1983; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 1.996 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. The existing trees surrounding the property may be used to satisfy Transitional Screening 1 if at least an area 25 feet in width is left undisturbed and if evergreen plantings are provided where supplemental screening is needed as may be determined by the Director, Department of Environmental Management (DEM). Transitional Screening may be modified along the front of the property provided landscaping is provided as determined by the Director, DEM, to soften the impact of this use on properties across the road.
6. A maximum of 100 seats shall be allowed, and 28 parking spaces shall be provided for the church and the residential use.
7. The praking lot shall be paved unless a variance is approved in accordance with the provisions of Part 4 of Article 18 of the Zoning Ordinance.
8. The living room area of the parsonage may be used for a Sunday School classroom on Sunday mornings.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. DiGiulian and Ribble being absent).

Page 155, October 18, 1983, Scheduled case of

9:00 P.M. FIAZA RIZA HANIFFA, appl. under Sect. 3-403 of the Ord. for a child care center, located 3133 Headrow Ln., Annalee Heights Subd., R-4, Mason Dist., 50-4((18))(F)13, 9,000 sq. ft., SP 83-M-062.

As the required notices were not in order, the Board deferred the special permit application until January 31, 1984 at 10:30 A.M.

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Page 155, October 18, 1983, After Agenda Items

ERNEST J. & MARGARET S. WELLS, S-82-C-078: The Board was in receipt of a memorandum from Philip G. Yates, Zoning Administrator, regarding a request for a change in name only from Ernest J. & Margaret S. Wells to EJW Enterprises. It was the unanimous consensus of the Board to approve the request.

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Page 155, October 18, 1983, After Agenda Items

FRANK P. CIHLAR, TR., A 83-P-009: The Board was in receipt of a memo from Philip G. Yates transmitting the appeal application of Frank P. Cihlar, Tr. The suggested date for hearing was January 31, 1984. It was the consensus of the Board to accept the appeal application and hear it on the date suggested.

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// 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 Jan. 31, 1985

Daniel Smith
Daniel Smith, Chairman

Approved: Feb 5, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 25, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Mary Thonen; Ann Day; John Ribble; Paul Hammack and Gerald Hyland.

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

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

10:00 A.M. OLIVER GASCH & MANNING GASCH, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, one of which has a width of 100 ft. and two of which have a width of 25 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 8501 Georgetown Pk., Spring Hill Subd., R-E, Dranesville Dist., 20-1((1))58 & pt. of 35, 9.0696 acres, VC 83-D-106.

Jane Kelsey reviewed the staff report for the Board. She stated that staff had several environmental concerns which were incorporated into the development conditions listed in the report. William E. Donnelly, 4069 Chain Bridge Road, Fairfax, represented the applicants. He stated that the lots averaged approximately three acres in size, which was substantially larger than the minimum required lot area in the R-E District. The site had exceptional topographic conditions. A stream runs through it, there are steep slopes, there is an Environmental Quality Corridor on the site, and there are few perk sites on the property. Mr. Donnelly stated that he felt that by using pipestem driveways, which would follow the natural contours of the land, would minimize disturbance to the environment and would be in keeping with the rural nature of the area. The only other alternative to the development of this area would be to put in a paved public street through the difficult terrain to serve only three lots. . The applicant felt that this would be prohibitably expensive.

Mr. Donnelly stated that he knew of no objections to this application. He read letters in support from Mr. Tell, lot 70, across Old Dominion Drive from the subject property, who also spoke for Mr. Yorty, lot 70A and Mr. Simpson, lot 57, adjacent to the subject property. Mr. Hansen, lot 23 on Belleview Road, southeast of the property also wrote a letter of support and included comments from Mr. Holiday, lot 28A. Another letter of support from Mr. Sussman, Greenway Heights subdivision, was read into the record.

Mr. Donnelly pointed out that there were ample precedents for pipestem lots in this area. One in particular was V-293-78, on lot 28A and 29A, east of the subject property. The second case was VC 83-D-019, approved on June 21, 1983, which was parcel 17 and 18 on Belleview Road. Mr. Donnelly stated that the applicants wanted to be able to retain the house on the larger portion of the site and had no present plans to develop the rest of the property. This property had been in the family for sixty years.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC-83-D-106 by OLIVER GASCH & MANNING GASCH under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, one of which has a width of 100 ft. and two of which have a width of 25 ft. (200 ft. min. lot width req. by Sect. 3-E06), on property located at 8501 Georgetown Pike, tax map reference 20-1((1))58 & pt. of 35, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 25, 1983; 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 9.0696 acres.
4. The applicant's have failed to satisfy any of the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically the characteristics with respect to the property. One that strikes me that they failed to satisfy is the shape of the property at the time of the effective date of the Ordinance. The applicant has designed these lots in their particular configurations and cites that such design precludes him from effectively utilizing the property when he could probably very easily have designed it in some other configuration which would allow the development. I don't think that under the circumstances, the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the development of this property under Sect. 18-404, #6. Or that under #3 in Sect. 18-404; that the condition or situation of the subject

property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance. I think that the applicant has done what he can do in making this particular application, but I think he's missed a real good opportunity to address how he would use this whole residue of the 35 acres and retaining on it his homestead, if he wishes. He really recites only that he feels that it's a hardship to build a public street, it would cost him too much. I don't think that's a proper reason to grant a variance. The petitioner admits that he could develop the property in several other ways without requesting a variance.

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.

Mrs. Day seconded the motion.

The motion passed by a vote of 7 - 0.

Page 158, October 25, 1983, Scheduled 10:10 A.M. case heard at 11:05 A.M.:

10:10 A.M. PASQUALE D. VITA, appl. under Sect. 18-401 of the Ord. to allow construction of indoor swimming pool addition to dwelling to 4 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6333 Beachway Dr., Lake Barcroft Subd., R-2, Mason Dist., 61-1((11))1031B, 22,395 sq. ft., VC 83-M-122.

Mary Burton reviewed the staff report for the Board. Pasquale Vita presented the facts for his application. He stated that his house had been constructed towards the rear of the lot due to the heavy traffic. This resulted in a smaller than usual rear yard. Also, the house had been located on a flood plain line (storm drain easement limit) after obtaining permission from Fairfax County. Mr. Vita stated that the proposed location was the largest space available other than the front yard. Also, his existing garage would hide the addition so it would be less disturbing to the neighborhood. He stated that his only directly adjacent neighbor was in full support of the application.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC-83-M-122 by PASQUALE D. VITA under Section 18-401 of the Zoning Ordinance to allow construction of indoor swimming pool addition to dwelling to 4 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 6333 Beachway Drive, tax map reference 61-1((11))1031B, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 25, 1983; 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 22,395 sq. ft.
4. That the applicant knew when he located his house there it was going to be a noisy, inconvenient location, but with the constraints on that property, the topography and the possible flood plain. I'm not sure where the flood plain line goes. I understand that there's a difference in the 100 yard flood plain. Since the applicant could build an outdoor swimming pool the issue becomes whether you close it in or not and I for one would rather see an enclosed pool because I think you would get a lot more use out of it. In addressing the nine Required Standards for Variances in Section 18-404 of the Zoning Ordinance, the applicant did address them.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.
4. Hydrostatic relief valves shall be installed during pool construction.
5. The Environmental Health Division of the Fairfax County Health Department shall be notified prior to any drainage of the pool.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 3 (Messrs. Smith & Hammack and Mrs. Day)

Page 159, October 25, 1983, Scheduled 10:30 A.M. case heard at 11:35 A.M.:

10:30 A.M. RALPH E. & LUCY V. ANDERSON, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 3.23 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), located 8607 Buckboard Dr., Riverside Gardens Subd., R-3, Mt. Vernon Dist., 102-4((12))(7)31, 10,758 sq. ft., VC 83-V-124.

The Chairman announced that the notices were not in order. The application was deferred to December 13, 1983 at 10:00 A.M.

Page 159, October 25, 1983, Scheduled 10:40 A.M. case heard at 11:55 A.M.:

10:40 A.M. LEONARD & ANDREA WISOTSKY, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 18.1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 9615 Staysail Ct., Longwood Knolls Subd., R-3(C), Springfield Dist., 88-3((3))159, 12,668 sq. ft., VC 83-S-125.

The Chairman announced that the notices were not in order. The applicant presented a letter from the affected property owner waiving the fifteen day notification requirement. It was the consensus of the Board to accept the waiver letter and hear the case. Mary Burton reviewed the staff report for the Board.

Leonard Wisotsky presented the facts for his application. He stated that he wanted to expand the size of his family room. The property was purchased on June 16, 1978 and he was the original owner. Mr. Wisotsky stated that the lot was irregular in shape, being pie-shaped and located on a cul-de-sac. Also, the house was situated further back on the lot than any of the surrounding homes. He stated that there was a thirty foot tree zone which formed part of the boundary between his home and the ones behind him. No trees would be sacrificed to accomplish the expansion.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC-83-S-125 by LEONARD & ANDREA WISOTSKY under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 18.1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 9615 Staysail Court, tax map reference 88-3((3))159, 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 25, 1983; 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 12,668 sq. ft.
4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:

A. That the subject property had exceptional shape at the time of the effective date of the 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Hammack was absent)

//The Board adjourned for lunch at 12:20 P.M. and returned to take up the scheduled agenda at 1:30 P.M.

Page 160, October 25, 1983, Scheduled 10:50 A.M. case heard at 1:30 P.M.:

10:50 A.M. CARL B. KOVALCHIK, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 19.5 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-301), located 7101 Sterling Grove Dr., R-3, Bonniemill Acres Subd., Lee Dist., 90-3((11))9, 12,277 sq. ft., VC 83-L-127.

Mary Burton reviewed the staff report for the Board. Carl Kovalchik presented the facts for his application. He stated that he had purchased the home on June 25, 1982 from Ryan Homes, Inc. The Ryan Homes salesman had assured him that the lot could handle a two-car garage. Mr. Kovalchik stated that the lot was a corner lot with two front lot lines, which prevented him from constructing the type of garage he wanted. He stated that if he had know about the setbacks, he would have purchased a different lot. This house was one of three in the neighborhood that currently did not have a garage.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC-83-L-127 by CARL B. KOVALCHIK under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 19.5 ft. from front lot line (30 ft. min. front yard req. by Sect. 3-301), on property located at 7101 Sterling Grove Drive, tax map reference 90-3((11))9, County of Fairfax, Virginia, Mrs. 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 October 25, 1983; 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 12,227 sq. ft.
4. That the applicants' property is on a corner. The front of the house is on Sterling Grove Drive and the side is Bonniemill Lane at which the proposed garage would be facing. If this is granted, the garage would not be adjacent to any one property. The applicant could have a slightly smaller garage for two cars and require less of a variance. I feel that 20 feet is as wide a garage as I would be able to support.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
1. That the subject property was acquired in good faith.
2. That the subject property had an extraordinary situation or condition at the time of the effective date of the Ordinance.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 <u>for a garage 20 ft. wide and 24 ft. long</u> with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 2 (Messrs. Smith and Hammack)

Page 161, October 25, 1983, Scheduled 11:00 A.M. case heard at 1:50 P.M.:

11:00 A.M. MT. VERNON-LEE ENTERPRISES, INC., appl. under Sect. 3-403 of the Ord. for renewal of S-82-L-070 for school of special education (adults), located 6120 N. Kings Hwy., Penn Daw Subd., R-4, Lee Dist., 83-3((4))1, 2 & 3, 28,077 sq. ft., SPR 82-L-070-1.

The Chairman announced that the notices were not in order for the referenced special permit renewal. Joseph Hemelings, the applicant's representative, stated that he had notified all the same people that had received notification for the original permit. He stated that he had a letter waiving the fifteen day requirement from the affected property owner. Mr. Hyland asked that the old files be researched, because he was concerned about the prior notification being certified as being correct when it might not have been. It was the consensus of the Board to pass over the case to give staff time to check the files for the requested information.

Page 161, October 25, 1983, Scheduled 11:15 A.M. cases heard at 2:00 P.M.:

11:15 A.M. MICHAEL G. AKIN, appl. under Sect. 3-C03 of the Ord. for recreation (day camp) grounds and community swimming pool and tennis courts, located 6512 Colchester Rd., R-C, Springfield Dist., 76-3((1))10, 50.00226 ac., SP 83-S-063.

11:15 A.M. DR. DEAN MANN AND MICHAEL AKIN, appl. under Sect. 18-401 of the Ord. to allow recreation (day camp) grounds and community swimming pool and tennis courts, with driveways and parking lots having gravel surface (dustless surface req. by Sect. 11-102), located 6512 Colchester Rd., R-C, Springfield Dist., 76-3((1))10, 50.00226 ac., VC 83-S-126.

Jane Kelsey indicated that the notices were not in order and that the posting of the property had been incorrect. She stated that there were numerous other problems in that he had not satisfied the requirements for a community use for which he had applied. Because of those deficiencies, Ms. Kelsey requested that the BZA defer the application indefinitely until such time as the applicant could meet the submission requirements for the community use. It was the consensus of the Board to defer the application indefinitely until such time as staff deemed the application acceptable.

Page 162, October 25, 1983, Scheduled 11:45 A.M. case heard at 2:20 P.M.:

11:45 A.M. MR. & MRS. JAMES B. SORENSON, appl. under Sect. 18-401 of the Ord. to allow construction of enclosed pool addition to dwelling to 11.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307) and a deck addition to 13.4 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 7208 Adrienne Glen Ave., Spring Forest Subd., R-3(C), Springfield Dist., 89-3((17))14, 8,526 sq. ft., VC 83-S-162.

Mary Burton reviewed the staff report for the Board. Chairman Smith inquired if this met the minimum size for an accessory use as interpreted by the Zoning Administrator, or if it was interpreted that this was an extension of the existing dwelling. Ms. Kelsey responded by saying that this was considered a part of the dwelling since the swimming pool would be attached to the house. She stated that in the R-3 District there was no maximum lot coverage requirement for a residential use.

Jim Sorenson presented the facts for his application. He stated that he had contracted with Anthony Pools to construct an inground pool. Building permit #832200560 was obtained and the construction of the pool was started. The plans submitted for the building permit showed the footings and layout for the pool enclosure. He was then notified by the Zoning Department about the rear setback problems. Mr. Sorenson stated that the existing topography, lot shape and boundary configuration considerably restricted the use of both the rear and side yards.

Mr. Sorenson stated that the County had approved the plan as it was shown. Then a few weeks later, the Zoning Department said they hadn't realized that the plans had shown a structure over the pool. Mr. Sorenson asked that the Board approve the application because he felt that the documentation showed that what had happened had been out of his control. The building permit had been issued for the pool only, but the Zoning Department had not had the foresight to tell him that the enclosure would be in violation of the setback requirements.

Frank Key, 7204 Adrienne Glen Avenue, spoke in support of the application. No one spoke in opposition.

Mrs. Thonen felt that the Board should recess the case to later in the day to get more information from Donald Smith in the Zoning Department as to how this pool enclosure could have been overlooked. It was the consensus of the Board to contact Mr. Donald Smith to give him a chance to clarify the problem.

Page 162, October 25, 1983
MT. VERNON-LEE ENTERPRISES/SPR 82-L-070-1
(continued)

The Board continued with the hearing on the Mt. Vernon-Lee Enterprises special permit renewal. Ms. Kelsey stated that she had checked the notices for all the prior applications, and notice had been sent to the property in question each time, although the applicant had failed to notify that property for this application. It was the consensus of the Board to accept the waiver letter the applicant had obtained from the affected property owner.

Joseph Hemelings, 3417 Little Hunting Creek Drive, represented the applicant. He stated that the school had a permanent, open-end lease where it was now operating. The Calvary Presbyterian Church owned the school property. Mr. Hemelings stated that the rehabilitation center for retarded adults served from 30 to 40 people. There had been no changes in the number of clients or staff since the last permit renewal.

There was no one to speak in support or opposition.

MT. VERNON-LEE ENTERPRISES, INC.

RESOLUTION

In Application No. SPR 82-L-070-1 by MT. VERNON-LEE ENTERPRISES, INC. under Section 3-403 of the Zoning Ordinance for renewal of S-82-L-070 for school of special education (adults), on property located at 6120 N. Kings Hwy., tax map reference 83-3((4))1, 2 & 3, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 25, 1983; and

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

1. That the applicant is the lessee.
2. The present zoning is R-4.
3. The area of the lot is 28,077 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.

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. Approval of this application is contingent upon final approval by the Board of Supervisors for off-site and cooperative parking on the Mount Eagle Elementary School. The total minimum amount of parking spaces shall be twelve (12). The TRIPS vans that transport the students shall not remain on site.
6. The total student enrollment shall be forty (40).
7. The total instructors/supervisors associated with this use shall be nine (9).
8. The existing vegetation along the northern and western lot lines as shown on the plat shall serve to satisfy the Transitional Screening and Barrier requirements in accordance with Article 13.
9. The hours of operation shall be 8:00 A.M. to 4:00 P.M., Monday through Friday.
10. Dedication and construction of road improvements along the full frontage of North Kings Highway and School Street may be required at time of site plan review.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 7 - 0.

MR. & MRS. JAMES B. SORENSON/VC 83-S-162
(continued)

Mr. Hyland questioned Mr. Don Smith about when the plat came to him for approval showing that the owner proposed to enclose the pool. He wanted to know if there was any reason why he didn't mention a problem with the setback at that time. Mr. Don Smith stated that he, personally, did not sign off the permit for the inground pool. He stated that the

plans for the inground clearly showed that there was a proposed enclosure. Mr. Hyland asked why it was not a matter of practice for discussion of the setbacks when they saw there would be a problem with a future building permit. Mr. Don Smith stated that Paul Schrinel had signed the pool permit and he was not aware of whether the enclosure was discussed or not.

Mr. Sorenson stated that he had placed the pool as far forward as possible. He stated that the placement of the pool had also been chosen because of the terrain of the yard.

There was no one else to speak regarding the application.

Page 164, October 25, 1983 Board of Zoning Appeals
MR. & MRS. JAMES B. SORENSON

R E S O L U T I O N

In Application No. VC-83-S-162 by MR. & MRS. JAMES B. SORENSON under Section 18-401 of the Zoning Ordinance to allow construction of enclosed pool addition to dwelling to 11.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), and a deck addition to 13.4 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), on property located at 7208 Adrienne Glen Avenue, tax map reference 89-3((17))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 October 25, 1983; 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 8,526 sq. ft.
4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance. The applicant does have substantial topographical problems in the front portion of the property which would preclude construction of a pool in any other than that which is proposed. I feel that it would be proper to minimize the extent of the variance by having the pool moved forward toward the front property line. I am suggesting that it be moved forward an additional 4 feet which would amount to a ten foot variance from the rear property line. The deck will be granted as it is shown 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 IN PART to allow the pool enclosure to be placed 15 feet from the rear property line with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

Page 164, October 25, 1983, Scheduled 12:15 P.M. case heard at 3:40 P.M.:

12:15 Noon LESTER R. HENRY, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 8.5 ft. from the reverse frontage lot line along I-66 (25 ft. min. rear yard req. by Sects. 2-413 & 3-207), located 10718 Oak Pl., Fairfax Acres Subd., R-2, Providence Dist., 47-3((7))85, 8,584 sq. ft., VC 83-P-108. (DEFERRED FROM SEPTEMBER 27, 1983 FOR NOTICES)

The Chairman announced that the case could not be heard due to an error in the posting of the property and incorrect notification. It was the consensus of the Board to defer the case to November 17, 1983 at 11:30 P.M.

Page 165, October 25, 1983, Scheduled 12:15 P.M. case heard at 3:45 P.M.:

12:15 P.M. PLEASANT VALLEY ASSOCIATES, appl. under Sect. 3-C03 of the Ord. for modification to minimum yard requirements for R-C lot to allow construction of dwelling 27 ft. from street line of a corner lot (40 ft. min. front yard req. by Sect. 3-C07), located 15124 Philip Lee Rd., Pleasant Valley Subd., R-C, Springfield Dist., 33-4((2))299, 13,219 sq. ft., SP 83-S-076.

Mary Burton reviewed the staff report for the Board. Nancy Cranmer of Paciulli, Simmons and Associates, 307 Maple Avenue, Vienna, represented the applicant. She stated that this lot had been recorded in November of 1978. At the time of its recordation, it was zoned R-2 cluster and had a minimum front yard requirement of 25 feet. In the summer of 1982, this lot had been part of a comprehensive downzoning to the R-C district. Ms. Cranmer stated that the setbacks on this lot would be similar to those used in siting other house in the Pleasant Valley Subdivision built prior to the downzoning.

There was no one to speak in support or opposition.

Page 165, October 25, 1983 Board of Zoning Appeals
PLEASANT VALLEY ASSOCIATES

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 83-S-076 by PLEASANT VALLEY ASSOCIATES under Section 3-C03 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, to allow construction of dwelling 27 ft. from street line of a corner lot (40 ft. min. front yard req. by Sect. 3-C07), located at 15124 Philip Lee Road, tax map reference 33-4((2))299, 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 25, 1983; and

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

1. That the property was the subject of final plat approval prior to July 26, 1982.
2. That the property was comprehensively rezoned to the R-C District on July 26, or August 2, 1982.
3. That such modification in the yard shall result in a yard not less than the minimum yard requirement of the zoning district that was applicable to the lot on July 25, 1982.
4. That the resultant development will be harmonious with existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area.

AND WHEREAS, the Board has reached the conclusion that the applicant has met the provisions for the approval of modifications to the minimum yard requirement for certain R-C lots as contained in Section 8-913 of the Zoning Ordinance.

NOW, THEREFORE BE IT RESOLVED that the subject application is GRANTED in accordance with the conditions contained in Appendix 1 of the Staff Report dated October 11, 1983 as follows:

1. This approval is for the location and the specific structures indicated on the plat included with this application prepared by Paciulli, Simmons & Associates, Ltd., and is not transferable to other land or to other structures on the same land.
2. A Building Permit shall be obtained prior to the start of construction.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 7 - 0.

Page 166, October 25, 1983, AFTER AGENDA ITEMS:

JEFFREY J. ATKISSON/VC 83-C-130: William Shoup stated that this application, which was scheduled for the next week's hearing on November 1, 1983, had an error in that the subject property did not meet the minimum lot width requirements. Consequently, the application had to be amended and readvertised. Mr. Shoup asked the Board to set another date for the case and announce their intent to defer. It was the consensus of the Board to announce their intent to defer the variance application to November 29, 1983 at 10:10 A.M.

Page 166, October 25, 1983, AFTER AGENDA ITEMS:

BLESSED VIETNAMESE MARTYRS/SP 83-P-044 and VC 83-P-084: The Board was in receipt of an out-of-turn hearing request for the captioned permits. It was the consensus of the Board to schedule the applications in turn and deny the request. The applications were currently scheduled for January 17, 1984.

//There being no further business, the Board adjourned at 3:55 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: February 5, 1985 Approved: February 12, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 1, 1983. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland (arriving at 12:05 P.M.); Ann Day; Paul Hammack; and John Ribble. (Mr. John DiGiulian and Mrs. Mary Thonen were absent).

The Chairman opened the meeting at 10:10 A.M. and Mrs. Day led the prayer.

Chairman Smith called the scheduled case of:

10:00 A.M. MICHAEL L. THOMAS, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that the keeping of four (4) dogs on a lot containing 11,709 sq. ft. is a violation of Sect. 2-512 of the Ordinance, located 12244 Ox Hill Rd., Fair Oaks Estates, R-3(C), Centreville Dist., 46-1((22))294, 11,709 sq. ft., A 83-C-007.

Mr. Philip G. Yates, Zoning Administrator, presented the staff report. It was Mr. Yates' determination that the provision of paragraph 4 of Sect. 2-512 of the Zoning Ordinance precluded the keeping of four dogs on a lot less that 12,500 sq. ft. Paragraph 4 of Sect. 2-512 allowed a maximum of two dogs regardless of the lot size. Four or more dogs required a lot size of 12,500 sq. ft. and a setback of 25 ft. from all lot lines for the shelter. Six dogs required a larger lot size and an increased setback for any enclosure. Mr. Yates informed the Board that the intent of paragraph 4 of Sect. 2-512 seemed obvious and clear but the wording was not as clear as it should be. To interpret the provision as the applicant had suggested could result in the keeping of 20 dogs in a house or fence yard which was not the intent of the provision. Mr. Yates stated that the provision was adopted in 1977 and had been interpreted and administered accordingly.

Ms. Pat Wilkes represented Mr. Michael Thomas. Her office was located at 2740 Chain Bridge Road in Vienna. Mr. Thomas' lot contained 11,709 sq. ft. and he had four dogs. Two dogs were very small and kept inside at all times unless being walked on a leash. The other two dogs were English Sheep Dogs and were kept outside during daylight hours and kept in the house at all other times. Ms. Wilkes stated that it was Mr. Thomas' position that contrary to what the Zoning Administrator had stated, paragraph 4 of Sect. 2-512 only applied to setbacks. According to the statute in Section 8, the word "kept" meant any enclosure but did not mean a dwelling or a fence. She stated that this referred to the entire paragraph 4 and included 4a, 4b, 4c, 4d, 4e and 4f. Ms. Wilkes stated that it was the Zoning Administrator's position that 4g was not intended to exclude any dogs. However, all of paragraph 4 related to the number of dogs and 4g defined "kept". It was used in 4a, 4b, 4c and in 4d. The word "kept" also appeared in 4e and was defined in Section 4g. It was not a dwelling or a fence. Ms. Wilkes informed the Board that it was a principle of law that a provision such as this whereas a person could be in violation must be construed strictly and in the light most favorable. Ms. Wilkes stated that the provision had not been drafted very clearly.

At this time, the provision was clear and did not meet the intent of the number of dogs to be kept. Mr. Thomas kept two dogs in his yard. He kept two dogs at all times within his house. The Zoning Administrator had indicated in his report that there were not any dogs in the yard on the date of the site inspection. Ms. Wilkes stated that the size of the lot, 11,709 sq. ft., was very close to the provision 4b which allowed four dogs on a 12,500 sq. ft. lot. She stated that should the BZA want the intent to restrict the number of dogs, then the provision needed to be rewritten.

Mr. Michael Thomas of 12244 Ox Road responded to questions from the Board. He stated that the four dogs did not play together outside as there was a disparity in size. Mr. Thomas stated that the two smaller dogs stayed outside when the two larger dogs were brought inside. Chairman Smith stated that the dogs were kept in the house and the house was constructed on the lot of 11,709 sq. ft. It was a single family dwelling. Ms. Wilkes replied that a dwelling was defined as a structure on the lot and was not the lot. Ms. Day stated that if that were the case, the lot would be smaller than 11,709 sq. ft.

Mr. Lloyd Brenden of 12240 Ox Hill Road informed the Board that he lived directly behind Mr. Thomas' property. He lived on lot 296 and Mr. Thomas lived on lot 294. Mr. Thomas' lot was a pipestem and backed up to Mr. Brenden's property. The fenced in area was smaller than 11,709 sq. ft. There was a large front yard. Mr. Brenden stated that the dogs had to be kept 25 ft. from the line at all times according to the Zoning Ordinance. He stated that he saw the dogs in the back yard, all four at one time. The little dogs ran around by themselves and entered Mr. Brenden's property. Mr. Brenden presented the Board with a petition signed by the neighbors who wanted to be protected by the laws.

In response to questions from Ms. Wilkes, Mr. Brenden stated that a wooden 5½ ft. tall privacy fence surrounded the yard area. Mr. Brenden stated that his lot was higher and sloped downhill. The dogs were out early and barked. Mr. Brenden stated that it was hard to entertain in his yard with the noise. With respect to the little dogs entering his property, Mr. Brenden stated that the fence on lot 295 did not meet the Thomas' fence. It was the side of the Thomas property and the back of Mr. Brenden's lot. Mr. Brenden stated that he had been

planning to construct a fence to continue the line of fencing. Mr. Brenden stated that the Thomases had a garden & took care of their yard. However, the dogs often accompanied them without a leash. Mr. Brenden informed the Board that he preferred to leave his property open as a wooded lot. He really did not have a need for the fence as he did not have any children or dogs.

During rebuttal, Ms. Wilkes stated that the issue was not a violation of the leash Ordinance or noise Ordinance but the number of dogs kept on the lot. Mr. Yates had no further comments for the Board.

Mr. Hammack moved that the Board of Zoning Appeals support the interpretation of the Zoning Administrator because he felt the explanation of the term of the Ordinance was satisfactory. Mr. Hammack did not believe the provision or exception which the appellant relied upon was meant to do what they argued. He stated that the provision had to be examined by looking at paragraph d and e. Mrs. Day seconded the motion and it passed by a vote of 4 to 0 (Mrs. Thonen and Messrs. DiGiulian and Hyland being absent).

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Page 168, November 1, 1983, Scheduled case of

10:30 A.M. NANCY JEAN FARMER/STEPHEN DULL, appl. under Sect. 2-419 of the Ord. to allow existing garage to remain 1.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 1326 Ranleigh Rd., Ranleigh Retreat Subd., R-2, Dranesville Dist., 31-2((1))88D, 41,721 sq. ft., SP 83-D-032. (DEFERRED FROM JULY 12, 1983 FOR NOTICES AND FROM SEPTEMBER 6, 1983 TO ALLOW THE APPLICANT AN OPPORTUNITY TO NEGOTIATE WITH NEIGHBOR PERTAINING TO AN EASEMENT).

The applicant was not present at the hearing. Accordingly, the Board deferred the application until November 17, 1983 at 11:30 A.M.

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Page 168, November 1, 1983, Scheduled case of

10:40 A.M. RICHARD E. PARET, appl. under Sect. 18-401 of the Ord. to allow construction of hobby room addition to dwelling to 15.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), located 11607 Helmont Dr., R-1(C), Gilmore Estates Subd., Centreville Dist., 36-4((10))12, 23,964 sq. ft., VC 83-C-128.

Mr. William Shoup presented the staff report. Mr. Richard Paret of 11607 Helmont Drive in Oakton informed the Board that his house was located to the rear of his property because of the lot's unusual shape. He stated that he had not purchased the home new. There were only two directions he could build in. Out the front, there would be several problems. One was the septic field. Another problem was aesthetics. Mr. Paret stated that the right "L" was 20 ft. in dimension. If he tried to reach the "L", he would have to build another 6' or 7' to reach the roof angle. This would place a meaningless column in front of the bedroom windows. The third problem was that to reach the addition, the family would have to walk through the garage. By building the addition out the back, it would be near utilities and heat, etc. Mr. Paret stated that his neighbor on lot 11 supported his variance completely. Mr. Paret stated that he was retired and his hobby was working for himself. He had finished a project for charity and had done toys for Head Start Programs. He wanted to be able to do this type of work twelve months a year.

In response to questions from the Board, Mr. Paret stated that the Health Department did not have a problem with the fact that the addition would be less than 10 ft. from the well. However, the Health Department did want to see the final plan. Chairman Smith suggested that the Board defer decision to determine if the Health Department would allow the addition that close to the well. He further questioned whether the other existing houses were situated far back on the lots. Mr. Paret responded that it varied. Lot 13 was quite close to the front lot line. Mr. Paret stated that his house was the furtherest back on a lot. Some Board members questioned why the location of the septic field was not shown on the plat. Mr. Paret stated that he knew the septic tank was in the front yard because he had it cleaned recently. Mr. Paret stated that he had owned his property for ten years. The addition would be used for his woodworking hobbies and small furniture construction. In addition, Mrs. Paret worked in ceramics and paper mache construction. The equipment used was small Craft powertools. Mr. Paret stated that the equipment would be quieter used in the addition than in the garage with the doors open. Mr. Paret stated that his house did not have a basement.

After further discussion from the Board regarding the well situation, Ms. Kelsey stated that the applicant was not required to get approval from the Health Department prior to the acceptance of the variance. The applicant would file for a building permit after the variance hearing which would automatically be reviewed by the Health Department. However, in this instance, Ms. Kelsey spoke with Mr. Shelton of the Health Department. He suggested that because of the close proximity of the well, that the applicant come to the Health Department and discuss it with them. Ms. Kelsey stated that structures had to set back

15 ft. if it was a dug well and there was a drain around the addition. If it was a drilled well, the structure could go up to 1 ft. from the well. Ms. Kelsey stated that it depended on what the addition was to be used for and whether the applicant would be adding to the septic field. Ms. Kelsey stated that the applicant needed to go to the Health Department and discuss the addition with them.

Accordingly, the Board deferred decision of the variance application until November 17, 1983 at 11:45 A.M. for the applicant to determine the location of the septic field as well as the type of the well.

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Page 169, November 1, 1983, Scheduled case of

10:50 A.M. GEORGE & JOANNE B. SCHREINER, appl. under Sect. 18-401 of the Ord. to allow subdivision into 30 lots, proposed lots 13, 14, 20, 21, 24 and 27 each having width of 12 ft. (200 ft. min. lot width req. by Sect. 3-E06), located Utterback Store Rd., R-E, Lake Windermere Subd., Dranesville Dist., 7-3((1))21, 72.4 acres, VC 83-D-129.

The Board was in receipt of a request for deferral. It was the consensus of the Board to defer the application until December 6, 1983 at 10:15 A.M.

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Page 169, November 1, 1983, Scheduled case of

11:00 A.M. JEFFREY J. ATKISSON, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 6 inches from edge of a floodplain (15 ft. min. distance from dwelling to edge of floodplain req. by Sect. 2-415), located 9849 Clarks Crossing Rd., R-1, Centreville Dist., 28-3((1))52, 2.007 ac., VC 83-C-130.

The Board was in receipt of a request for deferral. It was the consensus of the Board to defer the variance application until November 29, 1983 at 10:10 A.M.

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Page 169, November 1, 1983, After Agenda Items

NORTH ARLINGTON DEVELOPMENT N.V., INC., S-81-C-067: The Board was in receipt of a memorandum from the Zoning Administrator regarding a request for additional time for North Arlington Development N.V., Inc. The special permit had been approved by the BZA on November 3, 1981 to allow the construction of a community deck tennis facility. On April 19, 1983, the BZA approved an extension of the special permit for a period of six months due to expire on November 3, 1983. The Zoning Administrator recommended approval of additional time for one year.

Mr. Ribble moved that the Board approve the additional time for a period of one year. Mrs. Day seconded the motion and it passed by a vote of 4 to 0 (Mrs. Thonen and Messrs. DiGiulian and Hyland being absent).

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Page 169, November 1, 1983, After Agenda Items

ANDROWOS Y. KULEY, S-82-M-020 and V-83-M-037: The Board was in receipt of a memorandum from the Zoning Administrator regarding a request for additional time for Androwos Y. Kuley. The special permit had been approved by the BZA on May 18, 1982 to allow a miniature golf course in conjunction with an eating establishment and to permit a variance of the lot size and lot width requirements. The Zoning Administrator recommended approval of the additional time for a period of one year.

Chairman Smith stated that this was a bad situation and had been granted with all kinds of variances. He stated that the situation was bad because of the parking. It was the consensus of the Board to pass over the request and bring the matter up at the next meeting.

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Page 169, November 1, 1983, After Agenda Items

ROAD AGGREGATES, V-70-79: The Board was in receipt of a memorandum from the Zoning Administrator regarding a request for additional time for Road Aggregates. The variance had been approved by the BZA on May 8, 1979 to allow a subdivision into four lots with lots 2 and 3 having a width of 15 feet. The BZA had approved seven extensions of the variance with the last extension expiring November 9, 1983. It was the Zoning Administrator's recommendation that the additional time of eighteen months be approved.

It was the consensus of the Board that the request be brought back on November 15, 1983.

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Page 170, November 1, 1983, A.A.I.

VULCAN MATERIALS COMPANY, S-82-V-091: The Board was informed that it was time for the annual review of the Vulcan Materials Company's Special Permit which was approved for a period of five years. It was the consensus of the Board to schedule the review for December 13, 1983 at 10:15 A.M.

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Page 170, November 1, 1983, Scheduled case of

11:10 A.M. JOSEPH & MARY ELLEN D'AGOSTINO, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 8 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 2529 Bull Run Ct., R-3, Stonewall Manor Subd., Providence Dist., 49-1((11))45, 10,700 sq. ft., VC 83-P-131.

The Board was in receipt of a request for a deferral of the above-captioned variance application. It was the consensus of the Board to defer the variance until December 13, 1983 at 10:30 A.M.

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Page 170, November 1, 1983, Scheduled case of

11:20 A.M. JOSEFINA S. CANTRELL, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport into a garage 13.8 ft. from a contiguous pipestem (25 ft. min. front yard req. by Sect. 2-416), located 12509 Northern Valley Ct., Southfield Subd., R-1(C), Centreville Dist., 35-4((19)), 20,288 sq. ft., VC 83-C-133.

Mr. William Shoup presented the staff report. Ms. Josefina Cantrell informed the Board that the carport was already existing. She was only proposing to enclose it. It would not be extended beyond the existing dimensions. In response to questions from the Board, Ms. Cantrell stated that the two car carport had all the supports it needed so nothing would extend beyond what was there. She stated that she lived alone. Ms. Cantrell presented the Board with a copy of the floor plans. The existing evergreen tree would have to be cut down. Ms. Cantrell presented the Board with a letter of support from her next door neighbor. Ms. Cantrell had lived in the home for nine years and was the original owner.

Chairman Smith informed the applicant that she had been allowed to extend the carport into the side yard when the construction took place originally. Mr. Shoup informed the Board that the carport was not existing because of an extension of the provisions in the Ordinance. The carport satisfied the minimum side yard requirement. In April 1980, the Ordinance had been amended to say that yards contiguous to pipestem driveways became front yards. Chairman Smith stated that Ms. Cantrell did have the use of the carport under the present Ordinance.

In response to questions from the Board, Ms. Cantrell stated that the other lots had been developed four years ago. Ms. Cantrell stated that her carport was the exception in meeting the 25 ft. setback requirement.

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

R E S O L U T I O N

In Application No. VC 83-C-133 by JOSEFINA S. CANTRELL under Section 18-401 of the Zoning Ordinance to allow enclosure of carport into a garage 13.8 ft. from a contiguous pipestem (25 ft. minimum front yard required by Sect. 2-416) on property located at 12509 Northern Valley Court, tax map reference 35-4((2))19, County of Fairfax, Virginia, Mrs. 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 1, 1983; 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-1(C).
3. The area of thelot is 20,288 sq. ft.
4. That the enclsoure of the existing carport would not extend beyond the present perimeter. There is a letter from the next door neighbor who has enclosed his garage and is in support of the proposed garage and would like to see the variance granted to keep this property in line with the other owners of property on the street who have enclosed their garage or are in the position of doing so. This enclosure would enhance the property and the neighborhood.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith. The applicant is the original owner.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property; or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance. The granting of the variance would not have any effect on the neighboring properties.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity. There are others in the neighborhood who have enclosed carports.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property. The next door neighbor has expressed his approval.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion *FAILED by a vote of 3 to 1 (Mr. Smith)(Mrs. Thonen and Messrs. DiGiulian and Hyland being absent).

11:30 A.M. ARTHUR F. & DEBRA S. SCHOLL, appl. under Sect. 18-401 of the Ord. to allow construction of 13.6 ft. high detached garage to 3 ft. from side and rear lot lines (10 ft. min. side yard and 13.5 ft. min. rear yard req. by Sects. 3-407 & 10-104), located 6925 Quander Rd., Bucknell Manor Subd., R-4, Mt. Vernon Dist., 93-1((23))(7)14, 7,246 sq. ft., VC 83-V-134.

Mr. William Shoup presented the staff report. Mr. Arthur Scholl informed the Board that he purchased the house in May 1978. At that time, a detached garage had to be a minimum of 4 ft. from the lot line if it was wood and 2 ft. if it was masonry. Mr. Scholl stated that he purchased the house but had not constructed the garage because he did not have the money. The garage was needed for storage as he had three vehicles. Mr. Scholl stated that there had been one attempt to steal his car. There was not any opposition from the neighbors with respect to the variance.

In response to the fact that the garage could be built without a variance, Mr. Scholl stated that he had no objection to cutting down the size of the garage to 600 sq. ft. Mr. Scholl stated that the Hamptons and the Wilsons preferred that his garage be situated back on the lot so that they could see up the neighborhood. If the garage were built to Code, it would be 13 ft. from the back lot line and 10 ft. from the side lot line. This would place it in the middle of the yard which was not the best utilization.

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

R E S O L U T I O N

In Application No. VC 83-V-134 by ARTHUR F. & DEBRA S. SCHOLL under Section 18-401 of the Zoning Ordinance to allow construction of 13 ft. 6 in. high detached garage to 3 ft. from side and rear lot lines (10 ft. min. side yard and 13.5 ft. min. rear yard req. by Sects. 3-407 & 10-104) on property located at 6925 Quander Road, tax map reference 93-1((23))(7)14, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 1, 1983; 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 7,246 sq. ft.

This application does not meet the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property; or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property; or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

RESOLUTION

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.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 0 (Mrs. Thonen and Messrs. DiGiulian and Hyland being absent).

Page 173, November 1, 1983, Scheduled case of

11:45 A.M. CENTREVILLE PRE-SCHOOL, INC., appl. under Sect. 3-103 of the Ord. to permit continuation of child care center as permitted by S-177-77, expired, and to permit relocation of the use to new church facilities upon their completion, located 14040 Braddock Rd., R-1, Springfield Dist., 54-4((1))3A, 6.8841 acres, SP 83-S-074.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. He explained that the pre-school had been granted a special permit in 1977 to operate for three years. Due to an oversight, the special permit expired and was not renewed although the school continued to operate. The oversight was discovered during a review of a special permit application for the church where the pre-school was located.

Mrs. Emily Skyles of 12714 Sebastian Drive in Fairfax informed the Board that at the present time, the children were housed in two rooms of trailers with a temporary playground which had been approved by the Health Department. After the children are moved to the new facilities of the church, the one trailer would be eliminated. The total enrollment of the preschool was 72 children with no more than 48 children at any one time.

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

RESOLUTION

In Application No. SP 83-S-074 by CENTREVILLE PRE-SCHOOL, INC. under Section 3-103 of the Zoning Ordinance to permit continuation of child care center as permitted by S-177-77, expired, and to permit relocation of the use to new church facilities upon their completion and to permit slight relocation of play area, on property located at 14040 Braddock Road, tax map reference 54-4((1))3A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 1, 1983; and

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

1. That the applicant is the lessee.
2. The present zoning is R-1.
3. The area of the lot is 6.8841 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.

3. 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.

4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.

5. The total number of children enrolled shall not exceed 72 and the maximum number permitted in each session shall not exceed 48 children.

6. The hours of operation shall be from 9:00 A.M. to 12:30 P.M., Monday through Friday.

7. Existing vegetation may be used to satisfy transitional screening requirements. Where existing vegetation must be removed to accommodate construction, supplemental plantings shall be provided equivalent to the Transitional Screening 1 as determined by DEM.

8. The barrier requirement may be waived provided the relocated play area is fenced in accordance with Health Department requirements.

This approval, contigent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 0 (Mrs. Thonen and Messrs. DiGiulian and Hyland being absent).

Page174,November 1, 1983, Recess

The Board recessed the meeting at 12:05 P.M. and reconvened at 12:20 P.M. Mr. Hyland arrived at the BZA meeting during the recess.

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Page 174, November 1, 1983, Scheduled case of

12:15 P.M. CHARLES R. JR. AND NORA K. RAINEY, appl. under Sect. 3-103 of the Ord. for a home professional office (attorney-at-law), located 10305 Vale Rd., Oak Knob Subd., R-1, Providence Dist., 37-4((17))3, 67,145 sq. ft., SP 83-P-065.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. Mr. Charles Rainey of 1032-B Brixton Ct. in Sterling informed the Board that completion of the home and office would occur in mid-December. In response to questions from the Board, Mr. Rainey stated that he presently did not have a special permit for a home office from the County but he sometimes saw a client at his home in Vienna. Mr. Rainey stated that he had been in law since 1976 and graduated from the University of Virginia. His first office had been in Sterling before he moved to Vienna. At most, his staff consisted of one fulltime secretary. However, Mr. Rainey stated that he had not had a secretary for a year. Mrs. Rainey assisted him in his office. After the special permit is approved, Mr. Rainey stated that his wife would retire and work with him in the office in order to be home with their son. Mr. Rainey stated that his practice was 80 to 90% real estate oriented. He did not take court cases and did not work with criminals. He averaged between 10 to 13 settlements a month based on his last three years of business. Mr. Rainey stated that real estate was busier in the fall.

In response to questions from the Board, Mr. Rainey stated that he also worked in wills but did not have any walk-in traffic. Mr. Rainey stated that he wanted a central location for his office. Mr. Rainey stated that his present office on Maple Avenue in Vienna was very comfortable for his clients. Settlements consisted of the salespersons, the lister, and husband and wife. Normally, only four cars were involved.

Mr. Rainey stated that he did not wish to continue his present office in Vienna because of the rent. In addition, he wanted his wife to work with him as she was an excellent secretary and would be home for their son. Mr. Rainey stated that by having his office at home, he could work odd hours. The lease for the office in Vienna expired and Mr. Rainey was on a month to month basis. The office consisted of 2,000 sq. ft. and he only needed 800 sq. ft.

The Board questioned whether parking would be adequate on site to accommodate the business. Mr. Rainey stated that it would be difficult to live within a limit of three cars but he would revise the driveway scheme to accommodate an extra car.

There were letters of support in the file. The following persons spoke in opposition. Mr. Albert Lord of 10303 Vale Road; Mr. Howard Shirley of 10311 Dunfries Road; Mr. of Vale Road; Mr. & Mrs. Ralph Jordan of 10246 Dunfries Road; Mr. Harry Donohue of 10244 Dunfries Road; Mr. Carl Abbott of 10235 Dunfries Road; Mr. Donald Weitzman of 10240 Dunfries Road; Mrs. Johnson of Vale Road; and Mrs. Patricia Turley of 2501 Hunter Mill Road. They

were concerned about evening and weekend appointments; Dunfries Road being only 16 ft. wide; the heavy volume of settlements because Mr. Rainey was associated with one construction company; parking; traffic at the intersection of Hunter Mill Road and Vale Road; the residential character of the area being changed; establishing a precedent for other home professional offices; and the personal convenience for the applicant over the convenience of the residents.

During rebuttal, Mr. Rainey stated that it was not his intent to alienate any of his neighbors. The majority of his appointments would be during the daytime hours. On occasion, he would have Saturday or evening hours. The settlements were recorded by a runner from First American Title Service. In a normal week, Mr. Rainey stated that he might have 2 to 3 settlements and a will. He was associated with DeMarco Construction Company. He indicated that parking would not be a problem at settlements because he got together with the DeMarco Construction Co. ahead of time for the signing of all the papers. At settlement, it was only necessary for the buyer and his agent to be present. Mr. Rainey stated that he tried to pick a location where his clients would not be driving up and down the rural area.

Page 175 November 1, 1983 Board of Zoning Appeals
CAHRLES R. JR. & NORA K. RAINEY

R E S O L U T I O N

In Application No. SP 83-P-065 by CHARLES R. JR. AND NORA K. RAINEY, under Section 3-103 of the Zoning Ordinance to permit a home professional office (attorney-at-law), on property located at 10305 Vale Road, tax map reference 37-4((17))3, County of Fairfax, Virginia, Mrs. 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 1, 1983; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-1.
3. The area of the lot is 67,145 sq. ft.

AND, WHEREAS, the Board of Zoning Appeals 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 for the following reasons:

This would be a commercial office in an R-1 residential area causing a large increase in traffic on Dunfries Road. The traffic of clients cannot be controlled by the applicant and would be detrimental to the neighbors. Weekend office hours would be untenable in this subject area. It has been stated by Mr. Lloyd that evening auto lights would shine into the back yard of his home. There are inadequate parking spaces for the traffic involved and the number of clients that would come to the applicant's office because the participants in a real estate settlement can exceed the parking spaces and the number of clients allowed at one time on this property. The applicant's economic decision to save money by a home office is his choice. He has not presented a basis for hardship nor his desire to have more time with his family.

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

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Mrs. Thonen and Mr. DiGiulian being absent).

Page 175, November 1, 1983, Scheduled case of

12:30 P.M. ROBERT J. KELLEY, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow dwelling to remain 11.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 2411 Popkins Ln., R-2, Mt. Vernon Dist., 93-3((1))19A, 24,650 sq. ft., SP 83-V-071. (DEFERRED FROM 10/4/83 FOR FILING OF CORRECT PLATS).

& 12:45 P.M. ROBERT J. KELLEY & WILLIAM C. BROWN, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, proposed lot 2 having area of 13,648 sq. ft. and proposed lots 1, 2, and 3 having widths of 78.5 ft., 81.4 ft. and 98.8 ft. respectively (15,000 sq. ft. min. lot area and 100 ft. min. lot width req. by Sect. 3-206), located 2411 Popkins Ln., R-2, Mt. Vernon Dist., 93-3((1))19A & 19B, 68,293 sq. ft., VC 83-V-094. (DEFERRED FROM 9/6/83 TO ALLOW APPLICANT TIME TO SUBMIT A SPECIAL PERMIT APPLICATION TO BE HEARD CONCURRENT WITH THIS APPLICATION AND FROM 10/4/83 AT THE REQUEST OF THE APPLICANT).

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Mr. Gary Davis represented the applicants. He requested the Board to hear only the special permit application and defer the variance application. For clarification purposes, Mr. Shoup informed the Board that the variance request for a resubdivision of two lots into three lots. The variance had been deferred because of an error in the location of a dwelling. The applications were related but the special permit only related to one of the lots. Mr. Shoup explained that the matter involving the error would have to be resolved whether the subdivision was obtained or not.

It was the consensus of the Board to defer both applications until December 13, 1983 at 10:45 A.M. and 11:00 A.M. respectively.

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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

Daniel Smith, Chairman

Submitted to the Board on February 5, 1985

Approved: February 12, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Evening, November 15, 1983. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day and Paul Hammack. John DiGiulian, John Ribble, and Mary Thonen were absent.

The Chairman opened the meeting 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. SUBURBAN SAVINGS & LOAN ASSOCIATION, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrators' decision that the R-C District regulations as adopted by the Board of Supervisors on July 26, 1982, are applicable to lots 30B, 31B, and 31C of Fountainhead Subdivision, R-C, Springfield Dist., 96-3((5))31 and 96-1((7))29 & 30, 393,170 sq. ft., A 83-S-002. (DEFERRED FROM MAY 24, 1983 FOR NOTICES AND AT REQUEST OF APPLICANT TO ALLOW COURT CASE TO BE RESOLVED)

(FOR DETAILED INFORMATION REGARDING THIS CASE, PLEASE SEE VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE.)

Mr. Hammack moved that the Board of Zoning Appeals uphold the Zoning Administrator's decision. Mrs. Day seconded the motion. The motion was passed by a vote of 3 - 1. (Mr. Hyland) (Messrs. DiGiulian and Ribble and Mrs. Thonen were absent)

Page 177, November 15, 1983, Scheduled 8:30 P.M. cases heard at 10:30 P.M.:

8:30 P.M. SILVERBROOK UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. for a building addition to existing church and related facilities, located 8620 Silverbrook Rd., R-1, Mt. Vernon Dist., 98-3((1))8, 2.005 acres, SP 83-V-067.

8:30 P.M. SILVERBROOK UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow building addition to church with existing gravel parking lot (dustless surface req. by Sect. 11-102), located 8620 Silverbrook Rd., R-1, Mt. Vernon Dist., 98-3((1))8, 2.005 acres, VC 83-V-135.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit in accordance with the development conditions. Pastor Harold Wilson, 9125 Rigby Drive, Lorton, represented the church. He stated that the addition would accommodate bathroom facilities so the church could eliminate their outhouse. Pastor Wilson stated that the Health Department had approved their septic plans.

There was no one to speak in support or opposition.

Page 177, November 15, 1983 Board of Zoning Appeals
SILVERBROOK UNITED METHODIST CHURCH

R E S O L U T I O N

In Application No. SP 83-V-067 by SILVERBROOK UNITED METHODIST CHURCH under Section 3-103 of the Zoning Ordinance for a building addition to existing church and related facilities, on property located at 8620 Silverbrook Road, tax map reference 98-3((1))8, County of Fairfax, Virginia, Mrs. 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 15, 1983; 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 2.005 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-1 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:

SILVERBROOK UNITED METHODIST CHURCH
(continued)

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, (DEM) a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. The seating capacity in the sanctuary shall not exceed ninety (90).
6. A minimum of twenty three (23) parking spaces shall be provided. One (1) handicapped parking space shall be constructed in accordance with Article 11 of the Zoning Ordinance.
7. The Transitional Screening requirement may be modified to recognize existing vegetation provided supplemental plantings are installed in those areas where existing vegetation is not equivalent to Transitional Screening 1. The amount and type of supplemental plantings shall be determined by the Director, DEM. The barrier requirement may be waived.
8. The applicant shall, at the time of site plan review, either dedicate or agree to dedicate right-of-way along the site frontage to 45 ft. from centerline at such time as VDH &T or Fairfax County requests it, and no permanent facilities shall be constructed within this area.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Ribble & DiGiulian and Mrs. Thonen absent)

Page 178, November 15, 1983
SILVERBROOK UNITED METHODIST CHURCH/VC 83-V-135

Mr. Hyland stated that the Board of Supervisors had advised that BZA that they had no legal authority under the State code or the County Ordinance to grant a variance for dustless surface requirements. It was the consensus of the Board to defer the variance application pending a Zoning Ordinance amendment to be considered by the Board of Supervisors. The case was deferred to March 13, 1984 at 11:00 A.M.

Page 178, November 15, 1983, Scheduled 8:45 P.M. case heard at 10:45 P.M.:

8:45 P.M. PENDER UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. for building and parking lot additions to existing church and related facilities, located 12500 Lee-Jackson Hwy. R-1, Centreville Dist., 45-4((1))8, 5.0 acres, SP 83-C-068.

The Board was in receipt of a letter from Thomas McDonald on the Board of Trustees for the church requesting deferral of the case. Mr. McDonald felt that the church needed more time to resolve differences with staff on the development conditions. It was the consensus of the Board to defer the special permit application to January 17, 1984 at 10:00 A.M.

Page 178, November 15, 1983, AFTER AGENDA ITEMS:

ANDROWOS Y. KULEY/S-82-M-020 and V-82-M-037: The Board was in receipt of a letter requesting an extension of the captioned permits. It was the consensus of the Board to defer any decision to the next scheduled meeting on November 17, 1983.

Page 179, November 15, 1983, AFTER AGENDA ITEMS:

ROAD AGGREGATES, INC./V-70-79: The Board was in receipt of a letter requesting an extension of the captioned variance application. It was the consensus of the Board to grant a six month extension.

Page 179, November 15, 1983, AFTER AGENDA ITEMS:

MICHAEL FERIS/VC 83-A-195: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned variance application. It was the consensus of the Board to deny the request. The application was tentatively scheduled for February 14, 1984.

Page 179, November 15, 1983, AFTER AGENDA ITEMS:

VC 83-D-197 - VC 83-D-198 - VC 83-D-199 - VC 83-D-200 - VC 83-D-201 and VC 83-D-202: The Board was in receipt of a letter requesting an out-of-turn hearing for the six captioned variance applications. It was the consensus of the Board to deny the request. The applications were tentatively scheduled for February 28, 1984.

Page 179, November 15, 1983, AFTER AGENDA ITEMS:

MCLEAN PRESBYTERIAN CHURCH/SPA 73-D-150-1: The Board was in receipt of a letter from the applicants representative requesting a two week deferral for the referenced special permit application to allow the Citizens Association more time to evaluate citizen opposition. It was the consensus of the Board to issue an intent to defer the application to December 6, 1983 at 11:45 A.M. The Board would officially announce the new date and time during the November 29, 1983 hearing which was when the case was scheduled.

Page 179, November 15, 1983, AFTER AGENDA ITEMS:

STEVEN GOLDBERG AND JANE HARVEY/VC 83-M-082: The Board was in receipt of a memo from the Planning Commission requesting the BZA to defer any action on the captioned variance application until they had a chance to forward a recommendation. It was the consensus of the Board to go forward with the scheduled hearing and defer decision until they received the Planning Commission recommendation.

Page 179, November 15, 1983, AFTER AGENDA ITEMS:

HOME SATELLITE, INC./A 83-D-010: The Board received a memo from Phil Yates requesting a date and time for the captioned appeal application. It was the consensus of the Board to schedule the appeal on February 14, 1984 at 10:00 A.M.

Page 179, November 15, 1983, AFTER AGENDA ITEMS:

LAURANCE MITCHELL/A 83-V-011: The Board received a memo from Phil Yates requesting a date and time for the captioned appeal application. It was the consensus of the Board to schedule the appeal on February 21, 1984 at 8:00 P.M.

//There being no further business, the Board adjourned at 11:15 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: February 12, 1985 Approved: February 19, 1985
Date

The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, November 17, 1983. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day (arriving at 10:50 A.M.); Paul Hammack (arriving at 1:10 P.M.) and John Ribble (departing at 12:30 P.M.). (Mrs. Mary Thonen was absent).

The Chairman opened the meeting at 10:35 A.M. and Mr. Hyland led the prayer.

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

10:00 A.M. DOUGLAS P. GREENE, appl. under Sect. 3-2003 of the Ord. for a child care center in community building of apartment complex, located 7932 Janne Lee Avenue, Woodlawn Village, R-20, Lee Dist., 101-2((1))17, 21.7293 acres, SP 83-L-084.

Ms. Jane Kelsey presented the staff report which recommended approval of SP 83-V-084 in accordance with the development conditions set forth in Appendix I. She informed the Board that the applicant was requesting a waiver of the screening requirements since the child care center would serve only the residents of the apartments. The staff did not have any objection to a waiver provided that screening was provided around the play area. In response to questions from the Board, Ms. Kelsey explained that a walkway was not provided at the present time. The staff was requesting that some type of walkway be provided from the back of the center to the playground area. There was a sidewalk in front of the apartments but the children would have to walk around the buildings.

The Board questioned whether there was a sufficient number of children in the apartments for the child care center to draw from for its enrollment. Ms. Kelsey stated that the applicant had indicated there were 615 children in the Janna Lee Apartments. If they wanted to accept children from outside the complex, they would have to provide the parking.

Mr. Douglas Greene of 5840 Cameron Run Terrace and Ms. Wilma McBride of 1201 S. Courthouse Road, Apt. 801 in Arlington were the applicants. Ms. McBride gave the Board the background history of the planning involved for the child care center. The center would provide quality, affordable day care. There would be three teachers. The hours of operation would be from 6 A.M. to 7 P.M., Monday through Friday with a maximum of 75 children.

In response to questions from the Board as to whether the applicant agreed with the development conditions, Ms. McBride stated that they could not afford to put in the walkway. As an alternative, she suggested that the children use the walkway in front of the building. There would be seven people involved in the child care operation. At least 2 of the 7 would live in the project and have parking provided by virtue of being residents of the apartment complex.

There was no one else to speak in support. Mr. Steve Alexander of the Colchester Town Condominium Association spoke in opposition. He resided at 7965 Audubon Avenue in Alexandria. He questioned the employees from within the area and was informed that the aides hired would live within the complex. Two employees would live outside the complex and possibly would be degreed teachers.

R E S O L U T I O N

In Application No. SP 83-V-084 by DOUGLAS P. GREENE under Section 3-2003 of the Zoning Ordinance to permit child care center in community building of apartment complex on property located at 7932 Janna Lee Avenue, tax map reference 101-2((1))17, 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 17, 1983; and

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

1. That the applicant is the lessee.
2. The present zoning is R-20.
3. The area of the lot is 21.7293 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:

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.

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management (DEM), a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. This permit is approved for an enrollment of 75 children and a maximum of seven (7) employees, at least two (2) of whom reside in the Janne Lee Apartments and who have parking available to them as residents of the Janna Lee Apartments. The hours of operation for the day care center shall be from 6 A.M. to 7 P.M., Monday through Friday.
6. The enrollment shall be limited to only those residents of Woodlawn Village Apartments Sect. 2, also known as the Janna Lee Apartments, unless the applicant obtains approval from the Board of Supervisors for cooperative parking with a reduction in the total number of required spaces.
7. A total of three (3) parking spaces shall be provided for employees of the child care center. Such spaces shall be approved by DEM during the review of the site plan requirement as established in Condition No. Four (4) above.
8. Concerning the walkway to the play area, the applicant will provide access in the front of the apartment building where there are presently sidewalks with the understanding that they will comply with the supervision requirement in terms of ensuring that youngsters have an adult that supervises the access and egress to the play area back to the child care center.
9. Transitional screening and a barrier shall be waived and such plantings as are determined absolutely necessary by the Director, Department of Environmental Management (DEM) shall be installed around the play area and the building to soften the impact from adjacent properties. The type, number and location of the plantings shall be determined by the Director, DEM to ensure that the intent of this condition is satisfied.
10. The emergency access driveway leading to the pool shall not be used for parking, loading, unloading, dropping off or picking up students.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Hammack and Mrs. Thonen being absent).

Page 181, November 17, 1983, Scheduled case of

10:15 A.M. GREATER SPRINGFIELD VOLUNTEER FIRE DEPARTMENT, appl. under Sect. 18-401 of the Ord. to allow construction of building additions to existing fire station to 14 ft. from street line (40 ft. min. front yard req. by Sect. 3-107) and 19.9 ft. from I-95 R.O.W. (75 ft. min. distance from interstate highway R.O.W. req. by Sect. 2-414), located 7011 Backlock Rd., R-1, Lee Dist., 90-2((1))21A, 2.44 acres, VC 83-L-132.

As the required notices were not in order, the Board deferred the variance until December 6, 1983 at 12:00 Noon.

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10:30 A.M. DIFFERENT DRUM, INC., appl. under Sect. 3-103 of the Ord. to amend S-190-79 for school of general education to permit second story deck addition to building and continuation of the use without term, located 7150 Telegraph Rd., R-1, Lee Dist., 91-4((1))13, 2.81 acres, SPA 79-L-190-1. (DEFERRED FROM 10/11/83 FOR NOTICES).

Ms. Mary Burton presented the staff report which recommended approval of the special permit amendment subject to the conditions set forth in Appendix I. Mr. Richard Hobson, an attorney with Boothe, Prichard and Dudley in Fairfax, represented the applicant. He stated that Different Drum, Inc. was a non-profit Virginia corporation operating a school on Telegraph Road. The students came from the public school systems of Fairfax and Alexandria through the Juvenile Courts. Different Drum had been in operation for ten years. The school was requesting permission to construct a deck to utilize space for another means of ingress and egress for the second floor.

Mr. Don Naples of 8714 Center Road in West Springfield was President of the Board of Directors of Different Drum, Inc. He informed the Board that the school was on a small budget. The second floor would be used for office space to free up downstairs. The Fire Marshal required the exit from the second floor.

Mr. Hobson informed the Board that the school did not have any money other than for the deck. Mr. Hobson stated that in 1978, the school had not been required to pave the parking spaces. He was concerned about the development conditions #7 and #9. Mr. Hobson asked the Board to amend condition no. 9. Mr. Hobson discussed changed with respect to the transitional screening requirements. Ms. Burton stated that staff would support the requested changes but requested that a term be placed on the use. Without the term, the staff had no mechanism to trigger the applicant to provide any transitional screening that might be necessary in the future.

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

R E S O L U T I O N

In Application No. SPA 79-L-190-1 by DIFFERENT DRUM, INC. under Section 3-103 of the Zoning Ordinance to amend S-190-79 for school of general education to permit second story deck addition to building and continuation of the use without term, on property located at 7150 Telegraph Road, tax map reference 91-4((1))13, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 17, 1983 having been deferred from October 11, 1983 for notices; and

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

1. That the spplicant is the lessee.
2. The present zoning is R-1.
3. The area of the lot is 2.81 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.

RESOLUTION

5. The hours of operation shall be 8:30 A.M. to 4:30 P.M., Monday through Friday.
6. The total number of employees associated with this use shall be seven (7).
7. The total student enrollment shall not exceed 25.
8. A maximum of one night meeting per week shall be permitted.
9. A minimum of nine (9) parking spaces shall be provided for this use. If the applicant wants to continue the one night meeting per week with an attendance not to exceed 17 persons eight (8) additional parking spaces shall be provided along the edge of the existing driveway within that area noted on the approved plat. These parking spaces shall be paved unless a variance is granted or alternative relief is obtained through procedures adopted by the Board of Supervisors from the dustless surface requirement.
10. The ten (10) parking spaces located along the western property line shall be removed and a Transitional Screening 1 yard shall be provided at such time as the property to the west is developed.
11. The existing trees and vegetation may be substituted for the required Transitional Screening 1 along the northern, southern and eastern lot lines provided supplemental screening is provided if it is deemee necessary by the Director, Department of Environmental Management (DEM). Transitional Screening 1 shall be provided along the western lot line except in the area of the driveway. The requirement for a Barrier along all lot lines shall be waived.
12. The Zoning Administrator shall review the file on an annual basis to determine the need for that transitional screening along the western property line.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Hammack and Mrs. Thonen being absent).

Page 183, November 17, 1983, Scheduled case of

10:45 A.M. COMMONWEALTH SWIM CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend S-75-79 for community swimming and tennis club to increase the permitted memberships from 350 to 425, located 9800 Commonwealth Blvd., R-2, Kings Park West Subd., Annandale Dist., (formerly Springfield Dist.), 69-3((5))B, 5.48539 acres, SPA 79-S-075-1. (DEFERRED FROM 10/11/83 FOR NOTICES).

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix I. Mr. Kendrick Sanders of 10560 Main Street in Fairfax informed the Board that the application was to amend the number of memberships of the club. The reason for the request was due to the growth of the community. Ample parking was provided. The pool met all the requirements according to Mr. Sanders. There were not any other changes except for the membership.

A speaker from the audience questioned the Board as to weekend parties and the noise levels. He was informed to contact Zoning Enforcement if the club was a nuisance. Ms. Kelsey advised the speaker to call the Police Department while the party was in existence. All complaints would be forwarded to the Zoning Administrator.

There was no one else to speak in support or in opposition.

RESOLUTION

In Application No. SPA 79-S-075-1 by COMMONWEALTH SWIM CLUB, INC. under Section 3-203 of the Zoning Ordinance to amend S-75-79 for community swimming and tennis club to increase the permitted memberships from 350 to 425, on property located at 9800 Commonwealth Blvd., tax map reference 69-3((5))B, County of Fairfax, Virginia, Mrs. 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 November 17, 1983 having been deferred from October 11, 1983 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-2.
3. The area of the lot is 5.48539 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. Membership shall be limited to 425.
6. Eighty (80) parking spaces shall be provided and handicapped spaces shall be in accordance with Sect. 11-102 of the Ordinance.
7. The maximum hours of operation shall be as follows:
   Swimming pool - 9 A.M. to 9 P.M.
   Tennis courts - 7 A.M. to 10 P.M.
8. After-hour parties for the swimming pool shall be governed by the following:
   - o Limited to six (6) per season;
   - o Limited to Friday, Saturday and pre-holiday evenings;
   - o Shall not extend beyond 12:00 midnight;
   - o Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity;
   - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
   - o Noise levels shall be in accordance with Sect. 14-700.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Hammack and Mrs. Thonen being absent).

Page 184, November 17, 1983, Recess

At 12:20 P.M. the Board recessed the meeting for lunch and reconvened at 1:25 P.M. to continue with the scheduled agenda. Mr. Ribble left the meeting during the recess and did not return. Mr. Hammack arrived during the recess and was present for the remainder of the meeting.

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Page 184, November 17, 1983, Scheduled case of

11:00 A.M. DR. DEBORAH K. TABB, appl. under Sect. 3-303 of the Ord. for a home professional office (dentist), located 1600 Dolly Madison B.vd., R-3, Dranesville Dist., 30-1((1))94 & 95, 23,848 sq. ft., SP 83-D-060. (DEFERRED FROM 10/11/83 TO ALLOW APPLICANT TIME TO WORK OUT SCREENING AND ENGINEERING PROBLEMS).

The Board was in receipt of a letter from the applicant requesting withdrawal of the application without prejudice. Mr. Hyland moved that the Board allow withdrawal without prejudice. Mr. Hammack seconded the motion and it passed by a vote of 5 to 0 (Mr. Ribble and Mrs. Thonen being absent).

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Page 185, November 17, 1983, Scheduled case of

11:15 A.M. JOHN M. MATTES, appl. under Sect. 18-401 of the Ord. to allow subdivision into eight (8) lots, proposed lot 6 having width of 15 ft. (80 ft. min. lot width req. by Sect. 3-306), located 7211 Danford Ln., R-3, Springfield Dist., 89-3((1))18A, 3.23 acres, VC 83-S-097. (DEFERRED FROM 9/6/83 FOR NOTICES AND FROM 10/11/83 TO ALLOW TIME FOR THE BOARD OF SUPERVISORS TO APPROVE A PROFFERED CONDITION AMENDMENT TO REZONING CASE 77-S-044).

The above-captioned variance application was deferred until January 10, 1984 at 10:00 A.M.

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Page 185, November 17, 1983, Scheduled case of

11:30 A.M. LESTER R. HENRY, appl. under Sect. 18-401 of the Ord. to enclose rear wall of existing screened porch and allow construction of carport addition to dwelling to 8.5 ft. from the rear lot line, 10 ft. from the side lot line and 30 ft. from the front lot line (25 ft. min. rear yard, 15 ft. min. side yard and 35 ft. min. front yard req. by Sect. 3-207), located 10718 Oak Pl., Fairfax Acres Subd., R-2, Providence Dist., 47-3((7))85, 8,584 sq. ft., VC 83-P-108. (DEFERRED FROM SEPTEMBER 27, 1983 FOR NOTICES AND FROM OCTOBER 25, 1983 FOR READVERTISING AND NOTICES).

Ms. Mary Burton presented the staff report. Mr. Lester Henry of 10718 Oak Place informed the Board that the purpose of the variance was to enclose the porch and construct a carport because of the noise level of I-66. A solid wall would eliminate the noise and enable Mr. Henry to make use of the porch. In response to questions from the Board, Mr. Henry stated that his house was constructed after I-66 was built. The house was 4½ to 5 years old. The noise from I-66 had gotten worse because of the truck traffic. The house could be sound-proofed but the noise outside was terrible. Mr. Henry informed the Board that his lot had been reduced in size in 1965 with the taking of the highway.

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

Page 185, November 17, 1983 Board of Zoning Appeals
LESTER R. HENRY

R E S O L U T I O N

In Application No. VC 83-P-108 by LESTER R. HENRY, under Section 18-401 of the Zoning Ordinance to enclose rear wall of existing screened porch and allow construction of carport addition to dwelling to 8.5 ft. from the rear lot line, 10 ft. from the side lot line and 30 ft. from the front lot line (25 ft. min. rear yard, 15 ft. min. side yard and 35 ft. min. front yard req. by Sect. 3-207), on property located at 10718 Oak Place, tax map reference 47-3((7))85, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 17, 1983, having been deferred from September 27, 1983 for notices and from October 25, 1983 for readvertising, posting and 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-2.
3. The area of the lot is 8,584 sq. ft.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has the following characteristics: Exceptional shape at the time of the effective date of the Ordinance; and an extraordinary situation or condition of the subject property in that the applicant has testified to the high noise levels which make the use of the property at the present time virtually impossible. It's clear from a review of the tax map of the area that the rest of I-66 right-of-way went through and cut the original lot size almost in half or more than half and has given the applicant a diagonally shaped rear lot line.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

RESOLUTION

6. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific additions shown on the plat included with this application and is not transferable to other land.
2. A soil analysis shall be performed prior to construction.
3. A Building Permit shall be obtained prior to the start of construction.
4. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. Ribble and Mrs. Thonen being absent).

Page 186, November 17, 1983, Scheduled case of

11:30
A.M. NANCY JEAN FARMER/STEPHEN DULL, appl. under Sect. 2-419 of the Ord. to allow existing garage to remain 1.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 1326 Ranleigh Rd., Ranleigh Retreat Subd., R-2, Dranesville Dist., 31-2((1))88D, 41,721 sq. ft., SP 83-D-032. (DEFERRED FROM JULY 12, 1983 FOR NOTICES, FROM SEPTEMBER 6, 1983 TO ALLOW THE APPLICANT AN OPPORTUNITY TO NEGOTIATE WITH NEIGHBOR PERTAINING TO AN EASEMENT AND FROM NOVEMBER 1, 1983 AT THE REQUEST OF THE APPLICANT).

Mr. Steve Dull of 4601 S. 31st Street in Arlington informed the Board that he was the owner of the property. The case had been reviewed in July. Mr. Dull stated that he was trying to screen the garage from view of the adjacent property to be developed. Mr. Dull had worked out a satisfactory arrangement with the adjacent property owner and there was not an objection any longer. Mr. Dull presented the Board with a copy of the settlement for the record. Mr. Dull stated that the garage would still remain 1.0 ft. from the property but he was granted an easement.

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

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. SP 83-D-032 by NANCY JEAN FARMER/STEPHEN DULL, under Section 2-419 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow minimum yard requirements based on error in building location to allow existing garage to remain 1.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 1326 Ranleigh Road, tax map reference 31-2((1))88D, 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 Aoning Appeals on November 17, 1983; and

WHEREAS, the Board made the following conclusions of law:

R E S O L U T I O N

1. The Board has determined that:
A. The error exceeds ten (10) percent of the measurement involved, and
B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required,
C. Such reduction will not impair the purpose and intent of this Ordinance, and
D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
E. It will not create an unsafe condition with respect to both other property and public streets, and
F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
2. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
3. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
4. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

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 on the plats submitted with this application only and is not transferable to other land or to other structures on the same land.
2. This approval shall expire without notice eighteen (18) months from the approval date unless a building permit has been obtained and the construction approved in accordance with the Building Officials and Code Administrators International, Inc. standards, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator thirty (30) days prior to the expiration date.
3. A Building Permit shall be obtained for the garage to assure compliance with the Building Officials and Code Administrators International, Inc. standards.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. Ribble and Mrs. Thonen being absent).

Page 187, November 17, 1983, Scheduled case of

11:45 A.M. RICHARD E. PARET, appl. under Sect. 18-401 of the Ord. to allow construction of hobby room addition to dwelling to 15.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), located 11607 Helmont Dr., R-1(C), Gilmore Estates Subd., Centreville Dist., 36-4((10))12, 23,964 sq. ft., VC 83-C-128. (DEFERRED FROM NOBEMBER 1, 1983 FOR APPLICANT TO PROVIDE DOCUMENTATION AS TO LOCATION OF SEPTIC FIELD AND TYPE OF WELL).

Mr. Richard Paret of 11607 Helmont Drive informed the Board that he had submitted a plat with the location of the septic field to the staff. In response to questions from the Board, Mr. Paret stated that at the rear of lot 2 was nothing but woods. There were two houses built on a road behind Mr. Paret's property but they were not directly behind him. No residences would be looking into the rear of Mr. Paret's property.

R E S O L U T I O N

In Application No. VC 83-C-128 by RICHARD E. PARET under Section 18-401 of the Zoning Ordinance to allow construction of hobby room addition to dwelling to 15.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), on property located at 11607 Helmont Dr., tax map reference 36-4((1))12, County of Fairfax, Virginia, Mrs. 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 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 17, 1983; 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(C).
3. The area of the lot is 23,964 sq. ft
4. It has been stated that the proposed addition is parallel to the left residence line and is approximately parallel to the concrete patio at the back. This is really not extending any construction beyond what's existing there in dimensions. Also, there are woods behind the property line and the houses on either side are to the side and not directly behind the applicant's property.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of thefollowing characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. Ribble and Mrs. Thonen being absent).

Page 188, November 17, 1983, After Agenda Items

ANDROWOS Y. KULEY, S-82-M-020 and V-82-M-037: The request for additional time from Mr. Androwos Y. Kuley had been deferred from a previous BZA meeting. Mr. DiGiulian moved that the Board allow a six month additional time for the applications. Mrs. Day seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith)(Mr. Ribble and Mrs. Thonen being absent).

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Page 189, November 17, 1983, After Agenda Items

REQUESTS FOR ADDITIONAL TIME: The Board discussed with staff concerns relating to the verification of applicants' statements when requesting additional time for applications. The Board directed staff to have the applicant demonstrate that the application was being diligently pursued. If problems had been encountered, documented evidence was to be provided to the staff.

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Page 189, November 17, 1983, After Agenda Items

SCHEDULING OF APPLICATIONS: The Board discussed with staff the scheduling of applications and directed that a lunch period be designated in the agendas. The Board wanted to eliminate the problem of complaints of applicants having to wait. The Clerk was directed to schedule a reasonable number of applications for the morning and begin the afternoon session following the luncheon recess.

// There being no further business, the Board adjourned at 3:00 P.M.

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

Submitted to the Board on Feb. 12, 1985

Daniel Smith
Daniel Smith, Chairman

Approved: February 19, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 22, 1983. The Following Board Members were present: Daniel Smith, Chairman; Ann Day; John Ribble and Gerald Hyland. Paul Hammack arrived at 10:40 A.M. John DiGiulian and Mary Thonen were absent.

The Chairman opened the meeting at 10:10 A.M. and Mrs. Day led the prayer.

The Board members had a discussion with Patrick Taves, Assistant County Attorney, regarding the remailing of notices for BZA hearings. It was the opinion of the County Attorney's Office that when a public hearing of the BZA is continued, deferred or adjourned to a date and time certain, the written notices need not be remailed. If there was any doubt as to whether the new date for such a hearing was properly announced, then the course of action would be to require that the notices be remailed.

Page 190, November 22, 1983, Scheduled 10:00 A.M. case heard at 10:30 A.M.:

10:00 A.M. FAHMI SHAMMAS, appl. under Sect. 18-401 of the Ord. to allow the enclosure of the existing carport for family room addition to dwelling 10.4 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7406 Estaban Pl., N. Spfd. Subd., R-3, Annandale Dist., 80-1((2))(72)21, 13,830 sq. ft., VC 83-A-113.

Mary Burton reviewed the staff report for the Board. Peter Logis, 10516 Carnation Court, Adelphi, Maryland, represented the applicant. He stated that Mr. Shammas wished to enclose an existing carport into a family room. The house did not contain a basement and more living space was needed for the children. Mr. Logis stated that the house had been constructed in 1958 and the carport was later added around 1961 or 1962. He stated that the enclosure would be brick to match the house.

There was no one to speak in support or opposition.

Page 190, November 22, 1983 Board of Zoning Appeals
FAHMI SHAMMAS

R E S O L U T I O N

In Application No. VC-83-A-113 by FAHMI SHAMMAS under Section 18-401 of the Zoning Ordinance to allow the enclosure of the existing carport for family room addition to dwelling 10.4 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 7406 Estaban Place, tax map reference 80-1((2))(72)21, County of Fairfax, Virginia, Mrs. 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 22, 1983; 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 13,830 sq. ft.
4. As stated in testimony, the rear of the house extends level with the side of the existing carport and if the carport is enclosed it will be uniform with the perimeter of the house. It will be constructed in an acceptable manner. The applicant does not have a basement in his house and there is no family room. With two children growing up the extra space is badly needed. To the right of the house the neighboring house, it's been stated, is approximately 40 ft. from the side lot line making the space between the proposed completed garage about 50 ft. from the neighbors house. It's been stated that there are other houses on the street that do have enclosed carports. The applicants' house was built in 1958 and originally he was allowed a garage with the requirements at that time.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 0. (Mr. Hammack abstained) (Mr. DiGiulian and Mrs. Thonen being absent)

Page 191, November 22, 1983, Scheduled 10:10 A.M. case heard at 10:45 A.M.:

10:10 A.M. GROVETON BAPTIST CHURCH, appl. under Sect. 3-403 of the Ord. to allow 70 additional parking spaces for existing church and related facilities, located 6511 Richmond Hwy., Groveton Heights, R-4, Mt. Vernon Dist., 93-1((7))1 & 2 and 93-1((1))27, 2.579 acres, SPA 73-V-121-1. (DEFERRED FROM SEPTEMBER 27, 1983 FOR NOTICES)

The applicant's representative, Homer D. Blackwell, A.I.A. was not yet present at the meeting. It was the consensus of the Board to pass over the case until such time as he was present.

Page 191, November 22, 1983, Scheduled 10:30 A.M. cases heard at 10:55 A.M.:

10:30 A.M. BOWL AMERICA SHIRLEY, INC., appl. under Sect. 4-803 of the Ord. for building additions and parking lot rearrangements at existing bowling alleys, located 6450 Edsall Rd., C-8, Lee Dist., 81-1((6))2, 3.649 acres, SP 83-L-069.

10:30 A.M. BOWL AMERICA SHIRLEY, INC., appl. under Sect. 18-401 of the Ord. to allow additions to existing bowling alleys with existing building located 39.5 ft. from I-95 R.O.W. (75 ft. min. distance req. by Sect. 2-414); with existing building 33.6 ft. and proposed additions 26.2 ft., at the nearest points, respectively from the street line of Edsall Rd., (40 ft. min. front yard req. by Sect. 4-807), located 6450 Edsall Rd., C-8, Lee Dist., 81-1((6))2, 3.649 acres, VC 83-L-136.

Mary Burton read the staff report for the Board. Robert Lawrence, an attorney from Hazel, Beckhorn and Hanes represented the applicant. He stated that this use had been on the property for a long time. The acquisition of portions of the subject property for the northbound ramp to I-95 had created an exceptionally irregular configuration for the subject property. Mr. Lawrence stated that the site was considerably higher than the road. He felt that any additions would not pose a sight distance problem for people driving by. Also, there was a lot of vegetation present at the top of the hill parallel to Edsal Road. Mr. Lawrence stated that due to the shape of the property, the access, and the topography problems, there was not much flexibility in the development of the property. He stated that landscaping would be provided between the facility and the apartment buildings.

Chairman Smith stated that it appeared that the property would be overdeveloped. Mr. Lawrence replied that the maximum floor area ratio allowed on this property was .70. Currently, the floor area ratio was .2 and the proposed additions would bring it up to .31. Mr. Lawrence stated that he felt the required interior parking lot landscaping was not necessary for the citizens using the facility. This would cause the facility to lose twelve additional parking spaces. Mr. Lawrence stated that he felt it was more of a benefit for the users of the center to have the parking spaces.

Leslie Goldberg, President of Bowl America, 3705 S. George Mason Drive, also spoke in support of the application. There was no one to speak in opposition.

R E S O L U T I O N

In Application No. SP 83-L-069 by BOWL AMERICA SHIRLEY, INC. under Section 4-803 of the Zoning Ordinance for building additions and parking lot rearrangements at existing bowling alleys, on property located at 6450 Edsall Road, tax map reference 81-1((6))2, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

BOWL AMERICA SHIRLEY, INC.
(continued)

WHEREAS, the captioned application has been properly filed in accordance with 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 22, 1983; 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 C-8.
3. The area of the lot is 3.649 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 C 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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. The hours of operation for the office and warehouse additions shall be 8:00 A.M. to 5:00 P.M., Monday through Friday. There shall be no limit to the hours of operation for the bowling alley.
6. The maximum number of employees associated with the bowling alley shall be thirty-four (34) and shall be limited to a maximum of ten (10) employees per eight (8) hour shift.
7. The applicant shall provide adequate parking in accordance with Article 11 of the Zoning Ordinance for the combined uses.
8. The number of proposed excess parking spaces may be reduced to accommodate the center pedestrian lane. In addition, the applicant shall provide landscape islands along the pedestrian land. The type and amount shall be determined by the Director, DEM, at the time of site plan review.
9. The applicant shall provide transitional screening along the northeast property line. The amount and type of transitional screening shall be determined by the Director, DEM at the time of site plan review.
10. The applicant shall work with the Virginia Department of Highways and DEM to provide landscaping in the VDH&T right-of-way along the north lot line abutting Shirley Highway.
11. The barrier requirements along the northeast lot line shall be waived.
12. Approval of this special permit is contingent upon final approval by the Board of Supervisors for a waiver of the open space requirement.
13. Adequate site distance shall be provided at the entrance to the site.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. DiGiulian and Mrs. Thonen being absent)

RESOLUTION

In Application No. VC-83-L-136 by BOWL AMERICA SHIRLEY, INC. under Section 18-401 of the Zoning Ordinance to allow additions to existing bowling alleys with existing building located 39.5 ft. from I-95 R.O.W. (75 ft. min. distance req. by Sect. 2-414); with existing building 33.6 ft. and proposed additions 26.2 ft., at the nearest points, respectively from the street line of Edsall Rd. (40 ft. min. front yard req. by Sect. 4-807), on property located at 6450 Edsall Road, tax map reference 81-1((6))2, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 22, 1983; 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 3.649 acres.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has been diminished in size by road right-of-ways. It has been condemned on three sides.
C. That the subject property had exceptional size at the time of the effective date of the Ordinance.
D. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
E. That the subject property has exceptional topographic conditions.
F. An extraordinary situation or condition of the subject property.
G. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
H. That the strict application of this Ordinance would produce undue hardship.
I. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
J. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
K. That authorization of the variance will not be of substantial detriment to adjacent property.
L. That the character of the zoning district will not be changed by the granting of the variance.
M. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific additions shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 1. (Mr. Smith) (Mr. DiGiulian and Mrs. Thonen being absent)

Page 194, November 22, 1983, Scheduled 10:10 A.M. case heard at 11:40 A.M.:

10:10 A.M. GROVETON BAPTIST CHURCH, appl. under Sect. 3-403 of the Ord. to allow 70 additional parking spaces for existing church and related facilities, located 6511 Richmond Hwy., Groveton Heights, R-4, Mt. Vernon Dist., 93-1((7))1 & 2 and 93-1((1))27, 2.579 acres, SPA 73-V-121-1. (DEFERRED FROM SEPTEMBER 27, 1983 FOR NOTICES)

Jane Kelsey reviewed the staff report for the Board. She stated that the Department of Environmental Management pointed out that there were too many entrances to the site, and this number would have to be reduced in order to accomplish the transitional screening and the interior parking lot landscaping. She stated that staff did not recommend approval of the application as it was submitted that day. Staff requested that the parking lot be redesigned to include screening and other requirements.

Homer Blackwell, 5203 Leesburg Pike, represented the applicant. He stated that the church was constructed in 1942. He stated that the church had given the County and the State over three quarters of an acre over the years for the widening of Route 1 and the construction of Dawn Drive. Mr. Blackwell stated that the church needed the additional parking. He indicated that to close off an entrance and have to provide a parallel drive, and to provide screening, would cause the church to lose many of the requested parking spaces. He asked that the Board look at the practical aspect of the application. Mr. Blackwell felt the church should be able to get the most parking spaces it could on that piece of land.

Staff had recommended that the church considered purchasing a parcel of land across the street for the overflow parking area. The Zoning Ordinance did provide for coordinated parking on a contiguous lot. Ms. Kelsey stated that it was assumed that a policeman would have to be hired to direct traffic on a Sunday morning. Mr. Hyland felt that it was a very dangerous proposition to have people parking across the street and having to walk across Route 1 to get to church. Ms. Kelsey stated that this was just one suggestion with the idea that the applicant could explore other remedies to the parking problem. She felt they were restricted because of the small land area available.

James Castalin, 6516 Hillside Lane, east of the church property, spoke in opposition. He stated that he questioned the use of so much land to accommodate cars for a brief period one day a week, when suitable parking could be made available in the neighborhood.

Robert Bodine, 6210 Greeley Blvd., Springfield, spoke regarding the application. He felt that Mr. Blackwell should have shown up on time for the meeting, being as it was announced and advertised.

Mr. Hyland stated that he could not support the request for the suggested parking lot configuration. He felt that the staff was correct in asking the applicant to go back to the drawing board and submit an alternative plan.

It was the consensus of the Board members to defer the case to January 10, 1984 at 10:10 A.M.

Page 194, November 22, 1983, Scheduled 10:45 A.M. case heard at 12:25 P.M.:

10:45 A.M. WILLIAM M. YOUNG, appl. under Sect. 18-401 of the Ord. to allow construction of free standing storage room and car shelter in a front yard and located 8 ft. from the side lot line (accessory structure not permitted in any front yard by Sect. 10-104); 15 ft. min. side yard req. by Sect. 3-207), located 1939 Marthas Rd., Hollin Hills Subd., R-2, Mt. Vernon Dist., 93-4((5))153, 17,416 sq. ft., VC 83-V-137.

Chairman Smith announced that the notices were not in order. It was the consensus of the Board to defer the case to January 10, 1984 at 10:20 A.M.

//The Board recessed for lunch at 12:30 P.M. and returned to take up the scheduled agenda at 1:30 P.M.

Page 194, November 22, 1983, Scheduled 11:00 A.M. case heard at 1:30 P.M.:

11:00 A.M. ELEANOR C. THOMPSON, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots, proposed lots 2, 3 & 4 each having width of 6 ft. (80 ft. min. lot width req. by Sect. 3-306), located 7537 Idylwood Rd., R-3, Providence Dist., 40-3((1))68, 1.3942 ac., VC 83-P-138.

Mary Burton read the staff report. Charles Huntley, 7202 Poplar Street, Annandale, represented the applicant. He stated that the main reason the previous variance

application had expired was because they were unable to obtain a sanitary sewer easement. Ms. Thompson now had a signed agreement with Mrs. Howell for an easement through her property. He stated that the irregular shape and narrow frontage of the parcel would not allow reasonable use of the land for development under its present zoning. Jane Kelsey answered the Board's questions regarding the front yard. She stated that a front yard would be required between the pipestem driveway and adjacent lot 65, not a side yard. This was because of the installation of the pipestem driveway.

Robert Bodine, 6210 Greeley Blvd., Springfield, spoke regarding the application. He said this was about the 25th time he had spoken on pipestem lots. He referred to the staff report which stated that the subdivision of this property into four lots did not meet the Office of Comprehensive Planning's policy for pipestem lots. Mr. Bodine stated that he could care less what the Office of Comprehensive Planning's policy was. He felt that this was the policy of the Board of Supervisors. The pipestem lots presented in this case had no relationship to the purpose pipestem lots were put into the Ordinance of Fairfax County.

Ray Keating, an attorney, spoke in opposition. He represented Dr. Lilly Ruckstall and Mrs. Mary Howell, contiguous property owners. He handed the Board members a petition in opposition signed by the owners of property in the immediate vicinity of the applicant's property. Mr. Keating stated that Dr. Ruckstall and Mrs. Howell had consistently opposed this application. He had advised Mrs. Howell that it would be futile to oppose the easement for the sanitary sewer, and at that time she had made arrangements with Mrs. Thompson. In answer to the Board's questions, Mr. Keating stated that there was a gravel road leading back to the cemetery, although he was not aware if it was an official right-of-way. He stated that the citizens in opposition felt that Ms. Thompson had reasonable use of her property and was asking for too many lots. They felt this lot configuration did not meet the pipestem policies of the Office of Comprehensive Planning. The citizens in opposition had a problem with the additional traffic that would be created by this subdivision.

No one else spoke regarding the application.

