The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 5, 1984. The following Board members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble; and Mary Thonen (arriving at 10:40 A.M.). (Mr. John DiGiulian was absent).

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

The Chairman called for Board Matters:
MATTERS PRESENTED BY BOARD MEMBERS: Chairman Smith stated that the Zoning Administrator had a recommendation for the procedure for consideration of requests for waivers of the limitation on rehearing. The Board reviewed the procedures page by page and made suggestions in the format.

Document 1: Procedure for Consideration of Requests For Waivers of the Limitation on Rehearing: The Board discussed the alternative language submitted by the Zoning Administrator. There were not any changes to the document. Mrs. Day moved that the Board adopt document as submitted by the Zoning Administrator. Mr. Hyland seconded the motion and it passed by a vote of 5 to 0 with 1 abstention (Mrs. Thonen)(Mr. DiGiulian being absent).

Document 2: Letter to the Applicant Regarding Request for BZA Consideration of Waiver of the Limitation on Rehearing: There were not any changes to the document. Mrs. Thonen moved that the Board approve the letter as submitted by the Zoning Administrator. Mr. Ribble seconded the motion and it passed by a vote of 5 to 1 (Mr. Hammack)(Mr. DiGiulian being absent).

Document 3: Instructions For Preparing Written Notices For Waivers of the Limitation On Rehearing: There were not any changes to the document. The Clerk explained the procedure for notifying owners of condominium property. Mrs. Thonen moved that the Board approve the document as submitted. Mrs. Day seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

Document 4: Letter to the Property Owner from Daniel Smith: There were not any changes to the document. Mrs. Thonen moved that the Board approve the document as submitted. Mr. Hyland seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

Document 5: Return Form From the Concerned Citizens: The Board reviewed the form which was to be returned from the interested parties involved in the original application process. With respect to the positions to be marked by the interested parties, the Board changed the document to read:

_____ I support a waiver of the twelve (12) month limitation on rehearing.

_____ I have no position on a waiver of the twelve (12) month limitation on rehearing.

_____ I oppose a waiver of the twelve (12) month limitation on rehearing.

_____ I plan on attending the BZA meeting to address this request.

Mrs. Thonen moved that the Board approve the document as corrected. Mr. Ribble seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

The Zoning Administrator informed the Board that the above procedure would be followed after the closing of the public hearing. The Board could still grant a waiver of the twelve month limitation for rehearing following its decision and providing that all interested parties were still at the hearing. This would eliminate the need for a written request from the applicant as well as the notice to all interested parties. Some Board members took issue with this position. Chairman Smith recessed the discussion and informed the Zoning Administrator that he could propose a revision to the procedures at any time.

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Page 1 June 5, 1984, Board Policy

MATTERS PRESENTED BY BOARD MEMBERS: Mr. Hyland suggested that the Board adopt the policy that only those after agenda items included in the staff package mailed to the members prior to the meeting be discussed at the hearings. He was concerned that often times at the end of a long day, many other after agenda items were included for the Board's review which the BZA had not had the benefit of until the day of the meeting. Some of the items were not given the full attention they deserved. Chairman Smith stated that the Board could discuss this matter more fully at the end of the day.

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10:00 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 AND FROM MARCH 27, 1984 AT THE REQUEST OF THE APPLICANT)

10:00 A.M. KING OF KINGS LUTHERAN CHURCH, appl. under Sect. 18-401 of the Ord. to modify or waive the dustless surface requirements), located 12604 Lee Jackson Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 ac., SP 84-C-037. (DECISION DEFERRED FOR PERIOD OF 60 DAYS TO ALLOW INVESTIGATION OF THE POSSIBILITY OF COUNTY OR STATE ACQUISITION OF PROPERTY AND FROM MARCH 27, 1984 AT THE REQUEST OF THE APPLICANT)

The Board was in receipt of a request from Mr. Charles Shumate for a further deferral of the matter until sometime in September as the church was still investigating its alternatives. It was the consensus of the Board to defer the above-captioned applications until Tuesday, September 11, 1984 at 10:30 A.M.

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MATTERS PRESENTED BY BOARD MATTERS: The Board congratulated Mr. Ribble on his reappointment to the Board of Zoning Appeals.

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10:15 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. (DEFERRED FROM MARCH 6, 1984 & APRIL 3, 1984 FOR ADDITIONAL INFORMATION FROM VDH&T).

Mr. William Shoup presented the addendum to the staff report which recommended denial of the special permit application. The reason for staff's position was because of transportation concerns involving site access and the potential safety hazard of making U-turns. The application had been deferred from previous meetings in order to receive comments from the Virginia Department of Highways & Transportation. Ms. Carol Poppendieck, Transportation Engineer for VDH&T addressed three major issues in her letter dated April 12, 1984. It was suggested that some of the problems could be addressed by an interparcel access. However, the staff was convinced that not all of the problems could be resolved which was the reason for recommending denial.

In response to questions from the Board, Mr. Shoup indicated that staff was also concerned about the visual impact of the site, parking at the rear with the church being located on the front lot line and the fact that the 25 ft. transititional screening area could not be satisfied because of the outlet road.

Mr. Charles E. Runyon, an engineer, of 7649 Leesburg Pike, Falls Church, represented the church. Mr. Runyon indicated that Ms. Poppendieck envisioned other uses associated with the church such as a child care center. Mr. Runyon assured the Board that the church was not requesting such a use. The church was a small community church and would be located on a hill. The church did not expect to grow at a tremendous rate and create traffic problems. Mr. Runyon indicated that only 25 vehicles from the church would make U-turns. He indicated that the problems anticipated by the staff did not exist at this time. Mr. Runyon informed the Board that as the church grew and desired other uses, it would require a public hearing by the BZA. He stated that the BZA could deny the requested uses if the anticipated concerns were not properly addressed at that time.

There was no one else to speak in support and no one to speak in opposition. Chairman Smith indicated that the record would reflect the comments from the previous hearings. Mr. Larry Burg, Office of Transportation, commented on the letter from VDH&T. He indicated that the staff could live with the U-turn situation on a temporary basis as it would occur on Sunday morning during off-peak hours. He indicated that the if the special permit were granted, the church should be restricted so that the concerns could be properly addressed as the area developed. However, staff did not feel that the applicant had addressed the planning concerns. In addition, because the U-turns would not be of a temporary nature, staff was seeking denial of the application.

During rebuttal, Mr. Runyon stated that the church stood ready to address the staff's concerns as the area developed. He stated that the church would be responsible for a service drive if and when it became necessary. Mr. Runyon indicated that the BZA could tie the applicant to providing the service drive at a later date. Mr. Runyon stated that there were not any safety hazards at the present time as the adjoining property was single family residences. The church could not condemn the adjoining parcels to provide the interparcel access.

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Board of Zoning Appeals

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 83-C-097 by LEESBURG PIKE COMMUNITY CHURCH under Section 3-103 of the Zoning Ordinance to permit a church and related facilities, on property located at 11131 Leesburg Pike, tax map reference 12-1((1))51, 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 5, 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 2.86 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. Specifically, it deals with the safety factor in requiring the U-turns to be utilized for access to the church and topographic constraints. A membership of 300 with 75 vehicles was not a small church.

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. Hyland and Ribble)(Mr. DiGiulian being absent).

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Page 3, June 5, 1984, Scheduled case of

10:30 A.M. ROY J. & MABEL B. JERABEK, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 6.2 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 2230 North Tuckahoe St., R-4, Westmore Gardens, Dranesville Dist., 41-3((5))61, 13,348 sq. ft., VC 84-D-027.

Ms. Cheryl Hamilton presented the staff report. Mr. Roy J. Jerabek of 2230 North Tuckahoe Street in Falls Church informed the Board that he was proposing to construct a family room addition to his one story residence. He indicated that he and his wife had lived at the property for 33 years. Mr. Jerabek was 69 years old and his wife was 62. They felt the need for more room on one floor in order to avoid the use of stairs. The addition would be constructed at the front and would be approximately 7 ft. from the side lot line. Because the lot was pie-shaped, the side yard would be more than 10 ft. as it extended back. Mr. Jerabek explained that the variance was not necessary for the full length of the addition. The land sloped and was a shallow lot consisting of 13,348 sq. ft. There was ample yard space on the other side of the house but it was impractical to add the addition because this was the bedroom area.

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-D-027 by ROY J. & MABEL B. JERABEK under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 6.2 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), on property located at 2230 North Tuckahoe Street, tax map reference 41-3((50)61, 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 5, 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 13,348 sq. ft.
4. That the applicants' property is exceptionally irregular in shape. The house is not centrally located. The lot is pie-shaped. The variance is not for the full length of the house and the addition is very modest.

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.

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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Page 5, June 5, 1984, Scheduled case of

10:40 A.M. THOMAS N. & JULIA C. ALEXANDER, appl. under Sect. 3-C03 of the Ord. for modification to min. yard requirements for R-C lot to allow a house 30 ft. and 26 ft. from street lines of a corner lot, and a detached garage 25 ft. from a street line and 8 ft. from side lot line (40 ft. min. front yard, 20 ft. min. side yard req. by Sect. 3-C07), located 4342 Silas Hutchinson Rd., R-C, Pleasant Valley Subd., Springfield Dist., 33-4((2))198, 10,891 sq. ft., SP 84-S-017.

Ms. Cheryl Hamilton presented the staff report which recommended approval of SP 84-S-017 subject to the conditions set forth in Appendix I. In response to questions from the Board, Ms. Hamilton stated that all of the lots in the general area were affected in a similar fashion. Ms. Nancy Cranmer of Paciulli, Simmons & Associates stated that lot 198 of the Pleasant Valley subdivision had been zoned R-2(C). The setbacks under that zoning district were 8 ft. minimum side yard with a total side yard of 24 ft. The property was down-zoned to the R-C District. Ms. Cranmer stated that the side yards being requested were similar to the siting of the other houses which were built prior to the down-zoning.

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

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COUNTY OF FAIRFAX

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Day made the following motion:

WHEREAS, Application No. SP 84-S-017 by THOMAS N. & JULIA C. ALEXANDER under Section 3-C07 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, to allow a house 30 ft. and 26 ft. from street lines of a corner lot, and a detached garae 25 ft. from a street line and 8 ft. from side lot line (40 ft. min. front yard, 20 ft. min. side yard req. by Sect. 3-C07), located at 4342 Silas Hutchinson Road, tax map reference 33-4((2))198, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 5, 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. The final plat was approved on August 18, 1978, and the subdivision was recorded on August 22, 1978.

2. 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 yard not less than the minimum front and side yard requirements of the zoning district that was applicable to the lot on July 25, 1982.

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 May 25, 1984.

Mr. Hyland seconded the motion.

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

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Page 6, June 5, 1984, Recess

At 12:05 P.M., the Board recessed the meeting for lunch. The Board reconvened at 1:05 P.M. to continue with the scheduled agenda.

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Page 6, June 5, 1984, Scheduled case of

10:50 A.M. VILLAGE WEST, INC., appl. under Sect. 3-203 of the Ord. to amend S-519-67 for community recreation facilities to permit addition of shelter over snack area to existing facilities, located 7009 Elkton Dr., R-2, W. Spfd. Village Subd., Springfield Dist., 89-4((5))A, 2.58826 ac., SPA 67-S-519-1.

As the agent was not present at the hearing, it was the consensus of the Board to pass over the application until the end of the agenda.

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Page 6, June 5, 1984, Scheduled case of

11:00 A.M. ROSALIE L. & FRED SCHNIDER, appl. under Sect. 5-503 of the Ord. to amend S-82-S-024 for commercial and outdoor recreation facilities to permit addition of motorized (go-cart) amusement rides, a storage shed and a food concession trailer to existing facilities, located 14529 Lee Rd., Flint Crest Indus. Park, I-5, Springfield Dist., 34-3((1))34, 29.263 ac., SPA 82-S-024-1.

Ms. Cheryl Hamilton presented the staff report which recommended approval of SPA 82-S-024-1 subject to the conditions set forth in Appendix 1. In response to questions from the Board, Ms. Hamilton explained that the staff was recommending operating hours from 9 A.M. to 9 P.M. even though the applicant had requested until 10 P.M. The reason for this position was because staff was uncertain of the noise level off-site. The nearest residential property was the trailer park located 1500 ft. away. Ms. Hamilton stated that the applicant had provided a noise analysis from the manufacturer which indicated the noise level to be 52 dBA for 10 go-carts. This did not exceed the maximum allowable of 55 dBA.

Ms. Hamilton was not able to answer questions concerning the number of cycles in the go-cart engines. She indicated that the applicant intended to top off the fuel tanks of the go-carts frequently so they did not run out of gas and cause an accident. The gas tank was located away from the track across the parking lot.

Mr. John Fagelson of 401 Wythe Street in Alexandria represented the applicant. He stated that the use was in conformance with the Group 5 uses of the Code. The minimum lot size required was 5 acres and the applicant's tract contained 29 acres. There was frontage on a public street. The Ordinance specified that no mechanical ride shall be located within 200 ft. from a residential district. The neareast residential district was 6/10ths of amile away but was not used as a residential use. Mr. Fagelson stated that the trailer park was located 1500 ft. away. There were houses on Lee Road approximately 6/10ths of a mile away also.

There was concern on the part of the Board regarding the fact that the property owners of the trailer park were not notified about the special permit request. It was felt that they would be the most impacted by any noise from the go-carts. Mr. Fagelson stated that the go-cart engines were manufactured by Honda. It was possible to have the manufacturer install muffling devices.

Mr. Fagelson stated that all of the property surrounding the site were already developed with industrial uses. The property was located in the Noise Overlay District as it was near Dulles Airport. Mr. Fagelson stated that this was the ideal location for this type of recreational use. He described a similar recreational facility which had opened in Alexandria that was received favorably. Mr. Fagelson was not aware of any complaints about that particular facility.

There was no one else to speak in support of the application and no one to speak in opposition. Because of the Board's concern about the noise level to be generated by the 15 go-carts, it was the consensus of the Board to defer the application for additional information. The Board desired information regarding:

- the specifications on the operating noise level of the 5 horsepower Honda engines at the boundary of the Schnider property and the boundary of the Friendly Village Trailer Park; and

- the type of muffler device proposed to be installed on the go-carts.

In addition, the Board directed that the Trailer Park be notified of the special permit application and the deferral date. The Board wanted the method to be used to handle the gasoline for refueling the go-carts.

Mrs. Thonen moved that the special permit application be deferred for the additional information requested by the BZA. Mr. Ribble seconded the motion and it passed unanimously by a vote of 6 to 0 (Mr. DiGiulian being absent). It was the consensus of the Board to defer the application until Tuesday, June 19, 1984 at 8:45 P.M.

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Page 7, June 5, 1984, Scheduled case of

11:15 A.M. CYNTHIA SMEE JOHNSON, appl. under Sect. 3-203 of the Ord. for a family day care home, located 5953 Edgewood Ln., Tara Subd., R-2(C), Lee Dist., 91-2((7))2, 10,500 sq. ft., SP 84-L-019.

Ms. Cheryl Hamilton presented the staff report which recommended approval of SP 84-L-019 in accordance with the development conditions set forth in Appendix I. Ms. Cynthia Johnson of 5953 Edgewood Lane informed the Board that she had been operating a day care business under a home occupation permit for the past six years. Five years ago she attended a course by the County to become a professional day care provider. She informed the Board that she had a master's degree but not in child development. Ms. Johnson explained her philosophy of home like care. All of the children kept by Ms. Johnson were of school age and were at home 14 hours each week.

In response to questions from the Board and an opposition letter from Mrs. Kirk, Ms. Johnson indicated that she allowed the children to play in the County parkland behind her home. She indicated that she was able to view the children from her kitchen window. Her philosophy was to allow the older children to ride their bikes and visit their friends in the neighborhood. Ms. Johnson had a grid area in which the children were allowed to play. In six years of service, there was only one occasion in which Ms. Johnson was not home when a child returned from school. She stated that the child was still in her care.

With respect to concern on the part of some Board members regarding liability of the children playing unsupervised in the County parkland, Ms. Johnson assured the Board that her insurance policy covered the children on or off her property. In addition, she stated that if she kept over five children or if one of the children was under school age, she was required to have an assistant. Ms. Johnson indicated that the parents of her children preferred the home like setting rather than the structured environment of a child care center. She was caring for the children like she would her own. In addition to the nine children requested, Ms. Johnson stated that she had three children of her own.

Ms. Geraldine Graves of Springfield spoke in support of Ms. Johnson's application. She indicated that Ms. Johnson had provided the care that she was not able to give her children for the past four years. Ms. Graves stated that she was a single parent and had to work. Ms. Johnson had a lovely, christian home. Ms. Graves stated that she was surprised at Mrs. Kirk's opposition as Mrs. Kirk had referred her to Ms. Johnson when she was looking for a sitter. In fact, Mrs. Kirk often gave Ms. Johnson outgrown clothing for the children in her care.

There was no one else to speak in support. There were several letters of support in the file and Ms. Johnson provided additional support letters at the hearing. There was no one to speak in opposition but the Board had received opposition letters from Mrs. Kirk and Mr. and Mrs. Parson. Ms. Johnson chose not to rebutt the opposition letters.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-L-019 by CYNTHIA SMEE JOHNSON under Section 3-203 of the Zoning Ordinance to permit a family day care home on property located at 5953 Edgewood Lane, tax map reference 91-2((7))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 June 5, 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.