Page 195, November 22, 1983 Board of Zoning Appeals
ELEANOR THOMPSON

RESOLUTION

In Application No. VC-83-P-138 by ELEANOR C. THOMPSON under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lots 2, 3 & 4 each having width of 6 ft. (80 ft. min. lot width req. by Sect. 3-306), on property located at 7537 Idylwood Road, tax map reference 40-3((1))68, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 22, 1983; 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 1.3942 acres.
4. Aside from the legislative history of pipestems, I can readily see that there is an adverse impact on lot 65. Four lots is just simply too many for this parcel of land that way it's designed. The applicant has not met the Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

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.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Hyland & DiGiulian and Mrs. Thonen absent)

Page 196, November 22, 1983, Scheduled 11:15 A.M. case heard at 2:00 P.M.:

11:15 A.M. BERNARD C. & CATHERINE A. DIETZ, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport into garage addition to dwelling 9.7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 2205 Yardley Ct., Riverside Park Subd., R-3, Mt. Vernon Dist., 111-1((13))12, 11,599 sq. ft., VC 83-V-139.

Mary Burton read the staff report for the Board. Bernard Dietz presented the application. He stated that he had purchased the property twelve years ago. He stated that during the years, many neighbors had enclosed their carports. Mr. Dietz stated that his lot had an exceptional shape in that the boundaries widened away from the front of the lot. The proposed garage was surrounded by many plants, and he intended to add more shrubbery after construction.

There was no one to speak in support or opposition.

Page 196, November 22, 1983 Board of Zoning Appeals
BERNARD C. & CATHERINE A. DIETZ

R E S O L U T I O N

In Application No. VC-83-V-139 by BERNARD C. & CATHERINE A. DIETZ under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport into garage addition to dwelling 9.7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 2205 Yardley Court, tax map reference 111-1((13))12, County of Fairfax, Virginia, Mrs. 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 22, 1983; 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 11,599 sq. ft.
4. The applicant is requesting a variance of 2.3 ft. to enclose his existing carport which would not extend beyond the present dimensions. His property is very well screened and is not visible to the next door neighbor and hardly visible from across the street. A number of his neighbors have enclosed their carports into a garage. The applicants' property has an unusual shape. It would be difficult for him to have a garage on another section of his lot. This would add to his property aesthetically and security-wise.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Hyland & DiGiulian and Mrs. Thonen being absent)

Page 197, November 22, 1983, STAFF PRESENTATION:

Jeff Saxe, from the Office of Comprehensive Planning, gave a short presentation to familiarize the Board members with the land use plan and the procedures adopted by the Board of Supervisors for the Fairfax center area. He stated that the Fairfax center area was approximately 26 acres in size and located west of the City of Fairfax along Routes 50, Route 29 and I-66. The land use plan was adopted by the Board of Supervisors in August of 1982. Bob Kuhns, from the Office of Transportation, detailed the formula the Board of Supervisors adopted regarding requests for contributions towards roadway improvements in the Fairfax area.

Page 197, November 22, 1983, Scheduled 11:30 A.M. cases heard at 2:25 P.M.:

11:30 A.M. KING OF KINGS LUTHERAN CHURCH, appl. under Sect. 3-103 of the Ord. for removal of existing structure and construction of new church and related facilities, located 12604 Lee Jackson Memorial Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 acres, SPA 77-C-128-1.

11:30 A.M. KINGS OF KINGS LUTHERAN CHURCH, appl. under Sect. 18-401 of the Ord. to allow reconstruction of church and related facilities with existing and proposed parking lots having gravel surface (dustless surface req. by Sect. 11-102), located 12604 Lee Jackson Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 acres, VC 83-C-180.

Mary Burton stated that the staff recommended denial of the special permit application and the concurrent variance application. The major problem with the site was the conflict with the proposed Springfield bypass. The location of the bypass was such that the north-south segment of the road would be located through the entire area of the church property. Any expansion or improvement of the facility would not be in conformance with the recommendations of the Comprehensive Plan.

Mr. Hammack inquired as to when the land acquisition would begin for the Springfield bypass. Bob Kuhns, from the Office of Transportation, replied that no date had been set. The status was that the environmental impact statement was before the Federal Government for their review. The County Board of Supervisors had twice indicated a request that this property be purchased. No response had been received from the State.

Beverly Miller, 4211 Penner Lane, the Council President at King of Kings Lutheran Church, represented the church. She stated that the church would never have purchased and located on this property if they had known about the Springfield bypass. She stated that the church's request met all the required County requirements. The site presently had a temporary building, and the church wished to remove it and put up a new church structure. Ms. Miller stated that if the BZA planned to deny the application, they must help the church out of their dilemma. Ms. Miller stated that the church faced rapidly increasing land prices, and soon the church would have no suitable place to locate their church on. The church headquarters recommended that they have three to five acres for their church site.

Ms. Miller stated that the church had invested much time and money in this property since they purchased it. They had put in a deceleration lane and extensively remodeled the existing farmhouse structure. A sizeable parking lot had also been added. She stated that she had read that the Planning Commission had recommended that the Board of Supervisors purchase this property. The Board of Supervisors had told VDH&T to buy it, and they said they didn't have any money to buy it. Ms. Miller stated that frankly, the church didn't want to sell the property. They just wanted to remove the temporary structure and build a new church. Ms. Miller stated that the church needed help from someone without resorting to court. She stated that the church was willing to work with someone to get these problems resolved, but they didn't want to wait very long.

Ms. Miller stated that the church currently had a day care center operating with 25 children. They wanted to continue that operation.

Pastor Bill Ridenaur, 13113 Melray Court, Fairfax, spoke in support of the application. He said he hoped the BZA would render a decision quickly so that the funding program could get underway for a new church.

There was no one to speak in opposition.

Mr. Hammack made a motion that the Board defer decision for a period of sixty days to allow the applicant time to investigate the possibilities of either County or State acquisition of the property. He stated that the applicant and staff would have time to make a report at that time to help the BZA make a decision in the matter. Mr. Ribble seconded the motion. It was the consensus of the Board to defer the case to January 31, 1984 at 10:45 A.M.

Page 198, November 22, 1983, Scheduled 11:40 A.M. case heard at 3:00 P.M.:

11:40 A.M. KENNETH BLUNT, appl. under Sect. 18-401 of the Ord. to allow construction of addition to existing motel to 15.04 ft. from a street line (40 ft. min. front yard req. by Sect. 4-807), located 5916 Richmond Hwy., C-8, Mt. Vernon Dist., 83-4((1))2, 50,085 sq. ft., VC 83-V-140.

Mary Burton presented the staff report. Bernard Fagelson represented the applicant. He stated that the property was a narrow, rectangular lot located on a corner lot. He indicated that a fifteen foot setback variance was granted in 1953. Mr. Fagelson was advised that additional construction required a new variance, even though the proposed development was believed to be within the area of the original variance. The addition would accommodate the motel manager's living quarters and the applicant's office.

There was no one to speak in support or opposition.

Page 198, November 22, 1983 Board of Zoning Appeals
KENNETH BLUNT

R E S O L U T I O N

In Application No. VC-83-V-140 by KENNETH BLUNT under Section 18-401 of the Zoning Ordinance to allow construction of addition to existing motel to 15.04 ft. from a street line (40 ft. min. front yard req. by Sect. 4-807), on property located at 5916 Richmond Highway, tax map reference 83-4((1))2, County of Fairfax, Virginia, Mrs. 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 22, 1983; 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 50,085 sq. ft.
4. Staff has told the Board that it does not create an impact. The Office of Transportation has no objection. We have already discussed the problem about soil and water, there are much larger buildings constructed in this area. This will be a two-story addition adjacent to the existing motel to provide for an apartment and an office for the Resident Manager and an additional motel room which would not cause any more traffic.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. The applicant shall obtain special exception approval from the Board of Supervisors to permit construction in a floodplain; and shall obtain all other necessary approvals prior to obtaining a building permit.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Hyland & DiGiulian and Mrs. Thonen being absent)

Page 199, November 22, 1983, Scheduled 11:50 A.M. case heard at 3:20 P.M.:

11:50 A.M. LANNY S. & GAIL MARIE BLAINE, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 2 ft. from side lot line such that total side yards would be 14 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 14619 Algretus Dr., Country Club Manor, R-3(C), Springfield Dist., 44-3((2))(28)18, 8,755 sq. ft., VC 83-S-141.

Mary Burton presented the staff report to the Board. Gail Blaine gave the facts concerning her application. She stated that the house had been purchased fifteen years ago. The main reason for the garage was for storage of an antique vehicle she and her husband owned. A fireplace wall protruded into the garage which was the reason the request was for an eighteen foot wide garage. Ms. Blaine stated that the garage could not be located on the rear of the house due to drainage problems and an existing deck.

There was no one to speak in support or opposition.

Page 199, November 22, 1983 Board of Zoning Appeals
LANNY S. & GAIL MARIE BLAINE

R E S O L U T I O N

In Application No. VC-83-S-141 by LANNY S. & GAIL MARIE BLAINE under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 2 ft. from side lot line such that total side yards would be 14 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), on property located at 14619 Algretus Drive, tax map reference 44-3((2))(28)18, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 22, 1983; 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 8,755 sq. ft.
4. The applicant does not meet the Required Standards for Variances in Section 18-404 of the Zoning Ordinance.
5. The applicant can build a garage on the side and still meet the Zoning Ordinance requirements.

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.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Hyland & DiGiulian and Mrs. Thonen being absent)

Page 199, November 22, 1983, Scheduled 12:00 Noon case heard at 3:35 P.M.:

12:00 Noon DAVID L. REID, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 5 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 4302 Ballard Pl., Cedar Lake Estates, R-1, Providence Dist., 45-4((2))9, .932 acres, VC 83-P-142.

Mary Burton reviewed the staff report for the Board. David Reid presented the facts for his application. He stated that the garage addition met the setback requirements in the front, but a corner portion would come right up to the five foot bridle path easement. The requested nineteen foot garage was necessary because a side door with a stoop and steps would be within the garage, taking up some of the width. Mr. Reid stated that the lot was long and narrow. The only other place to locate a garage would be at the rear of the property which is heavily wooded and would require a driveway over the drainfield

area. The Board members expressed concern that the addition would be so close to the bridle trail.

There was no one else to speak regarding the application.

R E S O L U T I O N

In Application No. VC 83-P-142 by DAVID L. REID under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), on property located at 4302 Ballard Place, tax map reference 45-4((2))9, County of Fairfax, Virginia, Mrs. 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 22, 1983; 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 .932 acres.
4. The applicants lot is an unusual shape and the house is right at the angle. He has a very well built house which is an asset to the area. I would agree to the same location the applicant asked for but for a narrower garage. I would move that the garage be 18 ft. wide and 26 ft. deep in the same position the applicant has placed it. That gives some space next to the bridle path. Otherwise, to build in the backyard he would have to cross the septic field. It would not be attractive if the garage was moved forward.

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, with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion *FAILED by a vote of 2 - 2 (Messrs. Smith and Hammack) (Messrs. Hyland & DiGiulian and Mrs. Thonen being absent)

//There being no further business, the Board adjourned at 4:00 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman

Submitted to the Board on: March 5, 1985 Approved: March 12, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 29, 1983. All Board Members were present: Daniel Smith, Chairman (departing at 12:10 P.M.), John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble; and Mary Thonen.

The Chairman opened the meeting at 10:10 A.M. and Mrs. Day led the prayer.

Chairman Smith called the scheduled case of:

10:10 A.M. JEFFREY J. & KATHERINE P. ATKISSON, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 6 inches from edge of a flood plain (15 ft. min. distance from dwelling to edge of floodplain req. by Sect. 2-415), on a recorded lot having a width of 137.4 ft. (150 ft. min. lot width req. by Sect. 3-106), located 9849 Clarks Crossing Rd., R-1, Centreville Dist., 28-3((1))52, 2.007 ac., VC 83-C-130. (DEFERRED FROM 11/1/83 TO ALLOW TIME TO AMEND THE APPLICATION).

Mr. William Shoup presented the staff report. He stated that the variance was filed requesting construction of the dwelling closer than the 15 ft. required by the Ordinance. It had been discovered during the staff investigation that the lot did not meet the lot width requirements. The Planning Commission had held a briefing on the variance and forwarded its report to the BZA.

Mr. George B. Atkisson of 10794 Hillington Ct. in Vienna represented Jeffrey and Katherine Atkisson. Mr. Atkisson informed the Board that this was an unusual case and had been reviewed by the Planning Commission. With regard to the Planning Commission's recommendation of denial, Mr. Atkisson indicated that the Planning Commissioner had drawn his conclusion without any facts to support it.

Mr. Atkisson explained to the Board that when discussing the house design with their architect, civil engineer and the County, it was not known that a variance was necessary with respect to the floodplain. The Atkissons wanted to build a one story house to accommodate the needs of their handicapped child. They petitioned the County to subdivide their property and it was approved. Real Estate Assessments immediately increased the value of the property to $25,000. Mr. Atkisson stated that he was unaware of the floodplain situation and was unaware of the lot width situation.

The Board questioned Mr. Atkisson as to why this was not a self-created hardship as a house could be constructed on the lot that would meet the setback from the floodplain except that it would not be of the design specifically desired by the applicants. Mr. Atkisson stated that the applicants had a child with cerebral palsy and they wanted everything all on one floor. It was Mr. Atkisson's contention that any one story house could not be constructed without getting close to the floodplain.

The Atkissons discovered the need for the variance in July. The variance to the minimum lot width was discovered by Mr. Shoup during a review process. He had recommended that the applicants readvertise the application to include it with the floodplain request. Mr. Atkisson stated that the subdivision plan for lot 2-A1 was approved by the County on December 22, 1981. A revised plat was submitted changing a portion of the boundary line between lot 52 and 53 later on and was also approved by the County.

In response to questions from the Board, Mr. Shoup stated that the approval of the subdivision plan by the County was in error. Mr. Atkisson stated that the error occurred twice. The floodplain portion of the property was less than 70 ft. from the front property line along the northerly portion of the lot for approximately 50 ft. The southerly or right side line formed an acute angle with the front property line which restricted the length or width of any proposed dwelling outside the floodplain limits and reduced the minimum lot width to 137.4 ft. at the building restriction line.

The requested variance would not be a nuisance or hardship on any adjoining lots. To relocate the property line between the lot in question and Mr. Miller's lot would only render Mr. Miller's lot as an unbuildable lot. To deny the request would alter the plan to improve access to Clark's Crossing Road because access would still be required even to maintain the property. It would provide access to Mr. Miller's property.

The Board questioned whether the road was in the highway system. Mr. Atkisson stated that Mr. Miller was going to build the road as soon as the Highway Commission told him how much the bond would be to build the road. The Board questioned whether Mr. Miller had anything in writing allowing him to build the road. Mr. Atkisson was uncertain whether there was anything in writing. However, he indicated that all the way from Clark's Crossing to Lawyer's Road was the right-of-way and had been since he was a child.

Mr. Atkisson stated that the building restriction line problem was not shared by other adjacent properties. None of the other properties would be affected by the variances. No change to the zoning district would result. Mr. Atkisson stated that the variance would be harmony with the spirits of the Ordinance and would not be contrary to the public interest.

The Planning Commissioners had indicated dismay that their purview ended at the floodplain line. According to Mr. Atkisson, the Planning Commission had informed him ignorance of the law was no excuse. However, the Atkissons had sought help from two different engineering firms. The Planning Commission was more concerned with the road rather than the variance.

The Board questioned who actually had title to the subject property since there was a letter from Mr. Miller agreeing to convey the property. Mr. Atkisson stated that Mr. Miller had conveyed the property to Jeffrey and Katherine Atkisson some time ago.

The Board questioned the justification for the two requested variances. Mr. Atkisson stated that Jeffrey owned the lot and wanted to build a house on it. He was paying $550 a month rent. If he built a house there, he could easily do it for approximately the same amount of money and get the tax benefits at the same time.

The Board questioned how this variance complied with the standards under Section 18-404, specifically since the shape of the property was determined by the subdivision which was at the control of the property owner. Mr. Atkisson demonstrated on the viewgraph how if the property lines and indicated that if the line had not run back sharply, there would not be a question about lot width.

In response to questions from the Board, Mr. Atkisson stated that the property next door was common property of approximately 20 acres owned by the Bridle Ridge community. The Board questioned the location of the house on lot 21 from the outlet road. Mr. Atkisson stated that the rear of the house backed up on the outlet road. The Board was concerned that if the outlet road was completed, it would affect the setback for lot 21.

The Board questioned staff as to the impact of the approval of the subdivision plat on the right of the property owner to develop the lot although the minimum lot width was not met. The Board asked if there was any vesting attached to the action by the County and what should be done when the County erred. Mr. Shoup responded that the Department of Environmental Management would not approve any building permit for a dwelling on the lot. In this case, Mr. Shoup indicated that he had spoken with Mr. Oscar Hendrickson in DEM who indicated that they would not take any formal action until they saw the outcome of the BZA hearing. If the variance were granted then action would be moot. If the application were denied, then DEM would have to take action to declare the subdivision non-void.

Mr. Atkisson responded that if the property had been subdivided prior to 1978, it would be grandfathered. In response to questions from the Board, Mr. Shoup indicated that he was unaware of any provision in the prior Ordinance that would have allowed a grandfathering of an illegal subdivision.

Mr. Shoup informed the Board that the question of access had come up. Ms. Kelsey distributed a copy of a memo from DEM to Martha Pennino, the Centreville representative on the Board of Supervisors. Most of the questions on access were addressed in the memo.

There was no one else to speak in support. The following persons spoke in opposition. Ms. Celeste Sichenze, of 2020 Post Road, an adjoining property owner on lot 38, urged the Board to deny the variances for three reasons. First, the land in question was not buildable land. Second, construction of an appropriate access to the property would cause irreparable damage to adjoining landowners. Third, the procedures pursued by the applicant had not given evidence of good faith. With respect to the lot, despite the 2.007 acres, less than 70 ft. of the land was above the designated floodplain. Two days after the Tropical Storm Agnes passed through the area, there was evidence that the water had come up higher than 5 ft. in a wide area covering the entire area of land. Subsequent storms had shown flooding far broader than indicated by floodplain lines. The area in question was chronically wet. Substantial building had occurred in the area since the initial plotting of the floodplain causing runoff which would be exacerbated by the variance. Mrs. Sichenze was concerned about the proposed dwelling on the subject property. The site plan indicated a structure of 30'x40' with a two car garage and a building height of 30 ft. She indicated that this type structure was not exactly a rambling ranch style house.

Mrs. Sichenze stated that the construction of the proposed access would cause irreparable damage to the adjacent landowners such as the felling of hardwood trees and an increased runoff from the access onto the floodplain. Mrs. Sichenze informed the Board that there was a 43 ft. drop in elevation from the subject property to her property. She was concerned about the steep grade and the degree of erosion to her property. In addition, there was a stream at the back of her property and she wanted that water easement protected. Mrs. Sichenze was concerned about the gift lot provisions of the Ordinance which allowed the original subdivision despite flaws as it indicated a lack of good faith on the part of the applicants.

Mr. David Gushey of the Carriage Hill Civic Association informed the Board that his association had voted to support the following statements. They supported Mrs. Sichenze's statements that the variance not be allowed. If the variance were allowed, the association thought two variables should be made stipulations. One was the drainage across the back of Mrs. Sichenze's lot be dealt with. Second, that the access damage be controlled in some way. Mr. Gushey was concerned about the uncertainty of the floodplain limit.

The next speak in opposition was Mrs. Gail Ferguson, owner of lot in the Bridle Ridge subdivision. She agreed with Mrs. Sichenze's statements and was also concerned about erosion. She felt that the basis for access permission was completely in error and should be reexamined. She urged the Board to deny the variances.

The next speakers were Arte Dixon and Terrence and Susan Quinn of 4122 Leonard Drive, owners of lot 4 at 2000 Carriage Court. They felt that the gift lot provision of the Ordinance was not fulfilled since Mr. Miller owned the property and sold it to the Atkissons.

The Board questioned Mr. Shoup about the Board's authority to hear variances on a subdivision which was erroneous with respect to lot width and was not in compliance with the gift lot provisions. Mr. Shoup stated that the variance was examined under the Zoning Ordinance provisions. There was a Subdivision Ordinance requirement which DEM had no authority to vary. Mr. Shoup stated that he could not respond to the Board's questions if the gift lot provisions had not be met.

Mr. Dixon discussed the access road and indicated that the road was no longer in the state system. He indicated that there might be a public right-of-way but not for the purposes of a road. If the road was cleared, it would change the drainage system. He asked that if the variance were granted, that a drainage plan be submitted so that runoff would not be increased on his property.

During rebuttal, Mr. Atkisson stated that the land was a buildable lot. There would not be any damage since one-third of the property was above the floodplain. Mr. Atkisson stated that the style of the house was changed when the baby was born with cerebral palsy. The proposed house would be 18 inches above the 100 year floodplain. There would not be any blacktopping in the floodplain area. Mr. Atkisson assured the Board that Jeffrey and Katherine had acted in good faith. It took several engineers to discover a problem with the setback.

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-C-130 by JEFFREY J. & KATHERINE P. ATKISSON under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 6 inches from edge of a flood plain (15 ft. min. distance from dwelling to edge of floodplain req. by Sect. 2-415), on a recorded lot having a width of 137.4 ft. (150 ft. min. lot width req. by Sect. 3-106), on property located at 9849 Clarks Crossing Road, tax map reference 28-3((1))52, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 29, 1983 having been deferred from November 1, 1983; 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 2.007 acres.
4. That the two variance requests would require a 14 1/2 ft. variance to Sect. 2-415 and a 12.6 ft. variance from Sect. 3-106 of the Ordinance.

THIS application does not meet the Required Standards for Variances in Section 18-404 of the Zoning Ordinance; specifically, the applicant has not shown or demonstrated that the strict application would effectively prohibit or unreasonably restrict all reasonable use of the subject property because the property could be developed without a variance being sought. There has not been any hardship shown that would approach confiscation of the use of the property. Further, the Board has heard testimony concerning the topography and floodplain and the erosion characteristics of the property. The proposed development could result in further problems associated with erosion to floodplain. Although the proposed development does meet some of the other criteria, it does not meet all nine standards.

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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.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 7 to 0.

Page 204, November 29, 1983, Scheduled case of

10:20 A.M. LONG D. CHAMBLISS/HARKEWAL S. SEKHON, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots, proposed lots 3 & 4 each having width of 10 ft. (100 ft. min. lot width req. by Sect. 3-206), located 4005 and 4003 Woodland Rd., R-2, Mason Dist., 60-39(12))40 & 41, 2.051 ac., VC 83-M-143.

Mr. William Shoup presented the staff report. Mr. George Korte of 812 Park Avenue in Falls Church represented the applicant. Mr. Sekhon informed the Board that he had submitted a written statement justifying the request for the variance. The property was exceptionally narrow and did not have enough frontage on Woodland Road. In response to questions from the Board, Mr. Sekhon stated that it was too expensive to only develop three lots instead of the four lots. Mr. Korte informed the Board that he did not understand the comments of staff regarding the reason the variance did not meet the required standards for frontage on lot 3. There were only two lots on the pipestem.

Mr. Shoup explained the three criteria used by OCP in judging pipestem developments. He advised the Board that the criteria were not standards of the Zoning Ordinance. In response to questions from the Board, Mr.Shoup stated that the creation of the pipestem for lots 3 & 4 would cause the side yard of lot 42 to become a front yard.

Mr. Korte informed the Board that the property was recorded in 1943. The area had become desirable because of the large lots and the installation of sewer. Mr. Korte stated that the variance met all nine standards of the Zoning Ordinance. There was a slight problem of drainage because of the apartments.

There was no one else to speak in support. Mrs. Ann Burns of 4011 Woodland Road spoke in opposition for herself and Mr. Gene Hilly of 4009 Woodland Road. They were concerned about the drainage situation as it affected Mr. Hilly's lot. The drainage was a severe problem as it flooded across the street causing erosion on the west side of Woodland Road. Mrs. Burns stated that something had to be done about the flooding.

Mr. Robert Beaudine of 6210 Greeley Boulevard in Springfield spoke in opposition to the subdivision. He indicated that the BZA's authority with regard to pipestem lots needed to be clarified.

Chairman Smith stated that the application before the Board concerned the question of lot width. He indicated that he had not heard any hardship for the granting of the variance request as the property could be developed into two lots or rezoned into a type of development desired by the applicant. The property was in an area of change.

During rebuttal, Mr. Korte state that the problem of drainage was not something for the Board to consider in making its decision. It would be reckoned with at the time of site review.

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-M-143 by LONG D. CHAMBLISS/HARKEWAL S. SEKHON under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lots 3 & 4 each having width of 10 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 4003 Woodland Road, tax map reference 60-3((12))40 & 41, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 29, 1983; 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 2.051 acres.

THIS application does not meet the Required Standards for Variances in Section 18-404 of the Zoning Ordinance. The applicant has not proven a hardship. He could divide the lot into two lots and not need a variance. The BZA staff has the feeling that this would be a problem for lot 42 if the variance were granted as it would make the present side yard a front yard. If the owners of lot 42 ever wanted to build, it would create a hardship for them. In addition, this application does not satisfy the OCP General Criteria used for judging pipestem lots. The subdivision could have an adverse impact on the adjacent property.

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.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 2 (Messrs. DiGiulian & Hyland).

Page 205, November 29, 1983, Recess

At 12:10 P.M., the Board recessed for lunch. Chairman Smith left the meeting during the luncheon recess and did not return. When the Board reconvened at 1:00 P.M. to continue its scheduled agenda, Mr. John DiGiulian officiated as the Chairman.

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Page 205, November 29, 1983, Scheduled case of

10:40 A.M. BRUCE H. AND ELLEN H. PHILLIPS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling over an existing concrete slab patio to 3 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8903 Camfield Dr., Potomac Valley Subd., R-3, Mt. Vernon Dist., 111-2((5))(3)27, 10,581 sq. ft., VC 83-V-144.

Mr. William Shoup presented the staff report. Mrs. Ellen Phillips of 8903 Camfield Drive informed the Board that she had applied for a variance because she wished to extend her small kitchen by building on the small patio. The addition had to be built on that side due to the location of the existing kitchen. The addition would be the length of the kitchen and dining room. She stated that the length was necessary because the lot was shallow. If the addition was any lesser in width, it would defeat the purpose of the extension.

Mrs. Phillips stated that the hardship was based on two reasons. First, the existing kitchen was very tiny. Second, she nagged her husband a lot because of it. Mr. Bruce Phillips informed the Board that the variance met the nine standards of the Ordinance. Mr. Phillips submitted a photograph showing the location of the house next door. In response to questions from the Board, Mr. Phillips stated that the house next door sat about 30 ft. from the proposed addition. Mr. Phillips informed the Board that they had purchased the house last October. He indicated that he and his wife have been married for two years. They purchased the home despite the small kitchen because they wanted to be in an affordable area. In addition, he wanted his step daughter to attend good schools. Mr. Phillips stated that he and his wife had some ideas about moving the kitchen but it did not meet their expectations. The existing kitchen was 6' wide by 12' in length.

Mrs. Mary Jane Mengenhouser of 8905 Camfield Drive spoke in support of the variance. There was no one to speak in opposition.

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-V-144 by BRUCE H. & ELLEN H. PHILLIPS under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling over an existing concrete slab patio to 3 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 8903 Camfield Drive, tax mlap reference 111-2((5))(3)27, County of Fairfax, Virginia, Mrs. 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 29, 1983; 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 16,500 sq. ft.
4. From looking at the pictures, there is a very tall hedge at the side of the patio which is quite thick and stays green all winter. The neighbor's house on the left has a patio which is within 20 ft. of the line and the house itself is 30 ft. away. The neighbor would not be able to see the addition if it is enclosed. This addition would not be a detriment to any of the neighboring properties. The applicant already has a slab in the proposed location for the addition. It is very private. The applicants have stated that a 6 ft. wide kitchen is hard to get people to the table and is a very inconvenient living space.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or of property immediately adjacent to the subject property.
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

RESOLUTION

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mr. Hyland seconded the motion.

The motion *FAILED by a vote of 3 to 3 (Messrs. Ribble & Hammack & Mrs. Thonen)(Mr. Smith being absent).

Mr. Hyland advised the applicants that in light of the 3 to 3 vote, there were procedures whereby they could request a waiver of the twelve month limitation on refiling an application. He indicated that the applicants might want to consider modifying their plans in order to get a more favorable vote from the full Board.

Page 207, November 29, 1983, Scheduled case of

10:50 A.M. ANN K. STERBENZ, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport into garage addition to dwelling 10.1 ft. from side lot line such total side yard would be 20.1 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), located 7111 Game Lord Dr., Orange Hunt Estates, R-2(C), Springfield Dist., 88-4((5))274, 11,560 sq. ft., VC 83-S-145.

Mr. William Shoup presented the staff report. Mr. Henry W. Sterbenz of 7111 Game Lord Drive informed the Board that the proposed construction would not come any closer to the neighbors than the existing carport location. Mr. Sterbenz presented the Board with a letter of support from the neighbor most affected by the variance. Mr. Sterbenz stated that it would be a hardship if the variance were denied as it was a reasonable request.

There was no one else to speak in support or in opposition. In response to questions from the Board concerning the hardship, Mr. Sterbenz stated that there was an easement on the left side of his property. The proposed construction would be on the opposite side of the house and would not interfere with the easement.

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-S-145 by ANN K. STERBENZ under Section 18-401 of the Zoning Ordinance to allow enclosure of carport into garage addition to dwelling 10.1 ft. from side lot line such that total side yard would be 20.1 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), on property located at 7111 Game Lord Drive, tax map reference 88-4((5))274, 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 29, 1983; 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 11,560 sq. ft.
4. That to enclose the existing carport in such a fashion would not come any closer to the side lot line than the existing structure. The applicant could not construct a similar structure on the opposite side of the property because of an easement.

RESOLUTION

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Hammack)(Mr. Smith being absent).

Page 208, November 29, 1983, scheduled case of

11:00 A.M. BRUCE R. & PATRICIA E. BALDWIN, appl. under Sect. 18-401 of the Ord. to allow construction of 14 ft. high detached garage 4.09 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207 & 10-104), located 4848 Virginia St., Southern Villa Subd., R-2, Mason Dist., 72-3((7))62A, 64 & 64A, 16,500 sq. ft., VC 83-M-146.

Mr. William Shoup presented the staff report. In response to questions, Mr. Shoup stated that the Zoning Administrator's interpretation concerning a maximum size of 600 sq. ft. for accessory structures would apply in this application. The applicant indicated dimensions of 616 sq. ft. One of the recommendations in the staff report limited the garage to no more than 600 sq. ft.

Mr. Robert Stewart of 5510 Franconia Road represented Mr. and Mrs. Baldwin. The main reason for the location was the practicality of coming off the existing driveway into the house. One thing that had not been indicated to the BZA previously was that to the right of the garage was a 8'x16' arbor which the Baldwins did not wish to destroy by relocating the structure more to the right. The immediate neighbor to the right had a detached garage about 2 ft. from the lot line and there were several other very similar to it. Mr. Stewart stated that the Board had proposed the Baldwins move their structure more to the right which would only leave 18 ft. from the addition to the garage. This would create a hardship in preventing the station wagon from getting into the garage because of its length.

In response to questions from the Board, Mr. Stewart stated that the house on lot 66 was approximately 22 ft. from the property line. With regard to the proposed 28'x22' garage, Mr. Stewart indicated that it did exceed the 600 sq. ft. The applicants had conceded that a 22'x27' garage would meet their requirements. The garage could not be located anywhere else on the property without destroying the vegetation. If the garage went further back and over to the right, it would destroy a Plum Tree. In addition, there were several other trees in the back yard. The large garage was necessary to accommodate three vehicles. It was also situated as proposed for the ease in entering the garage at a straight shot.

There was no one else to speak in support. Mrs. Julia Trapp spoke in opposition. She resided in back of the Baldwins and was concerned that the garage would be constructed 4 ft. from her property. She stated that there was a noise pollution factor to consider as Mr. Baldwin would bring his brother's excavator to the property. Staff pointed out the location of the proposed garage to Mrs. Trapp since she was mistaken in its location from her property line. After determining that it would be at least 90 ft. from her property, Mrs. Trapp stated that she was still concerned about noise , particularly the use of the riding lawn mower next to her fence. The Board questioned whether the Baldwins had ever brought the excavator onto their property. Mrs. Trapp stated they had not because there was not any approach there yet. Presently, it was parked in front of their house on Virginia Street.

In response to questions from the Board, Mr. Shoup indicated that there were provisions in the Zoning Ordinance which would restrict the parking of vehicles of that type in a residential area.

During rebuttal, Mrs. Baldwin stated that they had no living relatives in the State of Virginia and nothing to do with the excavator parking on their street. Mrs. Baldwin stated that she and her husband and three children resided on the property. They owned a station wagon, a Lynx and a Trans Am. Most of the vegetation on the property could not be relocated and would have to be destroyed if the variance were not granted.

Mr. Ribble stated that the applicant had not met the nine standards of the Ordinance and the proposed garage was too big for the lot. Staff and members of the Board had recommended that the structure be relocated but the applicant did not want to do so. Accordingly, Mr. Ribble moved that the variance application be denied. Mr. Hammack seconded the motion. The motion failed by a vote of 3 to 3.

Following discussion among the Board members and the applicant, the following motion was adopted.

Page 209, November 29, 1983 Board of Zoning Appeals
BRUCE R. & PATRICIA E. BALDWIN

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-M-146 by BRUCE R. & PATRICIA E. BALDWIN under Section 18-401 of the Zoning Ordinance to allow construction of 14 ft. high detached garage 4.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207 & 10-104), on property located at 4848 Virginia Street, tax map reference 72-3((7))62A, 64 & 64A, 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 29, 1983; and

RESOLUTION

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 16,500 sq. ft.
4. The Board has received testimony that to the right of the property is a garage which is located 2 ft. from the side lot line. The Board has also received testimony indicating that the location of the proposed garage as suggested is the only logical place to locate the garage, albeit, it is presently proposed to be located 4 ft. from the side lot line. The Board has received testimony indicating that to bring the garage further to the rear would require the destruction of a Plum Tree and that there is in the middle of the yard or 8 ft. from the location of the proposed garage an arbor which is substantial in size that would have to be destroyed if the applicants located the driveway there. In addition, it's clear by the existing asphalt drive that the applicant prefers to have a straight shot into the proposed garage.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 the proposed garage to be located no closer than 8 ft. from the side lot line and that the dimensions of the proposed garage be 22'x26') with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. The size of the garage shall be reduced so that it does not exceed an area of six hundred (600) square feet.

RESOLUTION

4. Adequate disposition of drainage shall be provided as required by DEM.

Mr. Ribble seconded the motion. He indicated that he supported the variance because it the size of the garage and the amount of the variance had been reduced.

The motion passed by a vote of 5 of 1 (Mr. Hammack)(Mr. Smith being absent).

Page 211, November 29, 1983, Scheduled case of

11:10 A.M. McLEAN PRESBYTERIAN CHURCH, appl. under Sect. 3-303 of the Ord. to amend S-150-73 for church and related facilities to permit addition of land area and parking facilities, located 7144 Old Dominion Dr., R-3, Dranesville Dist., 30-1((1))56 & 75, 3.46616 ac., SPA 73-D-150-1. (ON NOVEMBER 15, 1983, THE BZA ISSUED ITS INTENT TO DEFER THIS APPLICATION TO DECEMBER 6, 1983 AT 11:45 A.M.).

Chairman DiGiulian announced two weeks ago, the BZA had issued its intent to defer the special permit application of McLean Presbyterian Church. Accordingly, Mr. Ribble moved that the special permit application be deferred until December 6, 1983 at 11:45 A.M. Mr. Hyland seconded the motion and it passed by a vote of 6 to 0 (Mr. Smith being absent).

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Page 211, November 29, 1983, Scheduled case of

11:30 A.M. ST. JOHN'S LUTHERAN CHURCH, appl. under Sect. 3-203 of the Ord. for a child care care center, located 5952 Franconia Rd., R-3, Lee Dist., 81-4((1))15, 3.833 acres, SP 83-L-072.

Mr. William Shoup presented the staff report. He noted an error in the report. There were several minor issues concerning the traffic flow in the parking lot which he indicated were addressed in the development conditions. Accordingly, staff was recommending approval of the special permit.

Mr. James Roselin, minister of the church, informed the Board that for a number of years, the congregation had been attempting to devise a plan that would serve a need for the community. Based on a survey, the day care center would be a worthwhile service to both the church and the community. He indicated that he did not have any problem with the development conditions in the staff report.

In response to concerns from the Board regarding the internal traffic problem, Mr. Roselin stated that there were directional arrows on the pavement to facilitate the traffic. Mr. Shoup informed the Board that if the arrows remained, it would satisfy the staff's requirements. According to Mr. Roselin, the only street to be affected by traffic would be St. John's Drive.

Ms. Pat Sanka, Day Care Director, spoke in support of the application. There was no one to speak in opposition.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 83-L-072 by ST. JOHN'S LUTHERAN CHURCH under Section 3-303 of the Zoning Ordinance to permit child care center on property located at 5952 Franconia Road, tax map reference 81-4((1))15, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 29, 1983; 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 3.833 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:

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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.

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance by the provisions of Article 17.
5. The play area shall be a minimum of three thousand (3000) square feet in size and the number of children using the play area at any one time shall not exceed thirty (30).
6. The location of the play area shall generally be in accordance with that shown on the plat submitted with this application, except that it shall be redesigned in such a manner that it is located further from the western lot line than what is shown on the plat.
7. Existing vegetation between the play area and the western side lot line shall be retained. Additional plantings shall be provided to screen the play area from the dwelling on Lot 8 if deemed necessary by the Director, DEM.
8. All parking associated with this use and the delivery and pickup of children shall be accommodated on the paved portion of the parking lot only.
9. The directional traffic flow arrows pointed on the paved travel aisles shall be clearly maintained so as to reduce the possibility of on site vehicular congestion. All patrons and employees of the child care center shall be notified that adherence to the directional arrows is required.
10. The maximum enrollment shall be fifty (50) students.
11. The maximum number of employees shall be fifteen (15).
12. The maximum hours of operation shall be 7:00 A.M. to 6:00 P.M., Monday through Friday.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Smith being absent).

Page 212, November 29, 1983, Scheduled case of

11:45 A.M. BRIAN DION, appl. under Sect. 8-901 of the Ord. for reduction to min. yard yard requirements based on error in building location to allow dwelling to remain 4 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 5021 Grafton St., Fairland Subd., R-2, Mason Dist., 72-3((3))35, 53,849 sq. ft., SP 83-M-073.

As the required notices were not in order, the Board deferred the special permit application until January 17, 1984 at 10:20 A.M.

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Page 213, November 29, 1983, Scheduled case of

12:00 NOON — TRENCHARD M. & NANCY J. CROSS, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 12.4 ft. from rear lot line (19 ft. min. req. yard by Sects. 3-307 & 2-412), located 9615 Whitecedar Ct., Tall Oaks Subd., R-3, Providence Dist., 48-1((9))40, 11,461 sq. ft., VC 83-P-159.

As the required notices were not in order, the Board deferred the variance application until December 15, 1983 at 9:15 P.M.

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Page 213, November 29, 1983, Scheduled case of

12:10 P.M. — THE CALIBRE PROPERTIES OF VIRGINIA, INC., appl. under Sect. 3-2003 of the Ord. to amend SP 83-P-016 for community swimming pool to permit addition of land area and relocation of pool and change in name of permittee, R-20, Providence Dist., 47-4((1))pt. 34 & 34A, 12.0654 acres, SPA 83-P-016-1.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. Mr. John Harris of Patton, Harris & Associates represented the applicant. He informed the Board that the application was an amendment of a special permit granted last May in order to move the pool 120 ft. to the south which would straddle both lots 34 & 34A. It would be all one property belonging to the condominium association. The only real difference between the present proposal and the last approval was that the applicant had changed its corporate entity to the Calibre Properties of Virginia and the poolhouse had been increased in size to 21'x45'. Mr. Harris stated that the pool was relocated to the south because of the need to give it a more closer identity with the development. It had been too close to the single family homes and Rt. 66.

In response to questions from the Board, Mr. Harris stated that handicapped parking was provided in front of the pool area. There was a ramp allowing entry into the pool. The handicapped parking was included in the nine required parking spaces. Everything else about the permit remained the same as before.

There was no one else to speak in support or in opposition.

Page 213, November 29, 1983 — Board of Zoning Appeals
THE CALIBRE PROPERTIES OF VIRGINIA, INC.
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 83-P-016-1 by THE CALIBRE PROPERTIES OF VIRGINIA, INC. under Section 3-2003 of the Zoning Ordinance to amend SP 83-P-016 for community swimming pool to permit addition of land area and relocation oif pool and change in name of permittee on property located at tax map reference 47-4((1))pt. 34 & 34A, County of Fairfax, Virginia, Mrs. 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 29, 1983; 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-20.
3. The area of the lot is 12.0654 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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

3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. The Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations, so that pool waters can be adequately treated.
6. Transitional screening and landscaping shall be provided generally as shown on the plat submitted with this application subject to final approval by the Director, DEM. The noise attenuation barrier may be used to satisfy the screening requirement to the south of the facility.
7. A soil survey shall be completed prior to pool construction. If high water table soils are found in the immediate vicinity of the pool, then the pool shall be engineered and constructed to ensure pool stability, including the installation of an adequate number of hydrostatic relief valves.
8. If deemed necessary, revised site plans for Section 1 and/or 3 of the Oakton Terrace development showing the relocation of the pool and swelling units shall be submitted and approved by the Division of Design Review.
9. Hours of operation for the pool shall be 10:00 A.M. to 9:00 P.M., seven days a week.
10. After-hour parties for the swimming pool shall be governed by the following:
   o Limited to six (6) per season.
   o Limited to Friday, Saturday, and pre-holiday evenings.
   o Shall not extend beyond 12:00 midnight.
   o Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
   o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
11. If lights for the pool are proposed such shall be in accordance with the following:
   o The combined height of the light standards and fixtures shall not exceed twenty (20) feet.
   o The lights shall be a low-density design which directs the light directly onto the facility.
   o Shields shall be installed, if necessary, to prevent the light from projecting beyond the pool area.
12. Nine (9) parking spaces shall be provided which includes one handicapped space which shall be closest to the pool.
13. No vehicles or equipment associated with the pool construction shall use Cyrandall Valley Road as a means of access to and from the pool construction site.
14. A bicycle rack shall be installed near the bathhouse.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Smith being absent).

Page 214, November 29, 1983, Scheduled case of

12:30 P.M. EDGAR R. BRITT, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 10 ft. from each side lot line and 25 ft. from front lot line (15 ft. min. side yard, 35 ft. min. front yard req. by Sect. 3-207), located 6422 Fourth St., Weyanoke Subd., R-2, Mason Dist., 72-3((8))(E)71, 72 & 73, 8,250 sq. ft., VC 83-M-160.

Mr. William Shoup presented the staff report. Mr. Edgar R. Britt of 3128 Barbara Lane in Fairfax informed the Board that the justification for the hardship was to allow construction of a reasonably sized dwelling on the lot. The lot was narrow. The house was located close to the street in order to allow more distance from the house behind it.

The Board questioned why the house could not be moved further back on the property. Mr. Britt responded that he wanted to allow as much distance between the two houses as possible. The house at the rear was too close to the back lot line. It was an old subdivision and the houses were situated at various distances. The Board questioned whether the architectural design of the house had been selected as the plat indicated a structure 55'x24'. It was wide but not too deep. Mr. Britt stated that he wanted to put a split foyer design on the property which was long and wide and not too deep. He indicated that it was not a large house but was a reasonably sized one. He indicated that he wanted to keep the costs down because this was not an expensive neighborhood but it would be an improvement to the area.

The Board questioned turning the structure around so that a variance would not be necessary. Mr. Britt stated that the modular house style he preferred included a garage. The actual house was only 35 ft. The potential buyer had built two other homes in the area similar to the one proposed without a variance.

Mr. Ernest Coop spoke in support of the variance. He informed the Board that he was part owner of the property. He had built two other homes of the same size in the area but had to turn the homes sideways. Mr. Coop stated that the garage attached to the house would be an improvement and was better than a shed in the back yard. He stated that the house at the rear of the property was only 12 ft. from the property line. If the proposed house was turned around, it would be right up against the rear lot line. The Board questioned turning the house towards Fourth Street but Mr. Coop stated that it was not constructed.

Mr. Steve Arthur Miriam, owner of parcels 29, 39, 31 & 32, spoke in support of the variance. He informed the Board that he had purchased his property from Mr. Britt and Mr. Coop. They had an agreement about the other houses being situated a certain distance from the back of his house. If the variance were not granted to allow the house to be moved forward, Mr. Britt and Mr. Coop would be in violation of that agreement with Mr. Miriam. The Board questioned whether there had been an agreement about accessing the lot. Mr. Britt stated that the only easement agreed to was for water and sewer only; not a driveway.

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

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-M-160 by EDGAR R. BRITT under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 10 ft. from each side lot line and 25 ft. from front lot line (15 ft. min. side yard, 35 ft. min. front yard req. by Sect. 3-107), on property located at 6422 Fourth Street, tax map reference 72-3((8))(E)71, 72 & 73, 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 29, 1983; 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 8,250 sq. ft.

This application does not meet the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance. It's clear that the lot could be developed by the placing of a structure without the need for a variance. The applicant has control over the size of the structure and the location of the structure to the extent that he is proposing a 55 ft. home and placing it in the manner that he proposes which is the reason for the requested variance. I find nothing to justify the requested variance after a review of the standards that have been imposed on this Board by the Board of Supervisors.

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.

RESOLUTION

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

Mrs. Day seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Smith being absent).

Page 216, November 29, 1983, After Agenda Items

HGCC OF ALEXANDRIA, INC., SPA 72-V-049-1: The Board was in receipt of a letter from Mr. Hanes requesting an out-of-turn hearing on the special permit application of HGCC of Alexandria, Inc. to permit a change of ownership for a nursing home. It was the consensus of the Board to schedule the hearing for January 31, 1984 at 11:00 A.M.

//

Page 216, November 29, 1983, After Agenda Items

FIAZA R. HANIFFA, SP 83-M-062: The Board was in receipt of a memo from the Board of Supervisors requesting the special permit application of Fiaza R. Haniffa be deferred to an evening meeting since the original hearing was scheduled at night. Accordingly, the BZA issued its intent to defer the special permit application currently scheduled for January 31, 1984 until March 20, 1984.

// There being no further business, the Board adjourned at 3:10 P.M.

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

Submitted to the Board on March 5, 1985

Daniel Smith
Daniel Smith, Chairman

Approved: March 12, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 6, 1983. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-chairman; Ann Day; Gerald Hyland and Mary Thonen. Paul Hammack arrived at 11:30 A.M. John Ribble arrived at 1:00 P.M.

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

10:00 A.M. STEVEN T. GOLDBERG & JANE M. HARVEY, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots, proposed lots 2 & 3 each having width of 5.18 ft. (80 ft. min. lot width req. by Sect. 3-306), and to allow existing dwelling on proposed lot 1 to remain 7.75 ft. from front lot line and 7.7 ft. from side lot line; and existing dwelling on proposed lot 4 to remain 27.25 ft. from front lot line and extending to the side lot line (30 ft. min. front yard and 12 ft. min. side yard req. by Sect. 3-307), located 3129 Sleepy Hollow Rd., R-3, Mason Dist., 51-3((1))17A, 1.39786 acres, VC 83-M-082. (DEFERRED FROM JULY 26, 1983 TO GIVE THE APPLICANT TIME TO AMEND APPLICATION AND SUBMIT REVISED PLATS AND FROM OCTOBER 11, 1983 AT THE REQUEST OF THE APPLICANT.)

William Shoup reviewed the staff report for the Board. He stated that the applicant had submitted revised plats showing a reduction in the proposed subdivision to a three lot subdivision with only one pipestem lot.

William Hansbarger, represented the applicants. He stated that the new plats showed a better plan than what was originally proposed. The Department of Transportation had wanted all three lots to use the same access off of Sleepy Hollow Road, and this plat had been done to show that change. Mr. Hansbarger addressed the memo the Board had received from the Planning Commission. The Planning Commission had asked the Board to defer any decision until they had a chance to review the application and make a recommendation. Mr. Hansbarger felt that the Planning Commission had had enough of a chance to make recommendations. The application had been filed in May of 1983, and the original hearing had been scheduled in July. He asked the Board to make a decision that day on the merits of the case.

After a lengthy discussion regarding the Planning Commission's request, it was the consensus of the Board that they should have the benefit of the Planning Commission's comments prior to the public hearing. The case was deferred to January 10, 1984 at 10:30 A.M.

Page 217, December 6, 1983, Scheduled 10:15 A.M. case heard at 11:05 A.M.:

10:15 A.M. GEORGE & JOANNE B. SCHREINER, appl. under Sect. 18-401 of the Ord. to allow subdivision into 30 lots, proposed lots 13, 14, 20, 21, 24 and 27 each having width of 12 ft. (200 ft. min. lot width req. by Sect. 3-E06), located Utterback Store Rd., R-E, Lake Windemere Subd., Dranesville Dist., 7-3((1))21, 72.4 acres, VC 83-D-129. (DEFERRED FROM 11/1/83 AT THE REQUEST OF THE APPLICANT)

William Shoup presented the staff report. Michael Giguere, from the law firm of Boothe, Prichard & Dudley, represented the applicants. He stated that if there were not so many site constraints on the property, thirty-six lots would be allowed. Mr. Giguere stated that the site constraints included topography and swales present on the site, the impact of intense commercial use in the area and limited availability of acceptable soils for drain fields. Also, there were restrictions in the Great Falls area concerning cluster development.

Mr. Giguere stated that this request was similar to other subdivisions located in the area who had received approval from the BZA for pipestem lots, and also had lakes located within the subdivision. He cited the examples of Walkers Wood Lake and Arnon Lake subdivision. Mr. Giguere said that the staff report indicated the major concern as being the location of the lake on the site. He stated that the applicant had reduced the size of the lake from 3.7 acres to 1.7 acres to help address some of those concerns. He stated that the lake would be used for recreational purposes and help add to the value of the property. It would also contribute to fire protection, since the Fire Department used lakes and ponds for this purpose, and this area was not served by public water. Mr. Giguere stated that the lake would also act as an effective storm water detention facility.

Mr. Giguere stated that the denial of this permit would not eliminate the construction of the lake as staff had suggested. He stated that the Department of Environmental Management had already approved the concept of the lake. He stated that twenty-eight lots could be constructed absent a variance.

B.G. Stephenson, an attorney, 4071 Chain Bridge Road, Fairfax, spoke in opposition. He represented the citizens who lived along Utterback Store Road. He presented a petition in opposition to the Board with over eighty-five signatures. He also delivered a letter

from Mrs. Kaiser, who represented the citizens from the Windemere Citizens Association. The citizen concerns included the impact the lake would have on the environment. They were concerned that this would drive away the wildlife that flourished in this area.

There was no one else to speak regarding the application.

R E S O L U T I O N

In Application No. VC-83-D-129 by GEORGE & JOANNE B. SCHREINER under Section 18-401 of the Zoning Ordinance to allow subdivision into 30 lots, proposed lots 13, 14, 20, 21, 24 and 27 each having width of 12 ft. (200 ft. min. lot width req. by Sect. 3-E06), on property located at Lake Windermere Subdivision, tax map reference 7-3((1))21, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 6, 1983; 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 72.4 acres.
4. I have listened carefully to the testimony. Since several pipestem lots exist in this area taking up much more room and impact than this application seems to be, I can't see where the opposition is coming from.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has an extraordinary situation or condition of the subject property.
C. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
D. That the strict application of this Ordinance would produce undue hardship.
E. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity, because they've had their hardship alleviated by having the pipestems.
F. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, G. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
H. That authorization of the variance will not be of substantial detriment to adjacent property.
I. That the character of the zoning district will not be changed by the granting of the variance.
J. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the subdivision of the lots as shown on the plat submitted with this application except as qualified below and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. The subdivision and development of the property shall be in accordance with the provisions of the Subdivision Ordinance.

4. A soils report and a floodplain study shall be required.
5. An Environmental Quality Corridor (EQC) shall be established on those portions of the property where it is determined that 100-year floodplain exists. The limit of the EQC shall correspond to the 100-year floodplain limits or shall be 100 feet on either side of the applicable waterway whichever is greater. No clearing or grading shall occur in the EQC except for driveways and utility easements. Prior to final approval, subdivision and grading plans shall be approved by the Environment and Policy Division of the Office of Comprehensive Planning and the County Arborist to ensure that this condition has been satisfied. The 1.7 acre lake shall be allowed.
6. Effective erosion and siltation control measures shall be provided during construction as determined by DEM.
7. A ten (10) foot right-of-way shall be dedicated for a natural surface trail along Utterback Store Road if required in the Countywide Trails Plan.
8. Dedication and/or construction of road improvements shall be provided along the full frontage of Utterback Store Road as determined by DEM.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. Ribble being absent) (Mr. Hammack abstained)

Page 219, December 6, 1983, Scheduled 10:30 A.M. case heard at 12:00 Noon:

10:30 A.M. THREE-E DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10503 Greene Dr., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))15A, 28,982 sq. ft., VC 83-V-147.

Jane Kelsey reviewed the staff report for the Board. Chip Paciulli presented the applications. He stated that variances had previously been granted for these properties, but all construction was halted when the County determined that a soil investigation was required. He stated that these lots were impacted by a flood plain line, and sloped steeply from front to rear. In addition, poor soils were located on the lower portions of the lots. The granting of the variance would result in the homes being placed at a higher elevation and in better soils. Also, moving the homes forward would reduce the need to disturb heavily wooded areas. Mr. Paciulli stated that if the homes were placed at a lower elevation, they would have ground water seepage which could lead to future foundation drainage problems.

Lawrence Wright, who represented the Harbor View Citizens Association and John Schuster, a representative from Geocentric Inc., 8406 Terminal Road, Newington, Virginia, spoke in opposition. Other citizens speaking in opposition included Liz Elliott, 10620 Anita Drive; Robert Bodine, 6210 Greeley Blvd., Springfield; and George Bixby, 8004 Cottage Street. Mr. Wright presented a petition in opposition signed by 110 surrounding property owners. The citizens felt that the way the houses were proposed to be situated would create a row-house effect and alter the nature of the area. They felt that the builders of the existing houses were able to deal with the individual topographic problems on their lots with extra expense to them. Mr. Schuster presented a study to the Board concerning the poor soils in the area.

//The Board recessed for lunch at 1:00 P.M. and returned at 2:00 P.M. to continue the Three-E Development Corporation cases.

During rebuttal, Mr. Paciulli stated that there was a forty foot elevation change in one hundred and thirty feet, which made it a 30% grade. Other areas were a 42% grade. He felt that these particular lots were more impacted by the topographic problems than the existing houses. With regard to lot 15A, Mr. Paciulli stated that the rear yard had a twenty-four foot drop, whereas most of the existing homes only had a ten foot drop.

R E S O L U T I O N

In Application No. VC-83-V-147 by THREE-E DEVELOPMENT CORPORATION under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 10503 Greene Drive, tax map reference 113-4((6))15A, County of Fairfax, Virginia, Mrs. 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

THREE-E DEVELOPMENT CORPORATION
VC 83-V-147

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 6, 1983; 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 28,982 sq. ft.
4. Each lot contains flood plain area to the rear portion. It has severe topographic problems as each lot is steep, sloping from the front to the rear line. There is poor marine clay on the lower portion making it impractical to build there as it could cause wet basements and foundation drainage problem. The proposed house basement will be approx. 24 feet above the marine clay line. To build the house 50 ft. back would cause it to be over a higher level of marine clay. By placing the house on the front portion requiring a variance avoids the afore-mentioned adverse conditions.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Hyland) (Mr. Hammack being absent)

Page 220, December 6, 1983, scheduled 10:35 A.M. case heard at 2:20 P.M.:

10:35 A.M. THREE-E DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10509 Greene Dr., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))16, 21,924 sq. ft., VC 83-V-148.

Chip Paciulli cited severe topographical problems and a rear yard with a 22 foot drop as his reasons for requesting a variance. Lawrence Wright and Gary Wirth spoke in opposition.

RESOLUTION

In Application No. VC-83-V-148 by THREE-E DEVELOPMENT CORPORATION under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 10509 Greene Drive, tax map reference 113-4((6))16, 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 6, 1983; 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 21,924 sq. ft.
4. Each lot contains flood plain area to the rear portion. It has severe topographic problems as each lot is steep, sloping from the front to the rear line. There is poor marine clay on the lower portion making it impractical to build there as it could cause wet basements and foundation drainage problem. The proposed house basement will be approx. 24 feet above the marine clay line. To build the house 50 ft. back would cause it to be over a higher level of marine clay. By placing the house on the front portion requiring a variance avoids the afore-mentioned adverse conditions.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hammack being absent)

Page 222, December 6, 1983, scheduled 10:40 A.M. case:

10:40 A.M. THREE-E DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10513 Greene Dr., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))17, 23,089 sq. ft., VC 83-V-149.

Chip Paciulli pointed out that the soils study on this particular lot showed the hardship of meeting the setback requirements.

Page 222, December 6, 1983 Board of Zoning Appeals
THREE-E DEVELOPMENT CORPORATION
VC 83-V-149

R E S O L U T I O N

In Application No. VC-83-V-149 by THREE-E DEVELOPMENT CORPORATION under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 10513 Greene Drive, tax map reference 113-4((6))17, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 6, 1983; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 23,089 sq. ft.
4. Each lot contains flood plain area to the rear portion. It has severe topographic problems as each lot is steep, sloping from the front to the rear line. There is poor marine clay on the lower portion making it impractical to build there as it could cause wet basements and foundation drainage problem. The proposed house basement will be approx. 24 feet above the marine clay line. To build the house 50 ft. back would cause it to be over a higher level of marine clay. By placing the house on the front portion requiring a variance avoids the afore-mentioned adverse conditions.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mrs. Day seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hammack being absent)

Page 223, December 6, 1983, scheduled cases of THREE-E DEVELOPMENT CORPORATION:

10:45 A.M. THREE-E DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 35 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10517 Greene Dr., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))18, 22,110 sq. ft., VC 83-V-150.

R E S O L U T I O N

In Application No. VC-83-V-150 by THREE-E DEVELOPMENT CORPORATION under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 35 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 10517 Greene Drive, tax map reference 113-4((6))18, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 6, 1983; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 22,110 sq. ft.
4. Each lot contains flood plain area to the rear portion. It has severe topographic problems as each lot is steep, sloping from the front to the rear line. There is poor marine clay on the lower portion making it impractical to build there as it could cause wet basements and foundation drainage problem. The proposed house basement will be approx. 24 feet above the marine clay line. To build the house 50 ft. back would cause it to be over a higher level of marine clay. By placing the house on the front portion requiring a variance avoids the afore-mentioned adverse conditions.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hammack being absent)

Page 224, December 6, 1983, scheduled cases of THREE-E DEVELOPMENT CORPORATION:

10:50 A.M. THREE-E DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 40 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10521 Greene Dr., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))19, 22,140 sq. ft., VC 83-V-151.

R E S O L U T I O N

In Application No. VC-83-V-151 by THREE-E DEVELOPMENT CORPORATION under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 40 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 10521 Greene Drive, tax map reference 113-4((6))19, 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 6, 1983; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 22,140 sq. ft.
4. Each lot contains flood plain area to the rear portion. It has severe topographic problems as each lot is steep, sloping from the front to the rear line. There is poor marine clay on the lower portion making it impractical to build there as it could cause wet basements and foundation drainage problem. The proposed house basement will be approx. 24 feet above the marine clay line. To build the house 50 ft. back would cause it to be over a higher level of marine clay. By placing the house on the front portion requiring a variance avoids the afore-mentioned adverse conditions.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Hyland) (Mr. Hammack being absent)

Page 225, December 6, 1983, scheduled cases of THREE-E DEVELOPMENT CORPORATION:

10:55 A.M. THREE-E DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10525 Greene Dr., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))20, 22,102 sq. ft., VC 83-V-152.

R E S O L U T I O N

In Application No. VC-83-V-152 by THREE-E DEVELOPMENT CORPORATION under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 10525 Greene Drive, tax map reference 113-4((6))20, County of Fairfax, Virginia, Mrs. 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 6, 1983; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 22,102 sq. ft.
4. Each lot contains flood plain area to the rear portion. It has severe topographic problems as each lot is steep, sloping from the front to the rear line. There is poor marine clay on the lower portion making it impractical to build there as it could cause wet basements and foundation drainage problem. The proposed house basement will be approx. 24 feet above the marine clay line. To build the house 50 ft. back would cause it to be over a higher level of marine clay. By placing the house on the front portion requiring a variance avoids the afore-mentioned adverse conditions. On this property the engineer has stated that at the rear of the house there will be a 20 ft. vertical drop and this would have a conflict with the outlet of a storm sewer.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hammack being absent)

Page 226, December 6, 1983, scheduled cases of THREE-E DEVELOPMENT CORPORATION:

11:00 A.M. THREE-E DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10529 Greene Dr., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))21, 24,947 sq. ft., VC 83-V-153.

R E S O L U T I O N

In Application No. VC-83-V-153 by THREE-E DEVELOPMENT CORPORATION under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 10529 Greene Drive, tax map reference 113-4((6))21, 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 6, 1983; 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 24,947 sq. ft.
4. Each lot contains flood plain area to the rear portion. It has severe topographic problems as each lot is steep, sloping from the front to the rear line. There is poor marine clay on the lower portion making it impractical to build there as it could cause wet basements and foundation drainage problem. The proposed house basement will be approx. 24 feet above the marine clay line. To build the house 50 ft. back would cause it to be over a higher level of marine clay. By placing the house on the front portion requiring a variance avoids the afore-mentioned adverse conditions. On this property the engineer has stated that at the rear of the house there will be a 20 ft. vertical drop and this would have a conflict with the outlet of a storm sewer. There is testimony in the report submitted by the geotechnical expert which suggests conformation of the topographic condition concerning this lot.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hammack being absent)

Page 227, December 6, 1983, scheduled cases of THREE-E DEVELOPMENT CORPORATION:

11:05 A.M. THREE-E DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10533 Greene Dr., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))22, 30,737 sq. ft., VC 83-V-154.

R E S O L U T I O N

In Application No. VC-83-V-154 by THREE-E DEVELOPMENT CORPORATION under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 10533 Greene Drive, tax map reference 113-4((6))22, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 6, 1983; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 30,737 sq. ft.
4. Each lot contains flood plain area to the rear portion. It has severe topographic problems as each lot is steep, sloping from the front to the rear line. There is poor marine clay on the lower portion making it impractical to build there as it could cause wet basements and foundation drainage problem. The proposed house basement will be approx. 24 feet above the marine clay line. To build the house 50 ft. back would cause it to be over a higher level of marine clay. By placing the house on the front portion requiring a variance avoids the afore-mentioned adverse conditions.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Hyland) (Mr. Hammack being absent)

Page 228, December 6, 1983, scheduled cases of THREE-E DEVELOPMENT CORPORATION:

11:10 A.M. THREE-E DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10537 Greene Dr., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))23, 25,200 sq. ft., VC 83-V-155.

R E S O L U T I O N

In Application No. VC-83-V-155 by THREE-E DEVELOPMENT CORPORATION under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 10537 Greene Drive, tax map reference 113-4((6))23, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 6, 1983; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 25,200 sq. ft.
4. Each lot contains flood plain area to the rear portion. It has severe topographic problems as each lot is steep, sloping from the front to the rear line. There is poor marine clay on the lower portion making it impractical to build there as it could cause wet basements and foundation drainage problem. The proposed house basement will be approx. 24 feet above the marine clay line. To build the house 50 ft. back would cause it to be over a higher level of marine clay. By placing the house on the front portion requiring a variance avoids the afore-mentioned adverse conditions. This lot has an 8 1/2 ft. fill to get to the basement grade and it is closer to the floodplain.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Hyland) (Mr. Hammack being absent)

Page 229, December 6, 1983, scheduled cases of THREE-E DEVELOPMENT CORPORATION:

11:15 A.M. THREE-E DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10541 Greene Dr., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))24, 22,247 sq. ft., VC 83-V-156.

R E S O L U T I O N

In Application No. VC-83-V-156 by THREE-E DEVELOPMENT CORPORATION under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 25 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 10541 Greene Drive, tax map reference 113-4((6))24, 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 6, 1983; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 22,247 sq. ft.
4. Each lot contains flood plain area to the rear portion. It has severe topographic problems as each lot is steep, sloping from the front to the rear line. There is poor marine clay on the lower portion making it impractical to build there as it could cause

wet basements and foundation drainage problem. The proposed house basement will be approx. 24 feet above the marine clay line. To build the house 50 ft. back would cause it to be over a higher level of marine clay. By placing the house on the front portion requiring a variance avoids the afore-mentioned adverse conditions. It appears from the map that on this lot and lot 23 the flood plain is closest to the road than any of the lots.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Hyland) (Mr. Hammack being absent)

Page 230, December 6, 1983, scheduled cases of THREE-E DEVELOPMENT CORPORATION:

11:20 A.M. THREE-E DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 35 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10601 Greene Dr., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))25, 21,945 sq. ft., VC 83-V-157.

R E S O L U T I O N

In Application No. VC-83-V-157 by THREE-E DEVELOPMENT CORPORATION under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 35 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 10601 Greene Drive, tax map reference 113-4((6))25, County of Fairfax, Virginia, Mrs. 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 6, 1983; 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 21,945 sq. ft.
4. Each lot contains flood plain area to the rear portion. It has severe topographic problems as each lot is steep, sloping from the front to the rear line. There is poor marine clay on the lower portion making it impractical to build there as it could cause wet basements and foundation drainage problem. The proposed house basement will be approx. 24 feet above the marine clay line. To build the house 50 ft. back would cause it to be over a higher level of marine clay. By placing the house on the front portion requiring a variance avoids the afore-mentioned adverse conditions. This is a half acre lot and the builder attempted to site the dwelling back 50 ft. but the Fairfax County Soil Scientist closed it down due to the amount of clay depth under that site. To put it further back makes the slope steeper and they could not stabilize the slope, so a variance is required to site it 35 ft. from the front lot line.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Hyland) (Mr. Hammack being absent)

Page 231, December 6, 1983, scheduled cases of THREE-E DEVELOPMENT CORPORATION:

11:25 A.M. THREE-E DEVELOPMENT CORPORATION, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 35 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 10605 Greene Dr., Harbor View Subd., R-E, Mt. Vernon Dist., 113-4((6))26, 22,471 sq. ft., VC 83-V-158.

R E S O L U T I O N

In Application No. VC-83-V-158 by THREE-E DEVELOPMENT CORPORATION under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 35 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 10605 Greene Drive, tax map reference 113-4((6))26, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 6, 1983; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 22,471 sq. ft.
4. Each lot contains flood plain area to the rear portion. It has severe topographic problems as each lot is steep, sloping from the front to the rear line. There is poor marine clay on the lower portion making it impractical to build there as it could cause wet basements and foundation drainage problem. The proposed house basement will be approx. 24 feet above the marine clay line. To build the house 50 ft. back would cause it to be over a higher level of marine clay. By placing the house on the front portion requiring a variance avoids the afore-mentioned adverse conditions. This is a half acre lot and the builder attempted to site the dwelling back 50 ft. but the Fairfax County Soil Scientist closed it down due to the amount of clay depth under that site. To put it further back makes the slope steeper and they could not stabilize the slope, so a variance is required to site it 35 ft. from the front lot line.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
A. That the subject property was acquired in good faith.
B. That the subject property has exceptional topographic conditions.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
F. That the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction. The County Soil Scientist shall be consulted prior to the issuance of the Building Permit.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Hyland) (Mr. Hammack being absent)

Page 232, December 6, 1983

11:30 A.M. ROBERT D. NICHOLAS, appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, each having width of 61.853 ft. (80 ft. min. lot width req. by Sect. 3-306), located 3110 Douglas St., R-3, Mt. Vernon Dist., 101-2((1))54, 1.0479 acres, VC 83-V-161.

Chairman Smith announced that notices had not been turned in for this application. It was the consensus of the Board to defer the application to January 17, 1984 at 10:30 A.M.

11:45 A.M. MCLEAN PRESBYTERIAN CHURCH, appl. under Sect. 3-303 of the Ord. to amend S-150-73 for church and related facilities to permit addition of land area and parking facilities, located 7144 Old Dominion Dr., R-3, Dranesville Dist., 30-1((1))56 & 75, 3.46616 ac., SPA 73-D-150-1. (ON 11/15/83 THE BZA ISSUED THEIR INTENT TO DEFER TO THIS DATE)

Chairman Smith announced that notices were not in order for this application. It was the consensus of the Board to defer the application to January 17, 1984 at 10:45 A.M.

Page 233, December 6, 1983, Scheduled 12:00 Noon case heard at 4:00 P.M.:

12:00 Noon GREATER SPRINGFIELD VOLUNTEER FIRE DEPARTMENT, appl. under Sect. 18-401 of the Ord. to allow construction of building additions to existing fire station to 14 ft. from street line (40 ft. min. front yard req. by Sect. 3-107), and 19.9 ft. from I-95 R.O.W. (75 ft. min. distance from interstate highway R.O.W. req. by Sect. 2-414), located 7011 Backlick Rd., R-1, Lee Dist., 90-2((1))21A, 2.44 acres, VC 83-L-132. (DEFERRED FROM 11/17/83 FOR NOTICES.)

Jane Kelsey reviewed the application for the Board. The Board of Supervisors had approved a special exception on this property. An express condition of that approval required that the necessary variances be obtained, and further provided that the special exception would expire if the subject variances were denied by the Board of Zoning Appeals.

John Ryan, 8203 Stationhouse Court, Lorton, the President of the Greater Springfield Volunteer Fire Department, presented the application. He stated that he disagreed with the staff concerns regarding site distance on Backlick Road. He stated that when any of the emergency vehicles left the building, they stopped before entering Backlick Road. He felt that the building addition would not be an obstruction to traffic using Backlick Road or to the firefighters leaving the building.

There was no support or opposition.

Page 233, December 6, 1983 Board of Zoning Appeals
GREATER SPRINGFIELD VOLUNTEER FIRE DEPARTMENT

R E S O L U T I O N

In Application No. VC-83-L-132 by GREATER SPRINGFIELD VOLUNTEER FIRE DEPARTMENT under Section 18-401 of the Zoning Ordinance to allow construction of building additions to existing fire station to 14 ft. from street line (40 ft. min. front yard req. by Sect. 3-107) and 19.9 ft. from I-95 R.O.W. (75 ft. min. distance from interstate highway R.O.W. req. by Sect. 2-414), on property located at 7011 Backlick Road, tax map reference 90-2((1))21A, County of Fairfax, Virginia, Mrs. 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 6, 1983; 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 2.44 acres.
4. This is a very needed public facility. The building "A" does conform and the Board of Supervisors' staff has given its approval of it. The building "B" is badly needed by the Fire Department for extra space. There is very little they can do on this odd shaped lot. After looking at the plat, talking to the applicant, and having seen this property, this member cannot see where there is any visual obstruction for the fire trucks to exit onto Backlick Road going northbound toward Old Keene Mill Road. As they come out of the present parking facility, this proposed building "B" would be to their left between them and Backlick Road and they would come to a stop at Backlick Road which is standard procedure. At that point, the proposed building "B" would be behind them.
5. This application meets the Required Standards for Variances in Section 18-404 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.

GREATER SPRINGFIELD VOLUNTEER FIRE DEPARTMENT
(continued)

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

1. This approval is granted for the location and the specific structure(s) indicated on the plat included with this application 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 renewed by action of this Board prior to the expiration date.
3. This approval shall not relieve the applicant from compliance with the conditions of SE 83-L-084 or from any other applicable ordinances, regulations, or adopted standards.
4. A Building Permit shall be obtained prior to the start of construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 - 0 (Mr. Hammack being absent)

Page 234, December 6, 1983, AFTER AGENDA ITEMS:

HARVESTER PRESBYTERIAN CHURCH/SP 83-S-102: The Board was in receipt of an out-of-turn hearing request for the captioned application. It was the consensus of the Board to grant the request and schedule the case for February 14, 1984 at 10:30 A.M.

Page 234, December 6, 1983, AFTER AGENDA ITEMS:

ROXY E. CHITLIK AND KATHLEEN B. RICHARDSON/SP 83-L-093: The Board was in receipt of an out-of-turn hearing request for the captioned application. It was the consensus of the Board to deny the request.

//There being no further business, the Board adjourned at 4:35 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: March 12, 1985 Approved: March 19, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 13, 1983. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (arriving at 10:30 A.M.); Gerald Hyland; Ann Day; Paul Hammack (arriving at 1:20 P.M.); John Ribble and Mary Thonen.

Chairman Smith opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

10:15 A.M. ANNUAL REPORT - Vulcan Materials Company. Mr. Gilbert Knowlton, Deputy Zoning Administrator presented the annual report of the Vulcan Materials Company to the BZA. The special permit for Vulcan Quarry had been granted a year ago with condition no. 6 stating that the County would inspect for a number of items and report its findings annually. DEM had inspected for erosion, grading and siltation; ZIB inspected for noise, vibration, etc.; and the Air Pollution Division of the Health Department had detailed information about its findings. Mr. Knowlton stated that an all time low for air-borne matter had been obtained. Mr. Knowlton advised the Board that the report was extremely good and he recommended that the operation of the Vulcan Materials Company continue as in the past.

Mrs. Thonen moved that the report stand and that the operation continue. Mr. Hyland seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

//

Page 235, December 13, 1983, Scheduled case of

10:00 A.M. RALPH E. & LUCY V. ANDERSON, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 3.23 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), located 8607 Buckboard Dr., Riverside Gardens Subd., R-3, Mt. Vernon Dist., 102-4((12))(7)31, 10,758 sq. ft., VC 83-V-124. (DEFERRED FROM 10/25/83 FOR NOTICES).

Ms. Mary Burton presented the staff report. Mr. Anderson of 8607 Burbank Drive in Alexandria informed the Board that he believed he met all nine standards for the granting of a variance. Mr. Anderson stated that he purchased the house in 1965. He indicated that this was the only possible place in which to build the carport with the location of the driveway. It would not be a detriment to adjacent property. Mr. Anderson informed the Board that his neighbors did not object to the variance.

In response to questions from the Board, Mr. Anderson stated that the proposed carport would be 12.5 ft. wide and the width of the house which was 27 ft. A chimney and stoop extended into the area. Mr. Anderson informed the Board that the carport could not be built on either side of his house without a variance. Mr. Anderson stated that his neighbor had constructed a garage with a variance a year ago.

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

Page 235, December 13, 1983 Board of Zoning Appeals
RALPH E. & LUCY V. ANDERSON

R E S O L U T I O N

In Application No. VC 83-V-124 by RALPH E. & LUCY V. ANDERSON under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 3.23 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), on property located at 8607 Buckboard Drive, tax map reference 102-4((12))(7)31, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1983 having been deferred from October 25, 1983 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 10,758 sq. ft.
4. That the granting of the variance would not be a detriment as a variance was granted for lot 32.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

RESOLUTION

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shate at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian and Hammack being absent).

Page 236, December 13, 1983, Scheduled case of

10:30 A.M. JOSEPH & MARY ELLEN D'AGOSTINO, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 8 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 2529 Bull Run Ct., R-3, Stonewall Manor Subd., Providence Dist., 49-1((11))45, 10,700 sq. ft., VC 83-P-131. (DEFERRED FROM NOVEMBER 1, 1983 FOR NOTICES).

Mr. William Shoup presented the staff report. Ms. Mary Ellen D'Agostino of 2529 Bull Run Ct. in Vienna informed the Board that the property was acquired in good faith in May 1978. Ms. D'Agostino stated that her lot was irregularly shaped. Only a small portion of the proposed garage would not meet the 12 ft. side yard requirement. The cement space was presently used for automobiles. The variance would not be adverse since it would remove vehicles from the street. The character of the area would not be changed since it was a residential area and a garage was in keeping with the residential character. The garage would increase the value of the property.

In response to questions from the Board, Ms. D'Agostino stated that the house next door was the same distance from the property line as her house. It was the same model house, only in reverse. It did not have a garage or a carport. Ms. D'Agostino stated that there were 400 homes in her neighborhood and a sufficient number of them had garages or carports even though the adjacent homes did not. Some of the other lots in the area were also pie-shaped because of the cul-de-sacs.

Ms. D'Agostino stated that the garage would be constructed of aluminum siding, the same as the house. It would be a two car garage and was wide enough to accommodate the protusion of a stoop and the wood stove piping. The garage would also be used for storage as the metal shed was to be removed.

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

R E S O L U T I O N

In Application No. VC 83-P-131 by JOSEPH & MARY ELLEN D'AGOSTINO under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 2529 Bull Run Court, tax map reference 49-1((11))45, County of Fairfax, Virginia, Mrs. 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 13, 1983; 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 10,700 sq. ft.
4. There is a height elevation near the house which is the only possible place to have the garage. The front side line requires a variance of 4 ft. for this to be granted. The rear right side is in conformance. Due to Fairfax County approval of a wood stove, there is an enclosed pipe and steps to the dwelling. The evergreen tree on lot 44 gives privacy to this dwelling.

THIS application meets the following Required Standards for Variances in Section 18-401 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic dontitions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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R E S O L U T I O N

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

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

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

1. This variance is approved for the location and the specific addition shwon on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. Hammack being absent).

Page 238, December 13, 1983, Scheduled case of

10:45 A.M. ROBERT J. KELLEY, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow dwelling to remain 11.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 2411 Popkins Ln., R-2, Mt. Vernon Dist., 93-3((1))19A, 24,650 sq. ft., SP 83-V-071. (DEFERRED FROM 10/4/83 FOR FILING OF CORRECT PLATS AND FROM 11/1/83 AT THE REQUEST OF THE BOARD).

Mr. William Shoup presented the staff report which recommended approval of the special permit. He suggested that the conditions be modified to allow for a future subdivision of the property and not require the applicant to come back to the BZA. Mr. Gary Davis, attorney for the applicant, had nothing more to add.

There was no one else to speak in support 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. SP 83-V-071 by ROBERT J. KELLEY under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 11.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 2411 Popkins Lane, tax map reference 93-3((1))19A, 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 13, 1983; and

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

1. The Board has determined that:
   A. The error exceeds ten (10) percent of the measurement involved, and
   B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
   C. Such reduction will not impair the purpose and intent of this Ordinance, and
   D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and

RESOLUTION

E. It will not create an unsafe condition with respect to both other property and public streets, and

F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.

G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

2. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.

3. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.

4. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

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

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

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

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

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. An amended Building Permit shall be obtained in accordance with the approval of this Special Permit.

3. If the property is subsequently subdivided, this approval shall remain in effect provided the western side lot line adjacent to lot 1, block 4, section 2, White Oaks, is not adjusted in any manner that would alter the side yard dimension..

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Hammack being absent).

Page 239, December 13, 1983, Scheduled case of

11:00 A.M. ROBERT J. KELLEY & WILLIAM C. BROWN, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, proposed lot 2 having area of 13,648 sq. ft. and proposed lots 1, 2, and 3 having widths of 78.5 ft., 81.4 ft. and 98.8 ft. respectively, (15,000 sq. ft. min. lot area and 100 ft. min. lot width req. by Sect. 3-206), located 2411 Popkins Ln., R-2, Mt. Vernon Dist., 93-3((1))19A & 19B, 68,293 sq. ft. VC 83-V-094. (DEFERRED FROM 9/6/83 TO ALLOW APPLICANT TIME TO SUBMIT A SPECIAL PERMIT APPLICATION TO BE HEARD CONCURRENT WITH THIS APPLICATION AND FROM 10/4/83 & 11/1/83 AT THE REQUEST OF THE APPLICANT).

Mr. William Shoup presented the staff report. Mr. Gary Davis, an attorney located at 1315 Vincent Place in McLean, represented the applicant. Mr. Davis believed that the waiver required by DEM was not necessary. In response to questions from the Board, Mr. Davis stated that it was possible to adjust the lot lines to meet the minimum lot area for lot 2 but it would not give them enough land to build. Mr. Kelley wanted to build another house and wanted to exchange land to get his house started. The Board stated that all single family homes were supposed to have direct frontage on a public street. Mr. Davis replied that Stonehedge Drive had a problem. The residents were required to sign that they would never ask the County to take over the maintenance of Stonehedge Drive. However, the County was saying that the applicant had to construct a cul-de-sac. Mr. Davis stated that it did not connect up as it was a dead-end.

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

RESOLUTION

In Application No. VC 83-V-094 by ROBERT J. KELLEY & WILLIAM C. BROWN under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, proposed lot 2 having area of 13,648 sq. ft. and proposed lots 1, 2 & 3 having widths of 78.5 ft., 81.4 ft. and 98.8 ft. respectively (15,000 sq. ft. min. lot area and 100 ft. min. lot width req. by Sect. 3-206), on property located at 2411 Popkins Lane, tax map reference 93-3((1))19A & 19B, County of Fairfax, Virginia, Mr. DiGiulian 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 December 13, 1983 having been deferred from September 6, 1983 to allow applicant time to submit a special permit application to be heard concurrent with this application and from October 4, 1983 and November 1, 1983 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-2.
3. The area of the lot is 68,293 sq. ft.

THIS application does not meet the Required Standards for Variances in Section 18-404 of the Zoning Ordinance;

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 in Section 18-404 exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would 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.

Mrs. Day seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Hammack being absent).

Page 240, December 13, 1983, Board Discussion

DISCUSSION ON INSTRUCTIONS FOR MAILING OF NOTICES: Mr. Hyland advised the BZA that he had tried to look at the instructions for the mailing of notification to the adjacent property owners as a homeowner would. He found it difficult to understand as to what was required. Mr. Hyland stated that he had explained the problem in the lagtime for Real Estate Assessments to record change of ownership in its records to the Clerk of the Court. Mr. Hyland inquired as to why when the information was entered into the computer for land records that it could not be transmitted directly to Real Estate Assessments in order to eliminate the duplicate entries and the lagtime. The Board discussed the problem but was advised by staff that the computers were two separate systems and did not have the capability to send information back and forth.

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Page 240, December 13, 1983, Scheduled case of

11:15 A.M. KIMBERLY SUE BIRD, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 20.4 ft. from street line of a corner lot (30 ft. min. front yard req. by Sect. 3-307), located 3409 Executive Ave., Holmes Run Acres, R-3, Providence Dist., 59-2((8))(9)1A, 13,380 sq. ft., VC 83-P-163.

Ms. Mary Burton presented the staff report. Ms. Kim Bird of 3409 Executive Avenue informed the Board that there was not any other area within the zoning requirements which would allow the remodeling. The rear yard contained a pond and five dogwood trees. In response to questions from the Board, Ms. Bird stated that construction had not begun as she had a problem with an unlicensed builder. He had taken her money but did not have a contractor's license. He had not obtained a building permit. The new contractor had determined that the original contractor had not taken into consideration the front yard requirements. Ms. Bird stated that she had purchased her property in September 1981. Five feet of the property had dedicated for public improvements but Ms. Bird stated that she maintained it.

There was no one else to speak in support and no one to speak in opposition

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R E S O L U T I O N

In Application No. VC 83-P-163 by KIMBERLY SUE BIRD under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 20.4 ft. from street line of a corner lot (30 ft. min. front yard req. by Sect. 3-307), on property located at 3409 Executive Avenue, tax map reference 59-2((8))(9)1A, County of Fairfax, Virginia, Mr. Ribble 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 December 13, 1983; 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 13,380 sq. ft.
4. That the applicant's property has exceptional topographic conditions which prevents the addition from being built anywhere else on the lot. The applicant has double front yard requirements.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended apirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian and Hammack being absent)

11:30 A.M. JAMES B. PAGE, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition to dwelling to 4.4 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6524 Lakeview Dr., Lake Barcroft Subd., R-2, Mason Dist., 60-4((13))390, 19,074 sq. ft., VC 83-M-164.

There was a question on notices. The applicant explained that the property to the north was all wooded and bordered a streambed. He assumed it was all owned by the estate which he had notified because there was not any lot number of the map. However, the property was owned by the Park Authority. Mr. Page informed the Board that he obtained a written statement from the Park Authority when he was made aware of the problem. The Park Authority waived their right to the 15 day advance notice. Mrs. Thonen moved that the Board accept the waiver as being proper notice. Mr. DiGiulian seconded the motion and it passed by a vote of 5 to 1 (Mr. Smith).

Ms. Mary Burton presented the staff report. Mr. James B. Page of 6524 Lakeview Drive in Falls Church informed the Board that because of the unusual configuration of the property, a variance was necessary to construct a garage. The property was too narrow to comply with the side yard requirements. At the rear of the dwelling was a right-of-way. The side lot line converged to the rear. Strict enforcement of the Ordinance would deprive the reasonable use of the property. In response to questions from the Board, Mr. Page stated that he purchased the property in August of this year. To his knowledge, there never had been any garage or carport attached to the dwelling.

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

R E S O L U T I O N

In Application No. VC 83-M-164 by JAMES B. PAGE under Section 18-401 of the Zoning Ordinance *to allow construction of garage addition to dwelling to 4.4 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-307), on property located at 6524 Lakeview Drive, tax map reference 60-4((13))390, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1983; 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 19,074 sq. ft.
4. That there is no other place to construct the garage because of the sanitary sewer easement. A 12 ft. garage is in keeping with a one car garage.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.

RESOLUTION

8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 12 ft. wide garage to dwelling to 5.9 ft. from side lot line) with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. Hammack being absent).

Page 243, December 13, 1983, Scheduled case of

11:45 A.M. ROBERT A. BRUBAKER, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition to dwelling to 11.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 1922 Earldale Ct., Hollindale Subd., R-2, Mt. Vernon Dist., 93-3((10))706, 32,272 sq. ft., VC 83-V-165.

Ms. Mary Burton prestented the staff report. Mr. Robert Allen Brubaker of Alexandria told the Board that this proposed location was the only flat surface on his property. At the rear of the house were two dining room windows. Because of the trapezoid lot, a small section of the structure would go into the setback. Mr. Brubaker stated that his neighbors were in favor of the addition. He stated that he had wanted a carport which would not have required a variance but was encouraged by his neighbors to build a garage.

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

RESOLUTION

In Application No. VC 83-V-165 by ROBERT A. BRUBAKER under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 11.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 1922 Earldale Court, tax map reference 93-3((10))706, 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 13, 1983; 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 32,272 sq. ft.
4. Only 48 sq. ft. of the proposed garage will be in the required setback.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

RESOLUTION

1. That the subject property was acquired in good faith.
2. That the subject property has the following characteristics: exceptional shape at the time of the effective date of the Ordinance and exceptional topographic conditions;
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonaly restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. Hammack being absent).

Page 244, December 13, 1983, Recess

At 12:05 P.M., the Board recessed the meeting for lunch and reconvened at 1:00 P.M. to continue the scheduled agenda.

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Page 244, December 13, 1983, Scheduled case of

12:00 NOON DAVID KOOKSUNG RIM, appl. under Sect. 18-401 of the Ord. to allow the enclosure of existing carport for an attached garage 8.2 ft. from side lot line such that total side yards would be 16.9 (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 4327 Rock Creek Rd., Stoneybrooke Subd., R-3(C), Lee Dist., 92-1((10))8068, 8,598 sq. ft., VC 83-L-166.

Ms. Mary Burton presented the staff report. Mr. David Kooksung Rim informed the Board that he wanted to enclose his existing carport. He stated that his contractor started building and then applied for the building permit. The permit was denied because the structure was too close. Mr. Rim stated that he was going to tear down what the contractor had started but his neighbor told him to apply for a variance. Mr. Rim informed the Board that his next door neighbor had a garage. Mr. Rim stated that he had already paid the contractor for half the work.

In response to questions from the Board, Ms. Kelsey informed the Board that DEM was responsible for contractor's licenses. There was nothing in the Zoning Ordinance to allow OCP to take any action against the contractor. Ms. Kelsey informed the Board that the staff was unaware that the structure was partially constructed as the application should have been filed under the mistake section of a special permit. The application was filed as a variance and the applicant would have to prove hardship.

Mr. Hyland stated that the enclosure of carports was a subject the Board had asked the Zoning Administrator to look into as the rule did not make any sense. Mr. Hyland stated that he felt the application was properly before the BZA. Mrs. Thonen agreed that the applicant should not be held up any longer. Mrs. Thonen stated that she felt the applicant justified the variance because the lot was irregularly shaped and had topographic problems. She urged the Board to hear not to make the applicant refile. Mr. Hyland stated that the application could have come under either section. Mrs. Thonen moved that the Board proceed with the application. Mr. Hyland seconded the motion and it passed by a vote of 5 to 1 (Mr. Smith).

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

R E S O L U T I O N

In Application No. VC 83-L-166 by DAVID KOOKSUNG RIM under Section 18-401 of the Zoning Ordinance to allow the enclosure of existing carport for an attached garage 8.2 ft. from side lot line such that total side yards would be 16.9 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), on property located at 4327 Rock Creek Road, tax map reference 92-1((10))8068, County of Fairfax, Virginia, Mrs. 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 13, 1983; 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 8,598 sq. ft.
4. This is an unfortunate circumstance which really was a mistake not of the applicant's making. A question arose that this should be heard under the mistake Ordinance but there are always circumstances which change this. The existing structure meets the required side yard requirements but not the total minimum side yards. The front of the structure would be closer to the side line than at the rear of the structure. The side of the carport is partially enclosed and was done by a vormer contractor who did not obtain a building permit. No door exists on this structure. There is an existing storage room at the rear of the carport and there is no problem there. There is an existing carport next door on lot 8069 facing this proposed structure. Due to the fact that the applicant paid a contractor who did not perform legally and the work was stopped and that drainage runs toward the carport causing drifting snow and damage to his personal property, it causes the applicant a hardship.

THIS application m'ets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue harship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.

RESOLUTION

8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. Hammack abstaining).

Page 246, December 13, 1983

Mr. Hammack arrived at the Board meeting at 1:20 P.M.

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Page 246, December 13, 1983, Board Motion

DAVID KOOKSUNG RIM, VC 83-L-166: Mr. Hyland made the following motion:

"Mr. Chairman, I would move that whatever appropriate department in the County of Fairfax that is the proper agency to receive complaints in connection with a duly licensed contractor in Fairfax County who was under an obligation by Ordinance to provide a building permit prior to enclosing a carport as was the case here, that that appropriate agency or department of Fairfax County investigate the application that we just received to determine whether the contractor failed to meet the requirements for obtaining a building permit prior to construction and take whatever action is deemed necessary in connection with the failure to meet the requirements of the County and report such action back to the Board of Zoning Appeals.

Mrs. Day seconded the motion and it passed unanimously by a vote of 7 to 0.

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Page 246, December 13, 1983, Scheduled case of

12:15 P.M. KENNETH R. MASS, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport 10.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 5417 Blackburg Rd., Edsall Park Subd., R-3, Lee Dist., 80-2((2))125, 10,500 sq. ft., VC 83-L-167.

Ms. Mary Burton presented the staff report. Mr. Kenneth R. Mass of 5417 Blackburg Road in Springfield informed the Board that he felt he satisfied all nine standards for the granting of a variance. Mr. Mass stated that he wanted to enclose his existing carport which would required a 1½ ft. variance. In response to questions from the Board, Mr. Mass stated that hs neighbors had enclosed their carports prior to the effective date of the present Ordinance. The width of the carport was 12 ft.

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

RESOLUTION

In Application No. VC 83-L-167 by KENNETH R. MASS under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport to 10.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 5417 Blackburg Road, tax map reference 80-2((2)) 125, 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 13, 1983; 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. This requested variance is minor in terms of the amount of 1½ ft. The lot is narrow. There is an existing carport with a utility room to the rear of the carport which is located 10½ ft. from the side lot line. The proposed enclosure of the carport would place the carport no closer to the side lot line than the existing utility room. There has been indication from any abutting property owner that there is any objection to the requested variance. Further, that the properties located on either side of the subject property have existing carports which have been previously enclosed as garages which occurred prior to the effective date of this Ordinance. Finally, this is another one of those classic cases in which there appears to be absolutely no reason why this applicant should not be able to enclose the carport and have effective and reasonable use of his property. To do otherwise, would be arbitrary and capicious and I hope that the Board of Supervisors does something about it.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

RESOLUTION

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

Page 248, December 13, 1983, Scheduled case of

12:30 P.M. CECILIA S. MARSHALL, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing porch 4.5 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6233 Lakeview Dr., Lake Barcroft Subd., R-2, Mason Dist., 61-3((14))4, 14,350 sq. ft., VC 83-M-168.

Ms. Mary Burton presented the staff report. Ms. Cecilia S. Marshall of 6233 Lakeview Drive informed the Board that the enclosure of the porch would enable her family to use the area for the maximum yearround use. It would also enhance property values. Ms. Marshall stated that her request was only for the back half because the front half already met the requirement.

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

Page 248, December 13, 1983 Board of Zoning Appeals
CECILIA S. MARSHALL

RESOLUTION

In Application No. VC 83-M-168 by CECILIA S. MARSHALL under Section 18-401 of the Zoning Ordinance to allow enclosure of existing porch 4.5 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 6233 Lakeview Drive, tax map reference 61-3((14))4, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1983; 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 10,758 sq. ft.
4. The fact that the porch is being enclosed does not really change any of the distances to the side lot line.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has the following characteristics: exceptional narrowness at the time of the effective date of the Ordinance and is extremely irregular in shape.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

Page 249, December 13, 1983, Scheduled case of

12:45 P.M. CHRIST THE KING LUTHERAN CHURCH, appl. under Sect. 3-E03 of the Ord. for a church and related facilities, located 10500 Georgetown Pike, Gouldman Acres, R-E, Dranesville Dist., 12-2((1))pt. of 1, 5.0 acres, SP 83-D-075.

Ms. Mary Burton presented the staff report and recommended changes to the development conditions in Appendix I. Ms. Cynthia Angelos, an attorney with an office located at 8214-B Old Courthouse Road in Vienna, represented the church. Ms. Angelos had reviewed the recommended changes and was concerned about the requirement of a 10 ft. horse trail. She asked that it be deleted from the conditions because the surrounding properties did not have a horse trail. In response to questions from the Board, Ms. Kelsey stated that the surrounding properties would be required to provide a horse trail when the property was developed. Ms. Kelsey stated that the church could defer construction of the trail until such time as the adjacent property was developed. Ms. Angelos stated that the surrounding properties were five acre lots. She was not certain whether they would be required to construct a trail.

Mr. Hyland questioned the inequity of requiring the applicant to construct a trail that went nowhere. Ms. Kelsey suggested that the Board reword the condition to require dedication now with construction at such time as the adjacent property was developed. The Board was concerned with dedication because no one knew the alignment of the trail.

Continuing with the presentation, Ms. Angelos stated that the number of patrons for the church would be 250 but the seating capacity would be 300. At the time of filing for the special permit, the church was the contract purchasers but were now the property owners. The property would be maintained properly and the character of the area would not be changed.

There was no one else to speak in support. Mr. Jackson Frost of 10610 Georgetown Pike spoke in opposition. He stated that his parents and he had lived at their property on Georgetown Pike for 30 years. They wanted to keep the area in open space and were instrumental in the requirement of five acre lots. Mr. Frost stated that a church was not a private home. He was concerned about the 250 patrons and the amount of traffic to be generated. The recommended right-turn lane would not help the traffic from the east. Mr. Frost was concerned about the dangerous condition of the road with the increase in traffic. He expressed concern regarding future lighting of the church and church activities.

During rebuttal, Ms. Angelos stated that there was already a lot of traffic congestion on Georgetown Pike. The church traffic would be on Sunday and in the afternoons. Other churches existed along Georgetown Pike.

Mrs. Jasmin Anderson of Environmental Policy Branch of OCP answered the Board's questions regarding the proposed trail system. She stated that the adopted Trail System was shown for Georgetown Pike. However, this particular section of Georgetown Pike had a low density; therefore, they were not recommending construction. Since this area was horse country, she recommended a natural surface for the proposed trail construction.

Mr. Hyland inquired why staff was requiring dedication and construction of the trail if the original recommendation from Environment and Policy did not suggest it. Ms. Kelsey responded that staff had changed the original recommendation after taling with the County Attorney's Office. Mr. Hyland was concerned with the applicant having to construct a trail when the property on either side were five acre tracts and would never be required to dedicate the trail. He stated that it was a meaningless condition.

R E S O L U T I O N

In Application No. SP 83-D-075 by CHRIST THE KING LUTHERAN CHURCH under Section 3-E03 of the Zoning Ordinance to permit a church and related facilities on property located at 10500 Georgetown Pike, tax map reference 12-2((1))pt. 1, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1983; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 5.0 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. The easement along the western lot line shall be shifted approximately twenty-five (25) feet to the east and transitional screening 1 and barrier D, E or F shall be provided along all lot lines.
6. Interior parking lot landscaping shall be provided in accordance with Article 11.
7. The seating capacity of the church shall not exceed three hundred (300).
8. Seventy-seven (77) parking spaces shall be provided; three (3) of these parking spaces shall be sesignated as handicapped parking spaces and shall be constructed in accordance with Article 11.
9. Signs shall be permitted subject to the provisions of Article 12.
10. A right-turn deceleration lane shall be provided; and the applicant shall dedicate thirty (30) feet from centerline of the road with the provision of an additional fifteen (15) foot grading/construction easement.
11. The applicant shall provide a 10 foot trail easement along the frontage of the site to connect with trail easements developed on the properties adjacent to the site in the event that the adjoining properties and a trail along the north side of Georgetown Pike are developed in the future.
12. If lights are to be installed, they shall be no higher than twelve (12) feet and shall be shielded to prevent any light from projecting off the site.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 1 (Mrs. Thonen).

1:00 P.M. JOSEPH ANTHONY MALONEY, appl. under Sect. 3-103 of the Ord. for a home professional office (dentist), located 12349 Folkstone Dr., Folkstone Subd., R-1(C), Centreville Dist., 35-2((2))3A, 31,357 sq. ft., SP 83-C-077.

Ms. Jane Kelsey presented the staff report which recommended denial of the special permit. Mr. James Maloney informed the Board that he had grown up in this area and wanted to render a service to the community. He stated that he owned and operated a substantial practice and did not plan to give up that practice. The home professional office was requested so that Mr. Maloney could provide a service in his free time. He stated that he understood the staff's denial recommendation but did not feel that the purpose of the local guidelines were to restrict all special permit uses. Mr. Maloney stated that he would work with the County guidelines.

In response to questions from the Board, Mr. Maloney stated that his present practice was in Landover Hills, Md. He proposed a home office practice as a service to the community. His fees would cover his operating costs. Mr. Maloney stated that he proposed the home dental practice as a service to his family, friends, community and church members. Mr. Maloney stated that he had considered opening the practice in a commercial area until he realized the cost of the overhead. Mr. Maloney stated that he had owned his home for one year.

Mrs. Kathleen Baltos spoke in support of the application. She resided four houses down from Mr. Maloney on West Ox Road. She stated that a synagogue would be built between them. Mrs. Baltos stated that she was impressed with Mr. Maloney's application as professional services were slipping away. She stated that her husband went to a podiatrist in Fox Mill Estates.

Mr. Allen Ashforth of 12403 Folkstone Drive spoke in opposition. He stated that he was an original owner and was opposed to the use because it was not in keeping with the area. Mr. Ashforth stated that when he purchased his home, there were covenants to preclude home offices. In terms of other home offices in the area, Mr. Ashforth stated that Fox Mill Estates was built prior to 1976. There were condo office spaces available which would be convenient to the community. Mr. Ashforth was concerned about the number of patients coming to a home office and the parking problems.

Mr. David West of Treadwell Lane was opposed to the special permit also. He had resided in the area for three years and was concerned that the granting would establish a precedent for other home professional offices in the area. He stated that if he had wanted to live in a mixed environment, he would have moved into Reston. Traffic was a major concern as he felt the additional traffic would enhance accidents.

During rebuttal, Mr. Maloney stated that appreciated the concern of the opposition but indicated it was a fear of the unknown. He stated that he would be living in the home and raising his family there. His request would not set a precedent as each case would have to be judged individually.

R E S O L U T I O N

In Application No. SP 83-C-077 by JOSEPH ANTHONY MALONEY under Section 3-103 of the Zoning Ordinance to permit a home professional office (dentist) located at 12349 Folkstone Drive, tax map reference 35-2((2))3A, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1983; 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(C).
3. The area of the lot is 31,357 sq. ft.
4. There was testimony at the hearing and a petition in opposition to the proposed use. No matter how sincere Dr. Maloney was in wanting to provide a service for his neighbors, a majority of the people did not want it. The subject property is located in the Upper Potomac Planning District. The land use and density as appropriate to prevent encroachment of higher densities from Reston and Chantilly are in the Comprehensive Plan. In the Comprehensive Plan, it specifies local serving commercial uses on Fox Mill Road, Lawyers Road, Reston Avenue and Pinecrest Road vicinity shall be confined to the planned Fox Mill Shopping Center. Future local-serving commercial activity, if needed, should be near or along Centreville Road and developed in conjunction with planned residential development. Isolated commercial uses, including special exception uses and special permit uses should not be permitted.

JOSEPH ANTHONY MALONEY
(continued)

AND, WHEREAS, the Board of Zoning Appeals 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.

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

Mrs. Day seconded the motion.

The motion passed by a vote of 7 to 0.

Page 252, December 13, 1983, After Agenda Items

GULF OIL CORPORATION & B. P. OIL, INC.: The Board was in receipt of an out-of-turn hearing request from Ms. Sarah F. Reifsnyder for the appeal filed by Gulf Oil Corp. & B. P. Oil, Inc. Mrs. Thonen moved that the Board deny the request. Mr. Ribble seconded the motion and it passed by a vote of 7 to 0.

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Page 252, December 13, 1983, After Agenda Items

NOTICE REQUIREMENTS: The Board of Zoning Appeals adopted the new notification requirements presented by staff. It was the Board's stipulation that staff expedite the study on implementation of the computer system for address labels.

// There being no futher business, the Board adjourned at 3:30 P.M.

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

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on March 12, 1985

Approved: March 19, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Evening, December 20, 1983. The Following Board Members were present: Daniel Smith, Chairman; Ann Day; Gerald Hyland; Paul Hammack and John Ribble. Mary Thonen and John DiGiulian were absent.

The Chairman opened the meeting at 8:12 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 8:00 P.M. case of:

8:00 P.M. DRANESVILLE UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow addition to church with existing unpaved access/egress and parking area (dustless surface req. by Sect. 11-102), located 11711 Leesburg Pike, R-1, Dranesville Dist., 6-4((1))67, 1.937 acres, VC 83-D-041. (DEFERRED FROM JUNE 21, 1983 TO ALLOW APPLICANT THE OPPORTUNITY TO WORK OUT ACCESS/EGRESS PROBLEMS)

It was the consensus of the Board to defer the application pending a Zoning Ordinance amendment to be considered by the Board of Supervisors. The application was rescheduled to May 1, 1984 at 10:00 A.M.

Page 253, December 20, 1983, Scheduled 8:15 P.M. case heard at 8:35 P.M.:

8:15 P.M. MOUNT AUTO REPAIR, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that the rental of trucks & trailers by the appellant constitutes a Heavy Equipment and Specialized Vehicle Sale, Rental and Service Establishment, and that such use is not permitted in the C-8 District, located 8334 Richmond Hwy., Woodlawn Subd., C-8, Lee Dist., 101-4((1))5, 22,500 sq. ft., A 83-L-008.

The BZA was in receipt of a letter from the applicant requesting withdrawal of the appeal. It was the consensus of the Board to allow the withdrawal.

Page 253, December 20, 1983, AFTER AGENDA ITEMS:

The Board approved the BZA minutes for March 16th and March 23rd, 1982.

Page 253, December 20, 1983, AFTER AGENDA ITEMS:

BRUCE PHILLIPS/VC 83-V-144: The Board was in receipt of a letter requesting a waiver of the one year limitation on rehearing. It was the consensus of the Board to grant the request and allow the applicant to file another application for a hearing without waiting for the one year period.

Page 253, December 20, 1983, AFTER AGENDA ITEMS:

MARY JANE THORNTON/VC 83-V-210: The Board was in receipt of a letter requesting an out-of-turn hearing for the referenced application. It was the consensus of the Board to grant the request and schedule the application for May 13, 1984.

Page 253, December 20, 1983, AFTER AGENDA ITEMS:

BRUCE COUNTS/SP 83-A-101: The Board was in receipt of a letter requesting an out-of-turn hearing for the referenced application. It was the consensus of the Board to grant the request and schedule the application for February 7, 1984 at 10:00 A.M..

Page 253, December 20, 1983, AFTER AGENDA ITEMS:

TIMOTHY D. DESMOND/REGENCY 110 CORPORATION/A 83-P-014: The Board was in receipt of a memo from the Zoning Administrator requesting a date and time for public hearing for the captioned appeal. It was the consensus of the Board to schedule the case for March 27, 1984 at 10:00 A.M.

Page 253, December 20, 1983:

9:00 P.M. VIRGINIA KOREAN BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. for a church and related facilities, located West Ox Rd., R-1, Centreville Dist., 35-2((1))5, 9.913 acres, SP 83-C-059. (DEFERRED FROM 10/18/83 FOR NOTICES)

Jane Kelsey reviewed the staff report for the Board. Rev. Park, 1125 N. Patrick Henry Drive, represented the church. He stated that the church was asking for a seating

capacity of 300, and when the membership increased, they wanted a seating capacity of 500. He stated that only a portion of the church would be built and the building program would continue in phases.

Han Dook Chey, an engineer from Great Falls, spoke regarding the application. He stated that he had designed the church for future expansion. Mr. Chey indicated that the congregation was presently meeting in the Westover Baptist Church.

Damon Torregrossa, 12814 Aubrey Court, Herndon and Francis Jones, 12817 Aubrey Court, Herndon, spoke in opposition. They handed the Board a letter from citizens in the Franklin Farm subdivision listing their concerns. They wanted the natural tree line between the church and the residential lots to be preserved. The citizens also asked that an adequate buffer zone, transitional screening and barrier be erected.

RESOLUTION

In Application No. SP 83-C-059 by VIRGINIA KOREAN BAPTIST CHURCH under Section 3-103 of the Zoning Ordinance for a church and related facilities, on property located at West Ox Road, tax map reference 35-2((1))5, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 20, 1983; 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 9.913 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management (DEM), a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. The location of the entrance and driveway shall be determined after a review of the site plan by the Arborist to determine which trees should be preserved and after a determination has been made regarding site distance by DEM and VDH&T. This entrance and driveway should be shifted to the northwest to provide additional screening in addition to the 25 foot Transitional Screening required along the southeastern lot line.
6. Transitional Screening I shall be provided along all lot lines with an additional ten (10) foot screening strip provided along the southeast lot line adjacent to the developed subdivision, provided the driveway and entrance can be shifted as stated in Condition No. 5. The existing vegetation may be used provided it is supplemented with plantings to bring the total screening to an amount and type equivalent to Transitional Screening I.
7. Road dedication and improvements shall be provided to match the road improvements along the frontage of the adjacent subdivision. The entrance, deceleration land and driveway shall be constructed as determined by the Director, DEM at the time of site plan review.
8. If parking lot lights are installed, they shall not exceed ten (10) feet in height and the lights shall be shielded to prevent any glare to adjacent properties.

9. The seating capacity shall be limited to 500 and 150 parking spaces shall be provided.
10. This special use shall be limited to normal church activities.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 - 0. (Mr. DiGiulian and Mrs. Thonen being absent)

Page 255, December 20, 1983, Scheduled 9:15 P.M. case heard at 9:50 P.M.:

9:15 P.M. TRENCHARD M. & NANCY J. CROSS, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 12.4 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 9615 Whitecedar Ct., Tall Oaks Subd., R-3, Providence Dist., 48-1((9))40, 11,461 sq. ft., VC 83-P-159. (DEFERRED FROM NOVEMBER 29, 1983 FOR NOTICES)

Jane Kelsey reviewed the staff report for the Board. Trenchard Cross presented his application. He stated that his back yard was shallow with an unusual configuration due to the fact that it sat on a cul-de-sac. He was adding a hot tub at the end of the deck for health reasons. Mr. Cross stated that the property to the rear of his lot was owned by the Moose Lodge and was heavily wooded.

There was no one to speak in support or opposition.

Page 255, December 20, 1983 Board of Zoning Appeals
TRENCHARD M. & NANCY J. CROSS

R E S O L U T I O N

In Application No. VC-83-P-159 by TRENCHARD M. & NANCY J. CROSS under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 12.4 ft. from rear lot line (19 ft. min. req. yard req. by Sects. 3-307 & 2-412), on property located at 9615 Whitecedar Court, tax map reference 48-1((9))40, County of Fairfax, Virginia, Mrs. 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 20, 1983; 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 11,461 sq. ft.
4. That the adjoining rear property is owned by the Vienna Moose Lodge. That rear lot area is heavily wooded, screening the applicants property. There are no houses or activity right behind his property. The proposed deck does not need a variance. The unusual situation here, which is a hardship for the applicant, is that the hot tub would be attached to the deck. With testimony back and forth it has come out that the applicant would not need a variance to construct the hot tub if he left a marginal area, even a one inch space in between. This doesn't seem to be common sense to require the applicant to do that. The site of the attached hot tub is the only logical place due to the utility lines, the air conditioning unit, and the placement of the kitchen window.
5. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
A. That the subject property had exceptional size at the time of the effective date of the Ordinance.
B. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

C. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. DiGiulian and Mrs. Thonen being absent)

//There being no further business, the Board adjourned at 10:25 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: March 19, 1985

Approved: March 26, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 10, 1984. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (arriving at 10:20 A.M.); Ann Day; Paul Hammack; John Ribble and Mary Thonen. (Mr. Gerald Hyland was absent).

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

MATTERS PRESENTED BY BOARD MEMBERS:

ELECTION OF OFFICERS: Mr. Hammack moved that Daniel Smith continue to serve as Chairman of the Board of Zoning Appeals and that John DiGiulian continue to serve as Vice-Chairman. Mr. Ribble seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hyland being absent).

Mr. Hammack moved that Sandra L. Hicks continue to serve as Clerk to the Board of Zoning Appeals and that Judy L. Moss continue to serve as Deputy Clerk to the Board of Zoning Appeals. Mr. Ribble seconded the motion and it passed by a vote of 5 to 0. (Messrs. DiGiulian and Hyland being absent).

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Page 257, January 10, 1984, Scheduled case of

10:00 A.M. JOHN M. MATTES, appl. under Sect. 18-401 of the Ord. to allow subdivision into eight (8) lots, proposed lot 6 having width of 15 ft. (80 ft. min. lot width req. by Sect. 3-306), located 7211 Danford Ln., R-3, Springfield Dist., 89-3((1))18A, 3.23 ac., VC 83-S-097. (DEFERRED FROM 9/6/83 FOR NOTICES AND FROM 10/11/83 TO ALLOW TIME FOR THE BOARD OF SUPERVISORS TO APPROVE A PROFFERED CONDITION AMENDMENT TO REZONING CASE 77-S-044 & FROM 11/17/83 FOR LACK OF PRESENTATION).

Mr. William Shoup informed the Board that Mr. Mattes had filed an application for an amendment which appeared to be scheduled for April 1984. Accordingly, it was the consensus of the Board to defer the variance until May 1, 1984 at 10:15 A.M.

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Page 257, January 10, 1984, Scheduled case of

10:10 A.M. GROVETON BAPTIST CHURCH, appl. under Sect. 3-403 of the Ord. to allow 70 additional parking spaces for existing church and related facilities, located 6511 Richmond Hwy., Groveton Heights, R-4, Mt. Vernon Dist., 93-1((7))1 & 2, and 93-1((1))27, 2.579 acres, SPA 73-V-121-1. (DEFERRED FROM SEPTEMBER 27, 1983 FOR NOTICES & FROM NOVEMBER 22, 1983 FOR APPLICANT TO MEET WITH STAFF TO DETERMINE IF ALTERNATIVE DEVELOPMENT PLAN CAN BE ACHIEVED.

Ms. Jane Kelsey informed the Board that the special permit application had been heard previously but was deferred in order for the applicant to meet with staff to determine if an alternative parking arrangement could be achieved on the site. Staff had not recommended approval of the special permit as the parking was abutting single family residences, apartments and a motel. DEM had been concerned that the entrances were too close together. In addition, the applicant was not able to provide the required transitional screening 1 between the parking lot and the single family dwellings and between the existing parking and the apartments. Ms. Kelsey stated that the applicant had met with DEM and DEM has given temporary approval for an entrance providing the width is increased from 23 feet to 30 feet with the understanding that the entrance is still subject to VDH&T approval. Ms. Kelsey stated that the applicant has attempted to meet with VDH&T but has not resolved the problem yet.

Ms. Kelsey informed the Board that the applicant has not submitted a plat showing that he can provide the additional transitional screening. The applicant was providing 12 feet of screening which extended down to 20 feet at the lower end next to Dawn Drive. Ms. Kelsey stated that at the previous hearing, there was testimony from the adjacent property owner that he wanted to be assured that if the special permit were granted, that sufficient screening be provided. Ms. Kelsey indicated that it was the BZA's responsibility to modify the screening requirements if it felt it was justified.

In response to questions from the Board regarding the relocation or reduction of the play area, Ms. Kelsey stated that the applicant advised her that the church intends not to renew the lease of the playschool. She stated that the play area could be removed without any problem.

Mr. Homer Blackwell, an architect and Chairman of the Building Committee, stated that the church intends to provide the play area on the paved area with a fence. It would be provided five days per week for the playschool. He stated that the church was considering not renewing the lease for the next year. Ms. Kelsey responded that the play area would have to be designated on the plat and approved by the Health Department if the church planned to continue using it before they could begin instituting the present layout.

In response to further questions from the Board, Ms. Kelsey stated that the Department of Environmental Management has changed its position after a further review of the application. She stated that all of the entrances were existing on site. It was because they were existing and the applicant was proposing only one additional entrance that DEM staff felt it could approve the site plan. Ms. Kelsey stated that the requirement that the entrances be 150 feet from an adjacent entrance was a standard of VDH&T. DEM uses it as a guideline. After reviewing the site plan and determining that the major portion of the parking lot had been completed with these existing entrances and there was nothing they could do about it, they felt it would not create that much of an impact. However, they stressed to the applicant that the final approval for entrances was within the jurisdiction of VDH&T. The Board noted that in widening the entrance, they actually made the cut closer.

Mr. Blackwell informed the Board that the church was constructed in 1940 or 1941. Additions were constructed in 1957. He stated that each curb cut has existed for more than 40 years. The Board indicated that the church would have to resolve that with the highway department.

With regard to the play area, Ms. Kelsey stated that the church could continue using the existing play area until such time as the additional parking lot was developed. At that time, they would have to get approval for the relocated play area and remove the old one. However, the church could not remove the play area until it did away with the preschool. Ms. Kelsey advised the Board to condition the special permit that if the play area is to be removed, that the church come back with an approved plat from the Health Department for the new location.

As the applicant had indicated that it intended to place a movable fence over the parking lot for use as a play area in the interim, Mr. Hammack inquired if there was anything in the Ordinance that allowed the overlapping of the uses. Ms. Kelsey responded that the applicant has to show the parking lot and the play area in two separate locations. She stated that she was under the impression that the applicant was only going to use the movable fence until the end of the present school term.

Mr. Blackwell stated that there was nothing wrong with using the same area for multiple uses as it was done all the time. Ms. Kelsey responded that Section 8-305 of the Ordinance requires that a play area be limited to that area not covered by buildings or required off-street parking spaces. In response to questions from the Board concerning whether this was a non-conforming use, Ms. Kelsey stated that once the church comes for a special permit, the applicant falls under the provisions of the Ordinance. The church has to provide all the required parking spaces or reduce the seating capacity or remain as is and not expand.

There was no one else to speak in support or in opposition.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 73-V-121-1 by GROVETON BAPTIST CHURCH under Section 3-403 of the Zoning Ordinance to allow 70 additional parking spaces for existing church and related facilities, on property located at 6511 Richmond Highway, tax map reference 93-1((7))1 & 2 and 93-1((1))27, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 10, 1984 having been deferred from September 27, 1983 for Notices and from November 22, 1983 for applicant to meet with staff to determine if alternative development plan could be achieved; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 2.579 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 not presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

RESOLUTION

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

Mrs. Thonen seconded the motion.

The motion passed by a vote of 4 to 2 (Messrs. Smith & Thonen)(Mr. Hyland being absent).

Page 259, January 10, 1984, Scheduled case of

10:20 A.M. WILLIAM M. YOUNG, appl. under Sect. 18-401 of the Ord. to allow construction of free standing storage room and car shelter in a front yard and located 8 ft. from the side lot line (accessory structure not permitted in any front yard by Sect. 10-104; 15 ft. min. side yard req. by Sect. 3-207), located 1939 Marthas Rd., Hollin Hills Subd., R-2, Mt. Vernon Dist., 93-4((5))153, 17,416 sq. ft., VC 83-V-137. (DEFERRED FROM NOVEMBER 22, 1983 FOR NOTICES).

Ms. Jane Kelsey presented the staff report. Mr. Max Young of 1939 Marthas Road informed the Board that his justification was contained in his written statement included in the staff report. He presented the Board with letters of support from neighbors on either side of his property. He had a letter of support from Mr. Najjum who had a contract to purchase the property at 1937 Marthas Road. The present owner Mrs. Orr, who did not reside on the property, had sent a letter of opposition to the Board. Mr. Young stated that Mrs. Orr resided in California and had never occupied the dwelling. In addition, Mr. McGahan on the opposite side had also sent in a letter of support. Mr. Morris, an architect, was the neighbor across the street who would be the one most impacted by the proposal, was present at the hearing.

Mr. Young presented the Board with a plat showing the foliage and other improvements. Mr. Young indicated that he had sought professional advice and was prepared to concede an additional 2 feet on the west side of the proposed structure. This would reduce the variance request from 7 feet to 5 feet on the side. The width of the structure would be reduced from the proposed 20 feet to 18 feet. The front setback would be increased as the 20 foot depth would be reduced to 16 feet.

Mr. Young informed the Board that his property was built in 1952. He acquired title to the property in 1980. On the west side of the property, there was only 16 feet between the property line and the structure. In addition, there were two large mature trees and a brick patio which further prevented the construction of a carport in that location. There was a buried gas line by the patio which would hamper the removal of the patio or prevent access to the back yard.

Mr. Young stated that due to the design of the house with the large expanse of glass, it prevented construction of the carport to the east or south of the structure. Underground utilities were shown as dotted lines on the plat submitted by Mr. Young. He indicated that it would be very expensive to have to relocate the underground utilities, the brick walkway, and the crepe myrtles. There was a large pine tree with an extensive root system which prevented access to the back yard. In addition, Mr. Young stated that the expense of having to provide additional gravel and asphalt for access to the rear yard would increase the cost of construction from $3,000 to $10,000.

Mr. Young presented the Board with photographs of his property to illustrate his points. He informed the Board that there were a great number of structures in the area such as the one he proposed. In response to questions from the Board regarding how many did not meet the setbacks, Mr. Young stated that he had not trespassed on the properties. He was unaware whether any of the detached structures were constructed with a variance. However, he stated that he wished to enjoy the same usage of his property as others in the area.

Mr. DiGiulian noted that most of the photographs submitted by Mr. Young showed the carports attached to the structures. Mrs. Thonen indicated that she was unaware of any garages in the front setback in the Hollin Hills area.

Mr. Morris spoke in support of the variance. He indicated that he has been a resident since 1952. Mr. Morris was concerned that if the structure were built in the back yard, it would require the removal of a great deal of greenery as well as the underground utilities.

Mrs. Thonen noted that if the garage was moved over to the left, there would be enough room to have the garage without requiring a variance. Mr. Young responded that it would place the structure more in front of the house. He also stated that he would encounter some digging problems.

Mr. Lars E. Jensen of the Hollin Hills Civic Association informed the Board that Mrs. Ruth Dell had written a letter of opposition. He stated that there was an architectural requirement in their covenants which required approval for all additions. He informed the Board that Mr. Young had submitted his plans which were rejected by the association. Mr. Jensen stated that Mr. Najjum's lack of opposition was based on his own self-interest as he proposed to seek a variance also.

During rebuttal, Mr. Young denied that the civic association had turned down his request. Instead, he stated that the request was deferred pending the outcome of the BZA's hearing. Mr. Young informed the Board that there had not been any effort on his part to coerce the support of his neighbors. With regard to detached structures, Mr. Young stated that he ran out of film before he got to Mrs. Dell's house. He indicated that she had a detached structure in her front yard which was similar to what he was proposing.

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-V-137 by WILLIAM M. YOUNG under Section 18-401 of the Zoning Ordinance to allow construction of free standing storage room and car shelter in a front yard and located 8 ft. from the side lot line (accessory structure not permitted in any front yard by Sect. 10-104; 15 ft. min. side yard req. by Sect. 3-207), on property located at 1939 Marthas Road, tax map reference 93-4((5))153, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 10, 1984 having been deferred from November 22, 1983 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-2.
3. The area of the lot is 17,416 sq. ft.

This application does not meet the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

RESOLUTION

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 6 to 0 (Mr. Hyland being absent).

Page 261, January 10, 1984, Scheduled case of

10:30 A.M. STEVEN T. GOLDBERG & JANE M. HARVEY, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots, proposed lots 2 & 3 each having width of 5.18 ft. (80 ft. min. lot width req. by Sect. 3-306), and to allow existing dwelling on proposed lot 1 to remain 7.75 ft. from front lot line and 7.7 ft. from side lot line; and existing dwelling on proposed lot 4 to remain 27.25 ft. from front lot line and extending to the side lot line (30 ft. min. front yard and 12 ft. in. side yard req. by Sect. 3-307), located 3129 Sleepy Hollow Rd., R-3, Mason Dist., 51-3((1))17A, 1.39786 acres, VC 83-M-082. (DEFERRED FROM JULY 26, 1983 TO GIVE APPLICANT TIME TO AMEND APPLICATION AND SUBMIT REVISED PLATS, FROM OCTOBER 11, 1983 AT THE REQUEST OF THE APPLICANT AND FROM DECEMBER 6, 1983 FOR PLANNING COMMISSION HEARING).

Mr. William Shoup presented the staff report. He informed the Board that the Planning Commission had submitted a recommendation of denial which was included as an addendum to the staff report. In response to questions from the Board, Mr. Shoup stated that the recommendation of denial from the Planning Commission was based on the applicant's proposal for a three lot subdivision.

Mr. William H. Hansbarger, an attorney with an office located at 10523 Main Street in Fairfax, represented the applicants. For the record, Mr. Hansbarger voiced objection to the request for deferral from the Planning Commission as it came too late with the first BZA hearing scheduled on July 26, 1983. Chairman Smith responded that the Planning Commission had the right to hold its own hearing on the revised plats submitted by the applicants.

With respect to the staff report on page 3 concerning the Comprehensive Plan, Mr. Hansbarger stated that it indicated that the property was planned for residential use at 2 to 3 dwelling units per acre. The density on the revised plat is 2.146 which is well within the purview and constraints of the Comprehensive Plan. In addition, the staff analysis suggested that subdividing the parcel into three lots would better meet the intent of the Comprehensive Plan and be a more acceptable development pattern. Accordingly, Mr. Hansbarger stated that the applicant changed his application to conform with what had been recommended by the staff. Now the staff has suggested that despite that, the two lot subdivision is reasonable. Mr. Hansbarger argued that it misses the test for variance and cited examples of zoning cases.

Mr. Hansbarger informed the Board that the variance was necessary, not because of the pipestem but, because of the lot width. The problem existed because lot width is measured at the building restriction line. The Zoning Ordinance defines pipestem lots which have to meet certain design standards according to the Subdivision Ordinance. Mr. Hansbarger distributed a guide used by DEM in approving pipestem lots. He indicated that it is an unusual situation when the BZA is called upon to vary the requirement for lot width.

Continuing with his presentation, Mr. Hansbarger stated that the property was acquired in good faith by the Harveys several years ago and was zoned R-3. The density was permitted under the Zoning Ordinance. The proposed pipestem lot is 29,400 square feet which exceeds most of the lots in the vicinity. If the configuration of the property were different, there would not be a need for a variance at all. In addition, based on the size of the property, four lots could be created all meeting the minimum lot width requirement if the configuration fronted on the public street.

Accordingly, Mr. Hansbarger felt the shape of the property to be exceptional meeting the standards for approval of a variance. Additionally, the lots exceeded the minimum average lot size for the R-2 zoning district. Three lots averaging 20,297 square feet would be created by virtue of the one lot variance. Mr. Hansbarger did not feel this situation would set a precedent for other development in the Sleepy Hollow area.

In closing, Mr. Hansbarger stated that the strict application of the Ordinance would produce an undue hardship on the applicant. The property is zoned R-3 and the applicant should be able to develop it. Mr. Hansbarger stated that the application has been amended and the density is less than the maximum allowed for the R-3 zoning district.

In response to questions from the Board, Mr. Hansbarger stated that the applicants have owned the property for three years and have been taxed on the potential value of the property.

The following persons spoke in support of the variance: Mrs. Muriel Stubbs of 3129-A Sleepy Hollow Road; Ms. Martha Purrell of 3134 Sleepy Hollow Road; Ms. Lillian Peterson of 323 Valley Lane; and Mr. Tony Salerno of 3146 Juniper Lane.

The following persons spoke in opposition of the application: Mr. Robert Cassidy, President of the Sleepy Hollow Civic Association, 3564 Sleepy Hollow Road; Mr. Harold Coleman, 3128 Sleepy Hollow Road; Mrs. Margaret Jensen, 3127 Sleepy Hollow Road; and Mr. Hank Strickland, 3035 Holmes Run Road. The opposition was concerned that the pipestem variance would bring unwanted development; lower property values; alter the character of the residential neighborhood; and set a precedent for small sized lots.

During rebuttal, Mr. Hansbarger stated that the granting of this variance would not establish a precedent for other lots in the area as only one other lot exceeds two acres in size. Mr. Hansbarger reminded the Board that the applicant is proposing a 29,400 square foot lot in an R-3 district which only requires lot area of 10,500 or 11,500. He stated that it would be a hardship to the applicant not to be able to use his property in according with the zoning density. The variance is necessary to satisfy the lot width due to the configuration of the property.

During staffing rebuttal, Mr. Shoup stated that Mr. Hansbarger is correct that the proposed pipestem lot is in conformance with the OCP pipestem criteria. The property could be subdivided into four lots. However, nothing in Section 18-404 of the Zoning Ordinance indicates that the applicant has the right to the maximum or full use of the property.

Page 262, January 10, 1984 Board of Zoning Appeals
STEVEN T. GOLDBERG & JANE M. HARVEY

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-M-082 by STEVEN T. GOLDBERG & JANE M. HARVEY under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lots 2 & 3 each having width of 5.18 ft. (80 ft. min. lot width req. by Sect. 3-306) and to allow existing dwelling on proposed lot 1 to remain 7.75 from front lot line and 7.7 ft. from side lot line; and existing dwelling on proposed lot 4 to remain 27.25 ft. from front lot line and extending to the side lot line (30 ft. min. front yard and 12 ft. min. side yard req. by Sect. 3-307), on property located at 3129 Sleepy Hollow Road, tax map reference 51-3((1))17A, 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 10, 1984 having been deferred from July 26, 1984 to allow applicant to amend application and submit revised plats; from October 11, 1983 at the request of the applicant and from December 6, 1983 for Planning Commission Hearing.

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 1.39786 acres.
4. The lot is too narrow to provide reasonable use of the land based on the current zoning category and the Master Plan recommendation. Under the current zoning, it would allow development of four lots on the property. The applicant has made every effort to compromise with the neighbors and they have reduced the application from four lots to three lots. In reference to the Planning Commission motion, I find that the applicant does meet the requirements, specifically, items 4, 6 and 8.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness both with the Comprehensive Plan and the zoning category;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

RESOLUTION

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the subdivision of one lot into four lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be must justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. That area within 50 feet of the stream along the rear lot lines of proposed lots 2 and 3 shall not be cleared of vegetation and shall be preserved as undisturbed open space except that limited clearing may be accomplished on each lot to enable the construction of use of such area for a reasonable structure of use that is permitted by the provisions of Part 1 of Article 10 of the Zoning Ordinance as accessory to a single family detached dwelling. The removal of diseased or dead trees shall also be permitted. All clearing shall be subject to the approval of the County Arborist.
4. The following notation shall be included on the recorded subdivision plat:
"There are limits on clearing which apply to this subdivision.
See Condition No. 3 of variance application VC 83-M-082."
5. Any new houses to be constructed within 105 feet of the centerline of Sleepy Hollow Road shall be acoustically treated as follows:
- o Exterior wall shall have a laboratory Sound Transmission Class (STC) of at least 39; and
- o Doors and windows shall have a laboratory Sound Transmission Class (STC) of at least 28. If "windows" function as the wall, then they shall have the STC specified for exterior walls; and
- o Adequate measures to seal and caulk between surfaces shall be provided.

Mrs. Thonen seconded the motion.

The motion FAILED by a vote of 2 to 4 (Smith, Hammack, Ribble and Day)(Mr. Hyland being absent).

Page 263, January 10, 1984, Recess

At 12:35 P.M., the Board recessed for lunch. It reconvened at 1:40 P.M. to continue with the scheduled agenda.

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Page 264, January 10, 1984, Scheduled case of

11:00 A.M. ROY L. & MARY L. KEYS, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots, proposed lot 8A having width of 10.0 ft. (70 ft. min. lot width req. by Sect. 3-406), located 4415 Carrico Dr., Hillbrook Subd., R-4, Mason Dist., 71-1((5))8, 28,890 sq. ft., VC 83-M-169.

Mr. William Shoup presented the staff report. Mr. Barry Cooper, son-in-law to Mr. & Mrs. Keys, informed the Board that the property was proposed to be subdivided lengthwise rather than widthwise. Even though the staff report indicated that the proposed lot would have a house sandwiched between the George Mason Regional Library and an existing dwelling, Mr. Cooper stated there was quite some distance. With respect to transportation issues, Mr. Cooper stated that Carrico Drive is on a hill above the the traffic and is not in close proximity to the library. The purpose of the subdivision is to allow Mr. & Mrs. Keys' daughter to build a house on the proposed lot.

In response to questions from the Board regarding the hardship as outlined in Section 18-404 of the Ordinance, Mr. Cooper responded that he was not familiar with the Code. He assumed that the hardship is that the lot does not meet the required frontage.

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

Page 264, January 10, 1984 Board of Zoning Appeals
ROY L. & MARY K. KEYS

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-S-169 by ROY L. & MARY K. KEYS under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 8A having width of 10.0 ft. (70 ft. min. lot width req. by Sect. 3-406), on property located at 4415 Carrico Drive, tax map reference 71-1((5))8, County of Fairfax, Virginia, Mrs. 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 10, 1984; 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 28,890 sq. ft.
4. The applicant has reasonable use of the lot. The property does not adjoin open space and does not have frontage on an open road.

This application does not meet the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

RESOLUTION

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. Hammack seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Hyland being absent).

Page 265, January 10, 1984, Scheduled case of

11:15 A.M. ALBERT I. KASSABIAN & CHARLES J. CARIDI, appl. under Sect. 18-401 of the Ord. to allow addition to existing office building to 1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 4-307), located 4201 Annandale Rd., Mason Dist., C-3, 71-19(4))91A & 91B, 16,607 sq. ft., VC 83-M-170.

Ms. Jane Kelsey presented the staff report. In response to questions from the Board, Ms. Kelsey stated that the property was zoned C-3. The Board questioned the applicant as to the distance of the dwelling next door to the common property line. Mr. Charles J. Caridi responded that it was approximately 15 to 20 feet from the line. Mrs. Day expressed concern that the neighbor might have plans of his own. Mr. Caridi stated that the subject property was a corner lot. His rear line was the neighbor's side line. There were not any restrictions on the side yard for the C-3 zoning district. Therefore, the neighbor could build up the line if he wished.

During his presentation, Mr. Caridi informed the Board that he was one of the owners of the property. The property consisted of two parcels, 91A and 91B, totalling 16,607 square feet. It was a corner lot because Poplar Street was developed after the lot was established. Mr. Caridi informed the Board that at one time, a variance had been requested to allow a gravel parking area. However, the BZA had denied the request. Accordingly, the applicants had put in a paved parking lot. Mr. Caridi stated that if the lot line was viewed as a side lot line, a variance would not be necessary. He stated that he was unaware of any objections from the neighbors.

In response to questions from the Board, Mr. Caridi stated that the existing structure was a one story brick structure. Mr. Ribble inquired as to what prevented the applicants from building upward rather than outward. Mr. Caridi responded that he was not certain the structure would permit a multiple level.

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

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-M-170 by ALBERT I. KASSABIAN & CHARLES J. CARIDI under Section 18-401 of the Zoning Ordinance to allow addition to existing office building to 1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. Sect. 4-307), on property located at 4201 Annandale Road, tax map reference 71-1((4))91A & 91B, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 10, 1984; 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 28,890 sq. ft.
4. The applicant has double front yard requirements because it is a corner lot and has an unusual lot configuration.

RESOLUTION

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A.The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B.The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. Hyland being absent).

Page 266, January 10, 1984, Scheduled case of

1:15 P.M. RYAN HOMES, INC., appl. under Sect. 6-104 of the Ord. for a subdivision sales office, located 4620 University Dr., University Square, PDH-4, Annandale Dist., 57-3((9))32, 11,495 sq. ft., SP 83-A-078.

As the required notices were not in order, the Board deferred the special permit until February 7, 1984 at 12:00 NOON.

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Page 267, January 10, 1984, Scheduled case of

1:30 P.M. FRANKLIN GLEN LIMITED PARTNERSHIP, appl. under Sect. 3-203 & 3-503 of the Ord. for community recreation center, including swimming pool, two tennis courts and a multi-use court, Franklin Glen Subd., R-2 & R-5, Centreville Dist., 35-3((1))pt. 1 & pt. 8, 3.807 acres, SP 83-C-079.

Ms. Jane Kelsey informed the Board that the applicant had submitted revised site plans in order to satisfy some of the concerns contained in the staff report. She presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix 1. Ms. Kelsey indicated that there were not any major problems with the application. Staff was concerned about the screening and had recommended that the parking be revised to have a more direct access from Springhaven Drive.

Mr. Frank McDermott, an attorney with Hazel, Beckhorn and Hanes in Fairfax, represented the applicant. He informed the Board that the engineer has now prepared a comprehensive metes and bounds survey which places a cut into the direction of the multi-purpose courts resulting in less than a 25 ft. setback. He explained that the covenants have already recorded the open space and the applicant has provided transitional screening on the other property lines. Mr. McDermott stated that the special permit application is for a pool to serve the Franklin Glen community. He indicated that there was a clerical error in the written statement as it indicated the maximum families to be 300. The pools would each serve about 1200 families. However, he indicated that there is rarely 100 percent participation as it is generally around 60 percent.

The swimming pool hours would begin at 7 A.M. The pool has a swim team and would like to have swimming lessons. Mr. McDermott stated that the pool has been located in the middle of the subdivision as outlined in blue on the plat. As the Board members were concerned about the early starting hour for the pool, it indicated that 8 A.M. is early enough.

There was no one else to speak in support or no one to speak in opposition.

Page 267, January 10, 1984 Board of Zoning Appeals
FRANKLIN GLEN LIMITED PARTNERSHIP
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 83-C-079 by FRANKLIN GLEN LIMITED PARTNERSHIP under Section 3-203 & 3-503 of the Zoning Ordinance to permit community recreation center, including swimming pool, two tennis courts and a multi-use court, on property located at tax map reference 35-3((1))pt. 1 & pt. 8, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 10, 1984; 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-2 & R-5.
3. The area of the lot is 3.807 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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

4. This use shall be subject to Article 17, Site Plans.
5. The maximum family memberships shall be limited to seven hundred (700) families.
6. A minimum of forty-two (42) parking spaces shall be provided.
7. The tennis courts may be lighted, provided: the height of the light standards do not exceed twenty (20) feet; the lights are the low-intensity design which directs the light directly onto the courts; and shields are installed, if necessary, to prevent the light from projecting beyond the courts. There shall be no lights on the multi-use court.
8. The special permit shall be transferred to the Franklin Glen Governants, which is the homeowners association responsible for the ownership and maintenance of the property, at the earliest appropriate time.
9. The use of the tennis court lights shall be regulated by an automatic cut-off device installed to insure that the lights are automatically cut off at 10:00 P.M.
10. The applicant shall provide low-intensity lights not to exceed eight (8) feet in height from the parking area to the tennis courts.
11. The hours of operation shall be as follows:
    - o Tennis courts, 7:00 A.M. to 10:00 P.M.
    - o Multi-purpose court, 9:00 A.M. to 9:00 P.M.
    - o Swimming pool, 8:00 A.M. to 9:00 A.M. for swim team and swimming lessons and general pool hours from 9:00 A.M. to 9:00 P.M.with permission for after-hours parties as follows.
        - 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 ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
        - e. Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after hour party.
12. Any discharges from the pool shall be treated to meet applicable state and federal water quality standards and criteria, as specified by the Virginia State Water Control Board and/or the Fairfax County Health Department. The County Health Department shall be notified prior to any pool water discharge during annual/seasonal draining or cleaning operation.
13. This use shall be subject to the provisions of the Water Supply Protection Overlay District.
14. Transitional Screening 1 shall be provided along the northern, eastern and southern lot lines. A modification to this requirement shall be allowed along the western lot line if necessary in an effort to preserve the existing trees. The applicant shall coordinate with DEM and the County Arborist to determine and locate the quality trees to be preserved. The barrier requirement may be waived.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Hyland being absent).

Page 268,January 10, 1984, Scheduled case of

1:45 P.M. THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, appl. under Sect. 3-103 of the Ord. for a church and related facilities, Floris Subd., R-1, Centreville Dist., 25-1((1))27A, 5.0 acres, SP 83-C-080.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. She indicated that the problems associated with the special permit related to environmental concerns. The Transportation analysis requires that site access should only be permitted on a temporary basis on lot 27. Centreville Road would be widened. The median break would not be approved except at Floris Street which is the reason for asking that the access be moved.

In response to questions from the Board, Ms. Kelsey stated that according to the plans provided by the Office of Transportation and VDH&T, the Centreville Road egress would be closed with the later development of the area Ms. Kelsey stated that she could not respond as to how soon this would occur. Staff's concern is that there would not be a median break at this location.

Mr. Michael LeMay, an architect with an office at 1320 Prince Street, Alexanria, represented the applicant. He stated that the congregation consisted of 400 to 500 members. Traffic would be 65 to 85 automobiles only at peak times on Sunday. Mr. LeMay stated that he was led to believe that Centreville Road is on a six year plan for widening. He stated that traffic would not make much of an impact on Centreville Road.

Mrs. Day questioned the fact that the services would be on Sunday as she believed mormons met on Saturday. Ms. Lauren Chaplain, a member of the congregation, informed the Board that the mormons do have meetings on Sundays. Seventh Day Adventists meet on Saturday. The church borders on a cul-de-sac on Rogers Lane. When the property was purchased, it was accessed coming in off of West Ox Road. Mr. LeMay stated that the applicant has the opportunity to put in a deceleration lane so that the traffic would have access to the property.

During further discussion of the closing of the egress, Mr. DiGiulian stated that he could not see making the applicant close the entrance just because they do not have a median break. He indicated that it is important to have the entrance through parcel 27 but he could not see closing the present entrance.

Mr. Dell Price, Pastor of the congregation, informed the Board that the congregation consists of 400 to 500 members. The property was purchased 3 to 4 years ago as it fits the congregation's needs very well. Mr. Price stated that he preferred to leave the access open on Centreville Road. Mrs. Nancy Decker, a member of the congregation and a mother of six children, also spoke in support of the application.

There was no one else to speak in support or in opposition.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 83-C-080 by THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS under Section 3-103 of the Zoning Ordinance to permit church and related facilities on property located at tax map reference 25-1((1))27A, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 10, 1984; 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 5.0 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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

3. 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.
4. This use shall be subject to the provisions of Article 17, Site Plans.
5. The applicant shall provide Transitional Screening 1 around all lot lines except the front lot line. The berm proposed along the front shall be planted with evergreen plantings of a type and in a location as determined by the Director provided the combination of the berm and plantings are equivalent to Transitional Screening 1. The barrier requirement shall be waived.
6. The maximum number of seats shall not exceed 300.
7. A minimum of 78 parking spaces shall be provided. Any spaces located in the transitional screening yard shall be relocated.
8. Parking lot lights shall be the low intensity type designed to project light to the parking lot only and not project off the property. These lights shall be no higher than 12 feet.
9. Interior parking lot landscaping shall be provided.
10. The applicant shall dedicate and construct a ten (10) foot trail along the frontage of the property.
11. A detailed soils analysis shall be provided at the time of site plan review and care should be taken to avoid construction in the area of high water table soils.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Hyland being absent).

Page 270, January 10, 1984, Scheduled case of

2:00 P.M. COSTAIN WASHINGTON, INC., appl. under Sect. 8-901 of the Ord. for a reduction to min. yard requirements based on error in building location to allow deck to remain 14 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 3904 Bokel Dr., Armfield Estates, R-3, Centreville Dist., 35-3((7))43, 10,951 sq. ft., SP 83-C-081.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix 1. Mr. Joseph Wink represented the homeowners on behalf of the developer. He indicated that this home was a model home constructed and used as a display home. When it was sold and converted for residential use, the owner elected to have the builder add the deck. Mr. Wink stated that by rights, the superintendent should have checked with the engineer to ensure that the option would not have infringed upon the rear yard setback. The builder has agreed to correct the error.

Mr. Hammack stated that the dimensions shown on the approved building plan and on the as-built are different. Mr. Hammack stated that perhaps the job superintendent would have been within the setbacks if he had built the smaller deck. Mr. Hammack inquired as to what was represented the prospective homeowners. Mr. Wink stated that the purchasers elected Costain to build a larger deck than what was drawn on the submission. No one questioned where it would place the deck.

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

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. DiGiulian made the following motion:

RESOLUTION

WHEREAS, Application No. SP 83-C-081 by COSTAIN WASHINGTON, INC. under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow deck to remain 14 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), on property located at 3904 Bokel Drive, tax map reference 35-3((7))43, 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 10, 1984; and,

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

1. The Board has determined that:
   A. The error exceeds ten (10) percent of the measurement involved, and
   B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
   C. Such reduction will not impair the purpose and intent of this Ordinance, and
   D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
   E. It will not create an unsafe condition with respect to both other property and public streets, and
   F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
   G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
2. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
3. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
4. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

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 structure indicated in the plat submitted with this application and is not transferable to other land or to other structures on the same land.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Hyland being absent).

Page 271, January 10, 1984, Scheduled case of

2:15 P.M. COSTAIN WASHINGTON, INC., appl. under Sect. 8-901 of the Ord. for a reduction in building location to allow deck to remain 13 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 5585 Queen Victoria Ct., Southport Subd., R-3(C), Annandale Dist., 78-2((19))55, 8,747 sq. ft., SP 83-A-082.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix 1. Mr. Joseph Wink represented the developer. He indicated that the superintendent apparently did not check for the proper distance when the deck was installed. He was not aware that there was not enough room to locate the stairs without creating a violation. The deck extends into the setback by one corner which also contributed to the violation.

Mr. Hammack inquired if this was the same superintendent as in the previous application and was informed it was. Mr. Wink indicated that there are better ways to spend an afternoon. In the future, no modification will take place until after the preliminary engineering has been checked.

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

COSTAIN WASHINGTON, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Day made the following motion:

WHEREAS, Application No. SP 83-C-082 by COSTAIN WASHINGTON, INC. under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow deck to remain 13 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), on property located at 5585 Queen Victoria Court, tax map reference 78-2((19))55, 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 10, 1984; and,

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

1. The Board has determined that:
   A. The error exceeds ten (10) percent of the measurement involved, and
   B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
   C. Such reduction will not impair the purpose and intent of this Ordinance, and
   D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
   E. It will not create an unsafe condition with respect to both other property and public streets, and
   F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
   G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
2. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
3. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
4. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

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 structure indicated in the plat submitted with this application and is not transferable to other land or to other structures on the same land.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Hyland being absent).

Page 272, January 10, 1984, Recess

The Board recessed its meeting at 3:35 P.M. and reconvened at 3:40 P.M. to continue with the scheduled agenda.

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Page 272, January 10, 1984, Scheduled case of

2:30 P.M. NORTHERN VIRGINIA CHRISTIAN CHILD CARE CENTER, INC., appl. under Sect. 3-303 of the Ord. for a child care center within existing church, located 6817 Dean Dr., R-3, Dranesville Dist., 30-4((1))26, 3.0 ac., SP 83-D-083.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. She informed the Board that the applicant had revised the number of children requested from 99 to 75 based on the guidelines in the Zoning Ordinance. As Dean Drive is a local street, a maximum of

75 children is allowed. Ms. Kelsey stated that a major concern had been the play area as the plat does not show a firm indication of where the play area will be located. It was changed from the original area because of the topography at the rear. A new location had been selected but the applicant could not provide the screening. Staff was recommending some additional plantings to be provided in order to protect the residential homes from the traffic impact of the child care center.

Mrs. Sue Arnold of 1922 Veltra Court in Falls Church stated that she is the President of the Northern Virginia Christian Child Care Center and wants to operate a center at the church. The hours of operation would be from 7:30 A.M. to 6 P.M. and there would be one teacher for every ten children. In response to questions from the Board, Mrs. Arnold stated that she was not presently operating a child care center but did work in one.

The Pastor of the church spoke in support of the application. Mrs. Susan Ratlee of 1815 Opalokcka Drive spoke in opposition as her property backed right up to the church property. She indicated that she was concerned about the parking lot. Mrs. Ratlee stated that there is presently a dance school already in existence at the church. The child care center would create additional traffic which would affect her property. Mrs. Ratless was concerned about evening activity because of the noise and car headlights shining into her dining room.

There was not any rebuttal.

Page 273, January 10, 1984 Board of Zoning Appeals
NORTHERN VIRGINIA CHRISTIAN CHILD CARE CENTER, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 83-D-083 by NORTHERN VIRGINIA CHRISTIAN CHILD CARE CENTER, INC. under Section 3-303 of the Zoning Ordinance to permit child care center within existing church, located at 6817 Dean Drive, tax map reference 30-4((1))26, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 10, 1984; and

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

1. That the applicant is the lessee.
2. The present zoning is R-3.
3. The area of the lot is 3.0 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions of Article 17, Site Plans.
5. Transitional screening and the barrier may be waived along all lot lines except the lot lines around the play area, the parking lot and driveway. Along these lot lines evergreen plantings shall be provided equivalent to Transitional Screening 1. The type and location of these plantings shall be determined by the Director, Department of Environmental Management, DEM after meeting with the property owner of lot 26 to gain her input concerning problems associated with the transitional screening.

RESOLUTION

6. The play area shall be in the area approved by the Health Department as indicated in the crosshatched area shown on the plat presented in this staff report. This play area shall be fenced and shall be located outside the required transitional screening yard.
7. The child care center shall have a maximum enrollment of 75.
8. The hours of operation shall be from 7:30 a.m. to 6:00 p.m.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently pursued or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Hyland being absent).

Page 274, January 10, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for March 30; April 6; April 13; and April 20, 1982. Mr. DiGiulian moved that the Minutes be approved as submitted. Mrs. Day seconded the motion and it passed by a vote of 6 to 0 (Mr. Hyland being absent)..

//

Page 274, January 10, 1984, After Agenda Items

NEW VISTA SCHOOLS, INC.: The Board was in receipt of a request from Mr. James F. Sauer of the New Vista Schools, Inc. and Mr. Gerald Dillon of Western Development Corporation seeking an out-of-turn hearing on the special permit application which has been tentatively scheduled for February 21, 1984.

Mr. Ribble moved that the Board deny the out-of-turn hearing request. Mrs. Day seconded the motion and it passed by a vote of 6 to 0 (Mr. Hyland being absent).

//

Page 274, January 10, 1984, After Agenda Items

RICHARD F. & MARY JANE THORNTON, VC 83-V-210: The Board was in receipt of a letter from Mrs. Mary Jane Thornton requesting a further out-of-turn hearing than the one previously approved by the BZA in December. Mrs. Thornton was granted an out-of-turn hearing for March 13, 1984 but is requesting a further acceleration to no later than February 7, 1984.

Mr. Ribble moved that the Board deny the further acceleration. Mr. DiGiulian seconded the motion and it passed by a vote of 6 to 0 (Mr. Hyland being absent).

//

Page 274, January 10, 1984, After Agenda Items

SPRINGFIELD GOLF & COUNTRY CLUB: The Board was in receipt of a request from Mr. O. Neil Putnam, President of the Springfield Golf & Country Club for an out-of-turn hearing on the special permit application for a bathroom addition to be constructed on the golf course and a tennis bubble. The application has been tentatively scheduled for April 3, 1984. Mrs. Day moved that the out-of-turn hearing be denied. Mr. Ribble seconded the motion and it passed by a vote of 6 to 0 (Mr. Hyland being absent).

// 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

Daniel Smith, Chairman

Submitted to the Board on: March 19, 1985

Approved: March 26, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 17, 1984. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (departing at 5:30 P.M.); Gerald Hyland; Ann Day; Mary Thonen (departing at 6:15 P.M.); Paul Hammack; and John Ribble (departing at 2:00 P.M.).

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. PENDER UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. for building and parking lot additions to existing church and related facilities, located 12500 Lee-Jackson Hwy., R-1, Centreville Dist., 45-4((1))8, 5.0 acres, SP 83-C-068. (DEFERRED FROM NOVEMBER 15, 1983 AT THE REQUEST OF THE APPLICANT FOR ADDITIONAL TIME TO RESOLVE PROBLEMS WITH STAFF)

At the applicant's request, it was the consensus of the Board to defer the application to February 14, 1984 at 1:45 P.M.

Page 275, January 17, 1984, Scheduled 10:20 A.M. case heard at 10:25 A.M.:

10:20 A.M. BRIAN DION, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow dwelling to remain 4 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 5021 Grafton St., Fairland Subd., R-2, Mason Dist., 72-3((3))35, 53,849 sq. ft., SP 83-M-073. (DEFERRED FROM NOVEMBER 29, 1983 FOR NOTICES)

William Shoup reviewed the staff report for the Board. He stated that the applicant was not the owner of the property at the time it was constructed, and it was obvious that the error in the location of the dwelling was through no fault of the applicant.

Brian Dion presented the facts for the special permit application. He stated that he owned two contiguous lots of record, lots 33 and 35. He stated that the terrain of lot 35 was such that the current location of the existing house was the only reasonable site for the building at the time it was built. Mr. Dion felt that this placement was not a detriment to the neighborhood.

There was no one to speak in support or opposition.

Page 275, January 17, 1984 Board of Zoning Appeals
BRIAN DION

R E S O L U T I O N

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 83-M-073 by BRIAN DION under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 4 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 5021 Grafton Street, tax map reference 72-3((3))35, 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 17, 1984; and,

WHEREAS, the Board made the following conclusions of law:
1. The Board has determined that:
   A. The error exceeds ten (10) percent of the measurement involved, and
   B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
   C. Such reduction will not impair the purpose and intent of this Ordinance, and
   D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
   E. It will not create an unsafe condition with respect to both other property and public streets, and
   F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
   G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
2. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
3. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.

BRIAN DION
(continued)

4. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

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

1. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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

1. This approval is granted for the location of the dwelling indicated on the plat submitted with this application and is not transferable to other land.
2. The storage shed located on both Lot 33 and Lot 35 shall be removed as indicated on the plat.

Mr. DiGiulian seconded the motion. The motion passed by a vote of 7 - 0.

Page 276, January 17, 1984

10:30 A.M. ROBERT D. NICHOLAS, appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, each having width of 61.853 ft. (80 ft. min. lot width req. by Sect. 3-306), located 3110 Douglas St., R-3, Mt. Vernon Dist., 101-2((1))54, 1.0479 acres, VC 83-V-161. (DEFERRED FROM DECEMBER 6, 1983 FOR NOTICES)

The Chairman announced that again, the notices were not in order. It was the consensus of the Board to defer the case to March 6, 1984 at 10:00 A.M.

Page 276, January 17, 1984, Scheduled 10:45 A.M. case heard at 10:45 A.M.:

10:45 A.M. MCLEAN PRESBYTERIAN CHURCH, appl. under Sect. 3-303 of the Ord. to amend S-150-73 for church and related facilities to permit addition of land area and parking facilities, located 7144 Old Dominion Dr., R-3, Dranesville Dist., 30-1((1))56 & 75, 3.46616 ac., SPA 73-D-150-1. (DEFERRED FROM NOVEMBER 15, 1983 AT REQUEST OF THE APPLICANT AND FROM DECEMBER 6, 1983 FOR NOTICES)

William Shoup reviewed the staff report for the Board. Thomas Dugan, 4041 University Drive, Fairfax, represented the applicant. He stated that as many as 121 cars were coming onto the premises during church services on Sunday, and he felt that the parking situation was reaching critical stages. He stated that the two main issues involved in this application were compatibility and safety. Mr. Dugan felt that the view from the neighborhood would be unchanged when the parking lot was added. The church planned to use concrete blocks and retain most of the large oak trees existing on the property.

Hugh McGee, 410 Pine Street, Vienna, from the firm of Bellomo-McGee, Inc. presented his evaluation focused on the issue of access to and from the parking area as it related to safety and operations. He pointed out potential sight distance problems and gave his conclusions and recommendations based on the survey and analysis he had done.

People speaking in support of the application included Rev. Stephen Smallman, 10631 Runaway Lane, Great Falls, the pastor of the church; Kenneth Chung, 7201 Dulany Drive, across the street from the property in question; Bob Dolloboy, North 26th Street, Arlington, Chairman of the Board of Deacons; Capt. L. Jackson, 6542 Devine Street, McLean, Deacon of the McLean Presbyterian Church; Edwin Keck, 2208 Abbottsford Drive, Vienna; Gilbert Martin, 5130 Pheasant Ridge Road, Fairfax; Stan Mortenson, an attorney at 6555 Potomac River Road; and Henry Seaton, Potomac, Maryland. Comments from the speakers included the fact that the church had been forced to reject other alternatives for parking because of restrictions or unavailability of adjacent property. It was the general consensus of the speakers that there was a critical need for additional overflow parking, and the proposed parking lot would be aesthetically attractive, safe and functional. They addressed the traffic safety considerations and indicated that the church would take measures such as hiring an off-duty patrolman to assist in orderly traffic flow and install a warning light signal to announce the pedestrian crossing.

//The Board recessed at 12:35 P.M. and returned at 12:40 P.M. to take up the scheduled agenda.

Speakers in opposition included Raymond Long, an attorney at 7111 Old Dominion Drive; Roger Mudd, 7167 Old Dominion Drive; Col. Robert Parker, 7309 Delany Drive, the President of the Elmwood Estates Association; Harry Poole, 1201 Mottrom Drive; Maryana Slocum, 1290 Balls Hill Road; Maya Huber, 6655 Chilton Court, the Chairman of the McLean Planning and Zoning Committee; Robert Alden, 7136 Old Dominion Drive; Walter Honeycutt, 7135 Old Dominion Drive; Douglas Swanson, 7319 Yates Court; Jean McChesney, 1221 Old Stable Road; and Marc Kapastin, 7223 Van Ness Court. The major concern was traffic safety. Statements included the fact that the crossroads of Old Dominion Drive and Balls Hill Road was dangerous and highly congested in an area of limited visibility. The speakers felt that the church was not utilizing the present available land with respect to parking. The speakers indicated that the paved parking area would be harmful to existing trees and drainage. A slide show was presented to the Board showing the proposed parking area and surrounding residential areas.

During rebuttal, Henry Seaton stated that the church had consulted experts with regard to the proposal, and were willing to provide a traffic guard and warning light for the safety of the pedestrians. It was his opinion that the parking area would not damage the environment and would be an attractive addition to the neighborhood. Mr. Seaton stated that the parking area would only be utilized for a few hours on Sunday.

There was no one else to speak in support or opposition.

Page 277, January 17, 1984 Board of Zoning Appeals
MCLEAN PRESBYTERIAN CHURCH

R E S O L U T I O N

In Application No. SPA 73-D-150-1 by MCLEAN PRESBYTERIAN CHURCH under Section 3-303 of the Zoning Ordinance to amend S-150-73 for church and related facilities to permit addition of land area and parking facilities, on property located at 7144 Old Dominion Drive, tax map reference 30-1((1))56 & 75, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 17, 1984; 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 3.46616 acres.
4. I have listened to the testimony very carefully and I've listened to all sides. I don't feel like it's a political issue, I feel like it's more of all the caring people. The citizens that live in the area care about their community. The people in the church are very caring and do want to see the church expand. Although I think churches are compatible in a residential area, I do not feel that parking which is not continuous to the land that the church is on or not a part of the land the facility is on, I do not feel like they are compatible. I think then it would be just like any commercial or any other parking lot. I also feel that when the lady who is a neighbor says that flooding is causing her water to be contaminated, I have to listen very carefully to that, because, you just cannot contaminate someones water or impact on them. I feel that one of the things the church has a problem with is scheduling. I think right now there is enough parking to accommodate the people in the church if you don't have this overlapping time. I feel like what your problem is, is when you're coming and going. If your would move the Korean Church services to 2 P.M., they would not be arriving until all of your people were out of the way. If you moved the Koreans out of your church and had the two services, one in the morning and one in the afternoon so they were spaced apart, you would not have them coming at overlapping times. I think the biggest problem is overlapping. I have to admit looking at those pictures of the roads....I'm not saying that the traffic is caused by the church, traffic is traffic and everyone has a right to be on the roads whether they be going to the church or whatever. But I can see a very dangerous situation there. I'm not sure that the majority of the people could get across the street in the time allowed.

AND WHEREAS, the Board of Zoning Appeals 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.

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

Mrs. Day seconded the motion. The motion passed by a vote of 6 - 1 (Mr. Smith)

//The Board recessed for lunch at 2:15 P.M. and returned at 3:15 P.M. to take up the scheduled agenda.

Page 278, January 17, 1984, Scheduled 11:15 A.M. case heard at 3:15 P.M.:

11:15 A.M. MARTHA F. COLLINS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 25.8 ft. from street line of corner lot (30 ft. min. front yard req. by Sect. 3-307), located 5202 Kipling St., N. Spfd., R-3, Annandale Dist., 71-3((4))(39)16, 13,647 sq. ft., VC 83-A-174.

William Shoup reviewed the staff report for the Board. Martha Collins presented her application. She stated that she had purchased the house in August of 1967. The house was located on a corner lot and had two side yards. Ms. Collins stated that a sanitary sewer easement and a hill in the rear of the house restricted any additions in those areas.

There was no one to speak in support or opposition.

Page 278, January 17, 1984 Board of Zoning Appeals
MARTHA F. COLLINS

R E S O L U T I O N

In Application No. VC-83-A-174 by MARTHA F. COLLINS under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 25.8 ft. from street line of corner lot (30 ft. min. front yard req. by Sect. 3-307), on property located at 5202 Kipling Street, tax map reference 71-3((4))(39)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 January 17, 1984; 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 13,647 sq. ft.
4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:

A. That the subject property has exceptional topographic conditions.
B. That the subject property has an extraordinary situation or condition of the subject property.
C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to 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 variance is approved for the location and the specific addition shown on the plat included with this application except as modified by the following conditions and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Ribble being absent)

Page 279, January 17, 1984, Scheduled 1:15 P.M. case heard at 3:20 P.M.:

1:15 P.M. NICHOLAS S. & ELIZABETH A. REYNOLDS, appl. under Sect. 18-401 of the Ord. to allow construction of 11 ft. 3 1/4 in. high shed 3 ft. from side lot line and 5 ft. from rear lot line (10 ft. min. side yard and 11 ft. 3 1/4 in. min. rear yard req. by Sect. 3-407 & 10-104), located 2104 Forest Hill Rd., Belle Haven Subd., R-4, Mt. Vernon Dist., 83-3((14))(19)16, 7,500 sq. ft., VC 83-V-175.

William Shoup reviewed the staff report for the Board. Elizabeth Reynolds presented the facts for the application. She stated that she wanted to upgrade the present storage shed by constructing a Williamsburg style outbuilding. There were two similar structures on property one lot away that had been approved by the BZA within the last year. A six foot high fence on the side property line adjacent to the proposed site of the outbuilding would minimize any visual impact on the adjacent property.

There was no one to speak in support or opposition.

Page 279, January 17, 1984 Board of Zoning Appeals
NICHOLAS & ELIZABETH A. REYNOLDS

R E S O L U T I O N

In Application No. VC-83-V-175 by NICHOLAS S. & ELIZABETH A. REYNOLDS under Section 18-401 of the Zoning Ordinance to allow construction of 11 ft. 3 1/4 in. high shed 3 ft. from side lot line and 5 ft. from rear lot line (10 ft. min. side yard and 11 ft. 3 1/4 in. min. rear yard req. by Sects. 3-407 & 10-104), on property located at 2104 Forest Hill Road, tax map reference 83-3((14))(19)16, County of Fairfax, Virginia, Mrs. 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 17, 1984; 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 7,500 sq. ft.
4. The applicant has stated that at the present time there is a shed which has the same type roof as the one proposed. The proposed shed will set further towards the front of the property than the existing one. Lot 4 behind this property does have a shed which is in that persons rear yard, but on the opposite side of this applicants property. On lot 15, the house is some distance from the proposed shed. The topography at the spot of the proposed shed is lower than on lot 15, and the owner of lot 15 has a fence the whole length of that property line six feet high. The proposed shed is lower than the one on lot 15. This lot is narrow being 75 feet wide. For a person to put a storage shed in the middle of the yard, it ruins the use of ones property. This does not have adverse effect on neighbors, it's not going to effect property value, it's not an eyesore and will be professionally constructed.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application except as modified by the following conditions and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Ribble being absent)

Page 280, January 17, 1984, Scheduled 1:30 P.M. case heard at 3:35 P.M.:

1:30 P.M. ANASTASIOS PELIKIDAS & SABAH SAMAHA, appl. under Sect. 18-401 of the Ord to allow construction of building 31 ft. from front lot line and 14 ft. from rear lot line (40 ft. min. front yard and 20 ft. min. rear yard req. by Sect. 4-807), as approved by V-81-A-103, expired, located 7308-7320 Little River Trnpk. C-8, Mason Dist., 71-1((4))1-7, 21,062 sq. ft., VC 83-M-176.

The staff requested a deferral to allow time to amend the application. It was the consensus of the Board to defer the application to February 28, 1984 at 11:30 A.M. The staff was instructed to re-notify adjacent property owners.

Page 280, January 17, 1984

1:45 P.M. FORESTVILLE UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit continuation of nursery school as permitted by S-9-73, expired, without term from 9:00 A.M. - 2:00 P.M., located 10100 Georgetown Pk., R-1, Dranesville Dist., 12-2((1))16, 2.0577 ac., SP 83-D-085.

1:45 P.M. FORESTVILLE UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow nursery school on existing church property having gravel parking lot (dustless surface req. by Sect. 11-102), located 10100 Georgetown Pk., R-1, Dranesville Dist., 12-2((1))16, 2.0577 ac., VC 83-D-172.

The Chairman announced that the notices were not in order for the captioned special permit and variance applications. It was the consensus of the Board to defer the cases to March 20, 1984 at 8:00 P.M.

Page 280, January 17, 1984, Scheduled 2:00 P.M. case heard at 3:40 P.M.:

2:00 P.M. CHURCH OF THE BLESSED VIETNAMESE MARTYRS, appl. under Sect. 3-303 of the Ord. for addition of land area, building and parking lot to existing church and related facilities, located 7424 Masonville Dr., and 3460 & 3464 Annandale Rd., R-3, Providence Dist., 60-1((1))36, 37 & 46A, 1.3070 acres, SP 83-P-086.

2:00 P.M. MOST REVEREND JOHN R. KEATING, BISHOP, appl. under Sect. 18-401 of the Ord. to allow additions to existing church and related facilities with gravel parking lots (dustless surface req. by Sect. 11-102), located 7424 Masonville Dr., and 3460 & 3464 Annandale Rd., R-3, Providence Dist., 60-1((1))36, 37 & 46A, 1.3070 acres, VC 83-P-173.

Jane Kelsey reviewed the staff report for the Board. Dan Solomon represented the church. He stated that the applicant was in agreement with and would implement all the development conditions contained in the staff report.

There was no one to speak in support. Speakers in opposition included Ruth Minker, 7435 Mason Lane and Bruce Elton, 3456 Annandale Road. Ruth Minker was concerned about the fact that the church was asking to having the screening requirements reduced. Mr. Elton stated that the parking area on lot 46A was done without permission from the Board or a permit. He wanted the church to discontinue the use of an easement located between his property and the rectory for a driveway. Mr. Elton stated that he gets additional water flowing onto his property from the parking area. He had contacted Joseph Bakos and Marilyn Anderson from the Zoning Enforcement Office and Jack White from the Department of Environmental Management to express his concerns about the drainage problems.

During rebuttal, Dan Solomon stated that there was a natural drainage that went to the northwest corner of the property.

There was no one else to speak regarding the applications.

Page 280, January 17, 1984 Board of Zoning Appeals
CHURCH OF THE BLESSED VIETNAMESE MARTYRS

R E S O L U T I O N

In Application No. SP 83-P-086 by CHURCH OF THE BLESSED VIETNAMESE MARTYRS under Section 3-303 of the Zoning Ordinance for addition of land area, building and parking lot to existing church and related facilities, on property located at 7424 Masonville Drive, tax map reference 60-1((1))36, 37 and 46A, 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 17, 1984; 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 1.3070 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only, is not transferable without further action of this Board, is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, provided that the use of 7424 Masonville Drive and 3460 Annandale Road may be interchanged with one another. 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.
3. 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.
4. Any future remodeling of the buildings on this property shall include proper acoustical treatment measures to the structure(s) so that a 45 dBA Ldn interior noise level is achieved.
5. The driveway entrance from Annandale Road adjacent to lot 46B shall be closed.
6. The existing driveway entrance closest to Masonville Drive located on Annandale Road shall be removed and be replaced with landscaping shrubs and low evergreen plantings. The type and size of these plantings shall be determined by the Director, Department of Environmental Management (DEM).
7. Interior parking lot landscaping shall be provided in accordance with Article 13.
8. The maximum number of parking spaces shall be fifty-six (56), three (3) of which shall be designated as handicapped parking spaces. The handicapped spaces must meet the provisions of Par. 2 of Sect. 11-102. This total number may be reduced to provide interior parking lot landscaping, provided the minimum required 28 parking spaces is provided.
9. Transitional Screening I shall be provided along the north and west lot lines. A modification to the requirement for transitional screening along the eastern lot line shall be allowed provided the existing trees remain and are supplemented with low evergreen shrubs. A modification to the requirement of transitional screening and a barrier along the southern lot line shall be allowed provided the existing fence remains and low evergreen shrubs are planted between the trees and along the south side of the building. The extent and type of shrubs shall be determined by the Director, DEM, and shall be of a nature which will not prevent adequate site distance in accordance with the requirements of DEM and VDH&T.
10. A barrier shall be provided along the western lot line and may be waived along the northern lot line.
11. Two (2) 30 foot wide entrances along Masonville Drive shall be provided as indicated on the plat submitted with this application and shall meet all VDH&T standards including being paved 25 feet into the site.
12. Dedication of 26 feet from the centerline of Masonville Drive shall be required.
13. Construction of road improvements shall be required at the discretion of the Director, DEM, at the time of site plan approval.
14. All site improvements required by this special permit shall be completed within one (1) year of the date of approval.
15. The existing drainage problems shall be addressed as follows:

- Installation of 6 inch high garden edging strips or other similar barrier along the northern property line with sufficient hand-graded slope to carry the front (northeast) heavy flows to the street and the back (northwest) heavy flows to the rear (northwest) corner where a drainageway exists. Small holes (1/4 inch at 1 foot intervals) should be punched through the edging strip to aid final drain down after storms.
- The gravel surface shall be bermed at the edge and graded to effect the above diversion to both the east and west.

o If the lot is paved, a storm sewer drainage system shall be installed or a detailed analysis done by the design engineer downstream to prove that adequate outfall provisions are being met. If after the use has been established, the Director, DEM, determines that these measures do not adequately resolve the drainage problems, the applicant shall take additional corrective action as determined by the Director.

16. There will be no activities or classes conducted outside the church building included but not limited to karate classes.

17. Storm water detention will be provided in such a manner that no more water runs off the subject site in any given 12 hour period than the amount of water runoff prior to the construction of the gravel parking lot.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 2 (Mrs. Day and Mr. Hammack) (Mr. Ribble being absent)

Page 282, January 17, 1984
MOST REVEREND JOHN R. KEATING, BISHOP/VC 83-P-173

It was the consensus of the Board to defer the variance application pending a Zoning Ordinance amendment to be considered by the Board of Supervisors regarding dustless surfaces.

//The Board recessed at 5:00 P.M. and returned at 5:10 P.M. to take up the scheduled agenda.

Page 282, January 17, 1984, Scheduled 2:15 P.M. case heard at 5:15 P.M.:

2:15 P.M. ST. JOHN NEUMANN CHURCH, appl.under Sect. 3-203 of the Ord. to amend S-80-C-096 for church and related facilities to permit construction of 66 additional parking spaces, located 11900 Lawyers Rd., Reston, R-2, Centreville Dist., 26-3((1))5A, 18.00004 ac., SPA 80-C-096-1.

William Shoup reviewed the staff report for the Board. William Enderle, 200 N. Glebe Road, Arlington, represented the church. He stated that this expansion of the parking lot would be governed by the Site Plan Review Office and the Arborists Office. Mr. Enderle stated that he didn't agree with condition number 8 in the staff report which required the church to provide a ten foot trail easement to connect with existing bridle trails on adjacent property.

George Campbell, 2510 Pegasus Lane; Mortimer Marshall, 2506 Pegasus Lane; and Marvin Chindgren, 2516 Pegasus Lane, spoke regarding the application. They asked for screening on the east side of the church property which adjoined lots 1 - 4. They felt that the bridle trail was necessary for the church to provide, and questioned the Board about storm water detention facilities.

During rebuttal, Mr. Enderle stated that the storm water detention would be addressed at the time of site plan review.

Page 282, January 17, 1984 Board of Zoning Appeals
ST. JOHN NEUMAN CHURCH

R E S O L U T I O N

In Application No. SPA 80-C-096-1 by ST. JOHN NEUMANN CHURCH under Section 3-203 of the Zoning Ordinance to amend S-80-C-096 for church and related facilities to permit construction of 66 additional parking spaces, on property located at 11900 Lawyers Road, tax map reference 26-3((1))5A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 17, 1984; 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-2.
3. The area of the lot is 18.00004 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions of Article 17, Site Plans.
5. All of the existing evergreen plantings to be removed shall be relocated or replaced in the area between the southern lot line along Lawyers Road and the proposed parking area. Supplemental deciduous plantings shall be provided equivalent to Transitional Screening 1. The type and location of these plantings shall be as determined by the Director, of the Department of Environmental Management (DEM) to ensure that the parking area is screened from the view of residential properties to the south and east along Pegasus Lane.
6. The seating capacity shall be a maximum of six hundred (600).
7. The number of parking spaces shall be two hundred twenty two (222).
8. A ten (10) foot trail easement shall be provided in the Glade Stream Valley to connect with existing bridle trails on adjacent property.
9. This approval shall be for the requested additional parking spaces and shall not be construed as approval of the future buildings shown on the plat submitted with this application.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. Ribble being absent)

Page 284, January 17, 1984, Scheduled 2:30 P.M. case heard at 5:30 P.M.:

2:30 P.M. JAMES S. PAK, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow shed to remain 1.7 ft. from side lot line (12 ft. min. side yard req. by Sects. 3-307 & 10-104), located 3438 Payne St., Courtland Park Subd., R-3, 61-2((17))(C)36A, 13,600 sq. ft., SP 83-M-087.

William Shoup reviewed the staff report for the Board. He stated that when Mr. Pak had obtained his building permit, he had informed the Zoning Office that the shed would be 12 feet by 12 feet. The Zoning Office had misunderstood the drawings and thought the shed was to be located 12 feet from the lot line. James Pak presented the facts for his application. He stated that a contractor had poured the concrete for the shed, and had told him there would be no problem increasing the size to 16 feet by 12 feet. Mr. Pak felt that this was not a detriment to the neighborhood because no one had ever complained about the placement of the shed.

There was no one to speak in support or opposition.

Page 284, January 17, 1984 Board of Zoning Appeals
JAMES S. PAK

R E S O L U T I O N

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 83-M-087 by JAMES S. PAK under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow shed to remain 1.7 ft. from side lot line (12 ft. min. side yard req. by Sects. 3-307 & 10-104), on property located at 3438 Payne Street, tax map reference 61-2((17))(C)36A, 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 17, 1984; and,

WHEREAS, the Board made the following conclusions of law:

1. The Board has determined that:
   A. The error exceeds ten (10) percent of the measurement involved, and
   B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
   C. Such reduction will not impair the purpose and intent of this Ordinance, and
   D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
   E. It will not create an unsafe condition with respect to both other property and public streets, and
   F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
   G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
2. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
3. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
4. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

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

1. That the granting of this variance will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
2. That the granting of this variance will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

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

1. This approval is granted for the location of the shed indicated on the plat submitted with this application and is not transferable to other land or to other structures on the same land.
2. An amended Building Permit reflecting the size and location of the existing shed shall be submitted and approved.

Mr. Hyland seconded the motion. The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Ribble and DiGiulian being absent).

//At 6:00 P.M. the Board recessed for five minutes and returned at 6:05 P.M. to take up the scheduled agenda. Mrs. Thonen did not return to the meeting after the break.

Page 285, January 17, 1984, Scheduled 2:45 P.M. case heard at 6:15 P.M.:

2:45 P.M. GRACE COMMUNITY CHURCH, appl. under Sect. 3-103 of the Ord. for church and related facilities, R-1, Centreville Dist., 34-2((1))pt. 23, 3.2818 ac., SP 83-C-088.

William Shoup reviewed the staff report for the Board. Steve Austin, 4533 Briarton Drive, Chantilly, represented the church. He stated that the building would be a traditional two-story brick church with a steeple. The main entrance would be on the rear of the property. Mr. Austin stated that it was anticipated that there would be little, if any, impact on current traffic conditions.

There was no one to speak in support or opposition.

Page 285, January 17, 1984 Board of Zoning Appeals
GRACE COMMUNITY CHURCH

R E S O L U T I O N

In Application No. SP 83-C-088 by GRACE COMMUNITY CHURCH under Section 3-103 of the Zoning Ordinance for church and related facilities, tax map reference 34-2((1))pt. 23, County of Fairfax, Virginia, Mrs. 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 17, 1984; 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 3.2818 acres.
4. That compliance with the Site Plan Ordinance is required.
5. The paster stated that the architecture will be a two-story, red brick traditional style colonial church.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. A site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. Transitional screening and parking lot landscaping shall be provided in conformance with the approved plat.
6. The barrier requirement shall be waived.
7. The seating capacity in the main worship area shall not exceed three hundred (300).
8. Eighty-one (81) parking spaces shall be provided.
9. Plantings, as shown on the approved plat, shall be provided on the property in the Environmental Quality Corridor (EQC) which exists to a distance of sixty (60) feet on either side of the Cain Branch Stream. The EQC shall then be maintained as undisturbed open space except that necessary utility work shall be permitted within the designated sanitary sewer easement.

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10. Access to the property from Centreville Road shall be permitted and shall be constructed in accordance with all applicable standards of the Public Facilities Manual. At such time as the internal industrial streets are constructed on adjacent property to the north and west, access from the subject property to those streets shall be constructed and the Centreville Road access shall be eliminated.
11. The development of this property shall be subject to all applicable provisions of the Sully Historic Overlay District and the Water Supply Protection Overlay District.
12. Signs shall be permitted subject to the provisions of Article 12, Signs.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Ribble & DiGiulian and Mrs. Thonen being absent)

Page 286, January 17, 1984, AFTER AGENDA ITEMS:

The Board approved the BZA Minutes for May 4, May 11, and May 18, 1982.

Page 286, January 17, 1984, AFTER AGENDA ITEMS:

CHURCH OF THE HOLY CROSS/SP 84-P-004: The Board was in receipt of an out-of-turn hearing request for the captioned special permit. It was the consensus of the Board to deny the request.

//There being no further business, the Board adjourned at 6:15 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: March 26, 1985 Approved: April 2, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Evening, January 24, 1984. The following Board members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack and John Ribble. (Mr. John DiGiulian and Mrs. Mary Thonen were absent).

Chairman Smith opened the meeting at 8:15 P.M. and Mrs. Day led the prayer.

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

8:00 P.M. CHARLES D. & LINDA G. MOUNT, appl. under Sect. 18-401 of the Ord. to allow extension and enclosure of existing carport into a two car garage 9 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8715 Waterford Rd., Stratford Landing Subd., R-3, Mt. Vernon Dist., 111-1((6))(18)17, 11,673 sq. ft., VC 83-V-177.

Ms. Mary Burton presented the staff report. Mr. Charles D. Mount of 8715 Waterford Road in Alexandria informed the Board that his hardship was contained in his written statement. He stated that his problem was an irregular shaped lot. The variance would allow an additional 5 ft. to enclose the carport and extend it into a two-car garage. Mr. Mount stated that in order to make the garage practical, he needed 22 ft. He indicated that the property owners adjacent to his property that would face the garage did not object to the variance. Mr. Mount stated that his garage would be quite a distance from the property line as compared to others in the area. He further stated that only part of the proposed garage would be in the setback area. As there were no sidewalks in the area, his children had to walk in the driveway which was difficult with three vehicles parked there. The garage would provide an additional play area for the children.

In response to questions from the Board, Mr. Mount stated that he was not aware of whether any of the garages in the area had been built with a variance. The photographs showed that the property line was well screened with overgrees and large bushes.

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

R E S O L U T I O N

In Application No. VC 83-V-177 by CHARLES D. & LINDA G. MOUNT under Section 18-401 of the Zoning Ordinance to allow extension and enclosure of existing carport into a two car garage 9 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 8715 Waterford Road, tax map reference 111-1((6))(18)17, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Coees 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 24, 1984; 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 11,673 sq. ft.
4. That the applicants' property is exceptionally irregular in shape and has converging lot lines.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time fo the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

RESOLUTION

4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally generally by other properties in the same zoning district and the same vicinity.
6. That:
A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. DiGiulian and Mrs. Thonen being absent).

Page 288, January 24, 1984, Scheduled case of

8:10 P.M. ARTHUR G. & CAROL N. PURVES, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 8.0 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-107 & 10-104), located 9350 Campbell Rd., Carters Grove Subd., R-1, Centreville Dist., 28-1((2))5, 47,105 sq. ft., VC 83-C-178.

Ms. Mary Burton presented the staff report. Ms. Carol Purves of 9350 Campbell Road introduced her bother-in-law, Mr. Robert Poullard of Cameron Street in Alexandria, who represented her variance. He informed the Board that he was a builder. A variance was requested to the side yard in order to build a two car garage. The variance would save the pine trees in the yard. Mr. Poullard informed the Board that the Puves' lot was long and narrow and had an unusual topographic situation. The property sat well above the roadway making the location of the garage inconspicuous. The proposed garage was at the rear of the lot and was well screened. The neighbors' property was even higher in elevation. Mr. Poullard stated that the existing shed would be removed. The proposed garage would enable the property to be more fully utilized.

The Board questioned how the applicants' proposed garage would be affected if it was moved in the northerly direction. Mr. Poullard stated that it would create two problems. Campbell Road was to the south and dropped off steeply. There was a large hill where the house was located. All the property dropped off sharply to the north. The driveway curved along that area and there was a small plateau. To locate the garage in the northern area would require a lot of fill and building up of walls and the grade. It would require a lot of additional work to locate the garage in this area.

Mr. Poullard informed the Board that the proposed garage was 9 ft. larger than the 600 sq. ft. allowed by the Zoning Administrator in order to house items from the metal storage shed which was to be removed. Mr. Poullard indicated that the garage should be located closer to the house but the land prevented it.

There was no one else to speak in support or in opposition.

RESOLUTION

In Application No. VC 83-C-178 by ARTHUR G. & CAROL N. PURVES under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 8.0 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-107 & 10-104), on property located at 9350 Campbell Road, tax map reference 28-1((2))5, County of Fairfax, Virginia, Mrs. 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 24, 1984; 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 47,105 sq. ft.
4. That the applicants' property has exceptional topographic problems. There is over one acre in land. The applicant has indicated that its not feasible to place the garage in front or further north. The property to the left has a house nearer to the street. The garage area is slightly larger than the 600 sq. ft. specified, however, staff does not have any great problems with the garage being 609 sq. ft. because of the acreage involved.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

RESOLUTION

3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. DiGiulian and Mrs. Thonen being absent).

Page 290, January 24, 1984, Scheduled case of

8:20 P.M. LYSLE J. KOCH, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots, proposed lot 1 having a width of 85.95 ft. (100 ft. min. lot width req. by Sect. 3-206), located 9350 Burke Rd., R-2, Springfield Dist., 78-4((1))1, 43,560 sq. ft., VC 83-S-179.

Ms. Mary Burton presented the staff report which recommended denial of the variance application. Mr. Charles Shumate of Bettius, Fox & Carter in Fairfax, represented the applicant. The purpose of the application was to allow a subdivision into two lots. Lot 2 satisfied the requirements for the R-2 district. The variance was for lot 1 which had 85.95 ft. of lot width. Mr. Shumate stated that the property was surrounded on three sides by R-3 zoning Both lots were almost twice the size of the existing lots in Cardinal Forest.