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 4 to 2 (Messrs. Smith & Hyland)(Mr. DiGiulian being absent).

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Page 8, June 5, 1984, Scheduled case of

11:30 A.M. GARY W. BREWER, appl. under Sect. 3-103 of the Ord. for a home professional office (employment agency), located 2100 Chain Bridge Rd., R-1, Old Courthouse Subd., Centreville Dist., 39-1((3))58, 38,345 sq. ft., SP 84-C-020.

11:30 A.M. GARY W. BREWER, appl. under Sect. 18-401 of the Ord. to allow home professional office on a lot with dwelling located 30 ft. from front lot line (40 ft. min. front yard req. by Sect. 3-107), and with 14 ft. high storage shed located 2.2 ft. from side lot line and 1.3 ft. from rear lot line (20 ft. min. side yard and 14 ft. min. rear yard req. by Sects. 3-107 & 10-104), located 2100 Chain Bridge Rd., R-1, Old Courthouse Subd., Centreville Dist., 39-1((3))58, 38,345 sq. ft., VC 84-C-028.

Ms. Cheryl Hamilton presented the staff report which recommended approval of SP 84-C-020 subject to the conditions set forth in Appendix I. The staff did not have a recommendation with respect to the variance application. Mr. Gary W. Brewer of 2100 Chain Bridge Road in Vienna informed the Board that he was making a request for a home professional office so he would be able to continue to live in the house and operate a personnel agency. Mr. Brewer stated that he had been in the placement business and an important asset was a good location and maximum privacy in interviewing clients.

The property formerly had been uses as office space for Mr. John Piper in his real estate business. The house was gutted and was ideal because it each office was furnished with its own phone jack, overhead lighting and door. The remainder of the house could be sectioned off for a personal residence.

Mr. Brewer stated that he leased the property from a partnership. He was not married and lived alone. Therefore, he had no need to provide the standard kitchen appliances customarily found in a residence. His lease agreement provided that Mr. Brewer would have to furnish his own applicances. Mr. Brewer stated that he was not adverse to installing the appliances.

In response to questions from the Board, Mr. Shoup stated that the special permit issued to Mr. John Piper had been for an office use in an older structure. That category was no longer contained in the present Ordinance. Mr. Piper had used the house as his office and had resided in another structure on the property.

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 84-C-020 by GARY W. BREWER under Section 3-103 of the Zoning Ordinance to permit home professional office (employment agency), on property located at 2100 Chain Bridge Road, tax map reference 39-1((3))58, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 5, 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-1.
3. The area of the lot is 38,345 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. Hours of operation shall be from 8:30 A.M. to 5:30 P.M., Monday through Friday.
6. Other than the applicant, there shall be a maximum of three (3) employees.
7. No more than 50% of the floor area of the stone dwelling shall be utilized for the home professional office.
8. The applicant shall install in the kitchen area of the stone dwelling a standard size sink, refrigerator, and stove, prior to the issuance of a Non-Residential Use Permit.
9. The frame structure, to the rear of the stone dwelling, shall not be leased or used as a second dwelling unit on this lot. This structure shall be used exclusively for permitted accessory uses to the residence.
10. A sign, in accordance with the provisions of Par. 2L of Sect. 12-208, shall be permitted upon approval of a sign permit.
11. There shall be a minimum of seventeen (17) parking spaces.
12. The Transitional Screening 1 requirement shall be modified so that a single row of evergreen trees are planted along the side and rear lot lines, and a row of shrubbery is planted along the front lot line. The barrier required shall be waived.
13. The applicant shall provide a left turn lane on Chain Bridge Road (Route 123) at the median break on Horse Shoe Drive.
14. A service drive and sidewalk shall be provided across the full frontage of the site.
15. This permit shall be approved for a period of three (3) 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 unanimous vote of 6 to 0 (Mr. DiGiulian being absent).

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-C-028 by GARY W. BREWER under Section 18-401 of the Zoning Ordinance to allow home professional office on a lot with dwelling located 30 ft. from front lot line (40 ft. min. front yard req. by Sect. 3-107), and with 14 ft. high storage shed located 2.2 ft. from side lot line and 1.3 ft. from rear lot line (20 ft. min. side yard and 14 ft. min. rear yard req. by Sects. 3-107 & 10-104), on property located at 2100 Chain Bridge Road, tax map reference 39-1((3))58, 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 June 5, 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 38,345 sq. ft.
4. That the applicant has met the nine required standards. In particular, this front lot line was created because of a VDH&T taking as indicated in the staff report. And the 14 ft. high storage shed has been there for 40 years.

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 limitation:

This variance is approved for the location of the stone dwelling and storage shed as shown on the plat included with this application is not transferable to other land.

Mr. Hyland seconded the motion.

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

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Page 11, June 5, 1984, Scheduled case of

11:45 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 AND 5/1/84 FOR PUBLIC HEARING BY BOARD OF SUPERVISORS.)

Mr. William Shoup informed the BZA that the Board of Supervisors had approved the proffered development plan. The proffer had been removed and the variance could be heard. Mr. Shoup presented the staff report.

Mr. John Mattes informed the Board that in accordance with the staff report, he had obtained the proffer amendment from the Board of Supervisors. It had been approved without any question. Mr. Mattes indicated that his original statement had failed to address the nine required standards for variances. Accordingly, he had submitted a revised statement to the Planning Commission in connection with the proffered amendment hearing. Mr. Mattes indicated that the major issues necessitating the variance were the exceptional topographic conditions, irreguar shape of the property, steep slopes, and the heavily wooded parcels.

Mr. Mattes explained that the revised layout of the subdivision would create less drainage and runoff from the steep slopes. The environmental site constraints would be best served with the revised plan. Mr. Mattes indicated that he wanted the option of providing solar energy for the homes. The parcels were heavily wooded and the lot was irregularly shaped. Mr. Mattes was proposing to vary the length of the 15 ft. pipestem road for proposed lot 6.

In response to questions from the Board regarding the revised written statement, Mr. Shoup stated that it appeared Mr. Mattes had addressed all nine standards but there was still the question of whether the application satisfied them. Chairman Smith stated that it appeared the basis for the hardship request was the fact that the applicant wanted to implement solar energy systems for the homes and the cost of construction which were not addressed in the State Code.

In response to questions from the Board, Mr. Mattes stated that the original layout of the subdivision at the time of rezoning blocked sun from the back lot. He indicated that the revised layout gave him more flexibility in locating the dwellings on the property. The Board questioned the fact that the revised layout did not site the houses on the lots.

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

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 83-S-097 by JOHN M. MATTES under Section 18-401 of the Zoning Ordinance 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), on property located at 7211 Danford Lane, tax map reference 89-3((1))18A, 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 5, 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 3.23 acres.

This application fails to 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. Thonen seconded the motion.

The motion passed by a vote of 4 to 2 (Mr. Hyland and Mrs. Day).

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Page 12, June 5, 1984, Scheduled case of

12:00 P.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 AND 5/1/84 TO ALLOW TIME FOR STAFF TO SUBPOENA THE CONTRACTOR RESPONSIBLE FOR THE WORK THAT HAD BEEN DONE IN ERROR.)

Mr. William Shoup informed the Board that service of the subpoena had been completed in Westmoreland County where the contractor was residing. As the contractor had failed to appear at the public hearing as required, it was the consensus of the Board to have the County Attorney's Office take whatever steps were necessary to secure the contractor's presence at the deferred hearing of June 14, 1984 at 1:00 P.M. It was specified that the Clerk be notified by the County Attorney's Office whether the contractor would appear. The Board apologized to Mrs. Reyes for having to continually appear at the deferral hearings.

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Page 13, June 5, 1984

Mrs. Thonen left the meeting at 3:45 P.M. and did not return.

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Page 13, June 5, 1984, Recessed case of

10:50 A.M. VILLAGE WEST, INC., appl. under Sect. 3-203 of the Ord. to amend S-519-67 for community recreation facilities to permit addition of shelter over snack area to existing facilities, located 7009 Elkton Dr., R-2, W. Spfd. Village Subd., Springfield Dist., 89-4((5))A, 2.58826 ac., SPA 67-S-519-1.

The Board recalled the recessed case of Village West, Inc. Ms. Cheryl Hamilton presented the staff report which recommended approval of SPA 67-S-519-1 in accordance with the development conditions set forth in Appendix I. Mr. James Michael Clune of Springfield informed the Board that the club wanted to construct a roof over the existing snack area. There was a concrete slab at the present time. The snack area was separate from the pool area and located next to the fence outside the wading pool area. The snack area would house the vending machines. The open pavillion would be approximately 30'x34'. It would be supported by wood posts and have an A-roof with asphalt shingles.

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

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Board of Zoning Appeals

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 67-S-519-1 by VILLAGE WEST, INC. under Section 3-203 of the Zoning Ordinance to amend S-519-67 for community recreation facilities to permit addition to shelter over snack area to existing facilities, on property located at 7009 Elkton Drive, tax map reference 89-4((5)A, 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 5, 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 2.58826 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. There shall be fifty-one (51) parking spaces provided on site.

6. The barrier requirement shall be modified provided the existing fences are retained.

7. The transitional screening requirement may be modified provided that the existing vegetation is retained and supplemental plantings similar to the existing plantings shall be provided along the screen fence north of the swimming pool, as determined by the Director, Department of Environmental Management (DEM).

8. All lighting shall be directed on-site.

9. The hours of operation shall be 11:30 A.M. to 9:00 P.M., daily.

11. 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.

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. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

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Page 14, June 5, 1984, After Agenda Items

RJL ASSOCIATES, V-81-D-024: The Board was in receipt of a request for additional time to allow recordation of subdivision for the RJL Associates in accordance with the variance granted on Aprijl 7, 1981. Mr. Hammack moved that the Board approve a three month additional time period extending the variance until July 7, 1984. Mr. Hyland seconded the motion and it passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

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Page 14, June 5, 1984, After Agenda Items

GORDON L. ERNEST, V-82-C-134: The Board was in receipt of a request for additional time to allow recordation of subdivision to Gordon L. Ernest in accordance with the variance granted on September 21, 1982. Mr. Hammack moved that the Board approve additional time of six months extending the variance until September 21, 1984. Mr. Hyland seconded the motion and it passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

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Page 15, June 5, 1984, After Agenda Items

ROAD AGGREGATES, V-70-79: The Board was in receipt of a request for additional time to allow recordation of subdivision for Road Aggregates in accordance with the variance granted on May 8, 1979. Mr. Hyland moved that the Board approve an additional time period of twelve months extending the variance until May 8, 1985. Mr. Hammack seconded the motion and it passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

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Page 15, June 5, 1984, After Agenda Items

ALBERT L. & JANE BUFF AND CHARLES E. RUNYON, VC 84-D-017: The Board was in receipt of a revised plat for the variance granted to Albert L. & Jane Buff and Charles E. Runyon on May 1, 1984. The changes noted from the original plat were:

- All of the proposed lots had been reconfigured and all proposed interior lot lines had been adjusted;
- Proposed lot 2 incorporated a substantial portion of originally proposed lot 4;
- The size of the pipestem lot was decreased from 105,400 to 93,477 sq. ft.; and
- The location of the existing driveway had been shifted to the east.

Mr. Ribble moved that the Board approve the revised plat as submitted. Mr. Hyland seconded the motion and it passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

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Page 15, June 5, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of BZA Minutes foir May 15, 1984; July 12, 1982; July 13, 1982; July 15, 1982; July 20, 1982; and July 22, 1982. Mr. Hyland moved that the Board approve the Minutes. Mr. Hammack seconded the motion and it passed by a vote 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

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Page 15, June 5, 1984, After Agenda Items

PARKWOOD BAPTIST CHURCH: The Board was in receipt of a request from Ms. Shirley A. Havens for an out-of-turn hearing on the special permit application of the Parkwood Baptist Church for a child care center. Because of the heavy scheduling of application due to the Board's summer recess, Mr. Hammack moved that the Board deny the out-of-turn hearing request and leave the application as scheduled for August 7th. Mr. Ribble seconded the motion and it passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

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Page 15, June 5, 1984, Recessed Discussion

WAIVER OF TWELVE MONTH LIMITATION ON REFILING APPLICATIONS: The Board directed that the memorandum from Philip Yates, Zoning Administrator be revised in accordance with its discussion earlier in the meeting and any other appropriate changes as determined by the Zoning Administrator. The Board indicated that the memorandum could be brought back for review at any time.

// There being no further business, the Board adjourned at 4:15 P.M.

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

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on JUNE 14, 1984

Approved: JUNE 19, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 14, 1984. The Following Board Members were present: Daniel Smith, Chairman; Ann Day, Gerald Hyland and Mary Thonen. John Ribble arrived at 10:10 A.M. John DiGiulian and Paul Hammack were absent. (Chairman Smith was only present for the first five minutes of the meeting)

The Chairman opened the meeting at 10:04 A.M. and Mrs. Day led the prayer.

The Chairman called for Board Matters:

MATTERS PRESENTED BY BOARD MEMBERS: The Board reviewed the revised procedure for consideration of requests for waivers of the limitation on rehearing. They were in agreement that it answered each of their concerns, and was very well prepared. Mr. Hyland made a motion that the Board accept this procedure incorporating the changes made since the last meeting. Mrs. Day seconded the motion. The vote was 4 - 0. (Messrs. Ribble, Hammack and DiGiulian being absent)

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Page 16, June 14, 1984, Scheduled case of:

10:00 A.M. LES E. SHOCKEY, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 13.6 ft. from street line of a corner lot (30 ft. min. front yard req. by Sect. 3-307), located 3602 Franconia Rd., Burgundy Farm Subd., R-3, Lee Dist., 82-2((5))(B)33, 11,916 sq. ft., VC 84-L-031.

William Shoup reviewed the staff report for the Board. Les Shockey presented his application. He stated that this addition could not be placed on the rear of his lot or to the east side because of topographical problems. The back yard sloped and was much higher than the front yard. Also, he wanted to have access to his driveway from Huron Road rather than Franconia Road for safety reasons. He indicated that he had received permission from VDH&T for a curb cut from Huron Road into his property.

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

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Page 16, June 14, 1984 Board of Zoning Appeals
LES E. SHOCKEY

R E S O L U T I O N

In Application No. VC 84-L-031 by LES E. SHOCKEY under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 13.6 ft. from street line of a corner lot (30 ft. min. front yard req. by Sect. 3-307), on property located at 3602 Franconia Road, tax map reference 82-2((5))(B)33, 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 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 11,916 sq. ft.
4. This is needed because of the topographical problems and the design and layout of the dwelling. There is no where else it could be placed.

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 narrowness 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 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. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.

H. 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 must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.
3. If a new entrance is to be provided onto Huron Place, the applicant shall obtain VDH&T approval prior to construction of the entrance. The entrance shall be constructed in accordance with the Public Facilities Manual.
4. A Building Permit shall be obtained prior to the construction of the garage.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Smith, Hammack and DiGiulian being absent)

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Page 17, June 14, 1984, Scheduled case of:

10:15 A.M. EDNA F. & ANNETTE C. ASHLEY, appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 lots, one having width of 170.05 ft. and the other 176.38 ft. (200 min. lot width req. by Sect. 3-E06), located 8700 Old Dominion Dr., R-E, Dranesville Dist., 20-1((1))55, 5.0164 ac., VC 84-D-032.

William Shoup reviewed the staff report for the Board which indicated that the size of the existing lot was comparable to a number of other lots in the general vicinity, and it appeared that the applicant could enjoy the reasonable use of the property absent the need for a variance. On June 15, 1982 the BZA had approved a variance application for the same request on this property, but it had expired because the subdivision had not been recorded. Mr. Shoup stated that the primary concern with this application involved access to the property, but that the applicant has agreed to have one entrance serving both lots. Mr. Shoup indicated that this application was in keeping with the Comprehensive Plan.

George Korte, 7141 Shreve Road, Falls Church, a land surveyor, represented the applicants. He stated that at the front of the property was a big bank due to the railroad cut. One entrance would be provided for both lots. The site distance was very good from this point on the road. He stated that these were beautiful wooded lots and would provide a lot of privacy.

Pierce Campbell, 1007 Crest Lane, spoke next in support of the application. He stated that he was assisting the Ashleys as a former neighbor, because he was very familiar with the area. He stated that the Ashleys had a problem with the original application because they could not determine where to put the perk sites. That is why the subdivision had not been recorded and the variance application subsequently had expired.

Carolyn Peters, 8900 Old Dominion Drive, spoke in opposition. She was also representing the Kormans, who lived next door to the property in question. Ms. Peters suggested that the property be subdivided making two square lots, one with access from Old Dominion and the other with access from an outlot road from Tebbs Lane. This would limit the traffic onto Old Dominion Road, which is a very hazardous road. She also indicated to the Board

that to construct two houses on this lot instead of one would disturb the wildlife and affect the environmental standards in this area. She submitted a petition to the Board in opposition to the application signed by five people who lived on Old Dominion Drive.

Katherine Sodergren, 8621 Tebbs Lane, also spoke regarding the application. She stated that she was not in opposition, but had some questions regarding where the entrance to the site would be placed. Ms. Sodergren stated that the traffic was already bad enough on Tebbs Lane, and she didn't think another driveway should be placed there.