Across the street was a plant nursery zoned R-2. Mr. Koch had occupied the house next to the plant nursery until a divorce ensued. At that time, he filed for a rezoning of the property from R-2 to R-3 in order to accommodate a three lot subdivision. The rezoning staff report for 79-S-46 recommended only a two subdivision because of the pipestem situation. Mr. Koch had not proceeded with the rezoning because of the cost. Mr. Shumate informed the Board that Mr. Koch was in a Catch-22 situation. The rezoning staff had recommended a two lot subdivision but the BZA staff was recommending denial of the subdivision because it felt the applicant already had reasonable use of his property. Mr. Shumate stated that the staff was placing too much emphasis on Sect. 18-404 of the Ordinance.

Mr. Shumate stated that the application was appropriate and would be an undue hardship if it was not granted. Mr. Shumate stated that the applicant was prepared to make dedication from 45 ft. of the centerline of the road along the entire frontage of Burke Road which was 5,700 sq. ft. Mr. Shumate indicated that he was confused about the requirement for curb and gutter for the one acre lot. There were 3 or 4 homes which had been in the area for 20 years without any sidewalks. Cardinal Estates had sidewalks but the adjacent homes in between did not have sidewalks.

Mr. Hyland questioned the BZA's authority to waive the requirements of the Subdivision Ordinance as proposed by Mr. Shumate. According to Mr. Shumate, he had spoke with Ms. Kelsy who indicated that it was not her intent to make curbs and gutters a part of the granting. Mr. Shumate stated that the BZA should not dictate that requirement. Mr. Shumate stated that he was not happy with the language contained in development condition no. 6.

In response to questions from the Board, Ms. Burton stated that the staff had wanted to stress to the applicant that if construction of the curbs and gutters were necessary, it would be determined by the Director of the Department of Environmental Management. Ms. Kelsey advised the applicant that the Director did have the authority to waive that requirement under the County Executive's approval.

Mr. Padgett of 9350 Burke Road; Mr. Carpenter of 9344 Burke Road; and Mr. James Ritenour of lot 107 Cardinal Estates all spoke in support of the variance application. Mr. Padgett was not in favor of the applicant constructing curb and gutter as it make his property stick out int the road for 45 ft. which was a potential safety hazard. Mr. Carpenter informed the Board that the subject property had been an eyesore. He preferred to see it developed. Mr. Ritenour stated that the development would be an improvement over the swamp. He felt very strongly that the existing vegetation should be retained.

In response to questions from the Board, Ms. Kelsey stated that the staff had not coordinated the previous rezoning staff report with the current staff report since the rezoning application was withdrawn.

During rebuttal, Mr. Shumate stated that no one was against the variance but there were questions. He asked that the BZA not impose sidewalks, etc. because someone would be driving down the road into Mr. Padgett's house. He asked that the Board amend the condition.

RESOLUTION

In Application No. VC 83-S-179 by LYSLE J. KOCH under Section 18-401 of the zoning Ordinance to allow subdivision into two (2) lots, proposed lot 1 having a width of 85.95 ft. (100 ft. min. lot width req. by Sect. 3-2060, on property located at 9350 Burke Road, tax map reference 78-4((1))1, County of Fairfax, Virginia, Mr. Hyland 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 January 24, 1984; 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 43,560 sq. ft.
4. That the applicants' property has an unusual shape and the lot is surrounded by development in the R-3 category. The civic association of Cardinal Estates has indicated that the development of the lot proposed is reasonable and in the best interest of the community. The amount of the requested variance is minimal.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for subdivision of one lot into two lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. At the time this property is developed, measures shall be taken to provide for adequate surface and subsurface drainage to compensate for the high water table soil on the site.
4. During construction, the developer shall extend all footings to original ground if fill material is present on site or within the area of the footings.
5. Access to the two lots shall be provided by a single shared driveway. This requirement shall be made part of the deed for each of the proposed lots which will be recorded among the land records of Fairfax County.

RESOLUTION

6. Construction of the driveway, curbs, and gutters, if required in accordance with the Subdivision Ordinance, shall be subject to the approval of the Director of the Department of Environmental Management.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. DiGiulian and Mrs. Thonen being absent).

Page 292, January 24, 1984, Scheduled case of

8:30 MESSIAH UNITED METHODIST CHURCH, appl. under Sect. 6-303 of the Ord. for a child care center, located 6215 Rolling Rd., Cardinal Forest Subd., PRC, Springfield Dist., 79-3((8))6 and 79-3((8))(5)29, 4.191 ac., SP 83-S-089.

Ms. Mary Burton presented the staff report which recommended approval subject to the development conditions set forth in Appendix I. Reverend Douglas Lord represented the church. He stated that the church had tried to avoid a child care center by providing a child enrichment program. Rev. Lord addressed the development conditions, specifically the required screening adjacent to lot 29. He stated that the church had purchased lot 29 for a better traffic pattern which has worked for 15 years. The adjacent property owners used that strip as their own and maintained it. Rev. Lord stated that there was not enough room to plant evergreens. He indicated nothing would be gained by the screening as the traffic was negliable.

Ms. Burton informed the Board that the Accotink Academy used the Messiah United Methodist Church for its programs. There was a maximum of 125 children in the facility at any one time with 8 employees making a total of 133 people in addition to the 80 proposed for the enrichment center and commuters. It was the staff's position that the one way circulation would help alleviate the congestion. In response to questions from the Board, Ms. Burton stated that the existing homes were approximately 10 ft. from the property line.

In response to questions from the Board, Rev. Lord stated that the child enrichment program would be before and after school so not all the traffic would be getting in and out at the same time. The church was over 200 ft. from the neighboring lots. The driveway would be the only thing to be screened. The Board questioned the other kinds of uses on the property and was informed there was a commuter parking for 30 vehicles which had been coordinated by Supervisor Travesky. The church was also used by boy and girl scouts and dance groups. Rev. Lord questioned development condition no. 9 concerning parking. Ms. Burton stated that it was not staff's intent to limit the parking to the child care center only. She suggested amending the condition to allow the 24 parking spaces directly in front of the school building to be used by the child care center and the existing preschool.

The Board questioned deleting condition no. 7 regarding the transitional screening. Ms. Burton indicated that staff would object since the condition was made collectively by several County agencies. In order to change it, she would need input from the various parties. In response to further questions, Ms. Burton stated that she had made an on-site inspection but did not recall whether there were any existing trees along that area or not. Ms. Kelsey stated that the Ordinance provided that existing trees could be used to satisfy the requirement but the applicant might have to supplement them. Rev. Lord indicated that screening could not screen the entire driveway. The church had tried to protect the neighbors against noise and activities but the strip was not much different than a pipestem driveway.

RESOLUTION

In Application No. SP 83-S-089 by MESSIAH UNITED METHODIST CHURCH under Section 6-303 of the Zoning Ordinance to permit child enrichment center (child care center), on property located at 6215 Rolling Road, tax map reference 79-3((8))6 and 79-3((5))29, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 24, 1984; 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 PRC.
3. The area of the lot is 4.191 acres.
4. That compliance with the Site Plan Ordinance is required.

RESOLUTION

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 PRC 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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions of Article 17, Site Plans.
5. The maximum number of employees shall be twenty (20).
6. The maximum number of children at any one time shall be sixty (60).
7. A combination of deciduous and evergreen plantings equivalent to Transitional Screening I shall be provided on Lot 29 adjacent to lots 28 and 30. The applicant shall executive a hold harmless agreement with Fairfax County prior to providing these plantings.
8. The applicant shall coordinate with the existing Accotink Academy to ensure that the play time(s) for each school does not overlap and the maximum number of children on the play area at any one time does not exceed 60.
9. The twenty-four (24) parking spaces directly in front of the school building shall be designated as parking for the child care center and the existing preschool, Monday through Friday 9:00 A.M. to 4:30 P.M.
10. The play area shall be fenced.
11. The hours of operation shall be 9:00 A.M. to 4:30 P.M.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

Page 293, January 24, 1984, Board Discussion

Mr. Hammack commented that this was the second application in a week where the BZA had additional special permits being requested on an institutional property. If there had been one special permit application for one school with 180 children, the BZA would not have had the authority to review it. The separate applications were still an intensification of the use. Mr. Hammack stated that the BZA needed to address the impact of the various uses.

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Page 293, January 24, 1984, Scheduled case of

8:45 P.M. SHILOH BAPTIST CHURCH, appl. under Sect. 3-E03 of the Ord. for building and parking lot additions to existing church and related facilities, located 10678 Gunston Rd., R-E, Mt. Vernon Dist., 114-4((1))pt. 21, 0.7725 ac., SP 83-V-090.

Ms. Mary Burton presented the staff report. Mr. Jay Keith Sinclair, Jr. represented the church. He stated that the use would be beneficial to the community. He asked that the transitional screening be modified from 25 ft. to 15 ft. as the surrounding area was zoned for five acre development. The church was in agreement with the development conditions except for how long the deceleration land had to be. Mr. Sinclair stated that they would comply with what was required by the VDH&T.

RESOLUTION

In Application No. SP 83-V-090 by SHILOH BAPTIST CHURCH under Section 3-E03 of the Zoning Ordinance to permit building and parking lot additions to existing church and related facilities on property located at 10678 Gunston Road, tax map reference 114-4((1))pt. 21, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 24, 1984; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 0.7725 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions of Article 17, Site Plans.
5. The seating capacity of the church shall not exceed one-hundred and forty-eight (148) seats.
6. There shall be a total of thirty-seven (37) parking spaces provided. Two (2) of these parking spaces shall be designated as handicapped parking spaces in accordance with Article 11 of the Zoning Ordinance.
7. A modification of approximately ten (10) feet to the transitional screening 1 requirement shall be permitted along the northern and southern lot lines in the area of parking spaces as shown on the plat submitted with this application. Transitional screening 1 shall be provided along the remaining lot lines. The barrier requirement shall be waived.
8. The applicant shall provide a right-turn deceleration lane which shall conform to VDH&T design standards along the site frontage and along parcel 22.
9. Adequate sight distance shall be obtained; however, in the event adequate sight distance cannot be obtained, a one-way internal circulation pattern shall be used to ensure that site-related vehicles exit to the south, nearest parcel 20.
10. Signs shall be permitted subject to the provisions of Article 12 of the Zoning Ordinance.
11. If lights are to be installed, they shall be no higher than twelve (12) feet in height and shall be shielded to prevent any light from projecting off the site.
12. Interior parking lot landscaping shall be provided in accordance with Article 11.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of the occurrance of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

Page 295, January 24, 1984, After Agenda Items

HOLLIN MEADOWS SWIM & TENNIS CLUB, SP 84-V-012: The Board was in receipt of a request from Arthur B. Goodkins, President of the Hollin Meadows Swim & Tennis Club, regarding an out-of-turn hearing for the special permit application for a renovation of the swimming pool and clubhouse. The application was presently scheduled for April 10, 1984. It was the consensus of the Board to grant the request. The hearing was scheduled for March 27, 1984 at 11:00 A.M.

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Page 295, January 24, 1984, After Agenda Items

TERM OF OFFICE: The Board was notified of the approaching expiration of the term of office for Ms. Ann Day. It was the unanimous consensus of the Board to recommend endorsement of another five year term of office for Ms. Day. The Clerk was directed to forward the Board's recommendation to the Circuit Court.

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Page 295, January 24, 1984, After Agenda Items

CONDOMINIUM RENTALS LIMITED, L.P., A 84-D-001: The Board was in receipt of a memorandum from the Zoning Administrator forwarding the appeal of Condominium Rentals Limited, L.P. for scheduling purposes. It was the consensus of the Board to schedule the appeal for April 10, 1984 at 10:00 A.M.

// There being no further business, the Board adjourned at 10:20 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 March 26, 1985

Approved: April 2, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 31, 1984. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Mary Thonen; Paul Hammack; and John Ribble. John DiGiulian 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. FRANK P. CHILAR, TRUSTEE, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that density credit is not allowed for land area previously dedicated to the County for a service drive, located 8137 Leesburg Pike, C-5, Providence dist., 39-2((2))40, 18,446 sq. ft., A 83-P-009.

Philip Yates stated that his memorandum to the BZA dated January 27, 1984 contained all pertinent background information on this case. He cited Par. 6 of Sect. 2-307, Bulk Regulations and Sect. 2-308, Maximum Density which were subject provisions of the Zoning Ordinance germane to the appeal. Mr. Yates stated that Par. 5 of Sect. 2-308 was created solely to allow density credit for advance dedication. Rather than pay for land areas needed for public purpose, the provision was adopted to entice a landowner to dedicate without compensation at the time the land was needed for public improvement. Mr. Yates stated that the current real estate files reflect the land area as 18,446 square feet and the real estate property tax was based only on this land area, although the owner was looking for "development rights" on 21,506 square feet.

Frank Sterns, a lawyer at 4020 University Drive, Fairfax, represented the applicant. Mr. Sterns stated that the owner had changed a single family residence into an office with few exterior changes including parking, access and landscaping. Mr. Sterns stated that it was clear on the site plan that no density credit was going to be utilized. He felt that the owner had dedicated 3,060 square feet and gotten nothing in return, because he obviously was not going to use the density credits at that time. Mr. Sterns stated that the owner had complied with the Zoning Ordinance elements that were required to get that density credit. He stated that nowhere in the Ordinance did it give a time limit as to when he had to use those density credits. He felt it was his right to utilize the density credits in the future.

Mr. Hammack made the motion. He stated that he felt the appellant would not have been able to use the property had he not made the dedication and constructed the access road. Mr. Hammack stated that he did get some consideration for being able to change the use on the property and develop it as a commercial use. He indicated that the appellant had the choice of obtaining a certain floor area ratio at that time. Mr. Hammack felt that the Zoning Administrator had supported his position adequately in accordance with the Ordinance and moved that the Board uphold the decision of the Zoning Administrator.

Mrs. Thonen seconded the motion. The motion passed by a vote of 5 - 0. (Mrs. Day abstained) (Mr. DiGiulian was absent)

Page 296, January 31, 1984, Scheduled 10:30 A.M. case heard at 11:00 A.M.:

10:30 A.M. FIAZA RIZA HANIFFA, appl. under Sect. 3-403 of the Ord. for a child care center, located 3133 Headrow Ln., Annalee Heights Subd., R-4, Mason Dist., 50-4((18))(F)13, 9,000 sq. ft., SP 83-M-062. (DEFERRED FROM OCTOBER 18, 1983 FOR NOTICES AND AT THE REQUEST OF THE APPLICANT) (ON NOVEMBER 29, 1983 THE BZA ISSUED THEIR INTENT TO DEFER TO EVENING MEETING OF MARCH 20, 1984 AT 8:00 P.M. AT THE REQUEST OF THE BOARD OF SUPERVISORS)

The Board was in receipt of a letter from the applicant requesting a withdrawal of the special permit application. It was the consensus of the Board to withdraw the application without prejudice.

Page 296, January 31, 1984, Scheduled 10:45 A.M. cases heard at 11:05 A.M.:

10:45 A.M. KING OF KINGS LUTHERAN CHURCH, appl. under Sect. 3-103 of the Ord. for removal of existing structure and construction of new church and related facilities, located 12604 Lee Jackson Memorial Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 ac., SPA 77-C-128-1. (DECISION DEFERRED FROM NOVEMBER 22, 1983 FOR PERIOD OF 60 DAYS TO ALLOW INVESTIGATION OF THE POSSIBILITY OF COUNTY OR STATE ACQUISITION OF PROPERTY)

10:45 A.M. KING OF KINGS LUTHERAN CHURCH, appl. under Sect. 18-401 of the Ord. to allow reconstruction of church and related facilities with existing and proposed parking lots having gravel surface (dustless surface req. by Sect. 11-102), located 12604 Lee Jackson Memorial Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 ac., VC 83-C-180. (DECISION DEFERRED FROM NOVEMBER 22, 1983 FOR PERIOD OF 60 DAYS TO ALLOW INVESTIGATION OF THE POSSIBILITY OF COUNTY OR STATE ACQUISITION OF PROPERTY)

Sam Shanks, from the Land Acquisition Department was present to respond to some of the Board's questions. He stated that as a result of the Board's action on December 5, 1983, the Board of Supervisors had approved the purchase of the property belonging to the King of Kings Lutheran Church, which was in the direct path of the Springfield bypass. Staff was instructed to follow normal acquisition policies with appraisals to be obtained prior to negotiation. Mr. Shanks stated that when a complete contract was obtained it was to be presented to the Board of Supervisors for their consideration. If the church was not willing to accept the proposal, condemnation for the property had not been obtained, and the Board of Supervisors would have to approve such a move to acquire the property.

Charles Shumate, with the firm Bettius, Fox and Carter, represented the applicant. He stated that he appreciated what Mr. Shanks had done. Mr. Shumate stated that his solution to the problem was that the applications should be approved, with an added development condition stating that building permits would not be obtained for 60 to 90 days. He felt that the Board had the authority to do that under Section 8-001 of the Zoning Ordinance.

After further discussion, it was the consensus of the Board to defer the applications for further information regarding County acquisition of the church property. The new date and time was March 27, 1984 at 10:40 A.M.

Page 297, January 31, 1984, Scheduled 11:00 A.M. case heard at 11:20 A.M.:

11:00 A.M. HGCC OF ALEXANDRIA, INC., A TENN. CORPORATION, appl. under Sect. 8-014 of the Ord. to amend S-49-72 for a nursing home to permit change of ownership, located 1510 Collingwood Rd., R-3, Mt. Vernon Dist., 102-4((1))11, 3.128 ac., SPA 72-V-049-1. (BZA GRANTED OUT-OF-TURN HEARING ON NOVEMBER 29, 1983.)

William Shoup reviewed the staff report for the Board. Grayson Hanes, an attorney, represented the applicant. He stated that this operation had been in use since 1962. It served the County well and no one had ever registered any opposition to the use. Mr. Hanes stated that the nursing home would be continued in the same manner in which it was now being operated.

There was no one to speak in support or opposition.

Page 297, January 31, 1984 Board of Zoning Appeals
HGCC OF ALEXANDRIA, INC., A TENNESSEE CORPORATION

R E S O L U T I O N

In Application No. SPA 72-V-049-1 by HGCC OF ALEXANDRIA, INC., A TENN. CORPORATION under Section 8-014 of the Zoning Ordinance to permit change of ownership, on property located at 1510 Collingwood Road, tax map reference 102-4((1))11, County of Fairfax, Virginia, Mrs. 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 31, 1984; 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 3.128.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. There shall be 96 patients and 84 employees.
2. All conditions set forth in S-49-72, as follows, shall remain in effect.
A. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated in this application and is not transferable to other land.
B. This permit shall expire one year from this date unless construction or operation has started or unless renewed by action of this Board prior to date of expiration.
C. This approval is granted for the buildings and uses indicated on plats submitted with this application. Any additional structures of any kind, changes in use or additional uses, whether or not these additional uses require a use permit, shall be cause for this use permit to be re-evaluated by this Board. These changes include, but are not limited to, change of ownership, changes of the operator, changes in signs, and changes in screening or fencing.
D. This granting does not constitute exemption from the various requirements of this County. The applicant shall be himself responsible for fulfilling his obligation to obtain certificates of occupancy and the like through the established procedures and this special use permit shall not be valid until this has been complied with.
E. The resolution pertaining to the granting of the Special Use Permit SHALL BE POSTED in a conspicuous place along with the Certificate of Occupancy on the property of the use and be made available to all Departments of the County of Fairfax during the hours of operation of the permitted use.
F. There shall be a maximum of 96 beds.
G. Architecture and materials used in the addition shall be compatible with existing building.
H. The minimum number of parking spaces shall be 47.
I. Landscaping and screening shall be as approved by the Director of County Development.
J. One-half the required road section of Collingwood Road shall be constructed or a provision for its ultimate construction at the time of Site Plan approval.

Mr. Hyland seconded the motion. The motion passed by a vote of 6 - 0 (Mr. DiGiulian being absent)

Page 298, January 31, 1984, Scheduled 11:15 A.M. case heard at 11:25 A.M.:

11:15 A.M. DAVID L. & PATRICIA I. BURNEY, appl. under Sect. 18-401 of the Ord. to allow construction of pool in front yard of a dwelling (accessory structure or use in any front yard not allowed by Sect. 10-104), located 4502 Olley Ln., Little Run Estates, R-2, Annandale Dist., 69-2((2))(2)6B, 22,990 sq. ft., VC 83-A-181.

The Board deferred the case to February 28, 1984 at 11:45 A.M. to allow the applicants time to amend the variance application.

Page 298, January 31, 1984, Scheduled 11:30 A.M. case heard at 11:35 A.M.:

11:30 A.M. JOHN J. CASHMIRE, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport for an attached garage 6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 4907 Silo Rd., Rose Hill Farm, R-3, Lee Dist., 82-3((11))42, 10,660 sq. ft., VC 83-L-182.

William Shoup reviewed the staff report for the Board. James Cashmire presented the facts for his application. He stated that there was no other feasible or practical location on his property to construct the garage other than where the present carport was located, due to the way the house was situated on the lot and the sloping terrain. He felt that the garage would enhance the appearance of his home and help provide insulation to conserve energy. He stated that he purchased the house in 1971.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC-83-L-182 by JOHN J. CASHMIRE under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for an attached garage 6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 4907 Silo Road, tax map reference 82-3((11))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 January 31, 1984; 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 10,660 sq. ft.
4. That the subject property is narrow. The topography of the existing lot would preclude the construction of a garage on any other portion of the property including the rear for the reasons indicated by the applicant in terms of the very severe slope in the back of the property which would require substantial excavation in the front to provide access to the rear. The property does have an existing carport which is located six feet from the lot line and was constructed in accordance with the applicable setbacks in existence at the time. There is clearly no opposition from the abutting property owner on lot 43 which is contiguous to the proposed garage, as that individual is going to enclose the carport. There is no other practical location to place the garage on the property and to enclose the existing carport would seem to be the most reasonable approach in accomplishing the goal of having a garage.
5..This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion. The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. DiGiulian being absent)

//The Board recessed for lunch and returned at 1:00 P.M. to take up the scheduled agenda.

Page 299, January 31, 1984, Scheduled 1:00 P.M. case heard at 1:00 P.M.:

1:00 P.M. CHEYNEY E. & MARY C. TALBERT, appl under Sect. 18-401 of the Ord. to allow extension and enclosure of existing carport for a two-car attached garage 2.6 ft. from side lot line such that total side yards would be 19.4 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 4203 DeHaven Dr., Brookfield Subd., R-3(C), Springfield Dist., 44-2((3))196, 8,905 sq. ft., VC 83-S-183.

The Board was in receipt of a letter from the applicant requesting a withdrawal of the variance application. It was the consensus of the Board to withdraw the application.

Page 299, January 31, 1984, Scheduled 1:15 P.M. cases heard at 1:15 P.M.:

1:15 P.M. FLOYD W. HARRIS, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots, proposed lots 11B and 12B each having width of 6 ft., (100 ft. min. lot width req. by Sect. 3-206), located 4010 Millcreek Dr., Millcreek Park Subd., R-2, Mason Dist., 59-4((4))11 & 12, 2.465 ac., VC 83-M-184.

William Shoup reviewed the staff report for the Board. Staff was of the opinion that the applicant could enjoy the reasonable use of the lots absent the need for a variance. In response to a question from Mr. Ribble, Mr. Shoup stated that the average size of the neighboring properties were larger than the proposed subdivided lots.

Douglas Adams, 7250 Maple Place, Annandale, represented the applicant. He stated that Mr. and Mrs. Harris had lived in this subdivision for seventeen years. He stated that there was an incline from the main street down Millcreek Drive, but was not a steep hill. Mr. Adams stated that there was substantial open space around the property owned by the Highway Department that was heavily wooded. Many of the lots in the immediate area were half acre lots. The proposed lots, when finished, would be about the size of the average lots in the subdivision. These lots would have been subdivided previously except for the fact that they are located off a cul-de-sac, and don't have enough frontage. Mr. Adams stated that the applicant was in agreement with the suggested development conditions as listed in the staff report.

There was no one to speak in support. Speakers in opposition included Lossie Jones Tucker, 4004 Mill Creek Drive; Judith Manelis, 4001 Mill Creek Drive; Fletcher Elder, 3111 Mill Creek Drive, a Real Estate Agent; and George Ellis, 4002 Mill Creek Drive. The speakers asked the Board to consider that Mill Creek Drive was a narrow, asphalt road and the only access to the property in question. They were concerned about what result the grading and soil excavation would have on the natural drainage, and felt that it would contaminate Mill Creek. The adjacent neighbors also felt that the four lots would create a great increase in traffic, and that the lots were generally smaller than other lots in the immediate area. Several petitions and letters of opposition were submitted for the record.

Jane Kelsey stated that a computer check had been done on the surrounding lots to determine the average size. Of the fourteen lots that were within double circle four on the tax map, there were seven of them that were 22,000 square feet and less. Lot 3 was 19,000 square feet and lots 4, 5, 6 & 9B were in the 21,000/22,000 range. Ms. Kelsey stated that the average size of the fourteen lots was 27,936 square feet. The lots ranged between 19,000 square feet and 57,000 square feet.

During rebuttal, Douglas Adams stated that some of the neighbors concerns were going to happen whether there were two or four lots. He stated that there would be no floodplain problem, because at its lowest point the lot sits forty-five feet above the floodplain. Mr. Adams stated that most of the lots in the area were as small, or smaller than the four proposed lots.

There was no one else to speak regarding the application.

R E S O L U T I O N

In Application No. VC-83-M-184 by FLOYD W. HARRIS under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lots 11B & 12B each having width of 6 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 4010 Millcreek Drive, tax map reference 59-4((4))11 & 12, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 31, 1984; 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 2.465 acres.
4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property had exceptional size at the time of the effective date of the Ordinance.
   B. That the subject property had exceptional topographic conditions at the time of the effective date of the 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 variance is approved for subdivision of two (2) lots into four (4) lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. The subdivision of this property shall be in accordance with the provisions of the Subdivision Ordinance.
4. The development of the pipestem lots shall be subject to the approval of the County Arborist to ensure that quality vegetation shall be protected.
5. Any new house to be constructed and any future remodeling of the existing house shall incorporate acoustical treatment as follows:
   o Exterior wall shall be a laboratory Sound Transmission Class (STC) of at least 39; and
   o Doors and windows shall have a laboratory Sound Transmission Class (STC) of at least 28. If "windows" function as the walls, then they shall have the STC specified for exterior walls; and
   o Adequate measures to seal and caulk between surfaces shall be provided.
6. The pipestem driveway shall be constructed in accordance with the Public Facilities Manual.

Mr. Hyland seconded the motion.

*The motion FAILED by a vote of 3 - 2 (Mr. Smith & Mrs. Thonen) (Mr. Hammack abstained) (Mr. DiGiulian being absent)

Page 301, January 31, 1984, Scheduled 1:30 P.M. heard at 2:15 P.M.:

1:30 P.M. MANN'S AUTOMOTIVE, INC., appl. under Sect. 18-401 of the Ord. to allow building addition to existing Vehicle Major Service Establishment with driveways and parking spaces having gravel surface (dustless surface req. by Sect. 11-102), located 8457 Richmond Hwy., C-8, Mt. Vernon Dist., 101-3((1))pt. 30A & pt. 31, 40,000 sq. ft., VC 83-V-171.

It was the consensus of the Board to defer the variance application to allow time for a concurrent special exception to be heard, and pending decision from the Board of Supervisors regarding a Zoning Ordinance amendment. The new scheduled date and time was May 1, 1984 at 10:30 A.M.

Page 301, January 31, 1984, Scheduled 1:45 P.M. case heard at 2:20 P.M.:

1:45 P.M. BUFFA'S DANCE STUDIO, LTD., appl. under Sect. 6-303 of the Ord. for a school of special education (dance studio), located 11160 B South Lakes Dr., Reston, PRC, Centreville Dist., 27-1((9))2A, 9.9859 ac., SP 83-C-091.

William Shoup reviewed the staff report for the Board which recommended approval of the special permit subject to the development conditions. Tony Velazquez, the architect, 1083 Wisconsin Ave., Washington, DC, represented the applicant. He stated that the students would be limited to 99 students. If the students exceeded that number, a special exception would be sought.

Buffa Harvey stated that dance supplies would be sold on a limited basis. The primary items would be teeshirts and sweatshirts. Shoes were not going to be sold.

There was no one else to speak regarding the application.

R E S O L U T I O N

In Application No. SP 83-C-091 by BUFFA'S DANCE STUDIO, LTD., under Section 6-303 of the Zoning Ordinance for a school of special education (dance studio), on property located at 11160 B South Lakes Drive, tax map reference 27-1((9))2A, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 31, 1984; and

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

1. That the applicant is the lessee.
2. The present zoning is PRC.
3. The area of the lot is 9.9859 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 PRC 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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The number of students using the facility on any given day shall not exceed ninety-nine (99).
6. Signs shall be permitted in accordance with the provisions of Article 12, Signs.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion. The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

Page 302, January 31, 1984, Scheduled 2:00 P.M. case heard at 2:25 P.M.:

2:00 P.M. BARCROFT BIBLE CHURCH, appl. under Sect. 3-103 of the Ord. for a church and related facilities, located 9401 Little River Trnpk., R-1, Annandale Dist., 58-3((1))1A & 2, and 58-4((31))A1, 15.35 ac., SP 83-A-092.

William Shoup reviewed the staff report for the Board which recommended approval of the special permit in accordance with the development conditions. Sarah Reifsnyder, with the firm Blankenship & Keith, 4020 University Drive, Fairfax, represented the applicant. She introduced David Holden, the Chairman of the Board of Bible Barcroft Church, who spoke to the Board regarding the church's move to the area. He stated that the church was presently located on a parcel of land that was 6,600 square feet. On a given Sunday there were as many as 1,200 people attending. Three years ago the church began to evaluate the need to move to another larger location.

Ms. Reifsnyder stated that the Barcroft Bible Church was the contract purchaser of the fifteen acre parcel owned by Starlit Fairways, Inc. She stated that the proposed use was consistent with the existing development in the area, that development including apartments, a shopping center, schools and another church.

Ms. Reifsnyder addressed some of the development conditions that the church was not in agreement with. The first was condition number nine, which talked about the proposed access to the property. She stated that this was not proposed, but existing, and was the only access to and from the property. She felt that all the State criteria had been met for having an access on that road, and it was unreasonable for the County to say it was

inappropriate. Ms. Reifsnyder stated that the church planned to provide a main access to the facility from Pickett Road. The staff had suggested that the turning lane on Route 236 at the Persimmon intersection be lengthened and a barricade put up so that a U-turn could not be made. Ms. Reifsnyder stated that the expense of improving the road was not warranted in this case.

Another condition Ms. Reifsnyder objected to was the landscaping condition. She felt that the staff was asking for too much screening without showing good cause for the request. She stated that at a meeting with Supervisor Moore and the adjacent property owners, they were all in agreement that twenty-five feet would be substantial screening for this property. With regard to the screening of the parking lot closest to the Margate Manor Apartments, she stated that from the point of that parking area to the property line at Route 236 it was ninety-five feet. From that point to the nearest apartment it was 250 feet and Ms. Reifsnyder felt that this condition didn't make any sense. She indicated that the church would be happy to provide the usual peripheral parking lot landscaping.

With regard to condition number 6 relating to planting islands every ten spaces in the parking area, Ms. Reifsnyder stated that this was about 100% more than what Article 13 requires. She discussed condition number 7 which addressed plantings around the church building. She asked that this condition be implemented reasonably. Robert Kensey, the engineer for the church, spoke to the Board regarding the planting islands in the parking area.

Ken Doggett, from the Environmental and Policy Division of the Office of Comprehensive Planning and Larry Bryd, from the Office of Transportation, were present at the meeting to answer any questions the Board had on the comments submitted with respect to the subject application.

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

Page 303, January 31, 1984 Board of Zoning Appeals
BARCROFT BIBLE CHURCH

R E S O L U T I O N

In Application No. SP 83-A-092 by BARCROFT BIBLE CHURCH under Section 3-103 of the Zoning Ordinance for a church and related facilities, on property located at 9401 Little River Turnpike, tax map reference 58-3((1))1A & 2 and 58-4((31))A1, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 31, 1984; and

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

1. That the applicant is the contract purchaser.
2. The present zoning is R-1.
3. The area of the lot is 15.35 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application as Phase I, except as qualified below. 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.
3. 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.

4. This use shall be subject to the provisions of Article 17, Site Plans.
5. Transitional screening and Barriers shall be provided as follows:

- o A thirty-five (35) foot unbroken transitional screening strip shall be provided along the southern and southeastern lot lines where adjacent to residential properties in the Starlit Ponds and Haywood subdivision. Plantings equivalent to Transitional Screening 1 shall be provided in this strip and shall be supplemented with low level evergreen plantings and/or earthen berms around the parking areas to ensure that vehicle headlights do not impact adjacent residential properties.
- o Screening shall be provided at the northeast corner of the property where it is across Little River Turnpike from the Margate Manor Apartment property. Such screening shall consist of plantings, equivalent to Transitional Screening 1, provided at the edge of the parking lot area.
- o Barriers, equivalent to Barrier D, E, or F as set forth in Article 13, shall be provided along the southern and southeastern lot lines adjacent to properties in the Starlit Ponds and Haywood subdivision. Existing fencing may be used to satisfy this requirement at the determination of the Director, DEM.

(Condition # 5 shall remain the same for the following reasons. This is a large site. The applicant proposes a seating capacity of 1,214 initially and in a straight forward manner, has put us on notice that this church will hopefully develope into a parish of 2,700 members within the next few years. I would remind the members of this Board that some of our more serious problems come as these institutions and churches expand. This is larger, in my recollection, than any church application we've had in the past year. And we have additional uses that the churches come back to establish; schools and sometimes dance classes, a lot of different things. I think that the staff has explained their requirement for a thirty-five foot transitional screening strip adequately. It doesn't mean that they have to have thirty-five feet of plantings. I further think that if the applicant wants to come back to staff with a revised site plan that shows the berms or shows a modification of the screening in a way that might eliminate some of that thirty-five foot strip, then they can ask for a modification of this particular requirement at some point in the future. For the present time, I think that the thirty-five foot strip along the southern and southeastern lot lines, where there's going to be a lot of parking and a lot of traffic ought to remain, along with the other two specifications in Paragraph 5.)
6. Peripheral and interior parking lot landscaping shall be required in accordance with Article 13. Landscape islands shall be provided on the two parking rows which do not have medium landscape strips.
7. Tall plantings, with a minimum ultimate height of forty (40) feet, shall be provided around the buildings in a manner that will reduce the visual impact of the structures. Such plantings shall be shown on the landscaping plan and shall be subject to the approval of the County Arborist.
8. With respect to conditions Numbered 5, 6 and 7 above, the Director of the Department of Environmental Management (DEM) shall coordinate the review of the site plan with the Office of Comprehensive Planning (OCP) to ensure that the intent of the Comprehensive Plan has been satisfied.
9. A sign shall be erected on the site at the entrance onto the site from Little River Turnpike which prohibits a left turn (going west) on Little River Turnpike from the subject site. (A right turn only sign)
10. The maximum seating capacity in the main worship area shall be 1,214.
11. The number of parking spaces shall be 306.
12. Parking lot lighting shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from spilling onto adjacent properties.
13. All structures shall be acoustically treated as follows:
    - o Exterior wall shall be a laboratory Sound Transmission Class (STC) of at least 39; and
    - o Doors and windows shall have a laboratory Sound Transmission Class (STC) of at least 28. If "windows" function as the walls, then they shall have the STC specified for exterior walls; and
    - o Adequate measures to seal and caulk between surfaces shall be provided.
14. The existing tennis courts shall be removed to the extent necessary to accommodate the screening requirement set forth in Condition No. 5 above. The remaining portion of the tennis courts may be used provided:
    - o the existing lighting is removed; AND
    - o use is limited to between 8:00 A.M. and dusk.
15. Only one (1) freestanding sign shall be permitted on the Fairfax COunty portion of the property. Such sign shall not exceed five (5) feet in height, shall be illuminated with low intensity, ground-level lighting and shall be erected in accordance with all the applicable provisions of Article 12 that have not otherwise been modified in this condition. Building-mounted signs shall be permitted in accordance with Article 12.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion. The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

//There being no further business, the Board adjourned at 3:45 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: March 26, 1985 Approved: April 2, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 7, 1984. The following Board Members were present: Daniel Smith; Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland (arriving at 10:30 A.M.); Ann Day; Paul Hammack and Mary Thonen. (Mr. John Ribble was absent).

The Chairman opened the meeting at 10:05 A.M. and Mrs. Day led the prayer.

STAFF MATTERS: Ms. Jane Kelsey, Chief, of the BZA Support Branch, introduced Ms. Cheryl Hamilton, new Staff Coordinator, to the Board. Ms. Kelsey stated that the branch was at its fully budgeted staff level with the addition of Cheryl.

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Page 306, February 7, 1984, Scheduled case of

10:00 A.M. DAVID COUNTS, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow dwelling to remain 17.1 ft. from front lot line (25 ft. min. front yard req. by Sect. 3-207), located 4212 Whitacre Rd., Whitacre Estates, R-2(C), Annandale Dist., 58-3((17))2, 13,611 sq. ft., SP 83-A-101.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. Mr. R. Bruce Thompson, an engineer at 3959 Pender Drive in Fairfax, represented the applicant. He stated that he represented the firm responsible for the development of the property from an engineering standpoint. The mistake occurred as a result of a human error in the placement of the building at a 10 ft. setback in lieu of a 20 ft. setback. The house should have been set 27.12 ft. from the property line instead of the 17.1 ft. Mr. Thompson explained to the Board that the property was staked on August 30, 1983 with construction beginning in September. In the interim, a wall check was not performed until November 17, 1983. The house was already under roof when the wall check was accomplished. At that time, the developer made a decision to continue construction because the house was under contract. Mr. Thompson stated that the house was completed at this time.

In response to questions from the Board, Mr. Thompson stated that the house was located in a cul-de-sac. He indicated that cars would still have adequate sight distance because of their low rate of speed. Mr. Thompson stated that the developer had been in business since 1978 and this was the first occasion before the BZA. They had built 10,000 units since 1978 with 4,000 presently under construction. He assured the Board that they would not make the mistake again.

There was no one else to speak in support. Mr. James Fox of 8126 Saxony Drive in Annandale spoke in opposition. He was the purchaser of the house next door on lot 1. They were not opposed to the variance but felt that their property was disadvantaged by the location of the house and wanted the impact minimized. Mr. Fox stated that the house on lot 2 was entirely in front of his house and stuck out like a sore thumb. In addition, it placed his house in the shadows. Mr. Fox presented the Board with photographs showing the view from his front door and how the house on lot 2 blocked his view of the cul-de-sac.

The next speaker was Mark Samone of 790 Ethan Allen Ct., owner of lot 3. He was concerned about the distance because it blocked the view of the street which posed a safety and visibility problem. He stated that when he sat on his front porch, he was looking into the back of lot #2. In response to the statement that the cul-de-sac was partly to blame, Mr. Samone stated that all the houses were situated at the same distance when he signed his contract. He was concerned about visibility from the street and the assessment on his property. Mr. Samone informed the Board that the house on lot 2 was actually only 3 ft. off. It was the garage that was the biggest factor. Mr. Samone was not certain whether screening would lessen the impact. He indicated that he needed more time to think about this variance. He informed the Board that additional lighting would help the situation as there were not any lights except for the cul-de-sac. His house was not visible from the street.

During rebuttal, Mr. Thompson stated that this was a sensitive area. He did not want the potential owners dissatisfied with their homes. Mr. Thompson stated that he had discussed the problem with Mr. Counts. It was agreed that the developer would provide additional screening to enhance Mr. Counts' property. Mr. Thompson indicated that the developer would be willing to discuss additional screening with Mr. Fox and Mr. Samone. He indicated that the houses on the cul-de-sac were not in a straight line and were askew. It was normal to view the sides and rears of the other houses and was not unusual at all for a cul-de-sac.

With regard to the question of lighting, Mr. Thompson stated that there was a post right at the front of Mr. Samone's property. He indicated that one house would not create a spanse of darkness. Mr. Thompson stated that he would like to help the gentlemen but nothing that was suggested seemed to satisfy them.

DAVID COUNTS

RESOLUTION

Mr. DiGiulian made the following motion:

WHEREAS, Application No. SP 83-A-101 by DAVID COUNTS under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 17.1 ft. from front lot line (25 ft. min. front yard req. by Sect. 3-207), on property located at 4212 Whitacre Road, tax map reference 58-3((17))2, 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 7, 1984; and

WHEREAS, the Board made the following conclusions of law:

1. The Board has determined that:
   A. The error exceeds ten (10) percent of the measurement involved, and
   B. The non-compliance was done in good faith, or though no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required, and
   C. Such reduction will not impair the purpose and intent of this Ordinance, and
   D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
   E. It will not create an unsafe condition with respect to both other property and public streets, and
   F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
   G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

2. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.

3. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.

4. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

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 setbacks would cause unreasonable hardship upon the owner.

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

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

2. An amended Building Permit shall be obtained in accordance with the approval of this Special Permit.

3. The applicant shall submit a revised site plan showing screening adjacent to lot 1.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. Ribble being absent).

Page 307, February 7, 1984, Scheduled case of

10:15 A.M. ROXY E. CHITLIK AND KATHLEEN B. RICHARDSON, appl. under Sect. 3-103 of the Ord. for a nursery school, located 7315 Old Keene Mill Rd., R-1, Lee Dist., 90-1((1))26, 0.9311 ac., SP 83-L-093.

&

10:15 A.M. ROXY E. CHITLIK AND KATHLEEN B. RICHARDSON, appl. under Sect. 18-401 of the Ord. to allow nursery school with driveway and parking spaces having gravel surface (dustless surface req. by Sect. 11-102), located 7315 Old Keene Mill Rd., R-1, Lee Dist., 90-1((1))26, 0.9311 ac., VC 83-L-185.

Ms. Jane Kelsey presented the staff report which recommended denial of the special permit application becasue of several problems. The Office of Transportation was concerned that there wasn't a median break until driving to Old Keene Mill Road & it felt U-turns were hazardous. In addition, there was a problem with sight distance of cars coming up the hill at the proposed driveway entrance. The proposed play area was located within the transitional screening area.

Mr. Bernard Fagelson, an attorney in Alexandria, represented the applicants. He stated that there was a need for this type of use in the area. He felt that the Office of Transportation were being paranoid regarding the traffic problem affecting 55 children. Mr. Fagelson stated that the applicants were prepared to change their operating hours from 8:30 A.M. to 9:30 A.M. with no child being accepted prior to 9:15 A.M. The 2½ year children would remain until 12:30 and the others would remain until 2:30 P.M. Mr. Fagelson stated that this way the applicants would avoid any impact on the traffic. He indicated that he had visited the site at 8:30 A.M. and the traffic was horrendous. He went back the next day at 9:30 A.M. and traffic was not a problem. The nursery school would be operated five mornings a week from 9:30 until 2:30. Most of the potential clients were people from the area. Some of the clients planned to walk to the facility. Mr. Fagelson presented the Board with letters of support from some of the adjacent property owners. Mr. Webster of 1717 Old Keene Mill Road wanted a privacy fence installed but he had no objection to the use. Mr. Fagelson assured the Board that no one had any objection to the use but only to the traffic problem which was in the eye of the beholder.

Mrs. Roxy Chitlik and Mrs. Kathleen Richardson spoke in support of the application. Mrs. Chitlik informed the Board that there was a crossover behind the subject property on Hastings Street. Mrs. Richardson stated that they wanted to operate a pre-school in a residential area and not in an institutionized sytle facility. Old Keene Mill Road was a heavily travelled road. By changing their hours, it would help reduce any traffic impact. Mrs. Richardson indicated that they were willing to stagger the arrivals and departures of the children as they wanted the children to arrive safely.

There was no one else to speak in support. Mr. Robert Beaudine of 6210 Greeley Boulevard in Springfield spoke in opposition. He was the Chairman of the Planning and Zoning Committee of the West Springfield area. The general membership of the committee had voted unanimously to oppose the application because of the peak-hour trip generation, sight distance and road configuration.

During rebuttal, Mr. Fagelson indicated that the BZA could restrict the use. He informed the Board that he had asked for an earlier hearing because of the contract deadlines. He asked the Board to consider granting for a period of one year.

Mr. Hyland questioned staff as to whether the Office of Transportation's concerns would be lessened since the hours of operation had changed. Ms. Kelsey responded that it would not be any different because the requested use had more impact than what the property was zoned for and there was not a median break to adequately serve the increased traffic use. She indicated that the change in hours might decrease the amount of their objection but there would still be sight distance problem. If screening was provided, then it forced the eight parking spaces and the play area to be relocated which would force the entire use to the front yard which would change the character of the area.

R E S O L U T I O N

In Application No. SP 83-L-093 by ROXY E. CHITLIK AND KATHLEEN B. RICHARDSON under Section 3-103 of the Zoning Ordinance to permit nursery school on property located at 7315 Old Keene Mill Road, tax map reference 90-1((1))26, County of Fairfax, Virginia, Mrs. 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 7, 1984; and

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

1. That the owners of the subject property are the applicants.
2. The present zoning is R-1.
3. The area of the lot is 0.9311 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:

R E S O L U T I O N

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.

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

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Hyland)(Mr. Ribble being absent).

Page 309, February 7, 1984, Scheduled case of

10:30 A.M. ROLAND L. & RUTH A. BECK, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 16.2 ft. from side lot line such that total side yards would be 28.8 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), located 3249 Betsey Ln., R-1(C), Garnchayne Subd., Centreville Dist., 36-3((8))15, 23,206 sq. ft., VC 83-C-186.

Ms. Jane Kelsey presented the staff report. Mr. Roland Beck informed the Board that Betsey Lane was a small developed cul-de-sac and was lightly travelled. It was dark and isolated. He stated that acts of vandalism had occurred to three of his vehicles. He stated that he only had a two car garage. When he purchased the home, he was told he could obtain a variance. He had not realized it was such an undertaking. Mr. Beck stated that he had owned the property for three years. His neighbor's house to the left was situated back from the lot line so that the proposed variance would not interfere with his property. Mr. Beck stated that his neighbor, Mr. Christie, had sent the Board a letter of support.

In response to questions from the Board, Mr. Beck stated that there was some screening between the two properties. On his lot were small bushes but there were large Oak trees on the lot next door. Mr. Beck informed the Board that there was not much screening between his proposed garage and the side lot line. Mr. Beck stated that his home was the only one with a single car garage. The others had built double garages, some by way of a variance. Mr. Beck stated that his land sloped but it curved both ways for drainage.

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

R E S O L U T I O N

In Application No. VC 83-C-186 by ROLAND L. & RUTH A. BECK under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 16.2 ft. from side lot line such that total side yards would be 28.8 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), on property located at 3249 Betsey Lane, tax map reference 36-3((8))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 February 7, 1984; 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 23,206 sq. ft.
4. That the applicant has presented testimony indicating that the garage addition would be located within the required setback from the side lot line. Although the porch addition did not meet the minimum side yard requirements, the abutting neighbor has written to the Board and the applicant has received a communication in writing from the next door neighbor. The applicant has indicated that the existing carport has usable space of 11 ft. coupled with the 12 ft. addition which permits the garaging of two vehicles. A review of the plat indicated that this is the only reasonable place on the property to place the garage addition and the amount of the variance is not substantial.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

RESOLUTION

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian and Ribble being absent).

Page 310, February 7, 1984, Scheduled case of

10:40 A.M. PAUL M. HELFGOTT, appl. under Sect. 18-401 of the Ord. to allow construction of two (2) deck additions to dwelling, one at first floor level to be 11.1 ft., the other at ground level to be 3.1 ft. from rear lot line (14 ft. min. rear yard req. by Sects. 3-807 & 2-412), located 9620 Scotch Haven Dr., Country Creek Subd., R-8, Providence Dist., 48-1((24))199, 1,650 sq. ft., VC 83-P-187.

Ms. Jane Kelsey presented the staff report. Mr. Paul Helfgott informed the Board that the two decks were necessary in order for his family to make use of the rear yard area because of the drainage situation. He indicated that because of the standing water, grass would not hold and the weeds took over. In response to questions from the Board, Mr. Helfgott stated that the townhouses were constructed in 1981.

There was no one else to speak in support or in opposition.

RESOLUTION

In Application No. VC 83-P-187 by PAUL M. HELFGOTT under Section 18-401 of the Zoning Ordinance to allow construction of two (2) deck additions to dwelling, one at first floor level to be 11.1 ft., the other at ground level to be 3.1 ft. from rear lot line (14 ft. min. rear yard req. by Sects. 3-807 & 2-412), on property located at 9620 Scotch Haven Drive, tax map reference 48-1((24))199, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance 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 February 7, 1984; 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-8.
3. The area of the lot is 1,650 sq. ft.
4. That the applicant testified that his property has serious drainage problems which prohibit the use of the patio area. With respect to the lower level deck, it is nothing more than a patio and the variance should be granted.

THIS APPLICATION meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance si approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. Ribble being absent).

10:50 A.M. KNOLLWOOD BAPTIST CHURCH, appl. under Sect. 6-303 of the Ord. to amend S-82-S-028 for church and related facilities to permit addition of church and educational building to existing facilities, located 10000 Coffer Woods Rd., Burke Centre, PRC, Springfield Dist., 78-3((1))40, 5.00162 ac., SPA 82-S-028-1.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix I. Mr. Charles Evans of 10936 Cartier Lane in Burke represented the church. He was chairman of the Building Committee. The church was seeking approval for construction of an educational building. Mr. Evans stated that the church had been before the Burke Conservancy and the request was approved.

Mr. Hammack noted that the church had a number of special permits granted in the past. He questioned whether the church intended to move any of the nursery school operation into the new proposed building. Mr. Evans stated that was not the church's plan at this time but indicated there might be a future application for that purpose. Mr. Hyland asked Mr. Evans to describe the use the educational building would have. Mr. Evans explained that Sunday School lasted from 9:30 A.M. until 1 P.M. The building would be used on Sunday evening from 6 P.M. until 8:30 P.M. and on Wednesday evening from 7:00 P.M. to 8:30 P.M. From time to time, there would be meetings at other times during the week.

In response to questions from the Board, Mr. Evans stated that there would not be any commercial activity in the building. There was no one else to speak in support or in opposition.

R E S O L U T I O N

In Application No. SPA 82-S-028-1 by KNOLLWOOD BAPTIST CHURCH under Section 6-303 of the Zoning Ordinance to amend S-82-S-028 for church and related facilities to permit additions of church and educational building to existing facilities, located at 10000 Coffer Woods Road, tax map reference 78-3((1))40, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 7, 1984; 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 PRC.
3. The area of the lot is 5.00162 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 P 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 approval is granted for the buildings and uses indicated on the approved plat by the BZA. 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.
3. 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.
4. This use shall be subject to the provisions of Article 17, Aite Plans.
5. The seating capacity of thechurch shall not exceed 168.
6. The minimum number of parking spaces shall be forty-eight (48).
7. The limits of clearing and grading shall be retained as indicated on the plat submitted with this application.
8. Walkways may be required at the time of site plan review as determined by the Director, Department of Environmental Management.

RESOLUTION

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Ribble being absent).

Page 313, February 7, 1984, Scheduled case of

11:10 A.M. TOWN CRIER, INC. T/A TOWNSIDE PARTNERS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to office building to 19.6 ft. from street line of a corner lot and 8.0 ft. from rear lot line (40 ft. min. front yard and 20 ft. min. rear yard req. by Sect. 4-507), located 9415 Burke Lake Rd., C-5, Springfield Dist., 78-1((1))19, 13,214 sq. ft., VC 83-S-188.

As the required notices were not in order, the Board deferred the variance until April 10, 1984 at 10:30 A.M.

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Page 313, February 7, 1984, Recess

The Board recessed for lunch at 12:05 P.M. and reconvened at 1:05 P.M. to continue the scheduled agenda.

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Page 313. February 7, 1984, Scheduled case of

11:30 A.M. THOMAS B. & CORINE HANKS, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport for garage addition to dwelling 10.36 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7310 Charlotte St., Springfield Subd., R-3, Lee Dist., 80-3((2))(35)14, 10,720 sq. ft., VC 83-L-189.

Ms. Cheryl Hamilton presented the staff report. Ms. Corine Hanks of 7310 Charlotte Street in Springfield informed the Board that she wished to enclose the existing carport so she would be able to enter her laundryroom without going outside. In addition, the enclosed carport would provide additional storage space. In response to questions from the Board, Ms. Hanks stated that the structure would not encroach on the lot line any more than the existing structure already did.

There was no one else to speak in support or in opposition.

RESOLUTION

In Application No. VC 83-L-189 by THOMAS B. & CORINE HANKS under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for garage addition to dwelling to 10.36 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 7310 Charlotte Street, tax map reference 80-3((2))(35)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 Februa-y 7, 1984; 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 10,720 sq. ft.

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RESOLUTION

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has an extraordinary situation or condition in the location of the existing dwelling.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. Ribble being absent).

Page 314, February 7, 1984, Scheduled case of

11:40 A.M. JACK J. KEITH, appl. under Sect. 18-401 of the Ord. to allow construction of porch and garage additions to dwelling to 15 ft. and 20 ft. respectively, from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), located 3435 Mansfield Rd., Lake Barcroft Estates, R-2, Mason Dist., 61-1((11))1018, 20,565 sq. ft., VC 83-M-190.

Ms. Cheryl Hamilton presented the staff report. Mr. Jack J. Keith of 3435 Mansfield Road stated that his hardship was cited in his written statement. He indicated that he had an unusual lot. He stated that the purpose of the extension to the west was not to build a larger porch but to enlarge the dining room. Presently, it was 11'x11' and he wished to extend it out 8 or 9 ft. In order to have the same size porch rebuilt, a variance would be necessary. Mr. Keith stated that his property was all frontage and did not have any side lot lines. He was building in the only direction he had available.

In response to questions from the Board, Mr. Keith stated that the house behind his was located approximately 25 ft. from the lot line and was almost parallel with his. The Board examined the photographs presented by the applicant.

There was no one else to speak in support or in opposition.

RESOLUTION

In Application No. VC 83-M-190 by JACK J. KEITH under Section 18-401 of the Zoning Ordinance to construct porch and garage addition to dwelling to 15 ft. and 20 ft. respectively, from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), on property located at 3435 Mansfield Road, tax map reference 61-1((11))1018, County of Fairfax, Virginia, Mrs. 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 7, 1984; 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 20,565 sq. ft.
4. The applicant's property is shaped like a half-circle which restricts the use of the property. The applicant's lot and the adjacent lot are unique and are distinct from the other lots in the area. The lot behind the applicant would have 25 ft. from the lot line. The purpose of the porch was to increase the living space of the dining room and to continue the use of the porch at the end of that extension 15 ft. from the lot line and on the carport side, to enlarge it to about 24 ft. wide by adding 11 ft. to the existing carport.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

RESOLUTION

3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. Ribble being absent).

Page 316, February 7, 1984, Scheduled case of

11:50 A.M. DENNIS J. O'CONNOR, appl. under Sect. 18-401 of the Ord. to allow construction of a deck with steps addition to dwelling to 10.9 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-207 & 2-412), located 2703 Willow Dr., Soltas Manor, R-2(C), Providence Dist., 37-4((18))5, 13,996 sq. ft., VC 83-P-191.

Ms. Jane Kelsey presented the staff report. Mr. Dennis O'Connor of 2703 Willow Drive in Vienna informed the Board that he had a problem with his lot in that it was all side yard. There was very little front or rear yard. In order to build a deck in compliance with the setbacks, he would be allowed only a 6 to 7 ft. deck which would not meet his needs. Mr. O'Connor informed the Board that his rear property adjoined common area. On either side of his property were single family dwellings. He indicated that no one objected to his variance. Mr. O'Connor assured the Board that nothing could be constructed on the common grounds as it was too close to the floodplain.

The Board questioned the proposed wraparound steps for the deck and asked if it was possible to have the steps straight out to require less of a variance. Mr. O'Connor stated that his proposal was recommended by two different contractors. Ms. Kelsey informed the Board that due to the grade of the property and because of the Building Code requirements, if the steps were extended straight out, they would still require as much if not more of a variance.

There was no one else to speak in support or in opposition.

RESOLUTION

In Application No. VC 83-P-191 by DENNIS J. O'CONNOR under Section 18-401 of the Zoning Ordinance to allow construction of a deck with steps addition to dwelling to 10.9 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-207 & 2-412), on property located at 2703 Willow Drive, tax map reference 37-4((18))5, 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 7, 1984; 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 13,996 sq. ft.
4. The applicant's property is unusually shaped. The Board has received testimony that the property to the rear of the proposed construction site is going to be deeded to the Homeowners Association and would not be developed because it's a floodplain area. The Board has not received any objection to the placement of the deck and the neighbors support the variance.

THIS application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

RESOLUTION

4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. Ribble being absent).

Page 317, February 7, 1984, Scheduled case of

12:00 NOON RYAN HOMES, INC., appl. under Sect. 6-104 of the Ord. for a subdivision sales office, located 4620 University Dr., University Square, PDH-4, Annandale Dist., 57-3((9))32, 11,495 sq. ft., SP 83-A-078. (DEFERRED FROM JANUARY 10, 1984 FOR NOTICES).

Ms. Jane Kelsey presented the staff report which recommended approval subject to the development conditions set forth in Appendix I. Mr. McCauley Arnold, an attorney with Cowles, Rinaldi & Arnold, Ltd. in Fairfax, represented the applicant. He presented the Board with a revised affidavit. He indicated that his client had no problem with the development conditions. The photographs showed the landscaping in front of the sales office which would have to be torn up when the driveway was constructed at a later date. Mr. Arnold stated that parking was available along the curve. Ms. Kelsey stated that all parking had to be on site for all special permit uses. Mr. Arnold stated that he had no objection to providing the parking if it was required by the Board. He indicated that they would put in a concrete driveway as it was a better parking pad.

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

RESOLUTION

In Application No. SP 83-A-078 by RYAN HOMES, INC. under Section 6-104 of the Zoning Ordinance to permit a subdivision sales office on property located at 4620 University Drive, tax map reference 57-3((9))32, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 7, 1984; and

RESOLUTION

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 PDH-4.
3. The area of the lot is 11,495 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 PDH 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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. Four (4) parking spaces shall be provided on site.
6. Hours of operation shall be from 6:00 A.M. to 8:00 P.M., seven (7) days a week.
7. This permit is granted for a period of two (2) years.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Ribble being absent).

// 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

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on March 26, 1985

Approved: April 2, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 14, 1984. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Mary Thonen; and Paul Hammack. John Ribble arrived at 11:30 A.M.

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

The Board took up an after-agenda item since all interested parties were present. An appeal application had been filed regarding the extension of building permit no. 82-9-OB-0770. The appeal was filed on behalf of Arlene A. Stephens who was represented by Richard Hobson, an attorney. Karen Harwood, Assistant County Attorney and Philip Yates, the Zoning Administrator, presented the facts on the appeal. It was Mr. Yates judgment, as presented in his memo to the BZA dated February 7, 1984, that the appeal was not timely filed. He felt that the appellant was aware of the decision to grant the Building Permit extension at an earlier date, and she was aware of building activity taking place on the site in furtherence of the permit. Following discussion of the issue, it was the determination of the BZA that the subject appeal was not timely filed. The motion was made by Mr. Hammack and seconded by Mr. DiGiulian. The motion passed by a vote of 6 - 0. (Mr. Ribble was absent).

Page 319, February 14, 1984, Scheduled 10:00 A.M. case heard at 10:35 A.M.:

10:00 A.M. HOME SATELLITE, INC., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that the location of a dish antenna on subject property is not regulated by provisions of Par. 5 of Sect. 10-104 of the Zoning Ordinance, but is instead regulated by, and in violation of, the provisions of Par. 11 of Sect. 10-104 of the Zoning Ordinance, located 1503 Laburnum St., R-2, Dranesville Dist., 31-4((8))7, A 83-D-010.

At the applicant's request, the Board deferred the subject appeal to March 13, 1984 at 11:30 A.M.

Page 319, February 14, 1984, Scheduled 10:30 A.M. case heard at 10:45 A.M.:

10:30 A.M. HARVESTER PRESBYTERIAN CHURCH, P.C.A., appl. under Sect. 3-303 of the Ord. for a church and related facilities, located 7836 Rolling Rd., R-3, Springfield Dist., 98-2((1))6, 4.01 ac., SP 83-S-102. (OUT-OF-TURN HEARING GRANTED 12/6/83)

Mary Burton presented the staff report. Mr. Hammack questioned development condition number 11 regarding soils conditions on the northwest corner of the site. He felt that this was a constraint that was not appropriate, because the plat clearly showed that the church was located on the southern portion of the lot. Ms. Burton stated that the applicant could possibly address this issue, which had been brought up by the Environment and Policy Division. She stated that the staff had no problem with deleting the entire paragraph except the last sentence.

Ron Boneau, Chairman of the building commission for the church, presented the facts for the application. He stated that the church had been in existence since 1975. There were eight Civic Associations in the area that the church had been consulting with to discuss any concerns they might have. Mr. Boneau stated that the church agreed with all the development conditions except condition number 11. He felt that the last sentence should also be removed because the church was located 165 feet from the street line, and the condition stated that the building should be located 150 feet from the street line.

Eva Morris, 7900 Rolling Road, Springfield, spoke regarding the application. She stated that her home directly faced the entrance driveway to the church. She wanted substantial screening to protect her privacy and shield her home from vehicle headlights.

There was no one else to speak regarding the application.

Page 319, February 14, 1984 Board of Zoning Appeals
HARVESTER PRESBYTERIAN CHURCH

R E S O L U T I O N

In Application No. SP 83-S-102 by HARVESTER PRESBYTERIAN CHURCH, P.C.A. under Section 3-303 of the Zoning Ordinance for a church and related facilities, on property located at 7836 Rolling Road, tax map reference 98-2((1))6, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 14, 1984; 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 4.01 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Development of this property shall be in accordance with all conditions of PCA 79-S-018-1.
6. Transitional Screening 1 shall be provided along the northern and southern lot lines. Transitional screening shall be waived along the eastern lot line. The barrier requirement shall be waived along the eastern and western lot lines.
7. Interior parking lot landscaping shall be provided in accordance with Article 13.
8. The maximum seating capacity of the church shall not exceed four hundred (400).
9. A minimum of 102 parking spaces shall be provided.
10. The parking lot lights shall not exceed 12 feet in height and shall be shielded to direct light onto the parking lot and not on the adjacent residential properties.
11. The building shall be located at least 150 feet from centerline of Rolling Road.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion. The motion passed by a vote of 6 - 0 (Mr. Ribble being absent)

Page 320, February 14, 1984, Scheduled 10:45 A.M. case heard at 11:20 A.M.:

10:45 A.M. RICHARD L. PARKS, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing screened porch 9.68 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 2414 Drexel St., Stonewall Manor, R-3, Providence Dist., 39-3((16))200, 10,993 sq. ft., VC 83-P-192.

Mary Burton presented the staff report. Richard Parks presented the facts for his application. He stated that he had owned the house for nineteen years. He wanted to enclose his existing screen porch to increase the living space. He did not plan to enlarge the porch, just enclose it.

There was no one to speak in support or opposition.

RESOLUTION

In Application No. VC-83-P-192 by RICHARD L. PARKS under Section 18-401 of the Zoning Ordinance to allow enclosure of existing screened porch 9.68 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 2414 Drexel Street, tax map reference 39-3((16))200, 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 14, 1984; 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 10,993 sq. ft.
4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property has an extraordinary situation or condition of the subject property.
   B. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion. The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Ribble being absent)

Page 321, February 14, 1984, Scheduled 11:00 A.M. case heard at 11:25 A.M.:

11:00 A.M. WILLIAM D. & CHERYL A. BYRON, appl. under Sect. 18-401 of the Ord. to allow construction of a sunroom addition to dwelling to 21.3 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), located 10033 Garrett St., Glencannon Subd., R-1(C), Centreville Dist., 37-2((15))32, 26,592 sq. ft., VC 83-C-193.

Mary Burton reviewed the staff report. Cheryl Byron presented the facts for her application. She stated that the unusual shape of the lot necessitated placement of the house such as to leave a very shallow backyard. The only location for a ground level sunroom was at the proposed location, due to a sloping yard. Only a corner portion of the sunroom required a variance.

There was no one to speak in support or opposition.

RESOLUTION

In Application No. VC 83-C-193 by WILLIAM D. & CHERYL A. BYRON under Section 18-401 of the Zoning Ordinance to allow construction of a sunroom addition to dwelling to 21.3 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), on property located at 10033 Garrett Street, tax map reference 37-2((15))32, County of Fairfax, Virginia, Mrs. 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 14, 1984; 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 26,592 sq. ft.
4. The Board has reviewed the plat which shows the lot has an unusual configuration. The applicants have stated that their lot is the exception to the rule and they would be the only ones in the neighborhood prevented from building this structure. Only the rear portion of the structure needs a variance. I cannot see that this is any detriment to the neighborhood or the environment. It adds to the pleasure and enjoyment of the home.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion. The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Ribble being absent)

Page 322, February 14, 1984, Scheduled 11:15 A.M. case heard at 11:30 A.M.:

11:15 A.M. MARSHALL E. & DEBRA S. FLAX, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing patio into a sun porch 21.1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-C07), located 11005 Highridge St., Ardmore Woods, R-C, Springfield Dist., 87-1((5))8, 20,518 sq. ft., VC 83-S-194.

Mary Burton reviewed the staff report for the Board. Marshall Flax presented the facts for his application. He stated that the deck had been constructed with the house in October of 1977. He wanted to partially enclose the existing deck with a glass and screen porch addition. Mr. Flax indicated that he did not plan to enlarge the deck. Due to the unusual configuration of the lot, the house had been placed to the rear of the property. The deck was surrounded by dense vegetation and secluded from the neighbors. The rear boundary of the property was adjacent to a Prince William Power easement containing an unsightly above-ground power line.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC-83-S-194 by MARSHALL E. & DEBRA S. FLAX under Section 18-401 of the Zoning Ordinance to allow enclosure of existing patio into a sun porch 21.1 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-C07), on property located at 11005 Highridge Street, tax map reference 87-1((5))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 February 14, 1984; 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-C.
3. The area of the lot is 20,518 sq. ft.
4. A review of the plat and testimony from the applicant shows they plan to enclose a porch on the back in the rear of the property. The contiguous property to the rear of the applicants property which would be most directly affected is approximately 11 to 13 acres. There is substantial screening in the rear of the property, and the view to the contiguous property is partially obscured by the screening. There are no objections from any abutting property owners, The request for a variance is minimal in nature.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion. The motion passed by a vote of 6 - 1 (Mr. Smith)

Page 323, February 14, 1984, Scheduled 11:30 A.M. case heard at 12:40 P.M.:

11:30 A.M. MICHAEL L. FERIS, appl. under Sect. 18-401 of the Ord. to allow construction of solarium addition to dwelling to 17.4 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 5308 Dunleigh Ct., Dunleigh Subd., R-3(C), Annandale Dist., 69-4((14))23A, 10,311 sq. ft., VC 83-A-195.

Mary Burton reviewed the staff report for the Board. Michael Feris, the applicant, stated that his lot was wedge-shaped and abutted heavily wooded common ground. He stated that the construction of the solarium would substantially reduce a standing water problem created by the ineffective grading of the rear yard by the developer.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC-83-A-195 by MICHAEL L. FERIS under Section 18-401 of the Zoning Ordinance to allow construction of solarium addition to dwelling to 17.4 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 5308 Dunleigh Court, tax map reference 69-4((14))23A, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 14, 1984; 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 10,311 sq. ft.

4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
A. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
B. That the subject property had exceptional topographic conditions.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion. The motion passed by a vote of 6 - 1 (Mr. Smith)

//The Board convened for lunch at 11:50 A.M. and returned at 1:00 P.M. to take up the scheduled agenda. Mrs. Thonen did not return from lunch immediately, and was not present for the scheduled 1:00 P.M. case.

Page 324, February 14, 1984, Scheduled 1:00 P.M. case heard at 1:00 P.M.:

1:00 P.M. VALENTINE A. FETISOFF, appl. under Sect. 18-401 of the Ord. to allow construction of two-story garage and living space addition to dwelling to 6.7 ft. from side lot line such that side yards total 20.7 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 4819 Ponderosa Dr., Canterbury Woods Subd., R-3(C), Annandale Dist., 70-1((10))277, 16,124 sq. ft., VC 83-A-196.

Mary Burton reviewed the staff report for the Board. Mr. Fetisoff presented his application. He stated that he wanted to provide living space for his elderly father and mother-in-law. His next door neighbor had constructed a similar addition, and he was using the same plans. Mr. Fetisoff stated that his lot was long and narrow.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC-83-A-196 by VALENTINE A. FETISOFF under Section 18-401 of the Zoning Ordinance to allow construction of two-story garage and living space addition to dwelling to 6.7 ft. from side lot line such that side yards total 20.7 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), on property located at 4819 Ponderosa Drive, tax map reference 70-1((10))277, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 14, 1984; 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 16,124 sq. ft.
4. This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
A. That the subject property has exceptional topographic conditions.

B. That the subject property has an extraordinary situation or condition of the subject property.
C. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion. The motion passed by a vote of 5 - 1 (Mr. Smith) (Mrs. Thonen being absent)

Page 325, February 14, 1984, Scheduled 1:15 P.M. case heard at 1:15 P.M.:

1:15 P.M. ADVANCED MOBILE PHONE SERVICE, INC., appl. under Sect. 18-401 of the Ord. to allow telecommunication facilities with gravel driveway and parking (dustless surface req. by Sect. 11-102), located 9325 Leesburg Pk., R-1, Dranesville Dist., 19-4((1))pt. 60, 22,689 sq. ft., VC 83-D-205.

The Board was in receipt of a letter from the applicant requesting a deferral of the variance request. It was the consensus of the Board to defer the application to April 10, 1984 at 10:45 A.M. Ruth Lazarowitz, a member of the Cinnamon Creek Citizens Association, 1513 Gingerwood Ct., was present at the hearing to express her opposition.

//Philip Yates and Jane Gwinn had a long discussion with the Board members regarding the dustless surface issues and the proposed Zoning Ordinance amendment to be considered by the Board of Supervisors.

Page 325, February 14, 1984, Scheduled 1:30 P.M. case heard at 2:00 P.M.:

1:30 P.M. HAPPY KID PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow child care center on a lot having width of 140 f. (150 ft. min. lot width req. by Sect. 3-107), located 6100 O'Day dr., Center Heights Subd., R-1, Springfield Dist., 54-3((2))30, 1.5106 ac., VC 83-S-206.

It was the consensus of the Board to defer the hearing on the variance application in order to have it heard concurrent with SE 83-S-105. The variance application was deferred to April 10, 1984 at 11:00 A.M. The applicant was instructed to send out notification letters to adjacent property owners regarding the variance hearing.

Page 325, February 14, 1984, Scheduled 1:45 P.M. case heard at 2:05 P.M.:

1:45 P.M. PENDER UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. for building and parking lot additions to existing church and related facilities, located 12500 Lee-Jackson Hwy., R-1, Centreville Dist., 45-4((1))8, 5.0 acres, SP 83-C-068. (DEFERRED FROM NOVEMBER 15, 1983 AT THE REQUEST OF THE APPLICANT FOR ADDITIONAL TIME TO RESOLVE PROBLEMS WITH STAFF AND FROM JANUARY 17, 1984 AT THE REQUEST OF THE APPLICANT)

The Board was in receipt of a letter from the applicant asking for a deferral to allow them time to address staff concerns regarding transportation issues. It was the consensus of the Board to defer the application to February 28, 1984 at 1:00 P.M.

Page 326, February 14, 1984, AFTER AGENDA ITEMS:

THE CHRISTOPHER COMPANIES/S-81-L-082: The Board was in receipt of a request for an extension of the captioned special permit. It was the consensus of the Board to grant a six month extension, which resulted in a new expiration date of July 12, 1984.

//There being no further business, the Board adjourned at 2:15 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: March 26, 1985 Approved: April 2, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 21, 1984. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack; and John Ribble. Mrs. Mary Thonen was absent).

Chairman Smith opened the meeting at 8:10 P.M. and Mrs. Day led the prayer.

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

8:00 P.M. LAURENCE MITCHELL, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that debris landfill operations are permitted on the land area that was represented on the detailed operating plan approved on March 31, 1976, and that parcels 113-2((1))42, 58 & 59 are legitimate components of the landfill operated by Rainwater Concrete Company, Inc., located Old Colchester Rd., R-1, Mt. Vernon Dist., 113-2((1))42, 58 & 59, A 83-V-011.

Mr. Philip G. Yates, Zoning Administrator, presented the staff report. In addition, he showed the Board an aerial photograph taken in 1982 which showed the landfill area.

Mr. F. Lee Ruck, P. O. Box 5, Clifton, Va., an attorney, represented the appellant. He stated that the facts set forth in his statement and the Zoning Administrator's statement were basically the same. He indicated that the property concerned consisted of 4 parcels, lot 57, lot 59, lot 58 and lot 42. The appellant's property was located across the street from parcel 42. Mr. Ruck stated that lot 57 was originally used as a gravel extraction site and was ultimately converted into a landfill use and was used in that manner through the early 1970s. Mr. Rainwater purchased the property in the early 1970s and obtained ownership of the remaining three parcels in the early 1970s also. Mr. Ruck stated that there was not any landfilling operation taking place on any parcel other than parcel 57 at that time.

During that time, there was concern about landfilling. On September 8, 1975 after a public hearing, the Board of Supervisors amended the Zoning Ordinance for the County of Fairfax which indicated that hereinafter, no landfill shall be authorized or established except by conditional use. Originally, it was allowed by special permit but was amended to be allowed under a special exception use. For the first time, the Zoning Ordinance defined landfill and regulated it as a matter of land use control. Before that, it was a use by right in residential zones. Mr. Ruck stated that landfills were now only allowed by special exception use.

At the same time, the Board of Supervisors passed a Debris Landfill Ordinance. There were many landfills operating in the County so the Board of Supervisors gave it a grace period so as not to suddenly make the landfill operators illegal. The Board of Supervisors specified a period of ninety (90) days for the landfill operators to come in with their proposals for review by the County for a debris landfill permit.

Mr. Hyland questioned whether this amounted to a grandfathering of the existing landfills which the Board of Supervisors recognized were in existence and not in conformance without the special exception. Mr. Ruck agreed that it grandfathered the landfills for at least the period of time it took to keep them under the engineering control. Mr. Ruck stated that there was no question that landfilling on parcel 57 which existed before the Ordinance could exist there forever. There was a question as to what degree that same landfill could expand onto parcels of ground which were not operated as a landfill and were not recognized as landfill potential at the time of the Ordinance change.

Mr. Hyland stated that the landfill that was in existence when the Ordinance was amended was Part A. It had already been filled almost to capacity. Part B had not been filled yet. Mr. Hyland questioned if Part A & Part B were shown on the detailed operating plan as part of the landfill and whether it was part of the permit given by the County in 1976. Mr. Ruck responded that the answer was yes and no because there was an intermediate step. He stated that parcel 57 had a grading plan on it prior to the Ordinance which had been amended to included parcel 59 and parcel 58. At the time the Board of Supervisors acted, there was already a grading plan modification for three parcels which were in the County's possession and was approved as part of the potential, future expansion. Mr. Ruck stated that a strong argument could be made that this grandfathered or gave continuing permission for the two sites. But, as of September 8, 1975, the Board of Supervisors had specified that no additional landfilling could take place in Fairfax County without legislative approval. Parcel 42 was not included on any landfilling, grading plans or anything else submitted to the County until 1976. Mr. Ruck stated that no rights were conferred to allow parcel 42 to operate as an expansion.

Mr. Hyland inquired as to what was necessary to include lot 42 prior to the obtaining of the permit in 1976. He asked what Mr. Rainwater should have had or should have done to qualify parcel 42 under the grandfathering provision. Mr. Ruck stated that grandfathering as a concept did not come into Fairfax County until 1978. Before that, it was a legal vested right. Mr. Ruck stated that vested right, as a matter of state law, did not occur until either there was actual construction on site or until there had been a substantial

investment in a site plan process after some legislative discretion. Mr. Ruck stated that Mr. Rainwater did not have vested rights at that time unless he was physically commencing a landfill on parcel 42. Mr. Ruck stated that he understood Mr. Yates' position eight years later because the County had come up with a grandfather provision. He understood Mr. Yates' concern about maintaining a grandfathering issue and the fact that there was prior to the Ordinance amendment some plans in the possession of the County that would approve landfills for parcels 57 and 58. It did not include parcel 42 because it was not filed until January 1976. Mr. Ruck stated that the plans in the County's possession had been lost until just a few years ago when the files were reconstituted from the engineer's office that worked for Mr. Rainwater. Col. Smith of the County had examined the plans and indicated that he remembered reviewing the plans and gave approval. Mr. Ruck stated that there was no way for a County employee or citizen to go to the records to find out about the landfill during that time period.

Mr. Hyland inquired as to how Mr. Rainwater could have received the permit in 1976 for a landfill operation which included parcel 42 if the Board of Supervisors had required a year earlier that such an expansion of use would be controlled by special exception. He inquired if it was a mistake to do that. Mr. Ruck stated that it was a mistake on the part of the County officials concerned with land use. When it came to the Department of Environmental Management, there may or may not have been representations about zoning. Mr. Ruck stated that what the County should have required was that it be referred to the zoning office to see if it complied with the applicable land use controls on the property. On the copy provided by the County, there was not a notation that the permit had been given to the Zoning Administrator. In Mr. Ruck's opinion, when the plan came in showing landfilling on property which was not in use, vested, or grandfathered as of 1976, that that part of the permit should have been denied by the Zoning Administrator. Mr. Rainwater should have been told that the remainder had to go to the Board of Supervisors for a Special Exception. It would have given the citizens a right to come in and be heard on whether it was a good or bad idea to expand the landfill or to determine what conditions to apply to the use.

Mr. Hammack stated that in the Zoning Administrator's position, only 14.5 acres of the 24.37 acres which composed parcel 42 had been approved for landfill. Mr. Hammack stated that the law in 1975 required an operating plan be approved as well as a landfill plan. A letter to the BZA from Allen and Sylvia Rossow indicated that the approved operating plan specified that the natural forest on parcels 42 and 58 would provide the required buffer between the landfill and Old Colchester Road. Another letter from the Federation of Lorton Communities by Marcia Hanson stated that the operating plan called for undisturbed forest for screening but the forest had been cut last spring. Mr. Hammack inquired about the statements on the operating plan and whether it should influence the BZA's decision. Mr. Ruck stated that a number of people at the hearing would address different issues. He indicated that he did not feel it was applicable here and would not urge the BZA to take any action based directly on that.

Mr. Hammack indicated that Mr. Ruck had missed his point. In 1975, the Board of Supervisors had adopted an Ordinance that said a detailed operating plan had to accompany an application for the landfill license. He inquired if Mr. Rainwater had shown on the operating plan that this part of lot 42 was to remain a buffer as alleged in the letters from persons supporting the appellant's position. Mr. Hammack stated that the problem the BZA had was that they had not been given the original operating plan as part of the documents in the appeal. They had been told about it but it was not included in the package. Mr. Ruck stated that one of the problems was the language in the operating plan was not crystal clear as the County was accustomed to in 1984. Mr. Ruck quoted language, "Our operations are conducted roughly 50 to 60 vertical feet above neighboring properties and this elevation combined with undisturbed forest screens us from everyone." Mr. Ruck stated that the amount of undisturbed forest was not specified and it was subject to interpretation.

Mr. Hammack inquired if Mr. Ruck was aware of any plat showing what was now lot 42 covered with natural forest that the language might have applied to. He also inquired if lot 42 was covered in the original landfill plan or not. Mr. Ruck stated that the grading plan was such that it did not show what trees would be permitted to remain and would not be cleared. It was not a landscaping plan but essentially one of ultimate topographic contours. Mr. Ruck stated that Col. Smith and Mr. Cooper were present at the public hearing and might be able to inform the Board as to those issues.

Mr. Ruck stated that there were several legal points that these facts led up to. First, regardless of the interpretation of the County Ordinance, the primary obligation of the Zoning Administrator and the BZA was to ensure the appropriate enforcement of the law of zoning as it applied in Virginia. Section 15.1-492 of the State Code talked about vested right and the concept of non-conformity. It clearly indicated that the uses shall conform to the regulations whenever they were enlarging, reconstructing, or were structurally altered and that they may not be moved on the same lot or to another lot which was not properly zoned to permit the non-conforming use. Mr. Ruck stated that if Mr. Rainwater was relying on the fact that he was vested or grandfathered because of an earlier issue, then by State Code, he was vested and grandfathered into the property that he had the right to use because he was using it. If he was not using it, he could not come in and build it later.

Mr. Hyland inquired as to what if Mr. Rainwater had planned to expand his operation to include lot 42 when the Ordinance went into effect. Mr. Hyland indicated that it was the position of the Zoning Administrator that in 1975, a prior parcel owned by Mr. Rainwater was capable of being used as a landfill including lot 42. Mr. Ruck agreed that was Mr. Yates' interpretation. Mr. Ruck stated that in the same year the Ordinance was passed, there was another special exception use for adult book stores. He questioned whether Mr. Yates' interpretation would allow an expansion of an adult book store if the owner indicated that he had always intended to expand onto the commercial lot next door. Mr. Ruck informed the BZA that the County did not see any plan for expansion on lot 42 until after the Ordinance was passed. Mr. Ruck stated that the County did not approve it because they did not know of Mr. Rainwater's intentions.

Section 15.101 stated that any use existing prior to the effective date of the Ordinance (December 8, 1975) which was allowed within a particular zoning district as a special permit or a special exception was not a non-conforming use. However, any subsequent replacement, or enlargement of such use shall be subject to a special permit or special exception obtained in accordance with the provisions of the Ordinance. Mr. Ruck stated that there was not anything in the Ordinance more clearly on point than that statement. Mr. Ruck stated that if the Board of Supervisors had intended that anyone having a landfill could, as a result of a grandfather process, expand onto the next parcel and the next one, they would have been more explicit than the language used. What they did indicate was that there would not be any more unless they granted a special exception. On page 6 of the Zoning Administrator's opinion, Mr. Ruck stated that the land area approved for the landfill had not been enlarged from that represented on the plan that was approved in March 1976. By this admission, Mr. Ruck stated that the Zoning Administrator demonstrated the chink in the County's armor.

Mr. Ruck indicated that the Zoning Administrator had done everything he was supposed to because nothing came to him in 1976. DEM had done everything they were supposed to do in 1976 when they reviewed it from a technical point of view for an operating permit. Mr. Rainwater did whatever he did based upon the best advice he received in 1976. Mr. Ruck stated that what had happened was that the community had never had an opportunity to consider whether or not this was appropriate land use and what conditions should be considered by the Board of Supervisors.

Accordingly, Mr. Ruck asked the BZA to reverse the decision of the Zoning Administrator based on the BZA's views that a precise, unquestioned, clear reading of the Ordinances and intent of Fairfax County through its Board of Supervisors was that any landfill which was going to exist in Fairfax County which didn't exist before on a piece of property that was otherwise virgin territory as of December 8, 1975, before it was scarred and filled, that the public through its elected officials have an opportunity to consider it from a land use perspective.

Mr. DiGiulian questioned Mr. Ruck's testimony that the County had not been aware of parcel 42 until 1976. Mr. Ruck responded that the records indicated that the plans that were currently on file with the County before and at the time of the Ordinance was passed, did not include parcel 42. They indicated that there was activity going on parcel 57 and a grading plan which included parcels 58 and 59 as well, as being submitted to the County. The records also reflected that it was not until January 8, 1976, that there was a plan delivered to the County which for the first time showed the possibility of landfilling action occurring on parcel 42. That plan was not approved until March 1976. Mr. DiGiulian stated that the BZA did not have any plats and no one seemed able to come up with any plats. He questioned how it was known that there was not any work performed on parcel 42 until after December 1975. Mr. Ruck stated that there was testimony from the next door neighbors and even the aerial photograph indicated no activity on parcel 42. Mr. Ruck indicated that Mr. Rainwater might have stated that someday he was going to put a landfill on parcel 42, but saying so was not working on it. There was not any trenching, filling, denuding or any of the things which went along with the operation of a debris landfill. Mr. DiGiulian inquired if there had been any physical work performed on the property such as grading, or trees cut down or anything other than what the plans indicated. Mr. Ruck stated that Mr. Rainwater might be able to respond but every indication from Mr. Yates and from persons in DEM indicated that it had not occurred. If any had occurred, it would have been illegal because he did not have a grading plan for it.

Mr. Hyland stated that to sustain Mr. Ruck's position, the BZA would have to assume that the debris landfill permit was erroneously given for lot 42. Mr. Ruck responded that he was not certain of that because that permit did not confer land use ability. He stated that DEM had to sign off but the permit was inoperable unless it had the companion zoning signoff. Mr. Ruck stated that there was nothing wrong with the landfill permit based on the 1975 standards. However, Mr. Rainwater did not have the right to operate the landfill on property which was neither vested, grandfathered, or non-conforming without the expansion being authorized by the Board of Supervisors. Mr. Hyland stated that certainly the DEM approval was not kept to themselves because copies of the permit would go to all the affected departments. Mr. Ruck indicated that was not known. Mr. Hyland stated that

a copy of the 1976 permit went to the Zoning Office, County Attorney's Office, Director of Public Works, Director of Environmental Affairs, Director of Environmental Health, Director of Zoning Enforcement, etc. Mr. Ruck responded that there was not any map and he was not certain whether anyone actually reviewed it because there were not copies of any of the documents in the County's files which had to be reconstituted in terms of the graphic. Mr. Ruck pointed out that the Supreme Court had made it clear that even if there was an error, an error in an administrator could not run to preclude the rights of the public and the legislative in Virginia. Mr. Ruck stated that he could not say it was an error. By 1975 standards, the County did a good job. But something happened and this did not have land use permission.

Chairman Smith indicated that the only parcel under question was lot 42. He inquired as to how much land development had taken place on lot 42. Mr. Ruck responded that about half of parcel 42 had been cleared and the landfilling was on-going. Chairman Smith inquired as to when it first occurred. Mr. Ruck stated that it occurred late spring or early summer. The appeal was filed as timely as possible.

The following persons spoke in support of the appeal. Mrs. Doris Jean Stanford, 9509 4th Place in Lorton, VA. represented the citizens of Lorton, VA. She was concerned that the County had allowed the expansion of the landfill onto a parcel not previously used as a landfill without the benefit of a public hearing or the citizens' concerns. She indicated that with the expansion of the landfill 500 ft. closer to the residential area, there was not any buffer whatsoever. In response to questions from the Chairman as to when she had first noticed landfilling on parcel 42, Mrs. Stanford stated that 1 1/2 years when she visited Mr. Mitchell's house, she could not see the landfill. There was a dense buffer of screen on parcel 42 at that time. The buffer had been cleared and the landfill was within close proximity to Old Colchester Road. She stated that parcel 42 was an exposed ugly raw 60 ft. trash dump which was not covered. No trees had been planted, no cover had been established and no grass was planted. There was not any buffer or screening to buffer the neighborhood from the view, increased noise levels, or fly ash dust. She urged the Board to reverse the decision of the Zoning Administrator.

The next speaker in support of the appeal was Mr. Allen Rossow of 10025 Old Colchester Road. Mr. Rossow stated that he resided directly across from the landfill. When he moved into the area in 1942, the landfill was right at the northern boundary of parcel 42. The trees covered the entire area along Old Colchester Road screening the landfill from view. Mr. Rossow stated that the trees were completely cut down on Memorial Day. The trees to the east of the pipeline had not yet been disturbed. However, the landfill had steadily moved towards Old Colchester Road. Mr. Rossow stated that based on the logic of the Zoning Administrator, all of parcel 42 clear up to Gunston Road could be filled. Mr. Rossow stated that parcel 42 was not included in the 1972 grading plan and was not included in the 1975 plan.

Mr. Hammack questioned Mr. Rossow with respect to his letter regarding the buffer. Mr. Hammack inquired if Mr. Rossow had examined the document and how he viewed the language contained in that document. Mr. Rossow stated that the language was vague but there must have been a requirement to provide a buffer as the grading plan was written in words that didn't worry about screening because there was a natural forest. Mr. Hammack inquired as to how it was tied to parcel 42. Mr. Rossow stated that it only appeared on the operating plan and not the grading plan.

Mrs. Marcia Hanson of 9709 Hagel Circle in Lorton spoke in support of the appeal. She represented the Federation of Lorton Communities which represented 2,500 people. She read a statement into the record requesting that the decision of the Zoning Administrator be reversed and directing that the Zoning Administrator reclaim or replant parcel 42.

Mr. William Seaboldt of 9900 Gunston Road in Lorton also spoke in support of the appeal. He informed the Board that he had resided on parcel 36 for 30 years. He and several of his neighbors had been there before the landfill existed. The only buffer between their homes and the landfill were the trees on their own property.

During rebuttal, Mr. Yates stated that his position was set forth in the memorandum dated February 15, 1984. On page 4 of that document, he had set forth nine key points. Mr. Yates did not agree with Mr. Ruck's representation that the Board of Supervisors when adopting the Ordinances in 1975, had meant that no additional landfilling could take place in Fairfax County absent a special permit approval. Mr. Yates referred to his memorandum on page 1-2 regarding the pre-landfill Ordinance; specifically, the second sentence which indicated that, "Any person who is operating a legal, approved landfill on the effective date of this Ordinance shall have three months within which to apply for a debris landfill permit." Mr. Yates stated that the Board of Supervisors had made a clear distinction between an existing landfill and a landfill not yet established. According to Mr. Yates, the Ordinance, Chapter 14-A, was adopted in tandem with the provisions to the Zoning Ordinance.

Mr. Hyland questioned what indication there was that lot 42 would be part of the landfill if the County had nothing in its possession. Mr. Yates stated that the County had no indication at that point. Mr. Hyland inquired if that was not an expansion but Mr. Yates stated it was not in his opinion. Mr. Hyland indicated that Mr. Ruck's opinion was well taken. If Mr. Rainwater had owned 1,000 acres or more in 1975 when the Ordinance went into effect but was only using 20 acres for the landfill, the Zoning Administrator would say that he could continue to landfill on the 1,000 acres which was absurd. Mr. Yates rebutted that he did not represent that position at all.

Mr. Yates stated that the County did, as set forth in the 1976 plan, allow for a reasonable, nominal expansion and rounding out of the landfill that had been previously approved. Mr. Hyland inquired as to the rules for the reasonable expansion of a landfill that was in operation in 1975 and was confined to a small portion of the property. He asked what expansion would be allowed thereafter after the adoption of the Ordinance in 1975. Mr. Hyland inquired as to the guidelines. Mr. Hyland stated that a landfill should be able to continue in operation reasonably within what it was committed to in its landfill operation. Parcel 42 was not part of the landfill operation. Mr. Yates questioned Mr. Hyland as to what if the landfill had been all part of the same parcel. According to Mr. Yates, to follow Mr. Ruck's logic, not another piece of dirt could have been entered into any landfill in Fairfax County unless it was put on a pre-existing piece of dirt. Mr. Yates stated that he could not conclude that was where the Board of Supervisors drew its line when defining the existing landfills.

Mr. Hyland inquired if a landfill operation could double in scope on its existing property after 1975. He asked if that was consistent with the Board's Ordinance. Mr. Yates replied that it was a judgment call but he felt a doubling in size would not have been approved. Mr. Hyland inquired as to how much was okay and how much wasn't. Mr. Yates stated that there were not any guidelines. Mr. Hyland inquired if there had been any discussion when the Board of Supervisors passed the Ordinance about how much more a landfill could expand or whether they should be limited to their present operation. Mr. Yates replied that there was not any discussion. He indicated that he reviewed the verbatim transcripts on both the hearings and minutes of several meetings that had transpired. There was not any discussion along those lines that would help define what an existing landfill was or how large it might grow or what would be a reasonable expansion. He stated that it was accepted from day one that in this instance in both the adoption of Chapter 14A and in the Zoning Ordinance, the Board of Supervisors made a specific reference in exception of existing landfills. Now, the question was what was the definition or the intended definition of an existing landfill.

Mr. Hyland inquired as to what the Board of Supervisors meant when it indicated that it would recognize existing landfills at that time. He asked whether it meant they would be confined to the area that they were filling or reasonably contemplating filling and also include another 50% of land area that had not been started to fill. Mr. Yates indicated that was an unanswered question by the Ordinance.

Mr. Hammack referred to Section 14A-4 which stated: "No debris landfill permit shall be issued by the Director until he was satisfied that the applicant had met land use requirements and design requirements or that the applicant had a legally established landfill operation in existence on the effective date of the Ordinance. Mr. Hammack stated that there seemed to be an exception written in Section 14A-4. He questioned whether it would be Mr. Yates' position that any existing landfill operation would not have to conform to the other requirements of 14A, such as 14A-5, that required a detailed operating plan be filed. If so, why was a detailed operating plan filed? Mr. Hammack stated that it seemed to him that if Mr. Rainwater had submitted an operating plan which showed screening, why would the County have any reason to question whether he was going to include lot 42 in his landfill operation. Mr. Hammack inquired if Mr. Rainwater would have waived any exemption he had under the Ordinance if he showed parts of the site to be used for different uses. Mr. Hammack questioned whether that would waive any grandfathered or vested rights concerning that part of the property.

Mr. Yates agreed with Mr. Hammack's position but parcel 42 was not represented on any previous plan. A copy of the approved grading plan in 1975 did not show any representation at all for parcel 42. There were not any notes that parcel 42 would forever remain in trees or be a buffer. Mr. Yates indicated that it was not part of the grading plan approved in 1975.

Mr. Hyland inquired why that fact did not militate against Mr. Yates' position. If the grading plan excluded parcel 42, Mr. Hyland stated that he could argue that at the time the County passed the Ordinance, they had the right to rely upon that representation that parcel 42 was not included in the grading plan so the landfill only concerned the remainder of the property. Mr. Yates questioned why then the Board of Supervisors, as part of the approval in Section 14-A, gave existing landfills ninety days to submit their detailed plan. He asked why they had not just referred to the last plan that had approved by the County. Mr. Yates stated that before, the County had never required a detailed ultimate plan. It had been a year by year grading plan. If the Ordinance had not been

adopted in 1975 and the requirement for the detailed comprehensive operating plan been a part of that Ordinance, that very conceivably in 1976 in his annual update of his grading plan requirement, Mr. Rainwater would have encompassed parcel 42. But when the County adopted the Ordinance in 1975, it asked for the ultimate plan. Mr. Yates stated that was when parcel 42 was logically included by Mr. Rainwater.

Mr. Hyland questioned whether it was fair to say that the inclusion of parcel 42 in the 1976 application for the debris landfill permit was an expansion of the existing use to the extent that the County had no knowledge previously that parcel 42 was being used in the landfill operation. And, if so, then how do you deal with the language in Section 14A-4 which suggested that the landfill permit could only be issued if the applicant had satisfied the land use requirements. Mr. Yates replied that it also included language which stated, "or that the applicant had a legally established landfill operation in existence."

Mr. Hyland stated that he could reasonably take the position that it did not include parcel 42, particularly if the grading plan in 1975 showed it was not part of the landfill. He stated that he was trying to define what was being talked about when using the language, "legally, established landfill operation". Mr. Hyland asked whether there was a limit in 1975 to how far a landfill could go. If there was no limit, Mr. Hyland indicated that he would have to agree with Mr. Yates. If there was a limit, then he had to disagree with him. Mr. Hyland stated that he had to disagree with Mr. Yates' position if the reasonableness factor applied. Mr. Hyland inquired if the County of Fairfax had any right concerning a legally, existing landfill operation to restrict how far that operator could go concerning the landfilling, in terms of property he or she owned, that they had in 1975 when the Ordinance was passed. Mr. Hyland inquired if it could be controlled at all or whether they could go right to the boundary.

Mr. Yates stated that they could not go beyond that area which was represented on the plan approved in 1976 which was a requirement of the 1975 Ordinance. He stated that the landfill operators were not allowed to landfill any additional area beyond the scope of that which had been on the approved plan in 1976.

Mr. Hyland inquired as to whether the criteria for granting the permit had been the total amount of acreage owned. Mr. Yates responded that it referred back to reasonable use. The 1975 approved plan showed the landfill operation meandering around parcel 42. Mr. Rainwater was proposing in 1975 and had an approved plan to landfill and meander around parcel 42. Mr. Rainwater had owned parcel 42 since 1973. According to Mr. Yates, when Mr. Rainwater came in with his 1976 plan, he simply rounded out the slope on the western half of parcel 42 which was a reasonable expansion.

In response to questions from the Board concerning what was submitted by Mr. Rainwater in accordance with Section 18A-5, Mr. Yates stated that he was not in a position to say because he had not reviewed the plan as it was not germane to the appeal. There were officials from DEM who could respond to questions on the detailed operating plan.

Col. William Smith of the Department of Environmental Management informed the Board that Mr. Rainwater had submitted an operating plan which was the first one received by the County. There were not any items to compare it with according to Col. Smith. He stated that the initial plan submission in January had been sent back to Mr. Rainwater's engineer for some revision. The final plan was approved in March. Mr. Hammack inquired if the plan showed any screening which would have precluded the expansion. Col. Smith stated that he did not recall.

Mr. Jack Connor, an attorney in Fairfax, of P. O. Box 368, in Fairfax, represented Mr. Rainwater. He stated that his client was not a party to the proceeding before the BZA. For the record, however, they reserved the right to make objections to any of the matters of the appellant. Mr. Connor presented the Board with a copy of the operating plan which had been submitted to the County on January 8, 1976. Mr.Connor stated that there had been questions concerning whether any work was done on parcel 42 prior to 1975. He stated that there was no physical work done on the site. However, since it had been purchased in 1973, it had always been a part of the plan for the Rainwater Landfill. He submitted an engineering drawing for the record dated October 1974 which showed the overall operating plan. He pointed out that the word "expansion" had been used throughout the operating plan. However, legally, parcel 42 was not an expansion of the non-conforming use. The character of the use remained the same. The vested right existed long before the matter in question and long before Mr. Mitchell purchased his house. Mr. Conner stated that Mr. Rainwater had the absolute right to operate a landfill including all of the parcels as identified by Mr. Yates.

Mr. Connor presented the Board with a copy of a memorandum dated January 17, 1984 from the County Executive regarding the landfill. It was an extensive document on the operating plan, the limits of it, and how it had been approved. Mr. Connor stated that Mr. Rainwater had met every requirement.

Mr. Hyland inquired whether the composite grading plan prepared in 1974 was ever given to the County prior to the implementation of the Ordinance in 1975 or whether it was given in 1976 when the debris landfill permit was requested. Mr. Connor stated that it was not required prior to 1976 and had never been given to the County.

Mr. Connor stated that Mr. Yates was correct in his analysis of the Ordinance and the entire analysis of the issues before the Board. The landfill was vested long before the Ordinance ever came into effect. The Ordinance had certain requirements and Mr. Rainwater met every one of those requirements.

Mr. Gerry Walker of 10618 Green Drive in Lorton informed the Board that he had lived in Lorton since 1967, prior to the landfill and prior to Mr. Mitchell and Mr. Rossow moving in. Mr. Walker stated that he was unaware of any such Federation of Lorton Communities. He stated that on Saturday, he had met with seven people representing different areas of Lorton. All agreed that the only issue to take regarding the appeal was the aesthetics because this was a legal issue. As far as aesthetics, he stated that Mr. Rainwater had tried to construct a berm to shield the landfill from Old Colchester Road and was stopped by Mr. Mitchell. Mr. Rainwater promised to plant evergreens by April.

Mr. Mike Melburg of 10013 Richmond Highway informed the Board that Mr. Rainwater was very cooperative with the community and had responded quickly to any problems of the community.

During rebuttal, Mr. Ruck stated that he had not indicated that there could not be any expansion. There was a whole series of case law issues which indicated how an expansion or how growth of non-conforming uses could occur. But the statutes indicated that it could not occur over property boundaries. The Ordinance itself indicated that when it was brought into a special exception use, it could not be expanded. Mr. Yates had indicated that doubling was not all right. Mr. Ruck stated that the landfill had more than doubled since 1975 and he was trying to expand even more. Mr. Ruck stated that Mr. Rainwater could landfill out to the boundaries of the original parcel without any problem with state or county codes. Mr. Ruck stated that it was unreasonable to assume that the non-conforming use could expand onto other parcels.

After the close of the public hearing, Mr. Hammack stated that he felt the present Ordinance limited the enlargement of existing non-conforming uses. The fact that lot 42 was not included in the original application was a controlling factual issue. Mr. Hammack indicated that Mr. Yates might be right that a landfill was not a static use but that only a reasonable expansion or an expansion on the existing property which was in use as a landfill at the time the Ordinance was adopted should have been the criteria applied. Mr. Hammack felt that an expansion of 16% was a fairly substantial increase and should have gone before the County Board for a hearing as opposed to being allowed to expand because of rather uncertain criteria in the hearing record of 1975. There was no testimony that the Board of Supervisors had ever intended to allow reasonable use. Mr. Hammack stated that he felt Mr. Rainwater had some kind of a vested right or a grandfathered right with respect to the property he was using but did not think that could be extended to the other properties even if he owned them. Accordingly, Mr. Hammack moved that the Board of Zoning Appeals reverse the decision of the Zoning Administrator.

Mrs. Day seconded the motion. During discussion, Mr. DiGiulian stated that he was going to oppose the motion. He felt that when the Board of Supervisors adopted the Section 14-A of the Ordinance, they set forth an easy criteria as to what a debris landfill operation had to do to get a debris landfill permit. Mr. DiGiulian felt that Mr. Rainwater had complied with that requirement in 1976 and every year since then.

Chairman Smith agreed with the Zoning Administrator's interpretation. There was not any evidence presented that there was not a debris landfill in operation in 1975. The operator had complied with all of the requirements of Chapter 14-A that were adopted in December 1975.

A vote was called on the motion to reverse the decision of the Zoning Administrator. Messrs. Hammack, Hyland and Mrs. Day voted aye with Chairman Smith and Mr. DiGiulian voting no. The vote on the motion to reverse the decision of the Zoning Administrator failed for a lack of a vote of four. Accordingly, the Zoning Administrator's position was upheld.

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Page 334, February 21, 1984, Scheduled case of

8:30 P.M. HUNTER DEVELOPMENT COMPANY OF FAIRFAX, INC., appl. under Sect. 3-503 of the Ord. for community recreation facilities, including swimming pool, bathhouse and two (2) tennis courts, Little Rocky Run Subd., R-5, Springfield Dist., 54-4((1))pt. of 97 and pt. of 96, 4.0 acres, SP 83-S-094.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. Mr. Robert Lawrence, an attorney in Fairfax, located at 4040 University Drive, represented the applicant. He indicated that they had no problem with sixteen of the seventeen development conditions. Mr. Lawrence asked for relief with respect to the screening in condition no. 5. Mr. Lawrence asked that the matter of screening be deferred until such time as the Director of the Department of Environmental Management (DEM) reviewed the site and the landscaping plan to determine if plantings were necessary.

Mr. Shoup stated that staff felt it was necessary to have screening along the front because of the townhouses across Little Rocky Run Circle. He indicated that to leave the matter to the discretion of the Director of DEM made the staff input useless. After reviewing the landscaping plan, Mr. Shoup stated that the plan appeared to provide good screening. He indicated that if the plan was acceptable to the BZA, that staff would recommend screening along the frontage as indicated on the plan. If the Director of DEM wanted supplemental plantings for Transitional Screening I, then it should be mandatory.

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

Page 334, February 21, 1984 Board of Zoning Appeals
HUNTER DEVELOPMENT COMPANY OF FAIRFAX, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 83-S-094 by HUNTER DEVELOPMENT COMPANY OF FAIRFAX, INC. under Section 3-503 of the Zoning Ordinance to permit community recreation facilities, including swimming pool, bathhouse and two (2) tennis courts, on property located at tax map reference 54-4((1))pt. of 97 & pt. of 96, 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 21, 1984; 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-5.
3. The area of the lot is 4.0 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant. However, at such time as the facilities are conveyed to the homeowners association, this approval shall transfer to the association. This approval is granted for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions of Article 17, Site Plans.

RESOLUTION

5. Transitional Screening shall be provided as follows:
   - o There shall be a limit of clearing as shown on the approved plat. Where necessary, supplemental evergreen plantings shall be provided so that the resultant screening will be equivalent to the plantings required in Transitional Screening 1 as determined by the Director, Department of Environmental Management (DEM).
   - o In accordance with the landscaping plan submitted this date, landscaping and screening shall be provided along the northern boundary of the site. Supplemental transitional planting may be required by the Director of Environmental Management.
   - o Those areas designated as being within the limits of clearing shall not be cleared of vegetation and shall be preserved as undisturbed open space, except that necessary utility work may be permitted.

6. The barrier requirement may be waived provided the facilities are fenced as shown on the approved plat.

7. Interior parking lot landscaping shall be provided in accordance with Article 13.

8. A detailed engineering study shall be provided to DEM prior to site plan approval to ensure that the pool will not be subjected to subsoil instability. If necessary, hydrostatic relief valves shall be installed during construction of the pool.

9. The Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during draining or clearing operations so that pool waters can be adequately treated.

10. The tennis courts shall have no artificial lighting. Lighting for the pool shall be in accordance with the following:
   - o The combined height of the light standards and fixtures shall not exceed twenty (20) feet.
   - o The lights shall be a low-intensity design which directs the light directly onto the facility.
   - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the pool area.

11. The maximum hours of operation for the swimming pool shall be 10:00 A.M. to 9:00 P.M., Monday through Friday and 8:00 A.M. to 9:00 P.M. on weekends and holidays. The maximum hours of operation for the tennis courts shall be 8:00 A.M. until dark.

12. After-hour parties for the swimming pool shall be governed by the following:
   - o Limited to six (6) per season.
   - o Limited to Friday, Saturday and pre-holiday evenings.
   - o Shall not extend beyond 12:00 midnight.
   - o Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
   - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after hour party.

13. There shall be 52 parking spaces provided.

14. If parking lot lights are to be provided, they shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.

15. Pedestrian trails and sidewalks shall be provided along Clay Spur Road and Little Rocky Run Circle.

16. A bicycle rack shall be installed near the bathhouse.

17. This use shall be subject to the provisions of the Water Supply Protection Overlay District.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Ribble and Mrs. Thonen being absent).

8:45 P.M. NEW VISTA SCHOOLS, INC., appl. under Sect. 6-303 of the Ord. for a child care center, 11130-D South Lakes Dr., Reston PRC, Centreville Dist., 27-1((9))2A, 9.9859 acres, SP 83-C-095.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. Mr. David Capellit of 1083 Wisconsin Avenue in Washington, D.C. informed the Board that they had worked with County and had no conflict with the proposal and urged the Board to approve the special permit. Mr. James F. Sauer of 1806 Susquehanna Drive informed the Board that he was the owner of two day care centers. He and his wife had been operating for 5 1/2 years.

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

NEW VISTA SCHOOLS, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 83-C-095 by NEW VISTA SCHOOLS, INC. under Section 6-303 of the Zoning Ordinance to permit child care center, on property located at 11130 C South Lakes Drive, tax map reference 27-1((9))2A., County of Fairfax, Virginia, Mrs. 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 21, 1984; 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 PRC.
3. The area of the lot is 9.9859 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions of Article 17, Site Plans.
5. The number of children at the facility at any one time shall not exceed sixty (60).
6. The size and location of the play area shall be as shown on the approved plat. The required play area fencing shall be solid wood, acoustical fencing.
7. The number of children using the play area at any one time shall not exceed fourteen (14).
8. The maximum hours of operation shall be from 6:30 A.M. until the normal closing hour for other uses within the shopping center.
9. Building-mounted signs shall be permitted in accordance with Article 12 of the Zoning Ordinance.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

RESOLUTION

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Ribble and Mrs. Thonen being absent).

Page 337, February 21, 1984, After Agenda Items

WILLIAM R. & LISA T. COOKE, VC 84-M-015: The Board was in receipt of a request for an out-of-turn hearing on their variance application to allow construction of addition to dwelling to 12.1 ft. from a street and 10.7 ft. from side lot line. It was the consensus of the Board to grant the request and schedule the hearing for April 3, 1984.

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There being no further business, the Board adjourned at 10:55 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 March 26, 1985 APPROVED: April 2, 1985

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 28, 1984. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack and John Ribble. Mary Thonen was absent.

The Chairman opened the meeting at 10:07 A.M. and Mrs. Day led the prayer.

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

10:00 A.M. CORT FURNITURE RENTAL CORPORATION, appl. under SEct. 18-301 of the Ord. to appeal Zoning Administrator's determination that appellant's proposed furniture rental office/showroom is most similar to a retail sales establishment, which use is not permitted in the C-3 District, located 8320 Old Courthouse Rd., C-3, Centreville Dist., 29-3((1))30A & 30C, 381,201 sq. ft., A 83-C-012.

Philip Yates stated that there was no particular parcel that was the subject of the appeal, and it would apply in any area. Richard Hausler, 4084 University Drive, Fairfax, represented the appellant. He stated that the business was renting home and office furniture to individuals and businesses throughout the metropolitan area. The customers came into the showroom and selected the furniture, which was on display. It was then delivered from a warehouse in Landover, Maryland. Mr. Hauseler stated that under no circumstances did the customers take furniture with them.

Mr. Hyland questioned the fact that there was a purchase option in the rental agreement, and asked what impact that had. He felt that it brought the use closer to a retail sales establishment. Mr. Hauseler stated that this option was applied in only about three percent of the contracts.

Mr. Yates stated that many uses were not specifically listed in the Zoning Ordinance. Therefore, based on all the information he had received from the appellant, it was his position that an establishment for the rental of all types of furniture which includes a showroom has characteristics most similar to a retail sales establishment. Mr. Yates' statements and supporting attachments summarizing the background information on the appeal were presented to the Board in a memo dated February 24, 1984.

Mr. Hammack made a motion that the Board overturn the Zoning Administrator's opinion. He felt that the definition of an office use allowed the conduct of a business by sales representatives on site. Also, the language in the statute did not limit it to outside sales activities. Testimony had been received that there was no sale or delivery of goods which were located on the premises. Mr. Hammack stated that there was nothing in the primary part of the retail sales establishment definition which dealt with leasing. Mr. Hyland seconded the motion for discussion. The motion failed by a vote of 1 - 5 (Messrs. Smith, Hyland, Ribble, DiGiulian and Mrs. Day) (Mrs. Thonen was absent)

Page 338, February 28, 1984, Scheduled 10:40 - 11:05 A.M. cases heard at 11:20 A.M.

10:40 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 Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 8,519 sq. ft, VC 83-D-197.

10:45 A.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 2 to 82.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 8,619 sq. ft, VC 83-D-198.

10:50 A.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 3 to 104.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 8,739 sq. ft, VC 83-D-199.

10:55 A.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 4 to 149.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 11,182 sq. ft, VC 83-D-200.

11:00 A.M. HOWARD BROCK & HOWARD BROCK, JR., appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 9 to 121.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))pts. 46 & 46A, 11,200 sq. ft, VC 83-D-201.

11:05 A.M. HOWARD BROCK, JR., appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 11 to 30.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))46, 12,571 sq. ft, VC 83-D-202.

Alex Laufer, 4900 Leesburg Pike, Alexandria, represented the applicants. He stated that he had just received the staff report in the mail the day before, and had not had enough time to review the development conditions. He asked that the cases be deferred. It was the consensus of the Board to defer the cases to March 27, 1984 at 2:30 P.M.

Page 339, February 28, 1984, Scheduled 11:10 A.M. case heard at 11:30 A.M.:

11:10 A.M. MR. & MRS. CHESTER PORANSKI, JR., appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 32.3 ft. from street line of a corner lot (35 ft. min. front yard req. by Sect. 3-207), located 6480 Gainer St., Sanpine Springs Subd., R-2, Mason Dist., 61-3((5))18, 18,837 sq. ft., VC 83-M-203.

Jane Kelsey reviewed the staff report for the Board. Martin Jarvis, Jr., 10808 Harley Road, Lorton, represented the applicants. He stated that the size of the proposed enlarged carport had been determined by the fact that a side entrance from the kitchen and a basement window well currently extended in the present carport. The variance was required because the house was located on a corner lot with two front yards.

There was no one to speak in support or opposition.

Page 339, February 28, 1984 Board of Zoning Appeals
MR. & MRS. CHESTER PORANSKI, JR.

R E S O L U T I O N

In Application No. VC-83-M-203 by MR. & MRS. CHESTER PORANSKI, JR. under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 32.3 ft. from street line of a corner lot (35 ft. min. front yard req. by Sect. 3-207), on property located at 6480 Gainer Street, tax map reference 61-3((5))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 February 28, 1984; 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 18,837 sq. ft.
4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property had exceptional narrowness at the time of the effective date of the Ordinance.
   B. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion. The motion passed by a vote of 5 - 1 (Mr. Smith) (Mrs. Thonen were absent)

Page 340, February 28, 1984, Scheduled 11:20 A.M. case heard at 11:45 A.M.:

11:20 A.M. CARLOS A. REYES, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow garage addition to dwelling to remain 5.2 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 3208 Spring Dr., Valley View Subd., R-2, Lee Dist., 92-2((19))78, 10,720 sq. ft., SP 83-L-096.

William Shoup reviewed the staff report for the Board. He stated that there were no records on file for either the garage addition or the retaining wall on which the roof of the garage was placed. The applicant had indicated that he had a lack of knowledge of the County requirements with regard to setbacks and permits.

Carlos Reyes presented the facts for his application. He stated that was not aware he needed permits to build. He had hired a contractor to help him construct the roof, and thought he would know about any requirements. The contractor was Harold Powers, D & P Landscape & Tree Services, 4703 Laurence Street, Alexandria. Mr. Reyes indicated that nothing was put in writing. The contractor had widened the driveway and told Mr. Reyes that a carport or a garage could be constructed. In payment, Mr. Reyes had traded a boat that he owned, and still owned the contractor one hundred dollars. After checking the County records, Mr. Reyes discovered that Mr. Powers did not have a business license in Fairfax County. Mr. Reyes indicated that one retaining wall existed when he purchased the house, and he had extended it. The contractor had built the seven foot high retaining wall on the left of the lot along the property line of lot 79.

The next door neighbor at 3212 Spring Drive, spoke in opposition. She stated that before the retaining wall was built there was a wooden fence along with a stream, bushes and trees. All the trees were cut down when the wall was constructed. She stated that the garage was an eyesore.

During rebuttal, Mr. Reyes stated that he built the wall to prevent the dirt from flowing over from the stream. He stated that he had talked to the neighbors before he built it. Mr. Reyes stated that he had instructed his contractor to plant trees after building the wall, but he had never returned to do it. Mr. Reyes indicated that he was out of the country when most of the work was done.

It was the consensus of the Board to subpoena the contractor to appear before the Board and explain his role in the construction of the retaining wall and the garage. The application was deferred to May 1, 1984 at 11:00 A.M.

//The Board recessed at 12:15 P.M. and returned at 12:20 P.M. to take up the scheduled agenda. Chairman Smith and John DiGiulian left the meeting. Gerald Hyland chaired the remainder of the meeting.

Page 340, February 28, 1984, Scheduled 11:30 A.M. case heard at 12:20 P.M.:

11:30 A.M. ANASTASIOS PELIKIDAS & SABAH SAMAHA, appl. under Sect. 18-401 of the Ord. to allow construction of building 31 ft. from front lot line and 1 ft. from rear lot line (40 ft. min. front yard and 20 ft. min. rear yard req. by Sect. 4-807), located 7308-7320 Little River Trnpk., C-8, Mason Dist., 71-1((4))1-7, 21,062 sq. ft., VC 83-M-176. (DEFERRED FROM 1/17/84 TO ALLOW APPLICANT TIME TO AMEND APPLICATION)

William Shoup reviewed the staff report for the Board. He stated that the applicant had received approval for the redevelopment of the property exactly as was proposed in this application. However, the applicant failed to begin construction and variance number V-81-A-103 had expired.

Mr. Strang, the applicant's cousin, presented the application. He stated that the site was bordered on two sides by Route 236 and Annandale Road. The depth of the lot had been reduced by the widening of Route 236 and the Annandale Road right-of-way to the east. This had converted the site into a corner lot. He stated that the lot was small and narrow. The off-site changes in the roads and the corner lot restrictions made the site virtually unbuildable without a variance.

There was no one to speak in support or opposition.

ANASTASIOS PELIKIDAS & SABAH SAMAHA

RESOLUTION

In Application No. VC-83-M-176 by ANASTASIOS PELIKIDAS & SABAH SAMAHA under Section 18-401 of the Zoning Ordinance to allow construction of building 31 ft. from front lot line and 1 ft. from rear lot line (40 ft. min. front yard and 20 ft. min. rear yard req. by Sect. 4-807), on property located at 7308-7320 Little River Turnpike, tax map reference 71-1((4))1-7, County of Fairfax, Virginia, Mrs. 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 28, 1984; 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 21,062 sq. ft.
4. That the applicant will remove the parking spaces by Annandale Road and relocate them to the rear of the property. The applicant will remove a building which is in bad condition. He proposes to construct a new building next to the hardware store on lot 80 which has an open patio on the front side. The applicant will set his new building back 31 ft. from the front property line which is a better use of the property. The paved alley at the rear of the property will continue to be maintained.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion. The motion passed by a vote of 4 - 0. (Messrs. Smith & DiGiulian and Mrs. Thonen being absent)

Page 341, February 28, 1984, Scheduled 11:45 A.M. case heard at 12:30 P.M.:

11:45 A.M. DAVID L. & PATRICIA I. BURNEY, appl. under Sect. 18-401 of the Ord. to allow construction of pool in front yard of a dwelling (accessory structure or use in any front yard not allowed by Sect. 10-104), located 4502 Olley Ln., Little Run Estates, R-2, Annandale Dist., 69-2((2))(2)6B, 22,990 sq. ft., VC 83-A-181. (DEFERRED FROM JANUARY 31, 1984 TO ALLOW APPLICANT TIME TO AMEND APPLICATION)

William Shoup reviewed the staff report for the Board. Patricia Burney presented the facts for the application. She stated that the houses in the immediate had been situated so as to face a man-made lake. Ms. Burney stated that she had every intention of building a pool at the time the house was purchased, but was not informed that the County would consider her front yard a rear yard due to the configuration of the lot. She stated that the pool would be sufficiently screened from the normal flow of traffic due to the fence and heavy existing screening. The fence had been installed by Seef's Fence Company, and she had no knowledge of what paperwork had been done prior to the installation of the fence with regard to permits.

There was no one to speak in support or opposition.

DAVID L. & PATRICIA I. BURNEY

RESOLUTION

In Application No. VC-83-A-181 by DAVID L. & PATRICIA I. BURNEY under Section 18-401 of the Zoning Ordinance to allow construction of pool in front yard of a dwelling (accessory structure or use in any front yard not allowed by Sect. 10-104) and to allow six (6) ft. high fence to remain partially in front yard (4 ft. max. hgt. for fence in front yard req. by Sect. 101-04), on property located at 4502 Olley Lane, tax map reference 69-2((2))(2)6B, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 28, 1984; 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 22,990 sq. ft.
4. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction of the swimming pool has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. All necessary permits shall be obtained prior to any construction.

Mr. Hammack seconded the motion. The motion passed by a vote of 4 - 0. (Messrs. Smith & DiGiulian and Mrs. Thonen were absent)

Page 342, February 28, 1984, AFTER AGENDA ITEMS:

TIMOTHY D. DESMOND/REGENCY 110 CORPORATION/A 83-P-014: The Board was in receipt of a letter requesting a deferral of the referenced appeal application. It was the consensus of the Board to issue an intent to defer to May 1, 1984 at 10:45 A.M.

Page 342, February 28, 1984, AFTER AGENDA ITEMS:

SYDENSTRICKER UNITED METHODIST CHURCH/SPA 78-S-264-1: The Board was in receipt of a letter requesting an out-of-turn hearing request for the captioned special permit application. It was the consensus of the Board to deny the request.

Page 342, February 28, 1984, AFTER AGENDA ITEMS:

The Board was in receipt of a memo from Mr. Yates regarding the suggested conduct of public hearings on appeals to be adopted into the BZA by-laws as follows:

* Chairman announces the public hearing and the subject matter.

* Chairman calls on staff to locate the property and present a brief opening remark if applicable.

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Suggested conduct for public hearings on appeals
(continued)

* Chairman calls an appellant or his/her agenda to present the case of the appellant.

* BZA members pose questions to the appellant/agent.

* Chairman calls on the Zoning Administrator to present his case.

* BZA members pose questions to the Zoning Administrator or other participating staff members.

* Chairman calls for testimony from any person in the room, stressing that testimony should be limited to the precise issue that is the subject of the approval.

* Chairman calls on appellant/agent for rebuttal or final comments.

* BZA members pose final questions to either the appellant/agent or the Zoning Administrator/staff.

* Chairman closes the public hearing.

The Board deferred any action on the request until such time as the full Board was present.

Page 343, February 28, 1984, AFTER AGENDA ITEMS:

The Board members were informed that two of the scheduled hearing dates, June 12, 1984 and November 16, 1984, had to be cancelled due to the fact that the Board Room would be needed by the Registrar's Office for election day. It was the consensus of the Board to reschedule the meetings to Thursday, June 14, 1984 and Thursday, November 8, 1984.

Page 343, February 28, 1984, AFTER AGENDA ITEMS:

LAURENCE MITCHELL/A 83-V-011: The Board was in receipt of a letter requesting a re-hearing of the captioned appeal, which was heard on February 21, 1984 and where the vote upheld the Zoning Administrator's determination. It was the consensus of the Board to deny the request.

Page 343, February 28, 1984

VIETNAMESE BUDDHIST ASSOCIATION/SP 83-M-099: The Board was in receipt of a letter indicating that the notification procedure had not been met on the captioned special permit, and requesting a new date to be established. It was the consensus of the Board to defer any action to March 6, 1984, which was when the case was scheduled to be heard.

Page 343, February 28, 1984, Scheduled 1:00 P.M. case heard at 1:00 P.M.:

1:00 P.M. PENDER UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. for building and parking lot additions to existing church and related facilities, located 12500 Lee-Jackson Hwy., R-1, Centreville Dist., 45-4((1))8, 5.0 acres, SP 83-C-068. (DEFERRED FROM NOVEMBER 15, 1983 AT THE REQUEST OF THE APPLICANT FOR ADDITIONAL TIME TO RESOLVE PROBLEMS WITH STAFF: FROM JANUARY 17, 1984 AT THE REQUEST OF THE APPLICANT AND FROM FEBRUARY 14, 1984 TO RESOLVE PROBLEMS WITH STAFF)

Jane Kelsey presented the staff report to the Board, which recommended approval in accordance with the development conditions. The major issue was the transportation issue. Ms. Kelsey stated that the wording of the amended development conditions which the Board had just received, showed the coordinated effort of staff, the applicant and contiguous property owners to come to some agreement.

Ed Prichard represented the applicant. He stated that the property was surrounded on the north, east and west by future townhouse development. The area was now scheduled before the Board of Supervisors for a rezoning. The owners of the property proposed to put a third lane on the north side of Route 50 from Vepco to the first intersection in Greenbriar. Mr. Prichard stated that this would obviously make it unnecessary for the church to provide a deceleration lane. In addition, there would be a third lane on the south side from the Greenbriar entrance all the way down to the church. The median strip would then become an urban section with a curb around it instead of the county section that it now was. At the present crossover there would be a left turn lane installed by the developer of the future townhouse development, and that would accommodate movement into the church property. The staff had suggested that a condition be added saying the church would have to put in a left turn lane at the median strip and a deceleration lane on the north side prior to occupying the new building in the event that the developer did not construct the improvements.

Mr. Prichard stated that the Board of Supervisors might require the developer of the property to the east of the church property to connect to Route 50. The developer had proffered to construct a street which would go along the property between the church and the property to the east. He also proffered to put in a new median cut. At that time, the church had agreed that if that were done, they would put in an entrance to the church from that new street. Mr. Prichard stated that it was virtually certain that the new street would not now be built, but in the event it was built, the church was willing to construct an entrance. If a new street was constructed which came out to Route 50 which did not connect with the median break, the church would not be willing to give up their entrance to Route 50. He stated that the church did not agree with the required contributions to the Fairfax Road Fund. The church had been at this location for one hundred years, and the road was built by Federal and State funds. He felt the church was there to serve the people and should not be imposed upon to pay this type of tax.

John Harrington, from the Office of Transportation, stated that he was concerned about eliminating as many conflicting turning movements at the access to the church site and the development surrounding it as possible. He felt that the entrance should be removed from Route 50. Mr. Harrington stated that to remove the median break at this time would call for a portion of Route 50 to be reconstructed. He indicated to the Board that other churches had not been required to contribute to the road funds in the past due to the relatively new procedures for the Route 50/66 area.

//The Board recessed for ten minutes and reconvened at 1:50 P.M.

There was no one else to speak regarding the application.

R E S O L U T I O N

In Application No. SP 83-C-068 by PENDER UNITED METHODIST CHURCH under Section 3-103 of the Zoning Ordinance for building and parking lot additions to existing church and related facilities, on property located at 12500 Lee-Jackson Highway, tax map reference 45-4((1))8, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 28, 1984; 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 5.0 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, a site plan shall be submitted for approval in accordance with the provisions of Article 17.

5. The building shall be shifted slightly or reduced in size in a sufficient amount to meet the front yard requirement for the R-1 District (minimum, 40 feet), unless a variance is sought and obtained under Sect. 18-401 of the Zoning Ordinance.
6. The parking lot represented on the plat shall be redesigned. The redesign will be prepared in coordination with the Office of the County Arborist to achieve the following objectives:

- The provision of approximately 185 parking spaces as desired by the applicant. It is noted that only 135 parking spaces are required by the provisions of the Zoning Ordinance.
- The final grade and limits of clearing for the parking lot, the location of the islands within the lot and the future driveway accesses to the adjacent spine road shall be designed to preserve the existing quality specimen trees that are currently located in this area of the site to the extent practicable.
- The provision of transitional screening as required by Article 13 of the Zoning Ordinance using existing quality vegetation to the extent practicable in accordance with the provisions set forth in Par. 4 of Sect. 13-104. A twenty-five (25) foot wide unbroken strip of open space shall be provided in accordance with the Transitional Screening 1 requirements along the western and northern property lines; however, the specified plantings for the Transitional Screening 1 requirement shall be required only along the northern property line and the rear 350 feet of the western property line. Along the rear portion of the eastern property line, the twenty-five (25) foot wide unbroken strip of open space may be reduced to a minimum fifteen (15) foot width provided additional plantings are provided to shield the headlights of vehicles parked in the lot. Along the eastern property line, the specified plantings for the Transitional Screening 1 requirement shall be required only along the rear 300 feet of the property line. The barrier requirement shall be waived along all lot lines.

7. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance with pervious islands to provide onsite filtration of parking lot contamination.
8. In order to achieve a coordinated planting design along the Route 50 Corridor, a minimum of three (3) major shade trees supplemented by seven (7) flowering trees, such as dogwood or redbud, shall be planted at any location within the front yard. The shade trees shall be a minimum of six (6) feet in overall height at the time of planting and shall have an ultimate height of fifty (50) feet or greater.
9. Stringent erosion and siltation control measures shall be used.
10. The seating capacity shall not exceed 540 and at least the minimum number of parking spaces shall be provided in accordance with Article 11 of the Zoning Ordinance.
11. Parking lot lights shall not exceed 12 feet in height and shall be shielded to prevent any projection off the church property.
12. It is anticipated that the developer of the adjacent property will construct a third westbound lane on the north side of Route 50, relocate and/or improve the crossover adjacent to the applicant's property, and construct a left turn deceleration lane in the median to accommodate left turns into the site. In the event such improvements are not completed by others prior to the issuance of a Non-Residential Use Permit for the applicant's proposed building, the applicant shall construct at the applicant's expense a westbound deceleration lane on the north side of Route 50 and a left turn deceleration lane at the present crossover prior to occupying the new facility and receiving the Non-Residential Use Permit.
13. The provisions for a service drive along the frontage of Route 50 east of the existing site entrance shall be addressed at the time of site plan review by the Department of Environmental Management, DEM, in coordination with the Office of Transportation. In the event a service drive is required and constructed by others east of the existing site entrance, the applicant will provide the necessary easements and/or permission for construction grading, without remuneration.
14. The applicant shall contribute to the Fairfax Center Area road fund an amount of $2,500.00 in accordance with the Board adopted Procedure Guidelines, dated November 22, 1982. Payment may be deferred until such time as the Board of Supervisors makes a determination as to whether or not churches will be required to make this contribution, and in the event churches are exempt this payment shall not be required.
15. If a new roadway is constructed along the church's eastern boundary connecting with Route 50, directly or by a service drive connected to the existing median break, and accommodating an entrance to the church property, the church will relocate their site entrance to the new roadway or eastward on the service drive and close their existing entrance to Route 50.
16. Roadway improvements noted above shall be constructed to VDH&T standards.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

PENDER UNITED METHODIST CHURCH
(continued)

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion. The motion passed by a vote of 4 - 0. (Messrs. Smith & DiGiulian and Mrs. Thonen were absent)

Page 346, February 28, 1984, AFTER AGENDA ITEMS:

After a discussion with the staff, it was the consensus of the Board to defer any pending applications regarding dustless surfaces to May 22, 1984.

//There being no further business, the Board adjourned at 2:35 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman

Submitted to the Board on: April 9, 1985 Approved: April 16, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 6, 1984. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack and John Ribble. (Mr. John DiGiulian and Mrs. Mary Thonen were absent).

The Chairman opened the meeting at 10:15 A.M. and Mrs. Day led the prayer.

Chairman Smith called the scheduled case of:

10:00 A.M. ROBERT D. NICHOLAS, appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, each having width of 61.853 ft. (80 ft. min. lot width req. by Sect. 3-306), located 3110 Douglas St., R-3, Mt. Vernon Dist., 101-2((1))54, 1.0479 acres, VC 83-V-161. (DEFERRED FROM DECEMBER 6, 1983 AND FROM JANUARY 17, 1984 FOR NOTICES).

The required notices were not in order and there was no one present to represent the applicant. It was the consensus of the Board to defer the variance until April 24, 1984 at 10:00 A.M. The Board indicated that the variance would be dismissed for lack of interest if no one showed up the next time.

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Page 347, March 6, 1984, Scheduled case of

10:15 A.M. DALE BAJEMA, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 8.6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7820 Holmes Run Dr., Holmes Run Acres, R-3, Providence Dist., 59-2((8))(1)23, 14,679 sq. ft., VC 83-P-204.

Ms. Cheryl Hamilton presented the staff report. Mr. Dale Bajema of 7820 Holmes Run Drive in Falls Church informed the Board that Holmes Run Acres was a contemporary development. People had improved on the houses by adding carports. All of the lots were about the same size. All houses were one of two models places at various positions on the lot. Mr. Bajema stated that his living room faced the back yard. The house's front entrance opened onto a combination dining room/living room. Mr. Bajema stated that the house was attractive but the internal arrangement was jumbled. He explained that he proposed to build a small addition which would be 8 ft. wide and 15 ft. long. It would tie in with the existing roofline so that the general appearance of the house would not be changed.

Mr. Bajema stated that if the house had been situated someplace else on the lot, he would not have been too close to the side lot line. He informed the Board that there was an evergreen hedge between his home and his neighbor's home. Mr. Bajema stated that he would build up the screening. The next door neighbor did not object to the proposed variance and had offered to attend the public hearing.

With respect to justifying the nine standards of the Ordinance, Mr. Bajema stated that his property was acquired in good faith. The variance would allow him some use of the property and provide a variation from the development. The house was unusually located in that it was facing backwards. The only area for the proposed addition was next to the property line. In response to questions from the Board, Mr. Bajema indicated that the back corner of the addition was the only area that required a variance.

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

Page 347, March 6, 1984 Board of Zoning Appeals
DALE BAJEMA

R E S O L U T I O N

In Application No. VC 83-P-204 by DALE BAJEMA under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8.6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 7820 Holmes Run Dr., tax map reference 59-2((8))(1)123, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Baord 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 14,679 sq. ft.
4. That only a corner of the addition requires a variance. These were contemporary homes without any entrance foyers. There are other locations but none appropriate for the addition and the other locations would be much more expensive for the applicant.

RESOLUTION

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has exceptional depth in the original lot configuration with the house cited to the front of the property and having coverging lot lines causing the lot to be narrow towards the street line.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition ashown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. DiGiulian and Mrs. Thonen being absent).

Page 348, March 6, 1984, Scheduled case of

10:30 A.M. GUNNELL'S RUN FARM, INC., appl. under Sect. 18-401 of the Ord. to allow creation of a side lot line which would be 12.63 ft. from an existing 10 ft. high fence around paddleball court (20 ft. min. side yard req. by Sects. 3-E07 and 10-104), located 600 Innsbruck Ave., R-E, Dranesville Dist., 8-3((1))pt. 24A, 10.0 ac., VC 83-D-207.

Ms. Cheryl Hamilton presented the staff report. Mr. Phil Masemer of 9809 Arnon Chapel Road in Great Falls represented the applicant. He indicated that they were trying to divide a 15 acre estate. They proposed a property line between the paddle tennis court and the barn. This would leave a 5 acre parcel. Mr. Masemer stated that the problem with the setback was created because of the division of the property. In response to questions from the Board, Mr. Masemer stated that it was not possible to divide the property without a variance for either the barn or the paddleball court.

There was no one else to speak in support of the application. Mr. F. A. Kilpatrick, Vice-President of the Marmota Farms Homeowners Association, spoke in opposition to the application as it did not meet the nine standards for the granting of a variance. Mr. Kilpatrick informed the Board that the applicant had not informed the Board of the real reason for requesting the variance which was to retain the five acre criteria foot lot 11. If the lot was created less than five acres, the applicant would be required to pave the 22 foot gravel road. Mr. Kilpatrick stated that approximately forty lots used Innsbruck Avenue and it was hard to maintain it.

Mr. Kilpatrick informed the Board that the applicant was avoiding the requirements for paving by seeking the variance. He objected to the variance because the applicant has a responsibility to the forty families to pave the road. In response to questions from the Board, Mr. Kilpatrick stated that at the present time, there were approximately fourteen families served by the gravel road.

Mr. Hyland questioned what was wrong with the applicant seeking the five acre lot if he had a choice. Mr. Kilpatrick replied that if the applicant could not get the five acre development, he should not be able to use the road. He indicated that the developer had a moral responsibility to the fourteen families who did not know they would be sharing the road with thirty to forty other families.

Chairman Smith informed Mr. Kilpatrick that the variance was only to leave the paddleball court intact. The applicant could subdivide the property as indicated without the variance. Chairman Smith stated that he assumed the expense of moving the paddleball court would be far less expensive than building the roadway.

There was no one else to speak in opposition. During rebuttal, Mr. Masemer stated that there was a stable and a paddleball court. In response to questions from the Board, Mr. Masemer stated that he did not feel it was necessary to move the paddleball court. It could not be seen by any contiguous neighbor since it was behind the stable. In addition, it would not have an adverse impact on the community.

Mr. Hyland inquired if the lot were less than five acres whether the applicant would have to pave the road. Mr. Masemer replied that part of the road was in the state system. He indicated that lot 11 would have five acres, regardless, even if he had to move the paddleball tennis court. In response to questions from the Board, Mr. Masemer stated that the paddleball tennis court had existed in this location for fifteen years. He was not certain whether it would destroy it to be relocated eight feet just to avoid the variance.

In response to hardship, Mr. Masemer stated that he would have to cut down large, existing trees if he moved the paddleball court. He indicated that he did not like to destroy property needlessly.

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-D-207 by GUNNELL'S RUN FARM, INC. under Section 18-401 of the Zoning Ordinance to allow creation of a side lot line which would be 12.63 ft. from an existing 10 ft. high fence around paddleball court (20 ft. min. side yard req. by Sects. 3-E07 and 10-104), on property located at 600 Innsbruck Avenue, tax map reference 8-3((1))pt. 24A, County of Fairfax, Virginia, Mrs. 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 6, 1984; 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 10.0 acres.
4. That the applicant has a beautiful piece of property and the proposed development seems to enhance the area. However, the hardship is self-created. There is enough space to move the paddleball court. It is not a concrete structure. The applicant has a great deal of leeway in developing in the fine manner he has proposed. This denial provides better relations for the applicant with the homeowners nearby.

This application does not meet the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;

RESOLUTION

D. Exceptional shape at the time of the effective date of the Ordinance;
E. Exceptional topographic conditions;
F. An extraordinary situation or condition of the subject property, or
G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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. Ribble seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Hammack)(Mr. DiGiulian and Mrs. Thonen being absent).

Page 350, March 6, 1984, Scheduled case of

10:45 A.M. LEESBURG PIKE COMMUNITY CHURCH, appl. under Sect. 3-103 of the Ord. for a church and related facilities, located 11131 Leesburg Pk., Heatherfield Subd., R-1, Centreville Dist., 12-1((1))51, 2.86 acres, SP 83-C-097.

Mr. William Shoup presented the staff report which recommended denial of the special permit application because of major issues such as transportation, site access, site design, and screening. In response to questions from the Board regarding the transportation issues, Mr. Shoup stated that he had not discussed the matter with the applicant. He did not feel the problems could be accommodated. Mr. Shoup stated that the problem with site access concerned access directly onto a principal arterial highway. He indicated that the only way to solve the problem was to have access via a service drive to connect and provide access at a median break. Mr. Shoup stated that because the adjoining properties were developed as residential, it was not likely that a service drive would connect to the closest point which was Utterback Store Road.

Mr. Shoup informed the Board that there were other problems with the application concerning the site design and screening. However, it appeared that these problems could be worked out with a redesign of the site. Mr. Hyland inquired if there was any other way to accommodate the transportation problems absent a service drive. Mr. Shoup responded that a median break opposite the property would relieve some concern. However, because of the location of other median breaks, he did not feel that VDH&T would approve a median break at this location.

Mr. Hammack inquired whether the Office of Transportation would have the same problems if the property were developed as residential. Mr. Shoup stated that the impact for one single family dwelling would be less than for a church. A residence was a permitted use but the church was allowed only under a special permit.

Mr. Hyland inquired of Mr. Larry Berg of the Office of Transportation whether a median break was the only way to alleviate the transportation problems. Mr. Berg stated that it was unless there was some way to get a service drive to an existing median break. Mr. Berg stated that it was his office's policy to enforce the Zoning Ordinance where there was a trip generation above what would normally occur on the site. Because the site was zoned R-1, the normal trip generation was to 10 to 20 cars per day.

Mr. Charles Runyon, an engineer, of 7649 Leesburg Pike represented the applicant. He introduced Pastor Whitlow. Mr. Runyon stated that he had discussed the transportation issues with the Office of Transportation directly. Mr. Runyon expressed confusion as to how the traffic occurring at off-peak hours would relate to the peak hours of travel. Mr. Runyon stated that he felt the transportation count indicated for Rt. 7 from Tysons Corner to Dranesville for 24 hours was 38,140 cars. Mr. Runyon stated that Baron Cameron Avenue traveling to Reston was listed for a 24 hour period with 32, 971 cars. Mr. Runyon challenged the Office of Transportation's statement that Leesburg Pike between Baron Cameron Avenue and Draneville carried 38,000 cars. He stated that the figures had been blown out of proportion. Mr. Hyland inquired as to the source of the figures and whether they were wrong. Mr. Runyon responded that the 38,000 cars leaving Tysons Corner did not go through the Dranesville intersection. He believed that a considerable amount of the traffic make a left turn onto Baron Cameron Avenue to travel to Reston.

Chairman Smith stated that the Board was concentrating on traffic figures rather than the deficiencies outlined in the staff report such as the unsatisfactory access to the property.

Mr. Larry Berg of the Office of Transportation responded that Mr. Runyon had a point as the traffic figures were obtained from VDH&T. He explained the procedure used by VDH&T in counting traffic. Mr. Berg stated that the major issue to discuss was the lack of a median at the location of the proposed access.

Another concern with the volume of traffic was the 5 to 6% increase to the 1982 traffic count. Mr. Berg stated that even though the church services would be conducted on Sundays during off-peak hours, the trip generation was viewed with the idea that the church would have congregational affairs during the week which would be accompanied by a high trip generation.

Pastor Whitlow informed the Board that the church was applying for a special permit for a building to seat 300 people. The congregation consists of 75 to 80 people. He indicated that the church was overbuilding but did not expect to grow to that size. The property consists of 2.88 acres which was not large enough to develop into a multi-purpose building. In response to questions from the Board, Pastor Whitlow stated that the church did not plan to have a day care center. Services would be conducted on Sunday morning and evening with a Bible Study on Wednesday evening. Traffic would come from Sterling Park, Reston and Great Falls. Pastor Whitlow did not feel 80 people would significantly impact the traffic on Sunday mornings.

There was no one else to speak in support. Mr. Bobbie Jones of 1123 Leesburg Pike spoke in opposition. He informed the Board that his property was located behind the church's property. He stated that he traveled Leesburg Pike every day and the traffic on weekends and every day was impossible.

During rebuttal, Mr. Runyon requested a deferral to contact VDH&T to determine if a deceleration lane could be provided. Mr. Runyon stated that he traveled Leesburg Pike as he lived in the Great Falls area. He indicated that the high volume of traffic would not occur during the times the church planned to operate.

It was the consensus of the Board to defer the decision until April 3, 1984 at 12:00 NOON.

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Page 351, March 6, 1984, Executive Session

At 12:00 NOON, it was the consensus of the Board to convene into an Executive Session to discuss legal matters with the County Attorney. The Board reconvened at 12:15 P.M. to continue with the scheduled agenda.

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Page 351, March 6, 1984, Legal Notices

At 12:15 P.M., the Board discussed the question of notice involving the Special Permit Application SP 83-M-099, Vietnamese Buddhist Association.

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11:00 A.M. SIKH FOUNDATION OF VIRGINIA, appl. under Sect. 3-C03 of the Ord. for a church (temple) and related facilities, located 7301 Ox Rd., R-C, Springfield Dist., 87-4((1))7F, 5.0 acres, SP 83-S-098.

Ms. Mary Burton presented the staff report which recommended approval of the special permit subject to the revised development conditions set forth in Appendix I dated April 6, 1984. Ms. Burton noted that the comments in the staff report concerning insufficient transitional screening along the northern lot line related to the original plats submitted with the application. The applicant had since submitted revised plats providing sufficient transitional screening along the northern lot line.

Ms. Burton stated that the main issue to be considered was that Ox Road would be widened to four lanes in front of the site. A crossover space of 600 ft. would be necessary with the speed limit of 45 mph. There was only 700 ft. between the entrance to Burke Lake Park and Clipper Drive, the median break at the proposed site access would not meet the minimum proposed crossover spacing. Ms. Burton stated that because the proposed improvements were unlikely for the future and alternative access through adjacent properties did not appear possible, the Office of Transportation would not deny the application as submitted. Therefore, it appeared that the proposed use could be implemented in such a manner not to adversely impact the surrounding area. Ms. Burton presented the Board with revised development conditions.

Mrs. Kamaljit Sethi of 6004 Shiplett Boulevard represented the applicant and stated that they applied for a special permit to construct a temple off of Rt. 123. They had previously applied for a special permit but had not begun construction of the building which necessitated the resubmission. Mrs. Sethi stated that the congregation was small and it had taken longer than anticipated to gather funds. In addition, the congregation had wanted to pay off the land before beginning construction which was accomplished six months ago. Construction was anticipated to begin in the summer.

Mrs. Sethi informed the Board that the applicant agreed to the revised development conditions. It was anticipated that the church would function from 10 A.M. to 12 Noon so lights were not being requested.

The Board was in receipt of a letter from Mr. Arthur E. Morrissette, Jr., of 10504 Clipper Drive in Fairfax Station who had no objection to the special permit request providing that the following two items were made a condition of the approval.

1. That the current egress easement through the property from Ox Road (RT. 123) to Burke Meadows Drive be vacated. This we ask to prevent any access to subject property now or in the future from Schooner Street. It should be agreed that all access to property must be from Ox Road (Rt. 123).

2. That no wood fence or fencing be required or allowed but that a minimum of three rows of 8 to 12 ft. white pines be placed approximately 12 ft. apart to provide the necessary barrier between the adjoining residences and the subject property.

Mr. Steven T. Palmer of 9908 Barbara Ann Lane in Fairfax responded to the letter from Mr. Morrissette. He stated that there was an easement through the property to parcel 5 at the rear to give access to the property at the rear. It was his understanding that the easement had been vacated already. He stated that the applicant did not wish to grant access through their property and were amenable to condition no. 1 of Mr. Morrissette's letter. With respect to the wood fence or barrier, Mr. Palmer stated that the BZA staff did not recommend a barrier so he had no problem with condition no. 2.

However, there were several conditions in the development conditions which Mr. Palmer wished to address. He indicated that one of his primary concerns was a requirement for a deceleration or right turn lane at Rt. 123. The staff report recommended that the entrance be moved to the north. Mr. Palmer stated that the applicant had no problem with moving the parking lot to the north. The entrance to the north would prohibit the construction of the deceleration lane because of a lack of right-of-way to the north. The existing right-of-way is only 50 ft. The existing pavement is only 20 ft. in width.

Mr. Hyland inquired as to which development condition required a deceleration lane to be provided. Ms. Burton responded that it had been left out of the development conditions. Staff had entertained the idea of the driveway being moved to the south to provide the deceleration lane and transitional screening.

There was no one else to speak in support of the application. Mr. Dale Schuler, a resident of Burke Lake Cluster adjacent to the subject property, presented a letter from his homeowners association outlining their interests. They were concerned about the location of the proposed driveway and parking lot. Mr. Shuler requested that the hardwood forest presently screening the proposed 45 car parking lot remain. He further requested that the suggestion in the staff report concerning a back entrance for the property from Schooner Drive not be accomplished.

During rebuttal, Mr. Steven Palmer indicated that the church was willing to move the parking lot further to the north to accommodate the neighbors. Ms. Burton responded that if the parking lot were moved to the north, the staff would need revised site plans. It was the consensus of the Board to defer the decision until receipt of revised site plats. The special permit was deferred until March 20, 1984 at 9:00 P.M.

Page 353, March 6, 1984, Scheduled case of

11:15 A.M. VIETNAMESE BUDDHIST ASSOCIATION, appl. under Sect. 3-203 of the Ord. for a temple and related facilities, located 6901 Columbia Pk., R-2, Mason Dist., 60-4((1))23, 53,422 sq. ft., SP 83-M-099.

As the required notices were not in order, the Board deferred the special permit application until April 3, 1984 at 12:15 P.M.

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Page 353, March 6, 1984, Recess

At 1:35 P.M., the Board recessed the meeting for lunch. It reconvened at 2:35 P.M. to continue the scheduled agenda.

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Page 353, March 6, 1984, Scheduled case of

1:00 P.M. EPIPHANY OF OUR LORD BYZANTINE CATHOLIC CHURCH, appl. under Sect. 3-203 of the Ord. to amend S-82-P-027 for church and related facilities to revise configuration and location of previously authorized new rectory, and to permit construction of new hall and 59 additional parking spaces, located 3410 Woodburn Rd., R-2, Providence Dist., 59-1((1))21, 4.75303 acres, SPA 82-P-027-1.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. Mr. Fred Sheridan, the church's architect, informed the Board that the church desired to construct a new hall to seat 400 persons. The bottom of the hall on the lower level was a new rectory. Parking was provided for 114 cars. He indicated that the church was asked to move the existing driveway back 25 ft. He indicated that the church kept the road but narrowed it down. Mr. Sheridan pointed out the future church building on the site plan.

Ms. Kelsey informed the Board that staff had not considered the future church in this application. Mr. Sheridan was advised by Chairman Smith that any future buildings would require a new application.

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

Page 353, March 6, 1984 Board of Zoning Appeals
EPIPHANY OF OUR LORD BYZANTINE CATHOLIC CHURCH

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-P-027-1 by EPIPHANY OF OUR LORD BYZANTINE CATHOLIC CHURCH under Section 3-203 of the Zoning Ordinance to amend S-82-P-027 for church and related facilities to revise configuration and location of previously authorized new rectory, and to permit construction of new hall and 59 additional parking spaces, on property located at 3410 Woodburn Road, tax map reference 59-1((1))21, 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 6, 1984; 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-2.
3. The area of the lot is 4.75303 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:

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.

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional Screening 1 shall be provided along the northern and southern lot lines. A modification shall be allowed in the area of the existing driveway as shown on the plat. The existing trees may be used to satisfy this requirement provided they are supplemented with plantings to be equivalent to Transitional Screening 1.
6. The Barrier requirement may be waived in all areas except where the transitional screening yard is modified. In that area a barrier shall be provided if it is determined to be necessary at the time of site plan review by the Director, Department of Environmental Management.
7. The seating capacity of the sanctuary shall not exceed two-hundred and sixteen (216) and the fellowship hall seating capacity shall not exceed four-hundred (400).
8. One-hundred and fourteen (114) parking spaces shall be provided.
9. Parking lot lighting shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from spilling onto adjacent properties.
10. The applicant shall work with the County Arborist in an effort to protect the existing stately trees during construction.
11. The applicant must either remove the two metal sheds and the metal garage on the southeastern portion of the property or file an amended application to allow them to remain.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

Page 354, March 6, 1984, Scheduled case of

1:15 P.M. YUN S. LALIMA, appl. under Sect. 3-403 of the Ord. to renew S-98-77 for beauty parlor as home occupation for a period of five (5) years, located 7300 Fairchild Dr., Hybla Valley Subd., R-4, Lee Dist., 92-4((3))(6)1, 12,684 sq. ft., SPR 77-L-098-1.

Mr. William Shoup presented the staff report which recommended approval of the special permit in accordance with the development conditions set forth in Appendix I. Mr. Earl Baumgarten, Mrs. Lalima's brother-in-law, informed the Board that she did not have any problem with the conditions contained in the staff report.

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

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPR 77-L-098-1 by YUN S. LALIMA under Section 3-403 of the Zoning Ordinance to renew S-97-77 for beauty parlor as home occupation for a period of five (5) years, on property located at 7300 Fairchild Drive, tax map reference 92-4((3))(6)1, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 6, 1984; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 12,684 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.

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. This Special Permit shall be valid for a period of five (5) years from this date.
6. No more than two (2) patrons shall be permitted on site at any one time.
7. All parking associated with this use shall be on site. No more than one (1) patron vehicle shall be permitted on site at any one time; otherwise an additional parking space as shown on the plat shall be provided or an adequate turnaround shall be constructed.
8. No one other than the applicant shall be associated with this operation.
9. The maximum hours of operation shall be 9:00 A.M. to 7:00 P.M., Monday through Saturday.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Smith) (Mr. DiGiulian and Mrs. Thonen being absent).

Page 355, March 6, 1984, After Agenda Items

BOARD POLICY: Discussion of Suggested Procedure of Presentation of Public Hearings on Appeals: The Board was in receipt of a memorandum from Philip G. Yates, Zoning Administrator, regarding Conduct of Public Hearings on Appeals. Following discussion, it was the unanimous consensus of the Board to adopt the following procedure:

Policy

ORDER OF PRESENTATION AT PUBLIC HEARINGS ON APPEALS

- o Chairman announces the public hearing and the subject matter and reminds the appellant and those parties present at the public hearing of the provisions of the Zoning Ordinance that mandate a concurring vote of four (4) members of the BZA to reverse a determination of the Zoning Administrator or other administrative officer.
- o Chairman calls on staff to locate the property and present a brief opening remark if applicable.
- o Chairman calls on appellant or his/her agent to present the case of the appellant.
- o BZA members pose questions to the appellant/agent.
- o Chairman calls on the Zoning Administrator to present his case.
- o BZA members pose questions to the Zoning Administrator or other participating staff members.
- o Chairman calls for testimony from any person in the room, stressing that testimony should be limited to the precise issue that is the subject of the appeal.
- o Chairman calls on appellant/agent for rebuttal or final comments.
- o BZA members pose final questions to either the appellant/agent or the Zoning Administrator/staff.
- o Chairman closes the public hearing.

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Page 356, March 6, 1984, Scheduled case of

1:30 P.M. IFS VIRGINIA, INC. dba MOUNT COMFORT CEMETERY, appl. under Sect. 3-403 of the Ord. to permit addition of crematorium to an existing cemetery, located 6600 South Kings Hwy., Happy Valley Subd., R-4, Lee Dist., 92-2((1))23, 51.21125 ac., SP 83-L-100.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix I. Mr. Robert Lawrence, an attorney in Fairfax, represented the applicant. He stated that the application was a request for a human crematorium only. It would be housed in a one story, brick facade building located on the site.

Mr. Lawrence informed the Board that the staff was requesting the applicant to provide a 45 foot right-of-way dedication. He indicated that the cemetery had been laid out for some time. There were twenty-seven interments located in the requested right-of-way. He further indicated that the applicant had a contractual obligation regarding the burials. Therefore, Mr. Lawrence asked the Board not impose condition no. 5 of the development conditions. He indicated that it would take a court order to move the burial plots.

Given the fact that staff had not been aware of the burials in the requested right-of-way area, Mr. Hyland inquired if staff's position had changed with respect to the development conditions. Ms. Michelle LaViolette of the Office of Transportation confirmed that they had not known of the existing burials along the frontage of the site where the dedication would be made at the time of staff consideration. She indicated that the adjacent site to the east has been rezoned and dedication and construction has taken place along the frontage of their site. Staff wanted the dedication to match in case the road was widened. Accordingly, Ms. LaViolette indicated that staff would have to maintain its position.

In response to staff comments, Mr. Lawrence indicated that he did not believe a right-of-way widening would take place at this location in the future because of the existing single family homes. The County or State would have to condemn the right-of-way and take the people's homes. Mr. Lawrence stated that the existing cemetery was begun in 1947. The proposed crematorium would only be open five days a week and generate approximately six to twelve cases per week. Therefore, there would not be any impact to require road improvements.

Mr. Lawrence informed the Board that the maintenance yard would be paved all the way to the roadway. Mr. Lawrence did not feel it was necessary to provide the evergreen screening since the crematorium was brick. However, he indicated that the applicant would provide it as required. He further indicated that if the applicant could not dedicate the right-of-way, they could not provide the sidewalk.

Mr. Hyland questioned staff regarding the required right-of-way and confiscation of grave sites. He inquired if the situation would have been different if there had been a structure in the right-of-way area. Ms. LaViolette stated that she was not prepared to give legal advice but indicated that dedication requirements had been the policy of the Board. Staff was not prepared to waive the requirement but she indicated that the dedication could be reduced to 40 feet.

In response to questions from the Board, Mr. Lawrence stated that twenty-seven interments were located in the right-of-way in addition to the ninety-seven contractually committed plots. Mr. Lawrence indicated that a 40 foot dedication would still be a problem. Chairman Smith stated that perhaps the site was being overdeveloped with the addition of a crematory. Mr. Lawrence responded that the crematory would be located on 51 acres and would handle approximately 12 cases per week. Chairman Smith stated that cremation was becoming a more popular form of disposing of the dead because of the cost of cemetery plots.

Chairman Smith was concerned that the applicant could not meet the development conditions. Mr. Lawrence replied that the applicant should not be required to build the right-of-way as it was not necessary for the use but for the public at large. He indicated that at the time of site plan, he would indicate that the applicant could not comply with the condition and it would not be required.

In response to questions from Chairman Smith, Mr. Lawrence stated that the cemetery was established in 1947. He further stated that one burial existed 6 1/2 feet from the roadway which prevented widening of the roadway. Chairman Smith expressed concern that burials were to set back 50 feet from the roadway and 500 feet from all lot lines.

Chairman Smith inquired as to the type of equipment to be used for the crematory. Mr. Lawrence replied that it was a gas fueled triple filter system which had been approved in every jurisdiction and met the State standards.

Mr. Bernard Fagelson, an attorney in Alexandria, informed the Board that he represented some landowners of the nearby shopping center and apartment complex. Mr. Fagelson stated that his clients felt that a crematorium in a cemetery was a reasonable use. They were concerned, however, about odors and ashes escaping from the system. Mr. Fagelson stated that as long as caution was taken, there was no objection to it.

There was no one else to speak in support. The following persons spoke in opposition: Mr. Robert N. Bodine of 6210 Greeley Boulevard in Springfield; Mr. Raymond Cole, Jr. of 3410 Austin Court; and Mr. Bill Thrall of 3413 Austin Court. Mr. Bodine spoke in opposition. He indicated that there was no concern but that South Kings Highway would be widened. He stated that perhaps the road could be taken on the other side of the cemetery. Mr. Bodine stated that he would like to see a condition on the use that prevented any more interments in the 40 foot right-of-way area.

Mr. Hyland questioned Mr. Bodine as to what legal authority the BZA had to limit interments when the plots had been sold already. Chairman Smith questioned whether the applicant had a right to sell the plots for burial as he felt it was a violation of the original special permit conditions. Mr. Hammack responded that the staff report did not indicate that there was anything improper with the use. Chairman Smith stated that the staff was unaware that there were any burials in the setback area. Mr. Hammack inquired if the burial diagram presented by Mr. Lawrence had been a part of the application at the beginning. Ms. Hamilton replied that it was not received until the hearing. Staff only had the site plan indicating the structures, crematorium and maintenance yard.

Mr. Raymond Cole, Jr. of 3410 Austin Court informed the Board that everyone he talked to was unanimously against the crematorium. He questioned the legal notice as at least one person, Mrs. Jane Excell, was not notified of the public hearing. He pleaded with the Board to defer the hearing to allow an opportunity for all citizens to be heard.

During discussion of the notices, it was noted that Habitat Associates was identified as the owner of the property now owned by Mrs. Jane Excell. Accordingly, Mr. Hyland moved that the Board recess the hearing and require new notice to the present property owner. Mrs. Day seconded the motion and it passed by a vote of 3 to 2 (Messrs. Ribble and Hammack).

The Board recessed the hearing at 3:50 P.M. to discuss the notices. Mr. Ribble left the meeting during the recess and did not return. The Board reconvened at 4:00 P.M. to continue discussion on notices. Ms. Jane Kelsey informed the Board that she had contacted Mrs. Jane Excell by telephone who verified that she and her husband had purchased lot 2 on January 18, 1984. The applicant had mailed the notice letters on February 10, 1984.

Following further discussion on the notices, Mr. Hyland moved that the Board continue the hearing in order to receive testimony and that the Board defer decision for a period of one week to allow Mrs. Excell to present testimony if she desired. Mr. Hammack seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Ribble and Mrs. Thonen being absent).

Continuing with testimony from the opposition, Mr. Bill Thrall of 3413 Austin Court informed the Board that his property did not border on the cemetery but was within sight distance. Even though the height of the crematorium was listed as 11 feet, Mr. Thrall questioned the height of the smokestack. Mr. Lawrence responded that the smokestack would be 36 inches above the roofline. Mr. Thrall was concerned about screening and the air filtration system.

It was the consensus of the Board to defer decision until March 13, 1984 at 12:00 NOON to allow a resident not notified to present testimony. In addition, the Board requested a legal opinion regarding its authority to impose a condition that would include a dedication of a 40 foot right-of-way which would place it within 3 to 5 feet of existing gravesites in addition to lots that have been sold for gravesites.

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Page 358, March 6, 1984, Scheduled case of

1:45 P.M. HARTWOOD HOUSE/AN ACTIVITY OF HARTWOOD FOUNDATION, INC., appl. under Sect. 3-203 of the Ord. to renew S-80-V-108 for child care center with overnight care to permit continuation of the use without term, located 2907 Popkins Ln., R-2, Mt. Vernon Dist., 93-1((1))6, 15.72 ac., SPR 80-V-108-1.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix I. In response to questions from the Board Ms. Hamilton indicated that staff supported the use without term.

Mr. David Lumbar, a member of the Board of Directors of the Hartwood Foundation, and Chairman of the Board of Directors of Hartwood House, residing at 6640 Hazel Lane in McLean, represented the applicant. Mr. Lumbar indicated that they were in agreement with the development conditions with one exception which involved the requirement for a no parking sign in the area in front of Hartwood House. He stated that three to four staff persons resided at the facility. Access to the site was from Popkins Lane through the church parking lot into the turnaround area. Mr. Lumbar stated that it was the only place to park near the facility itself because adjacent lanes had to be kept open in case of emergencies. In addition, it was a long walk from the church parking lot which was often full because of church services and other activities. Mr. Lumbar stated that he had discussed of adding more parking space for Hartwood House. However, the church was reluctant because it would mean paving over some of the few remaining green areas. Mr. Lumbar stated that Hartwood House had operated successfully for the past three years without banning parking in that area. Accordingly, he asked that the condition be dropped.

In response to questions from the Board, Mr. Lumbar stated that the turnaround area was wide enough for three vehicles to park on one side with three vehicles on the other side leaving enough room for anyone to back out and exit the area. He indicated that some maneuvering was involved but the situation was working. Mr. Hammack inquired as to the reason for staff requiring the no parking condition. Ms. Hamilton responded that there was not adequate turnaround space in that area with the parked vehicles. She indicated that staff had no problem with dropping off of individuals and then parking somewhere else on site.

Mr. Lumbar stated that the turnaround area had not been blocked. However, Chairman Smith stated that the parked cars would impede the emergency vehicles. He stated that it was not constructed as a parking area. In response to questions from the Board, Mr. Lumbar stated that Hartwood had capacity for eight clients and space for five staff persons living on the premises. Mr. Lumbar stated that if the vehicles only parked on one side, there would be room for turnaround. Ms. Hamilton stated that the area did not meet the criteria for parking space according to the Zoning Ordinance and the Public Facilities Manual.

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

HARTWOOD HOUSE/AN ACTIVITY OF HARTWOOD FOUNDATION, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPR 80-V-108-1 by HARTWOOD HOUSE/AN ACTIVITY OF HARWOOD FOUNDATION, INC. under Section 3-203 of the Zoning Ordinance to renew S-80-V-108 for child care center with overnight care to permit continuation of the use without term, on property located at 2907 Popkins Lane, tax map reference 59-1((1))21, 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 6, 1984; and

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

1. That the applicant is the lessee.
2. The present zoning is R-2.
3. The area of the lot is 15.72 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. No parking should be permitted in the turnaround at the entrance of the building and "No Parking" signs shall be posted in this area.
6. The maximum number of clients shall be eight (8) with adequate supervision.
7. The hours of operation shall be seven (7) days a week, 24 hours per day, 52 weeks a year.
8. This facility shall not provide care on a long term or permanent resident basis.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. DiGiulian, Ribble and Mrs. Thonen being absent).

// There being no further business, the Board adjourned at 4:45 P.M.

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

Submitted to the Board on April 9, 1985

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: April 16, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 13, 1984. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland (arrived at 11:15 A.M.); Ann Day; Paul Hammack and John Ribble. Mary Thonen was absent.

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. CLIFFORD A., JUDY D., CLIFFORD ARGYLE & RUTH E. TAYLOR, appl. under Sect. 18-401 of the Ord. to allow expansion of plant nursery with existing gravel driveway and parking lot (dustless surface req. by Sect. 11-102), located 12908 Lee Hwy., R-1, Springfield Dist., 55-4((1))2, 5.1066 acres, VC 83-S-036. (DEFERRED FROM JUNE 28, 1983 FOR ADDITIONAL TESTIMONY AND FROM SEPTEMBER 13, 1983 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

The application was deferred to May 22, 1984 in accordance with the BZA's intent to defer all dustless surfaces cases that had been issued on February 28, 1984.

Page 360, March 13, 1984, Scheduled 10:05 A.M. case heard at 10:30 A.M.:

10:05 A.M. MICHAEL & REBECCA MIKOLAJCZYK, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 12.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), located 7500 Idylwood Rd., Acreage Subd., R-1, Providence Dist., 40-3((1))12, 20,156 sq. ft., VC 84-P-001.

William Shoup reviewed the staff report for the Board. Susan Notkins, 1179 Crest Lane, McLean, presented the facts for the application. She stated that the applicant wanted to construct a two-story addition with basement on the rear of the house. This house, which was built in 1867, was one of the few Victorian farmhouses in the area which was almost unaltered in appearance. Ms. Notkins stated that the applicant's had been restoring it, careful to retain the character and lines of the original structure. She stated that the lot was substandard in area and shallow in depth. The property was surrounded on three sides by high density residential construction, including townhouse development and a high-rise condominium building.

Elizabeth David, with the History Section of the Office of Comprehensive Planning, spoke in support of the application. She stated that the History Commission considered this house to be a historical viewpoint, and felt that this addition was in keeping with the 1867 style of the house.

Robert J. Beedy, a resident of Idylwood Towers, spoke in opposition. The Board of Directors for Idylwood Towers had instructed him to speak in opposition for them. He stated that this house had been added on to several times, and he felt there was not enough screening and wanted to object.

During rebuttal, Ms. Notkins stated that the slope was very steep in the rear of the property. She stated that all the Board requirements had been fulfilled, and asked the Board to grant the application.

Page 360, March 13, 1984 Board of Zoning Appeals
MICHAEL & REBECCA MIKOLAJCZYK

R E S O L U T I O N

In Application No. VC-84-P-001 by MICHAEL & REBECCA MIKOLAJCZYK under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12.8 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), on property located at 7500 Idylwood Road, tax map reference 40-3((1))12, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1984; 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 20,156 sq. ft.

4. We have testimony from the architect who is a member of the Architectural Review Board and recognizes the value of the architecture involved in the original construction of the building and wants to make the addition by extending the gables and not hacking up the original architecture. We also have testimony by one of the members of the County Staff that the building is being considered for inclusion as a historical building. This is a situation we don't face very often where you have an R-20 on the site next door, the parking lot associated with that use immediately behind it, and an R-5 of the other side. There is no R-1 around it. You have to go across a thoroughfare, and this is sort of a residual piece of property that is left over from the intensely developed property around it.

5. This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

A. That the subject property was acquired in good faith.

B. That the subject property had exceptional shallowness at the time of the effective date of the Ordinance. The testimony seems to indicate it was zoned R-1 at some time in the distant past, and it certainly, at 20,056 sq. ft., is less than the lot size normally associated with R-1.

C. That the subject property has exceptional topographic conditions. It slopes from the rear to the front of the property.

D. That the subject property has an extraordinary situation or condition of the subject property.

E. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

F. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

G. That the strict application of this Ordinance would produce undue hardship.

H. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

I. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.

J. That authorization of the variance will not be of substantial detriment to adjacent property.

K. That the character of the zoning district will not be changed by the granting of the variance.

L. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mrs. Thonen and Mr. Hyland were absent)

Page 361, March 13, 1984, Scheduled 10:10 A.M. case heard at 11:00 A.M.:

10:10 A.M. CENTREVILLE UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow aggregate surface parking lot addition to church and related facilities (dustless surface req. by Sect. 11-102), located 14040 Braddock Rd., R-1, Centreville Dist., 54-4((1))3A, 6.8841 acres, VC 83-C-090. (DEFERRED FROM JULY 12, 1983 FOR DECISION ONLY AND FROM SEPTEMBER 13, 1983 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

The application was deferred to May 22, 1984 in accordance with the BZA's intent to defer all dustless surfaces cases that had been issued on February 28, 1984.

Page 362, March 13, 1984, Scheduled 10:15 A.M. case heard at 11:05 A.M.:

10:15 A.M. THE COUNCIL OF CO-OWNERS OF "THE COLONIES" CONDOMINIUM, appl. under Sect. 18-401 of the Ord. to allow construction of 6 ft. 2 in. high ornamental iron fence with 7 ft. 8 1/4 in. high brick posts, some with lights on top, within the front yard of a condominium development (4 ft. max. hgt. for fence in a front yard req. by Sect. 10-104), located 7681 Provincial Dr., The Colonies of McLean, R-20, Providence Dist., 29-4((4)), 30-3((27)) & 39-2((9)), 28.2471 acres, VC 83-P-209.

William Shoup reviewed the staff report for the Board. Charles E. Harris, the President of the Council of Co-Owners, presented the facts for the application. He stated that the proposed fence would improve the security of the co-owners and enhance the appearance of the property. Mr. Harris stated that the Colonies was located just inside the beltway facing Magarity Road. The variance request had been generated by several instances involving break-ins and the theft of automobiles. Mr. Harris stated that the Colonies would maintain the planted strip between the fence and the sidewalk and add additional planting to supplement the existing landscape.

There was no one to speak in support or opposition.

Page 362, March 13, 1984 Board of Zoning Appeals
THE COUNCIL OF CO-OWNERS OF "THE COLONIES" CONDOMINIUM
R E S O L U T I O N

In Application No. VC-83-P-209 by THE COUNCIL OF CO-OWNERS OF "THE COLONIES" CONDOMINIUM under Section 18-401 of the Zoning Ordinance to allow construction of 6 ft. 2 in. high ornamental iron fence with 7 ft. 8 1/4 in. high brick posts, some with lights on top, within the front yard of a condominium development (4 ft. max. hgt. for fence in a front yard req. by Sect. 10-104), on property located at 7681 Provincial Drive, tax map reference 29-4((4)), 30-3((27)) & 39-2((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 March 13, 1984; 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 28.2471 acres.
4. We have a recommendation from the Police Dept. that this fence would help keep out vandals. In some of these case we have to look at what the hardship is, something other than the written word. I think security is a problem these days, and I think the testimony does meet the requirements.
5. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to 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 variance is approved for the location and height of the fence along Magarity Road as shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. All necessary permits shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mrs. Thonen and Mr. Hyland were absent)

Page 363, March 13, 1984, Scheduled 10:20 A.M. case heard at 11:15 A.M.:

10:20 A.M. FRIENDS OF FAIRFAX STATION, INC., appl. under Sect. 18-401 of the Ord. to allow museum with gravel parking lot (dustless surface req. by Sect. 11-102), located 11120 and 11123 Fairfax Station Rd., R-C, Springfield Dist., 76-2((1))9, 5 acres, VC 83-S-092. (DEFERRED FROM AUGUST 2, 1983 FOR NOTICES AND FROM SEPTEMBER 27, 1983 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

The application was deferred to May 22, 1984 in accordance with the BZA's intent to defer all dustless surfaces cases that had been issued on February 28, 1984.

//Mr. Hyland arrived at 11:15 A.M.

Page 363, March 13, 1984, Scheduled 10:25 A.M. case heard at 11:17 A.M.:

10:25 A.M. RICHARD F. & MARY JANE THORNTON, appl. under Sect. 18-401 of the Ord. to allow construction of living space addition to dwelling to 12 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 3178 Woodland Ln., Woodland Park Subd., R-2, Mt. Vernon Dist., 102-3((4))51, 20,887 sq. ft., VC 83-V-210. (GRANTED OUT-OF-TURN HEARING BY BZA)

William Shoup reviewed the staff report for the Board. Mary Jane Thornton presented the facts for her application. She stated that the proposed addition would be used as living space to accommodate her mother-in-law. She stated that the existing deck and a drainage field prevented her from constructing the addition in the rear of the property.

There was no one to speak in support or opposition.

Page 363, March 13, 1984 Board of Zoning Appeals
RICHARD F. & MARY JANE THORNTON

R E S O L U T I O N

In Application No. VC 83-V-210 by RICHARD F. & MARY JANE THORNTON under Section 18-401 of the Zoning Ordinance to allow construction of living space addition to dwelling to 12 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 3178 Woodland Lane, tax map reference 102-3((4))51, County of Fairfax, Virginia, Mrs. 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 13, 1984; 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 20,887 sq. ft.
4. The request is due to the fact that the husband's mother is coming to live with them and they are going to provide a home for her. It will be her living space and at the back will be additional dining space to take care of family needs. It is not feasible to build in the rear yard due to the fact that it slopes backward and has drainage problems. There is no variance needed on the left side for the garage. The proposed building will be 13 ft. wide at the back of the property and the facade will match the existing building.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 2 (Messrs. Smith & Hammack) (Mrs. Thonen was absent)

Page 364, March 13, 1984, Scheduled 10:30 A.M. case heard at 11:30 A.M.:

10:30 A.M. FAIRFAX UNITARIAN CHURCH, appl. under Sect. 18-401 of the Ord. to allow building addition to existing church having gravel parking lot (dustless surface req. by Sect. 11-102), located 2709 Hunter Mill Rd., R-1, Providence Dist., 37-4((1))23, 10.575 acres, VC 83-P-116. (DEFERRED FROM 10/4/83 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

The application was deferred to May 22, 1984 in accordance with the BZA's intent to defer all dustless surfaces cases that had been issued on February 28, 1984.

Page 364, March 13, 1984, Scheduled 10:35 A.M. case heard at 11:35 A.M.:

10:35 A.M. JEFFREY L. & LYNN S. BOSTIC, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 7.4 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 3-2007), located 3163 Bradford Wood Ct., Concord Village Subd., R-20, Providence Dist., 47-4((21))69, 1,587 sq. ft., VC 83-P-208.

The Chairman announced that the notices were not in order. It was the consensus of the Board to defer the variance application to April 24, 1984 at 11:45 A.M.

Page 364, March 13, 1984, Scheduled 10:40 A.M. case heard at 11:40 A.M.:

10:40 A.M. BATTLEFIELD EQUESTRIAN CENTER, INC., appl. under Sect. 18-401 of the Ord. to allow riding and boarding stable with portions of driveways having gravel surface (dustless surface req. by Sect. 11-102), located 16009 Lee Hwy., R-C, Springfield Dist., 63-2((1))9, 85.919 acres, VC 83-S-118. (DEFERRED FROM 10/11/83 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

The application was deferred to May 22, 1984 in accordance with the BZA's intent to defer all dustless surfaces cases that had been issued on February 28, 1984.

Page 364, March 13, 1984, Scheduled 10:50 A.M. case heard at 11:40 A.M.:

10:50 A.M. RAY V. & CELIA E. HAMILTON, appl. under Sect. 18-401 of the Ord. to allow construction of new combination garage and personal office on site of existing detached garage - to be razed 17.7 ft. from street line (40 ft. min. front yard req. by Sect. 3-C07 & 10-104), located 8224 Wolf Run Shoals Rd., R-C, Springfield Dist., 95-4((1))6, 14.933 acres, VC 84-S-002.

William Shoup reviewed the staff report for the Board. Milton McDonald, from the firm of Boothe, Prichard and Dudley, represented the applicant. He stated that the existing garage was in a state of disrepair, and the owners desired to raze the building and erect a more attractive and useful structure. The new garage would be constructed in the same location as the previous building. Due to sloping topography, security, and the location of other buildings on the property, it would not be feasible for the owners to construct elsewhere on the property.

Ray Hamilton stated that he also used the garage as an office for his personal use. He had purchased the house in 1964. Mr. Hamilton stated that the present location was the best for the garage for security reasons. He wanted to be able to view the entire barnyard from his window and not have the garage blocking his view.

There was no one to speak in support or opposition.

RESOLUTION

In Application No. VC-84-S-002 by RAY V. & CELIA E. HAMILTON under Section 18-401 of the Zoning Ordinance to allow construction of new combination garage and personal office on site of existing detached garage - to be razed - 17.7 ft. from street line (40 ft. min. front yard req. by Sect. 3-C07 & 10-104), on property located at 8224 Wolf Run Shoals Road, tax map reference 95-4((1))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 March 13, 1984; 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-C.
3. The area of the lot is 14.933 acres.
4. The Board has received indications from the applicants' council and the applicant himself that there is presently an existing structure on the property which does not comply with the setback, which structure is located approx. 17 ft. from the right-of-way and approx. 29 ft. from the road. The existing structure clearly is in a condition that would require that it be razed. The applicant proposes to put up instead, another structure, which would be a combination garage and also part of the space would be used as a personal office. The proposed structure would keep the existing footprint as far as the location of the structure in the front yard in terms of it not being placed any closer to the right-of-way in the road, although the footprint would be enlarged to some extent to the rear. The applicant has indicated that the reason for the placing of the new structure in the same location essentially as the old is because to the rear of the existing structure there is a raised garden that the applicant would prefer not to disturb. In addition, that the sight line from the house to other existing out-buildings would be interrupted if the structure were placed further to the rear in compliance with the setback. Further, we have received testimony indicating that the area where this property is located has a very minimum amount of traffic along that road, and that the development of that property appears in the future to be minimal because of the Occoquan Water Shed in that area. Further, as staff has indicated, if the structure was merely repaired, it could remain in this present location, notwithstanding its noncompliance with the setback. We have a statement signed by all of the neighbors indicating that they not only have no objection to the proposed addition of a new structure, but they support it.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. The structure shall not exceed 1,024 square feet in area and a Building Permit shall be obtained prior to any construction.
4. The use of the structure shall be limited to the personal use of the property owner.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Mr. Hammack and Mrs. Thonen was absent)

//The Board recessed for lunch at 12:15 P.M. and returned at 1:25 P.M. to take up the scheduled agenda.

Page 366, March 13, 1984, Scheduled 11:00 A.M. case heard at 1:25 P.M.:

11:00 A.M. SILVERBROOK UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow building addition to church with existing gravel parking lot (dustless surface req. by Sect. 11-102), located 8620 Silverbrook Rd., R-1, Mt. Vernon Dist., 98-3((1))8, 2.005 acres, VC 83-V-135. (DEFERRED FROM 11/15/83 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

The application was deferred to May 22, 1984 in accordance with the BZA's intent to defer all dustless surfaces cases that had been issued on February 28, 1984.

Page 366, March 13, 1984, Scheduled 11:10 A.M. case heard at 1:25 P.M.:

11:10 A.M. JAMES WILLIAM MCCALL, appl. under Sect. 18-401 of the Ord. to allow construction of two-story garage/bedroom addition to dwelling to 4 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 3271 Rose Glen Ct., Carol Square Subd., R-4, Mason Dist., 60-2((42))9, 9,016 sq. ft., VC 84-M-003.

William Shoup reviewed the staff report for the Board. James McCall presented the facts for his application. He stated that he needed more living space for his expanding family. Mr. McCall stated that the unusual configuration of his lot and the citing of the house provided unusually narrow side yards. The north side of the house did not have enough room to construct a garage with sufficient size to park a car in. An existing screened porch and basement entrance prevented him from adding onto the rear of the house. The addition of a detached garage would not be feasible due to the sloping yard, and would not be in keeping with the other homes in the area, the majority of which have attached garages.

There was no one to speak in support. The Board was in receipt of a letter of opposition from Mr. Nagel, the owner of lot 8, abutting the property in question.

Page 366, March 13, 1984 Board of Zoning Appeals
JAMES WILLIAM MCCALL

R E S O L U T I O N

In Application No. VC 84-M-003 by JAMES WILLIAM MCCALL under Section 18-401 of the Zoning Ordinance to allow construction of two-story garage/bedroom addition to dwelling to 4 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), on property located at 3271 Rose Glen Court, tax map reference 60-2((42))9, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1984; 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 9,016 sq. ft.
4. This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
   A. That the subject property had exceptional narrowness at the time of the effective date of the Ordinance.
   B. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
   D. That the subject property has exceptional topographic conditions.
   E. That the subject property has an extraordinary situation or condition of the subject property, in the way that the house sits 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 2 (Messrs. Hyland and Smith) (Mrs. Thonen was absent)

Page 367, March 13, 1984, Scheduled 11:20 A.M. case heard at 2:40 P.M.:

11:20 A.M. LYLE K. & BEATRICE D. ALEXANDER, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 2.0 ft. from side lot line such that total side yards would be 27.3 ft. (5 ft. min., 15 ft. total min. side yards req. by Sects. 3-307 & 2-412), located 9028 Brook Ford Rd., Burke Station Square, R-3(C), Springfield Dist., 78-4((8))114, 9,200 sq. ft., VC 84-S-004.

William Shoup reviewed the staff report for the Board. Lyle Alexander presented the facts for his application. He stated that the position the house was placed in resulted in access to the side entrance on the south side of the house very inconvenient. Mr. Alexander indicated that the ground dropped away from the house and sloped upward in the back. He planned to build a retaining wall along the edge of the carport.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC 84-S-004 by LYLE K. & BEATRICE D. ALEXANDER under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 2.0 ft. from side lot line such that total side yards would be 27.3 ft. (5 ft. min., 15 ft. total min. side yard req. by Sects. 3-307 & 2-412), on property located at 9028 Brook Ford Road, tax map reference 78-4((8))114, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1984; 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 9,200 sq. ft.
4. Mr. Alexander has given some reasons that support his application, but it is the feeling of this member that the construction of a retaining wall two feet from the side lot line practically precludes the maintenance of the property. I feel you get to a point that you're just too close to the side lot line, and in this particular situation a five foot minimum yard requirement is appropriate for the protection of the neighbors.

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

Mrs. Day seconded the motion.

The motion passed by a vote of 6 - 0. (Mrs. Thonen was absent)

Page 368, March 13, 1984, Scheduled 11:30 A.M. case heard at 1:55 P.M.:

11:30 A.M. HOME SATELLITE, INC., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrators' determination that the location of a dish antenna on subject property is not regulated by provisions of Par. 5 of Sect. 10-104 of the Zoning Ordinance, but is instead regulated by, and in violation of, the provisions of Par. 11 of Sect. 10-104 of the Zoning Ordinance, located 1503 Laburnum St., R-2, Dranesville Dist., 31-4((8))7, A-83-D-010. (DEFERRED FROM FEBRUARY 14, 1984 FOR NOTICES)

Philip Yates reviewed the staff report for the Board, which gave the background for his determination. Paul O'Keefe, an attorney, represented the applicant. He felt that the Zoning Administrator's interpretation came from a common misunderstanding from the public as to exactly what satellite additions are and what they do. Mr. O'Keefe stated that the dish antenna's were for the operation of private radio facilities and were regulated under parts 95, 97 and 99 of the FCC. He stated that essentially these regulations covered how an antenna is used, essentially any structure that is used to transmit or receive radio waves. The dish antenna received radio waves just like a TV antenna, but was a more sophisticated device.