There was no one else to speak regarding this application.

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RESOLUTION

In Application No. VC 84-D-032 by EDNA F. & ANNETTE C. ASHLEY under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots, one having width of 170.05 ft. and the other 176.38 ft. (200 ft. min. lot width req. by Sect. 3-E06), on property located at 8700 Old Dominion Drive, tax map reference 20-1((1))55, 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 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-E.
3. The area of the lot is 5.0164 acres.
4. In listening to the testimony and reading the staff report, one entrance on Old Dominion Drive is the only feasible area for the ingress/egress. This entrance will be three cars wide and situated to serve both houses. The septic field will be toward the front of the property due to topographic problems. It will be following a topo line from lot 55D. This will leave the rear portion of the lots for open area. Each lot will be over 2 acres and will be comparable to the other lots in the area.

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 subdivision of one (1) lot into two (2) 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 requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code.
4. Dedication for public street purposes and construction easements for future road construction shall be provided along Old Dominion Drive as required by the Director, Department of Environmental Management (DEM).
5. Access to both lots shall be via one (1) shared driveway entrance from Old Dominion Drive.
6. Existing vegetation shall be retained except where removal is necessary to accommodate construction.
7. Erosion and siltation control measures as required by the Director, DEM, shall be applied during construction. ( The BZA members asked that special emphasis be placed on this condition.)
8. A trail shall be provided along the frontage of the site in accordance with the Countywide Trails Plan and Article 17 of the Zoning Ordinance.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Smith, Hammack and DiGiulian being absent)

10:30 A.M. RIVER BEND GOLF AND COUNTRY CLUB, INC., appl. under Sect. 3-E03 of the Ord. to amend S-82-D-101 for country club to permit seasonal installation of air-supported bubble enclosure for two existing tennis courts, and to change the hours of operation for the tennis courts, located 9901 Beach Mill Rd., R-E, Acreage, Dranesville Dist., 8-1((1))22, 23 & 41 and 8-3((1))4, 151.321 acres, SPA 82-D-101-1.

William Shoup reviewed the staff report for the Board which recommended approval of this application subject to the development conditions. He stated that the major issue regarding this application would be the visual impact of the bubble. He also recommended to the Board that the bubble only be allowed to be inflated between September 1 and May 15.

Mr. Hyland asked why staff recommended so much screening and then limited the inflation of the bubble to a period of time during the year excluding the time when the foliage and the trees would appear to screen the bubble more significantly. Mr. Shoup stated that when these bubbles were illuminated during the evening, there was no way they could be totally screened from view. The staff was just trying to reduce the visual impact of adjoining property owners during the time of the year they would be more apt to be using their backyards.

William Donnelly, 4069 Chain Bridge Road, Fairfax, represented the applicant. He stated that there was an existing row of evergreen trees between the two courts in question and the Club View subdivision. Those hemlocks are between 10 and 15 feet high and are fairly close together. Mr. Donnelly stated that he had a problem with staff asking for two additional rows of plantings. The problem was that the driving range for the golfers runs parallel to that line of evergreen trees. It is a fairly narrow driving range, and to add two additional rows of plantings would further restrict the driving range. Mr. Donnelly said it seemed to him that the depth of the plantings was not as important as the height of the plantings. He asked that the Board amend this screening condition to say that they should supplement with plantings to insure an effective screening.

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

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Page 19, June 14, 1984 Board of Zoning Appeals
RIVER BEND GOLF AND COUNTRY CLUB, INC.

R E S O L U T I O N

In Application No. SPA 82-D-101-1 by RIVER BEND GOLF AND COUNTRY CLUB, INC. under Section 3-E03 of the Zoning Ordinance to amend S-82-D-101 for country club to permit seasonal installation of air-supported bubble enclosure for two existing tennis courts, and to change the hours of operation for the tennis courts, on property located at 9901 Beach Mill Road, tax map reference 8-1((1))22, 23 & 41 and 8-3((1))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 June 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-E.
3. The area of the lot is 151.321 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 membership in the Club shall be limited to 600 members.
6. The club shall provided 163 parking spaces.
7. The existing evergreen trees between the tennis courts and the Club View Ridge subdivision shall be retained and shall be supplemented with plantings in a manner that will ensure an effective screening of the bubble. Such plantings shall be a combination of fast growing evergreen trees and deciduous trees, the amount and type to be determined by the Director, Department of Environmental Management (DEM). The applicant shall submit a plan to the staff for approval by the County Arborist.
8. The hours of operation for the Club shall be as follows:

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|---|---|
| Club House Facilities: | 11:00 A.M. to 1:00 A.M. |
| Swimming Pool: | 7:30 A.M. to 10:00 P.M. |
| Golf Course: | 7:30 A.M. to Dusk |
| Tennis Courts: | 7:30 A.M. to 11:00 P.M.; except that the use of the tennis courts enclosed within the bubble shall be permitted between 6:00 A.M. and 11:00 P.M. |

9. The lights at the tennis courts, including those associated with the bubble, shall continue to be controlled by an automatic shut-off device.
10. The inflation and use of the bubble shall be permitted only between September 1 and May 15.
11. There shall be no further construction or paving in the area of the floodplain. In addition, vegetation shall be planted immediately to the southeast of the existing paved area to promote filtration of stormwater runoff prior to its entry into the swale. The type and amount of vegetation shall be determined by the Director, DEM, and such plantings shall be provided by August 15, 1984.

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.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Smith, Hammack and DiGiulian being absent)

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Page 20, June 14, 1984, Scheduled cases of:

10:45 A.M. MICHAEL E. RIEDMILLER, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow deck and outside stairway to remain 13 ft. and 9 ft., respectively, from rear lot line (19 ft. min. rear yard for deck, and 21 ft. min. rear yard for stairway req. by Sects. 3-307 & 2-412), located 5567 Queen Victoria Ct., Southport Subd., R-3(C), Annandale Dist., 78-2((19))45, 9,110 sq. ft., SP 84-A-021.

11:00 A.M. MICHAEL E. RIEDMILLER, 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 13.3 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), located 5563 Queen Victoria Ct., Southport Subd., R-3(C), Annandale Dist., 78-2((19))43, 8,401 sq. ft., SP 84-A-022.

William Shoup reviewed the staff report for the Board. The staff was unable to make any recommendations because of inadequate information submitted by the applicant. Mr. Shoup pointed out to the Board that when a building permit was obtained for lot 43 a deck was not shown, and the owners had never applied for an amendment to their building permit.

John Cahill, 4084 University Drive, Fairfax, represented the applicant, the Merv Corporation. He stated that this was a small corporation consisting of two principles. The houses in question were two of the first buildings they ever built. He stated that they misunderstood the setback requirement for adding a deck after they applied for their building permit. The builder had assumed that the lots were large enough to accommodate the deck. Mr. Cahill stated that the builder was now well aware of the setback requirements for a deck, and is being very careful to make sure this does not happen again. Mr. Cahill stated that on lot 43, the error was much smaller. To the east of this house is dedicated open space.

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

RESOLUTION

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 84-A-021 by MICHAEL E. RIEDMILLER 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 and stairway to remain 9 ft. from rear lot line (19 ft. min. rear yard for deck req. by Sects. 3-307 & 2-412), on property located at 5567 Queen Victoria Court, tax map reference 78-2((19))45, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on June 14, 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 deck indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.
2. An amended Building Permit reflecting the size and location of the existing deck shall be submitted and approved.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Smith, Hammack and DiGiulian being absent).

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RESOLUTION

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 84-A-022 by MICHAEL E. RIEDMILLER 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 13.3 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-307 & 2-412), on property located at 5563 Queen Victoria Court, tax map reference 78-2((19))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 June 14, 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 deck indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.
2. An amended Building Permit reflecting the size and location of the existing deck shall be submitted and approved.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Smith, Hammack and DiGiulian being absent).

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Page 22, June 14, 1984, Scheduled case of:

11:15 A.M. VIENNA CHURCH OF THE NAZARENE, appl. under Sect. 3-103 of the Ord. for church and related facilities, located 12113 Vale Rd., R-1, Centreville Dist., 46-1((1))22, 6.15 acres, SP 84-C-024.

William Shoup reviewed the staff report for the Board which recommended approval of the application subject to the development conditions contained in the staff report. Mr. Shoup indicated that the major issues were transportation concerns including the requirement of dedication in the front and the site access with the site distance being a potential problem. Also, screening and landscaping. These concerns had all been addressed in the staff report.

Reverend Reese Stephenson, 112 Kingsley Road, Vienna, the pastor of the church, presented the application. He stated that he had reviewed the staff report and had no problem with any of the conditions the staff requested.

Robert Butterworth, 12024 Wayland Street, asked the Board for some answers to some questions regarding drainage, parking lot security, and traffic flow. He was concerned that his property would be impacted by the run-off from the paved parking lot. Rev. Reese replied that there were proposed septic fields on the perimeter of the property. After a discussion regarding parking lot security, the Board felt that placing a gate at the entrance to the property and leaving on the lights would prevent unauthorized entry when the church was not in use.

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

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RESOLUTION

In Application No. SP 84-C-024 by VIENNA CHURCH OF THE NAZARENE under Section 3-103 of the Zoning Ordinance for church and related facilities, on property located at 12113 Vale Road, tax map reference 46-1((1))22, 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 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-1.
3. The area of the lot is 6.15 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 for public street purposes and construction easements for future road construction shall be provided as determined by the Director, Department of Environmental Management (DEM).
6. A right turn deceleration lane shall be constructed in accordance with VDH&T standards. If necessary to accommodate the deceleration lane, the driveway entrance may be shifted to the north provided there is adequate site distance.
7. Transitional screening shall be modified and provided as follows:
   - o There shall be a limit on the clearing of existing vegetation as shown on the approved plat. Such area shall remain undisturbed except that necessary utility work shall be permitted.
   - o On the rear portion of the property where there is no existing vegetation or where such is to be removed to accommodate septic fields, a 25 foot transitional screening area shall be provided as shown on the approved plat. These screening areas shall be planted with a combination of white pine and dogwood, redbud, or other ornamental deciduous trees. The amount of these plantings shall be equivalent to that which is required in Transitional Screening 1 however, they may be arranged in the form of a natural mass rather than the normal row arrangement.

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- o On the northern portion of the property, existing vegetation shall be supplemented with white pines planted between the church building and the lot line. The number of plantings and the manner in which type are arranged shall be such that the building is screened from the view of adjacent lot 21A. Low dense evergreen plantings shall be provided along the northern edge of the rear parking lot as determined by the Director, DEM to ensure that vehicle headlights will not project onto adjacent properties.
- o On the front of the property, transitional screening shall be modified provided there is sufficient landscaping to reduce the visual impact.

8. The barrier requirement shall be waived.
9. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance. Median interior parking lot landscaping strips as shown on the approved plat shall be incorporated into the landscaping plan.
10. The seating capacity in the main worship area shall not exceed five hundred (500).
11. The required minimum number of parking spaces shall be in accordance with Article 11 of the Zoning Ordinance. The maximum number of parking spaces shall be one hundred twenty-five (125). For additional security a gate will be erected and locked when the church is not in use to secure the parking lot from unauthorized use.
12. If required by DEM, a soils report shall be submitted prior to site plan approval.
13. 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 residential properties. The lights shall remain on all night.
14. 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 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 - 0. (Messrs. Smith, Hammack and DiGiulian being absent)

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Page 24, June 14, 1984, Scheduled case of:

11:30 A.M. JOHN R. COOK, appl. under Sect. 4-503 of the Ord. for a veterinary hospital, located 6302 Grovedale Dr., C-5 and R-1, Franconia Hills Subd., Lee Dist., 81-3((5))6C, 15,370 sq. ft., SP 84-L-023.

William Shoup reviewed the staff report for the Board which recommended approval of the application subject to the development conditions set forth in the staff report.

Dr. John Cook, the contract purchaser of the property, presented his application. He stated that he would comply with all of the conditions suggested in the staff report. He indicated that this was not a new practice. He had been forced to relocate his hospital because Fairfax County had taken his present location due to the flood control program.

Edna Vernon, 6313 Grovedale Drive, spoke in regard to the special permit application. She stated that she was not in opposition, but had some concerns she would like to share with the Board. She stated that the abutting property to the rear of her lot had lots of dogs with no kennels, and a condemned septic tank. Ms. Vernon indicated that she had talked to many county agencies, including the Department of Animal Control and her district supervisor, but nothing had ever been done to clear all these violations. She stated that the drainage from that property came to within 5 feet of her well, and the continuous noise from the dogs bothered her. Ms. Vernon said she just wanted to be assured that this facility would not become the same type of problem.

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

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RESOLUTION

In Application No. SP 84-L-023 by JOHN R. COOK under Section 4-503 of the Zoning Ordinance for a veterinary hospital, on property located at 6302 Grovedale Drive, tax map reference 81-3((5))6C, 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 June 14, 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 C-5 and R-1.
3. The area of the lot is 15,370 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 and 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 the barrier requirement shall be waived provided existing vegetation at the rear of the property is retained.
6. Six (6) parking spaces shall be provided. The parking lot shall be constructed with adequate turnaround capability in accordance with the Public Facilities Manual.
7. In accordance with the provisions of Par. 6 of Sect. 4-505 of the Zoning Ordinance, the limitation on curb cuts may be waived at the determination of the Director, Department of Environmental Management.
8. There shall be no more than one (1) employee, in addition to the applicant, associated with this operation.
9. All facilities associated with this use shall be enclosed within the building. Soundproofing and other necessary measures shall be implemented to ensure that there will be no emission of odor or noise detrimental to other property in the area.
10. The construction and operation of all facilities shall be approved by the Health Department prior to the issuance of any Building Permit or Non-Residential Use Permit.
11. Signs may 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 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 - 0. (Messrs. Smith, Hammack and DiGiulian being absent)

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Page 26, June 14, 1984, AFTER AGENDA ITEMS

The Board approved the minutes for May 22, 1984 as presented.

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Page 26, June 14, 1984, AFTER AGENDA ITEMS

The Board reviewed appeal A 84-W-003, filed by The Price Company. It was their determination that the application was complete and timely filed. The Board set the public hearing on this application for Tuesday, September 11, 1984 at 10:00 A.M.

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//The Board recessed for lunch at 12:30 P.M. and returned to take up the scheduled agenda at 1:15 P.M. There were only three members present: Gerald Hyland, Ann Day, and John Ribble.

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Page 26, June 14, 1984, Scheduled case of:

1:00 P.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 AND 5/1/84 & 6/5/84 TO ALLOW TIME FOR STAFF TO SUBPOENA THE CONTRACTOR RESPONSIBLE FOR THE WORK THAT HAD BEEN DONE IN ERROR.)

Pete Andreoli from the County Attorney's Office was present at the meeting to brief the Board on alternatives for the problems that had come up in connection with the Reyes case. He informed that Board that to enforce the subpoena they had issued, an application would have to be made back to the Circuit Court for a contempt proceeding. He stated that there were two types of contempt proceedings. One was Criminal Contempt, which would be referred to the Commonwealth Attorney's Office. This would simply punish the individual for his failure to appear. The other was Civil Contempt, which would compel the individual to obey the subpoena by imposing a set fine for each day he did not appear. In either of these cases, an application would have to be made to the Circuit Court showing that a subpoena had been issued and the individual had failed to appear. Mr. Andreoli suggested that the Board also had a third alternative. They did not have to take any action at all on this matter.

Due to lack of a quorum, decision on this matter was deferred to the June 19, 1984 evening meeting.

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Page 26, June 14, 1984, AFTER AGENDA ITEMS

The Board was in receipt of an out-of-turn hearing request for SP 84-C-051, Reston Montessori School, a special permit request for a day school. The application was currently scheduled for September 11, 1984. Due to the lack of a quorum, the Board deferred decision on this matter to the June 19, 1984 meeting.

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// There being no further business, the Board adjourned at 1:30 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 JUNE 26, 1984

APPROVED: July 3, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Evening, June 19, 1984. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman, Ann Day, Gerald Hyland, John Ribble, and Paul Hammack. Mary Thonen was absent.

The Chairman opened the meeting at 8:17 P.M. and Mrs. Day led the prayer.

The Chairman called the scheduled case of:

8:00 P.M. ADVANCED MOBILE PHONE SERVICE, INC., appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement to allow gravel driveway and parking for telecommunication facilities (dustless surface req. by Sect. 11-102), located 9325 Leesburg Pk., R-1, Dranesville Dist., 19-4((1))pt. 60, 22,689 sq. ft., SP 84-D-033. (DEFERRED FROM APRIL 10, 1984 AT THE REQUEST OF THE APPLICANT)

The Board was in receipt of a letter from the applicant requesting a deferral. It was the consensus of the Board to defer the application to September 18, 1984.

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Page 27, June 19, 1984, AFTER AGENDA ITEM

RESTON MONTESSORI SCHOOL/SP 84-C-051: The Board was in receipt of an out-of-turn hearing request from Eileen Minarik. Decision on this matter had been deferred from the previous week for lack of a quorum.

Mrs. Kelsey gave the background on the church property concerned with this application. She stated that the church had come in for a variance for the distance between the parking lot and the church property. They had also gone to the Board of Supervisors for a coordinated parking agreement between the shopping center, the church and a fellowship hall. All of that was on agreement that the use would only be used between specific times. Mrs. Kelsey stated that this would have to go back to the Board of Supervisors to coordinate the parking and the expanded times. She indicated that if the Board scheduled the application for August 7, 1984, she would ask that they do so with the understanding that if the staff couldn't get all of the information coordinated, the Board defer the application to September 1984.