William Wheaton, 3903 Whispering Lane, Falls Church, an electronics engineer, and Charles Tomlin 7328 Backlick Road, the President of Home Satellite, Inc., spoke in support of the application. Mr. Wheaton addressed the Board's concern that the installed dish antennas were not meeting setback restrictions. Mr. Wheaton stated that several years ago he had contacted the County and explained that these antenna were set on concrete blocks. The County had indicated that they should be treated the same way a garden shed would be, and told him a building permit was not necessary for the installation. Mr. O'Keefe explained that the site for the antenna was based on the line of site. Any obstacles such as a building or trees would ruin the operation of the equipment.

There was no one to speak in opposition.

Page 368, March 13, 1984 Board of Zoning Appeals
HOME SATELLITE, INC.

R E S O L U T I O N

Mr. Hammack moved that the Board uphold the Zoning Administrator's determination for the following reasons. He felt that to receive radio waves, which he did every time he turned on a radio or TV, did not make him an operator of a private radio facility pursuant to Parts 95, 97 or 99 of the Federal Communications Act. Mr. Hammack stated that he felt the Zoning Ordinance was clear, and didn't think the petitioner had introduced any persuasive evidence to show that the dish antennas came under Parts 95, 97 or 99 of the Federal Communications Act. He believed that these sections of the FCC regulations were clearly written in limitation concerning the types of antennas and setbacks required on antennas put to a particular kind of use.

Mr. DiGiulian seconded the motion. The motion passed by a vote of 6 - 0. (Mrs. Thonen was absent)

Page 368, March 13, 1984, Scheduled 12:00 Noon case heard at 3:25 P.M.:

12:00 Noon IFS VIRGINIA, INC. dba MOUNT COMFORT CEMETERY, appl. under Sect. 3-403 of the Ord. to permit addition of crematorium to an existing cemetery, located 6600 South Kings Hwy., Happy Valley Subd., R-4, Lee Dist., 92-2((1))23, 51.21125 ac., SP 83-L-100. (DEFERRED FROM MARCH 6, 1984 FOR NOTIFICATION OF ADJACENT PROPERTY OWNER AND FOR LEGAL OPINION FROM COUNTY ATTORNEY ON DEDICATION OF RIGHT-OF-WAY)

Cheryl Hamilton responded to the Board's questions with regards to a setback requirement from roadways from cemeteries, and could the BZA impose a development condition which would require a dedication of right-of-way within three to five feet from a gravesite. She stated that Sect. 8-203, paragraph 2, the Zoning Ordinance required a fifty foot setback from the street for interment of any facility for disposal of the dead. She stated that in discussions with the County Attorney, it was determined that the Board could impose the dedication. The Board had questioned whether the applicant was in violation of the original special permit which required a 500 foot setback from all property lines. Ms. Hamilton stated that according to the Assistant Zoning Administrator and the County Attorney, the 1945 and 1947 special permits were two separate applications, and the Board of Supervisors did not pick up the condition in the 1947 permit. She distributed amended development conditions to the Board for their consideration.

Jane Gwinn stated that she checked the 1941 Zoning Ordinance and couldn't find any specified setback for cemeteries. She had tried to look at the Zoning Ordinance to find out what was in effect when the cemetery was originally established. The Ordinance, as of August 14, 1978 required a 50 foot setback. The Ordinance prior to that one had the standard that there could be no interment within any required setback.

Mr. Hyland stated that it was his feeling from prior comments that if there was activity to plan to bury persons in this portion of the cemetery that it would be a non-conforming use that, in effect, would be grandfathered.

Bob Lawrence, the applicant's attorney, stated that there were 29 interments in the area in question. The bodies were interred beginning in 1951, with the majority done in the 1960's. Mr. Lawrence submitted a statement from abutting property owners in support of the application, which included the owners of parcel 2, parcel 6, parcel 3 and parcel 4.

There was no one to speak regarding the application.

R E S O L U T I O N

In Application No. SP 83-L-100 by IFS VIRGINIA, INC. dba MOUNT COMFORT CEMETERY under Section 3-403 of the Zoning Ordinance to permit addition of crematorium to an existing cemetery, on property located at 6600 South Kings Highway, tax map reference 92-2((1))23, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 13, 1984; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 51.21125 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:
1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Should the fill being stored on site encompass more than 5,000 square feet, an approved grading plan shall be obtained. This fill area should be graded and seeded so as not be present a visual adverse impact upon the surrounding neighborhood.
6. The maintenance yard area and road leading to the crematorium shall be paved.
7. Evergreen screening shall be provided around portions of the crematorium which are visible to nearby residences. The exact type and location of the plantings shall be determined by the Director, DEM.
8. Plans and specifications for the crematorium shall be submitted to the Health Department for a determination of compliance with applicable State and County health and pollution control laws.
9. The hours of operation shall be 7:30 A.M. to 4:30 P.M., Monday thru Saturday.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

IFS VIRGINIA, INC. dba MOUNT COMFORT CEMETERY
(continued)

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 2 (Messrs. Smith and Hyland) (Mrs. Thonen was absent)

Page 370, March 13, 1984, AFTER AGENDA ITEMS:

YUN S. LALIMA/SPR 77-L-098-1: The Board was in receipt of a memo from Mr. Yates regarding the referenced special permit which the BZA had approved on March 6, 1984. Due to an oversight, staff had failed to remind the Board that prior to the public hearing it would be necessary to approve a waiver of the provisions of Sect. 18-108 of the Zoning Ordinance. Mr. Yates felt that it could be construed that by conducting the public hearing on March 6, 1984 the BZA in effect waived the limitation on rehearing. However, he asked that it be clarified for the record. Mr. Hyland made a motion that the one year limitation on rehearing be waived on the referenced application. Mr. Ribble seconded the motion and it passed by a unanimous vote of the Board members present.

Page 370, March 13, 1984, AFTER AGENDA ITEMS:

J. WILLIAM HARLOW/VC 84-A-024: The Board was in receipt of an out-of-turn hearing request for the referenced variance application. It was the consensus of the Board to grant the request and schedule the application for April 24, 1984.

//There being no further business, the Board adjourned at 4:10 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: April 9, 1985 Approved: April 16, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, March 20, 1984. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland (arriving at 9:05 P.M.); Ann Day; Paul Hammack; and John Ribble. (Mr. John DiGiulian and Mrs. Mary Thonen were absent).

The Chairman opened the meeting at 8:15 P.M. and Mrs. Day led the prayer.

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

8:00 P.M. FORESTVILLE UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. to permit continuation of nursery school as permitted by S-9-73, expired, without term from 9:00 A.M. - 2:00 P.M., located 10100 Georgetown Pk., R-1, Dranesville Dist., 12-2((1))16, 2.0577 ac., SP 83-D-085. (DEFERRED FROM 1/17/84 FOR NOTICES).

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. Ms. Carolyn P. See of 1061A Calvacade Street in Great Falls represented the applicant. She informed the Board that she was requesting renewal of the nursery school without any change in the manner of operation. The facilities were adequate for 50 children and the play area was fenced. The number of children in the play area would not exceed 35 children at any one time. Ms. See indicated that the preschool did not provide transportation but encouraged carpooling.

There was no one else to speak in support or in opposition.

FORESTVILLE UNITED METHODIST CHURCH

R E S O L U T I O N

In Application No. SP 83-D-085 by FORESTVILLE UNITED METHODIST CHURCH under Section 3-103 of the Zoning Ordinance to permit continuation of nursery school as permitted by S-9-73, expired, without term from 9:00 A.M. - 2:00 P.M., on property located at 10100 Georgetown Pike, tax map reference 12-2((1))16, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 20, 1984; 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 2.0577 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as auqlified below. 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.
3. 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.
4. This use shall be subject to the provisions of Article 17, Site Plans.
5. The existing row of cedar plantings along the northern lot line and on the eastern side of the play area shall be retained. Additional evergreen plantings shall be provided along the western lot line at the edge of the parking area to screen the playground and parking area from the residential properties to the west. The type and amount of plantings shall be determined by the Director of the Department of Environmental Management (DEM) at the time of site plan review.

RESOLUTION

6. The maximum enrollment shall be fifty (50) students.
7. The maximum number of employees shall be six (6).
8. The maximum hours of operation shall be 9:00 A.M. to 2:00 P.M., Monday through Friday.
9. The number of children using the play area at any one time shall not exceed thirty-five (35).

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, ighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. DiGiulian, Hyland and Mrs. Thonen being absent).

Page 372, March 20, 1984, Scheduled case of

8:00 P.M. FORESTVILLE UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow nursery school on existing church property having gravel parking lot (dustless surface req. by Sect. 11-102), located 10100 Georgetown Pk., R-1, Dranesville Dist., 12-2((1))16, 2.0577 ac., VC 83-D-172. (DEFERRED FROM 1/17/84 FOR NOTICES.)

It was the consensus of the Board to defer the variance application pending an Ordinance amendment. Mr. Hammack moved that the Board defer the variance until May 22, 1984. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hyland and Mrs. Thonen being absent).

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Page 372, March 20, 1984, After Agenda Items

CEDAR CREST COUNTRY CLUB, INC., SP 84-S-038: The Board was in receipt of a request from Mr. Joseph Roberts of Bengstson, DeBell, Elkin & Titus regarding an out-of-turn hearing for the special permit application of Cedar Crest Country Club, Inc. in Centreville. After reviewing the hardship cited in the letter, Mr. Ribble moved that the Board deny the out-of-turn hearing request. Mr. Hammack seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hyland and Mrs. Thonen being absent).

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Page 372, March 20, 1984, Scheduled case of

8:30 P.M. GULF OIL CORPORATION & B. P. OIL, INC., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that the provisions of the Zoning Ordinance to not allow the relocation of non-conforming freestanding signs on appellants' properties, even when such relocation is a result of a taking over an eminent domain proceeding for road widening, located 1438 and 1401 Chain Bridge Rd., C-8, Dranesville Dist., 30-2((10))(3)5 and 30-2((1))50C, 8,750 sq. ft., and 28,031 sq. ft., A 83-D-013.

Ms. Sarah Reifsnyder represented Gulf Oil Corporation and B. P. Oil, Inc. She requested the Board to wait for Mr. Hyland before proceeding with the public hearing on the appeal.

The Board recessed the meeting at 8:40 P.M. and reconvened at 9:20 P.M. to continue with the scheduled appeal. For testimony received during the hearing, please refer to the verbatim transcript on file in the Clerk's Office.

At the conclusion of the public hearing, Mrs. Day made the following motion:

In Appeal 83-D-013 by the Gulf Oil Corporation and B.P. Oil, Inc., we have had long testimony on this and so as this member, I feel that the appellant has been in business for some years, has had a freestanding sign, they're on a busy, heavy highway. It's not their fault that the highway took part of the property. Now, the County says that they are not in conformity. They can't have the sign, the freestanding sign as they had had for years. I feel that it's an unfair decision by the Zoning Administrator's Office because it does deprive the vested rights of a person to carry on his established business as it has been doing before.

And, so, I move that the Board of Zoning Appeals overturn the decision of the Zoning Administrator. Mr. Hyland seconded the motion for purposes of discussion only. There was not any discussion on the motion. The vote on the motion to overturn the decision of the Zoning Administrator failed by a vote of 1 to 4 (Messrs. Hyland, Hammack, Ribble and Chairman Smith). Accordingly, the Zoning Administrator's position was upheld.

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Page 373, March 20, 1984, Scheduled case of

9:00 P.M. SIKH FOUNDATION OF VIRGINIA, appl. under Sect. 3-C03 of the Ord. for a church (temple) and related facilities, located 7301 Ox Rd., R-C, Springfield Dist., 87-4((1))7F, 5.0 acres, SP 83-S-098. (DEFERRED FROM MARCH 6, 1984 FOR REVISED PLATS TO RELOCATE DRIVEWAY AND PARKING LOT).

Ms. Jane Kelsey informed the Board that the revised plats and an addendum to the staff report containing development conditions to correspond with the revised plat were contained in the file. Mrs. Kamaljit Sethi of 6004 Shiplett Boulevard in Burke represented the applicant. She informed the Board that they were in agreement with all of the development conditions and agreed to conform with all of the guidelines from the last hearing. Ms. Kelsey pointed out the changes made by the applicant. She stated that at the previous hearing, the citizens from the adjacent subdivision had concerns that the parking lot was coming too close to the residential properties and suggested it be moved. In addition, there was a question on the relocation of the deceleration lane. Ms. Kelsey informed the Board that the parking lot had been moved closer to the existing church and the deceleration lane had been provided. The engineer put a notification on the plat that a buffer was to remain toward the rear.

Mr. Arthur Morrisette of 10504 Clipper Drive, lot 120, spoke in opposition to the revised plat. He also represented Mrs. Tucker of lot 121 and Mrs. Luton of lot 122. Mr. Morrisette indicated that they were still concerned with the privacy and screening between their property and the church. The road came to 25 ft. of the fence which created a total open area without any screening. He was concerned that the Type I screening of 6 foot to 8 foot pine trees would take ten years to attain a height of 15 feet. Mr. Morrisette asked the Board to require the maximum amount of screening. At the present time, there were large trees exceeding 40 to 50 feet in height. As the Temple Baptist Church presently existed to the west, Mr. Morrisette was concerned that with the removal of the large trees there would be two churches sharing in the residents' privacy. Mr. Morrisette informed the Board of problems he had with Temple Baptist Church.

Chairman Smith advised Mr. Morrisette to report any problems to the Zoning Enforcement Division of the County. He further stated that the applicant would provide transitional screening between the church property and the adjoining properties as required by the Ordinance.

During rebuttal, Mrs. Sethi asked that the church go on record as having tried its best to accommodate the needs of all neighbors. The church had relocated the parking lot and agreed to all of the development conditions. She indicated that they did not desire to cut down the woods screening Mr. Morrisette's property.

Mr. Steven T. Palmer, the church's land surveyor, of 9908 Barbara Ann Lane in Fairfax, responded to the Board's questions regarding the reason for relocation of the church driveway. He indicated that the relocation of the road was on the revised plat because of two factors. The existing building as planned could not be moved further south. In order to put the entrance on the north side of the building, it would require the moving of the building further south which creates a problem with the grading and the configuration of the existing building. The applicants wished to have a circular entrance at the building in order to facilitate people being dropped off, etc. In order to relocate that circular driveway to the north, it would also require the removal of the building to the south which creates a problem with the grading and the aesthetics of the building.

Mr. Morrisette questioned the language in the development conditions regarding the buffer forest to remain and whether it had any legal weight or was just a suggestion. Chairman Smith indicated that it was a condition of the development and would have to be met. Ms. Kelsey informed the Board that the buffering was not in the numbered development conditions except to say that the special permit was granted for the buildings and uses indicated on the plat. She indicated that if the Board wanted to make the buffering clearer, it could add a condition to say that the buffering shall remain as indicated on the plat.

Mr. Hyland questioned condition no. 8 which contained language regarding the existing vegetation remaining at the rear of the property. He asked what the applicant was proposing to do with respect to the buffering. Mr. Palmer responded that the staff requirement was that additional screening be placed at the rear. However, there had not been any discussion as to whether the existing forest would be removed or whether it would remain. Mr. Palmer stated that his understanding was that if the existing forest did not meet the Transitional Screening Type I requirements, that it would be supplemented. Ms. Kelsey assured him that was normally the case. She indicated that the Zoning Ordinance allowed the Director of DEM to allow the applicant to satisfy the Transitional I requirement by leaving the existing screening and supplementing it if necessary but it was not in the development conditions.

There was no one else to speak in support or in opposition. Chairman Smith closed the public hearing.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 83-S-098 by SIKH FOUNDATION OF VIRGINIA under Section 3-C03 of the Zoning Ordinance to permit a church (temple) and related facilities, on property located at 7301 Ox Road, tax map reference 87-4((1))7F, 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 20, 1984; 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-C.
3. The area of the lot is 5.0 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plan.
5. The maximum seating capacity shall be one-hundred and fifty (150).
6. There may be a maximum of two (2) employees living at the facility.
7. Forty-five (45) parking spaces shall be provided.
8. Transitional Screening I shall be provided along the southern and western lot lines. The barrier requirement may be waived. The buffer of forest as shown on the revised plat is to remain.
9. Interior parking lot landscaping shall be provided in accordance with Article 13.
10. The applicant shall dedicate right-of-way to 80 feet from centerline so as to match the existing right-of-way of the adjacent Burke Lake Cluster property.
11. If at some future date, alternate access is available or can be obtained as determined by the Director, Department of Environmental Management, the church shall connect to such access and shall close the access to Ox Road, Route 123.

RESOLUTION

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

Page 375, March 20, 1984, After Agenda Items

FLOYD W. HARRIS, VC 83-M-184: The Board was in receipt of a request from Mr. C. Douglas Adams representing Mr. Floyd W. Harris regarding a 3 to 2 vote on the variance request for a four lot subdivision which resulted in a denial of the application. Mr. Adams was asking that the BZA waive the twelve (12) month waiting period for refiling to allow his client an opportunity to file a lesser variance.

During discussion of the request, Chairman Smith expressed concern that notification had not gone to the parties involved. He indicated that a procedure needed to be established to allow the parties to be heard at the time of the waiver request. Chairman Smith was reluctant to allow Mr. Adams to present his request without the other parties being present to express their views.

Mr. Hyland indicated that Mr. Adams was following the procedure in the Ordinance. He indicated that the Board had discussed this provision previously. Mr. Hyland stated that he did have a problem with notice. However, Mr. Adams had come to the Board not knowing it had a problem or question regarding the provision.

Chairman Smith inquired if the Board wanted to set a procedure in motion by establishing a date for the waiver request to be heard so all interested parties could attend and voice their opinions. Mr. Hyland replied that it was unfair to change the rules mid-stream. Mr. Adams had followed the procedure outlined in the Zoning Ordinance and met all the requirements and was entitled to a decision. Chairman Smith indicated that the Board had had only honored one similar request in the past which brought about a concern. Mr. Hyland stated that the problem was to the Zoning Ordinance which permitted the waiver without giving notice. Chairman Smith stated that he did not feel it was a fair procedure. He indicated that providing notice took time but it allowed everyone an opportunity to be heard.

Mr. Adams informed the Board that he had no problem with their concerns and hoped they adopted some procedure or guidelines. However, in this instance, he had contacted the BZA staff and followed the procedure cited. Mr. Adams indicated that he understood the Board wanted to hear the merits but he suggested that the Board decide whether to hear the request to waive the twelve months and then allow all the parties to be heard. He stated that it was the only fair and equitable thing to do.

Mr. Hyland suggested that the Board hear the request by Mr. Adams regarding the waiver of the twelve (12) months. Mrs. Day seconded the motion. The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. DiGiulian and Mrs. Thonen being absent).

Mr. Adams informed the Board that his testimony regarding the waiver was contained in his letter. Chairman Smith inquired if Mr. Adams had discussed his proposal for a lesser variance with any of the opposition from the last hearing. Mr. Adams replied that he had not discussed it as he had wanted to wait until he had a decision from the Board.

Mr. Hyland moved that the Board allow the waiver of the twelve (12) months limitation to allow a resubmission of the variance application. Mr. Ribble seconded the motion for discussion purposes only. He inquired about notification procedures. Mr. Hyland responded that there was not any jeopardy to the citizens as the applicant had followed the existing rules. Mr. Hyland indicated that he was reluctant to impose notification rules after the fact. He stated that the procedure should be addressed in the future regarding notification. Mr. Ribble was concerned about the persons who spoke in opposition at the last hearing not being notified that the request for a waiver came into the Board. Accordingly, Mr. Hyland amended his motion to require notification to all concerned parties. Mr. Ribble seconded the amendment to the motion. The motion passed by a vote of 4 to 1 (Mr. Smith)(Mr. DiGiulian and Mrs. Thonen being absent).

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DISCUSSION ON ADOPTING PROCEDURE FOR WAIVER OF THE TWELVE MONTH LIMITATION FOR REFILING: Mr. Hyland moved that the Board establish a policy or procedure to be followed in all future cases requesting a waiver of the twelve month limitation on refiling. Chairman Smith suggested that the motion be tabled until a day meeting when the Board could discuss it further.

// There being no further business, the Board adjourned at 11:00 P.M.

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

Submitted to the Board on April 9, 1985

Daniel Smith
Daniel Smith, Chairman

Approved: April 16, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 27, 1984. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack and John Ribble (arrived at 11:15 A.M.). Mary Thonen and John DiGiulian were absent.

The Chairman opened the meeting at 10:50 A.M. and Mrs. Day led the prayer.

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

10:00 A.M. TIMOTHY D. DESMOND/REGENCY 110 CORPORATION, appl. under Sect. 18-301 of the Ord. to appeal the Zoning Administrator's denial of an extension of SE 82-D-78 for an office in the R-30 District based upon the determination that the off-street parking spaces provided for the existing uses at the site are insufficient to satisfy the current provisions of the Zoning Ordinance, located 1800 Old Meadow Rd., R-30, Providence Dist. 39-2((13))Unit 110, 11.1937 ac. (1,702 sq. ft.), A 83-P-014. (ON 2/28/84 BZA ISSUED INTENT TO DEFER THIS CASE TO 5/1/84 AT 10:45 A.M.)

It was the consensus of the Board to defer the application to May 1, 1984 at 10:45 A.M.

Page 377, March 27, 1984, Scheduled 10:40 A.M. cases heard at 10:55 A.M.:

10:40 A.M. KING OF KINGS LUTHERAN CHURCH, appl. under Sect. 3-103 of the Ord. for removal of existing structure and construction of new church and related facilities, located 12604 Lee Jackson Memorial Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 ac., SPA 77-C-128-1 (DECISION DEFERRED FROM NOVEMBER 22, 1983 FOR PERIOD OF 60 DAYS TO ALLOW INVESTIGATION OF THE POSSIBILITY OF COUNTY OR STATE ACQUISITION OF PROPERTY.)

10:40 A.M. KING OF KINGS LUTHERAN CHURCH, appl. under Sect. 18-401 of the Ord. to allow reconstruction of church and related facilities with existing and proposed parking lots having gravel surface (dustless surface req. by Sect. 11-102), located 12604 Lee Jackson Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 ac., SPA 77-C-128-1 (DECISION DEFERRED FROM NOVEMBER 22, 1983 FOR PERIOD OF 60 DAYS TO ALLOW INVESTIGATION OF THE POSSIBILITY OF COUNTY OR STATE ACQUISITION OF PROPERTY.)

At the request of the applicant's representative, it was the consensus of the Board to further defer the King of Kings Lutheran Church applications to June 5, 1984 at 10:00 A.M.

Page 377, March 27, 1984, Scheduled 10:45 A.M. case heard at 10:55 A.M.:

10:45 A.M. HOLLIN MEADOWS SWIM & TENNIS CLUB, appl. under Sect. 3-203 of the Ord. for community recreation facilities as permitted by S-49-76, expired, with addition of enlarged bathhouse, deck and new office structure, located Woodlawn Trail, Hollin Meadows Subd., R-2, Mt. Vernon Dist., 93-3((1))6A, 5.0 ac., SP 84-V-012. (OUT-OF-TURN HEARING GRANTED BY BZA)

Cheryl Hamilton reviewed the staff report for the Board which recommended approval of the special permit application subject to the development conditions. Arthur Goodkind, the President of the Hollin Meadows Swim & Tennis Club, presented the facts for the application. He stated that the club wanted to enlarge the existing deck, construct a new office and renovate the existing bathhouse. He stated that the club was trying to attract new members, and he asked the Board to change the wording in condition number 5 which limited the club memberships to families in the immediate area. Mr. Goodkind asked that the memberships also include families not living in the surrounding neighborhoods. He stated that this was a non-profit organization, but that the club needed more memberships to be able to continue its operation.

//Mr. Ribble arrived at 11:15 A.M.

There was no one to speak in support or opposition.

Page 377, March 27, 1984 Board of Zoning Appeals
HOLLIN MEADOWS SWIM & TENNIS CLUB

R E S O L U T I O N

In Application No. SP 84-V-012 by HOLLIN MEADOWS SWIM & TENNIS CLUB under Section 3-203 of the Zoning Ordinance for community recreation facilities as permitted by S-49-76, expired, with addition of enlarged bathhouse, deck and new office structure, on property located at 2500 Woodlawn Trail, tax map reference 93-3((1))6A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 27, 1984; 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-2.
3. The area of the lot is 5.0 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Membership shall be a maximum of 300 families and limited primarily (90%) to residents of the Hollin Hill subdivision and the immediate area.
6. The tennis courts shall have not artificial lighting.
7. After-hour parties for the swimming pool shall be governed by the following:
   - o Limited to six (6) per season.
   - o Limited to Friday, Saturday and pre-holiday evenings.
   - o Shall not extend beyond 12:00 midnight.
   - o Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
   - o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
8. There shall be a minimum of 100 parking spaces for cars, and 60 bicycle parking spaces.
9. The hours of operation shall be from 9:00 A.M. to 9:00 P.M.
10. A Hold Harmless Agreement shall be executed between the applicant and the County for the stormwater easement located along the northwest property line to hold the County harmless should any plantings need to be removed and replaced.
11. The existing vegetation shall be preserved to satisfy Transitional Screening Yard requirement. In the areas where insufficient plantings exist, additional supplemental evergreen plantings shall be provided, as determined by the Director, Department of Environmental Management, to screen this use from the adjacent residences. The existing six (6) foot chain link fence surrounding the entire property shall remain to satisfy the barrier requirement.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Day seconded the motion. The motion passed by a vote of 4 - 1(Mr. Smith) (Mrs. Thonen and Mr. DiGiulian were absent)

Page 379, March 27, 1984, Scheduled 11:00 A.M. case heard at 11:30 A.M.:

11:00 A.M. CAMERON O. MIXON, JR., appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 2302 Londonberry Rd., Stratford Landing Subd., R-3, Mt. Vernon Dist., 102-3((2))(24)12, 10,640 sq. ft., VC 83-V-212

Cheryl Hamilton reviewed the staff report for the Board. Cameron Mixon presented his application. He stated that due to vandalism and weather conditions, he wanted to construct a garage to protect his cars. He stated that Londonberry Road was a main thoroughfare in the subdivision, and it had a generous downward slope to its intersection with Camden Street. The heavily traveled road, in addition to ice in the winter, made it an extremely hazardous place to park vehicles. Mr. Mixon stated that other homes in the area had garages.

There was no one to speak in support or opposition.

Page 379, March 27, 1984 Board of Zoning Appeals
CAMERON O. MIXON, JR.

RESOLUTION

In Application No. VC 83-V-212 by CAMERON O. MIXON, JR. under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 2302 Londonberry Road, tax map reference 102-3((2))(24)12, County of Fairfax, Virginia, Mrs. 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 27, 1984; 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 10,640 sq. ft.
4. The applicant states that his cars have been damaged when parked on the street in front of his house due to the fast traffic and the downgrade slope at the Camden Street intersection which is two doors down. The applicant also states that he needs security for his cars, bicycles and lawn equipment. He requests to enlarge the existing one car carport to a two car garage. In as much as a two car carport and a two car garage would have the same dimensions, and the garage would offer more safety and enhance the applicants property in a better manner. And the fact that the neighbors on lot 13 have stated they have no objections to this improvement and agrees that the garage would be an improvement to the area.
5. This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
   A. That the subject property has exceptional topographic conditions on the street in front which has caused damage to the applicants property.
   B. That the subject property has an extraordinary situation or condition of the subject property.
   C. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
   D.The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
   E. That authorization of the variance will not be of substantial detriment to adjacent property.
   F. That the character of the zoning district will not be changed by the granting of the variance.
   G. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 1 (Smith) (Mrs. Thonen and Mr. DiGiulian were absent)

Page 380, March 27, 1984, Scheduled 11:15 A.M. case heard at 11:55 A.M.:

11:15 A.M. ROBERT L. ANDRUKONIS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 7.2 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 7228 Sipes Ln., Fairdale Subd., R-4, Mason Dist., 71-1((7))(A)15, 17,548 sq. ft., VC 83-M-214

Cheryl Hamilton reviewed the staff report for the Board. Robert Andrukonis presented the facts for his application. He stated that he had owned the property for five years. Prior to his purchase of the house, an existing carport had been torn down. He planned to renovate the entrance foyer and family room of the house to further improve its appearance. Mr. Andrukonis stated that his lot sloped to the rear, and was unusual in shape. He provided photographs to the Board showing other recently completed renovations at 7214 Pine Drive and 7218 Sipes Lane.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC 83-M-214 by ROBERT L. ANDRUKONIS under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.2 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), on property located at 7228 Sipes Lane, tax map reference 71-1((7))(A)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 March 27, 1984; 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 17,548 sq. ft.
4. The Board has received testimony indicating some 25 - 30 years ago, parties unknown, presumably a prior owner, in fact added onto the property the addition being located 7.2 ft. from the rear property line. And that that condition has persisted from that time to the present. The present applicant and owner purchased the property in 1979. The proposed renovation of the property would place the renovated portion of the property in the rear which is shaded on the plat. It would place that portion of the property a tenth of a foot closer to the rear lot line than is presently the case. We have also received testimony indicating that there is no other reasonable location to add onto the property, there being a topographical condition to the north, namely a hill which slopes some 12 ft. to the right of the dwelling. In view of the testimony we have received that the extent of the variance is minimal in nature and in view of the fact that there is no expressed opposition from any of the abutting property owners.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition as shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 1(Mr. Smith) (Mrs. Thonen and Mr. DiGiulian were absent)

//The Board convened the meeting for lunch and returned at 1:35 P.M. to take up the scheduled agenda.

Page 381, March 27, 1984, Scheduled 1:00 P.M. case heard at 1:35 P.M.:

1:00 P.M. ROBERT E. WITHEROW & DEBRA ANN RODGERS, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 8 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 1644 Irvin St., Ankerdale Subd., R-1, Centreville Dist., 28-4((10))38, 21,781 sq. ft., VC 83-C-211

Cheryl Hamilton reviewed the staff report for the Board. Robert Witherow presented his application. He stated that he worked shift work, and he wanted a garage so his wife and children could just drive into the garage and go directly into the house. He stated that the subdivision was recorded in 1956 and was subsequently downzoned to R-1. Due to the sloping yard, the property being a corner lot, and the way the house was placed, limited construction on any other portion of the house. Mr. Witherow stated that he was only asking to upgrade his property in a manner consistent with the rest of the neighborhood.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC 83-V-211 by ROBERT E. WITHEROW & DEBRA ANN RODGERS under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), on property located at 1644 Irvin Street, tax map reference 28-4((10))38, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 27, 1984; 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 21,781 sq. ft.
4. This is an older home that was placed in such a way on the lot that it would be inconvenient to have this garage any place else.
5. This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
   A. That the subject property has an extraordinary situation or condition of the subject property, in that he has a double front yard requirement.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 1(Mr. Smith) (Mrs. Thonen and Mr. DiGiulian were absent)

Page 382, March 27, 1984, Scheduled 1:15 P.M. case heard at 2:45 P.M.:

1:15 P.M. HAROLD R. & ESTHER M. MOBLEY, appl. under Sect. 18-401 of the Ord. to allow existing 7 ft. high fence to remain partially within front yard (4 ft. max, hgt. for fence in front yard req. by Sect. 10-104), located 9202 Briary Ln., Briars at Westchester, R-3, Providence Dist., 58-4((33))27A, 15,603 sq. ft., VC 83-P-215

Nancy Cranmer, with the firm Paciulli, Simmons and Associates, informed the Board that the property had been sold after the filing of the application. It was the consensus of the Board to defer the application so it could be amended and readvertised showing the correct owner. The application was deferred to May 8, 1984 at 10:15 A.M.

Page 382, March 27, 1984, Scheduled 1:30 P.M. case heard at 2:00 P.M.:

1:30 P.M. ENOCH D. & DORIS J. FRANKHAUSER, appl. under Sect. 18-401 of the Ord. to allow existing 7 ft. high fence to remain in front yard (4 ft. max, hgt. for fence in front yard req. by Sect. 10-104), located 9200 Briary Ln., Briars at Westchester, R-3, Providence Dist., 58-4((33))28A, 14,387 sq. ft., VC 83-P-216

Cheryl Hamilton reviewed the staff report for the Board. Nancy Cranmer, with the firm Paciulli, Simmons and Associates, represented the applicant. She stated that as a condition of granting this subdivision, the County required that lots 27A and 28A have access from Briary Lane instead of from Prince William Drive on which they front. The houses were sited facing the pipestem drive to lot 27A. This put lot 27A's side yard along Prince William Drive. The 7 foot fence was constructed to provide privacy, security and noise control from the traffic on Prince William Drive. Mr. Frankhouser informed the Board that the height of the fence had been determined by the developer of the houses.

Edwin Hardy, the President of the Mantua Citizens Association, spoke in opposition to the application. His two major objections was the appearance of the fence, and the limited visibility it caused the traffic.

There was no one else to speak regarding the application. It was the consensus of the Board to try to contact the contractor responsible for building the fence and have him explain his position in the matter. The application was deferred to May 8, 1984 at 10:00 A.M.

Page 382, March 27, 1984, Scheduled 1:45 P.M. case heard at 2:45 P.M.:

1:45 P.M. LES PETITES ACADEMIES, INC. T/A LA PETITE ACADEMY, INC., appl. under Sect. 3-E03 of the Ord. for a child care center, located 2531 Reston Ave., R-E, Centreville Dist., 26-3((1))1, 1.8728 ac., SP 83-C-103

At the request of the applicant, it was the consensus of the Board to defer the application to May 8, 1984 at 10:30 A.M.

Page 383, March 27, 1984, Scheduled 2:00 P.M. case heard at 2:45 P.M.:

2:00 P.M. LOFTRIDGE HOMEOWNERS ASSOCIATION, appl. under Sect. 3-503 of the Ord. for community tennis courts, located Loftridge Subd., R-5, Lee Dist., 82-1((15))1, 8.2016 ac., SP 83-L-104

Cheryl Hamilton reviewed the staff report for the Board which recommended approval of the special permit application subject to the development conditions. Tom Davis, with the firm Edward Carr and Associates, represented the applicant. He stated that the Board had previously approved application number S 82-L-015 for the construction of community tennis courts. The Homeowners Association was requesting that the location of the courts be moved to a centralized location in closer proximity to a larger number of units. Mr. Davis stated that these courts were not lighted and would be used during daylight hours only.

There was no one to speak in support or opposition.

Page 383, March 27, 1984 Board of Zoning Appeals
LOFTRIDGE HOMEOWNERS ASSOCIATION

R E S O L U T I O N

In Application No. SP 83-L-104 by LOFTRIDGE HOMEOWNERS ASSOCIATION under Section 3-503 of the Zoning Ordinance for community tennis courts, tax map reference 82-1((15))I, County of Fairfax, Virginia, Mrs. 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 27, 1984; 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-5.
3. The area of the lot is 8.2016 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional Screening 1 may be modified so that evergreens shall be planted around the tennis courts to screen the courts from nearby residences. The type, size and location of these plantings shall be determined by the Director, Department of Environmental Management. The barrier requirement may be waived.
6. A "Hold Harmless Agreement" shall be executed between the County and the applicant for the stormwater pipes located underneath the tennis courts prior to the construction of the courts.
7. Four (4) parking spaces shall be reserved for the tennis courts.
8. Use of the tennis courts shall be limited to residents of the Loftridge subdivision and guests.
9. Hours of operation shall be during daylight hours only.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations,

or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 - 0 (Messrs. Smith & DiGiulian and Mrs. Thonen were absent)

Page 384, March 27, 1984, Scheduled 2:15 P.M. case heard at 2:55 P.M.:

2:15 P.M. MCLEAN FARM ASSOCIATES, appl. under Sect. 3-503 of the Ord. for a temporary subdivision sales office, located Evans Mill Pond Subd., R-5, Dranesville Dist., 30-1((24))A, .7974 ac., SP 83-D-105

The Chairman announced that the notices were not in order for the special permit application. It was the consensus of the Board to defer the application to May 8, 1984 at 10:45 A.M.

Page 384, March 27, 1984, Scheduled 2:30 P.M. - 2:55 P.M. cases heard at 3:00 P.M.:

2:30 P.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 Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 8,519 sq. ft, VC 83-D-197. (DEFERRED FROM 2/28/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS)

2:35 P.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 2 to 82.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 8,619 sq. ft, VC 83-D-198. (DEFERRED FROM 2/28/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS)

2:40 P.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 3 to 104.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 8,739 sq. ft, VC 83-D-199. (DEFERRED FROM 2/28/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS)

2:45 P.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 4 to 149.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 11,182 sq. ft, VC 83-D-200. (DEFERRED FROM 2/28/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS)

2:50 P.M. HOWARD BROCK & HOWARD BROCK, JR., appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 9 to 121.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))pts. 46 & 46A, 11,200 sq. ft, VC 83-D-201. (DEFERRED FROM 2/28/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS)

2:55 P.M. HOWARD BROCK, JR., appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 11 to 30.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))46, 12,571 sq. ft, VC 83-D-202. (DEFERRED FROM 2/28/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS)

William Shoup reviewed the staff report for the Board. He stated that the author of the staff report, Jane Kelsey, had asked him in her absence to come up with a revised development condition concerning the acoustical treatment for the proposed dwellings. Ms. Kelsey and a member of the staff in the Environment and Policy Division had met with the applicant to discuss this revised condition.

Alex Laufer, from the firm of Brock & Bankert, 4900 Leesburg Pike, Alexandria, represented the applicant. He stated that these identical variances had been applied for and granted in July of 1981. However, a problem had developed regarding off-site drainage, and it took approximately two years to resolve that problem with the County. One extension had been obtained, but through inadvertence, the applications had expired. Mr. Laufer stated that the property had been purchased in the 1960's. The property was an unusual location in that it was triangular in nature. To be able to build on the lot, the houses had to be located on such a portion of the lot as to make it impossible to meet the required setbacks. He stated that without a variance there was no other use for the land, and it would be condemned to outlot status. There were other homes in the area built before the new Ordinance that were similar distances from I-66.

Mr. Laufer stated that it had been their intention to provide some additional soundproofing for the homes due to the close proximity of I-66. He was surprised when the staff required that the homes meet sound transmission ratings. He felt that there were still problems to be resolved with these development conditions, and stated that the County had been using theoretical models for projecting noise levels. Mr. Laufer stated that VDH&T had conducted their own detailed environmental impact and noise studies when I-66 was built. Some of their results conflicted with the results reported in the staff report.

//Chairman Smith left the meeting at 3:30 P.M. and Gerald Hyland chaired the rest of the meeting.

Yasmin Anderson, from the Environmental and Policy Division of the Office of Comprehensive Planning, addressed some of the Board's questions regarding the suggested treatments for dwellings to assure that they satisfied noise level standards. Mr. Laufer stated that he was still not satisfied with the development conditions concerning these treatments. It was the consensus of the Board to defer the applications for one week. They asked the applicant's representative and staff to get together and agree on the required conditions. The applications were deferred to April 3, 1984 at 1:00 P.M. and scheduled five minutes apart.

//There being no further business, the Board adjourned at 3:45 P.M.

By Judy Lynn Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: April 9, 1985 Approved: April 16, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 3, 1984. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland (departing at 4:05 P.M.); Ann Day; Paul Hammack (departing at 4:05 P.M.); John Ribble; and Mary Thonen (departing at 4:05 P.M.).

The Chairman opened the meeting at 10:10 A.M. and Mrs. Day led the prayer.

Chairman Smith called the scheduled case of:

10:00 A.M. T. GREGORY DAVEY, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport 7.4 ft. from side lot line such that total side yards would be 18.9 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 8919 Bald Hill Pl., Signal Hill Subd., R-3(C), Annandale Dist., 78-2((14))181, 9,082 sq. ft., VC 83-A-213.

Mr. William Shoup presented the staff report. In response to questions from the Board, Mr. Shoup indicated that enclosure of carports were on the Zoning Ordinance Amendment list but he was not certain when it was scheduled for consideration. Mr. T. Gregory Davey of 8919 Bald Hill Place informed the Board that he moved to his property in July from St. Louis. He indicated that he had been looking for a house with a two car garage for protection of his automobiles and lawn equipment. Mrs. Gregory required a knee brace so Mr. Gregory did not want her leaving in snow. He stated that when he purchased his home, he was under the impression from the realtor that the carport could be enclosed. The structure was already there with a roof and support beams. Mr. Gregory informed the Board that the structure lacked 6 inches from compliance with the side yard on one side and 1.6 feet from compliance to the total side yards.

Mr. Gregory informed the Board that he had been experiencing problems with overturned trash cans and was concerned about rodents. He indicated that the area surrounding the carport was narrow because of the cluster zoning and the cul-de-sac. Mr. Gregory stated that the other properties did not have the same problem. He indicated that the neighbors most affected by the enclosure were in agreement with the variance. The neighbor behind Mr. Gregory wanted the enclosure so as not to have to look at the open carport. Mr. Gregory informed the Board that 85% of the houses in his area had enclosed garages.

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

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-A-213 by T. GREGORY DAVEY under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport 7.4 ft. from side lot line such that total side yards would be 18.9 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), on property located at 8919 Bald Hill Place, tax map reference 78-2((14))181, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 3, 1984; 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 9,082 sq. ft.
4. That the property is located on a cul-de-sac and has slightly converging lot lines and has front yards on an arc on a circle which is an unusual shape.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

RESOLUTION

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the enclosure of the existing carport as shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

Page 387, April 3, 1984, Scheduled case of

10:10 BENJAMIN L. III & KATHERINE E. ORCHARD, appl. under Sect. 18-401 of the Ord. to allow a six foot high fence to remain partially in front yard (4 ft. maximum height for fence in front yard required by Sect. 10-104), located 4800 Edwards St., Glendale Subd., R-2, Mason Dist., 72-1((12))2, 21,780 sq. ft., VC 84-M-005.

Mr. William Shoup presented the staff report. Mr. Benjamin Louis Orchard, III and Mrs. Katherine E. Orchard of 4800 Edwards Street informed the Board that they felt they complied with the standards for the granting of a variance because of an unusual situation or condition. Mr. Orchard stated that they owned three Dobermans. The fence allowed them the full run and range of the 21,780 square foot property. He indicated that if the area of the fence were limited, it would restrict the dogs to only 50 percent of the yard. Mr. Orchard stated that if he had to move the fence back, it would make his yard look like a maximum security area. He stated that he was permitted to have three dogs because of the size of his property. Mr. Orchard stated that he was in violation because he was trying to comply with the County Code about unrestricted animals not running loose. The fence made his animals stay on his property.

Mr. Orchard stated that if the variance were not granted for the 6 foot fence, a 4 foot fence would not contain the animals. He further stated that he had purchased the half acre lot because the animals were high spirited. The dogs jumped the fence when it was 4 foot in height. One dog had been accused of killing a neighbor's cat. Mr. Orchard stated that his neighbor had twelve cats running around her yard. The cats jump over the fence to do their business in Mr. Orchard's yard. Mr. Orchard stated that a cat bit him when he was trying to get it away from his dogs.

In response to questions from the Board, Mr. Orchard stated that he was permitted to have his dogs. He indicated that the problem with his yard was that 40 percent of it was in the front. Mr. Orchard stated that Long Fence Company had installed the fence. There was a sidewalk in front of Mr. Orchard's property and neighbors walked to High's or Bradlees which was located behind his property. Mr. Orchard stated that he has owned the dogs since they were puppies and they were trained not to attack. However, they were allowed to run the yard. Mr. Orchard presented a petition in support of the variance signed by Mrs. Davies. He indicated that he had been unable to secure a signature from the owners of lot 19A or lot 1.

Mrs. Day commented that the applicants had a big side yard. Chairman Smith stated that the applicants were creating a problem with the close proximity of the fence to the street. Mr. Orchard stated that if he moved his fence, it would make his front yard public property. Chairman Smith commented that the applicant could still have a 4 foot fence. Mr. Orchard presented a drawing indicating what his yard would be like with a 6 foot fence in the back and a 4 foot fence in the front.

In response to questions from the Board, Mr. Orchard stated that his animals had a litter a year. He indicated that the sale of the puppies paid for his college expenses. The dogs were pets and were friendly and were raised for their beauty.

Ms. Donna Thurber of 4809 Edwards Street spoke in support of the variance. She informed the Board that she did not find the fence offensive. She stated that some people were nervous of the Dobermans and felt safer with the 6 foot fence.

There was no one else to speak in support. Mrs. Nancy Brown of the Lincolnia Park Civic Association spoke in opposition. She indicated that it was too bad the Orchards had not contacted the association when they first rented the property. Mrs. Brown stated that the Orchards had never contacted the association so it has never taken a position on the height of the fence. Mrs. Brown stated that she was present at the hearing to gather information as the association was trying to maintain the residential character of the area. The association was concerned about any variance or exception to the regulations. Mrs. Brown stated that the Orchards had put up signs on Braddock Road regarding the sale of the puppies. The signs were removed after the residents complained. Mrs. Brown was concerned about children walking past the Orchard property to High's.

During rebuttal, Mr. Orchard stated that he had contacted the civic association and talked to one of the members who handles new applicants. He stated that he had been a member and paid his dues since he rented the house. Mr. Orchard stated that he contacted Nancy Cooke who informed him to check the Ordinance. Mr. Orchard indicated that he was not operating a business but was allowing his dogs to have children. He stated that he had purchased the property so that his dogs could run. Mr. Orchard stated that it was his belief that he had the right to life, liberty and the pursuit of happiness. He indicated that he needed the total utility of his property for his animals.

Mr. Hyland inquired if Mr. Orchard felt the County of Fairfax had the right to restrict the height of a fence in the front yard. Mr. Hyland inquired as to the basis for Mr. Orchard's variance request and why he felt the height should be varied. Mr. Orchard responded that the Ordinance would allow him to have two gates not exceeding 8 feet in height. He was only requesting a fence. Mr. Orchard stated that the fence was constructed in ignorance in order to protect the neighborhood. Mr. Orchard stated that he and his wife did not plan to have children and wanted a yard that they could totally enjoy. There was a swimming pool in the back yard which was required to have a 6 foot fence around it.

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-005 by BENJAMIN L. III & KATHERINE E. ORCHARD under Section 18-401 of the Zoning Ordinance to allow a six foot high fence to remain partially in front yard (4 ft. max. height for fence in front yard req. by Sect. 10-104), on property located at 4800 Edwards Street, tax map reference 72-1((12))2, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 3, 1984; and

BENJAMIN L. III & KATHERINE E. ORCHARD
(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-2.
3. The area of the lot is 21,780 sq. ft.

This application does not meet the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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.

Mrs. Day seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 389, April 3, 1984, Scheduled case of

10:20 A.M. JERRY & LYNDA BENNINGFIELD, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 2.0 ft. from side lot line (10 ft. min. side yard req. by Sects. 3-407 & 10-104), located 2909 Lawrence Dr., Fenwick Park Subd., R-4, Providence Dist., 50-3((15))118, 9,349 sq. ft., VC 84-P-006.

The Board was in receipt of a letter from the applicant asking that the variance application be withdrawn without prejudice. Mr. DiGiulian moved that the Board allow withdrawal as requested. Mr. Ribble seconded the motion and it passed by a vote of 7 to 0.

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Page 389, April 3, 1984, Scheduled case of

10:30 A.M. WILLIAM R. & LISA T. COOKE, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 8.4 ft. from a street line and 10.7 ft. from side lot line (35 ft. min. front yard and 15 ft. min. side yard req. by Sect. 3-207), located 6443 Little River Turnpike, Weyanoke Subd., R-2, Mason Dist., 72-1((9))(A)22 & 23, 7,587 sq. ft., VC 84-M-015. (OUT OF TURN HEARING GRANTED).

Mr. William Shoup presented the staff report. Mrs. Lisa Cooke of 6443 Little River Turnpike informed the Board that the lot was very narrow and very long. At the time the house was constructed, there was not an Ordinance such as the one presently. The house was situated on the property at an angle and was bounded by three streets. Mrs. Cooke stated that they had a contractor draw up the plans for the addition. They had no idea that they had a problem building off the rear of the home. Mrs. Cooke stated that most of the property was at the rear. The purpose of the addition is to provide additional living space. Mrs. Cooke indicated that the house was very small as the master bedroom was 8'x10' and the kitchen was 6'x7'. She stated that they had owned the house for six years.

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

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-015 by WILLIAM R. & LISA T. COOKE, appl. under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8.4 ft. from a street line and 10.7 ft. from side lot line (35 ft. min. front yard and 15 ft. min. side yard req. by Sect. 3-207), on property located at 6443 Little River Turnpike, tax map reference 72-1((9))(A)22 & 23, 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 3, 1984; and

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

1. That the owners of the property are Lisa T. Cooke, John A. and Kathleen R. Tallia.
2. The present zoning is R-2.
3. The area of the lot is 7,587 sq. ft.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has exceptional narrowness and an extraordinary situation or condition due to the location of the dwelling to the side lot line.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition as shown on the plat included with this application and is not transferable to other land.

RESOLUTION

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ryland seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 391, April 3, 1984, Scheduled case of

10:45 A.M. SPRINGFIELD GOLF & COUNTRY CLUB, INC., appl. under Sect. 3-303 & 4-503 of the Ord. to amend S-182-76 for a country club to permit addition of "bubble" cover over three (3) tennis courts, two (2) rain shelters, one (1) toilet facility to existing facilities and for approval of existing tennis rainshelter and to permit a change in the hours of operation for the tennis courts and swimming pool, located 8301 Old Keene Mill Rd., R-3 & C-5, Springfield Dist., 89-1((1))9, 157.637 ac., SPA 76-S-182-1.

Mr. William Shoup presented the staff report which recommended approval of the special permit amendment subject to the development conditions contained in Appendix I. Mr. Neil Putnam of 7915 Jansen Drive in Springfield represented the applicant. He indicated that they were seeking permission to make a few changes such as building a restroom on the golf course between no. 3 and no. 15 green. The restroom would provide relief for golfers and be open from sunrise to sunset. In addition, the club was proposing to build rain shelters by no. 5 and no. 14 greens. The shelters would be built on a slab. A bubble was proposed to be constructed over three of the existing tennis courts. The location of the bubble would be in the low area. It would be used from October 1 through April 15 from 6 A.M. to midnight. Mr. Putnam stated that he had discussed the project with the Rygate Homeowners Association who did not object as it was felt that the additions would enhance their property.

In response to questions from the Board, Mr. Putnam stated that the club planned to landscape the facility themselves. Mr. Putnam stated that the tennis bubble would be removed each summer. Mr. Ribble suggested that it was cheaper to leave the bubble up yearround because of the cost of removal and damages. Also, it would add approximately seven years to the life of the bubble.

Mr. Robert Bodine of 6210 Greeley Boulevard in Springfield spoke in support of the special permit. He indicated that there were not any objections about the extension of hours for the pool and everyone was happy.

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

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 76-S-182-1 by SPRINGFIELD GOLF & COUNTRY CLUB, INC. under Section 3-303 & 4-503 of the Zoning Ordinance to amend S-182-76 for a country club to permit addition of "bubble" cover over three (3) tennis courts, two (2) rain shelters, one (1) toilet facility to existing facilities and for approval of existing tennis rainshelter and to permit a change in the hours of operation for the tennis courts and swimming pool, on property located at 8301 Old Keene Mill Road, tax map reference 89-1((1))9, County of Fairfax, Virginia, Mrs. 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 3, 1984; 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 & C-5.
3. The area of the lot is 157.637 acres.
4. That compliance with the Site Plan Ordinance is required.

RESOLUTION

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 & C 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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional Screening 1 shall be provided without modification along the lot line south of the tennis courts and swimming pool to completely screen the uses from the Rhygate subdivision. The existing vegetation east of the tennis courts shall be retained and supplemented with evergreen plantings, the amount and type of plantings to be determined by the Director, Department of Environmental Management (DEM), to ensure that screening in this area is equivalent to Transitional Screening 1. Landscaping and screening shall be provided around the restroom facility to effectively reduce the visual impact to adjacent residences. The amount and type of the plantings shall also be determined by the Director, DEM.
6. The bubble shall be located over the three (3) existing tennis courts as represented on the approved plat.
7. There shall be two hundred and eight (208) parking spaces provided.
8. The maximum number of family memberships shall be seven hundred (700).
9. The maximum hours of operation for the swimming pool shall be 11:00 A.M. to 9:00 P.M.
10. After-hour parties for the swimming pool shall be governed by the following:
    - Limited to six (6) per season.
    - Limited to Friday, Saturday and pre-holiday evenings.
    - Shall not extend beyond 12:00 midnight.
    - Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
    - Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.
11. The hours of operation for the tennis courts shall be 8:00 A.M. to 10:00 P.M. except that the use of the tennis courts enclosed within the bubble shall be permitted between 6:00 A.M. and 12 midnight.
12. If any outdoor lighting is used in conjunction with the bubble such light shall be on standards not exceeding 12 feet in height and shall be shielded and directed toward the applicant's property in a manner that would prevent light from projecting beyond the lot lines.
13. All necessary permits shall be obtained prior to any construction.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Smith).

11:00 A.M. ST. LUKE'S UNITED METHODIST CHURCH, appl. under Sect. 3-403 to permit addition of new sanctuary building, realignment of access road and rearrangement of parking spaces for existing church and related facilities, located 7628 Leesburg Pk., R-4, Dranesville Dist., 39-2((1))57A, 4.0012 ac., SP 84-D-001.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. Mr. Michael Logan represented the church which has been a part of the community since 1959. The church was proposing an addition and had the approval of the Pimmit Hills Civic Association. Mr. Logan questioned a condition in the staff report requiring dual access with the adjacent property. He advised the Board that the church was working with the adjacent property owner but they were not in agreement at this time. There was a question regarding whether the church would have constant access on Burnside Court which they did not desire. Mr. Logan stated that a gate would be open only during church hours to accommodate the overflow parking. He stated that the church did not hold weddings because it did not have an area for receptions.

In response to questions from the Board, Mr. Alvin Horton of 7413 Tilman Drive in Falls Church stated that the church did not anticipate any problems with the use of the building. The congregation worshipped on metal folding chairs so that the seating capacity would remain the same.

Mr. Martin D. Walsh, an attorney, represented the landowner to the east of the church property. He indicated that they supported the special permit. Mr. Walsh presented a brief history of the property to the east which had been the subject of a rezoning two to three years ago. He informed the Board of the proffers made in connection with the rezoning proposal. Mr. Walsh stated that the Department of Environment Management should require the church to provide adequate access. He asked that condition no. 8 of the development conditions be amended. In response to questions from the Board, Mr. Shoup stated that condition no. 7 referred to the coordinating access. He indicated that condition nos. 7 & 8 had to be read together.

During rebuttal, Mr. Horton stated that the church had discussed the conditions with the Office of Transportation and he did not feel that condition no. 8 needed to be changed. Mr. Shoup stated that the way condition no. 8 was worded, if a mutual access could not be provided, the coordinated was the preferred access. The County could not force the church to provide an access.

ST. LUKE'S UNITED METHODIST CHURCH

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-D-001 by ST. LUKE'S UNITED METHODIST CHURCH under Section 3-403 of the Zoning Ordinance to permit addition of new sanctuary building, realignment of access road and rearrangement of parking spaces for existing church and related facilities, on property located at 7628 Leesburg Pike, tax map reference 39-2((1))57A, 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 3, 1984; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 4.0012 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

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

RESOLUTION

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.

3. 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.

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. Transitional screening may be modified provided:
   - o Supplemental evergreen plantings are provided between the parking lot and the eastern lot line abutting Section 2 of the Leonard subdivision, generally in the area shown on the plat. The type and extent of such plantings shall screen the view of the parking lot from the adjacent residences. The amount and type of such plantings shall be determined by the Director, Department of Environmental Management, and this requirement shall not be waived; and
   - o The existing vegetation to the northern rear of the property is retained and, if deemed necessary by the Director, DEM, supplemental evergreen plantings are provided so that screening is equivalent to Transitional Screening 1.

6. The barrier requirement may be waived.

7. Coordination of access with adjacent Lot 39 shall be provided as mutually agreed to by the applicant and the developer of Lot 39 at such time as Lot 39 is developed and such access shall be covered by a public access easement. If mutually agreed upon, this access may be provided essentially as shown on the plat received and dated by staff on March 16, 1984. If the ultimate design of the coordinated access is different than that shown on the plat, such shall not require additional approval by the Board of Zoning Appeals. The ultimate design of the coordinated access shall be subject to the approval of the Director, DEM, after coordination with the Office of Transportation.

8. If it is determined that a mutually acceptable consolidated access will not be provided, the applicant shall provide a standard service drive in a dedicated right-of-way. Construction of the service drive shall occur at a time deemed to be appropriate by the Director, DEM after coordination with the Office of Transportation. Right-of-way dedication for the service drive shall occur prior to the final approval of the site plan.

9. The seating capacity in the main worship area shall be a maximum of two hundred and ten (210).

10. The minimum number of parking spaces shall be fifty three (53) and the maximum number of parking spaces shall be sixty-one (61).

11. Through access from Burnside Court to Leesburg Pike shall be restricted as follows:
   - o existing pavement shall be removed as shown on the plat; and
   - o the rustic gate shall be located as shown on the plat and shall be kept closed at all times except during major church functions where it could reasonably be expected that the entire parking area will be utilized. Under no circumstances shall the gate be opened in conjunction with the child care center use.

12. Signs shall be permitted in accordance with Article 12, Signs.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

11:15 A.M. RIDGE DEVELOPMENT CORPORATION, appl. under Sect. 3-103 of the Ord. for community tennis courts, located Berryland Farm Sec. III, R-1(C), Centreville Dist., 37-3((8))C and 37-3((12))E, 5.23 acres and 1.60 acres, SP 84-C-002.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. In response to questions from the Board concerning parking, Mr. Shoup indicated that the Zoning Ordinance requires parking to be on site. However, the applicant has indicated that it will be a walk-to facility and Berryland Street is a public street. It would be a violation for the users of the tennis facility to park on the street. However, people are allowed to park on a public street.

Mr. Arthur Christie of 5530 Wisconsin Avenue in Chevy Chase and Mr. Joseph McClellan of William H. Gordon Associates, Inc. represented the applicant. Mr. Christie stated that development of the two tennis courts were part of the rezoning proffer of 1977 and 1978. He stated that there was not any place else on the property to locate the tennis courts which were felt to be more beneficial than multi-purpose courts. The terrain was such that parking was infeasible. There was barely room for the tennis courts. Mr. Christie indicated that the tennis courts were for the use of the residents and not outsiders.

Chairman Smith inquired as to how the staff justified the approval of the special permit without requiring parking on site. Mr. Shoup responded that parking was not a requirement for tennis facilities. Chairman Smith indicated that he did XYZnt have problem with that as long as a condition was added regarding the parking as it could have an impact on adjacent property owners. Mr. Hammack stated that since Berryland Drive has 242 feet of frontage along the site, there is plenty of room for parking at least four cars. With regard to on-site parking, Mr. McClellan stated that existing trees would have to be destroyed in order to provide parking.

Captain O. P. Burch, owner of lot 104 adjoining the pond, represented the Berryland Homeowners Association. He indicated that parking was not a concern. However, the association was concerned about the proffers which included two tot lots. Captain Burch inquired if the proposed tennis courts were to take the place of the tot lots. He was advised by Mr. Shoup that the tot lots did not require a special permit and would still have to be provided in accordance with the proffers. Captain Burch requested screening around the tennis courts after construction to shield the courts from homes across the street.

In response to questions from the Board, Mr. Shoup stated that there were not any sidewalks provided. He was uncertain as to the width of the road. Mr. McClellan indicated that there is a 60 foot right-of-way with 24 feet of pavement, a 6 foot shoulder on one side and an 8 foot shoulder on the side of the tennis courts.

Mr. Gerry Cole of 10865 Country Pond Lane informed the Board that he resided right behind one of the proposed tennis courts. He supported the special permit request as it would provide recreational facilities for parents and their children. He further stated that many athletes like to walk rather than drive.

There was no one else to speak in support and no one to speak in opposition. Mr. McClellan informed the Board that several citizens had expressed concern for screening and pedestrian access to the tennis courts. He was concerned about the Board stipulating that parking be provided on the site as it would encourage vehicular traffic to the site. He informed the Board that the only space available for parking was restricted by floodplain. If the trees were removed to accommodate parking, it would not satisfy the citizens. Mr. Hammack was concerned that people would have to walk on the soft shoulder to reach the facility. Mr. McClellan indicated that there was no problem in paving the shoulder but he was not certain whether VDH&T would accept it. The present should was gravel.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-C-002 by RIDGE DEVELOPMENT CORPORATION, under Section 3-103 of the Zoning Ordinance to permit community tennis courts, on property located at Berryland Farm Sect. III, tax map reference 37-3((8))C and 37-3((12))E, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 3, 1984; and

RESOLUTION

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(C).
3. The area of the lot is 5.23 acres and 1.60 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only. However, at such time as the facilities are conveyed to the homeowners association, the approval shall transfer to the association. This approval is granted for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the tennis courts as shown on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional screening may be modified and shall be provided as follows:
   - existing vegetation shall be retained except that removal shall be permitted where necessary to accommodate construction of the tennis courts; and
   - supplemental evergreen plantings shall be provided around the facilities as determined by the Director, Department of Environmental Management, to ensure that the facilities are screened from the view of adjacent residential properties.
6. The barrier requirement may be waived provided the tennis courts are fenced as indicated on the plat submitted with this application.
7. Trails shall be provided from Berryland Drive to the tennis courts as shown on the plat submitted with this application.
8. The maximum hours of operation shall be 8:00 A.M. to dusk.
9. The tennis courts shall have no artificial lighting.
10. No on street parking in association with the use of the tennis courts shall be permitted near these sites on Berryland Drive.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 1 (Mr. Hammack)

Page 396, April 3, 1984, Recess

At 12:15 P.M., the Board recessed for lunch. It reconvened at 1:15 P.M. to continue with the scheduled agenda.

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11:30 A.M. TRUSTEES OF THE LUTHERAN CHURCH OF THE ABIDING PRESENCE, appl. under Sect. 3-107 of the Ord. for a church and related facilities, located 6304 Lee Chapel R., Claude and Alma Jerman Subd., R-1, Springfield Dist., 78-39(1))22, 3.425 ac., SP 84-S-003.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. Reverend Bob Beaver of 8702 Bridle Wood Drive in Springfield informed the Board that the church is presently meeting in White Oaks elementary school. The congregation church originally began meeting in 1978 and was regathered in 1980. Presently, there were 75 family units in the congregation. Reverend Beaver indicated that it was time to build as the congregation had outgrown its temporary facilities at the school. In addition, its five year special permit at the school will expire in 1985. He stated that the congregation was looking forward to building.

Mr. Hyland questioned whether there was any intended use of the proposed church facility for overnight purposes for people to stay in the church. Reverend Beaver replied that the building was not designed for overnight use. Mr. Hyland indicated that the reason for asking was because of other churches in the County providing shelter for persons during the winter months. Reverend Beaver stated that due to the location of the proposed church, one would have to travel many miles to locate a homeless individual. There was not a natural homeless population in the vicinity of the proposed church. Reverend Beaver stated that the normal activities of the church would be for persons occupying the building on Sunday morning. The church was not requesting any activity other than what would normally be expected in a church building.

Mr. Hammack inquired if the church planned to have a day care center and was informed by Reverend Beaver that adequate facilities already existed for child care in the area. Reverend Beaver indicated that the church did have a multi-purpose program where they invited the elderly for afternoon activities. In addition, the church wanted to provide or community programs.

In response to further questions from the Board, Reverend Beaver stated that Mr. Shoup had done an excellent job in preparation of the staff report and the church supported all of the development conditions. He further indicated that it had been a pleasure working with Mr. Shoup.

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

Page 397, April 3, 1984 Board of Zoning Appeals

TRUSTEES OF THE LUTHERAN CHURCH
OF THE ABIDING PRESENCE

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-S-003 by TRUSTEES OF THE LUTHERAN CHURCH OF THE ABIDING PRESENCE under Section 3-107 of the Zoning Ordinance to permit church and related facilities on property located at 6304 Lee Chapel Road, tax map reference 78-3((1))22, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 3, 1984; 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 3.425 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

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

RESOLUTION

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.

3. 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.

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. The seating capacity in the main worship area shall not exceed two-hundred and forty-eight (248) seats.

6. Transitional Screening 1 shall be provided without modification along the northern and southern lot lines and along the front of the property where it is across the road from residential property. Existing vegetation shall be retained along the western rear of the property and may be used to satisfy the transitional screening requirement provided that supplemental evergreen plantings may be required by the Director, Department of Environmental Management, to ensure that the screening to the rear is equivalent to Transitional Screening 1. The Barrier requirement may be waived along all lot lines.

7. A minimum of sixty-two (62) and a maximum of sixty-five (65) parking spaces shall be provided.

8. Interior parking lot landscaping shall be provided in accordance with Article 13.

9. Dedication for public street purposes to forty-five (45) feet from the centerline of Lee Chapel Road shall be provided along the full frontage of the property.

10. A right turn deceleration lane shall be constructed in accordance with all applicable codes and standards.

11. The driveway entrance shall be aligned with the entrance to the commercial property on the opposite side of Lee Chapel Road.

12. The building shall be located no closer than ninety-five (95) feet from the front lot line that is established after dedication.

13. A sign shall be permitted in accordance with the provisions of Article 12, Signs.

14. Parking lot lighting, if installed, shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.

15. A trail or sidewalk shall be provided along the frontage of the property as determined by the Director, Department of Environmental Management.

16. Best Management Practices (BMP's) shall be applied during construction.

17. The structure shall be acoustically treated as follows:
   - o Exterior walls shall have a laboratory sound transmission class (STC) of at least 39, and
   - o Doors and windows shall have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they shall have the STC specified for exterior walls.
   - o Adequate measures to seal and caulk between surfaces shall be provided.

18. Approval of this application shall not be constructed as an approval of that portion of the building shown on the plat as "future expansion."

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Thonen seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

11:45 A.M. CHURCH OF THE HOLY CROSS (Episcopal), appl. under Sect. 3-303 of the Ord. for a church and related facilities, located Filley Subd., R-3, Providence Dist., 39-4((1))33A, 3.558 ac., SP 84-P-004.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. Reverend Jonathan Bryan, Vicar, of Alexandria represented the church. He indicated that the mission was begun in 1979 in Dunn Loring and was presently meeting in the Y.W.C.A. He informed the Board that he did not have any problem with any of the development conditions. In response to questions from the Board, Reverend Bryan stated that in the future, the church might desire a Mother's Day Out Program from 9 A.M. to 12 Noon.

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

CHURCH OF THE HOLY CROSS

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-P-004 by CHURCH OF THE HOLY CROSS under Section 3-303 of the Zoning Ordinance to permit church and related facilities, on property located at Filley Subd., tax map reference 39-4((1))33A, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 3, 1984; 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 3.558 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional Screening may be modified so that plantings are provided generally in conformance with the landscaping and screening plan shown on the approved plat. To the northern and eastern rear of the property, existing vegetation shall be retained which will satisfy the Transitional Screening yard requirement. This requirement shall not preclude the clearing of undergrowth or any clearing necessary to accommodate utility work.
6. Peripheral and interior parking lot landscaping shall be provided generally in conformance with the approved plat, subject to the approval of the Director, Department of Environmental Management.
7. The barrier requirement shall be waived.
8. The structure shall be acoustically treated as follows:
   - o Exterior walls shall have a laboratory sound transmission class (STC) of at least 39, and
   - o Doors and windows shall have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they shall have the STC specified for exterior walls.
   - o Adequate measures to seal and caulk between surfaces shall be provided.
9. The seating capacity in the main worship area shall not exceed one hundred and twenty (120).

RESOLUTION

10. There shall be thirty (30) parking spaces provided.
11. Signs shall be permitted in accordance with the provisions of Article 12, Signs.
12. Parking lot lighting, if installed, shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed unanimously by a vote of 7 to 0.

Page 400, April 3, 1984, Scheduled case of

12:00 P.M. LEESBURG PIKE COMMUNITY CHURCH, appl. under Sect. 3-103 of the Ord. for a church and related facilities, located 11131 Leesburg Pk., Heatherfield Subd., R-1, Centreville Dist., 12-1((1))51, 2.86 acres, SP 83-C-097. (DEFERRED FROM MARCH 6, 1984 FOR ADDITIONAL INFORMATION FROM VDH&T).

The Board was in receipt of a letter from the applicant requesting a deferral of the special permit application in order to obtain a written response from VDH&T which was not available at this time. It was the consensus of the Board to grant the request and defer the application until June 5, 1984 at 10:15 P.M.

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Page 400, April 3, 1984, Scheduled case of

12:15 VIETNAMESE BUDDHIST ASSOCIATION, appl. under Sect. 3-203 of the Ord. for a temple and related facilities, located 6901 Columbia Pk., R-2, Mason Dist., 60-4((1))23, 53,422 sq. ft., SP 83-M-099. (DEFERRED FROM MARCH 6, 1984 FOR NOTICES.)

Ms. Mary Burton presented the staff report which recommended denial of the special permit application as the Comprehensive Plan recommended development of the remaining acreage as single family infill at a density compatible with the existing adjacent developments. In response to questions from the Board regarding the staff's position, Ms. Jane Kelsey indicated that due to this particular parcel of land and the narrow size of the lot, the adjacent parcel, the architectural design of the structure, the recommendation of the Comprehensive Plan for residential infill, and the fact that this particular use would have a greater impact than if the property were developed as residential, staff has to recommend denial of the use. Mr. Ryland questioned the criteria used in staff's decision. Ms. Kelsey responded that the decision was made by the total staff. She indicated that there were not any fixed guidelines as staff examined each parcel on an individual basis.

Chairman Smith inquired as to the zoning classification of the adjacent parcels. Ms. Burton stated that the subject property was zoned R-2. The adjoining Columbia Pines subdivision was zoned R-3 and R-2. To the west of the subject property is the Masonic Temple. Ms. Burton informed the Board that the proposed temple was 308,000 square feet which would not exceed the residential density allowed for the site. In response to further questions from the Chairman, Ms. Burton stated that the recommendation for denial was because of the amount of parking, the bulk of the building, and the height of the structure. Even though the structure did not exceed the allowable height of 35 ft., the ground was lower than the surrounding land. The residents to the east were on a higher elevation than the proposed site.

In summation, Ms. Burton stated that the staff recommended denial because of the combination of the building and the parking problem. She indicated that this particular site could not be used as a temple or any other church as it would require on site parking.

Mr. Bernard Fagelson, an attorney in Alexandria, introduced the architect Mr. A. J. Rappatone who designed the pagoda and Mr. J. Daniel Tackis, a traffic engineer with Kellerco at Tysons Corner, who prepared a very informative report responding to many of the traffic concerns of staff. Mr. Fagelson informed the Board that a vietnamese pagoda was not a standard church and that a standard church has many other activities which were not present in this application. The fundamental purpose of a pagoda is to provide a tranquil scene for meditation. The hours of operation would be from 10 A.M. to 3 P.M. He indicated that consultations with the priest would be by appointment only. However, even though the nature of the religion was spontaneous, there would not be any large gatherings of the congregation but simply worship in a sanctuary in a quiet setting.

Mr. Fagelson stated that the real issue was whether this use was an over intensification of the property and whether the traffic was a real problem. He stated that in reading the staff's checklist, the only concern was aesthetics.

Mr. A. J. Rappatone of 1230 28th Street in Washington, D.C. informed the Board that he was a licensed architect in Washington, D.C., Maryland and Virginia. He was commissioned in November 1983 to design the pagoda. He stated that he met with the County staff in December and had revised the plans in accordance with their comments. Their first concern was the building size which he then reduced down by 25 percent. The building height is now 30 feet and the landscaping has been increased. The parking was reduced in half and the bright colors for the pagoda were reduced to earth tones. With regard to the size of the structure, it was equivalent to two houses and the 30 foot height was within the height limitations allowed for the residential area. Mr. Rappatone stated that the size of the church was probably the smallest in the County. It was sized to accommodate 80 people as far as area but the intent was not to have more than 8 to 10 people at any one time. The size of the pagoda was necessary in order to house the Buddha statute which is 12 feet high. The outside appearance of the pagoda has been toned down to match the green area.

In response to questions from the Board regarding the access, Mr. Rappatone indicated that they had tried to obtain a curb cut but had been told it would not be permitted by the State. Mr. Rappatone felt it would be fruitless to request the access as the proposed traffic for the use would be very low. The greatest number of people on the site at any one time would be 12. Mr. Rappatone stated that people would be coming and going all during the week as worship was not on any one special day. Mr. Rappatone confirmed that the topography of the site was lower than the land to the east or west.

Mr. Hyland inquired as to the applicant's opinion regarding the proposed development not meeting the recommendation of the Comprehensive Plan due to the size of the structure and the parking. Mr. Rappatone responded that the applicant felt this site was the transitional site between the neighborhood and the Masonic Temple. It was felt that the pagoda was a good transitional use. Mr. Rappatone indicated that the allowable two dwellings would not prefer to back up to one another. According to Mr. Rappatone, the use was harmonious since the building had been scaled down and it would not show through the trees.

Chairman Smith inquired if the applicant had tried to work out an access arrangement with the Masonic Temple. Mr. Rappatone responded that the applicant was still discussing the matter but was not getting anywhere. They were not able to reach a negotiated price. Chairman Smith suggested that an easement be obtained rather than buying the land as he felt a safer access was necessary.

Mr. J. Daniel Tackis, the independent traffic engineer hired by the applicant to evaluate the traffic situation, informed the Board that 18 cars would arrive at the proposed site between 10 A.M. to 3 P.M. The prayer sessions would last from a half hour to one hour. He indicated that the volume of traffic to be generated is equivalent to vehicle trips generated by two residential homes. The traffic would not affect the peak hours of traffic on Columbia Pike.

Chairman Smith inquired if Mr. Tackis had discussed a service road arrangement with the Masonic Temple or access through the contiguous lot 1 which is about to be remodeled or demolished. Mr. Tackis indicated he was not aware of any such discussion. In response to questions from Mr. Hyland concerning trip generation, Mr. Tackis stated that the study was based on the facility of 80 seats with one parking space provided for every 4 seats. He indicated that there would be at least 20 cars making a total of 40 trip generations for the 80 seat facility.

Mr. Hyland stated that the applicant had proposed a maximum of 18 vehicle trips per day. Mr. Larry Berg of the Office of Transportation stated that because the applicant has proposed to change the hours from 10 A.M. to 3 P.M. and services being meditation by appointment with a certain number of time slots for individual sessions, it resulted in a maximum number of 18 vehicles per day which is below the 20. He indicated that the applicant was willing to accept this proposal but as a good faith effort, the applicant

was asking that they be allowed to retain the 20 parking spaces. Based on the trip generation, only 4 parking spaces would actually be utilized so the Office of Transportation was requesting the parking be reduced to 4 parking spaces. However, Mr. Berg was not certain whether there were provisions in the Ordinance to require the reduction of the size of the parking lot. He indicated that this was a unique case with the applicant indicating that only 4 or 5 parking spaces were necessary but asking provisions for 20 parking spaces and a seating capacity of 80 persons. Mr. Hyland stated that the Board could condition the special permit that no more than a certain number be allowed on the site. Mr. Berg expressed concern about enforcement of such a condition because of the surplus parking.

Mr. Hyland inquired if the number of vehicle trips generated were limited to 18 whether the Office of Transportation would then have a problem with the traffic. Mr. Berg indicated that there would not be a problem with transportation from that perspective but there still would be U-turns which is not the most ideal situation.

Chairman Smith indicated stated that two houses could go on the subject property by right under the R-2 zoning category. However, a pagoda was not by right. Therefore, the Board has to ensure that there is a safe, non-hazordous egress to the site. Chairman Smith stated that the only real issue is that the use does not have good access and does not meet the standards set forth in the Ordinance for special permits. Ms. Burton informed the Board that the development of the property into two residential houses could not be accomplished without a variance.

Mr. William Ackerman of 39 Forest Grove Drive in Annandale spoke in support of the application if it were located elsewhere. He indicated that the residents were concerned bout the height of the temple being higher than 30 feet. Mr. Ackerman was concerned about the traffic and indicated that he would be willing to help Mr. Vinh find another location for the temple.

Mr. Robert Bodine of 6210 Greeley Boulevard in Springfield also spoke in support. He indicated that he thought the native Vietnamese colors would be a bright addition to the drab Annandale. He indicated that there was religious prejudice involved in this application.

The following persons spoke in opposition. Mr. Paul Glenn of 4110 Bennett Drive; Mr. Dick Rein of 4005 Moss Drive; Mr. Fred Tolleson of 4001 Moss Drive; Ms. Nancy Hoffman of Bennett Drive; Ms. Ann Patterson of 4004 Moss Drive; and Ms. Frances Dee Johnson of 6816 Rosewood Street. Mr. Glenn stated that Mr. Vinh had made a presentation to the Wynfield Civic Association which later voted to oppose the special permit in support of the adjacent landowners. He informed the Board that the civic association had successfully opposed a medical facility for the same site. The opposition was concerned that the site was not an appropriate piece of property for a temple because of the lot size. The residents were concerned about property values, increased traffic in the area, and the structure itself. It was questionable whether the lot could accommodate the number of houses allowed by the R-2 zoning.

The opposition had been informed that an existing temple, which was used in comparison to the proposed temple, was used by individual worshippers and that there would not be any large groups or weddings. Later, the civic association learned that the congregation rented a school auditorium for its large affairs. Because this would be difficult to police, it was felt that it would be better if the congregation found a larger piece of property. Mr. Hammack inquired whether any of the residents' fears would be laid to rest by the limitation of hours agreed upon by the applicant. Mr. Glenn responded that the proposed hours were stretched out for every day of the week. Other concerns of the opposition were traffic congestion, the blind curve on Columbia Pike, the size of the lot, the size of the structure, the number of people, parking, screening, visual impact, and future growth potential if the temple became a national shrine.

During rebuttal, Mr. Fagelson stated that enforcement was indicated as a problem. He stated that enforcement begins with the neighborhood calling the County if there is a problem. Mr. Fagelson stated that any large gatherings would be held off the site. He indicated that screening would be provided for privacy of the surrounding lots. Mr. Fagelson clarified the issue regarding the national shrine. He stated that Mr. Vinh had written letters seeking funding help in building the temple. However, the temple would not be a magnificent cathedral or elaborate temple. Mr. Fagelson asked the Board to accept the independent traffic study prepared by their engineer. He stated that the temple was a legitimate use and the applicant had answered all concerns. Mr. Fagelson urged the Board to grant the use.

As the staff report recommended denial of the special permit, there were not any proposed development conditions contained in the report. Accordingly, Mr. Hammack inquired of staff as to the conditions to be imposed on the special permit should the Board grant the use. Ms. Kelsey presented the Board and the applicant with a set of proposed conditions. Following review, Mr. Hammack inquired if the applicant would accept a deceleration lane into the site as it was a normal condition imposed on other churches. Mr. Fagelson stated that the applicant had no objection to condition no. 10.

The opposition reviewed the development conditions and requested the Board to restrict the tourists from visiting the site. Chairman Smith expressed concern about the Board restricting a house of worship. He stated that there was nothing to prevent anyone from driving through the site to look at the temple.

Mrs. Day made the following motion. She stated that the Board had listened to lengthy testimony, a great deal of which was irrelevant. However, the bottom line of the problem was that the access did not meet the standards for special permit uses. Mrs. Day indicated that this parcel of land was not the proper place for this structure. She stated that the problems have nothing to do with the religion. The Office of Transportation has concern about the limited access due to the median break on Columbia Pike. The Masonic Temple has the same problem which has not been solved. Mrs. Day stated that it was irrelevant that the people proposing to use this structure were not of the immediate neighborhood. However, there is a great deal of opposition from the neighboring taxpayers around the area. Mrs. Day stated that she agreed with the staff who researched the proposed use thoroughly. She indicated that the County of Fairfax is very lenient with churches but there is concern that the structure and the traffic problems were not compatible or harmonious with the surrounding community. Mrs. Day stated that the applicant has not indicated compliance with special permit uses for the R-2 District and she moved that the special permit application be denied. Mr. Hyland seconded the motion for discussion purposes.

Mr. Ribble stated that he understood what Mrs. Day was concerned about but there has been indications of support from the community. He stated that the traffic problems would not exist because the applicant indicated that they would not be using the full 80 seat sanctuary. In addition, Mr. Ribble felt the church has done everything in its power to accommodate the neighbors. They reduced the height of the structure to 30 feet and reduced the amount of parking.

Chairman Smith stated that he could not support the motion to deny with the development conditions that had been presented. He indicated that it was up to the applicant to meet the development conditions. There was nothing in the Ordinance requiring the use to be confined to the immediate area.

Mr. Hammack stated that he agreed with the Chairman that the use should not limited to a narrow segment of the community. However, he was concerned about the size of the lot not being the ideal location. He indicated that the church has done everything it could to satisfy the requirements under the Ordinance but he was concerned about the possibility of the temple becoming a national shrine.

The vote on the motion to deny failed by a vote of 2 to 5 (Messrs. Smith, DiGiulian, Hyland, Ribble and Mrs. Thonen).

Chairman Smith called for another motion. The Board discussed the development conditions and amendments to conditions nos. 10 and 11. Following another lengthy discussion among the Board members, Mr. Hyland made the following motion.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 83-M-099 by VIETNAMESE BUDDHIST ASSOCIATION under Section 3-203 of the Zoning Ordinance to permit a temple and related facilities, on property located at 6901 Columbia Pike, tax map reference 60-4((1))23, 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 3, 1984; 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-2.
3. The area of the lot is 53,422 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.

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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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum capacity of the pagoda shall be 80.
6. The hours of operations shall be 10:00 A.M. to 3:00 P.M., seven (7) days per week.
7. There shall be no gongs or outside public gatherings on this site.
8. The applicant shall provided twenty-two (22) parking spaces in accordance with Article 11 of the Zoning Ordinance.
9. There will be a maximum of two (2) full time employees residing on site.
10. The applicant shall provide access to the site via an existing median break. (The Board clarified this condition to mean that the applicant shall purchase land or obtain an easement from the Masonic Temple for the length of access necessary to reach the existing median break).
11. The applicant shall provide a right-turn deceleration lane along the frontage of the site.
12. Transitional screening and barriers shall be provided as indicated on the plat submitted with this application. Interior parking lot landscaping shall be provided in accordance with Article 13.
13. The color of the pagoda shall be mute colors that will be compatible with the surrounding area.
14. The parking lot lights shall not exceed 12 feet in height and shall be shielded to direct light onto the parking lot and not on the adjacent residential properties.
15. A sign shall be permitted in accordance with Article 12.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 1 (Mrs. Day).

Page 404, April 3, 1984, Recess

The Board recessed its meeting at 4:05 P.M. and reconvened at 4:15 P.M. to announce that Messrs. DiGiulian, Hyland, Hammack and Mrs. Thonen had to leave the Board meeting. As a result, there would not be a quorum to hear the remaining cases. Mr. DiGiulian returned to the meeting from the break so there would be a quorum for the Board to defer the remaining scheduled items.

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Page 405, April 3, 1984, Scheduled case of

1:00 P.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 Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 8,519 sq. ft., VC 83-D-197. (DEFERRED FROM 2/28/84 AND 3/27/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS).

As there were only three Board members present who had heard the previous testimony concerning the above-captioned application, it was the consensus of the Board to defer the variance until April 10, 1984 at 10:00 A.M.

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Page 405, April 3, 1984, Scheduled case of

1:05 P.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 2 to 82.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 8,619 sq. ft., VC 83-D-198. (DEFERRED FROM 2/18/84 AND 3/27/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS).

As there were only three Board members present who had heard the previous testimony concerning the above-captioned application, it was the consensus of the Board to defer the variance until April 10, 1984 at 10:05 A.M.

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Page 405, April 3, 1984, Scheduled case of

1:10 P.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 3 to 104.0 ft. from I-66 R.O.W., (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 8,739 sq. ft., VC 83-D-199. (DEFERRED FROM 2/28/84 AND 3/27/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS).

As there were only three Board members present who had heard the previous testimony concerning the above-captioned application, it was the consensus of the Board to defer the variance until April 10, 1984 at 10:10 A.M.

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Page 405, April 3, 1984, Scheduled case of

1:15 P.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 4 to 149.0 ft. from I-66 R.O..W., (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 11,182 sq. ft., VC 83-D-200. (DEFERRED FROM 2/28/84 AND 3/27/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS).

As there were only three Board members present who had heard the previous testimony concerning the above-captioned application, it was the consensus of the Board to defer the variance until April 10, 1984 at 10:15 A.M.

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Page 405, April 3, 1984, Scheduled case of

1:20 P.M. HOWARD BROCK & HOWARD BROCK, JR., appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 9 to 121.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))pts. 46 & 46A, 11,200 sq. ft., VC 83-D-201. (DEFERRED FROM 2/28/84 AND 3/27/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS).

As there were only three Board members present who had heard the previous testimony concerning the above-captioned application, it was the consensus of the Board to defer the variance until April 10, 1984 at 10:20 A.M.

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Page 406, April 3, 1984, Scheduled case of

1:25 P.M. HOWARD BROCK, JR., appl. under Sect. 18-401 of the Ord. to allow construction of house on proposed lot 11 to 30.0 ft. from I-66 R.O.W., (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))46, 12,571 sq. ft., VC 83-D-202. (DEFERRED FROM 2/28/84 AND 3/27/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS).

As there were only three Board members present who had heard the previous testimony concerning the above-captioned application, it was the consensus of the Board to defer the variance until April 10, 1984 at 10:25 A.M.

// There being no further business, the Board adjourned at 4:20 P.M.

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

Submitted to the Board on April 9, 1985

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: April 16, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 10, 1984. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble and Mary Thonen.

The Chairman opened the meeting at 10:10 A.M. and Mrs. Day led the prayer.

10:00 A.M. CONDOMINIUM RENTALS LIMITED, L.P., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that the appellant's use of leasing multiple family dwelling units for periods of less than one (1) month is providing accommodations for transients and, therefore, is a hotel, motel use, located 1350 Beverly Rd. and 2042 Peach Orchard Dr., PDH-40 & R-30, 30-2((1))30B and 40-1((1))pt. 34, Dranesville Dist., A 84-D-001.

The Board was in receipt of a memo from Philip Yates advising them that the attorney representing Condominium Rentals Limited had withdrawn the appeal. Mr. Hammack asked about what procedure was followed which allowed the application to be withdrawn after the Zoning Administrator had noted a violation and rendered an opinion. He felt that the record should reflect what had transpired prior to the case being withdrawn. Mr. Hammack stated that the Zoning Administrator had apparently decided to re-evaluate after having told them they were in violation.

Ms. Kelsey stated that she would pass these concerns along to Mr. Yates and set up a time for a discussion when he could be present at a BZA meeting.

Page 407, April 10, 1984, Scheduled 10:00 A.M. case heard at 10:25 A.M.:

10:00 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 Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 8,519 sq. ft, VC 83-D-197. (DEFERRED FROM 2/28/84 & 3/27/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS AND FROM 4/3/84 FOR FULL BOARD)

Alex Laufer, from the firm of Brock & Bankert, 4900 Leesburg Pike, Alexandria, represented the applicant. He stated that this was the first of four lots to be considered for Wade Ropp. The property was purchased prior to 1970 and well before the Ordinance in question. Mr. Laufer stated that the entire property was triangular in nature. In order to locate a house on the lot and meet the Ordinance requirements, the houses had to be located towards the front of the lot. Many existing houses were built before the 200 foot setback requirement, and these proposed houses would be in keeping with the neighborhood. A variance had been approved in 1981 for this property and then had lapsed due to a problem with the County over storm water detention facilities. In the interim, because there were already three existing houses on the property, the County permitted the applicant to record three lots.

Robert Bodine, 6210 Greeley Blvd., Springfield, spoke with regard to the application. He felt that the setbacks from a major arterial were required to leave room for the road to eventually be widened, not to protect residential areas from noise.

There was no one to speak in support or opposition.

Page 407, April 10, 1984 Board of Zoning Appeals
WADE B. ROPP

R E S O L U T I O N

In Application No. VC 83-D-197 by WADE B. ROPP under Section 18-401 of the Zoning Ordinance 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), on property located at Fisher Avenue, tax map reference 40-4((1))47, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 10, 1984; 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 8,519 sq. ft.

4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:

A. That the subject property was acquired in good faith.

B. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property, in that a partial subdivision was allowed previously, and building has begun on that property.

C. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

D. That the strict application of this Ordinance would produce undue hardship.

E. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

F That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.

G. That authorization of the variance will not be of substantial detriment to adjacent property.

H. That the character of the zoning district will not be changed by the granting of the variance.

I. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat for proposed lots 1, 2, 3, and 4 which is included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless the subdivision is recorded among the land records of Fairfax County and construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. The dwelling shall be constructed with acoustical materials to insure that the interior noise level does not exceed 45 dBA Ldn. The acoustical measures shall be as follows:

- Exterior wall shall have a laboratory sound transmission class (STC) of at least 45.
- Doors and windows shall have a laboratory sound transmission class (STC) of at least 37. If "windows" function as walls, then they should have the STC specified for exterior walls.
- Adequate measures to seal and caulk between surfaces shall be provided.
- If at some future date prior to the issuance of a building permit the applicant furnishes proof to the satisfaction of the Environmental and Policy Division, Office of Comprehensive Planning, that the noise impact is less than the projected 70 dBA Ldn, then this condition may be modified or eliminated as determined by the Environmental and Policy Division.

4. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion. The motion passed by a vote of 7 - 0.

Page 408, April 10, 1984, Scheduled 10:05 A.M. case heard at 10:40 A.M.:

10:05 A.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 2 to 82.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 8,619 sq. ft, VC 83-D-198. (DEFERRED FROM 2/28/84 & 3/27/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS AND FROM 4/3/84 FOR FULL BOARD)

The testimony received on VC 83-D-197 was incorporated into the hearing on this application.

RESOLUTION

In Application No. VC 83-D-198 by WADE B. ROPP under Section 18-401 of the Zoning Ordinance to allow construction of a house on proposed lot 2 to 82.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), on property located at Fisher Avenue, tax map reference 40-4((1))47, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 10, 1984; 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 8,619 sq. ft.
4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property was acquired in good faith.
   B. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
   C. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
   D. That the strict application of this Ordinance would produce undue hardship.
   E. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
   F. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of 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 variance is approved for the location and the specific structure shown on the plat for proposed lots 1, 2, 3, and 4 which is included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless the subdivision is recorded among the land records of Fairfax County and construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. The dwelling shall be constructed with acoustical materials to insure that the interior noise level does not exceed 45 dBA Ldn. The acoustical measures shall be as follows:
   - Exterior wall shall have a laboratory sound transmission class (STC) of at least 45.
   - Doors and windows shall have a laboratory sound transmission class (STC) of at least 37. If "windows" function as walls, then they should have the STC specified for exterior walls.
   - Adequate measures to seal and caulk between surfaces shall be provided.
   - If at some future date prior to the issuance of a building permit the applicant furnishes proof to the satisfaction of the Environmental and Policy Division, Office of Comprehensive Planning, that the noise impact is less than the projected 70 dBA Ldn, then this condition may be modified or eliminated as determined by the Environmental and Policy Division.
4. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion. The motion passed by a vote of 7 - 0.