It was the consensus of the Board to grant the out-of-turn hearing request and schedule the special permit application for August 7, 1984.

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Page 27, June 19, 1984, Scheduled case of:

8:15 P.M. GREAT FALLS SWIM & TENNIS CLUB, INC., appl. under Sect. 3-103 of the Ord. to amend S-82-D-019 for community recreation facilities to change hours of operation of tennis courts from 7 A.M. -9 P.M. to 7 A.M. - 10 P.M., to permit gazabo to remain, and to permit lights on practice courts to remain and to permit a modification to the dustless surface requirement as req. by Sect. 11-102), located 761 Walker Rd., R-1, Dranesville Dist., 13-1((1))27, 5.5244 ac., SPA 82-D-019-1.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit application subject to the conditions set forth in the staff report. In response to a question from Mrs. Day, Mrs. Kelsey indicated that the houses on lot 9 and 10 were at a lower elevation than the tennis courts.

Steve Pellegrino, 10204 Carol Street, Great Falls, VA, represented the applicant. He stated that the club had problems with the existing lights, and had done a great deal of research to find the best lighting system to replace them. He stated that Mr. Leigh, a Fairfax County Zoning Inspector, had surveyed the property with a light meter which showed zero foot candle readings. He stated that they wanted to extend the hours of operation to ten o'clock to enable the people who work late to use the courts. Mr. Pellegrino indicated that they got limited use of the courts now because of the extremely hot summer weather. In response to a question from Mr. Hyland, Mr. Pellegrino stated that he did not anticipate any noise problem for the neighbors. Also, he stated that the lights would be on a timer set to turn them off at exactly 10:00 P.M. Mr. Pellegrino submitted a letter to the Board signed by several adjacent property owners indicating that the lights were not a nuisance at Great Falls Swim and Tennis Club.

Margaret Simpson, 9809 Thunderhill Court, spoke in opposition to the application. She stated that she was annoyed by noise from the tennis courts in the evening, and she opposed extending the hours of operation. She thought the club should provide a better buffer. She stated that her property was across the street from the tennis courts. Mrs. Kelsey informed the Board that condition number 5 in the development conditions addressed the screening the club would have to provide. After looking at a copy of a plat provided by the applicant, the Board members determined that Mrs. Simpson's property was approximately 400 feet away from the courts.

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

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RESOLUTION

In Application No. SPA 82-D-019-1 by GREAT FALLS SWIM & TENNIS CLUB, INC. under Section 3-103 of the Zoning Ordinance to amend S-82-D-019 for community recreation facilities to change hours of operation of tennis courts from 7 A.M. - 9 P.M. to 7 A.M. - 10 P.M., to permit gazabo to remain, and to permit lights on practice courts to remain and to permit a modification to the dustless surface requirement as req. by Sect. 11-102), on property located at 761 Walker Road, tax map reference 13-1((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 June 19, 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 5.5244 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 provided the area between the chain link fence and the southern side lot line is bermed to the extent possible and at least eight (8) foot high evergreen trees with an ultimate height of 40 feet are planted every ten (10) linear feet. The feasibility of the berm and the size, height, and location of the trees shall be determined by the Director, Department of Environmental Management (DEM). The existing vegetation along the remainder of the site shall be preserved to satisfy Transitional Screening 1. If there is an area where insufficient plantings exist to screen this use from adjacent residences, additional supplemental evergreen plantings shall be provided as determined by the Director, DEM. The existing chain link fence which encircles the pool and tennis court areas shall remain to satisfy the barrier requirement.
6. The hours of operation for the facility shall be as follows:
   - Tennis Courts: 7:00 A.M. to 10:00 P.M.
   - Swimming Pool: 12:00 Noon to 9:00 P.M.
7. 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.
   - A written 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.
8. There shall be a minimum of fifty-nine (59) parking spaces and a maximum of one hundred and eighteen (118) parking spaces.
9. The maximum number of family memberships shall be four hundred (400).
10. All activities shall comply with the provisions of Chapter 108 of the County Code, Noise Ordinance, and the glare performance standards of the Zoning Ordinance.
11. Bicycle racks shall be provided to accommodate a minimum of twenty-five (25) bicycles.
12. All gravel surface areas shall be constructed in accordance with standards approved by the Director, Department of Environmental Management (DEM).

13. 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.
14. All required handicapped parking spaces shall be constructed with a dustless surface and in accordance with all applicable standards.
15. 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.
16. The approval of a waiver of the dustless surface requirement 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. Ribble seconded the motion.

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

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Page 29, June 19, 1984, Scheduled case of:

8:30 P.M. LYLA T. GURFINKEL & ROBERT J. GURFINKEL, appl. under Sect. 3-303 of the Ord. to amend S-175-77 for day care center to permit increase in max. number of children from 35 to 58 and construction of additional parking facilities, located 2702 Popkins Ln., Groveton Subd., R-3, Mt. Vernon Dist., 93-1((1))12, 1.0 acres, SPA 77-V-175-1.

Cheryl Hamilton reviewed the staff report for the Board which recommended approval of the special permit application subject to the conditions set forth in the report. She stated that the applicant had originally requested an increase to 79 children, but had amended the application to 58 children.

Michael Miller, from the law firm of Jacobi, Miller & Lynch, represented the applicants. He stated that they had run the school since 1977, and that they agreed with all the development conditions suggested by the staff. In response to the letters of opposition, he addressed the report that ivy was growing on a fence on the Gurfinkel's property, causing a traffic hazard because it blocked the view of the road. He stated that the Gurfinkel's were not aware it was a hazard, but would be glad to remove the ivy if the Board so desired. In regard to the problems caused by people backing out of the school's driveway, Mr. Miller stated that this was the reason they were requesting more parking spaces and a U-turn driveway. The U-turn driveway would create a better traffic flow and enhance the efficiency and safety of the existing traffic pattern.

Mike Fallon, 2609 Popkins Lane, spoke in support of the application. He stated that he lived adjacent to the school across the street. He had lived in the area since 1975. He indicated that there had been accidents on this street, but none of them had involved anyone dropping off or picking up children at the day care school. He stated that there was noise created by the school, but that it was a pleasant noise of children playing. Mr. Fallon stated that he supported the request for additional children, because it would provide good care for children whose parents were forced to work.

The people who spoke in opposition included JoAnne McBride, 7004 Davis Street; Richard Bottorf, 7102 Davis Street; Ancel Lewis, 7004 Davis Street; and Charles Swisher, 7011 Davis Street. Their concerns included the fact that the property is not maintained properly, and has been overgrown and in disrepair for the duration of the Gurfinkel's ownership. They stated there was a traffic visibility problem at the intersection of Davis Street and Popkins Lane. This problem resulted from the vegetation growing on the Gurfinkel's fence. The neighbors had at one time cleared away the vegetation themselves to improve visibility, but that corner section of the fence has been overgrown and never cleared again. Another point brought up was the fact that the existing semi-circular driveway was used as a parking lot for cars, as was Davis Street, which also created a traffic hazard.

The neighbors were also concerned about the water runoff from the proposed parking lot, and the commercial atmosphere that would be created in a residential neighborhood with a parking lot of this size. Other points of opposition included the increase in traffic on this short residential street, and the fact that the Gurfinkel's planned to move away from the property if they received permission to expand their facility. The neighborhood felt that absentee management would cause future neglect of the property.

During rebuttal, Mr. Miller stated there had always been a drainage problem in that neighborhood. He stated that the applicants were willing to take down the fence and shrubs the neighbors were so concerned about, but that had nothing to do with the request for more children. Mr. Miller agreed with the opposition that the driveway is insufficient, and indicated the applicant wanted to alleviate this problem with the U-turn driveway. He stated that the Gurfinkels had never had any problem with the Health Department regarding this use, and that they were inspected by this department at least every other month. Mr. Miller indicated that most of the complaints could be dismissed due to the fact that most of them were irrelevant to, or problems that would be corrected by the application.

In regard to the run-off problem with the parking lot, Mr. Miller stated that there was at least 25 feet of dirt, grass and trees surrounding it. He felt there would be no environmental impact and the water would be maintained on the property. In discussions with staff, the Board determined that the parking lot could be reduced from 18 spaces to 11 spaces, and the application would still meet the parking requirements.

There was no one else to speak regarding this application.

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R E S O L U T I O N

In Application No. SPA 77-V-175-1 by LYLA T. GURFINKEL & ROBERT J. GURFINKEL under Section 3-303 of the Zoning Ordinance to amend S-175-77 for day care center to permit increase in max. number of children from 35 to 58 and construction of additional parking facilities, on property located at 2702 Popkins Lane, tax map reference 93-1((1))12, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 19, 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 1.0 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 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 for the following reasons:

We have received testimony and have in the record a history of the use of this site as a day care center for a very substantial period of time with a large number of youngsters who could be brought onto the site. Over the years it is clear from the evidence that the number of authorized youngsters who could attend the facility has decreased, presumably because the amount of acreage has decreased. We have received testimony from a number of the neighbors who have indicated that for a substantial period of time they have noted discrepancies in terms of the operation of the day care center, and in fact have noted that notwithstanding the change that was made by this Board in terms of requiring the turn-around on the property, that in fact that turn-around has not alleviated the traffic situation. To the contrary, I have seen photographs of cars that continue to be parked on Davis Street, a substantial number of vehicles. In addition, the neighbors have indicated the manner in which the property has been kept up. Although I know the applicant took some issue with the analogy that the gentleman has used, I think the analogy is quite proper in terms of deciding whether or not to grant an increased use of the property. Particularly if there is some representation or there are reservations on the part of the community and certainly this Board, as far as the manner in which this day care center has been operated.

It would seem to me that if the track record had been good, then perhaps the receptiveness of the community would be enhanced. This member has rarely experienced such an expression of opposition from those neighbors directly affected by a child care facility in my short tenure on this Board. I think that their statements are not to be taken lightly. I am concerned, and I think that the facts indicate that if the application is granted, the owners of this property would vacate the premises and would no longer reside there. Essentially we would have a building that is used for an exclusive commercial purpose in an almost exclusively residential area, surrounded by residential homes. The parking lot for 18 cars which will be located 25 feet from an abutting property owner is too many and it's too close.

I think that the traffic which would be generated onto Davis Street is inappropriate. I know Popkins Lane and Davis Street very well. I have lived in that community since 1969. I don't think that this is a small intrusion on Davis Street as suggested by the Office of Transportation. It is a small street. It has traffic and it doesn't need any more. Although I am sympathetic with the applicant, and I think the applicant's representative has made a strong case, and no one has to convince this member of the need for day care centers. But in this application I do not feel that the track record won nor the expansion of the use is proper at this site. For that reason I don't think that the standards that are required to be met for permitting the expanded use, particularly 8-006 Par. 3 have been met. I do not believe that the expanded use would be harmonious. I think it would adversely affect the use of neighboring properties, and of course I'm talking about the residential character of the neighborhood which I think would be affected directly and adversely if this application was permitted.

Mrs. Day seconded the motion.

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

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Page 31, June 19, 1984, Scheduled case of:

8:45 P.M. ROSALIE L. & FRED SCHNIDER, appl. under Sect. 5-503 of the Ord. to amend S-82-S-024 for commercial and outdoor recreation facilities to permit addition of motorized (go-cart) amusement rides, a storage shed and a food concession trailer to existing facilities, located 14529 Lee Rd., Flint Crest Indus. Park, I-5, Springfield Dist., 34-3((1))34, 29.263 ac., SPA 82-S-024-1. (DEFERRED FROM JUNE 5, 1984 FOR ADDITIONAL INFORMATION & FOR NOTIFICATION TO THE OWNER OF DULLES FRIENDLY VILLAGE TRAILER PARK).

Cheryl Hamilton submitted an acoustical analysis to the Board done by an acoustical consultant firm called Polysonics. She also gave the Board an information sheet showing a decibel (dBA) table which compared common sounds and showed how they ranked in potential harm to hearing. This table showed that 70 dBA is the point at which noise begins to harm hearing.

Mr. Hyland stated that the Board was interested in what effect the noise would have on the adjacent trailer park that was approximately 1,250 feet away. Assuming all fifteen of the go-carts were operating at the same time, he asked staff if there would be any adverse impact on the surrounding community.

Cheryl Hamilton informed the Board that the applicant was going to reduce the number of go-carts to ten. According to the manufacturer of the engines, at a distance of 1,250 feet with no ground attenuation, the cars would have a noise level of 49 dBA. This is lower than what is required by the Fairfax County Noise Ordinance. Mrs. Kelsey informed that Board that she had visited the site, and the sound of the go-cart engine appeared to be similar to the sound of a lawn mower.

Bernard Fagelson, 401 Wythe Street in Alexandria, represented the applicant. He stated that notices had been mailed to occupants of the trailer park including the manager, as the Board had requested at the last hearing. He stated that the applicant had a study made by Polysonics, a firm in operation for over 25 years. He stated that Mr. Kevin C. Miller was present from that firm to review his research for the Board.

Kevin Miller, 5421 Sherier Place, N.W., Washington, D.C., spoke regarding the application. In response to a question from Mr. Hyland, Mr. Miller stated that it was his opinion that from a standpoint of County code and established ordinances, the noise level would not exceed these and would be substantially below them. He stated that it was difficult to establish exactly how much below code the noise would be, because there was ground attenuation, and it would be hard to do a completely accurate study. The noise, in his opinion, would be well below 55 dBA and could be as low as 40 dBA.

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

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RESOLUTION

In Application No. SPA 82-S-024-1 by ROSALIE L. & FRED SCHNIDER under Section 5-503 of the Zoning Ordinance to amend S-82-S-024 for commercial and outdoor recreation facilities to permit addition of motorized (go-cart) amusement rides, a storage shed and a food concession trailer to existing facilities, on property located at 14529 Lee Road, tax map reference 34-3((1))34, 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 19, 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 I-5.
3. The area of the lot is 29.263 acres.
4. That compliance with the Site Plan Ordinance is required.
5. The property is zoned I-5 and is surrounded by other industrially zoned properties. It is in the Airport Noise Zone (65-70 dba ldn). A former full hearing was held and deferred from June 5, 1984 for information relative to the noise level on the nearby trailer court. That property was stated to be approximately 1,200 ft. from the subject property, and the first trailer another 25 ft. away. Mrs. Kelsey visited the trailer court and spoke with several of the occupants, giving them copies of the staff report. None of them seemed concerned enough to come to the meeting and offer objections. My impression is that they were rather noncommittal. Mr. Fagelson presented Mr. Miller, an acoustical consultant from Polysonics, who made an extensive report regarding the sound levels. Testimony indicates that the noise levels will not exceed the amount originally expected.

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 with the following limitations:

1. 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 hours of operation for the go-cart track shall be from 9:00 A.M. to 9:00 P.M.
6. The maximum number of employees shall be fifteen (15).
7. Parking shall be provided in accordance with the provisions of Article 11 and the maximum number of parking spaces shall be one hundred and forty-six (146).
8. The vegetation cover on the northern boundary shall be retained and a single row of evergreen trees shall be planted along the Lee Road lot line.
9. Interior parking lot landscaping shall be provided in accordance with Sect. 13-106 of the Zoning Ordinance.
10. The concession trailer shall only provide service to patrons of the recreational facility.
11. There shall be a maximum of ten (10) go-carts on the race track at any one time.
12. This use shall be subject to the provisions of the Water Supply Protection Overlay District and the Airport Noise Impact Overlay District.
13. The maximum sound pressure levels for this use shall not exceed 55 dBA on the property line of the Friendly Village Mobile Home Park.
14. The maximum noise level shall not exceed the maximum applicable noise level required by Fairfax County on all adjacent properties.
15. Within 90 days the applicant will provide a noise level reading of 8 go-carts on the site, taken at the lot line of the trailer park and at the lot line of the contiguous properties. Said readings will be taken between the hours of 6:00 P.M. to 9:00 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 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. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 0. (Mrs. Thonen being absent)

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Page 33, June 19, 1984, AFTER AGENDA ITEMS:

VC 84-L-090/Donald & Gabrielle Williamson: The Board was in receipt of an out-of-turn hearing request from Mrs. Williamson for a variance application filed on June 7, 1984 and currently scheduled for September 11, 1984. It was the consensus of the Board to deny the request, and leave the application on the September 11th schedule.

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Page 33, June 19, 1984, AFTER AGENDA ITEMS:

The Board approved the minutes for June 5, 1984 and for July 27 & July 29, 1982, as presented.

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Page 33, June 19, 1984, AFTER AGENDA ITEMS:

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 AND 5/1/84 & 6/5/84 TO ALLOW TIME FOR STAFF TO SUBPOENA THE CONTRACTOR RESPONSIBLE FOR THE WORK THAT HAD BEEN DONE IN ERROR.)

The Board discussed alternatives for the problems that had come up in connection with the above referenced Reyes case. The members voted to enforce the subpoena they had issued, and make an application back to the Circuit Court for a Civil Contempt proceeding.

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// 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 June 26, 1984

APPROVED: July 3, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 26, 1984. The following Board members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Gerald Hyland (arriving at 10:25 A.M.); Ann Day; and John Ribble. Mr. Paul Hammack and Mrs. Mary Thonen being absent).

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

The Chairman called for the scheduled case of:

10:00 A.M. SRS PROPERTIES, A VIRGINIA LIMITED PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to amend V-82-C-179 by changing height of proposed tower from 211 ft. to 215 ft. and distance from front lot line from 190 ft. to 175 ft. (215 ft. min. front yard req. by Sect. 5-507), located 8800 Ashgrove Ln., I-5, Centreville Dist., 29-1((1))pt. 10C, 9.0 acres, VCA 82-C-179-1.

Ms. Cheryl Hamilton presented the staff report. In response to questions from the Board, Ms. Hamilton stated that the Board of Supervisors had been aware of the need for the variance when they rezoned the property to I-5 in April 1981 as they had approved a special exception to allow the height of the tower to 211 ft. In October 1982, the BZA approved a variance to allow a 211 ft. tower to be located 190 ft. from Ashgrove Lane and to allow a 20 ft. high building to be located 18 ft. from Ashgrove Lane. That variance had since expired. Ms. Hammack informed the Board that the actual height of the tower was 215 ft. and the applicant had requested an amendment to the special exception which was approved by both the Planning Commission and the Board of Supervisors in June 1984.

Mr. Gregory Lukmire, of LBC&W, Architects in Falls Church, represented SRS Properties. For background purposes, Mr. Lukmire explained that at the time they had submitted the general development plan, Ashgrove Lane was not defined as a public street but as a service drive. Accordingly, the yard area was defined as a side yard which did not have any setback restrictions. After working with the citizens to submit a plan approved by all, the applicants were informed that the project no longer met the setbacks because the County had changed the definition of Ashgrove Lane to a public street which changing the yard area to a front yard. When reworking the plan, it was discovered that the original dimensions scaled off from the base of the tower to Ashgrove Lane indicated as 190 ft. had been to the curb lane rather than the right-of-way. The correct distance was 175 ft.

For justification of the variance, Mr. Lukmire stated that the hardship remained the same as before. The property was irregularly shaped. There was no one else to speak in support of the application and no one to speak in opposition.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VCA 82-C-179-1 by SRS PROPERTIES, A VIRGINIA LIMITED PARTNERSHIP under Section 18-401 of the Zoning Ordinance to amend V-82-C-179 by changing height of proposed tower from 211 ft. to 2154 ft. and distance from front lot line from 190 ft. to 175 (215 ft. min. front yard req. by Sect. 5-507), on property located at 8800 Ashgrove Lane, tax map reference 29-1((1))pt. 10C, 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 26, 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 I-5.
3. The area of the lot is 9.0 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow and has exceptional topographic problems.

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 as Ashgrove Lane was redefined by the County from a service drive to a public street.
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 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 is to allow the tower to be located 175 feet from Ashgrove Lane shall automatically expire, without notice, twelve (12) 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 to 0 (Mrs. Thonen, Messrs. Hyland and Hammack being absent).

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Page 35, June 26, 1984, Scheduled case of

10:15 A.M. WILLIAM R. HAYES, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage 8 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-107 & 10-104), located 2215 Sandburg St., Dunn Loring Subd., R-1, Providence Dist., 39-4((1))96, 28,714 sq. ft., VC 84-P-033.

Ms. Cheryl Hamilton presented the staff report and informed the Board of a possible violation on the property. During a site inspection, it had been noted that an existing storage shed located 0.6 ft. from the side lot line appeared to exceed 7 ft. in height. Ms. Hamilton was unable to locate building permits for either the storage shed or the dwelling which had been constructed in 1945.

Mr. William R. Hayes of 2215 Sandburg Street in Dunn Loring stated that he was requesting a hardship variance in order to build a detached garage 20 ft. wide by 30 ft. deep. He wished to place the garage 8 ft. from the side property line. His property was zoned R-1 and had a side yard restriction of 20 ft. Even though the minimum lot width for the R-1 zone was 150 ft., Mr. Hayes'lot was less than half the requirement being 70 ft. wide. Mr. Hayes stated that his house could not be relocated. He desired to align the garage with

the driveway. For comparison purposes, Mr. Hayes indicated that in the R-4 cluster zoning district, the minimum lot width was 70 ft. and the side yard setback was 8 ft. If his lot was zoned R-4 cluster, there would not be a need for a variance.

Mr. Hayes stated that in checking old and new construction in his area, he had never seen a garage placed directly the house. He indicated that he could not attach the garage to the dwelling as it would extend over onto the adjoining property. Construction in conformance with the setback requirements, would place the garage behind the dwelling blocking the view of the back yard. Mr. Hayes stated that he had resided on the property for seven years. If the variance were approved, the existing shed would be removed.

In response to questions from the Board, Mr. Hayes stated that his neighbors' dwellings were at least 200 ft. away from his proposed garage. There was no one else to speak in support and no one to speak in opposition.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-033 by WILLIAM R. HAYES under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 8 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-107 & 10-104), on property located at 2215 Sandburg Street, tax map reference 39-4((1))96, 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 26, 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 28,714 sq. ft.
4. That the applicant's property is exceptionally narrow in shape being only 70 ft. wide and appears to be the most narrow lot in the neighborhood. The other properties have garage the same distance the applicant is proposing. The applicant had cited the Zoning Ordinance for the R-4 Cluster zoning district which has a width of 70 ft. and a setback of 8 ft which is the same as he is requesting. This was a unique and individual hardship and not the run of the mill situation. If the applicant built the garage 20 ft. inside the side lot line, he would not be able to view his garden, his child's play area or any activity for approximately 40 ft. of the back lot. To turn the garage around would make it even longer and more sight disruptive. The applicant had indicated that should the variance be granted, he would dismantle the shed in the back yard.

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:

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.

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. DiGiulian seconded the motion.

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

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Page 37, June 26, 1984, Recess

At 10:40 A.M., the Chairman Smith recessed the meeting. The Board reconvened at 10:50 A.M. with Mr. DiGiulian acting as Chairman in Mr. Smith's absence.

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Page 37, June 26, 1984, Scheduled case of

10:30 A.M. TDC - HARWOOD VENTURE AT FAIR OAKS 2, appl. under Sect. 18-401 of the Ord. to allow construction of office building 74 ft. from street line (85 ft. min. front yard req. by Sect. 4-707), Fairfax Associates, C-7, Providence Dist., 46-3((8))12 and 56-1((12))19, 5.1436 acres, VC 84-P-034.

Ms. Cheryl Hamilton presented the staff report. Mr. Carson Lee Fifer represented the applicants. He indicated that they were requesting a nominal variance. Originally it had not been clarified as to what type lot this was. If it was deemed a corner lot, there would not be a need for the variance. However, under the definition of corner lot, if there was in intersection with interstate highway, it was not a corner lot. The applicants were 11 ft. short of satisfying the 85 ft. front setback requirement.

Mr. Fifer explained that the applicants' property was shaped like a flattened angel fish. Unfortunately, the building could not be located in the fattest part towards I-66. The building was located parallel to Legato Road. Shifting the building would not satisfy the setback requirement. If the building were moved closer to the mall, the applicants would lose a whole row of parking spaces and the turning radius necessary for emergency vehicles. Additionally, because the building was located in the regional mall, they were subject to certain design and landscaping criteria. Mr. Fifer did not believe they would be able to get approval from the mall if the building was squeezed forward.

Other alternatives had been assessed such as purchasing part of the roadway or shaving off one end of the building but it had been determined that it would destroy the balance of the building as well as creating an economic chaos. Mr. Fifer stated that this was a bad lot resulting from poor planning. However, the applicant was attempting to develop it into a attractive site. It was not possible without the variance. Mr. Fifer informed the Board that similar situations did not exist anywhere else in the mall.

In response to questions from the Board, Mr. Fifer stated that the footings had already been constructed in accordance under a modified plan when they were under the impression that it was a side yard. The footings were in place at the 74 ft. setback. Mr. Fifer stated that he explored the possibility of an administrative process but the error slightly exceeded the 10% specified under the Ordinance.

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

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-034 by TDC -HARWOOD VENTURE AT FAIR OAKS 2 under Section 18-401 of the Zoning Ordinance to allow construction of office building 74 ft. from street line (85 ft. min. front yard req. by Sect. 4-707), on property located at 2215 Sandburg Street, tax map reference 46-3((8))12 and 56-1((12))19, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 26, 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-7.
3. The area of the lot is 5.1436 acres.
4. That there has been testimony received in evidence which indicates compliance with the provisions of the Ordinance sufficient to justify the granting of the variance. A review of the plat shows that there is an extremely irregular shape of the lot and topographic considerations which are pertinent to the application. The unusual circumstance concerning the existence of the interstate which creates an issue as to what is a side lot and what is a front lot, poses an interesting dilemma for the applicant who wants to reasonably develop the property. The proposal is a reasonable development of the property. Mr. Hyland indicated that he could not think of any other case except one since he had been on the Board where there was clear justification for the granting of the variance which was in the interests of Fairfax County and the applicant and had absolutely no adverse effect on any contiguous property owner. On the contrary, it had a beneficial effect to grant 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.
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.

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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 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 to allow the building to be located 74 feet from Legato Road 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 to 0 (Mrs. Thonen, Messrs. Smith and Hammack being absent).

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Page 39, June 26, 1984, Scheduled case of

10:45 A.M. PAUL J. MILLER, appl. under Sect. 18-401 of the Ord. to allow enclosure of a carport for garage 11.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7204 Gulf Hill Ct., Wellfleet Subd., R-3, Lee Dist., 91-4((6))15, 19,973 sq. ft., VC 84-L-065.

Ms. Cheryl Hamilton presented the staff report. Mr. Paul J. Miller of 7204 Gulf Hill Court informed the Board that his variance request was straight forward as he wanted to enclose an existing carport into a garage. He stated that he wished to improve his house. It was one of the few in the court and in the area not having a garage. Because of that fact, his house looked different from all the others. The enclosure of the carport would alleviate the northwest wind blowing into the utility room freezing the plumbing and help him reduce his utility bills. The garage would be used for storage and would house the garbage cans raided by the raccoons in the neighborhood.

The shape of the lot was such that if the house had been placed further back on the property, a variance would not have been necessary. Only one corner of the structure would require the variance as it was located 11.1 ft. from the side lot line.

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

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-L-065 by PAUL J. MILLER under Section 18-401 of the Zoning Ordinance to allow enclosure of a carport for garage 11.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 7204 Gulf Hill Court, tax map reference 91-4((6))15, 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 June 26, 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 19,973 sq. ft.
4. That the applicant's property is exceptionally irregular in shape and the requested variance is minute being only 0.9 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 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. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mrs. Thonen, Messrs. Smith and Hammack being absent).

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Page 40, June 26, 1984, Scheduled case of

11:00 A.M. KINGS RIDGE SWIM CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend S-292-76 for community swimming pool to permit increase in membership from 350 to 400, located 4874 Gainsborough Dr., Kings Park West Subd., R-2, Annandale Dist., 68-2((5))V, 2.91 acres, SPA 76-A-292-1.

Ms. Cheryl Hamilton presented the staff report which recommended approval of SPA 76-A-292-1 subject to the development conditions in Appendix I. The only issue concerned the

parking. Mr. John Shilling, Secretary of the Kings Ridge Swim Club, informed the Board that they wanted to increase the membership from 350 members to 400 members. He indicated that the swim club needed a broader base to spread out the cost of maintaining the facility. The club could easily accommodate the increased membership because of the large number of absentee members. Mr. Shilling stated that the parking was sufficient for the club's needs even during swim meets. In response to questions from the Board, Ms. Hamilton stated that parking was based on one parking space for every seven persons allowed in the pool.

Mrs. DePersig of 4830 Gainsborough Drive, Membership Chairman of the Club, informed the Board that there were two permanent families living outside of the Kings Park subdivision who were members of the club. The club had opened its membership to families outside the immediate community in order to accommodate these two families who had moved from Kings Park but still wished to participate in the club's activities. Mr. Dave Jesmer of 10301 Nantucket Drive, President of the Kings Ridge Swim Club, verified that the main purpose of the special permit amendment was to allow the expansion of the membership base. He indicated that there was a waiting list and the club wanted to be able to offer membership to residents outside the community. Mr. Jesmer explained how the swim meets functioned and assured the Board that the parking could be contained on the site.

There was no one else to speak in support and no one to speak in opposition. In response to questions from the Board regarding a letter of opposition from Mr. Delvo, Mr. Jesmer stated that the club would be willing to construct a fence on the southern perimeter of the club property.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 76-A-292-1 by KINGS RIDGE SWIM CLUB, INC. under Section 3-203 of the Zoning Ordinance to amend S-292-76 for community swimming pool to permit increase in membership from 350 to 400, on property located at 4874 Gainsborough Drive, tax map reference 68-2((5))V, 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 26, 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 2.91 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.

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4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The membership shall be limited to no more than 400 families.
6. The hours of operation shall be from 10:00 A.M. to 9:00 P.M.
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 A written 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 maximum of four (4) employees.
9. There shall be fifty-seven (57) parking spaces and all parking for this use shall be on-site.
10. The barrier requirement shall be waived provided the fencing is retained around the pools as indicated on this plat.
11. Transitional Screening 1 shall be provided along the northern boundary as required by Article 13 of the Zoning Ordinance. The existing transitional screening around the eastern, western, and southern boundaries shall be retained.
12. The Kings Ridge Swim Club shall construct a fence along the entire southern perimeter as a good neighbor policy.

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. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Mrs. Thonen, Messrs. Smith and Hammack being absent).

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Page 42, June 26, 1984, After Agenda Items

ZONING ORDINANCE AMENDMENTS: The Board was in receipt of a memorandum from the Zoning Administrator regarding proposed Zoning Ordinance Amendments. Mr. Hyland inquired if any of the proposed amendments included the enclosure of carports. Mrs. Kelsey informed the Board that she would check with the staff person responsible for the amendments and advise the Board after their luncheon recess.

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Page 42, June 26, 1984, After Agenda Items

ZONING INTERPRETATION NUMBER 52: The Board was in receipt of Interpretation No. 52 relating to accessory uses for churches. Mr. Hyland inquired whether June 14th would be considered the time clock from which the 30 days to appeal the Zoning Administrator's interpretation would run. Ms. Kelsey responded that any future appeal would be timed from the June 14th issued date.

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Page 42, June 26, 1984, Recess

At 11:50 A.M., the Board recessed the meeting for lunch. Mr. DiGiulian departed the meeting at 11:50 A.M. and was not present for the remainder of the meeting. Chairman Smith arrived at 1:00 P.M. to reconvene the meeting and continue with the scheduled agenda.

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Page 43, June 26, 1984, Scheduled case of

1:00 P.M. ERMANNO TONIZZO, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow addition to dwelling to remain 9.15 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 9620 Percussion Way, Symphony Hill West, R-2, Centreville Dist., 28-3((8))11, 15,072 sq. ft., SP 84-C-039.

As Mr. Tonizzo or his agent were not present when the case was called, the Board passed over the special permit application.

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Page 43, June 26, 1984, After Agenda Items

WRIT OF CERTIORARI: The Board was in receipt of a Writ of Certiorari involving the United Artists Communications, Inc. special permit application, SP 84-P-013 filed by the Board of Supervisors. Mr. Hyland moved to direct the Clerk to prepare a memorandum to the County Executive seeking a defense fund not to exceed $2,500. In addition, he moved that the Clerk forward a copy of the memorandum and the Writ of Certiorari to Mr. Brian McCormack who had served as counsel for the BZA in previous litigation matters. Mr. Ribble seconded the motion. The motion passed by a vote of 4 to 0 (Mrs. Thonen, Messrs. DiGiulian and Hammack being absent).

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Page 43, June 26, 1984, Passed case of

1:00 ERMANNO TONIZZO, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow addition to dwelling to remain 9.15 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 9620 Percussion Way, Symphony Hill West, R-2, Centreville Dist., 28-3((8))11, 15,072 sq. ft., SP 84-C-039.

Chairman Smith recalled the passed over case of Ermanno Tonizzo. Ms. Cheryl Hamilton presented the staff report. Ms. Hamilton noted that the shed on the subject property appeared too tall to meet the requirements of the Ordinance. However, she informed the Board that the shed was not a part of this application and she did not wish to prejudice the applicant's case. After discussion from the Board concerning such inclusions in the staff report, Ms. Kelsey suggested that the Board set up a meeting with staff to discuss policies regarding site inspections for staff reports.

Chairman Smith stated that he appreciated the staff's efforts but indicated that if certain aspects of the property were not in violation, then they should not be mentioned in the staff report. For clarification purposes, Ms. Kelsey informed the Board that this application was based on an alleged building error. The staff had some concerns regarding the site which they had included in the report. The only way to specifically inform the Board as to whether or not there was any violation would be to defer the application for additional information. Chairman Smith instructed the staff to give the Board what information was available and allow the applicant an opportunity to verify or deny the information.

Ms. Hamilton informed the Board that the structures in the rear yard exceeded the 30% rear yard coverage allowed under the Zoning Ordinance. In response to questions from the Board, Ms. Hamilton stated that a building permit had been obtained for the construction of the pool but it only included the interior and not the deck. The combination of the pool, deck and shed exceeded the allowable coverage.