Page 410, April 10, 1984, Scheduled 10:10 A.M. case heard at 10:50 A.M.:

10:10 A.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 3 to 104.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 8,739 sq. ft, VC 83-D-199. (DEFERRED FROM 2/28/84 AND 3/27/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS AND FROM 4/3/84 FOR FULL BOARD)

The testimony received on VC 83-D-197 was incorporated into the hearing on this application.

Page 410, April 10, 1984 Board of Zoning Appeals
WADE B. ROPP

R E S O L U T I O N

In Application No. VC 83-D-199 by WADE B. ROPP under Section 18-401 of the Zoning Ordinance to allow construction of a house on proposed lot 3 to 104.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), on property located at Fisher Avenue, tax map reference 40-4((1))47, 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 10, 1984; 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 8,739 sq. ft.
4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property had exceptional shape at the time of the effective date of the Ordinance, being triangular in shape.
   B. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to 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 variance is approved for the location and the specific structure shown on the plat for proposed lots 1, 2, 3, and 4 which is included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless the subdivision is recorded among the land records of Fairfax County and construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. The dwelling shall be constructed with acoustical materials to insure that the interior noise level does not exceed 45 dBA Ldn. The acoustical measures shall be as follows:
   - Exterior wall shall have a laboratory sound transmission class (STC) of at least 45.
   - Doors and windows shall have a laboratory sound transmission class (STC) of at least 37. If "windows" function as walls, then they should have the STC specified for exterior walls.
   - Adequate measures to seal and caulk between surfaces shall be provided.
   - If at some future date prior to the issuance of a building permit the applicant furnishes proof to the satisfaction of the Environmental and Policy Division, Office of Comprehensive Planning, that the noise impact is less than the projected 70 dBA Ldn, then this condition may be modified or eliminated as determined by the Environmental and Policy Division.
4. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen seconded the motion. The motion passed by a vote of 7 - 0.

Page 411, April 10, 1984, Scheduled 10:15 A.M. case heard at 10:55 A.M.:

10:15 A.M. WADE B. ROPP, appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 4 to 149.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))47, 11,182 sq. ft, VC 83-D-200. (DEFERRED FROM 2/28/84 AND 3/27/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS AND FROM 4/2/84 FOR FULL BOARD)

The testimony received on VC 83-D-197 was incorporated into the hearing on this application.

Page 411, April 10, 1984 Board of Zoning Appeals
WADE B. ROPP

R E S O L U T I O N

In Application No. VC 83-D-200 by WADE B. ROPP under Section 18-401 of the Zoning Ordinance to allow construction of a house on proposed lot 4 to 149.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), on property located at Fisher Avenue, tax map reference 40-4((1))47, County of Fairfax, Virginia, Mrs. 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 10, 1984; 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 11,182 sq. ft.
4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property has exceptional topographic conditions.
   B. That the subject property has an extraordinary situation or condition of the subject property.
   C. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of 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 variance is approved for the location and the specific structure shown on the plat for proposed lots 1, 2, 3, and 4 which is included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless the subdivision is recorded among the land records of Fairfax County and construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. The dwelling shall be constructed with acoustical materials to insure that the interior noise level does not exceed 45 dBA Ldn. The acoustical measures shall be as follows:
   - Exterior wall shall have a laboratory sound transmission class (STC) of at least 45.
   - Doors and windows shall have a laboratory sound transmission class (STC) of at least 37. If "windows" function as walls, then they should have the STC specified for exterior walls.
   - Adequate measures to seal and caulk between surfaces shall be provided.
   - If at some future date prior to the issuance of a building permit the applicant furnishes proof to the satisfaction of the Environmental and Policy Division, Office of Comprehensive Planning, that the noise impact is less than the projected 70 dBA Ldn, then this condition may be modified or eliminated as determined by the Environmental and Policy Division.

4. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion. The motion passed by a vote of 7 - 0.

Page 412, April 10, 1984, Scheduled 10:20 A.M. case heard at 10:58 A.M.:

10:20 A.M. HOWARD BROCK & HOWARD BROCK, JR., appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 9 to 121.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))pts. 46 & 46A, 11,200 sq. ft, VC 83-D-201. (DEFERRED FROM 2/28/84 AND 3/27/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS AND FROM 4/3/84 FOR FULL BOARD)

Alex Laufer represented the applicant. He stated that the strict application of the Zoning Ordinance would prohibit any use of the land. Howard Brock, Jr. stated that he had purchased the property in 1967. He stated that preliminary subdivision work had been done in the 1960's, but the delay of the development was because of the construction and extension of Fisher Avenue. Mr. Brock stated that the road was never put in and remained a dead end street until a few years ago. At that time when the subdivision plan was submitted he discovered the new Ordinance requirements.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. VC 83-D-201 by HOWARD BROCK & HOWARD BROCK, JR. under Section 18-401 of the Zoning Ordinance to allow construction of a house on proposed lot 9 to 121.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), on property located at Fisher Avenue, tax map reference 40-4((1))pts. 46 & 46A, 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 10, 1984; 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 11,200 sq. ft.
4. That the testimony received from V-81-D-071 should be incorporated into this hearing because it still applies to the property.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific structure shown on the plat for proposed lot 9 which is included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless the subdivision is recorded among the land records of Fairfax County and construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. The dwelling shall be constructed with acoustical materials to insure that the interior noise level does not exceed 45 dBA Ldn. The acoustical measures shall be as follows:

- o Exterior wall shall have a laboratory sound transmission class (STC) of at least 45.
- o Doors and windows shall have a laboratory sound transmission class (STC) of at least 37. If "windows" function as walls, then they should have the STC specified for exterior walls.
- o Adequate measures to seal and caulk between surfaces shall be provided.
- o If at some future date prior to the issuance of a building permit the applicant furnishes proof to the satisfaction of the Environmental and Policy Division, Office of Comprehensive Planning, that the noise impact is less than the projected 70 dBA Ldn, then this condition may be modified or eliminated as determined by the Environmental and Policy Division.

4. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion. The motion passed by a vote of 7 - 0.

Page 413, April 10, 1984, Scheduled 10:25 A.M. case heard at 11:20 A.M.:

11:20 A.M. HOWARD BROCK, JR., appl. under Sect. 18-401 of the Ord. to allow construction of a house on proposed lot 11 to 30.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), located Fisher Ave., R-4, Dranesville Dist., 40-4((1))46, 12,571 sq. ft, VC 83-D-202. (DEFERRED FROM 2/28/84 AND 3/27/84 TO ALLOW TIME FOR APPLICANT AND STAFF TO WORK OUT PROBLEMS AND FROM 4/3/84 FOR FULL BOARD)

The testimony received on VC 83-D-201 was incorporated into the hearing on this application.

Page 413, April 10, 1984 Board of Zoning Appeals
HOWARD BROCK, JR.

R E S O L U T I O N

In Application No. VC 83-D-202 by HOWARD BROCK, JR. under Section 18-401 of the Zoning Ordinance to allow construction of a house on proposed lot 11 to 30.0 ft. from I-66 R.O.W. (200 ft. min. distance from Interstate highways req. by Sect. 2-414), on property located at Fisher Avenue, tax map reference 40-4((1))46, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 10, 1984; 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 12,571 sq. ft.
4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:

A. That the subject property was acquired in good faith.

B. That the subject property has exceptional topographic conditions.

C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property. A partial subdivision has already taken place.

D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

E. That the strict application of this Ordinance would produce undue hardship.

F. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

G. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.

H. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

I. That authorization of the variance will not be of substantial detriment to adjacent property.

J. That the character of the zoning district will not be changed by the granting of the variance.

K. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific structure shown on the plat for proposed lot 11 which is included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless the subdivision is recorded among the land records of Fairfax County and construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. The dwelling shall be constructed with acoustical materials to insure that the interior noise level does not exceed 45 dBA Ldn. The acoustical measures shall be as follows:
   - Exterior wall shall have a laboratory sound transmission class (STC) of at least 45.
   - Doors and windows shall have a laboratory sound transmission class (STC) of at least 37. If "windows" function as walls, then they should have the STC specified for exterior walls.
   - Adequate measures to seal and caulk between surfaces shall be provided.
   - If at some future date prior to the issuance of a building permit the applicant furnishes proof to the satisfaction of the Environmental and Policy Division, Office of Comprehensive Planning, that the noise impact is less than the projected 70 dBA Ldn, then this condition may be modified or eliminated as determined by the Environmental and Policy Division.
4. A Building Permit shall be obtained prior to any construction.

Mrs. Thonen seconded the motion. The motion passed by a vote of 4 - 3 (Messrs. Smith & Hyland and Mrs. Day)

Page 414, April 10, 1984, Scheduled 10:30 A.M. case heard at 11:45 A.M.:

10:30 A.M. TOWN CRIER, INC. T/A TOWNSIDE PARTNERS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to office building to 19.6 ft. from street line of a corner lot and 8.0 ft. from rear lot line (40 ft. min. front yard req. and 20 ft. min. rear yard req. by Sect. 4-507), located 9415 Burke Lake Rd., C-5, Springfield Dist., 78-1((1))19, 13,214 sq. ft., VC 83-S-188. (DEFERRED FROM FEBRUARY 7, 1984 FOR NOTICES & AT REQUEST OF THE APPLICANT).

The Board was in receipt of a letter requesting withdrawal. It was the consensus of the Board to withdraw the variance application by unanimous vote.

Page 414, April 10, 1984, Scheduled 10:45 A.M. case heard at 12:00 Noon:

10:45 A.M. ADVANCED MOBILE PHONE SERVICE, INC., appl. under Sect. 18-401 of the Ord. to allow telecommunication facilities with gravel driveway and parking (dustless surface req. by Sect. 11-102), located 9325 Leesburg Pk., R-1, Dranesville Dist., 19-4((1))pt. 60, 22,689 sq. ft., VC 83-D-205. (DEFERRED FROM FEBRUARY 14, 1984

The Board was in receipt of a letter requesting deferral of the referenced variance application. It was the consensus of the Board to reschedule the application to June 19, 1984 at 8:00 P.M.

Page 414, April 10, 1984, Scheduled 11:00 A.M. case heard at 12:05 P.M.:

11:00 A.M. HAPPY KID PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow child care center of a lot having width of 140 ft. (150 ft. min. lot width req. by Sect. 3-107), located 6100 O'Day Dr., Center Heights Subd., R-1, Springfield Dist., 54-3((2))30, 1.5106 ac., VC 83-S-206. (DEFERRED FROM FEBRUARY 14, 1984 FOR NOTICES & TO GIVE BOARD OF SUPERVISORS TIME TO ACT ON CONCURRENT SPECIAL EXCEPTION).

Page 415, April 10, 1984
HAPPY KID PARTNERSHIP
(continued)

The Board was in receipt of a letter from the applicant requesting that the application be withdrawn due to the fact that the special exception had been denied. It was the consensus of the Board to withdraw the variance application.

Page 415, April 10, 1984
(continued)

CONDOMINIUM RENTALS LIMITED/A 84-D-001: Mr. Yates was present to explain his position on the withdrawal of the referenced appeal application. He stated that the Board of Supervisors had passed a motion regarding a Zoning Ordinance amendment. The applicant, on the assumption that the Board of Supervisors would approve the amendment, requested withdrawal.

Page 415, April 10, 1984, AFTER AGENDA ITEMS:

VIETNAMESE BUDDHIST ASSOCIATION/SP 83-S-099: The Board was in receipt of a letter requesting a clarification on a resolution made at their April 3, 1984 hearing. After reviewing a verbatim transcript, the Board clarified their intentions for condition #10 regarding access to the site and sent the applicant a revised resolution. Mr. Hammack stated that it was the intent that an existing median break be used, which anticipated traffic coming from the east making a U-turn on Columbia Pike. There was no intent on the Board's part that the applicant would have to acquire any property from the Masonic Temple in order to get site plan approval.

//The Board recessed for lunch at 12:20 P.M. and returned at 1:20 P.M. to take up the scheduled agenda.

Page 415, April 10, 1984, Scheduled 11:15 A.M. case heard at 1:20 P.M.:

11:15 A.M. RODNEY F. PAGE/RAFAEL A. BECERRA, JR., appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots, each having width of 25 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 8912 Old Dominion Dr., Churchman & Johnson Property, R-E, Dranesville Dist. 13-4((1))34, 4.2980 ac., VC 84-D-007.

Jane Kelsey reviewed the staff report for the Board. Robert Young, 1424 Ingleside Avenue, McLean, represented the applicant. He stated that the lot was long and thin, and had several topographical conditions including steep slopes. Mr. Young stated that property adjacent to this one was flood plain with no possibility of and future development.

Mrs. McCall Revercone, the owner of lot 1 which was contiguous property, spoke in opposition. She stated that she agreed with the staff report that the road leading to the property was in bad condition with a gravel surface and no shoulders. Mrs. Revercone stated that the road was a safety factor to consider. She felt that this subdivision would be out of character with the neighborhood, and wanted the protection of the wildlife in the area to be considered also.

There was no one else to speak in support or opposition.

Page 415, April 10, 1984 Board of Zoning Appeals
RODNEY F. PAGE/RAFAEL A. BECERRA

R E S O L U T I O N

In Application No. VC 84-D-007 by RODNEY F. PAGE/RAFAEL A. BECERRA, JR. under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, each having width of 25 ft. (200 ft. min. lot width req. by Sect. 3-E06), on property located at 8912 Old Dominion Drive, tax map reference 13-4((1))34, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 10, 1984; 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 4.2980 acres.
4. This is an unusually shaped lot with an existing 50 ft. ingress egress easement.
5. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
A. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
B. That the subject property has exceptional topographic conditions.

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 variance is approved for the subdivision of one lot into two lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. There shall be no clearing or grading, except for driveways and utility easements within the Environmental Quality Corridor (EQC). Prior to final approval, subdivision and grading plans shall be approved by the Environmental and Policy Division of the Office of Comprehensive Planning and the County Arborist to ensure that this condition has been satisfied.
4. The proposed house shall be relocated on the property.

Mr. DiGiulian seconded the motion. The motion *FAILED by a vote of 3 - 3. (Messrs. Smith & Hyland and Mrs. Day) (Mr. Hammack abstained)

Page 416, April 10, 1984, Scheduled 11:30 A.M. case heard at 1:50 P.M.:

11:30 A.M. ALVIN W. WYATT, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition to dwelling to 5.7 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 5809 Boothe Dr., Homewood Subd., R-1, Springfield Dist., 79-1((3))2A, 35,938 sq. ft., VC 84-S-008.

Mary Burton presented the staff report to the Board. She stated that on May 4, 1982, the BZA had approved an identical variance, V-82-S-039, which had expired on November 4, 1983. Royce Spence, an attorney in Fairfax, represented the applicant. He pointed out that the staff report was incorrect in stating that this was an identical request. In the current variance, the applicant was also requesting a breezeway. Mr. Spence stated that the applicant chose to place the garage on the left side of the house because there was more room there and the existing drive was located on that side. Also, the sewer line was on the right side of the house and the location of a garage on this side would interfere with this system.

There was no one in support or opposition.

R E S O L U T I O N

In Application No. VC-84-S-008 by ALVIN W. WYATT under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 5.7 ft. from side lot line (20 ft. min. side ;yard req. by Sect. 3-107), on property located at 5809 Boothe Drive, tax map reference 79-1((3))2A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 10, 1984; 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 35,938 sq. ft.
4. This granting in part will allow the garage and eliminate the breezeway. This will allow the applicant to build within 8.5 ft. of the side lot line.
5. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property was acquired in good faith.
   B. That the subject property had exceptional narrowness at the time of the effective date of the Ordinance.
   C. That the subject property has an extraordinary situation or condition of the subject property. The adjacent property has a septic field.
   D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
   E. That the strict application of this Ordinance would produce undue hardship.
   F. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
   G. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
   H. That authorization of the variance will not be of substantial detriment to adjacent property.
   I. That the character of the zoning district will not be changed by the granting of the variance.
   J. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion. The motion passed by a vote of 6 - 1. (Mr. Smith)

Page 417, April 10, 1984, Scheduled 1:00 P.M. case heard at 2:15 P.M.:

1:00 P.M. JERRY A. HINN & GARY D. KNIPLING T/A FORT HUNT ANIMAL HOSPITAL, appl. under Sect. 4-503 of the Ord. for a veterinary hospital, located 1900 Elkin St., C-5, Mt. Vernon Dist., 102-3((1))44D, 51,009 sq. ft., SP 84-V-005.

Jane Kelsey reviewed the staff report for the Board which recommended denial of the application as submitted for the reasons set forth in the report. Ken Sanders, an attorney in Fairfax, represented the applicant. He stated that there had been meetings with the citizens associations in the area to address any potential problems. Citizens were present to discuss their concerns with the Board. He explained to the Board that only the first floor would be used for the veterinary hospital which would be about 7,000 square feet of space. With regard to the staff comments that this was not a land use recommended by the Comprehensive Plan, Mr. Sanders stated that this use was compatible with the area and welcomed by the neighbors. Gary Knipling, 11807 Harley Road, Lorton, addressed the Board and stated that the hospital did not plan to board any animals.

John Eliff, 8608 Pilgram Court, Alexandria, spoke in opposition to the application and addressed some of the citizen concerns. One problem was the placement of the dumpster. He asked that the Board relocate the dumpster to the end of the parking area behind the 7-11 store. Another concern was security for the parking area. He asked that the Board require a fence linked with the 7-11 fence to prevent trespassing and vandalism for the adjacent residential neighbors. Mr. Eliff also asked that the building be constructed in a brick colonial style so it would blend into the surrounding neighborhood better.

During rebuttal, Mr. Sanders indicated that he had no problem with relocating the dumpster or providing a fence. He indicated that the remainder of the building would be a professional office building.

There was no one else to speak in support or opposition.

R E S O L U T I O N

In Application No. SP 84-V-005 by JERRY A. HINN & GARY D. KNIPLING T/A FORT HUNT ANIMAL HOSPITAL under Section 4-503 of the Zoning Ordinance for a veterinary hospital, covering 7,000 sq. ft. on the first floor of the building on property located at 1900 Elkin Street, tax map reference 102-3((1))44D, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 10, 1984; 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 C-5.
3. The area of the lot is 51,009 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.

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The number of examining rooms shall be four (4) and the maximum number of employees on the premises at any one time shall be seven (7).
6. The number of parking spaces to be provided for this veterinary hospital shall be twenty-three (23).
7. Construction plans shall be approved by the Health Department to assure that the unit will be adequately sound-proofed and constructed to prevent the emission of odor or noise which would be detrimental to other properties in the area.
8. The building shall be of a brick colonial design.
9. The air conditioner units shall be located either to the rear of the building adjacent to the commercial property or, if located on the roof, the roof design shall be such that the air conditioner units will be shielded from the view of the adjacent residential properties.
10. Interior parking lot landscaping shall be provided in accordance with Article 13.
11. Transitional screening shall be provided along the front lot line. The applicant shall work with the County Arborist to determine if one (1) of the large oak tree can reasonably be saved. Transitional screening along the northern and eastern lot lines may be modified to twelve (12) feet provided a seven (7) foot brick wall is constructed as shown on the revised plat submitted with this application.
12. If parking lot lights are installed, the light standards shall be no higher than twelve (12) feet and shall be shielded to direct light onto the parking lot and prevent light from spilling onto adjacent residential properties.
13. Storm water management shall be provided to assure that there is no drainage from this site onto adjacent properties.

14. Appointments for the veterinary hospital shall be limited between the hours of 9:00 A.M. to 6:00 P.M. on weekdays and 9:00 A.M. to noon on Saturdays. Emergency care shall be permitted.
15. The trash dumpster shall be relocated immediately behind the building adjacent to the C-5 property where the 7-11 store is located if approval can be obtained from DEM, or to an area as close to the proposed building as possible.
16. The applicant shall construct a 6 ft. chainlink fence along the West and South property lines adjacent to the 7-11 and Arco Station.
17. This approval is granted subject to a revised plat designating a layout of the 7,000 sq. ft. space being approved for the animal hospital.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion. The motion passed by a vote of 6 - 0 (Mrs. Thonen being absent)

Page 419, April 10, 1984, Scheduled 1:15 P.M. case heard at 4:00 P.M.:

1:15 P.M. WILLIAM THOMAS CLARK, appl. under Sect. 3-C03 of the Ord. for modification to min. yard requirements for R-C lot to allow construction of additions to dwelling to 36.1 ft. from front lot line and 12.3 ft. from side lot line such that side yards total 24.0 ft. (40 ft. min. front yard and 20 ft. min. side yard req. by Sect. 3-C07), located 15313 Blueridge View Dr., Pleasant Hills Subd., R-C, Springfield Dist., 53-4((5))11, 11,725 sq. ft., SP 84-S-006.

Mary Burton reviewed the staff report for the Board. William Clark presented the facts for his application. He stated that at the time he purchased his home in October 1981, the property was zoned R-2 Cluster. A building permit was obtained with the option of adding a two-car garage. The original owners had postponed the construction of the garage, and at the time he purchased the home he had the intention of adding the garage. Subsequently, the property was rezoned to R-C which prevented him from constructing a garage in keeping with the existing ones in the neighborhood.

There was no one to speak in support or opposition.

R E S O L U T I O N

Mr. DiGiulian made the following motion:

WHEREAS, Application No. SP 84-S-006 by WILLIAM THOMAS CLARK under Section 3-C03 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, to allow construction of additions to dwelling to 36.1 ft. from front lot line and 12.3 ft. from side lot line such that side yards total 24.0 ft. (40 ft. min. front yard and 20 ft. min. side yard req. by Sect. 3-C07), located at 15313 Blueridge View Drive, tax map reference 53-4((5))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 April 10, 1984; and

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

1. That the property was the subject of final plat approval prior to July 26, 1982.
2. That the property was comprehensively rezoned to the R-C District on July 26, or August 2, 1982.
3. That such modification in the yard shall result in a yard not less than the minimum yard requirement of the zoning district that was applicable to the lot on July 25, 1982.
4. That the resultant development will be harmonious with existing development in the neighborhood and will not adversely impact the public health, safety and welfare of the area.

AND WHEREAS, the Board has reached the conclusion that the applicant has met the provisions for the approval of modifications to the minimum yard requirement for certain R-C lots as contained in Section 8-913 of the Zoning Ordinance.

NOW, THEREFORE BE IT RESOLVED that the subject application is GRANTED in accordance with the conditions contained in Appendix 1 of the Staff Report dated April 10, 1984, as follows:

1. This approval is for the location and the specific structure indicated on the plat included with this application and is not transferable to other land or to other structures on the same land.
2. A Building Permit shall be obtained prior to the start of construction.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion. The motion passed by a vote of 6 - 0 (Mrs. Thonen being absent)

Page 420, April 10, 1984, Scheduled 1:45 P.M. case heard at 4:10 P.M.:

1:45 P.M. CONGREGATION BETH EMETH, appl. under Sect. 3-103 of the Ord. for a synagogue and related facilities, located Lawyers Rd., R-1, Centreville Dist., 35-2((1))pt. 15, 5.59 acres, SP 84-L-008.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit application subject to the development conditions. Warren Grossman, 3251 Old Lee Highway, Fairfax, and Ira Grossman, the Building Chairman, 3014 Gatepost Lane, were present to answer any of the Board's questions. They indicated that the synagogue would be a one-story masonry structure to serve 120 families. Martin Grossman indicated that the church had the right of first refusal on the sale of the adjacent lot 14, and asked that the screening be waived along that side of the property.

There was no one to speak in support or opposition.

R E S O L U T I O N

In Application No. SP 84-L-008 by CONGREGATION BETH EMETH under Section 3-103 of the Zoning Ordinance for a synagogue and related facilities on property located at Lawyers Road, tax map reference 35-2((1))pt. 15, County of Fairfax, Virginia, Mrs. 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 10, 1984; 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 5.59 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The seating capacity of the main worship area shall not exceed two-hundred and fifty (250).
6. There shall be sixty-six (66) parking spaces provided, four of which shall be handicapped spaces located as close as possible to the synagogue.
7. Transitional Screening 1 shall be provided along all lot lines except the front lot line where a modification shall be permitted if the applicant provides landscaping and plantings which will soften the visual impact of this large building. The amount and type of plantings shall be determined by the Director, Department of Environmental Management (DEM). The barrier requirement may be waived along all lot lines. A modification as to the size of the plantings along all other lot lines may be allowed as determined by the Director, Department of Environmental Management. In the event the synagogue does not exercise their right of first refusal at the time of sale of lot 14, then transitional screening shall be required as determined by the Director, DEM. Until such time, transitional screening requirements shall be waived adjacent to lot 14. Written approval shall be obtained from the property owner of lot 14 regarding the waiver of the transitional screening requirements and provided to the Zoning Administrator.
8. Interior parking lot landscaping shall be provided in accordance with Article 13.
9. The applicant shall execute an Agreement with the County prior to site plan approval to relocate the access from the location as indicated on the approved plat to connect to an access through lot 14 or 19 whichever is appropriate, at such time as Lawyers Road is improved and these parcels redevelop and adjacent access is available. If the applicant obtains title to parcel 14 then the applicant shall make access available to a median break at Glenbrooke Woods Drive at such time as Lawyers Road is improved.
10. The applicant shall dedicate forty-five (45) feet from the centerline of Lawyers Road for future road widening and shall construct a left turn deceleration lane within this dedicated area.
11. Parking lot lights shall be on standards not to exceed 12 feet in height and shall be shielded in such a manner to direct light only onto the parking lot.
12. A sign may be erected in accordance with Article 12, Signs.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion. The motion passed by a vote of 6 - 0. (Mrs. Thonen being absent)

Page 421, April 10, 1984, AFTER AGENDA ITEMS:

JOHN R. COOK/SP 84-L-023: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned special permit. The application was currently scheduled for June 14, 1984. It was the consensus of the Board to defer any decision to April 17, 1984 for further information.

Page 422, April 10, 1984, AFTER AGENDA ITEMS:

EDNA F. & ANNETTE C. ASHLEY/VC 84-D-032: The Board was in receipt of a letter requesting an out-of-turn hearing for the captioned variance application. It was the consensus of the Board to deny the request. The application was tentatively scheduled for June 14, 1984.

//There being no further business, the Board adjourned at 4:35 P.M.

By Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: April 9, 1985 Approved: April 16, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 17, 1984. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland (arriving at 9:05 P.M.); Ann Day; Paul Hammack; John Ribble and Mary Thonen.

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. ILIFF NURSING HOME, INC., appl. under Sect. 8-014 of the Ord. to amend S-327-79 for child care center to delete the condition limiting the use to applicant only, located 8000 Iliff Dr., R-3, Providence Dist., 39-4((1))137A, 241,570 sq. ft., SPA 79-P-327-1.

Cheryl Hamilton reviewed the staff report which recommended approval of SPA 79-P-327-1. Mr. Robert Lawrence, an attorney in Fairfax, represented the applicant. He informed the Board that the nature of the application was only to delete the condition limiting the use to the applicant only. The property was presently under contract and the new owners wanted to be able to continue the use of the child care center without having to go through the public hearing process. Even though the child care center was in excess of 100 children, the application for amendment was allowed under Sect. 8-014 of the Zoning Ordinance providing that the use was not expanded or enlarged. Mr. Lawrence explained that under this provision of the Ordinance, a special exception was not necessary. He assured the Board that the use was not changing in any way. Iliff Nursing Home was being sold but the scope of the use would remain the same. The application for amendment would allow the property to be conveyed to the new owner.

In response to questions from the Board, Mr. Lawrence stated that the contract purchaser was buying the entire property including the nursing home. The existing applicant was a corporation but the contract purchaser would be a partnership.

Mr. Robert W. Summer, Vice-President of the Dunn Loring Improvement Association informed the Board that his association had passed a resolution on April 16, 1984 recommending that the application be approved as it was in the best interests of the community.

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

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 79-P-327-1 by ILIFF NURSING HOME, INC. under Section 8-014 of the Zoning Ordinance to amend S-327-79 for child care center to delete the condition limiting the use to applicant only, on property located at 8000 Iliff Drive, tax map reference 39-4((1))137A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 17, 1984; 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 241,570 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.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED subject to the applicable development conditions in Special Permit S-327-79.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Hyland being absent).

Page 424 April 17, 1984, Scheduled case of

8:15 P.M. FAIRFAX ASSEMBLY OF GOD, appl. under Sect. 3-103 of the Ord. to permit addition of land area, parking lot and parsonage building to existing church and related facilities, located 4100 Legato Rd., R-1 and C-3, Providence Dist., 46-3((1))49 & 50, 2.25 ac., SP 84-P-010.

The Board was in receipt of a letter from the applicant requesting a deferral of three weeks. It was the consensus of the Board to grant the deferral and the special permit was scheduled for May 8, 1984 at 12:15 P.M.

//

Page 424 April 17, 1984, Scheduled case of

8:30 P.M. DAR AL-HIJRAH, appl. under Sect. 3-303 of the Ord. for a church (mosque) and related facilities, located 3159 Row St., Munson Hill Subd., R-3, Mason Dist., 51-3((1))19 & 19A, 3.5559 ac., SP 84-M-009.

Cheryl Hamilton presented the staff report which recommended approval of SP 84-M-009 subject to the development conditions set forth in Appendix I with a revised conditions 7 & 15.. Condition 7 was revised to read: "All worship activities of the Mosque shall be conducted within the Mosque building." Condition 15 was revised to read: "Ninety (90) parking spaces shall be provided. All parking shall be contained on the site unless the applicant attains permission for coordinated parking from the Board of Supervisors in accordance with Sect. 11-102 of the Zoning Ordinance." Ms. Hamilton explained that with respect to condition 7 and the ringing of bells, that noise was controlled by the Zoning Ordinance so it was not necessary to place a limitation in the development conditions.

Mr. Larry Becker, an attorney at 1427 Dolley Madison Boulevard, McLean, represented the congregation of Dal Al-hijrah which consisted of 200 families in eastern Fairfax County, northern Alexandria and western Arlington County. The families had gathered to build a mosque at the site owned by a Trust which owned 85 mosques throughout the United States. Mr. Becker informed the Board why the congregation had selected this particular site. One of the major reasons was that it bordered on a main arterial highway and did not infringe on the neighborhood any more than absolutely necessary. He stated that the proposed structure was in keeping with the residential character of the area. The structure was white with its lower portion being brick to blend in with the community. The site would be landscaped. There would be a berm along Row Street. Mr. Becker stated that the land area around Rt. 7 was 10 ft. higher than the subject parcel and sloped down toward it. He stated that the only visible feature of the site would be the 60 ft. minaret.

Mr. Becker presented the Board with a letter from a Milwaukee mosque which had 400 families. He stated that its use was very similar to this proposed facility. The mosque would be open to all of the local civic organizations that were not inconsistent with the facility.

Mr. Becker stated that the applicant was in agreement with all of the development conditions outlined by the staff. With respect to the reservations from the Office of Transportation, Mr. Becker stated that the applicant had addressed that by providing for a turn around, better internal circulation and access and a third lane on Rt. 7. The traffic on Rt. 7 was about 39,000 vpd. The mosque traffic was not expected to exceed a maximum of 150 vpd. Mr. Becker stated that the alternate development for the property would generate a similar amount of traffic. Mr. Becker stated that no more than 15 to 20% of the congregation would attend the prayers which were held at non-rush hour times. The majority of the congregation would be travelling from the east. Sixty families lived in the Skyline Center. Another sixty families lived in the immediate area of the proposed mosque.

With regard to exiting on Rt. 7, the civic associations wanted the mosque traffic to exit on Rt. 7. The applicant did not have a problem with that but the County staff would not approve it because of the safety hazard.

There was a concern about the parking. Mr. Becker stated that the applicant had proposed enough parking except for the semi-annual events. In response to questions from the Board, Mr. Becker stated that the church could provide an additional 20 parking spaces but it would be very costly because of the slope of the land. He indicated that if the congregation got to the point where there was an excessive number attending the mosque, they would split the congregation and start another church.

In response to questions concerning the height of the structure and the minaret, Mr. Becker stated that only the top of the minaret would be visible as there were evergreens all around the perimeter of the site. With regard to the size of the structure, Mr. Becker stated that it was not out of line with the size of other churches. Even though only 15 to 20% of the congregation attended daily prayers, the Friday prayer was comparable to sunday service and the facility needed to service the congregation.

Mr. Becker presented Dr. Ismal Ahmad from Herndon who was an Iman and Dr. Jamal Barsengi who was experienced with the North American Islamic Trust. Dr. Ahmad resided in Fairfax County and shared his thoughts about a place of worship and the muslim faith. Dr. Barsengi was a member of the Board of Trustees which was the legal owner of the property. He stated that they had established 86 mosques in 35 states and there had never been any complaint from the neighbors about the type of people who attended the mosques. The congregation was made up of highly professional people who felt that to be a good neighbor was holy. Dr. Barsengi explained that the muslims prayed at certain times during the day but did not have to attend the mosque in order to pray. In addition to the mosque, there would be a small bookstore and a cafeteria which would be open during the service. The facilities would be limited to the worshippers.

In response to questions from the Board regarding the 40 ft. height of the building, Dr. Barsengi stated that the height was selected by the architect to enhance the property and make it aesthetically pleasing. Dr. Barsengi stated that they would match the height to any of the churches in the area. He stated that the structure was expensive and should take care of the congregation's needs for the next five to ten years. Six guestrooms were proposed inside the mosque for students, scholars and highly qualified holymen. It was not possible for them to use the existing dwelling on the property as that was proposed to house the Iman and his family.

Mr. Becker presented the Board with a petition in support of the mosque. He stated that there were 12 other muslim groups in Northern Virginia. He also presented the Board with a list of other property owned by the Islamic Trust. Mr. Becker informed the Board that the Ravenwood Towers was 12 to 13 stories high and far exceeded the proposed height of the mosque. In response to further questions from the Board regarding the geographical breakdown of the congregation, Mr. Becker stated that 60% were from Falls Church or Annandale. There were 2 or 3 with addresses in Maryland or Washington, D.C. However, the majority of the congregation were in Fairfax County. Dr. Barsengi stated that they practiced the orthodox Islam religion.

Mrs. Nellie Jones Alside, Dr. Moses Sabi of 2946 Sleepy Hollow Road, Mr. Jim Brooks of Washington, D.C., Dr. Khan who practiced medicine and resided in Fairfax County, Mr. Mahassa of Herndon, and Mr. Cardu Abduhalic, a resident of Fairfax County spoke in support of the application. They all spoke of the need for a mosque near where they lived and worked and for the education of their children.

Mr. Paul Dietz, President of the Longbranch Civic Association, of 1627 Munson Hill Drive; Mr. Tom McBray, President of the Lee Boulevard Civic Association; Mr. Ed Wagner of 3140 Row Street; Mr. William Whalen of 3102 Collie Lane; Mrs. Kathy Albrecht of Lee Boulevard Heights; Mr. Gerry Yokem of 3118 Collie Lane; Mr. Martin Fayga; Mr. Luther Pearson of 6102 Wooten Drive; Mr. Richard White of 6111 Brook Drive, and Delores McDonald of Collie Drive spoke in opposition to the proposed mosque. They were concerned about the traffic congestion, access to Rt. 7, and the exiting of the traffic onto a local street. In addition, citizens expressed concerns regarding the future growth of the mosque on the narrow residential streets. There was concern for childrens' safety as there were not any sidewalks. Water runoff during construction was a concern as there was not adequate drainage or siltation controls. Some people expressed concerned about violent protests taking place at the Washington, D.C. mosque. Others were concerned about the commercial aspects of the mosque with its bookstore and cafeteria and possible use by persons other than the worshippers of the mosque. Another concern was the six dormitories provided inside the facility. The height of the proposed structure and its location on the highest hill in the area concerned some residents as the only thing they would be able to see would be the church and the minaret.

During rebuttal, Mr. Becker stated that free literature would be available during the service and would not be available all the time. With respect to the traffic congestion and the need for policing, he indicated that on special occasions the congregation could hire someone to control the traffic if need be. Row Street would be widened and improved with drainage gutters and other street improvements. Water runoff would be taken care of during Site Plan review. With respect to parking, there was some discussion with the Church of Christ to allow parking on their site so as not to congest the neighborhood.

Mr. Becker informed the Board that there were nine other churches in the area so this request was not unique. The cafeteria would be conjunction with the activities of the church. The site would be controlled by the North American Islamic Trust. If there were any problems, they would revoke the use. With respect to the height of the structure, it was drawn for comfort and aesthetics. Mr. Becker stated that the congregation was flexible but had designed the building consistent with the buildings next door. There would be screening around the structure.

In response to questions from the Board, Mr. Becker stated that the North American Islamic Trust did not have any affiliation with any foreign governments. He indicated that he had no objection to providing the Board with a copy of the trust agreement which was formulated in Indianapolis, Indiana. Mr. Becker stated that the original site plat had showed an exit onto Rt. 7 but the County staff had it removed. Mr. Becker stated that he had no objections to providing access on Rt. 7 providing VDH&T approved the access for adequate sight distance.

The Transportation staff informed the Board of the rationale for not allowing access onto Rt. 7 as it created conflicts and did not align with the adjacent street across Rt. 7. There was also a recommendation from the staff to keep the driveway to the private residence closed off during services to keep traffic from entering the neighborhood. Mrs. Kelsey informed the Board that the driveway conflicted with the 25 ft. transitional screening. However, now that the Board wanted access onto Rt. 7, any traffic throughout the neighborhood from the private residence would be minimal.

Mrs. Thonen moved that the Board of Zoning Appeals deny the special permit application as the area was quite impacted with the existing nine churches. She felt the area had been a good neighbor with the churches. She was concerned about the cafeteria and bookstore because of the retail aspects. In addition, the transient use of the dormitories were almost like a motel. Mrs. Thonen felt that traffic on Friday evening was as bad as any other night. The proposed building at 60 ft. would tower above the residents. With the hill, the structure would stick out like a sore thumb. Mrs. Thonen stated that it was true that there were other churches in the area but she did not want to keep compounding the situation. Churches were not allowed by right. She did not feel that the building would be harmonious with the single family residences. The subdivision was 35 years old and the streets were narrow. She stated that it was only human nature to take shortcuts through residential streets rather than waiting for traffic to clear. The potential for growth would spread and affect the off-site parking. Accordingly, she moved for denial of the application. Mrs. Day seconded the motion. The vote on the motion to deny failed by a vote of 3 to 4 (Messrs. DiGiulian, Smith, Hammack and Ribble).

Mr. Hammack moved that the special permit application of Dar Al-hijrah be granted in accordance with the modified development conditions in Appendix I of the staff report as follows: Conditions 1, 2, 3, 4, 6, 8, 9, 10, 11, 12, 13, and 14 to remain as written. Condition 5 to read: Access to and from the site shall be from Row Street. Add the provision that there shall be access to Rt. 7 subject to VDH&T approval. I would like to delete the provision that the entrance to the parsonage on Row Street shall be closed during services. Condition 7 to read: "All religious activities of the mosque shall be conducted within the mosque building and related facilities." The remainder of 7 is to be deleted. Condition 15 to read: "Ninety (90) parking spaces shall be provided on site. All parking shall be contained on site unless the applicant obtains permission for coordinated parking from the Board of Supervisors in accordance with Sect. 11-102 of the Zoning Ordinance." I would like to add a 16th condition that the number of guestrooms provided for in the facility shall be limited to two (2). I don't feel that residential use of the facility even for interim periods of time is completely consistent with the residential neighborhood around it. I fail to see why a religious facility really needs six guestrooms. Two ought to be quite adequate considering the testimony concerning the proposed uses to be made of those rooms which we have had tonight.

Mr. Ribble sought a clarification on condition no. 5 as to whether in addition to the Row Street, there should be an access onto Rt. 7. Mr. Hammack stated that was correct if it was permitted by VDH&T. Mr. Hammack stated that it would facilitate the traffic to have the extra access to Rt. 7. Mr. DiGiulian seconded the motion.

During discussion, Chairman Smith stated that the Transportation staff had recommended no exit onto Rt. 7. He stated that he wanted to support the motion but could not support it with a connection on Rt. 7. After discussion regarding the access and lowering the building and minaret height, Mr. Hammack's final motion appears as follows:

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-M-009 by DAR AL-HIJRAH under Section 3-303 of the Zoning Ordinance to permit a church (mosque) and related facilities, on property located at 3159, tax map reference 51-3((1))19 & 19A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance 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 17, 1984; 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 3.5559 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Access to and from the site shall be from Row Street.
6. The standards for the parking lot lights shall be no higher than 12 feet and the lights shall be shielded to direct the light onto the parking lot with no spillage to adjacent properties.
7. All religious activities of the Mosque shall be conducted within the Mosque building or related facilities. sel
8. Transitional Screening 1 shall be provided along all lot lines without modification except that a modification shall be permitted along the northeastern lot line to allow the existing driveway to remain within the required 25 foot strip. No modification of the planting requirement shall be permitted. The amount and type of plantings shall be determined by the Director, Department of Environmental Management (DEM). The barrier requirement shall be waived.
9. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance.
10. Dedication and road improvements shall be provided along the entire frontage of the site abutting Leesburg Pike (Route 7) and Row Street (Route 2379).
11. Turnaround provisions shall be made for the parking area located in the southeastern portion of the site adjacent to Leesburg Pike (Route 7). This turnaround shall not extend into the transitional screening yard.
12. The building shall be constructed with acoustical materials to ensure that the interior noise level does not exceed 45 dBA Ldn. This can be accomplished by constructing the exterior of the building with marble as the applicant proposes.
13. The applicant shall work with the County Arborist in order to preserve the existing quality vegetation on the eastern part of the site.
14. The maximum number of seats shall be three hundred and sixty (360).
15. Ninety (90) parking spaces shall be provided on site. All parking shall be contained on site unless the applicant obtains permission for coordinated parking from the Board of Supervisors in accordance with Sect. 11-102 of the Zoning Ordinance.
16. The number of guestrooms for the facility shall be limited to two (2).
17. The maximum building height for the mosque shall be 35 ft. and the maximum height for the minaret shall be 45 ft.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

RESOLUTION

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 3 (Mrs. Day, Mrs. Thonen and Mr. Hyland).

Page 428 April 17, 1984, After Agenda Items

JOHN R. COOK, SP 84-L-025: The Board had been in receipt of an out-of-turn hearing request which had been deferred from its April 10th meeting in order for staff to obtain additional information. After discussion of the reasons involved in the relocation of the veterinary hospital, it was the consensus of the Board to deny the request. Accordingly, the special permit remained as scheduled for June 14, 1984.

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Page 428 April 17, 1984, After Agenda Items

Charles Stuart & Ethel M. Simms, VC 84-L-003: The Board was in receipt of a letter from Mr. & Mrs. Geoffrey Wilson, adjacent property owners to the Simms property. The letter concerned a request for deferral of the May 8, 1984 hearing as Mr. & Mrs. Wilson would be out-of-town and unable to personally present their views on the variance. The letter was given to the Board to determine their intent as to whether they would defer the hearing. After determining that the application had been scheduled and advertised, it was the consensus of the Board not to consider any action until the hearing on May 8th. However, in as much as Mr. & Mrs. Wilson were contiguous property owners, the Board stated that it could defer decision on May 8 for a period of one week to allow for additional testimony from the Wilsons. Final discussion regarding the deferral letter is to take place on May 8th.

// There being no further business, the Board adjourned at 11 o'clock.

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

Submitted to the Board on April 24, 1984

Daniel Smith
Daniel Smith, Chairman

Approved: May 1, 1984
Date

The Regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 24, 1984. The following Board Members were present: Daniel Smith, Chairman; Ann Day, Mary Thonen, Paul Hammack and John Ribble. John DiGiulian and Gerald Hyland were absent.

The Chairman opened the meeting at 10:05 A.M. and Mrs. Day led the prayer.

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

10:00 A.M. ROBERT D. NICHOLAS, appl. under Sect. 18-401 of the Ord. to allow subdivision into three lots, each having width of 61.853 ft. (80 ft. min. lot width req. by Sect. 3-306), located 3110 Douglas St., R-3, Mt. Vernon Dist., 101-2((1))54, 1.0479 acres, VC 83-V-161. (DEFERRED FROM 12/6/83 and 1/17/84 FOR NOTICES AND FROM 3/6/84 FOR LACK OF REPRESENTATION)

The Board was in receipt of a letter from Conrad J. Brewer, the applicants agent, who requested a withdrawal of the variance application. It was the consensus of the Board to withdraw the application without prejudice.

Page 429 April 24, 1984, Scheduled case of:

10:00 A.M. DR. LEWIS B. & ROSALYN S. DOZIER, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 10 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 8535 Aponi Rd., Oak Ridge Subd., R-1, Providence Dist., 39-3((6))1, 22,077 sq. ft., VC 84-P-009.

William Shoup reviewed the staff report for the Board. Mrs. Rosalyn Dozier, the applicant, presented her application. She stated that this was a secluded area with 23 old oak trees in the yard. This request for an addition would allow more usable space in the home for a family room and an eat-in kitchen. She explained to the Board that her lot was exceptionally narrow, because the lot was only 125 feet wide. The lot also has less than the required square footage for an R-1 lot, and it slopes sharply from the kitchen area of the house down toward the house on the left. The bulk of the present home is on the only flat area of the lot, but excavation would still need to be done for the addition. Mrs. Dozier stated that this lot was more narrow than most of the lots in the neighborhood, and that the zoning changed to R-2 with the house next door. She stated that her house faced into the blank side of the neighbors garage next door. She stated that the distance between the houses on both sides of her were maintained according to the zoning of the properties, and at all points there was 30 feet between the homes.

Mr. Hammack inquired as to why the addition was 40 feet wide instead of 30 feet, and why it couldn't be put deeper into the property or moved more towards the garage side of the house. Mrs. Dozier stated that her kitchen was very narrow, and there was a stairwell and a wall which prevented her from having the interior design she wanted. Also, to decrease the size of the addition would mean exiting the kitchen through the eat-in area, which would cause too much of a traffic pattern.

There was no one to speak in support and no one to speak in opposition.

Page 429 April 24, 1984 Board of Zoning Appeals
DR. LEWIS B. & ROSALYN S. DOZIER

R E S O L U T I O N

In Application No. VC 84-P-009 by DR. LEWIS B. & ROSALYN S. DOZIER under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), on property located at 8535 Aponi Road, tax map reference 39-3((6))1, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 24, 1984; 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 22,077 sq. ft.
4. The plat shows that the required setback distance is being maintained between the homes in the surrounding area. There is no opposition to this application.

5. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
A. That the subject property was acquired in good faith.
B. That the subject property had exceptional narrowness at the time of the effective date of the Ordinance.
C. That the subject property has exceptional topographic conditions.
D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of this Ordinance would produce undue hardship.
F. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
G. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
H. That authorization of the variance will not be of substantial detriment to adjacent property.
I. That the character of the zoning district will not be changed by the granting of the variance.
J. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion *FAILED by a vote of 2 - 3 (Messrs. Smith & Ribble and Mrs. Day)
(Messrs. Hyland and DiGiulian being absent)

Page 430 April 24, 1984, Scheduled case of:

10:10 A.M. ROBERT A. & BARBARA L. O'NEIL, appl. under Sect. 18-401 of the Ord. to allow construction of screen porch addition to dwelling to 13.2 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), located 3502 Wilton Hall Ct., Shadow Walk Subd., R-2(C), Lee Dist., 82-4((34))30, 12,011 sq. ft., VC 84-L-010.

William Shoup reviewed the staff report for the Board. The applicant, Robert O'Neil, presented the application. He stated that he had bought the property in 1979, and the original plans for the house called for the addition of a screen porch off of the family room. At that time he was unaware of the 25 ft. rear property line restrictions. He had french doors put in with the intent of adding the porch at a later date. Mr. O'Neil stated that his lot had the most unusual configuration in the area, and that there was no room to add a porch without obtaining a variance. He also stated that there was a sharp drop-off in the backyard, and many large shade trees he did not want to have to remove. To place the porch on any other portion of the house would mean major construction work, and there would be major topographical problems to deal with. Also, Mr. O'Neil stated that his wife had medical problems and could not be in the sun according to her doctors directions. This porch would allow her to be outside with the children out of the sun.

There was no one to speak in support and no one to speak in opposition.

RESOLUTION

In Application No. VC 84-L-010 by ROBERT A. & BARBARA L. O'NEIL under Section 18-401 of the Zoning Ordinance to allow construction of screen porch addition to dwelling to 13.2 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), on property located at 3502 Wilton Hall Court, tax map reference 82-4((34))30, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 24, 1984; 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 12,011 sq. ft.
4. That the applicants' property is pie shaped, which makes it very hard to add a deck onto the property. There is a drop off in the back of the property and the topography is not the best. There are a lot of houses in the area which back up to an easement which gives those people more space to use.
5. This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
   A. That the subject property was acquired in good faith.
   B. That the subject property had exceptional shape at the time of the effective date of the Ordinance.
   C. That the subject property has exceptional topographic conditions.
   D. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland & DiGiulian being absent)

Page 431 April 24, 1984, Scheduled case of:

10:20 A.M. BAIN & CHARLOTTE M. MCCLINTOCK, appl. under Sect. 18-401 of the Ord. to allow construction of screen porch addition to dwelling to 21.7 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), located 7229 Ludwood Ct., Popkins Farm Estates, R-2(C), Mt. Vernon Dist., 93-3((28))9, 12,276 sq. ft., VC 84-V-011.

William Shoup reviewed the staff report for the Board. Mr. Bain McClintock, the applicant, presented his application. He stated that when he bought the property it was his intention to construct a porch on the house at the appropriate time. French doors were constructed to the rear of the home with that purpose in mind. After receiving a proposal for the construction of the porch, he realized that the lot was too shallow to construct a porch 12 feet wide, which was proportionally correct for the present home. Mr. McClintock stated that other homes in the area either had screened porches or decks. The construction of this combination screened porch/deck had been approved by the Architectural Committee of the Popkins Farms Homeowners Association.

There was no one to speak in support and no one to speak in opposition.

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RESOLUTION

In Application No. VC 84-V-011 by BAIN & CHARLOTTE M. MCCLINTOCK under Section 18-401 of the Zoning Ordinance to allow construction of screen porch addition to dwelling to 21.7 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), on property located at 7229 Ludwood Court, tax map reference 93-3((28))9, County of Fairfax, Virginia, Mrs. 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 24, 1984; 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 12,276 sq. ft.
4. The staff report indicates that the deck is in compliance with the Zoning Ordinance. French doors were built at the rear of the house, with no provisions for an exit. The proposed porch will be adjacent to the deck. Its presence will not be noticeable by the neighbors. The applicant has stated that other homes in the area have screened porches.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland & DiGiulian being absent)

Page 432 April 24, 1984, Scheduled case of:

10:30 A.M. JOHN T. & VIRGINIA L. BERBRICH, appl. under Sect. 18-401 of the Ord. to allow construction of free standing car shelter 3.9 ft. from side lot line (12 ft. min. side yard req. by Sects. 3-307 & 10-104), located 8628 Buckboard Dr., Riverside Gardens Subd., R-3, Mt. Vernon Dist., 102-3((10))(6)8, 14,309 sq. ft., VC 84-V-012.

William Shoup reviewed the staff report for the Board. John Berbrich, the applicant, presented his application. He stated that his house was placed at an unusual angle on the lot, because the topography of the lot had dictated where a house could be placed. The concrete for the carport was already in existence, and he was only asking for permission to build a roof over it. He stated that the nearest part of his neighbors house was 32 feet away from his. He stated that there were many trees and shrubs on his property, and that the carport would not be visible from the road. Mr. Berbrich stated that he planned to put up some kind of sensor lighting in his carport, because there were no street lights in his neighborhood, and he and his wife worked long and irregular hours.

There was no one to speak in support and no one to speak in opposition.

RESOLUTION

In Application No. VC 84-V-012 by JOHN T. & VIRGINIA L. BERBRICH under Section 18-401 of the Zoning Ordinance to allow construction of free standing car shelter 3.9 ft. from side lot line (12 ft. min. side yard req. by Sects. 3-307 & 10-104), on property located at 8628 Buckboard Drive, tax map reference 102-3((10))(6)8, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 24, 1984; 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 14,309 sq. ft.
4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property has exceptional topographic conditions, in that the property has potential drainage problems.
   B. That the subject property has an extraordinary situation or condition of the subject property. The house sits in such a way that this is the only place the applicant can build this free-standing carport.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland & DiGiulian being absent)

Page 433 April 24, 1984, Scheduled case of:

10:40 A.M. ROBERT E. & GRETCHEN J. CLARK, appl. under Sect. 18-401 of the Ord. to allow subdivision into two lots, one having a width of 136.59 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 808 Springvale Rd., Forestville Estates, R-E, Dranesville Dist., 7-3((3))5, 5.2727 ac., VC 84-D-013.

William Shoup reviewed the staff report for the Board. He stated that environmental issues had been brought up, given the fact that there was an existing dwelling on the property, and the size of the lot was comparable to the lots in the vicinity. It was staff's judgment that the application did not satisfy the required standards for variances, and it appeared that the applicant already enjoyed a reasonable use of the property.

Joseph Buonassissi, 4020 University Drive, Fairfax, the agent for the applicants, presented the application. He stated that the proposed lot 5B was approximately 63.41 ft. short of the 200 foot minimum lot requirement. The other factor that should be considered on the application is the motive for the request. He stated that Mr. & Mrs. Clark were in the process of separating. In order to minimize the effect of the separation on the two children, Mr. & Mrs. Clark wanted to subdivide this property, leaving both parents as neighbors. Mr. Buonassissi presented an aerial photograph to the Boards showing the tree growth and open space on the property. He stated that there was a natural drainage culvert between the two lots, which created a natural dividing line. He stated that he had been assured by the engineers that crossing the drainage culvert could be accomplished with very

little short term disruption of the drainage swale. The engineers and the Health Department had informed him that this procedure was not unusual and frequently done. Mr. Buonassissi explained to the Board that the irregular configuration of the area to be subdivided and extremely limited availability of acceptable soil for drain fields, to require the strict application of the minimum lot width would deprive the applicant of the most reasonable use of the land. He stated that this request was in harmony with the intent and purpose of the Zoning Ordinance and would not be injurious to the use of adjacent property in the neighborhood.

There was no one to speak in support and no one to speak in opposition.

Page 434 April 24, 1984 Board of Zoning Appeals
ROBERT E. & GRETCHEN J. CLARK

RESOLUTION

In Application No. VC 84-D-013 by ROBERT E. & GRETCHEN J. CLARK under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, one having a width of 136.59 ft. (200 ft. min. lot width req. by Sect. 3-E06), on property located at 808 Springvale Road, tax map reference 7-3((3))5, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 24, 1984; 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 5.2727 acres.
4. The applicant has stated that the lot has an unusual configuration. It does appear to be trapezoid in shape, but it is a much more regularly shaped lot than a good number of them that we see. Also, while there are several lots that are smaller in size adjacent to this one, when you look across the street and in the surrounding area, you find lots of similar size and some of even greater size. I cannot ignore the configuration of the proposed lot 5B in considering the application, because we have nine criteria we have to consider. One of them is that the variance will be in harmony with the intended spirit and purpose of the Ordinance, and I can't remember anyone ever coming in with a more irregularly proposed lot, and I can't support such an irregular configuration. These properties will eventually change hands and it's going to create problems in the future. A good deal of the testimony has gone to the convenience of the parties involved.

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

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 - 0 (Messrs. Hyland & DiGiulian being absent)

Page 434 April 24, 1984, Scheduled case of:

10:50 A.M. GLEN A. SIMS, JR., appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 17.5 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 6520 Walter Dr., Windsor Estates, R-1, Lee Dist., 91-3((2))10, 21,973 sq. ft., VC 84-L-014.

William Shoup reviewed the staff report for the Board. The applicant, Glen Sims, presented his application. He stated that he had bought the property in 1971. He had built an addition at that time, but now he needed more space. He stated that the back of his lot was more narrow than the front, and that the house had been built at an angle on the property. To the rear of the property was a natural ground spring causing that area to be very marshy. He stated that the garage that was shown on the plat was built by the previous owner, and that he was planning to tear it down very soon. Mr. Sims explained to the Board that only the rear corner of the proposed addition would require a variance.

There was no one to speak in support and no one to speak in opposition.

RESOLUTION

In Application No. VC 84-L-014 by GLEN A. SIMS, JR. under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17.5 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), on property located at 6520 Walter Drive, tax map reference 91-3((2))10, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 24, 1984; 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 21,973 sq. ft.
4. These houses were built before the days we had all these requirements. This is a very reasonable request. There is a natural spring in the backyard. The fence is irregularly constructed. The garage will be torn down. This applicant is trying to improve his living conditions and the buildings on the property. It is only the rear corner of the addition that needs a variance.
5. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property has an extraordinary situation or condition of the subject property.
   B. That the strict application of this Ordinance would produce undue hardship.
   C. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
   D. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
   E. That the character of the zoning district will not be changed by the granting of the variance.
   F. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the enclosure of the existing carport as shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland & DiGiulian being absent)

11:00 A.M. MYRON & ANNETTE OCEAN, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport into an attached garage 11.6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 2120 Sheriff Ct., Barristers Place Subd., R-3, Centreville Dist., 38-1((18))261, 14,210 sq. ft., VC 84-C-016.

William Shoup reviewed the staff report for the Board. The applicant, Myron Ocean, presented his application. He stated that he wanted to enclose an existing carport into a garage, with no change in height, length or width dimensions. The variance he was requesting amounted to 0.4 feet. He stated that his lot was pie shaped and had a very steep hill going uphill to the rear of the property. This created a wind tunnel effect in his carport, causing snow and rain to blow into it. He stated that the garage would enhance the neighborhood, and that he had received approval from the Homeowners Association for construction of the garage.

There was no one to speak in support and no one to speak in opposition.

RESOLUTION

In Application No. VC 84-C-016 by MYRON & ANNETTE OCEAN under Section 18-401 of the Zoning Ordinance to allow enclosure of carport into an attached garage 11.6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 2120 Sheriff Court, tax map reference 38-1((18))261, County of Fairfax, Virginia, Mrs. 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 24, 1984; 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 14,210 sq. ft.
4. That the applicants' lot is pie shaped. The rear lot slopes upward to a hill, causing the wind to blow rain and snow into the carport. The carport exists now and the rear right corner is in conformance with the Zoning Ordinance. The front corner is 11.6 ft. from the side lot line, and a variance of 0.4 ft. is requested. The applicant has stated that many homes in the area now have garages. This enclosure does not enlarge the existing structure.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland & DiGiulian being absent)

Page 437 April 24, 1984, Scheduled case of:

11:15 A.M. ELGIA G. CLEMMER, appl. under Sect. 3-203 of the Ord. for a beauty parlor as a home occupation; as permitted by S-76-70, expired, located 8633 Curtis Ave., Mt. Vernon Hills, R-2, Mt. Vernon Dist., 101-4((10))(13)30 and pt. 31, 6,600 sq. ft., SP 84-V-011.

William Shoup reviewed the staff report for the Board, which recommended approval of the application subject to conformance with the Development Conditions set forth in Appendix 1 of the report.. Elgia Clemmer, the applicant, presented her application. She stated that she had to work to support herself. She indicated that she tried to make sure there was never more than one client on site at any one time, but sometimes people arrived early for their appointments. Mr. Hammack commented that he did not think the applicant should be penalized if this happened occasionally.

There was no one to speak in support and no one to speak in opposition.

Page 437 April 24, 1984 Board of Zoning Appeals
ELGIA G. CLEMMER

RESOLUTION

In Application No. SP 84-V-011 by ELGIA G. CLEMMER under Section 3-203 of the Zoning Ordinance for a beauty parlor as a home occupation; as permitted by S-76-70, expired, on property located at 8633 Curtis Avenue, tax map reference 101-4((10))(13)30 and pt. 31, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 24, 1984; 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-2.
3. The area of the lot is 6,600 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.

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. All parking associated with this use shall take place on site in the existing driveway.
6. The number of patrons on site at any one time shall not exceed one (1).
7. The hours of operation shall be 9:00 A.M. to 5:00 P.M.
8. No signs shall be permitted in conjunction with this use.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Hyland & DiGiulian being absent)

The Board recessed for lunch at 12:15 P.M. The meeting reconvened at 1:20 P.M.

Page 438 April 24, 1984, Scheduled case of:

11:30 A.M. BARBARA B. SMITH, appl. under Sect. 3-203 of the Ord. for renewal, without term, of S-81-C-013 for home professional office (real estate) and to allow one employee, located 2651 Oakton Glen Dr., Oakton Glen Subd., R-2(C), Providence Dist., (formerly Centreville Dist.), 38-3((39))71, 10,500 sq. ft., SPR 81-C-013-1.

William Shoup reviewed the staff report for the Board, which recommended approval of the application subject to conformance with the Development Conditions set forth in Appendix 1 of the report. The applicant, Barbara Smith, presented her application. She stated that her home office was a small room located behind the garage, and that most of her business was conducted outside of her home. The office was mainly used for mail and filing. She stated that she did not have plans to hire an employee immediately, but would like to be able to do this if she needed one. She stated that she had her own brokers license and did not work for any one company. The customers did not generally come to her home, but met her at the site of the real estate they were looking at.

Mrs. Day commented that she felt it was a privilege to be able to have a home professional office, and to add employees would make it a commercial operation which did not fit in with the residential character of the neighborhood and would require an office. Ms. Smith stated that if she did have an employee, it would be a neighbor or teenager for part-time work consisting of filing and typing.

There was no one to speak in support and no one to speak in opposition.

RESOLUTION

In Application No. SPR 81-C-013-1 by BARBARA B. SMITH under Section 3-203 of the Zoning Ordinance for renewal, without term, of S-81-C-013 for home professional office (real estate) and to allow one employee, on property located at 2651 Oakton Glen Drive, tax map reference 38-3((39))71, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 24, 1984; 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-2(C).
3. The area of the lot is 10,500 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.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional Screening and the Barrier requirement may be waived.
6. There shall be no employees.
7. Two (2) parking spaces shall be provided in the existing driveway and all parking associated with this use shall take place on site. The total number of client vehicles on site at any one time shall not exceed two (2).
8. A sign shall be permitted in accordance with Article 12 provided that such sign is located at the rear of the dwelling.
9. This permit is granted for a period of three (3) years, with the Zoning Administrator empowered to grant two (2) one year extensions. The extensions are subject to the provisions of Sect. 8-012 of the Zoning Ordinance.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 4 - 0. (Mr. Smith abstained)
(Messrs. Hyland & DiGiulian being absent)

Page 439 April 24, 1984, Scheduled case of:

11:45 A.M. JEFFREY L. & LYNN S. BOSTIC, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 7.4 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 3-2007), located 3163 Bradford Wood Ct., Concord Village Subd., R-20, Providence Dist., 47-4((21))69, 1,587 sq. ft., VC 83-P-208. (DEFERRED FROM MARCH 13, 1984 FOR NOTICES)

William Shoup reviewed the staff report for the Board. The applicant, Jeffrey Bostic, presented his application. He stated that he wanted to enclose an existing hot tub. He stated that his yard was very shallow, which was a general condition of the area. The enclosure would be of a type of brick and roofing that would match the house. Mr. Bostic stated that a hot tub was not recommended for indoor use because of the damage the condensation would do. For this reason, the enclosure would have a sand base, and two skylights would be in the ceiling. A letter in the file from Mr. Bostic's doctor, Dr. Knowlan, explained that the hot tub was needed for therapeutic purposes in the treatment of multiple and recurrent injuries suffered in the course of his participation in professional football.

Ann Hardock, a neighbor living directly behind the subject property, spoke in support of the application. She stated that the addition would be in full view from her house, and her only concern was that the addition match the house. She stated that there was only about a five foot green area between the two back yards.

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

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RESOLUTION

In Application No. VC 83-P-208 by JEFFREY L. & LYNN S. BOSTIC under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.4 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 3-2007), on property located at 3163 Bradford Wood Court, tax map reference 47-4((21))69, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 24, 1984; 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 1,587 sq. ft.
4. That the applicants' need to enclose the hot tub because of the fact that it does freeze in the winter. The tub is already there, so I think an enclosed tub would add to the value of their property and would not be a detriment.. Also, this tub is not recommended for indoor use.
5. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property was acquired in good faith.
   B. That the subject property had exceptional shallowness at the time of the effective date of the Ordinance.
   C. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
   D. That authorization of the variance will not be of substantial detriment to adjacent property.
   E. That the character of the zoning district will not be changed by the granting of the variance.
   F. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 1 (Mr. Smith) (Messrs. Hyland & DiGiulian being absent)

Page 441 April 24, 1984, Scheduled case of:

12:00 P.M. J. WILLIAM HARLOW, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, proposed lot 19C having width of 82 ft. (100 ft. min. lot width req. by Sect. 3-206), and to allow construction of dwelling on lot 19C to 165 ft. from R.R. tracks (200 ft. min. distance between dwellings & R.R. tracks req. by Sect. 2-414), located 9300 Lee St., R-2, Burke, Annandale Dist., 78-2((1))19, 1.53 acres, VC 84-A-024. (Out-of-turn hearing granted)

William Shoup reviewed the staff report for the Board. The first speaker was Julius Knox Singleton, the court appointed guardian for the applicant. He stated that Mr. Harlow had resided in Burke since 1903, and had acquired this property in 1920. At this time, Mr. Harlow was incapacitated by virtue of advanced age and impaired physical and mental health. Mr. Singleton stated that Mr. Harlow's only income at present was from Social Security, which did not cover all his medical treatment and emergency care. The sale of this property would provide funds for Mr. Harlow's long term care, and avoid the imposition of these costs upon Emergency Social Services and other public resources.

The next speaker was John Harris, an engineer with Patton, Harris, Rust and Associates. He stated that this property was bounded to the north and east by Fox Lair subdivision, zoned R-3 and developed under the cluster provisions of the Zoning Ordinance. The property is bounded on the south by the Southern Railroad right-of-way. He stated that the subdivision of this property should not effect the character of the neighborhood and would be in harmony with the intended spirit and purpose of the Ordinance. He stated the the other part of the variance request addressed the reduction of the 200 foot setback from the Railroad right-of-way to a distance of 165 feet. Due to the configuration of the property, the setback impacts the property. Many of the surrounding subdivisions had constructed dwellings well within the 200 foot setback. Mr. Harris stated that he agreed with the development conditions in the staff report regarding acoustical treatment of the dwellings.

Mr. Hammack questioned why the staff required all three houses to be acoustically treated, since two of them were outside the 200 foot setback area. Mr. Shoup replied that it was one parcel being proposed to be subdivided into three lots, and the condition should apply to all the lots. He stated that there would still be a noise impact, and that is why staff felt that some acoustical treatment should be imposed. Mr. Harris, the engineer, stated that he was not in agreement with this condition, but he would meet all the development conditions if the Board imposed them.

There was no one to speak in support and no one to speak in opposition.

Page 441 April 24, 1984 Board of Zoning Appeals
J. WILLIAM HARLOW

RESOLUTION

In Application No. VC 84-A-024 by J. WILLIAM HARLOW under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, proposed lot 19C having width of 82 ft. (100 ft. min. lot width req. by Sect. 3-206), and to allow construction of dwelling on lot 19C to 165 ft. from R.R. tracks (200 ft. min. distance between dwellings & R.R. tracks req. by Sect. 2-414), on property located at 9300 Lee Street, tax map reference 78-2((1))19, County of Fairfax, Virginia, Mrs. 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 24, 1984; 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 1.53 acres.
4. The owner is in a nursing home, and this is the only asset he has. The property will be sold to take care of Mr. Harlow. Lots 19A and 19B will meet the R-2 minimum lot width of 100 ft. Lot 19C will be 82 ft. wide and requires a variance of 18 ft. When this property is developed, the houses will front on Jackson Street.
5. This application meets the Required Standards for Variances in Section 18-404 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 variance is approved for subdivision of one lot into three (3) lots and for the location of the dwelling on proposed 19C as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. The subdivision of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions, of the Fairfax County Code.
4. Acoustical treatment shall be provided as follows:
   - o A four (4) to six (6) foot earthen berm shall be constructed along the rear lot lines on all lots. A combination of evergreen and deciduous plantings shall be provided on the berm as required by the Director, Department of Environmental Management.
5. The dwelling on lot 19C shall be acoustically treated as follows:
   - o Roof and exterior wall assemblies shall have a laboratory sound transmission class (STC) of at least 50, and
   - o Doors and windows shall have a laboratory sound transmission class (STC) of at least 42. If windows function as walls, then they shall have the STC specified for exterior walls.
   - o Adequate measures to seal and caulk between surfaces shall be provided.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Hyland & DiGiulian being absent)

Page 442 April 24, 1984, AFTER AGENDA ITEM

OX HILL BAPTIST CHURCH/S-82-S-082: The Board was in receipt of a letter from William Donnelly requesting a six month extension of S-82-S-082. He stated that the site plan review process had taken an unusually long time, and that site plan approval was anticipated soon. It was the consensus of the Board to grant the request for a six month extension of time.

Page 442 April 24, 1984, AFTER AGENDA ITEM

CARL RICHARD BOEHLERT/V-81-D-044: The Board was in receipt of a letter from Mr. Boehlert asking for a six month extension of V-81-D-044, due to water flow problems in the area which have held up approval of the subdivision plan. It was the consensus of the Board to approve the request for a six month extension of time.

// There being no further business, the Board adjourned at 2:35 P.M.

By: Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on May 1, 1984

APPROVED: May 8, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 1, 1984. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (departing at 11:00 A.M.); Gerald Hyland (arriving at 11:00 A.M.); Ann Day; Paul Hammack; John Ribble (arriving at 1:00 P.M.), and Mary Thonen.

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. DRANESVILLE UNITED METHODIST CHURCH, appl. under Sect. 18-401 of the Ord. to allow addition to church with dustless surface req. by Sect. 11-102), located 11711 Leesburg Pike, R-1, Dranesville Dist., 6-4((1))67, 1.937 acres, VC 83-D-041. (DEFERRED FROM JUNE 21, 1983 FOR A MAXIMUM PERIOD OF SIX MONTHS TO ALLOW APPLICANT TO RESEARCH ACCESS OWNERSHIP AND FROM DECEMBER 20, 1983 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT).

The hearing was deferred to allow the variance application to be amended because of the Zoning Ordinance amendment. The hearing for the special permit application was scheduled for May 22, 1984 at 12:00 Noon.

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Page 443 May 1, 1984, Scheduled case of

10:15 A.M. JOHN M. MATTES, appl. under Sect. 18-401 of the Ord. to allow subdivision into eight (8) lots, proposed lot 6 having width of 15 ft. (80 ft. min. lot width req. by Sect. 3-306), located 7211 Danford Ln., R-3, Springfield Dist., 89-3((1))18A, 3.23 acres, VC 83-S-097. (DEFERRED FROM 9/6/83 FOR NOTICES; FROM 10/11/83 TO ALLOW TIME FOR THE BOARD OF SUPERVISORS TO APPROVE A PROFFERED CONDITION AMENDMENT TO REZONING CASE 77-S-044); FROM 11/17/83 FOR LACK OF PRESENTATION AND FROM 1/10/84 FOR PUBLIC HEARING BY BOARD OF SUPERVISORS.)

As the proffered condition amendment was still pending before the Board of Supervisors, the BZA deferred the variance application until Tuesday, June 5, 1984 at 11:45 A.M.

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Page 443 May 1, 1984, Scheduled case of

10:30 A.M. MANN'S AUTOMOTIVE, INC., appl. under Sect. 18-401 of the Ord. to allow building addition to existing Vehicle Major Service Establishment with driveways and parking spaces having gravel surface (dustless surface req. by Sect. 11-102), located 8457 Richmond Hwy., C-8, Mt. Vernon Dist., 101-3((1))pt. 30A & pt. 31, 40,000 sq. ft., VC 83-V-171. (DEFERRED FROM JANUARY 31, 1984 TO ALLOW BOARD OF SUPERVISORS TIME TO ACT ON CONCURRENT SPECIAL EXCEPTION & PENDING ZONING ORDINANCE AMENDMENT).

The Board was informed that the special exception had been approved by the Board of Supervisors. However, the variance application was deferred to allow the applicant to amend it in accordance with the Zoning Ordinance amendment. The hearing for the special permit application was scheduled for Tuesday, May 22, 1984 at 12:15 P.M.

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Page 443 Scheduled case of

10:45 A.M. TIMOTHY D. DESMOND/REGENCY 110 CORPORATION, appl. under Sect. 18-301 of the Ord. to appeal the Zoning Administrator's denial of an extension of SE 082-D-78 for an office in the R-30 District based upon the determination that the off-street parking spaces provided for the existing uses at the site are insufficient to satisfy the current provisions of the Zoning Ordinance, located 1800 Old Meadow Rd., R-30, Providence Dist., 39-2((13))Unit 110, 11.1937 ac. (1,702 sq. ft.), A 83-P-014. (DEFERRED FROM MARCH 27, 1984 AT THE REQUEST OF THE APPLICANT)

The Board was in receipt of a letter from the applicant's attorney, Mr. Krebs, to withdraw the pending appeal application. Mr. DiGiulian moved that the Board allow withdrawal as requested. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 0 (Messrs. Hyland and Ribble being absent).

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Page 444 May 1, 1984, Scheduled case of

11:00 A.M. CARLOS A. REYES, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow garage addition to dwelling to remain 5.2 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 3208 Spring Dr., Valley View Subd., R-2, Lee Dist., 92-2((19))78, 10,720 sq. ft., SP 83-L-096. (DEFERRED FROM 2/28/84 TO ALLOW TIME FOR STAFF TO SUBPOENA THE CONTRACTOR RESPONSIBLE FOR THE WORK THAT HAD BEEN DONE IN ERROR.)

The Board was informed of the staff's progress in subpoenaing the contractor who was no longer in Fairfax County. It was the consensus of the Board to defer further discussion of the application until after their luncheon recess.

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Page 444 May 1, 1984, After Agenda Items

FELLOWSHIP BAPTIST CHURCH, SP 82-V-054 & VC 82-V-090: The Board was in receipt of a memorandum from staff regarding the request dated January 17, 1984 from the Fellowship Baptist Church for extensions of the special permit and variance applications which due to expire January 27, 1984. It was the staff's recommendation that the extensions be granted to allow the applicant time to commence construction on the special permit use. Mrs. Day moved that the Board allow the six month extension on the permits permitting a new expiration date of July 27, 1984. Mr. DiGiulian seconded the motion and it passed by a vote of 5 to 0 (Messrs. Hyland and Ribble being absent).

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Page 444 May 1, 1984, After Agenda Items

LANNY W. & SHARON A. MILOM, VC 84-C-067: The Board was in receipt of a letter from James A. DeVille, President of the Donny Brook Development seeking an out-of-turn hearing for the variance application of Lanny W. & Sharon A. Milom to allow a subdivision of property. The variance was scheduled for July 10, 1984. Mr. Hammack moved that the Board deny the out-of-turn hearing request because of the heavy scheduling of pending BZA cases. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 0 (Messrs. Hyland and Ribble being absent).

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Page 444 May 1, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of BZA Minutes for April 17, 1984. It was the consensus of the Board to defer approval until after the luncheon recess to allow some members an opportunity to review controversial testimony.

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Page 444 May 1, 1984, Recess

The Board recessed the meeting for lunch at 11:00 A.M. Mr. DiGiulian announced his departure for the day. Chairman Smith advised the BZA members that he had an emergency appointment downtown and would return to the meeting as soon as possible. Mr. Hyland arrived at 11:00 A.M.

By direction of the absent Chairman and Vice-Chairman, Mr. Hyland assumed the role of Chairman and reconvened the meeting at 1:00 P.M. Mr. Ribble arrived at 1:00 P.M.

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Page 444 May 1, 1984, Scheduled case of

Chairman Hyland called the recessed case of:

CARLOS A. REYES, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow garage addition to dwelling to remain 5.2 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 3208 Spring Dr., Valley View Subd., R-2, Lee Dist., 92-2((19))78, 10,720 sq. ft., SP 83-L-096. (DEFERRED FROM 2/28/84 TO ALLOW TIME FOR STAFF TO SUBPOENA THE CONTRACTOR RESPONSIBLE FOR THE WORK THAT HAD BEEN DONE IN ERROR.)

The Board was informed by staff that there were some problems involved in serving the subpoena on the contractor as he had moved to Colonial Beach, VA. As he was still in the State of Virginia, the sheriff could attempt service if the Board wanted to pursue the matter. Mrs. Thonen moved that the Board defer the hearing to allow staff to pursue the matter of the subpoena. Mr. Ribble seconded the motion. The motion passed by a vote of 4 to 0 (Messrs. Smith, DiGiulian and Hammack being absent). The hearing was scheduled for June 5, 1984 at 12:00 Noon.

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Page 445 May 1, 1984, Scheduled case of

1:00 P.M. ALBERT L. & JANE BUFF AND CHARLES E. RUNYON, appl. under Sect. 18-401 of the Ord. to allow subdivision into 5 lots, proposed lots 4 & 5 each having width of 10 ft. (150 ft. min. width req. by Sect. 3-106), located 1018 Harrimen St., Acreage Subd., R-1, Dranesville Dist., 12-4((1))5 & 12-4((10))B, 5.2636 ac., VC 84-D-017.

Chairman Hyland advised the applicant that the Board was anticipating a fifth member to return to the meeting. The applicant was informed of the number of votes needed to favorably approve the request and was given an option to proceed with the matter or be passed over until the arrival of the fifth member. At the applicant's request, Mrs. Day moved that the application be passed over to await the fifth member. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. Smith, DiGiulian and Hammack being absent).

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Page 445 May 1, 1984, Scheduled case of

1:15 P.M. EDWARD A. & KATHLEEN F. MILLER, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 17.25 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 4451 Flintstone Rd., Vantage Subd., R-3(C), Lee Dist., 92-1((10))5058, 9,529 sq. ft., VC 84-L-018.

Chairman Hyland advised the applicant that the Board was anticipating a fifth member to return to the meeting. The applicant was informed of the number of votes needed to favorably approve the request and was given an option to proceed with the matter or be passed over until the arrival of the fifth member. At the applicant's request, Mrs. Thonen moved that the application be passed over to await the fifth member. Mrs. Day seconded the motion and it passed by a vote of 4 to 0 (Messrs. Smith, DiGiulian and Hammack being absent).

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Page 445 May 1, 1984

Mr. Hammack arrived at the meeting at 1:15 P.M.

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Page 445 May 1, 1984, Scheduled case of

Chairman Hyland recalled the case of:

1:00 P.M. ALBERT L. & JANE BUFF AND CHARLES E. RUNYON, appl. under Sect. 18-401 of the Ord. to allow subdivision into 5 lots, proposed lots 4 & 5 each having width of 10 ft. (150 ft. min. width req. by Sect. 3-106), located 1018 Harrimen St., Acreage Subd., R-1, Dranesville Dist., 12-4((1))5 & 12-4((10))B, 5.2636 ac., VC 84-D-017.

Mr. Charles Runyon of 7649 Leesburg Pike informed the Board that he had revised the application by seeking a subdivision of 4 lots. He was proposing to combine lots 4 & 5 to allow one pipestem of 20 ft. width. In response to questions from the Board, Mr. Runyon indicated that he had not prepared a revised plat but could provide one if the variance were approved.

Ms. Jane Kelsey presented the staff report. It was noted that the applicant had reasonable use of the land since the property could be subdivided into three lots without a variance. In response to the average lot size of the land surrounding the subject property, Ms. Kelsey stated that the minimum lot size for the R-1 District was 36,000 which allowed one dwelling unit per acre.

During Mr. Runyon's presentation, he stated that he represented Mr. Buff. Mr. Runyon was the owner of outlot B. Originally, five lots had been requested. However, a conversation with staff revealed that they felt four lots were more acceptable. The staff report was more favorable towards three lots. Mr. Runyon informed the Board that he was attempting to develop the property in like quality of the lots surrounding it. Most of the lots were in the 40,000 sq. ft. range with some having more and some having less. They all had the basic one acre density.

Mr. Runyon stated that he was now only asking for one pipestem lot. The subject parcel had the shape and frontage which made it difficult to develop under the curent R-1 zoning without some kind of a variance. Over 50% of lot 4 the lot was characteristic of steep slopes. Accordingly, Mr. Runyon proposed to combine lots 4 & 5 and indicated that no further developement would take place in that area.

In response to the staff contention that the property could be developed without a variance, Mr. Runyon stated that there were other pipestem lots in the area. He stated that the property to the south was larger and was served by an outlot road. He felt that the request was justified because of the limited frontage, irregular shape and the density of the area.

In response to the Board regarding staff's position on the five lots being reduced to four, Ms. Kelsey indicated that staff was happy to see lots 4 & 5 combined because of the soils situation and the steep slopes. However, she reminded the Board that the variance had to be addressed under the nine standards of 18-404. There was still the argument as to whether the applicant had reasonable use of the property with development of three lots allowed by right.

There was no one else to speak in support of the application. Ms. Carol Ann Silverman of 1026 Harriman Street, owner of lot 6A, spoke in opposition to the variance as her property would most affected by it. She was concerned about the environmental comments regarding the erodible soils and steep slopes and development of lot 4. She did not feel that the applicant's request met the standards for a variance.

During rebuttal, Mr. Runyon stated that Ms. Silverman's property did not have any street frontage and was served by an easement through lot 6. The owner of lot 6 did not have any opposition to the variance request as she had developed her property with a 20 ft. outlet road. Mr. Runyon stated that Ms. Silverman's property was similar in concept and size to what he was proposing.

With regard to the highly erodible soils, Mr. Runyon stated that they would not be disturbed. He felt that the application met the standards. The criteria for pipestems were only guidelines to be used in approving cluster subdivisions which was not the case in this application. Mr. Runyon stated that the pipestem would have an 'open space' feeling because of the combination of the two lots.

In summary, Mr. Runyon stated that Mr. Buff would continue to live on the property as he had done for many years. The subdivision of the parcel into four lots would have the same effect if the property were developed into three lots because of the number of accesses onto Harriman Street. The pipestem would be created within the existing driveway.

Mr. Hammack stated that the application was close and a little hard to decide. He agreed with the staff on the application that the 5.62 acres of land could be developed into 3 lots having 1.5+ acres for each lot. If it was developed into four lots, it would be a little bit smaller. The Board had received testimony that the lot next door had 2 1/4 acres on lot 6A and some of the lots across the street contained 1 1/2 acres. Mr. Hammack stated that the development of the parcel into three lots would have the same result as the surrounding area and would be compatible with what was in the area.

The staff report reflected some environmental problems and possible erosion. Mr. Hammack agreed with Mr. Runyon that a 15% grade was steep but there was some potential for problems. Mr. Hammack stated that he was not enthusiastic about creating pipestems when one did not have to exist.

Accordingly, Mr. Hammack moved that the application be denied because the applicant had not satisfied the nine criteria that have to be addressed in order to grant the variance. Mrs. Thonen seconded the motion.

Chairman Hyland noted that there was an existing drive already in the proposed location for the pipestem access. Secondly, the applicant had reduced the original proposed subdivision of five lots to four. The principal objection raised by staff involved environmental issues and the development of lot 4 which was rendered moot by the amended application presented by Mr. Runyon to combine lots 4 and 5 into one lot and not to build on lot 4. The only objection to the development had been to lot 4. The remaining objection was to whether there was justification for the granting of the variance. Chairman Hyland stated that he felt the proposed subdivision was reasonable under the circumstances, particularly with the size of the resultant four lots.

Mr. Hammack noted that the Comprehensive Plan recommended .5 to 1 dwelling unit per acre. So even though the property was in R-1 zoning which was the minimum, the Comprehensive Plan suggested that there be a little less density than the actual zoning which ihfluenced his position.

Mrs. Day agreed with the applicant. She felt lots 1 & 3 were facing on Harriman Street and did not require an outlet. She did not want to set a precedent but she did not feel there was any detriment to the area.

The vote on the motion to deny the application failed by a vote of 2 to 3 (Messrs. Hyland, Ribble and Mrs. Day).

Chairman Hyland asked if there was another motion for the record.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-D-017 by ALBERT L. & JANE BUFF AND CHARLES E. RUNYON under Section 18-401 of the Zoning Ordinance to allow subdivision into 4 lots, proposed lot 4 having width of 20 ft. (150 ft. min width req. by Sect. 3-106), on property located at 1018 Harriman Street, tax map reference 12-4((1))5 & 12-4((10))B, County of Fairfax, Virginia, Mrs. 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 1, 1984; 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 5.2636 acres.
4. That the applicant has reduced his original request from five lots to four lots to coordinate proposed lots 4 & 5 into 105,400 sq. ft. A pipestem leading to the rear lot will be 20 ft. wide. Lots 1, 2 & 3 are on the plat and they face Harriman Street. As the applicant has stated, the back lot has an open space feeling because of the large lot size. In the adjacent area, there are some lots which are 36,000 and 39,000 sq. ft. and there are some that are larger. Because of the way this was developed, it was not creating any adverse conditions for the area. The applicant had stated about the slopes and the engineering to be done on it.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
2. The pipestem driveway shall be constructed in accordance with the pipestem driveway standards set forth in the Public Facilities Manual.
3. Construction within the area of extreme steep slopes which are on this property shall be avoided.
4. The applicant shall provide an up-to-date plat reflecting the changes proposed and in accordance with the development conditions.

The motion passed by a vote of 4 to 1 (Mr. Hammack)(Messrs. Smith and DiGiulian being absent).

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1:15 P.M. EDWARD A. & KATHLEEN F. MILLER, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 17.25 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 4451 Flintstone Rd., Vantage Subd., R-3(C), Lee Dist., 92-1((10))5058, 9,529 sq. ft., VC 84-L-018.

Ms. Jane Kelsey presented the staff report. Mr. Edward Miller of 4451 Flintstone Road informed the Board that his property was located in the Vantage Subdivision which was part of the Stoneybrooke Subdivision. He stated that he and his wife were requesting the variance and had acquired the property in good faith in 1974 when the house was first constructed. The property was exceptionally shallow. Mr. Miller stated that his lot was small. Even though it was larger than the minimum required for the zone, the lot was smaller than the average. Mr. Miller stated that reasonable construction was not possible without a variance as his property did not have the depth of other lots in the area. Mr. Miller stated that the vast majority of the other lots would be able to build an addition without a variance.

In addition, because his property was on a curve and situated between two corner lots, Mr. Miller stated the builder had placed the house farther back on the lot. This gave the lot a more spacious feeling as it had large front and side yards. However, there was insufficient room to build the addition onto the back of the house. Mr. Miller stated that it was not economically feasible to build the family room on the side of the house because he would lose a bedroom for a hallway. The addition would be constructed on an existing patio which was located at the center of the back of the house.

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

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-L-018 by EDWARD A. & KATHLEEN F. MILLER under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17.25 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 4451 Flintstone Road, tax map reference 92-1((10))5058, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 1, 1984; 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 9,529 sq. ft.

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This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has exceptional shallowness at the time of the effective date of the Ordinance. This is a cluster zoning. The idea of cluster is to build everying close up so that you have more open space. That is what the applicant is proposing. The lot was small at the time of the effective date of the Ordinance. The lot has extraordinary situation or condition because of the shape, the placement of the house and the shallowness and the cluster of the houses in the R-3(C).
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mrs. Day seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Smith and DiGiulian being absent).

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1:30 RICHARD T. BALL, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 12 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 6012 Jan Mar Dr., Cedar Heights Subd., R-3, Mason Dist., 51-4((7))29, 11,036 sq. ft., VC 84-M-019.

Ms. Jane Kelsey presented the staff report. Chairman Hyland commented on the fact that the plat certified to by Mr. Ball, who was a civil engineer, did not contain the dimensions of the proposed garage as required. Mr. Richard T. Ball informed the Board that he was the owner occupant of the house. He stated that he wanted to build an attached garage. When he bought the property in 1958, he worked with the contractor to have the dwelling located in such a manner that an attached garage could be added in the future. Mr. Ball stated that his lot was pie-shaped. The proposed garage could not come any closer to the side as it would not meet the 12 ft. side yard.

In response to questions from the Board, Mr. Ball stated that the garage would be for a single car and would have a workbench at the end. The proposed dimensions were 14.8 ft. x 25.4 ft. The staff report mentioned an existing carport but Mr. Ball assured the Board that there was nothing built at that location at the present time.

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Mr. Ball stated that the next door neighbor adjacent to the proposed garage had built an addition without any windows so the garage would not impact it. Behind Mr. Ball's property was a tourist home 300 ft. from his property. There was also an easement for the power lines. The area at the rear was heavily wooded. Mr. Ball stated that he could not see how his proposed garage would impact anyone and he urged the Board to grant the request.

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

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-019 by RICHARD T. BALL under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 12 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 6012 Jan Mar Drive, tax map reference 51-4((7))29, County of Fairfax, Virginia, Mrs. 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 1, 1984; 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 11,036 sq. ft.
4. That the applicants' property has 300 ft. of dense woods at the rear which screens the house at the rear of the property. The proposed garage would be only for one car with a workbench space at the rear. The proposed garage would be 14.8 ft. wide by 25.4 ft. long. The applicant is asking for a 13 ft. variance.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the construction of a garage as shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 to 0 (Messrs. Smith and DiGiulian being absent).

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Mr. Smith arrived at 2:25 P.M. and assumed his role as Chairman for the remainder of the meeting.

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1:45 P.M. RICHARD NIGEL MIDDLETON AND ELIZABETH ANN MIDDLETON, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 1716 Palm Springs Dr., Tysons Green, R-3, Centreville Dist., 28-4((13))48, 10,500 sq. ft., VC 84-C-020.

Ms. Jane Kelsey presented the staff report. Mr. Richard Middleton informed the Board that he was applying for a variance because he had considerable difficulty utilizing his property. When he and his wife moved to the property in 1974, they thought they could not have children. Since that time, they had acquired two children. Mr. Middleton stated that his work with the World Bank often took him out of the country for long periods of time. He was concerned for the safety of his family and his home. He wanted to resolve the situation by enclosing the existing carport which was only 10 ft. wide. However, since his owned a van, he proposed to extend the carport slightly wider and to extend it at the back.

Mr. Middleton stated that he had discussed his plans very carefully with the neighbors and no one objected. He had letters of support from his neighbors. Mr. Middleton felt that he fulfilled the nine standards for granting a variance. The only person to be impacted did not have any windows on that side of their house.

In response to questions from the Board, Mr. Middleton stated that his property had topographical problems on the side. The proposed location would be architecturally pleasing and have minimal impact on everyone.

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

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RICHARD NIGEL MIDDLETON AND ELIZABETH ANN MIDDLETON

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-C-020 by RICHARD NIGEL MIDDLETON AND ELIZABETH ANN MIDDLETON under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 1716 Palm Springs Drive, tax map reference 28-4((13))48, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 1, 1984; 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.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has exceptional topographic conditions and an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the location and the garage addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Mr. Hyland suggested to the staff that in the future to avoid confusion when an applicant spells out his middle name in an application that the last name not be separated from it.

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2:00 P.M. SYDENSTRICKER UNITED METHODIST CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-264-78 for church and related facilities to permit construction of new parsonage and use of the existing house for Sunday School and meetings, located 8508 Hooes Rd., R-1, Springfield Dist., 89-3((1))15, 4.9075 acres, SPA 78-S-264-1.