Mr. Tom Perrott, an attorney of the firm, Malloy & Johnson at 307 Maple Avenue in Vienna, represented Mr. Tonizzo. Mr. Perrott apologized to the Board for not being present at the time the application was first called. He also stated that he had been retained by Mr. Tonizzo the day before. Mr. Perrott stated that construction was begun under a mistake. It was apparent that the structure exceeded the side lot yard requirement. However, the applicant had incurred considerable expense. The majority of the neighbors felt the addition would be an enhancement. The only objecting party was the owner of lot 4, Mr. Dittrick, whose property barely adjoined Mr. Tonizzo's property. Mr. Dittrick was concerned about the location of the shed and not the addition to the dwelling.

Mr. Perrot stated that an error occurred in the location of the building. Mr. Tonizzo of 9620 Percussion Way informed the Board that he had hired a contractor to construct the addition. In 1975, Mr. Tonizzo had inquired about the construction of an addition and was informed the side setback was 9 ft. At that time, he proceeded with the concrete slab. Now, eight years later, Mr. Tonizzo had the contractor begin construction of the addition prior to the application of a building permit because he felt he met the side yard setback. When application was made for the building permit, it was discovered that the structure did not comply.

In response to questions from the Board, Mr. Tonizzo stated that the structure was not completed and was only a shell. The work had been by a friend of Mr. Tonizzo. The foundation built eight years ago had not been inspected by the County prior to construction.

Because of the questions involved in the application and because the law firm had only been retained a day before the hearing, Mr. Perrott suggested that the Board defer the hearing to allow him to gather the facts. Chairman Smith requested the attorney to have the contractor appear at the next hearing. He further requested a copy of the contract be provided to the Clerk five days prior to the hearing. Chairman Smith instructed the staff to find out the shed. He indicated that it might be wise to issue a violation notice.

Mr. Hyland moved that the Board grant the attorney's request for deferral. And, because of the number of issues involved, he suggested a hearing date in September. Mr. Ribble seconded the motion. The motion passed by a vote of 4 to 0 (Mrs. Thonen, Messrs. DiGiulian and Hammack being absent). It was the consensus of the Board to defer the hearing until September 25, 1984 at 10:30 A.M.

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Page 44, June 26, 1984, Scheduled case of

1:15 P.M. MAYFAIR MANOR, INC., appl. under Sect. 3-2003 of the Ord. for an extension of temporary special permit for subdivision sales office and model home, located 10206 and 10204 Baltusrol Ct., Mayfair at Oakton, R-20, Providence Dist., 47-4((9))12 & 13, 3,124 sq. ft., SP 84-P-040.

As the special permit application needed to be amended, the applicant had verbally requested a deferral. It was the consensus of the Board to defer the application until September 25, 1984 at 10:45 A.M.

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Page 44, June 26, 1984, Scheduled case of

1:30 BURKE UNITED METHODIST CHURCH, appl. under Sect. 6-303 of the Ord. to amend S-81-S-057 for a child care center to permit occupancy of new building with the use, increase in max. no. of children to 99, and change operating hours to Monday - Friday from 9 A.M. to 1 P.M., located 6200 Burke Centre Parkway, Burke Centre, PRC, Springfield Dist., 78-3((17))A2, 3.8576 acres, SPA 81-S-057-1.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the application if the hours of operation were restricted to non-peak traffic hours and if the maximum number of children were reduced from 99 to 75 students. This would alleviate the requirement for a left-turn deceleration turn.

Mr. Steven Jones, Pastor of the Burke United Methodist Church, agreed with the development conditions contained in the staff report. He indicated that the child care center would operate from 9:30 A.M. until 2:00 P.M., Monday through Friday.

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

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 81-S-057-1 by BURKE UNITED METHODIST CHURCH under Section 6-303 of the Zoning Ordinance to amend S-81-S-057 for a child care center to permit occupancy of new building with the use, increase in maximum number of children to 99, and change operating hours to Monday through Friday from 9 A.M. to 1 P.M., on property located at 6200 Burke Centre Parkway, tax map reference 78-3((17))A2, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 26, 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 3.8576 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 maximum daily enrollment shall be limited to no more than seventy-five (75) children.
6. The hours of operation shall be no earlier than 9:30 A.M. and no later than 2:00 P.M.
7. There shall be thirty-three (33) parking spaces.
8. Dedication to 45 feet from the centerline of Burke Lake Road shall be provided and access to the site from Burke Lake Road shall be closed during the hours of operation.
9. The barrier requirement shall be waived.
10. The Transitional Screening 1 requirement shall be modified provided that the existing vegetation is retained.

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. Ribble seconded the motion.

The motion passed by a vote of 4 to 0 (Mrs. Thonen, Messrs. DiGiulian and Mr. Hammack being absent).

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Page 45, June 26, 1984, After Agenda Items

SERVICE OF WRITS: The Board discussed the memorandum received from Mr. Yates regarding the Clerk accepting service of Writs addressed to the Board of Zoning Appeals. If service was individually addressed to Board members, the Clerk was not allowed to accept service.

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Page 45, June 26, 1984, After Agenda Items

ZONING ORDINANCE AMENDMENTS: Ms. Kelsey informed the Board that during the luncheon recess she had an opportunity to discuss the amendments with Mr. Yates'staff. She stated that the present proposed amendments did include carports which could be extended under a special permit process. In addition, a carport was redefined under the proposed amendment and would no longer allow a shed at the rear of the structure.

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// There being no further business, the Board adjourned at 2:10 P.M.

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

Submitted to the Board on July 3, 1984

Daniel Smith
Daniel Smith, Chairman

Approved: July 10, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 3, 1984. The Following Board Members were present: Daniel Smith Chairman; Ann Day; Paul Hammack; John Ribble and Mary Thonen. (Messrs. John DiGiulian and Gerald Hyland were absent).

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

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

10:00 A.M. CLAWES CARPETS, INC., appl. under Sect. 18-401 of the Ord. to allow construction of addition to building to 3 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 4-507), located 8716 Little River Trnpk., C-5, Mason Dist., 59-3((1))8B, 8,150 sq. ft., VC 84-M-073.

Mr. William Shoup presented the staff report. Mr. Grayson Hanes of 4084 University Drive in Fairfax represented the applicant. Mr. Hanes informed the Board that Clawes Carpets presently operated a business on Braddock Road which was closing. They purchased the property on Little River Turnpike to continue their small family business. Next door to the property was a 7-11; Guaranty Bank was to the west; and Long & Foster Real Estate was located to the north. Residential characterized the property to the south.

Mr. Hanes stated that the strip along Little River Turnpike had been zoned commercial since the 60s. It had been zoned prior to the adoption of the current Zoning Ordinance. Its prior category was C-N but was now under the C-5 regulations. There was a 26 ft. service drive along the front of the property which had been dedicated by the previous property owner. The rear setback had been waived at that time and Guaranty Bank and the 7-11 built structures almost up to the rear property line. The C-5 zone required a 20 ft. rear setback. The applicant was asking that the setback waived so that he could construct an addition to the existing building.

Mr. Hanes explained to the Board that the C-5 zoning classification carrier over to the property with the adoption of the 1978 Zoning Ordinance. However, the property did not fit the C-5 regulations. The minimum lot area for C-5 was 40,000 sq. ft. The property consisted of 8,000 sq. ft. The property was very shallow, being 80 ft. in depth. The other adjoining properties had structures constructed similarly along the rear property line. There was not any opposition to the proposed addition.

The purpose of the addition was to store the carpet rolls weighing approximately 700 to 800 lbs. If there was room to store the carpet rolls, the applicant could purchase machinery to lift and unload the rolls. The remainder of the building would be used for office space and the retail sales.

Mr. Hanes explained that if the property had been developed when the dedication took place, there would not have been the need for the variance. Mr. Hanes stated that he had meet with the civic association for the residents to the south and there was not any objection to the variance request.

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

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-073 by CLAWES CARPETS, INC. under Section 18-401 of the Zoning Ordinance to allow construction of addition to building to 3 ft. from rear lot line (20 ft. min. rear yard req. by Sect. 4-507), on property located at 8716 Little River Turnpike, tax map reference 59-3((1))8B, 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 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 C-5.
3. The area of the lot is 8,150 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 had exceptional shallowness 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.

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

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

4. If the parking lot is to be redesigned, such shall comply with all applicable provisions of Article 11 of the Zoning Ordinance and the Public Facilities Manual and shall be subject to the approval of a site plan in accordance with Article 17 of the Zoning Ordinance.

Mrs. Day seconded the motion.

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

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Page 48, July 3, 1984, Scheduled case of

10:15 A.M. ANTHONY R. AUDIA, TRUSTEE, appl. under Sect. 18-401 of the Ord. to allow subdivision into five (5) lots, with proposed lots 3, 4, and 5 having widths of 8.5 ft. each (80 ft. min. lot width req. by Sect. 3-306), located 6601 Old Chesterbrook Rd., R-3, Dranesville Dist., 30-4((1))59, 1.94 acres, VC 84-D-074.

The Board was in receipt of a letter from Mr. Charles L. Shumate requesting a deferral of the variance application to allow him to work out some problems with an adjoining property owner. Mrs. R. H. Perlich, an adjoining property owner, was present with her attorney and was concerned that she had not been notified regarding the deferral. It was the consensus of the Board to defer the application until Tuesday, September 11, 1984 at 1:30 P.M.

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10:30 A.M. GEORGE J. & MARY M. KELHART, appl. under Sect. 18-401 of the Ord. to allow construction of porch addition to dwelling to 21.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-407), located 2118 Natahoa Ct., Powhatan Hills Subd., R-4, Dranesville Dist., 41-1((25))15, 8,464 sq. ft., VC 84-D-075.

Mr. William Shoup presented the staff report. Mr. George J. Kelhart of 2118 Natahoa Court informed the Board he was requesting a 4 ft. variance in order to build a screened porch. Mr. Kelhart stated that his application satisfied the nine standards. His property had an unusual condition with respect to adjoining property. WEAM radio station had four radio towers located behind his property. There was nothing there but an open field and the radio antennas. Mr. Kelhart informed the Board that for the past ten years he had been maintaining the property in order to keep the area mowed.

Mr. Kelhart informed the Board that his present home was too small for his family. They needed more living and dining space. The present 8'x12' kitchen was too small. Mr. Kelhart proposed constructing a screened porch addition with a small deck or landing with steps leading to the back yard. Mr. Kelhart presented the Board with a letter of support from the neighbor most affected by the variance.

In summary, Mr. Kelhart stated that he was planning to replace his present screened porch and enlarge the kitchen and eating space of his home. There was no one else to speak in support and no one to speak in opposition.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-D-075 by GEORGE J. & MARY M. KELHART under Section 18-401 of the Zoning Ordinance to allow construction of porch addition to dwelling to 21.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-407), on property located at 2118 Natahoa Court, tax map reference 41-1((25))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 July 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-4.
3. The area of the lot is 8,464 sq. ft.
4. That the applicant's property is an irregular lot. It backs up to the WEAM radio towers.

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.

Mr. Ribble seconded the motion.

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

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Page 50, July 3, 1984, Scheduled case of

10:45 A.M. RONALD S. FECSO, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 8.1 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 7117 Judith Ave., Windsor Estates, R-1, Lee Dist., 91-3((3))14, 26,050 sq. ft., VC 84-L-079.

Mr. William Shoup presented the staff report. He informed the Board that the existing structure was located 19.6 ft. from the side lot line which did not conform to the 20 ft. minimum setback requirement. However, the applicant was seeking approval from the Zoning Administrator because the error was less than 10%. In response to questions from the Board, Mr. Shoup stated that the structure had been built in the 70s. Mr. Shoup indicated that it was thought that error occurred because the structure had been laid out improperly.

Mr. Ronald S. Fecso informed the Board that he had not been aware of the error with respect to the existing structure when he purchased the property. It had been discovered during the staff analysis with his variance application. Mr. Fecso stated that he had been led to believe that the original owner had planned to construct a garage but did not have the money.

Mr. Fecso informed the Board that he had purchased his home in a nice area. He found an affordable home that needed some corrections. The property was narrow and the topography prohibited him from building on the left hand side of the lot. There were serious drainage problems and he had been cautioned by the Supervisor for the Lee District from building anything to the left. Any addition in that area would be ruined by water.

Mr. Fecso stated that his home was substandard to other homes in the area in that it did not have a utility room, air conditioner or suitable storage in the kitchen. There was only one bathroom in the house. Mr. Fecso proposed to upgrade his home to the standards of the other homes existing in the area.

There was no one else to speak in support and no one to speak in opposition. Mr. Fecso presented the Board with a letter of support from the neighbor most impacted by the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-L-079 by RONALD S. FECSO under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8.1 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), on property located at 7117 Judith Avenue, tax map reference 91-3((3))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 July 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-1.
3. The area of the lot is 26,050 sq. ft.
4. That the applicant presented a very thorough explanation of the reason for his request. The pictures draw out the topography and drainage problem that exists which is a very unusual, severe hardship to the applicant. The applicant cannot build on the left side of his house due to severe, topographical drainage problems from Beulah Park across the rear of his lot to the left side of his house. The applicant has stated that his house is under developed in comparison with the neighboring properties. The proposed garage will enable the applicant to improve his living conditions. He stated how cramped the family was for comfort. And, the said addition would be a benefit to 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.
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. However, no Building Permit shall be issued for the construction of the garage addition until the Zoning Administrator approves the location of the existing dwelling or the structure is altered so that it complies with the minimum side yard requirement.

Mrs. Thonen seconded the motion.

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

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Page 52, July 3, 1984, Scheduled case of

11:00 A.M. WILLIAM J. MURPHY, appl. under Sect. 18-401 of the Ord. to allow construction of porch addition to dwelling to 21.5 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 13403 Catoctin Ct., Reflection Lake Subd., R-3(C), Dranesville Dist., 16-1((8))458, 9,082 sq. ft., VC 84-D-081.

Mr. William Shoup presented the staff report. Mr. William J. Murphy of 13403 Catoctin Court in Vienna informed the Board that his home was built in 1980. The property was irregularly shaped due to the pie-shape of the lot. Mr. Murphy stated that due to the location of the house to the side lot line, it precluded building any usable screened porch or deck. Mr. Murphy stated that his family room was at the back of the house. The house was constructed close to the street which was different from the other homes in area.

Mr. Murphy stated that he had considered building only a deck at that location but his property was located near a lake infested with gnats and mosquitoes which would have prohibited the enjoyment of his property. He wanted to build a 12'x12' screened porch. He explained that there were other cul-de-sacs in the area but his home was situated closer to the rear lot line than any other. The other homes had more rear yard area.

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

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-D-081 by WILLIAM J. MURPHY under Section 18-401 of the Zoning Ordinance to allow construction of porch addition to dwelling to 21.5 ft. from rear lot line req. by Sect. 3-307), on property located at 13403 Catoctin Court, tax map reference 16-1((8))458, 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 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.

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 exceptional shape being a pie-shaped lot with converging lot lines towards the front which prohibit building on either side.

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*

Mrs. Thonen seconded the motion.

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

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Page 53, July 3, 1984, Scheduled case of

11:15 A.M. ADRIAAN M. & ANTOINETTE C. VERSPOOR, appl. under Sect. 18-401 of the Ord. to allow construction of a room and a deck addition to dwelling to 15.8 ft. and 9.8 ft., respectively, from side lot lines (20 ft. min. side yard for the room, 14 ft. min. side yard for deck req. by Sects. 3-107 & 2-412), located 3056 Holmes Run, Bel Air Subd., R-1, Mason Dist., 50-4((21))11, 24,000 sq. ft., VC 84-M-082.

Mr. William Shoup presented the staff report. Mr. Adriaan M. Verspoor of 3056 Holmes Run in Falls Church informed the Board that he was requesting a variance for construction of additions to his home built in 1976. He stated that his lot was very narrow, being only 80 ft. wide which did not meet the R-1 zoning district minimum lot width. Mr. Verspoor stated that his house had a lot of problems such as a small master bedroom. The lot had drainage problems. Mr. Verspoor was proposing to build a master bedroom behind the house. The additions would not come any closer to the property line than the existing structure.

On the other side, Mr. Verspoor was proposing to replace an existing deck with a new deck and a roof to prevent the water drainage from damaging the side walls of his house. Again, this extension would not come any closer to the property line than the existing deck had been.

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

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-082 by ADRIAAN M. & ANTOINETTE C. VERSPOOR under Section 18-401 of the Zoning Ordinance to allow construction of a room and a deck addition to dwelling to 15.8 ft. and 9.8 ft., respectively, from side lot lines (20 ft. min. side yard for the room, 14 ft. min. side yard for deck req. by Sejcts. 3-107 & 2-4120, on property located at 3056 Holmes Run, tax map reference 50-4((21))11, 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

* 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 & must be filed with the Zoning Administrator prior to the exp. date.

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 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-1.
3. The area of the lot is 24,000 sq. ft.
4. That the applicant's lot which is only 24,000 sq. ft. is in a R-1 District which is a substandard size lot. The lot is narrow being only 80 ft. in the R-1 District.

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 locations 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 prior to the expiration date.

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

4. The shed at the rear of the property shall be relocated so that it is entirely on the property and in compliance with all applicable Zoning Ordinance provisions.

Mrs. Thonen seconded the motion.

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

Page 55, July 3, 1984, After Agenda Items

ST. FRANCIS EPISCOPAL CHURCH, SPA 82-D-087-1: The Board was in receipt of a request from Mr. Charles Runyon for an out-of-turn hearing for the special permit amendment of St. Francis Episcopal Church. The purpose of the amendment was to allow a relocation of the parking lot from one side of the property to the other. Mr. Hammack moved that the Board deny the out-of-turn hearing request. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian & Hyland being absent).

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Page 55, July 3, 1984, After Agenda Items

CHRISTIAN ASSEMBLY CENTER, SP 84-P-055: The Board was in receipt of a request from Mr. Daniel B. Duis of the Christian Assembly Academy for an out-of-turn hearing on a special permit application for a private school of general education. After discussion as to the cause in the delay of the processing of the application, Mr. Hammack moved that the Board grant the out-of-turn hearing request. Mr. Ribble seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian & Hyland being absent).

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Page 55, July 3, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for June 14, 1984. Mrs. Day moved that the minutes be approved as submitted. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian & Hyland being absent).

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Page 55, July 3, 1984, After Agenda Items

PULTE HOME CORPORATION, CONTRACT PURCHASER, A-84-L-004: The Board was in receipt of a memorandum from the Zoning Administrator forwarding the appeal filed by Pulte Home Corporation. Mr. Ribble moved that the appeal be accepted as timely filed and indicated a scheduleding date of September 25, 1984 at 10:00 A.M. Mr. Hammack seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian & Hyland being absent).

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Page 55, July 3, 1984, After Agenda Items

J. L. SIBLEY JENNINGS, A.I.A., SP 84-L-056: The Board was in receipt of a request from J. L. Sibley Jennings for an out-of-turn hearing of the special permit application for a home professional office at Huntley Mansion. It was the unanimous consensus of the Board to deny the request.

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Page 55, July 3, 1984, Recess

At 11:55 A.M., the Board recessed for lunch and reconvened at 1:00 P.M. to continue with the scheduled agenda.

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Page 55, July 3, 1984, Scheduled case of

1:00 P.M. STEVE W. & LUANA J. SAKAS, appl. under Sect. 18-401 of the Ord. to allow construction of a dwelling on a presently designated outlot having width of 84.16 ft. (100 ft. min. lot width req. by Sect. 3-206), located 2203 Sandburg St., Dunn Loring Subd., R-2, Providence Dist., 39-4((1))90B, 20,685 sq. ft., VC 84-P-083.

Mr. William Shoup presented the staff report. In response to questions from the Board concerning the lot width of the outlot, Mr. Shoup explained that the 6.71 ft. jag in the property line could not be counted as lot width for both the lot 1 and the outlot A. For background purposes, Mr. Shoup stated that a rezoning to the R-3 category had been applied for the property. However, the Board of Supervisors only approved rezoning to the R-2 category and it had been proferred that the property would not be subdivided into more than three lots. To clarify the development conditions, Mr. Shoup asked that a second sentence be added to the first condition to read: "This approval is for a minimum lot width for lot 90B of not less than 84.16 ft." For the record, Mr. Shoup indicated that lot 90B was the outlot A.

Mrs. Luana J. Sakas of 2203 Sandburg Street informed the Board that she and her husband lived on lot 2 and had sold lot 1. They purchased the property in 1981 after the rezoning and went throught the subdivision process in January 1983. The plat indicated that there was not 100 ft. lot width for the lots. Mrs. Sakas stated that a waiver was obtained from the Department of Environmental Management for the lots not having public street

frontage. The Sakas proceeded to sell lot 1. Three days before settlement, they were informed by the County that the lot did not have 100 ft. frontage. It was suggested that they cut the jag in order to sell lot 1 and apply for a variance on the middle lot. In order to get the subdivision through, the middle lot was shown as an outlot. Mrs. Sakas stated that this was the thing available to them without delaying the settlement.

In response to questions from the Board, Mr. Sakas stated that he did not own any more land. They had purchased the property after it had been rezoned. They were not aware that the outlot was not a buildable lot. Mr. Sakas stated that he had approved from the County to have three lots without public street frontage.

For clarification purposes, Mr. Shoup stated that Mr. Hoops had owned the property when it was rezoned. The three lots conformed to the R-3 zoning category. When the property was approved foir the R-2 category, there was not way for the three lots to conform. The waiver from DEM did not give the applicant the right to subdivide into three lots. The waiver was only to allow the creation of the lots without public street frontage.

Mr. Sakas assured the Board it would be the County's best interest to approve the variance. Presently, he was only paying $29.40 in real estate taxes for the outlot. Mr. Sakas stated that he had sold a lot to Mr. Jim Havenner. Now, Mr. Havenner's brother wanted to purchase the outlot and build a home.

Mr. Jim Michael, owner of lot 94 on Sandburg, across from the Sakas' property informed the Board that he had no objection to the variance or the sale of the property. Mr. Jim Paul Havenner of Springfield informed the Board that he was the owner of lot 1 and intended to build a new house on the lot. His brother wanted to purchase the outlot and build a house next door to him. Mr. Havenner stated that he would much rather have a new house next door than a vacant lot as it would increase the value of his property. Mr. Havenner assured the Board that even though he and his brother were in the construction business, they were going to live in the homes.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-083 by STEVE W. & LUANA J. SAKAS under Section 18-401 of the Zoning Ordinance to allow construction of a dwelling on a presently designated outlot having width of 84.16 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 2203 Sandburg Street, tax map reference 39-4((1))90B, 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 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-2.
3. The area of the lot is 20,685 sq. ft.
4. That the Board was not certain that the mixup might not have been caused, to some degree, by the County and possibly by the man who sold it. The applicant's bought the property in good faith thinking that they could build the three houses. And in Fairfax County where the price of land is so high, it seems that it would be a disjustice if the Board made them keep that much land out of the construction business. Not only that, but with building the house, it would raise the taxes on the property. There is a private road there. The neighbor had a point about wanting help in keeping the road up.

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 of the subject property in the fact that they were financially squeezed and had to take the little jog out of the property. The applicant would not be given the normal use of the land if they were restricted which was almost a confiscation of the land.

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 Lot 90B as shown on the plat submitted with the application. This approval is for a minimum lot width for lot 90B of not less than 84.16 ft.

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 resubdivision of Lot 90B is recorded among the land records of Fairfax County, and construction of a dwelling has begun, 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. A Building Permit shall be obtained prior to any construction.

Mr. Hammack seconded the motion.

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

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Page 57, July 3, 1984, Scheduled case of

1:15 P.M. ROGER E. WHEELER, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow partially constructed garage addition to dwelling to remain 10.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 4213 Oak Hill Dr., Columbia Oaks Subd., R-2, Mason Dist., 71-2((6))23, 15,001 sq. ft., SP 84-M-046.

Mr. William Shoup presented the staff report which recommended denial of SP 84-M-046 for reasons indicated in the report. In response to questions from the Board, Mr. Shoup stated that research indicated that the applicant was aware of the problems with the property prior to purchase.

Mr. Roger E. Wheeler, owner the property at 4213 Oak Hill Drive, informed the Board that the Wilkersons owned the property previously. There was a change of plans about having the garage in the basement. New plans were drawn with the garage to the south. Mr. Wilkerson felt that the new plans were in accordance with the setbacks. The violation was discovered later by the Zoning Office. Mr. Wheeler stated that he did not feel that Mr. Wilkerson would have intentionally placed the garage in violation.

Mr. Wheeler informed the Board that he had read the letters in opposition and agreed that the wall was a safety hazard. However, he did not believe that the wall would fall over once the garage was completed. He also agreed that the privacy would be infringed upon. However, the screened porch would be the same distance as the garage. Mr. Wheeler explained that the house had been built on a hill and the back wall of the garage would be used as a retaining wall.

Mr. Wheeler stated that he was aware of the problem before he had submitted his second offer to the courts. He had been assured that there was not a problem in obtaining a variance and that if there was, he could still build a carport. Mr. Wheeler stated that his main objective was not financial gain but asthetics and safety. An open carport was an eyesore and hazardous to small children. A garage would provide security. Mr. Wheeler stated that his plan had been to complete the house to make it attractive to the area. He did not plan to live in the house.

The Board questioned why the structure had not been removed in compliance with the court order. Mr. Wheeler responded that time the court order was issued, he was already the owner of the property and had applied for a variance. Mr. Wheeler informed the Board that he had found out about the property through his business as a real estate agent. He had made two offers to the court on the property. In order to show the violation, Mr. Wheeler had amended his first offer to the courts by offering less money. He was aware that the garage could not be built without a variance. However, he could legally build a carport and screened porch above it.

There was no one else to speak in support of the application. Mr. Dan Dowell of 4217 Oak Hill Drive and his mother, Mrs. Lois Dowell, spoke in opposition to the variance. Mr. Dowell stated that Mr. Wheeler had reduced his first offer to the court by $16,500 because the wall would have to be torn down. Mr. Dowell stated that Mr. Wheeler was a land speculator and wanted a two car garage to further his financial gain. Mr. Dowell stated that he represented the nine families who had signed the petition and were unified in their opposition. Mr. Dowell stated that his mother had been present at the court hearing and heard the judge say that the structure would have to be brought into compliance. Mr. Dowell objected to the wall being built in error as the owner did not have a building permit.

During rebuttal, Mr. Wheeler stated that the property sloped and there was a lot of water. Mr. Wheeler asked that if the Board planned to deny his request, that they permit him to build the carport with the back retaining wall. Mr. Shoup explained to the Board that construction of a carport would not include the retaining wall unless the BZA granted the application in part. Chairman Smith stated that he was concerned about the Board granting any application, even in part, for any part of a structure that had not been built under a building permit process with the proper inspections.

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July 3, 1984 Page 58 Board of Zoning Appeals
ROGER E. WHEELER

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Day made the following motion:

WHEREAS, Application No. SP 84-M-046 by ROGER E. WHEELER 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 partially constructed garage addition to dwelling to remain 10.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 4213 Oak Hill Drive, tax map reference , 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 3, 1984; and,

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

1. That the applicant was fully aware of all the problems herein since he purchased the property after a court order. Such sales conditions are spelled out in hardship cases and the buyer is responsible to correct any violations.
2. The applicant has acknowledged that removal of the southern garage wall would be necessary.
3. To comply with the Zoning Ordinance provision would not cause an unreasonable hardship to the applicant.
4. And the retaining wall to the back of the carport will be removed.
5. The applicant has not presented testimony indicating compliance with Special Permits in the R-2 District as contained in Section 8-006 of the Zoning Ordinance.

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 & Hyland being absent).

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At 2:15 P.M., Mrs. Thonen left the Board meeting.

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Page 59, July 3, 1984 Scheduled case of

1:30 P.M. CAROLE R. NYSMITH, appl. under Sect. 6-303 of the Ord. for a private school of general education for 25 - 60 children, located 1529 Cameron Crescent Dr., PRC, Crescent Subd., Centreville Dist., 17-2((16))1A, 13.1123 acres, SP 84-C-041.

Mr. William Shoup presented the staff report which recommended approval of SP 84-C-041 subject to the conditions in Appendix I. Mr. Shoup informed the Board that the transportation analysis indicated that the maximum amount of traffic to be generated by the proposed use could present a significant traffic impact. The Office of Transportation did not object to the approval though because the applicant submitted a proposed busing plan to alleviate some of the traffic impact. The Board questioned the amount of traffic generated when the site was previously used as a community center and a preschool. Mr. Shoup responded that these uses had been shown on the original development plan. He did not know how much examination was given to the traffic impact at that time.

Mr. Robert Nysmith informed the Board that his wife would be the director of the school. She had been a teacher for 15 years and had worked with gifted children for the past 5 years. She had recognized the need for a gifted program for children under the third grade level. Mr. Nysmith informed the Board that the school would be integrated with the Fairfax County school system.

Mr. Nysmith stated that the proposed site, called the Roundhouse, was a unique area. There was an underpass beneath North Shore Drive and Lake Ann providing access to the Carter Glass library in total safety. Baron Cameron Park was also accessible and there was no problem with using the park for games and sports. Mr. Nysmith stated that this would allow over 61,000 sq. ft. of play area. There would never be more than 20 children out at any one time and they would be carefully monitored. The hours of operation would be from 8:30 A.M. until 2:30 or 3:30 P.M. This was a very quiet neighborhood. The largest traffic surveyed by Mr. Nysmith was ten cars. Mr. Nysmith stated that he did not see any traffic impact.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-C-041 by CAROLE R. NYSMITH under Section 6-303 of the Zoning Ordinance to permit private school of general education for 25 - 60 children on property located at 1529 Cameron Crescent Drive, tax map reference 17-2((16))1A, 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 3, 1984; 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 13.1123 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 Transitional Screening and Barrier requirement shall be waived provided the existing vegetation between the school building and the apartment building to the northeast is supplemented with evergreen plantings to reduce the visual impact, as determined by the Director, Department of Environmental Management (DEM).

6. There shall be fifteen (15) parking spaces provided for the exclusive use of the school during normal operating hours. A parking tabulation for the entire complex shall be provided to the Director, DEM at the time of site plan review.

7. A minimum of 30 per cent of the enrolled students shall be bused to the facility. The applicant shall provide assistance to patrons in establishing carpools.

8. The maximum daily enrollment shall be sixty (60) students.

9. The maximum number of employees at the site during any one school day shall not exceed eight (8).

10. The maximum number of children using the outdoor recreation area at any one time shall not exceed twenty (20).

11. Year round use of the school shall be permitted. This use includes after school classes for computer science and summer learning programs.

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 4 to 0 (Mrs. Thonen and Messrs. DiGiulian & Hyland being absent).

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// There being no further business, the Board adjourned at 2:25 P.M.

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

Submitted to the Board on July 10, 1984

Daniel Smith
Daniel Smith, Chairman

Approved: July 17, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 10, 1984. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Ann Day, John Ribble, Mary Thonen and Paul Hammack. Gerald Hyland 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. HARVEY & MARIANNA JAMES, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 6 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 4706 Tarpon Ln., R-2, Yacht Haven Estates, Mt. Vernon Dist., 110-3((4))(G)2, 21,825 sq. ft., VC 84-V-066.

Jane Kelsey reviewed the staff report for the Board. Harvey James, the applicant, presented his testimony. He stated that he had purchased the home in 1973. This property is fan-shaped, and construction on the other side of the house would have the same setback problem. He stated that to the rear of the house there were many old trees that he did not want to cut down. Other homes in the area are more traditional and most of them have one or two car garages. Mr. James stated that he had a side porch that overlooked the neighbors, and a garage would give them more privacy.

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-066 by HARVEY & MARIANNA JAMES under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 6 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 4706 Tarpon Lane, tax map reference 110-3((4))(G)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 July 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-2.
3. The area of the lot is 21,825 sq. ft.
4. The property has converging lot lines and is a fan-shaped lot. If this was on a more conventional lot, the applicant would not have this problem.
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 5 - 1 (Mr. Smith) (Mr. Hyland being absent)

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//The Board members spoke to the Chairman regarding the voting procedure. They indicated that they wished he would verbally state his vote for each case so they would know exactly what the count was. Chairman Smith stated that this was one of the privileges of the chair, and he did not wish to verbally state his position. He said he did not question any other Board member's vote, and he did not think it should concern them how he voted. Chairman Smith stated that if the Board wanted to make an issue about it, they should discuss it in executive session, not at an open BZA meeting.

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Page 62, July 10, 1984, Scheduled case of:

10:15 A.M. LANNY W. & SHARON A. MILOM, appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 lots, one of which would have width of 10 ft., (200 ft. min. lot width req. by Sect. 3-E06), located 11111 DeVille Estates Dr., R-E, DeVille Estates, Centreville Dist., 27-3((1))21, 5.0857 acres, VC 84-C-067.

Cheryl Hamilton reviewed the staff report for the Board. Jim DeVille, 11100 DeVille Estates Drive, the agent for the owners, presented the application. He stated that he had obtained approval from the BZA in July of 1981 for the subdivision of this property. The variance had expired because he was unaware he had to record the subdivision within eighteen months. He was unaware the variance had expired until he had a contract on the property for lot 1A. Since this matter came up at the closing, and he didn't want to lose the sale, he simply wrote an agreement that stated he would be responsible for taking it through the BZA procedure and retained rights to lot 1B. Mr. DeVille stated that this subdivision would enhance the value of the property which was located on thirty acres of watershed. He stated that if this was not granted, he would have an economic hardship.

Chairman Smith pointed out that the Board did not consider economic hardships, and he would have to meet the required standards for variances in Section 18-404 of the Ordinance. Mr. Ribble stated that the hardships seemed to be the same as when the last variance was granted. The property was irregular in shape and narrow.

Barbara Walsh, 2713 Colt Run Road, stated that she was not opposed, but that she was concerned about another driveway coming onto Stuart Mill Road. She stated that this was a dangerous, narrow corner, and she felt the road should be widened to improve sight distance. She indicated that there had been an accident involving a bus right in that area.

During rebuttal, Mr. Deville stated that he was dedicating space along the front of the property so that the road could eventually be widened. The subdivision of this property would not cause other entrances to be built. He stated that the entrance to Deville Estates had been carefully constructed.

There was no one else to speak in regard to the application.