Ms. Jane Kelsey presented the staff report which recommended approval of SPA 78-S-264-1 subject to the development conditions set forth. There were no major environmental concerns. There were a few issues which were discussed with the applicant. However, the applicant amended the plat to reflect those issues. One concern was the dedication for public street purposes. The applicant had now shown the dedication on the plat and moved the parsonage back in order to comply with the yard requirements. They removed the proposed driveway and were proposing to use the existing driveway bringing it over to the proposed parsonage. This was done in order to eliminate one of the curb cuts on Sydenstricker Road and to eliminate parking by the church members in the Sydenstricker Road.

Mr. Michael Congleton of 9124 Galbraith Court in Springfield represented the applicant. He informed the Board that he had read the development conditions and had no objection to the staff report.

There was no one else to speak in support or opposition. However, the Board was in receipt of a letter from Mr. and Mrs. Maurice A. Kruth who were opposed to the granting of the special permit until serious drainage problems were corrected by the church. Mr. Kruth owned property at 7303 Briarcliff Drive which was the property immediately adjacent to the church site.

In rebuttal to Mr. Kruth's letter, Mr. Congleton stated that he had inspected the church site and the tank installed for collecting drainage seemed to be working properly. Mr. Kruth's home was located 15 to 20 ft. higher than the church site. Mr. Congleton stted that water could not flow up hill. He indicated that it was hard to understand what Mr. Kruth might be referring to but that the matter would be reviewed during the building process.

In response to questions from the Board regarding the drainage situation, Ms. Kelsey stated that it had not been addressed in the staff report as it would be handled at the time of site plan review. She could not respond whether the Director of Environmental Management would go back and review the entire site. She stated that the letter should have been addressed to the Director of Environmental Management.

Mr. Hyland stated that as the Board had a complaint it should be looked into by Environmental Management. He suggested that the permit be deferred in order to get a response on the drainage situation. Mrs. Thonen suggested that the Board add a condition to have Environmental Management look into the potential problem of drainage runoff and take steps to correct it. Mr. Congleton suggested that a condition be added to the effect that the applicant would take all necessary actions to correct all drainage deficiencies as determined by the Director of Environmental Management.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 78-S-264-1 by SYDENSTRICKER UNITED METHODIST CHURCH under Section 3-103 of the Zoning Ordinance to amend S-264-78 for church and related facilities to permit construction of new parsonage and use of the existing house for Sunday School and meetings, on property located at 8508 Hooes Road, tax map reference 89-3((1))15, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 1, 1984; 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 4.9075 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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 use.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional Screening shall be modified in all areas, except as follows:
   - along the eastern lot line between the parking lot and the existing wooded area where there is less than a 25 foot screening yard,
   - between Hooes Road and the turn-around area in front of the church, and
   - in front of the structure proposed to be used for Sunday School rooms and Sydenstricker Road.

   In these areas supplemental plantings shall be provided to soften the impact of these uses from the adjacent properties and streets. The amount and type of plantings shall be determined by the Director, Department of Environmental Management (DEM). The requirement for a barrier shall be waived.
6. There shall be no church related parking in the driveway adjacent to the structure used for the Sunday School rooms. This driveway shall be for the use of the parsonage only.
7. This approval does not include the structure noted as "future addition" on the plat submitted with the application.
8. All signs for with this use shall be in conformance with Article 12, Signs.
9. Dedication along Hooes Road and Sydenstricker Road shall be determined by the Director, Department of Environmental Management, at the time of site plan approval provided that the minimum amount of dedication along Sydenstricker Road is 45 feet from centerline. A six foot wide type I trail shall be provided along the southwest side of Sydenstricker Road and along the frontage of Hooes Road for entire the frontage of the property.
10. If dedication is more than 45 feet from the centerline of Sydenstricker Road, then the proposed parsonage must be relocated to meet the 40 foot minimum front yard requirement of the R-1 District.
11. The "limits of site plan" line reflected on the plat submitted with this application shall be removed and the site plan shall encompass the entire 4.9075 acres.
12. The applicant shall take all necessary actions to correct all drainage deficiencies as determined by the Director of Environmental Management.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

Page 455 May 1, 1984, Recess

The Board was given a memorandum from Philip G. Yates, Zoning Administrator, regarding the next case. It was the consensus of the Board to recess the meeting in order to review the memo. Accordingly, at 3:05 P.M. the Board recessed and reconvened at 3:15 P.M. to continue with the next scheduled case.

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Page 455 May 1, 1984, Scheduled case of

2:15 P.M. UNITED ARTISTS COMMUNICATIONS, INC., appl. under Sect. 12-304 of the Ord. to allow additional sign area, additional sign height or different arrangement of sign area distribution within regional shopping center, located 12025 Lee Jackson Memorial Hwy., C-7, Providence Dist., 46-3((8))16B & 10, 5.43554 ac., SP 84-P-013.

Mr. Charles L. Shumate, attorney for the applicant, requested a deferral of the special permit application for a hearing by a full Board. He was concerned about the material presented by the Zoning Administrator and wanted an opportunity to respond to it. He suggested that in the interim the Board members might want to view the site. Mr. Shumate stated that he could make arrangements for a tour at the Board's convenience.

Mr. Shumate informed the Board that his applicant was having difficulty obtaining a sign permit for a wall mounted sign for the building as it originally had been part of the special permit request. The Zoning Enforcement Division would not issue the sign until the hearing was resolved. Mr. Shumate stated that the special permit application had been amended to delete that portion from the request. Mr. Yates informed the Board that the applicant was entitled to the permit for the wall mounted sign if it was no longer a part of the special permit request.

Mr. Shumate suggested that the matter be deferred for a full Board. He asked that the Clerk notify him when that could be arranged. Chairman Smith informed the applicant that the Board had to set an exact time and date on a deferral. Chairman Smith stated that if there was a full Board, the hearing would take place. If not, the applicant could defer it again. Mr. Hyland indicated that there was never a guarantee of having a full Board and there could be deferrals that went on forever. Mr. Ribble stated that the matter was not being deferred because of a full Board.

It was the consensus of the Board to schedule the hearing for Tuesday, May 8, 1984 at 1:15 P.M. The Board discussed a time for a tour of the site and decided on Thursday afternoon at 2:00 P.M. Mr. Shumate stated that he had some graphics to show the Board. Chairman Smith stated that the tour should only be a viewing of the site and not a preliminary hearing. Mr. Yates questioned the appropriateness of the BZA conducting a visitation outside the context of the public hearing.

Chairman Smith questioned the application as to whether United Artists was an aggrieved party and had a hardship. Mr. Shumate stated that Sect. 12-304 of the Ordinance was very specific. Chairman Smith indicated that the only aggrieved party was the shopping center. Mr. Shumate stated that he would amend the application. Fairfax Associates had joined in the application but had not been named as applicants. Mr. Shumate stated that had been included in the staff report.

Mrs. Thonen questioned Mr. Yates regarding the Board viewing the site individually. She then moved that the Board view the site individually or a group without the applicant. Mr. Hammack suggested that the area be marked off. Mr. Hyland stated that in view of the differing opinions and the motion to defer until next week, he moved that the motion be amended to provide that in the event that the Board at the hearing next week decides it is necessary to view the subject property in light of the testimony received, that the Board at that time view the site. Meanwhile, any Board member could individually view the site prior to the public hearing if he or she desired. Mr. Hammack seconded the motion. The motion failed by a vote of 3 to 3 (Mr. Smith, Mrs. Day and Mrs. Thonen).

Mr. Hammack moved that the special permit application be deferred until Tuesday, May 8, 1984 at 1:15 P.M. Mr. Ribble seconded the motion. The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

Mr. Hammack asked staff to research whether the subject property was part of the original rezoning for Fair Oaks Mall. He stated that if it was part of the shopping center regional rezoning, he wanted to know how it could be said it was not a regional shopping center. He wanted to know if the area was not part of the shopping center, could the regional shopping center assign its rights to the sign to an adjacent shopping center. Mr. Hammack stated that he had a lot of questions and wanted to know how it fit in, etc. He asked for the history of the site.

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APPROVAL OF MINUTES: The Board was in receipt of Minutes for April 17, 1984 which had been recessed earlier in the meeting. Mr. Hammack made a correction in the resolution for the mosque application with the insertion of the word "and" in development condition no. 7 to read: That the religious activities of the mosque shall be conducted within the mosque building and related facilities. Mr. Hammack moved that the Minutes be approved with that correction. Mr. Ribble seconded the motion. The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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BOARD POLICY: The Board also commended the Clerks for the prompt turnaround on the Minutes for last week's meeting. Ms. Hicks explained the new procedures regarding the preparation of the Minutes to the Board. The staff's goal is to present the Board with the Minutes of the previous week's meeting and one set of back Minutes at each meeting.

The Board concurred with this new approach and indicated that it felt it was a positive step and hoped that soon there would be no backlog.

// 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

Daniel Smith
Daniel Smith, Chairman

Approved: May 15, 1984
Date

Submitted to the Board on May 8, 1984.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 8, 1984. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day, Paul Hammack, and Gerald Hyland. John Ribble arrived at 10:50 A.M. and Mary Thonen arrived at 11:00 A.M.

The Chairman opened the meeting at 10:20 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10 o'clock and 10:15 A.M. cases of:

10:00 A.M. ENOCH D. & DORIS J. FRANKHAUSER, appl. under Sect. 18-401 of the Ord. to allow existing 7 ft. high fence to remain in front yard (4 ft. max. hgt. for fence in front yard req. by Sect. 10-104), located 9200 Briary Ln., Briars at Westchester, R-3, Providence Dist., 58-4((33))28A, 14,387 sq. ft., VC 83-P-216. (DEFERRED FROM MARCH 27, 1984 TO ALLOW STAFF TIME TO CONTACT THE CONTRACTOR RESPONSIBLE FOR BUILDING THE FENCE)

10:15 A.M. STEPHEN B. HESSE, (formerly HAROLD R. & ESTHER M. MOBLEY), appl. under Sect. 18-401 of the Ord. to allow existing 7 ft. high fence to remain partially within front yard (4 ft. max. hgt. for fence in front yard req. by Sect. 10-104), located 9202 Briary Ln., Briars at Westchester, R-3, Providence Dist., 58-4((33))27A, 15,603 sq. ft., VC 83-P-215. (DEFERRED FROM MARCH 27, 1984 TO ALLOW APPLICANT TIME TO AMEND APPLICATION AND STAFF TIME TO CONTACT THE CONTRACTOR RESPONSIBLE FOR BUILDING THE FENCE)

Cheryl Hamilton presented the staff report for the variance application. She informed the Board that she had contacted the contractor by telephone. The contractor had built the fence in the spring of 1982 at the request of the homeowners. At that time, he did not know there was a restriction on the height of the fence. Ms. Hamilton stated that the developer responsible for building the fence was Triangle Development Company, who subcontracted the job.

The next speaker was Nancy Cranmer from Paciulli, Simmons & Associates, who represented the applicants, but was being paid by the developer. She stated that no formal violation notice had been issued by the County. She stated that the fence had been built to provide privacy and screening for the back yard of the applicants. Ms. Cranmer stated that these two lots were considered reverse frontage lots. The technical definition of a reverse frontage lot is if you have a street categorized as a principle thoroughfare. The County does not wish to have ingress and egress off of those streets to keep better traffic flow, and you are required to provide frontage off of another road. That forces houses to be sited with their rear yards to be facing a major highway, so the the County allows the construction of a seven foot fence to provide privacy. That is what happened along Little River Turnpike in this project. Ms. Cranmer stated that Prince William Drive carried a lot of traffic, so much so, that Design Review requested that no direct curb cuts be taken off of Prince William Drive. Instead they asked that they be created off of Briary Drive. This resulted in the same type of situation that resulted on Little River Turnpike, forcing the houses to be sited so that either their rear or side yards are fronting on a fairly major street. By the technical definition in the Ordinance, Prince William is not a major arterial, so a seven foot fence is not allowed to be constructed.

There was no one to speak in support or opposition to the applications.

RESOLUTION

In Application No. VC 83-P-216 by ENOCH D. & DORIS J. FRANKHAUSER under Section 18-401 of the Zoning Ordinance to allow existing 7 ft. high fence to remain in front yard (4 ft. max. hgt. for fence in front yard req. by Sect. 10-104), on property located at 9200 Briary Lane, tax map reference 58-4((33))28A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 8, 1984; 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 14,387 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.

*The applicant shall be given 24 months to correct the violation and come into compliance with the Zoning Ordinance.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 7 - 0.

RESOLUTION

In Application No. VC 83-P-215 by STEPHEN B. HESSE under Section 18-401 of the Zoning Ordinance to allow existing 7 ft. high fence to remain partially within front yard (4 ft. max. hgt. for fence in front yard req. by Sect. 10-104), on property located at 9202 Briary Lane, tax map reference 58-4((33))27A, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 8, 1984; 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 15,603 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.

*The applicant shall be given 24 months to correct the violation and come into compliance with the Zoning Ordinance.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 7 - 0.

10:30 A.M. LES PETITES ACADEMIES, INC. T/A LA PETITE ACADEMY, INC., appl. under Sect. 3-E03 of the Ord. for a child care center, located 2531 Reston Ave., R-E, Centreville Dist., 26-3((1))1, 1.8728 ac., SP 83-C-103. (DEFERRED FROM MARCH 27, 1984 AT THE REQUEST OF THE APPLICANT)

The Board was in receipt of a letter from Michael Giguere, requesting a further deferral of the special permit application for 45 days to allow the applicant to complete a traffic study that was in progress.

Paul Presser, 2000 Cut Water Court, Reston, spoke as the agent for several of the abutting property owners. He told the Board that no one had yet received any notification of the hearing.

It was the consensus of the Board to defer the hearing on the application to July 17, 1984 at 8:00 P.M. The Board indicated that if the notification letters were not properly sent out for that hearing, the application would be dismissed for lack of interest. The Board also asked that the property be reposted.

Page 459 May 8, 1984, Scheduled case of:

10:45 A.M. MCLEAN FARM ASSOCIATES, appl. under Sect. 3-503 of the Ord. for a temporary subdivision sales office, located Evans Mill Pond Subd., R-5, Dranesville Dist., 30-1((24))A, .7974 ac., SP 83-D-105. (DEFERRED FROM MARCH 27, 1984 FOR NOTICES)

Cheryl Hamilton presented the staff report to the Board. The first speaker was Jody Krieger, 1706 Q Street, N.W., Washington, DC, who was the agent for the applicant. She stated that the trailer would be used as an office for the sales staff, where prospective buyers could meet the staff to discuss the purchase of a home. She stated that because business was so good, they did not expect to be using the trailer for more than twenty more days. Instead, the sales office would be moved into a model townhouse located on the northwest section of the site.

There was no one to speak in support and no one to speak in opposition.

Page 459, May 8, 1984 Board of Zoning Appeals
MCLEAN FARM ASSOCIATES

RESOLUTION

In Application No. SP 83-D-105 by MCLEAN FARM ASSOCIATES under Section 3-503 of the Zoning Ordinance for a temporary subdivision sales office, on property located at Evans Mill Pond Subdivision, tax map reference 30-1((24))A, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 8, 1984; 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-5.
3. The area of the lot is .7974 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. This permit is approved for a period not to exceed two (2) years or until the sale or lease of all dwelling units within the development, whichever occurs first.
6. The model townhouse or trailer shall be used only for sales incidental to Evans Mill Pond subdivision.
7. At such time that the sales office is established in the model townhouse on lot 20A, operation of a sales office in the trailer shall cease.
8. A Non-Residential Use Permit shall be obtained for both the trailer and model townhouse on lot 20A.
9. Six (6) off-street temporary parking spaces shall be provided for the use of the sales office in the trailer as indicated on the plat. At such time that the sales office is relocated to the model home, two (2) off-street parking spaces shall be provided and four (4) temporary parking spaces shall be located on Evans Mill Road as indicated on the plat.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 7 - 0.

Page 460, May 8, 1984, Scheduled case of:

11:00 A.M. RICHARD A. & SHEILAGH C. SULLIVAN, appl. under Sect. 18-401 of the Ord. to allow screened porch addition to dwelling 21.4 ft. from rear lot line, with existing attached stairway 18.4 ft. from rear lot line (25 ft. min. rear yard for porch and 19 ft. min. rear yard for stairway req. by Sects. 3-307 & 2-412), located 8902 Arley Dr., Winston Knolls II, R-3, Springfield Dist., 88-4((6))94, 8,477 sq. ft., VC 84-S-021.

Cheryl Hamilton presented the staff report to the Board. Richard Sullivan addressed the Board on his application. He stated that while the deck was under construction, the steps had been added. The County inspector had not inform him that the steps were in violation at the time. He had obtained a building permit for the deck and the steps, but no one in the County noticed anything wrong with the placement of the steps.

Ms. Hamilton stated that Sect. 2-412 allows the stairway to extend 4 feet into the required rear yard. A deck can extend 6 feet into the required rear yard. Probably someone had considered the steps a part of the deck when the plans were reviewed.

Mr. Sullivan stated that his house was set back on the lot because of the topography of the land. The house was set on a hill and has a shallow back yard. He stated the use of the porch was limited in the summer months because of the bugs and the hot sun. The deck backs up to a common area where there are lots of trees. Mr. Sullivan informed the Board that he had received permission for his plans from the Architectural Committee.

There was a letter of opposition in the file from Mr. and Mrs. Michael Sullivan, the owners of lot 95, next door neighbors of the applicants. They indicated that the proposed screened porch would eliminate their view of trees in the common area. Richard Sullivan, the applicant, stated that his neighbors already had installed lattice work on their porch for privacy, and couldn't possibly see the trees now because of that.

There was no one to speak in support and no other opposition.

Page 460, May 8, 1984 Board of Zoning Appeals
RICHARD A. & SHEILEGH C. SULLIVAN

R E S O L U T I O N

In Application No. VC 84-S-021 by RICHARD A. & SHEILAGH C. SULLIVAN under Section 18-401 of the Zoning Ordinance to allow screened porch addition to dwelling 21.4 ft. from rear lot line, with existing attached stairway 18.4 ft. from rear lot line (25 ft. min. rear yard for porch and 19 ft. min. rear yard for stairway req. by Sects. 3-307 & 2-412), on property located at 8902 Arley Drive, tax map reference 88-4((6))94, 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 8, 1984; 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 8,477 sq. ft.
4. This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property had exceptional shallowness at the time of the effective date of the Ordinance.
   B. That the subject property has exceptional topographic conditions.
   C. There is an extraordinary situation or condition of 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 variance is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 - 1 (Mr. Smith)

//The Board recessed for lunch at 12:20 P.M. The meeting reconvened at 1:25 P.M.

Page 461, May 8, 1984, Scheduled case of:

11:10 A.M. BERRY E. PAGE, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 1.0 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 3439 Rock Spring Ave., R-3, Rock Springs Subd., Mason Dist., 61-2((22))15, 10,476 sq. ft., VC 84-M-022.

Cheryl Hamilton presented the staff report to the Board. She indicated that there was an existing wood shed on the property which was 8 feet high.

Daniel Fiore, 1515 North Courthouse Road, Arlington, VA, represented the applicant. He stated that he had a letter in the file from a neighbor who stated that the shed had been on the property since 1953, and was a non-conforming building. He stated that the yard was narrow, being only 50 feet wide. Most of the homes in the area had the same problem, but had already constructed garages that close to their side lot lines. There was no other location on the property to place a garage, except in the exact middle of the back yard. Mr. Fiore informed the Board members that the applicant had changed his original request, and was asking for a garage 3 feet from the side lot line. He stated that there was a letter of support in the file from the owner of lot 17, the adjacent property.

There was no one to speak in support and no one to speak in opposition.

Page 461, May 8, 1984 Board of Zoning Appeals
BERRY E. PAGE

RESOLUTION

In Application No. VC 84-M-022 by BERRY E. PAGE under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 1.0 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 3439 Rock Spring Avenue, tax map reference 61-2((22))15, County of Fairfax, Virginia, Mrs. 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 8, 1984; 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 10,476 sq. ft.

4. The property was purchased in 1979. Lots 9 and 11 both have garages built on the property line. The applicant is requesting a garage 20 ft. wide for two cars. He has amended his request to make it three feet from the side lot line. He needs security for his autos, bicycles, and lawn tools. The adjacent house on lot 17 is 15 feet. from the applicants side lot line and the applicants garage sits further back then the house on lot 17.
5. This application meets the Required Standards for Variances in Section 18-404 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, IN PART, with the following limitations:

(*The application was granted in part for a garage 3 ft. from the side lot line)

1. This variance is approved for a detached garage three feet from the side lot line. The dimensions of the garage will remain the same as shown on the plat included with this application and is not transferable to other land.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. A Building Permit shall be obtained prior to any construction.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 1 (Mr. Smith) (Mr. Hammack absent)

Page 462, May 8, 1984, Scheduled case of:

11:20 A.M. CHARLES STUART & ETHEL M. SIMMS, appl. under Sect. 18-401 of the Ord. to allow an outlot to become a buildable lot having width of 22.145 ft. (80 ft. min. lot width req. by Sect. 3-306), located 5645 Glenwood Dr., R-3, Clermont Subd., Lee Dist., 82-1((4))53B, 22,418 sq. ft., VC 84-L-023.

Cheryl Hamilton presented the staff report to the Board. David Sims, the son of the applicants, presented the application. He stated that the applicants had owned the property for more than 20 years. Now, due to illness, they needed to sell the property. In 1966, lot 53 was subdivided into two lots and one outlot. The outlot was not permitted to be developed because it did not meet the minimum lot width, and pipestems were not allowed at that time. The applicants continued to hold title to the property with the intent of requesting a variance at a future time. Mr. Sims stated that the property was assessed as a buildable lot, and taxes had been paid as such. Mr. Sims had read several letters of opposition submitted by the adjoining property owners. He commented that he had built several houses in that area and had never had any problem with the marine clay they claimed was prevalent in that area. Also, although the land had an acute slope, he intended to meet all the County codes and didn't see any drainage problems occurring.

Jeffrey Wilson, the owner of lot 53A (5647 Glenwood Drive), spoke in opposition. He stated that he represented many residents in the area, including the owners of lot 55A & B, 54A & B, 54C, 45A, 501, 502, 46 and 10. David Lloyd, 5639 Glenwood Drive - lot 54C, Howard Nestlerode, 5616 Clermont Drive - lot 46, and Rodney Smith 4706 Poplar Drive, also spoke in opposition. They were all concerned with any drainage problems that could be created due to the marine clay soil, and problems with sewage disposal. Also, they didn't want any of the oak trees located on the property to be destroyed, alternating the character of the land. These property owners stated that Mr. Simms had sold his other lots with the understanding that the outlot did not meet Fairfax County requirements, and that it would not be developed.

During rebuttal, David Simms stated that he had built four homes in that area without getting a soil test, because it was not required at that time, and there had never been any problems with them. He stated that the applicants had kept the lot for such a long time because of the wording that was on the plat submitted with the original subidivision, which stated that "no construction or development would be permitted until proper and adequate easements and drainage of natural land storm water are provided and approved by the appropriate county officials". He felt that he could provide whatever the county required to ensure the development of the lot.

There was no one else to speak on the application.

RESOLUTION

In Application No. VC 84-L-023 by CHARLES STUART & ETHEL M. SIMMS under Section 18-401 of the Zoning Ordinance to allow an outlot to become a buildable lot having width of 22.145 ft. (80 ft. min. lot width req. by Sect. 3-306), on property located at 5645 Glenwood Drive, tax map reference 82-1((4))53B, 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 8, 1984; 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 22,418 sq. ft.
4. Although this member is certainly sensitive and can empathize with the position that's been expressed by the applicant on behalf of the property owners in connection with the taxibility of this outlot, it seems clear to this member that the facts reflect that in 1966 the property was subdivided and that that subdivision occurred obviously as a matter of a voluntary act on the part of the then owner and the present owners who decided to create the buildable lot and then the second outlot with the restrictions that are shown on the recorded plat. It is clear that in 1966 there was not the requisite frontage for the outlot and second, there were certain conditions that were suggested would have to be met if it were ever to be built upon, particularly as far as drainage. We have received facts today indicating substantial questions from abutting property owners as to the impact of the development of the lot, particularly from the standpoint of drainage. For this member, although I certainly have listened to the personal problems that the owner has as far as his medical condition, there appears to be no evidence in this record that would justify the granting of this variance under the provisions of the current Zoning Ordinance. There is a topographic condition, but I think that I would have to agree with the Chairman that the situation that we have here has been created by the owners themselves, in terms of the subdivision of this lot. Having that situation, under the State Code and the County Ordinance we have no choice but to deny the variance application.

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. Ribble seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. Hammack being absent)

Page 463, May 8, 1984, Scheduled case of:

11:30 A.M. CHRISTOPHER M. & DEBORAH J. SMITH, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, proposed lots 2 and 3 having widths of 89.98 ft. and 15.01 ft. respectively (150 ft. min. lot width req. by Sect. 3-106), located 10901 Georgetown Pk., R-1, Dranesville Dist., 12-1((1))17, 4.9193 ac., VC 84-D-025.

Cheryl Hamilton presented the staff report to the Board. Christopher Smith presented his application. He stated that two years ago when he and his wife bought the property, they intended to subdivide the five acre lot into three lots and build a permanent home at a later date. He stated that because of exceptional narrowness of the lot, it prevented full utilization of the R-1 zoned property. Chris Smith stated that he had come up with this subdivision after discussing it with the District supervisor and the community.

RESOLUTION

In Application No. VC 84-D-025 by CHRISTOPHER M. & DEBORAH J. SMITH under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, proposed lots 2 & 3 having widths of 89.98 ft. and 15.01 ft. respectively (150 ft. min. lot width req. by Sect. 3-106), on property located at 10901 Georgetown Pike, tax map reference 12-1((1))17, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 8, 1984; 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 4.9193 acres.
4. This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. That the subject property had exceptional narrowness at the time of the effective date of the 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 variance is approved for subdivision of one (1) lot into three (3) lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. Only one (1) entrance to all three (3) lots shall be allowed from Georgetown Pike. The driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway. One common driveway will accommodate all three lots.
4. The driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 0.(Mr. Smith abstained) (Mr. Hammack absent)

Page 464, May 8, 1984, Scheduled case of:

11:40 A.M. RONALD L. & JONNIE S. HICKS/HARVEY BORKIN (contract purchaser), appl. under Sect. 18-401 of the Ord. to allow subdivision into 4 lots with proposed lots 72C and 72B having widths of 6 ft. and 12 ft. respectively (70 ft. min. lot width req. by Sect. 3-406), located 2039 Westmoreland St., Proposed R-4, Merrell Park Subd., Dranesville Dist., 40-2((31))72, 1.27 acres, VC 84-D-030.

Cheryl Hamilton reviewed the staff report for the Board. She informed the Board that the porch on the existing dwelling extends into the required side yard. In order for this porch to remain, a variance had to be obtained.

Harvey Borkin, the applicant, presented his application. He stated that it was not necessary for the porch to remain on the dwelling, and that he would have it removed. Chairman Smith informed Mr. Borkin that if he intended to have the porch removed, he would have to submit new plats reflecting the change. Mr. DiGiulian stated that he would like clearer plats showing all the dimensions of the lots.

It was the consensus of the Board to defer the case for revised plats. The case was deferred to May 15, 1984 at 9:00 P.M.

Page 465, May 8, 1984, Scheduled case of:

11:50 A.M. JAMES G. & DONNA L. O'NEIL, JR., appl. under Sect. 4-503 of the Ord. to amend S-45-75 for veterinary hospital to permit expansion of the use into an existing office building, located 2935 Chain Bridge Rd., Grays Subd., C-5, Providence Dist., 47-2((6))6B, 18,924 sq. ft., SPA 75-P-045-1.

Cheryl Hamilton reviewed the staff report for the Board. Charles Sickles, 4118 Leonard Drive, Fairfax, represented the applicant. He stated that this was a request for an amendment to a special use permit. An existing adjacent building would be used to expand the veterinary hospital, and no structural changes would be made.

There was no one to speak in support and no one to speak in opposition.

Page 465, May 8, 1984 Board of Zoning Appeals
JAMES G. & DONNA L. O'NEIL, JR.

RESOLUTION

In Application No. SPA 75-P-045-1 by JAMES G. & DONNA L. O'NEIL, JR. under Section 4-503 of the Zoning Ordinance to amend S-45-75 for veterinary hospital to permit expansion of the use into an existing office building, on property located at 2935A and 2935B Chain Bridge Road, tax map reference 47-2((6))6B, 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 8, 1984; 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 C-5.
3. The area of the lot is 18,924 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 C 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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. A minimum of thirteen (13) parking spaces shall be provided for this use.
6. The number of treatment rooms shall be two (2) and the maximum number of employees shall be five (5) on site at any one time.
7. Interior renovations shall be approved by the Health Department to assure that the building is adequately soundproofed and constructed to prevent the emission of odor or noise which would be detrimental to other properties in the area.
8. Parking lot lights, if installed, shall be on standards no higher than 12 feet and shall be directed on the parking lot.
9. Planters shall be placed along the frontages of the property. The size, amount, and type of plantings shall be determined by the Director, Department of Environmental Management, who shall also assure that these do not cause sight distance problems.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. Hammack absent)

Page 466, May 8, 1984, Scheduled case of:

12:00 NOON MCLEAN CHILDRENS ACADEMY, INC., appl. under Sect. 3-303 of the Ord. to amend S-82-D-083 for nursery school and child care center to permit dormer addition to and use of block building for school purposes, a covered walkway, additional driveway and parking spaces, change hours of operation from 8 A.M. - 6 P.M. to 7:30 A.M. - 6 P.M., increase max. no. of children from 30 to 45, and to allow continuation of the use without term, located 6900 Elm St., Godwins Addn. to Beverly Manor Subd., R-3, Dranesville Dist., 30-2((5))3, 10,390 sq. ft., SPA 82-D-083-1.

Cheryl Hamilton reviewed the staff report for the Board, which recommended denial of the special permit amendment. The staff felt that the proposed intensification of the use on the property as well as the continuation of the existing use would adversely impact the surrounding area. Also, there were transportation and parking problems. Ms. Hamilton indicated that the site plan the school was operating under had expired.

Barbara Shumway, the owner and operator of the school, presented her application to the Board. She stated that she was before the Board with the enthusiastic support of her neighbors and community. She presented the Board with several letters of support from abutting property owners, and parents who had their children enrolled in the school. She stated that she was requesting the use of the existing block building for school purposes. Also, she wanted to put a covered walkway across from the school to the clubhouse. This would be protection from the weather. Mrs. Shumway indicated to the Board that had never been any complaints from anyone regarding the operation of this school. She had spoken with the McLean Citizens Association about her proposed amendment, and was told they had no concerns about it. Regarding the transportation questions, Mrs. Shumway that she was willing to provide transportation to the students to decrease the number of cars arriving at the school every day. Also, two of the neighbors had offered parking for the staff.

Page 466, May 8, 1984 Board of Zoning Appeals
MCLEAN CHILDRENS ACADEMY

RESOLUTION

In Application No. SPA 82-D-083-1 by MCLEAN CHILDRENS ACADEMY, INC. under Section 3-303 of the Zoning Ordinance to amend S-82-D-083 for nursery school and child care center to permit dormer addition to and use of block building for school purposes, a covered walkway, additional driveway and parking spaces, change hours of operation from 8 A.M. - 6 P.M. to 7:30 A.M. - 6 P.M., increase max. no. of children from 30 to 45, and to allow continuation of the use without term, on property located at 6900 Elm Street, tax map reference 30-2((5))3, County of Fairfax, Virginia, Mrs. 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 8, 1984; 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 10,390 sq. ft.
4. That compliance with the Site Plan Ordinance is required.
5. The site is already impacted by the traffic and inadequate parking and turnaround. It was granted previously with a great deal of waivers given the applicant.. I strenuously object to any "no term" allowance on this type of thing due to the changing of the area and due to the type of business it is. I am going to move that the request for expansion be denied.

AND WHEREAS, the Board of Zoning Appeals 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.

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

(There shall be no changes and no expansion of the existing permit. This operation shall continue exactly as granted in S-82-D-083.)

Mrs. Thonen seconded the motion.

The motion passed by a vote of 4 - 3 (Messrs. Ribble, Hyland and DiGiulian)

Page 467, May 8, 1984, Scheduled case of:

12:15 P.M. FAIRFAX ASSEMBLY OF GOD, appl. under Sect. 3-103 of the Ord. to permit addition of land area, parking lot and parsonage building to existing church and related facilities, located 4100 Legato Rd., R-1 and C-3, Providence Dist., 46-3((1))49 & 50, 2.25 ac., SP 84-P-010. (DEFERRED FROM APRIL 17, 1984 AT REQUEST OF APPLICANT).

Cheryl Hamilton reviewed the staff report for the Board which recommended approval of the special permit. Peter Stevens, 10560 Main Street, Fairfax, represented the applicant. He stated that the church wanted to establish an overflow parking lot on the contiguous lot 50. The proposed parking lot would contain 74 parking spaces. He stated that there were currently 500 seats in the sanctuary. Mr. Stevens stated that one of the conditions was that dedication of right-of-way be provided along the frontage of Legato Road to allow a total right-of-way width of 90 feet. The church was willing to dedicate this portion of the road with the understanding that it would not have to pay for the improvements. Mr. Stevens stated that the church was concerned about development condition number 6 which stated "the portion of the outlet road contained on site shall be dedicated for a pedestrian walkway". He was concerned about who would have to pay for the construction of the walkway. The church wanted to dedicate the walkway, but did not want to have to pay for the improvements that would eventually would have to be made. During a discussion between the Board members and staff, Mr. Shoup informed the Board that dedication takes place at the time of site plan review. He felt that the only person who could waive the dedication requirement was the County Executive. He cited Article 17 of the Zoning Ordinance.

Mr. Stevens stated that the church was in the process of moving to another location within three to five years. Mr. Hyland indicated that he did not think the church should be made to pay for the walkway when they wouldn't be there for more than five years.

There was no one to speak in support and no one to speak in opposition.

RESOLUTION

In Application No. SP 84-P-010 by FAIRFAX ASSEMBLY OF GOD under Section 3-103 of the Zoning Ordinance to permit addition of land area, parking lot and parsonage building to existing church and related facilities, on property located at 4100 Legato Road, tax map reference 46-3((1))49 & 50, 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 8, 1984; 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 and C-3.
3. The area of the lot is 2.25 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.
2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Dedication of right-of-way shall be provided along the frontage of Legato Road to allow a total right-of-way width of 90 feet.
6. The portion of the outlet road contained on site shall be dedicated for a pedestrian walkway at such time as the State or County Government is prepared to construct the walkway. Such dedication will occur no sooner than five years from the date of the approval of this application.
7. The County Arborist shall be consulted to establish the limits of clearing and grading for the preservation of quality vegetation on site.
8. Appropriate erosion and siltation control measures shall be taken during and after construction in accordance with the Water Supply Protection Overlay District.
9. The seating capacity of the main worship area shall not exceed 500 seats. A corresponding minimum of 125 parking spaces shall be provided. A maximum of 138 parking spaces shall be provided.
10. Transitional Screening 1 and the Barrier requirement shall be modified as shown on the plat submitted with this application provided the applicant provides heavy evergreen plantings which will adequately screen the lights of the parking lot from the adjacent properties. The required screening yard along Legato Road shall be modified to allow plantings of a type and in an amount to be determined by the Director, Department of Environmental Management provided heavy screening is provided between the area of the parking lot in the northeast corner of the lot and Legato Road and the eleven (11) proposed spaces to the south of the parsonage and Legato Road.
11. Light standards shall not exceed 12 feet in height and the lights shall be shielded so as to project light only onto the parking lot.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 3. (Messrs. Smith & Hammack and Mrs. Thonen)

Page 469, May 8, 1984, Scheduled case of:

1:15 P.M. UNITED ARTISTS COMMUNICATIONS, INC., appl. under Sect. 12-304 of the Ord. to allow additional sign area, additional sign height or different arrangement of sign area distribution within regional shopping center, located 12025 Lee Jackson Memorial Hwy., C-7, Providence Dist., 46-3((8))16B & 10, 5.43554 ac., SP 84-P-013. (DEFERRED FROM MAY 1, 1984 FOR FULL BOARD AND INDIVIDUAL VIEWING OF PROPERTY)

William Shoup reviewed the staff report for the Board which recommended denial of the application. He stated that the proposed signs would identify "The Movies At Fair Oaks", a theatre that was currently under construction. This building would house eight separate theatres. The signs being requested will identify the theatre operation and will include a reader board advertising the films being shown at each of the eight theatres. One of the proposed signs would be located adjacent to Lee Jackson Highway on the same site as the theatre and the other sign would be located on lot 10 at the southeast portion of the shopping center complex adjacent to Interstate 66.

After a lengthy discussion regarding whether this use should be considered an individual enterprise or a regional shopping center, the Board members decided to hear the case as if it were a regional shopping center, although they made no formal determination.

Charles Shumate, Bettius, Fox and Carter, 10521 Judicial Drive, Fairfax, represented the applicant. He presented viewgraphs to the Board showing the location of the signs and a view of the surrounding area. He stated that the theatre presently had a temporary sign along eastbound Rt. 50 advertising the movies. The eight theatres would house 2,002 seats. The freestanding signs would not only advertise the movies at Fair Oaks, but would indicate the individual movies being shown within the facility. Mr. Shumate stated that this was the first and last case the Board would hear under the present language of 12-304 of the Zoning Ordinance.

Mr. Shumate stated that the shopping center would be entitled by right to two freestanding signs advertising the shopping center mall. The location of the theatre is in a low area, and as part of the package at settlement, the theatre acquired the shopping center rights to any freestanding signage location. The shopping center has given up their right, and they will not be able to identify their mall separately. Mr. Shumate stated that the language in Section 12-304 of the Ordinance gives the Board the authority to hear special applications for signage programs separately or jointly within a regional mall complex. Mr. Shumate stated that the Board of Supervisors already granted signs to the anchor tenants at Fair Oaks for wall mounted signs under Sect. 12-306. He pointed out that Springfield Mall was granted freestanding signs for individual enterprises. Also, Skyline Center had a freestanding sign advertising their movie cinema within the center.

Mr. Shumate stated that the staff could amend Sect. 12-304 of the Ordinance to keep any other applicants from filing for sign space in this shopping center. He stated that if it were intended to preclude freestanding signs for individual enterprises, then that language could have been included in paragraph two of Sect. 12-304.

Mr. Shumate stated that there was a hardship by virtue of the topography and other physical obstructions. The overpass and the adjacent building caused minimal visibility for motorists approaching the center from the primary highways. The enlarged signs would permit the public approaching the center to view the selections offered in each of the eight theatres. He stated that the freestanding signs would be unobtrusive and would blend into the surrounding landscape. The clearly readable signs will eliminate the potential that motorists will avert their gaze from the road to read movie selections. The proposed signs will be located in such a manner that they will be as easily readable as a road sign.

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

Phil Yates stated that he disagreed with many of the statements made by Mr. Shumate. He stated that although the staff did recognize that the location of the theatre had limited visibility, the shopping center as a whole was highly visible. Mr. Yates stated that it was debatable as to whether an individual enterprise within a regional shopping could claim hardship under this provision. As far as the safety consideration, he stated that it was a real traffic hazard to have changeable copy on a sign along the road. Mr. Yates stated that although Fair Oaks has assigned their sign rights to the theatre, it was his position that those rights could not be assigned to an individual enterprise. If that was allowed, the next step could be the sign space assigned to another individual enterprise. Mr. Yates stated that the provisions of the Ordinance concerning signs never intended to allow the BZA to approve a sign that is otherwise not permitted, specifically Sect. 12-203, paragraph 10.

UNITED ARTISTS COMMUNICATIONS, INC.

RESOLUTION

In Application No. SP 84-P-013 by UNITED ARTISTS COMMUNICATIONS, INC. under Section 12-304 of the Zoning Ordinance to allow additional sign area, additional sign height or different arrangement of sign area distribution within regional shopping center, on property located at 12025 Lee Jackson Memorial Hwy., tax map reference 46-3((8))16B and 10, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 8, 1984; 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 C-7.
3. The area of the lot is 5.43554 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 C Districts as contained in Section 8-006 of the Zoning Ordinance.

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

(*Granted for one freestanding sign located adjacent to Route 50 not to exceed a sign area of 312.63 square feet or a maximum hgt. of 25.5 ft.)

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 approval is granted for one (1) freestanding sign, located adjacent to Route 50, indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the signs 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.
3. A copy of this Special Permit shall be maintained 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The freestanding sign shall not exceed a sign area of 312.63 square feet or a maximum height of 25.5 feet.
6. The applicant shall not be permitted to reassign any right to the second freestanding signage assigned to it by the Fair Oaks Regional Shopping Center to any other person or to assign any signage not allowed by this Board in this application.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Sign Permits through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless signs authorized have been erected or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 - 2 (Messrs. Smith and Hyland)
(Mrs. Thonen absent)

Page 470, May 8, 1984, AFTER AGENDA ITEMS

The Board approved the Minutes for April 24, 1984 as presented.

// There being no further business, the Board adjourned at 6:45 P.M.

By: Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on May 15, 1984

APPROVED: May 22, 1984

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 15, 1984. The following Board members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (arriving at 8:20 P.M.); Gerald Hyland ; Ann Day; Paul Hammack; and Mary Thonen. (Mr. John Ribble was absent).

The Chairman opened the meeting at 8:10 P.M. and Mrs. Day led the prayer.

The Chairman called the scheduled after agenda items of:
RICHARD C. MAPP, V-82-A-137: The Board was in receipt of a request for an extension of time in which to commence construction for a variance of Mr. Mapp. It was the recommendation of staff that the extension be granted. Mr. Hyland moved that the Board grant the extension in accordance with the staff's recommendation. Staff recommended that that the BZA approve an additional time of twelve (12) months to April 5, 1985 to commence construction of the special permit use. Mr. Hammack seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Ribble being absent).

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Page 471, May 15, 1984, After Agenda Items

BURKE COMMUNITY CHURCH, S-82-S-049: The Board was in receipt of a request for additional time in which to commence construction for the Burke Community Church. It was the staff's recommendation that the request be granted. Mr. Hyland moved that the Board allow the extension in accordance with staff's recommendation. Staff recommended that the BZA approve an additional time of twelve (12) months to January 15, 1985, to commence construction of the special permit use. Mrs. Day seconded the motion. The motion passed by a vote of 5 to 0 (Messrs. DiGiulian and Ribble being absent).

//

Page 471, May 15, 1984, After Agenda Items

DOUGLAS P. GREEN, SP 83-V-084: The Board was in receipt of a request for a change in name for the special permit application for the operation of a day care center issued to Douglas P. Green. The staff recommended approval. Mr. Hyland indicated that he had a few questions concerning the status of the application. It was the consensus of the Board to skip over the request until the end of the agenda.

//

Page 471, May 15, 1984, After Agenda Items

CAROL & C. ROBERT NYSMITH, SP 84-C-041: The Board was in receipt of a request for an out-of-turn hearing for the special permit application of Carol & C. Robert Nysmith. The special permit was presently scheduled for July 17, 1984. Mr. Hyland moved that the Board grant the request. Mrs. Thonen seconded the motion. The motion passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian & Ribble being absent). It was the consensus of the Board to schedule the application for July 3, 1984.

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Page 471, May 15, 1984

Mr. DiGiulian arrived at 8:20 P.M.

//

Page 471, May 15, 1984, Scheduled case of

8:00 P.M. DENISE M. & MICHAEL J. FUST, appl. under Sect. 3-103 of the Ord. for a child care center, located 3305 West Ox Rd., R-1, Navy Subd., Centreville Dist., 35-4((1))54, .97 acres, SP 84-C-015.

The Board was in receipt of a letter from Denise M. Fust requesting a withdrawal of the special permit application because the preliminary staffing recommended denial of the application. Mrs. Day moved that the Board allow the applicant to withdraw without prejudice. Mrs. Thonen seconded the motion and it passed by a vote of 6 to 0 (Mr. Ribble being absent).

In response to questions from the Board regarding the reasons for the staff's position, Mr. Shoup cited major problems that would have been cost prohibitive for the applicant. One problem involved dedication which would have taken away the septic field.

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8:15 P.M. JOHN L. NEUFELD, appl. under Sect. 3-E03 of the Ord. for a home professional office (architect), located Hunter Station Rd., R-E, Centreville Dist., 27-2((1))pt. 31 & pt. 32, 2.0 acres, SP 84-C-016.

Mr. William Shoup presented the staff report which recommended approval of SP 84-C-016 subject to conformance with the development conditions. Mr. John L. Neufeld of 428 Center St., N., Vienna informed the Board that he was a architect and wished to establish a home professional office in his new residence. He was presently operating a similar operation out of his home in the Town of Vienna. Mr. Neufeld stated that he had two employees but was requesting permission for three employees. As this was a small practice, there would be very little traffic generated. The office would occupy approximately 500 sq. ft. of the 3,500 sq. ft. house. Mr. Neufeld stated that he did not feel the office would have any visual impact on the community. The proposed parking was located in a swale and would not be visible to the neighbors.

Mr. Richard M. McCormack, the adjacent property owner, of 9319 Millbranch Place spoke in support of the application. Mr. Neufeld commented on the staff's development conditions with respect to the deceleration lane at the site entrance. The adjacent property was a school called Forthway Center for Advanced Studies. It had a deceleration lane which crossed Mr. Neufeld's driveway entrance. Mr. Neufeld requested the BZA to allow him to utilize that deceleration lane in order to comply with the development conditions. He was informed that the Director of DEM would have to make that determination at the time of site plan review.

There was no one else to speak in support of the application. Mr. William L. Clayborne of 1045 Hunter View Road spoke in opposition. He was the owner of lot D, adjacent to Mr. Neufeld's property. Mr. Clayborne opposed the use as he wanted the area to remain residential exclusively. The Forthway Center was already established in the area and its uncontrollable traffic was a nuisance. Even though he did not anticipate Mr. Neufeld's practice to be a problem, Mr. Clayborne did not want to make matters worse.

Mrs. Berta Finkelstein of 1045 Hunter View Road supported her husband's views. She was also concerned about the commercialization of the area and wanted to keep it residential in nature.

During rebuttal, Mr. Neufeld stated that he understood the concerns about the Forthway Center but indicated that his home practice would serve as security to the area. In response to questions from the Board, Mr. Neufeld stated that he employed two draftsmen. There would not be more than two client visits per week. Mr. Neufeld was requesting Saturday hours as it was the only quiet day of the week in which to work.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-C-016 by JOHN L. NEUFELD under Section 3-E03 of the Zoning Ordinance to permit home professional office (architect) on property located at Hunter Station Road, tax map reference 27-2((1))pt. 31 & 32, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 15, 1984; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is R-E.
3. The area of the lot is 2 acres.

AND WHEREAS, the Board of Zoning Appeals 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. Mr. Hammack did not think a professional who wanted to employ three employees in a small space could employ them six days a week from 8:30 A.M. until 6:30 P.M. The use was not consistent with the Master Plan.

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

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Hyland)(Mr. Ribble being absent).

8:30 P.M. THE APPLETREE, INC., appl. under Sect. 3-203 of the Ord. to amend S-82-P-089 for a child care center to permit addition of land area and private school of general education and related facilities, and to increase enrollment to 99 students, ages 2 thru 8, located 9655 and 9657 Blake Ln., Willow Point Subd., R-2, Providence Dist., 48-3((19))2 & pt. 3, 56,842 sq. ft., SPA 82-P-089-1.

8:30 P.M. THE APPLETREE, INC., appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement, located 9655 and 9657 Blake Ln., Willow Point Subd., R-2, Providence Dist., 48-3((19))2 & pt. 3, 56,842 sq. ft., SP 84-P-036.

Mr. William Shoup presented the staff report which recommended approval of SPA 82-P-089-1 and SP 84-P-036 subject to conformance with the development conditions. Mr. Shoup informed the Board that this was the first dustless surface request heard under the new amendment to the Ordinance. With regard to the request for expansion, the Board expressed concern about the portioning out of the personal residence on lot 3 from the special permit area. Mr. Shoup explained that it was done at the suggestion of staff because the dwelling did not conform with the current setbacks and a variance would have been necessary. Mr. Shoup stated that the portioning out was not a subdivision of the property and did not require the remaining portion of lot 3 to conform to the district requirements. The Board was also concerned about the additional building to be constructed on the portioned parcel.

Mr. Randall Church, an attorney in Fairfax, represented the applicant. He stated that the Mr. & Mrs. Klaassen had obtained a special permit to operate their school on lot 2 in 1979. They owned the adjacent parcel lot 3 and were proposing to add the rear of their lot in order to increase the size of the school. The property would be leased to Appple Tree, Inc. which was completely owned by the Klaassens. The applicants planned to increase the number of children from 51 to 99 and to change the ages from 2 to 5 to 2 to 8. There would be a new transitional screening line provided so that the neighbors could enjoy protection from noise.

With respect to the request to the dustless surface, Mr. Church stated that the development conditions were adequate and had been modified so that the front portion would be paved. Mr. Church stated that the DEM had to approve the gravel surface and make annual inspections to insure that it was being maintained properly.

Mr. Church stated that the Klaassens' school was widely respected and well liked. There were a number of letters and petitions from the Blake Lee Apartments and the Mission Square Townhomes who were in support of the request. Ms. Joyce Sandifer, Mr. Donald W. Williams, Dr. Robert Drake and Mr. Charles Bauman all spoke in support of the application. Mrs. Klaassen's abilities and professionalism were cited as reasons for the Board to allow the expansion. Many parents wished their child to continue his education at the Appletree School. Mr. Bauman was an adjacent property owner and informed the Board that the expansion would not affect him. He stated that the school had not affected the traffic on Blake Lane. There were other supporters of the application present at the hearing but they did not wish to speak.

There was a letter in the file in opposition from Mr. Morano which was reviewed by the Board. During rebuttal, Mr. Church stated that the Ordinance permitted schools in residential zones. Mr. Church stated that the Board did not need to be concerned with the bulk regulations as the application met the Ordinance standards. Mr. Church indicated that the portioning out of lot 3 was unusual but not against the Code. With regard to the proposed building, he stated that there were many multiple uses on a single lot. He stated that the Board was focusing on all the wrong issues.

In response to the Board's desire to include the residence as part of the special permit application, Mr. Shoup stated that the additional land area and the variance would have to be advertised. Chairman Smith suggested that the application be deferred to allow the applicant to amend his application. Mr. Church expressed concern about a deferral as it would delay the opening of the expanded operation by September.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-P-089-1 by THE APPLETREE, INC. under Section 3-203 of the Zoning Ordinance to amend S-82-P-089 for a child care center to permit addition of related facilities, and to increase enrollment to 99 students, ages 2 through 8, on property located at 9655 and 9657 Blake Lane, tax map reference 48-3((19))2 & pt. 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 May 15, 1984; 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-2.
3. The area of the lot is 56,842 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.

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 approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. Transitional screening and barriers shall be provided as follows:
   - o Along the side and rear lot lines a twenty-five (25) foot buffer strip shall be provided as shown on the approved plat. Plantings as required by Transitional Screening 1 shall be provided within this area without modification except that the existing evergreen plantings along the rear lot line may be used to fulfill this requirement.
   - o Along the front lot line on Lot 2, a row of evergreen plantings shall be provided to reduce the visual impact from Blake Lane. The number, type and location of plantings shall be determined by the Director, DEM.
   - o The existing stockade fencing shall be retained. The play areas shall be fenced as shown on the approved plat.
6. Twenty-one (21) parking spaces shall be provided as shown on the approved plat. The type of surface for the driveways and parking areas shall be subject to the disposition of SP 84-P-036.
7. The deceleration lane shall be retained and the site entrance shall be improved subject to VDH & T approval.
8. The total maximum enrollment shall be ninety-nine (99) provided that the enrollment shall be monitored in such a manner that the maximum number of children on site between the hours of 7:00 A.M. to 8:00 A.M. and 5:00 P.M. to 6:00 P.M. shall not exceed fifty-one (51).
9. The hours of operation shall be 7:00 A.M. to 6:00 P.M. five days a week.
10. The applicant shall use at least one (1) van/mini-bus vehicle to provide bus service for students.
11. The use of the buildings shall be limited to daytime school uses.
12. The above conditions incorporate all applicable conditions of previous special permit approvals and shall supercede all other previous conditions.
13. The applicant is required to submit a revised plat to include that portion of lot 3 that was excluded on the plat.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hyland seconded the motion.

The motion *FAILED by a vote of 2 to 4 (Messrs. Smith, Hammack, Mrs. Day and Mrs. Thonen)(Mr. Ribble being absent).

With regard to the special permit application for modification of the dustless surface requirement, it was the consensus of the Board to allow the withdrawal of SP 84-P-036 without prejudice.

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Page 475, May 15, 1984, Scheduled case of

9:00 P.M. RONALD L. & JONNIE S. HICKS/HARVEY BORKIN (contract purchaser), appl. under Sect. 18-401 of the Ord. to allow subdivision into 4 lots with proposed lots 72C and 72B having widths of 6 ft. and 12 ft. respectively (70 ft. min. lot width req. by Sect. 3-406), located 2039 Westmoreland St., Proposed R-4, Merrell Park Subd., Dranesville Dist., 40-2((31))72, 1.27 acres, VC 84-D-030. (DEFERRED FROM MAY 8, 1984 FOR REVISED PLATS)

The Board was in receipt of the revised plats presented by the applicant. Chairman Smith stated that the at the hearing on May 8, 1984, the BZA had taken testimony and recessed the hearing for additional plats. For background, he stated that the parcel was rezoned to allow the proposed subdivision. Mr. Shoup stated that the plat was not proferred. Essentially, the revised plat was the same as shown to the Board the previous week. There had been discussion regarding the location of a porch to the side lot line. Mr. Shoup explained that Mr. Borkin readjusted the side lot line so that the porch conformed and did not have to be removed. Accordingly, condition no. 4 in the staff report would not have to be implemented.

After review of the revised plat, it was noted that the engineer had not certified the dimensions of the proposed lots as being accurate. The Board was concerned about granting a variance for the lots and having the plat resubmitted at a later date for minor engineering changes. It was the consensus of the Board to recess the hearing until Tuesday, May 22, 1984 at 10:00 A.M. in order that the engineer certify that the proposed dimensions of the lots were accurate.

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Page 475, May 15, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of BZA Minutes for May 1, 1984; June 15, 1982 and June 29, 1982. Mr. Hammack moved that the minutes be approved. Mrs. Day seconded the motion. The motion passed by a vote of 6 to 0 (Mr. Ribble being absent).

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Page 475, May 15, 1984, After Agenda Items

Douglas P. Green, SP 83-V-084: The Board had passed over the request for a change in name only during the early part of their meeting. The staff had recommended approval of the request. Accordingly, Mr. DiGiulian moved that the Board allow the change in name. Mr. Hammack seconded the motion. The motion passed by a vote of 6 to 0 (Mr. Ribble being absent).

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Page 475, May 15, 1984, After Agenda Items

APPLICATION FOR APPEAL: The Board was in receipt of a memo from the Zoning Administrator forwarding an application for appeal by Caren Camp and John Camp. It was the Zoning Administrator's position that the application was timely filed. After consultation with the clerk, a hearing date of July 31, 1984 at 10:00 A.M. was selected.

// 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

Daniel Smith
Daniel Smith, Chairman

Approved: June 5, 1984
Date

Submitted to the Board on May 22, 1984.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 22, 1984. The Following Board Members were present: Daniel Smith, Chairman; Paul Hammack, Ann Day, Gerald Hyland, Mary Thonen. John Ribble arrived at 10:35 A.M. John DiGiulian was absent.

The Chairman opened the meeting 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. RECESSED CASE OF RONALD L. & JONNIE S. HICKS/HARVEY BORKIN (contract purchaser), appl. under Sect. 18-401 of the Ord. to allow subdivision into 4 lots with proposed lots 72C and 72B having widths of 6 ft. and 12 ft. respectively (70 ft. min. lot width req. by Sect. 3-406), located 2039 Westmoreland St., Proposed R-4, Merrell Park Subd., Dranesville Dist., 40-2((31))72, 1.27 acres, VC 84-D-030. (DEFERRED FROM MAY 8, 1984 FOR REVISED PLATS & RECESSED FROM MAY 15, 1984 FOR VERIFICATION OF NOTATION ON PLATS).)

Harvey Borkin submitted new plats to the Board Members. Mr. Hyland asked staff to re-brief the Board about the justification for the requested variance and staff's position. Cheryl Hamilton reviewed the staff report for the Board.

Mr. Hyland stated that he recalled reading that when this application was submitted to the Board of Supervisors for a rezoning, representation was made at that time that a variance would have to be requested in order to develop the property. At that time, there was no position of staff one way or the other concerning the variance application when it came before the Board of Supervisors.

Cheryl Hamilton stated that the lot lines had been re-drawn, and the matter of the porch needing a variance was no longer an issue.

Harvey Borkin, 5201 Fordsmith Road, Bethesda, Maryland, presented his application. He stated that these lots were bounded by Haycock Elementary School, Longfellow Intermediate School and Chesterbrook Presbyterian Church. The north side of the property is bounded by townhouses. Lot 72 currently has two existing driveways on Westmoreland Street, with the primary entrance on the northern border which is along the townhouses. The minimum area of the proposed lots is approximately 4,600 sq. ft. over the minimum area required in the R-4 zone. The average lot size is more than 5,000 sq. ft. beyond that required. Mr. Borkin stated that the lots were clearly compatible with the surrounding neighborhood. He stated that the unusual narrowness of the lot, its shape, and the slopes make is necessary that the variance for access be granted. About 95% of the existing trees would be saved. This proposal will make it possible for the improvement of the last unimproved section of road frontage along the east side of Westmoreland Street. Mr. Borkin submitted letters of support to the Board Members for the record.

There was no one to speak in support and no one to speak in opposition.

R E S O L U T I O N

In Application No. VC 84-D-030 by RONALD L. & JONNIE S. HICKS/HARVEY BORKIN (contract purchaser) under Section 18-401 of the Zoning Ordinance to allow subdivision into 4 lots with proposed lots 72C and 72B having widths of 6 ft. and 12 ft. respectively (70 ft. min. lot width req. by Sect. 3-406), on property located at 2039 Westmoreland Street, tax map reference 40-2((31))72, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 22, 1984; 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 1.27 acres.
4. This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
   A. That the subject property was acquired in good faith.
   B. That the subject property had exceptional shallowness at the time of the effective date of the Ordinance.
   C. That the subject property has an extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.

D. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
E. That the strict application of this Ordinance would produce undue hardship.
F. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
G. That the strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property.
H. That authorization of the variance will not be of substantial detriment to adjacent property.
I. That the character of the zoning district will not be changed by the granting of the variance.
J. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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 variance is approved for the subdivision of one (1) lot into four (4) lots as shown on the plat included with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.
3. The applicant shall comply with proffers contained in the RZ 84-D-036.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 - 0 (Messrs Ribble and DiGiulian absent)

Page 477, May 22, 1984, Scheduled case of:

10:00 A.M. MOST REVEREND JOHN R. KEATING, BISHOP, appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement, located 7424 Masonville Dr. and 3460 & 3464 Annandale Rd., R-3, Providence Dist., 60-1((1))36, 37 & 46A, 1.3070 acres, SP 84-P-025. (DEFERRED FROM JANUARY 17, 1984 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

Cheryl Hamilton reviewed the staff report for the Board. Dan Sullivan, 646 N. Kenmore Street, represented the applicant. He stated that a special use permit had previously been granted for this property. He stated that staff had noted that the paving of the parking lot would significantly increase the water run-off. The next door neighbor to the north of this property, Mr. Elton, had expressed concerns at the last meeting about the run-off problems. Conditions were imposed under the special permit use which addressed the existing drainage problems. Mr. Sullivan stated that these conditions had not yet been met, because approval had not yet been granted for a dustless surface. A different type of drainage system would have to be installed if the area had to be paved. Mr. Sullivan stated that a fence had been put up to close two driveways on the north side of the property. He later corrected this misinformation by telling the Board that a church van was currently parked there to keep people from using the driveway. He stated that the church was permanently closing the two driveways with shrubs and landscaping. The gravel surface would be treated with calcium chloride so that the dust would be kept down. Mr. Sullivan stated that any calcium chloride spray would wash off into the existing drainageway, because of the berm requirement.

The Board members expressed concern that the conditions of the special permit had not yet been acted upon. Pictures had been submitted to the Board members showing water run-off into other properties. Chairman Smith stated that the church was showing disregard to the contiguous property owners. Mr. Hammack stated that the church had put a parking lot on the property and started to use it a year before permission was even granted. He asked if the church was now trying to ignore the special use permit.

Mr. Sullivan stated that the special permit conditions had to be met within one year of the date the application was granted. He stated that condition number 15 had an alternative as to whether it was gravel surface or paved as to how to correct the drainage problems. Since the church didn't know what would be required, gravel or paving, they didn't want to put in the wrong drainage system. The engineers and contractors were lined up, and the church was just waiting for approval of the dustless surface before installing a drainage system.

In response to a question from Mr. Hammack, Mr. Sullivan stated that the church held one weekday service in the evening, and four on the weekend, Two on Sunday and two on Saturday. Mr. Sullivan that the parking lot fills to capacity with each of the weekend services. When this occurs, the overflow cars park on Annandale Road. Based on the staff report, there are 112 trips per service.

Chairman Smith stated that this was an intense use on this property. He said he was disappointed that the congregation had not made more effort to be a good neighbor in the community. They had taken no action to correct any deficiencies. The fence was still down, and neighboring properties were still having water runoff problems. And this was after the church put in a gravel parking lot without a permit.

Mr. Hammack stated that he thought this was in intensive use of the site, and he didn't think the dustless surface permit should be granted. This is an urban area with residential homes that are subjected to 450 vehicle trips on weekends and the calcium chloride runoff on the property. This is not the same criteria as the more rural areas. He stated that so far the church had demonstrated that there was no program of maintenance, but instead, a disregard for it.

The Board members discussed the conditions of the special permit that required storm water detention. Mrs. Thonen stated that drainage was not the only problem. She was concerned about the parking on Annandale Road, the fence not being repaired and shrubbery not being put in. Mrs. Thonen stated that she did not want to impact the neighboring properties any further, and she wanted more information regarding the best system of storm water detention. It was the consensus of the Board to pass over this case to later in the day to allow time for someone from the Department of Environmental Management to come to the hearing and give their comments regarding the drainage issue.

Page 478, May 22, 1984, Scheduled case of:

10:15 A.M. CLIFFORD A., JUDY D., CLIFFORD ARGYLE & RUTH E. TAYLOR, appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement, located 12908 Lee Hwy., R-1, Springfield Dist., 55-4((1))2, 5.1066 acres, SP 84-S-026. (DEFERRED FROM JUNE 28, 1983 FOR ADDITIONAL TESTIMONY AND FROM SEPTEMBER 13, 1983 AND MARCH 13, 1984 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

William Shoup presented the staff report to the Board, which recommended approval of the Special Permit application in accordance with the Development Conditions set forth in the report. Mr. Shoup stated that the plant nursery was only open during the growing season and closed during the winter season, and that there were three existing entrances into the site. There were two entrances off of Lee Highway into the parking area, and a third entrance to service the dwelling.

Gary Davis, 1315 Benson Place, McLean, represented the applicant. He stated that this had come before the Board previously, and a number of people had been at the hearing that were in favor of the application. He stated that the staff report sufficiently covered all the information needed, and he hoped the Board would approve the application.

There was no one to speak in support and no one to speak in opposition.

Page 478, May 22, 1984 Board of Zoning Appeals
CLIFFORD A., JUDY D., CLIFFORD ARGYLE & RUTH E. TAYLOR

R E S O L U T I O N

In Application No. SP 84-S-026 by CLIFFORD A., JUDY D., CLIFFORD ARGYLE & RUTH E. TAYLOR, under Section 8-901 of the Zoning Ordinance to modify or waive the dustless surface requirement, on property located at 12908 Lee Hwy., tax map reference 55-4((1))2, County of Fairfax, Virginia, Mrs. 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 22, 1984; 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 5.1066 acres.
4. That compliance with the Site Plan Ordinance is required.
5. It is appropriate for a nursery to have a gravel surface so that the water can seep into the ground for the good of the plants.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the two (2) entrance driveways located to the east and middle of the site and gravel parking lot as indicated on the plat submitted with this application and is not transferable to other land.
2. This approval is granted for the modification of the dustless surface for the two (2) entrance driveways located to the east and middle of the site and parking lot shown on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. All gravel surface areas shall be constructed in accordance with standards approved by the Director, Department of Environmental Management (DEM).
6. All gravel surface areas shall be maintained in good condition at all times in accordance with standards approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.
7. The driveway located along the western lot line shall be used for the residence only.
8. The two (2) entrances for the plant nursery shall be paved with a dustless surface twenty-five (25) feet into the site from the existing pavement of Lee Highway.
9. This use shall be subject to all applicable provisions of the Water Supply Protection Overlay District of the Zoning Ordinance.
10. All required handicapped parking spaces shall be paved with a dustless surface.
11. Conditions 1 through 10 above shall be satisfied within three (3) months of approval date.
12. There shall be an annual inspection to ensure compliance with the conditions of this permit, and the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.
13. This approval shall run concurrently with Special Exception SE 83-S-021 and shall expire on June 20, 1988.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, three (3) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

Page 480, May 22, 1984, Scheduled case of:

10:30 A.M. CENTREVILLE UNITED METHODIST CHURCH, appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement, located 14040 Braddock Rd., R-1, Centreville Dist., 54-4((1))3A, 6.8841 acres, SP 84-C-027. (DEFERRED FROM JULY 12, 1983 FOR DECISION ONLY AND FROM SEPTEMBER 13, 1983 AND MARCH 13, 1984 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

Cheryl Hamilton presented the staff report to the Board, which recommended approval of the Special Permit application in accordance with the Development Conditions set forth in the report. She stated that on July 12, 1983, the Board had approved a special permit to allow the construction of an addition to the existing church.

There was no one present to represent the church, so the Board passed over the application to allow staff time to contact the applicant.

Page 480, May 22, 1984, Scheduled case of:

10:45 A.M. FRIENDS OF FAIRFAX STATION, INC., appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement, located 11120 and 11123 Fairfax Station Rd., R-C, Springfield Dist., 76-2((1))9, 5 acres, SP 84-S-028. (DEFERRED FROM AUGUST 2, 1983 FOR NOTICES AND FROM SEPTEMBER 27, 1983 AND MARCH 13, 1984 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

William Shoup presented the staff report to the Board which recommended approval of the Special Permit application in accordance with the Development Conditions. He stated that on July 11, 1983 the Board of Supervisors had approved special exception SE 83-S-058 to allow the establishment of a museum.

Fred Bruney, 12515 Paradise Spring Road, Clifton, Virginia, represented the applicant. He stated that he was the President of Friends of Fairfax Station. He stated that this depot had been donated to his group by the Southern Railway for the purpose of restoring it. He stated that it would be used as a railroad, Red Cross, museum, community meeting room, and a small gift shop.

There was no one to speak in support and no one to speak in opposition.

Page 480, May 22, 1984 Board of Zoning Appeals
FRIENDS OF FAIRFAX STATION, INC.

R E S O L U T I O N

In Application No. SP 84-S-028 by FRIENDS OF FAIRFAX STATION, INC. under Section 8-901 of the Zoning Ordinance to modify or waive the dustless surface requirement, on property located at 11120 and 11123 Fairfax Station Road, tax map reference 76-2((1))9, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 22, 1984; 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-C.
3. The area of the lot is 5.0 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the one (1) entrance driveway and gravel parking lot and is not transferable to other land.

2. This approval is granted for the modification of the dustless surface for the one (1) entrance driveway and parking lot shown on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. All gravel surface areas shall be constructed in accordance with standards approved by the Director, Department of Environmental Management (DEM).
6. All gravel surface areas shall be maintained in good condition at all times in accordance with standards approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.
7. This use shall be subject to all applicable provisions of the Water Supply Protection Overlay District.
8. The one (1) entrance driveway to the property shall be paved with a dustless surface from Fairfax Station Road to the property line and twenty-five (25) feet into the site.
9. The two (2) handicapped parking spaces as indicated on the plat submitted with this application shall be paved with a dustless surface.
10. This approval is for the location of the driveway and parking spaces as shown on the final site plan approved by the Board of Supervisors in accordance with Conditions 16 of SE 83-S-058.
11. There shall be an annual inspection to ensure compliance with the conditions of this permit, the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.
12. This approval is for a period of five (5) years.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

// Mr. Hyland stated that before they went any further on the agenda, he wanted to thank Mr. Yates and his staff in terms of what they had done as far as the work on the special permit process they were now following. He said he knew the Board and staff had had slight disagreements when they handled dustless surface requests as variances, because there was a question of their authority to do it in that manner. Mr. Hyland stated that it was clear that the Board felt they needed some relief to grant in these kinds of cases, and the process that had evolved was a very fair, good solution. He stated that this procedure was certainly in the interest of the County, and he wanted to personally thank the staff for a job well done.

Page 481, May 22, 1984, Scheduled case of:

11:00 A.M. FAIRFAX UNITARIAN CHURCH, appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement, located 2709 Hunter Mill Rd., R-1, Providence Dist., 37-4((1))23, 10.575 acres, SP 84-P-029. (DEFERRED FROM 10/4/83 AND 3/13/84 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

William Shoup presented the staff report to the Board which recommended approval of the Special Permit application in accordance with the Development Conditions set forth in the report. He stated that on October 4, 1983 the Board had approved SP 83-P-053 to allow the addition of a new sanctuary building with a seating capacity of 300.

Judy Dietrich, 5422 Southport Lane, Fairfax, Secretary-elect of the Board of Trustees, represented the church. She stated that this parking lot had been used for the past 22 years. She stated that the church next door to this one did pave their parking lot, and it had caused a lot of drainage problems in the area. Ms. Dietrich stated that the parking area was the only part of the church that was visible from the road. The buildings were all located downhill from the parking area. She handed a petition to the Board signed by neighbors stating they would rather have the church maintain a gravel parking area rather than a paved one.

There was no one to speak in support and no one to speak in opposition.

RESOLUTION

In Application No. SP 84-P-029 by FAIRFAX UNITARIAN CHURCH under Section 8-901 of the Zoning Ordinance to modify or waive the dustless surface requirement, on property located at 2709 Hunter Mill Road, tax map reference 37-4((1))23, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 22, 1984; 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 10.575 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the gravel parking lot as indicated on the plat submitted with this application and is not transferable to other land.
2. This approval is granted for the modification of the dustless surface for the parking lot shown on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. All gravel surface areas shall be constructed in accordance with standards approved by the Director, Department of Environmental Management (DEM).
6. All gravel surface areas shall be maintained in good condition at all times in accordance with standards approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.
7. Conditions 1 through 6 above shall be satisfied within six (6) months from this approval date.
8. There shall be an annual inspection to ensure compliance with the conditions of this permit, and the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.
9. This approval is for a period of five (5) years.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Page 483 May 22, 1984
FAIRFAX UNITARIAN CHURCH
(continued)

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, six (6) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

Page 483 May 22, 1984, Scheduled case of:

11:15 A.M. BATTLEFIELD EQUESTRIAN CENTER, INC., appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement, located 16009 Lee Hwy., R-C, Springfield Dist., 63-2((1))9, 85.919 acres, SP 84-S-030.(DEFERRED FROM 10/11/83 AND 3/13/84 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

The Board was in receipt of a letter dated May 16, 1984 from the applicant, requesting that the Board allow the application to be withdrawn. Mrs. Thonen made a motion that the special permit be withdrawn without prejudice. Mrs. Day seconded the motion, and it passed by a vote of 6 - 0. (Mr. DiGiulian being absent).

// The Board recessed for lunch at 12:10 P.M. The meeting reconvened at 1:20 P.M.

Page 483 May 22, 1984
CENTREVILLE UNITED METHODIST CHURCH
(continued)

Reverend Robert Parsons was present at the hearing to represent the Centreville United Methodist Church. He stated that they were just completing an addition to their building, which has required that 19 additional parking spaces be provided. The church was requesting that they be gravel spaces rather than paved.

There was no one to speak in support and no one to speak in opposition.

Page 483 May 22, 1984 Board of Zoning Appeals
CENTREVILLE UNITED METHODIST CHURCH

R E S O L U T I O N

In Application No. SP 84-C-027 by CENTREVILLE UNITED METHODIST CHURCH under Section 8-901 of the Zoning Ordinance to modify or waive the dustless surface requirement, on property located at 14040 Braddock Road, tax map reference 54-4((1))3A, 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 22, 1984; 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 6.8841 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

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

2. This approval is granted for the nineteen (19) gravel parking spaces indicated on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. All gravel surface areas shall be constructed in accordance with standards approved by the Director, DEM.
6. All gravel surface areas shall be maintained in good condition at all times in accordance with standards approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.
7. There shall be an annual inspection to ensure compliance with the conditions of this permit, the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.
8. This approval is for a period of five (5) years.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently prosecuted, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

Page 484 May 22, 1984, Scheduled case of:

11:30 A.M. SILVERBROOK UNITED METHODIST CHURCH, appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement, located 8620 Silverbrook Rd., R-1, Mt. Vernon Dist., 98-3((1))8, 2.005 acres, SP 84-V-031. (DEFERRED FROM 11/15/83 AND 3/13/84 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT)

William Shoup presented the staff report to the Board which recommended approval of the Special Permit application in accordance with the Development Conditions. He stated that on November 22, 1983, the Board had approved SP 83-V-067 to allow the construction of a building addition to the church.

Harold Wilson, 9125 Ridgely Drive, Lorton, represented the church. He stated that the congregation wanted to see the church stay the same. To pave the parking lot would take away from the setting of the church. He stated that this was a low intensity use.

There was no one to speak in support and no one to speak in opposition.

Page 484 May 22, 1984 Board of Zoning Appeals
SILVERBROOK UNITED METHODIST CHURCH

R E S O L U T I O N

In Application No. SP 84-V-031 by SILVERBROOK UNITED METHODIST CHURCH under Section 8-901 of the Zoning Ordinance to modify or waive the dustless surface requirement on property located at 8620 Silverbrook Road, tax map reference 98-3((1))8, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 22, 1984; 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 2.005 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the two (2) driveways and gravel parking lot as indicated on the plat submitted with this application and is not transferable to other land.
2. This approval is granted for the modification of the dustless surface for the two (2) driveways and parking lot shown on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. Unless waived by the Director, Department of Environmental Management, (DEM) a site plan shall be submitted for approval in accordance with the provisions of Article 17.
5. The two (2) entrances to the site shall be paved from Silverbrook Road to the property line and twenty-five (25) feet into the site.
6. All gravel surface areas shall be constructed in accordance with standards approved by the Director, Department of Environmental Management (DEM).
7. All gravel surface areas shall be maintained in good condition at all times in accordance with standards approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.
8. The entrance to the property shall be paved with a dustless surface from Sugarland Road to the property line and twenty-five (25) feet into the site.
9. All required handicapped parking spaces shall be paved with a dustless surface.
10. This use shall be subject to all applicable provisions of the Water Supply Protection Overlay District.
11. Conditions 1 through 10 above shall be satisfied within six (6) months from this approval date.
12. There shall be an annual inspection to ensure compliance with the conditions of this permit, and the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.
13. This approval is for a period of five (5) years.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, six (6) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

11:45 A.M. FORESTVILLE UNITED METHODIST CHURCH, appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement, located 10100 Georgetown Pk., R-1, Dranesville Dist., 12-2((1))16, 2.0577 ac., SP 84-D-032. (DEFERRED FROM 1/17/84 FOR NOTICES)

William Shoup presented the staff report to the Board which recommended approval of the Special Permit application in accordance with the Development Conditions. He stated that only the rear portion of the parking lot at the church is used for the child care center and the nursery school. Access to that is via Applewood Lane which is a gravel, private road. He stated that the Board had approved SP 83-D-085 on March 20, 1984 to allow the operation of a nursery school and child care center for a maximum of 50 children.

Carolyn See, 10618 Cavalcade Street, Great Falls, Virginia, represented the applicant. She stated that the parking lot was essentially dust-free. Most of the vehicles using the site were cars, with a minimum number of vans and trucks. She stated that paving the parking lot would cause more runoff and be of concern to adjacent property owners. The pre-school has been operating for twenty-four years and has caused no adverse effect.

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

RESOLUTION

In Application No. SP 84-D-032 by FORESTVILLE UNITED METHODIST CHURCH under Section 8-901 of the Zoning Ordinance to modify or waive the dustless surface requirement on property located at 10100 Georgetown Pike, tax map reference 12-2((1))16, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 22, 1984; 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 2.0577 acres.
4. That compliance with the Site Plan Ordinance is required.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the gravel parking lot as indicated on the plat submitted with this application and is not transferable to other land.
2. This approval is granted for the modification of the dustless surface for the parking lot shown on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. All gravel surface areas shall be constructed in accordance with standards approved by the Director, Department of Environmental Management (DEM).
6. All gravel surface areas shall be maintained in good condition at all times in accordance with standards approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.
7. All required handicapped parking spaces shall be paved with a dustless surface.
8. Conditions 1 through 7 shall be satisfied within six (6) months from this approval date.

9. There shall be an annual inspection to ensure compliance with the conditions of this permit, the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.
10. This approval is for a period of five (5) years.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, six (6) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

// Mr. Hammack stated this was not a very large school and there was a fairly large site. Looking at a plat of the area it is sparsely development at the present time. He stated that he would support this application, but five or ten years down the road, if the school expands or the use is intensified, he might not be quite as willing to support it depending on the impact it would make on the community.

Jack White, an engineer from the Department of Environmental Management, was present to discuss the pros and cons with the Board regarding paving the existing gravel parking lot at the Church of the Blessed Vietnamese Martyrs. He stated that in terms of the drainage consideration alone, it was clear that a gravel surface contributes less downstream runoff than a paved surface. He stated that 90% of the water from a paved surface would be expected to runoff. About 40% to 50% of the water would run off if you were dealing with a gravel surface. He stated that depending on what type of drainage system was used, it could handle all the water runoff in a proper fashion. For instance, an underground piping system could be installed, and all the water would be removed from the surface and directed to anther area such as a storm sewer system. In response to a question from Mr. Hyland, Mr. White stated that considering drainage alone, it was preferable to go with the gravel surface. He stated that the treatment of the gravel surface with a chlorine solution would cause some additional chemical impact for the adjacent properties and downstream vegetation, but he was not prepared to comment on how serious it would be. Mr. White stated that the matter before the Board was a weighing of values. From an Environmental standpoint this was a frequent conflict in terms of any development at all, where you're changing a natural condition to a man-benificial condition or usage.

Mr. Sullivan, the applicants representative, stated that he had spoken with the engineer regarding an asphalt piping system in the event the Board would deny this special use permit application. He stated that a portion of the runoff from the asphalt would be taken care of by a closed piping system. Another area, because of the slope, would have to be taken care of by a runoff swale. That would be a storm detention area, as well, about three feet wide. With a gravel surface, there would not be so much runoff, and it would all be going back to the rear of the property where there would be a storm detention facility. Mr. Sullivan addressed the calcium chloride runoff problem. He stated that they didn't need to use it if they used larger sizes of gravel. Also, a berm could be put in to be sure the water would either collect in the storm water detention facility or be run to the street, so the calcium chloride runoff would not affect any adjacent property owners.

William Enderle, the property manager for the Catholic Diocese of Arlington, spoke next. He stated that when he had previously met with Jack White in regard to a site plan, he had suggested an 8" to 10" berm down the common property line between Mr. Elton and the church property. At that time, Mr. Elton did not like that. Then the church agreed to put in a 3' to 4' berm with a storm detention device in the northwest corner. Mr. Enderle stated that at a previous hearing, Mr. Elton had complained that he did not want a paved surface. Mr. Enderle stated that a site plan could not be taken to DEM until a determination was made on this application. He stated that he would do whatever the Board suggested in regard to this parking lot.

There was no one to speak in support and no one to speak in opposition.

RESOLUTION

In Application No. SP 84-P-025 by MOST REVEREND JOHN R. KEATING, BISHOP under Section 8-901 of the Zoning Ordinance to modify or waive the dustless surface requirement, on property located at 7424 Masonville Drive and 3460 & 3464 Annandale Road, tax map reference 60-1((1))36, 37 & 46A, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with 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 22, 1984; 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 1.3070 acres.

AND WHEREAS, the Board of Zoning Appeals 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.

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

Mrs. Day seconded the motion.

// Mr. Hyland stated that he thought staff's position in the case was reasonable, and that they had received testimony that would seem to indicate that the preferable way to handle this surface was to have a gravel surface and not to pave it. He stated that there was an indication that this site would not be used forever for a church site, and it was their intention to find another location within three to five years.

The motion passed by a vote of 5 - 1 (Mr. Hyland) (Mr. DiGiulian being absent)

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// The Board recessed for a five minute break. When the meeting reconvened, Mr. Hyland addressed the Board's action on the previous case. He stated that the applicant was interested in getting a waiver for one to two years on the dustless surface, and asked if any members were willing to make a motion to reconsider that matter if it was in order. Chairman Smith stated that according to the opinion from the County Attorney, the Board could not reconsider a denial. Mr. Hyland replied that the issue had been reconsidering a matter at a subsequent meeting of the Board. During the present meeting of the Board, he thought they had the authority to reconsider any matter prior to convening. Chairman Smith asked staff to contact the County Attorney's Office to get an opinion on this matter.

Page 488 May 22, 1984, Scheduled case of:

12:00 NOON DRANESVILLE UNITED METHODIST CHURCH, appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement, located 11711 Leesburg Pike, R-1, Dranesville Dist., 6-4((1))67, 1.937 acres, SP 84-D-034. (DEFERRED FROM JUNE 21, 1983 FOR A MAXIMUM PERIOD OF SIX MONTHS TO ALLOW APPLICANT TO RESEARCH ACCESS OWNERSHIP AND FROM DECEMBER 20, 1983 AND MAY 1, 1984 PENDING DECISION FROM THE BOARD OF SUPERVISORS REGARDING A ZONING ORDINANCE AMENDMENT).

William Shoup presented the staff report to the Board which recommended approval of the Special Permit application in accordance with the Development Conditions. He stated that on June 21, 1983, the Board had approved SP 83-D-022 to permit the addition of a Narthex tower to the Church building which increased the seating capacity from 140 to 238 seats. The only access to the church is located on someone elses property. The Board questioned how they could require that this entrance be paved when someone else owned it. Mr. Shoup stated that at the previous hearing the church had presented documentation showing that this was an old right-of-way that has been abandoned.

Benny Edney, 646 Seneca Road, Great Falls, VA, represented the applicant. He stated that he had spoken to Mrs. Tanner, the owner of the property where the access was located. He stated that the church was going to attempt to purchase the property. He was going to hire a surveyor to establish boundary lines and size, and have the property appraised. At the present time, the church did not have a contract on the property. Mr. Edney stated that

the church had used this road for approximately 80 years, and the only people who used it where the ones going to and from church. Prior to 1946, this was Sugarland Road which connected with Route 7. Mr. Edney stated that this road was relatively flat, and there was no drainage problem. This is an old historic church, and a gravel parking area would be in keeping with the church.

Robert Ignore, 11708 Sugarland Road, the tenant on Mrs. Tanner's property, spoke regarding the application. He asked the Board to defer any action on this case until Mrs. Tanner could come to a hearing. He stated that today she had a prior commitment. Mr. Ignore stated that Mrs. Tanner had never received the certified notification, because she had never changed her address on the County records. (Chairman Smith later ruled that the notices were in order.) Mr. Ignore stated that he had spoken to Mrs. Tanner regarding this property. Her position was that she would be glad to sell the property to the church. If they don't want to buy it, she wants it paved. He stated that as a tenant, he would like to have it paved.

There was no one else to speak in regard to the application.

Page 489 May 22, 1984 Board of Zoning Appeals
DRANESVILLE UNITED METHODIST CHURCH

RESOLUTION

In Application No. SP 84-D-034 by DRANESVILLE UNITED METHODIST CHURCH under Section 8-901 of the Zoning Ordinance to modify or waive the dustless surface requirement on property located at 11711 Leesburg Pike, tax map reference 6-4((1))67, County of Fairfax, Virginia, Mrs. 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 22, 1984; 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 1.937 acres.
4. That compliance with the Site Plan Ordinance is required.
5. Testimony indicates that the entrance to the property is from Sugarland Road. The applicant has stated that approximately 30,000 ft. have been paved up to the line beginning at the cemetery. The staff recommends paving it to the end and 25 ft. into the property approaching the number 49 and 63 parking spaces.

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

THAT the applicant has presented testimony indicating compliance with Standards for Special Permit Uses in R Districts as contained in Section 8-006 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the driveway and gravel parking lot as indicated on the plat submitted with this application and is not transferable to other land.
2. This approval is granted for the modification of the dustless surface for the driveway and parking lot shown on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. All gravel surface areas shall be constructed in accordance with standards approved by the Director, Department of Environmental Management (DEM).
6. All gravel surface areas shall be maintained in good condition at all times in accordance with standards approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.

7. The entrance to the property off of Sugarland Road (Rt. 604) shall be paved with a dustless surface from Sugarland Road to the property line and twenty-five (25) feet into the site.
8. All required handicapped parking spaces shall be paved with a dustless surface.
9. Conditions 1 through 8 above shall be satisfied within six (6) months from this approval date.
10. There shall be an annual inspection to ensure compliance with the conditions of this permit, and the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.
11. This approval is for a period of five (5) years.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, six (6) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 4 - 2 (Messrs. Ribble and Hammack)
(Mr. DiGiulian being absent)

Page 490 May 22, 1984
RECONSIDERATION REQUEST FOR SP 84-P-025

// William Shoup stated that no County Attorney was available today to attend the Board meeting regarding the request for reconsideration. However, Karen Harwood, Assistant County Attorney indicated that if the Board reconsidered a case immediately, before all persons left the room, that they could go ahead and reconsider. Once the interested parties left the room, she did not feel it would be proper to reconsider. Mr. Hyland stated that no one had testified in this case although there were people in the room interested in it. He stated that it would seem to him that there was no one who had anything to say regarding the hearing. He felt that Ms. Harwood was considering if persons who had testified left, then they would not be able to add any comments. Mr. Hyland stated that he did not see any prejudice to anyone if the Board reconsidered at this time. Chairman Smith stated that there had been interested parties in the room, and letters had been submitted, although no one had spoken. He indicated that the Board should discuss this matter after hearing the rest of the days agenda.

Page 490 May 22, 1984, Scheduled case of:

12:15 P.M. MANN'S AUTOMOTIVE, INC., appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement, located 8457 Richmond Hwy., C-8, Mt. Vernon Dist., 101-3((1))pt. 30A & pt. 31, 40,000 sq. ft., SP 84-V-035. (DEFERRED FROM JANUARY 31, 1984 AND MAY 1, 1984 TO ALLOW BOARD OF SUPERVISORS TIME TO ACT ON CONCURRENT SPECIAL EXCEPTION & PENDING ZONING ORDINANCE AMENDMENT).

William Shoup presented the staff report to the Board which recommended approval of the Special Permit application in accordance with the Development Conditions. The Board of Supervisors approved SE 83-V-096 on February 27, 1984 to allow an addition to the existing building for a major vehicle repair establishment.

David Mann, 8119 Cooper Street, the owner of Mann's Automotive, presented his application. He stated that this building had been there for 20 years and he was not changing anything. He stated that this was a low intensity use, and in the 7 years he had operated his business there, there had never been any complaint about the gravel surface use. He stated that the adjacent properties consisted of an empty field, a trailer park, a lumber yard, and a restaurant.

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

RESOLUTION

In Application No. SP 84-V-035 by MANN'S AUTOMOTIVE, INC. under Section 8-901 of the Zoning Ordinance to modify or waive the dustless surface requirement, on property located at 8457 Richmond Hwy., tax map reference 101-3((1))pt. 30A and pt. 31, 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 22, 1984; 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 C-8.
3. The area of the lot is 40,000 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 C 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 gravel ingress-egress easement and parking lot as indicated on the plat submitted with this application and is not transferable to other land.
2. This approval is granted for a waiver of the dustless surface for the ingress-egress easement and parking lot shown on the plat submitted with this application, except as qualified below. 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.
3. 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.
4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. All gravel surface areas shall be constructed in accordance with standards approved by the Director, Department of Environmental Management (DEM).
6. All gravel surface areas shall be maintained in good condition at all times in accordance with standards approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.
7. All required handicapped parking spaces shall be paved with a dustless surface.
8. Conditions 1 through 7 above shall be satisfied within six (6) months of this special permit approval.
9. There shall be an annual inspection to ensure compliance with the conditions of this permit, the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.
10. This approval is for a period of five (5) years.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, six (6) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 - 0. (Mr. DiGiulian being absent)

Page 492 May 22, 1984, AFTER AGENDA ITEMS

RAINBOW DAY CARE CENTER, INC./SPA 80-C-105-1: The Board was in receipt of a letter requesting an out-of-turn hearing for the day care center. They had filed their application on May 16, 1984 and were currently scheduled for July 31, 1984. It was the consensus of the Board to grant the request. The application was scheduled for July 10, 1984.

Page 492 May 22, 1984, AFTER AGENDA ITEMS

THE APPLETREE, INC./SPA 82-P-089-1 and SP 84-P-036: The Board was in receipt of a letter requesting a waiver of the limitation on rehearing for the above referenced special permit applications. It was the consensus of the Board to grant the request.

Page 492 May 22, 1984, AFTER AGENDA ITEMS

The Board approved the minutes for May 8, 1984 as presented.

Page 492 May 22, 1984
RECONSIDERATION REQUEST FOR SP 84-P-025

Mr. Hyland stated that the Code Section, Sect. 18-109.6 does suggest that the Board can reconsider upon the motion of a member voting with the prevailing side of the original vote. He stated that if this motion was made, he did not feel that the Board jeopardized anyones rights, because they did not receive any other testimony other than from the applicant. He stated that the people that had been present would not be prejudiced, because they chose not to exercise their rights when the hearing was held. He asked that one of the members on the prevailing side make a motion for reconsideration.

Mrs. Thonen made a motion that the Board reconsider SP 84-P-025. Mr. Ribble seconded the motion. Chairman Smith ruled that this was not a proper motion, due to the fact that the people interested in the application had already left the room prior to this consideration.

Mr. Ribble made a motion to overrule the Chairman. Mrs. Day seconded the motion. The vote was 4 - 2 (Messrs. Hammack and Smith) (Mr. DiGiulian being absent)

The Chairman asked for a vote on Mrs. Thonen's motion to reconsider. The vote was 3 - 3 (Messrs. Ribble, Smith and Hammack) (Mr. DiGiulian being absent). Being a tie vote, the motion failed.

// There being no further business, the Board adjourned at 4:15 P.M.

By: Judy L. Moss
Judy L. Moss, Deputy Clerk to the
Board of Zoning Appeals

Submitted to the Board on June 5, 1984

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: June 14, 1984
Date