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Page 62, July 10, 1984 Board of Zoning Appeals
LANNY W. & SHARON A. MILOM

RESOLUTION

In Application No. VC 84-C-067 by LANNY W. & SHARON A. MILOM under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots, one of which would have width of 10 ft. (200 ft. min. lot width req. by Sect. 3-E06), on property located at 11111 DeVille Estates Drive, tax map reference 27-3((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 July 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 5.0857 acres.
4. It seems that they have not met the criteria on pipestems. The pipestem lot would be substantially smaller than any of the adjoining lots and would be incompatible with the character of the development along Stuart Mill Drive. Also, lot 1A is smaller than what is recommended by the Comprehensive Plan. It appears that the applicant already enjoys reasonable use of the land. The proposed pipestem lot does not have reverse frontage. In reading through all of staff's recommendations, I feel that he has not met the nine standards for granting a variance. The way he has divided these lots he has created his own hardship. This is supposed to be contiguous to open space, and that is not so. It is only 21 feet from the other lot line.

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. (Mr. Hyland being absent)

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Page 63, July 10, 1984, Scheduled case of:

10:30 A.M. WILLIAM LIETO, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 12 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 6016 Kathmoor Dr., R-1, Kathmoor Subd., Lee Dist., 81-4((2))pt. of 10, 25,013 sq. ft., VC 84-L-068.

The clerk informed the Board that the notices were not in order for this application, and suggested that the Board defer the hearing to July 17, 1984 at 8:30 P.M. It was the consensus of the Board to approve the clerks request, and defer the application.

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Page 63, July 10, 1984, Scheduled case of:

10:45 A.M. LARRY J. & SANDRA M. THOMAS, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 10 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 1628 Seneca Ave., R-1, Hunting Ridge Subd., Providence Dist., 30-3((2))247, 11,919 sq. ft., VC 84-P-069.

Alphonse J. Audet, Jr., the attorney for the applicant's, asked the Board to defer the application. The reason was that the staff report indicated that the lot, which is the subject of the variance request, is part of a required building lot. The effect of the transfer of the property was to create a non-conforming side yard, and he felt it would be in the best interest to file another variance application concurrent with this one, although he didn't see the need for it.

Jane Kelsey stated that staff had discussed the deferral with the agent, and she had no objections. Mrs. Kelsey stated that this was an old substandard lot with an existing house on the adjacent building lot, of which this lot was a part. When this lot was removed from the other building lot, it put the other house in violation. Because of that, the only remedy the applicant had was to obtain a variance to allow the house on the existing building lot closer to the lot line than is allowed by the Ordinance. That would free up that building lot, and then he could apply for a variance for the remaining building lot. She stated that it was up to the BZA to determine whether or not the standards for variances would be met. Mrs. Kelsey stated that lots 247, 248 and 249 were originally one building lot by definition in the Ordinance. That could not be changed unless the existing structure could meet the yard requirements in todays current Zoning Ordinance. The only way the structure could meet the yard requirements is if a portion of the structure was removed or by obtaining a variance. Mrs. Kelsey distributed an opinion letter to the Board from the Circuit Court, dated November 5, 1980, regarding a similar precedent setting case that had been denied by the Board and pursued in court.

Mr. Audet stated that he did not agree with the position of staff that another application was required. He stated that Mr. Ernest Thomas owned lots 248 and 249, and he had made lot 247 a gift lot to his son in 1983. Mr. Audet stated that this might be a self created hardship by the father, but was not self created by the owner of the lot.

Chairman Smith stated that if this was not a buildable lot at the time it was given to the son, then it was just a gift of land and not a gift of a buildable lot. Mr. Hammack asked that the Board defer this application to give the members an opportunity to read the opinion letter, and suggested that Karen Harwood, Assistant County Atorney, take a look at it to see if it is applicable to this case. It was the consensus of the Board to defer the application to October 2, 1984 at 10:00 A.M.

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Page 64, July 10, 1984, Scheduled case of:

11:00 A.M. CHARLES R. HUDDLESTON, JR., appl. under Sect. 18-401 of the Ord. to allow construction of 11 ft. high shed 7.0 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-107 & 10-104), located 8508 Overbrook Rd., R-1, Pine Ridge Subd., Providence Dist., 49-3((8))13, 43,560 sq. ft., VC 84-P-070.

Jane Kelsey reviewed the staff report for the Board. Chuck Huddleston 8508 Overbrook Road, presented his application. He stated he acquired this property in good faith, and at the time of purchase, did not envision the need for a variance. He stated that the property was forested with beautiful trees along the sides and rear of the property. He planned to move some of the smaller trees to build a tennis court that would cover the back portion of the property. Another portion of his property was covered by a septic drainage field which he didn't want to build on. The only possible acceptable place for the location of the shed was along the side of the lot. He stated that due to the present situation of his land and the condition of his property, the granting of a variance would alleviate a clearly demonstrable hardship approaching confiscation of his land. He stated that this shed would not be detrimental to any adjacent neighbors or properties.

Mr. DiGiulian asked why he couldn't bring it further away from the side lot line. Mr. Huddleston stated that if he did, he would be building on the septic drainage field. Mr. DiGiulian stated that there was room between the dwelling and the septic field, or towards the rear of the lot. He stated that it looked like it could be built between the two septic laterals on either side of the lot and not interfere with the tennis courts and enable him to meet the setbacks. Mr. Huddleston stated that the septic field was old and he preferred not to be carting concrete or anything on a truck across the field that would ruin his septic line. Mr. DiGiulian asked why it couldn't be brought closer to the house because it looked like there was about 60 feet between the house and the septic field. Mr. Huddleston replied that there were apple trees he didn't wish to cut down.

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

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Page 64, July 10, 1984 Board of Zoning Appeals
CHARLES R. HUDDLESTON, JR.

R E S O L U T I O N

In Application No. VC 84-P-070 by CHARLES R. HUDDLESTON, JR. under Section 18-401 of the Zoning Ordinance to allow construction of 11 ft. high shed 7.0 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-107 & 10-104), on property located at 8508 Overbrook Road, tax map reference 49-3((8))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 July 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 43,560 sq. ft.
4. It appears that the applicant has enough room to build both the tennis court and the shed without 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 6 - 0. (Mr. Hyland being absent)

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Page 65, July 10, 1984, Scheduled case of:

11:15 A.M. RONALD P. COUCH, appl. under Sect. 18-401 of the Ord. to allow construction of garage/storage area addition to dwelling to 5.7 ft. from side lot line such that total side yards would be 16.2 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 5011 Mignonette Ct., R-3(C), Long Branch Subd., Annandale Dist., 69-4((12))138, 10,644 sq. ft., VC 84-A-071.

Jane Kelsey reviewed the staff report. Ronald Couch, 5011 Mignonette Court, presented his application. He stated that he wanted to widen and enclose an existing carport to obtain badly needed storage and work space, and at the same time improve the physical appearance of the property itself. He had purchased the property in 1977. Mr. Couch stated that there was a stoop off of the kitchen that extended about 16 inches into the carport area and restricted the width of the carport. Of the seventeen houses on the cul-de-sac, only three did not have garages, they had carports. The other lots were generally wider than his.

There was no one to speak in support or opposition.

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Page 65, July 10, 1984 Board of Zoning Appeals
RONALD P. COUCH

RESOLUTION

In Application No. VC 84-A-071 by RONALD P. COUCH under Section 18-401 of the Zoning Ordinance to allow construction of garage/storage area addition to dwelling to 5.7 ft. from side lot line such that total side yards would be 16.2 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), on property located at 5011 Mignonette Court, tax map reference 69-4((12))138, 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 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-3(C).
3. The area of the lot is 10,644 sq. ft.
4. The applicant has stated that he needs space for two cars. Presently having the one car spaces it's difficult opening the door at the carport side. He has an area extending to the back at the left of his house. He requests to widen the present carport area 4 ft. to make a total of 16 ft. whereby he can have the two required cars, and extend the back for storage, which then will be parallel with the rear of his house.
5. This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:
   A. That the subject property is uneven, and the converging lot lines at the back are at a slant.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use 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. Hyland being absent)

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Page 66, July 10, 1984, AFTER AGENDA ITEMS:

//The Board approved the BZA Minutes for June 19 and June 26, 1984 as presented.

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Page 66, July 10, 1984, Scheduled case of:

11:30 A.M. MICHAEL MINTON, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 15.1 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-507 & 2-412), located 8321 Fran Ct., R-5, Raceway Farms Subd., Mt. Vernon Dist., 99-4((5))117, 8,516 sq. ft., VC 84-V-072.

Jane Kelsey reviewed the staff report for the Board. She indicated that Mr. Minton had submitted new plats which the applicant's engineer had just redone for him. The new plats showed the deck on the north side of the building.

Michael Minton presented his application to the Board. He had purchased his home in January 1984. He had been led to believe by the builder that a 10x20 foot deck could be attached to the rear of the house. He showed documented evidence to the Board entitled "A Description of Materials", that the builder furnished to the Veterans Administration. It stated that there would be a 10x20 foot deck attached to the house, to be constructed by the owner after settlement. He stated that he was not aware that there would be a problem with the rear setback requirement. Mr. Minton stated that the builder still maintained that he could build the deck with no problem. Because of the initial plan to construct a deck, Mr. Minton had put in french doors that were about 7 - 8 feet above ground. He stated that his lot was irregular in shape, and because of that his house was placed further back on the lot.

There was no one to speak in support or opposition.

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Page 66, July 10, 1984
MICHAEL MINTON

RESOLUTION

In Application No. VC 84-V-072 by MICHAEL MINTON under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 15.1 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-507 & 2-412), on property located at 8321 Fran Court, tax map reference 99-4((5))117, 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 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-5.
3. The area of the lot is 8,516 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 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. The lot is pie shaped with converging lot lines.
5. There are french doors eight feet off the ground. This is a small request and would be in keeping with other decks in the neighborhood.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use 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. Thonen seconded the motion.

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

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Page 67, July 10, 1984, AFTER AGENDA ITEM:

//The Board was in receipt of a letter from John Harris, CLA, regarding the resolution for VC 84-A-024/J. WILLIAM HARLOW. He asked the Board for a clarification of condition number 4. After reviewing the partial verbatim transcript of the hearing provided by the clerk, it was the Board's decision that the resolution was correct and reflected the Board's intentions.

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//The Board convened for lunch at 11:45 A.M. and returned at 1:10 P.M. to take up the scheduled agenda.

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Page 67, July 10, 1984, Scheduled case of:

1:00 P.M. KINDER CARE LEARNING CENTERS, INC., appl. under Sect. 3-203 of the Ord. for a child care center, located Buckman Rd., R-2, Lee Dist., 101-3((1))17, 36,136 sq. ft., SP 84-L-014.

The Board was in receipt of a memo from the staff coordinator, Cheryl Hamilton, informing the Board that both staff and the applicant were requesting a deferral. Mrs. Kelsey suggested that the Board reschedule the application for July 17, 1984 at 8:05 P.M. It was the consensus of the Board to reschedule the special permit application for their evening meeting on July 17, 1984.

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Page 67, July 10, 1984, Scheduled case of:

1:15 P.M. HAROUTIUN A. TCHOLAKIAN, appl. under Sect. 3-103 of the Ord. to amend SP 83-D-010 for home professional office (free lance photography) to permit deletion of the required parking space or turnaround area, to allow two small signs, and to extend the term of the permit, located 9320 Leesburg Pk., Kenmore Subd., R-1, Dranesville Dist., 19-4((2))7 & 8, 46,944 sq. ft., SPA 83-D-010-1.

William Shoup reviewed the staff report for the Board. He indicated that during a routine follow-up on SP 83-D-010 by the Zoning Enforcement Branch, it was discovered that the applicant was in violation of several conditions of the special permit. The applicant had begun the home professional office without first obtaining a Non-Residential Use Permit. Also, the applicant had not constructed the parking space/turnaround area as required by Condition Number 5, and had erected building-mounted and freestanding signs identifying the home professional office, in violation of Condition Number 10. A Notice of Violation letter was issued by Zoning Enforcement on October 28, 1983, and after failing to comply, the applicant was issued a Sheriffs Letter, dated November 30, 1983, giving final notice for compliance. Mr. Shoup stated that staff was concerned about Mr. Tcholakian's disregard of the Special Permit conditions.

The applicant, Arthur Tcholakian, 9320 Leesburg Pike, presented his application to the Board. He stated that including himself, the public is always ignorant about detailed work. He stated that his permit had been applied for in good faith and with professionalism. Mr. Tcholakian stated that he had gone to the Site Plan Review Office, and that they had waived the turnaround parking space that was supposed to be required. He stated that he didn't really need signs as far as he was concerned, because being internationally known, he didn't need to advertise. He stated that the Chairman had informed him at the last hearing that he could have a sign posted on his mailbox. Mr. Tcholakian indicated to the Board that he wanted to show them a photograph he had taken of his signs, that was professionally put together. The only reason that he wanted a sign, was because he operated under a fictitious name, and he wanted people to know they had come to the right place. He told the Board that his office was not a studio, but was really a conference room and meeting place where respectable clients came in and discussed what kind of work they wanted.

Mr. Tcholakian stated that when he came in sixty days before his permit expired to file another application, he was told that he needed to obtain a Non-Residential Use Permit before another application could be processed. He talked to Mr. Mitchell and Mr. Knowlton and was told not to file the application until two days before it expired. He was also informed that they did not consider him in business because he had not obtained his Non-RUP, and they told him to tell the Board that he had just held the first permit and had not gone into business yet.

Mr. Tcholakian stated that he had paid $90 for a site plan waiver, and he thought that had taken care of the turnaround area. Also, he had reviewed the tape of the original hearing, and the Chairman had told him he could have two signs, one 2 x 2 ft. on the mailbox and one on the structure.

Mr. DiGiulian stated that he had read the letter from Oscar Hendrickson and it stated that the condition for the waiver was that Mr. Tcholakian had to comply with all the requirements in the BZA resolution. Mr. Tcholakian stated that this was just a technicality. He stated that he had tried to comply with all the recommendations and suggestions made by the staff, and he didn't understand what the problem was. Mrs. Thonen asked if he didn't get a clue when he was issued a letter from the Zoning Enforcement Branch. She asked why he didn't comply within thirty days as indicated by the letter. He stated that he had taken care of the problems as far as he was concerned. Mrs. Thonen told him that no sign was permitted that was visible from the street. She referred to photographs taken by the staff that showed the signs that had been erected. Mr. Tcholakian stated that his photo was better, because he was a professional photographer, and he submitted a copy to the Board.

Chairman Smith asked why Mr. Tcholakian did not comply with the conditions. Mr. Tcholakian replied that the Chairman said he was permitted to have signs. Chairman Smith stated that anything discussed during the hearing had no bearing on the final resolution pertaining to the request. Mr. Tcholakian informed the Board that there was no need to exhaust himself, because he had said everything he wanted to say.

Mrs. Thonen asked staff about conformance with the Comprehensive Plan which showed that it wanted to prohibit strip commercial uses on Route 7. In reply, Mr. Shoup stated that the primary use of this property must remain residential. It was felt that a home professional office would not violate the intent of the Comprehensive Plan, but a complete commercial use would. The signs would put this property into a commercial category.

Lance Taggert, 9411 Atwood Road, Vienna, spoke in opposition to the application. He represented the Beau Ridge Homeowners Association and had supporting documents from the Chase Hill Civic Association. He stated that the membership opposed approval of this application, although the membership was not opposed to industries conducted within established guidelines by the Zoning Administration. He stated that this applicant had been cited twice in the past year for ignoring those stipulations, and it was quite apparent that the applicant did not seriously regard the rules and regulations by which he was permitted to conduct business. Mr. Taggert stated that the Beau Ridge residents opposed the request as written. However, they would support the approval of an extension after it is shown that Mr. Tcholakian is in conformance with the previously established criteria, by upgrading the parking facilities and removing the signs.

During rebuttal, Mr. Tcholakian stated that most of his business was conducted by phone. He had obtained the special permit to have people come to the home to see the type of work he did, instead of having to transport everything to them. The signs were only erected because he operated under a fictitious name, and he wanted people to know they had come to the right place. Mr. Tcholakian stated that the turnaround was illogical, because he was only renting the house and had a ten year lease.

Mrs. Thonen asked Mr. Tcholakian if he could live with the fifteen development conditions listed in the staff report, and indicated that she had no intention of deleting any of them. Mr. Tcholakian stated that he would not go for that and was not interested in having the permit. He told Mrs. Thonen that she had a bad attitude, but he could afford not to have this permit. Chairman Smith told Mr. Tcholakian that he was out of order, and his comments were not relevant to the case.

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RESOLUTION

In Application No. SPA 83-D-010-1 by HAROUTIUN A. TCHOLAKIAN under Section 3-103 of the Zoning Ordinance to amend SP 83-D-010 for home professional office (free lance photography) to permit deletion of the required parking space or turnaround area, to allow two small signs, and to extend the term of the permit, on property located at 9320 Leesburg Pike, tax map reference 19-4((2))7 & 8, 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 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-1.
3. The area of the lot is 46,944 sq. ft.
4. I cannot see that we can come to any agreement on this application, since the applicant definitely does not want to live with the development conditions that are in the staff report dated June 29, 1984. I feel that these conditions were in there strictly because that is what it takes for it to come under the Zoning Ordinance. Since the applicant has agreed he would rather not have the permit than to live with the development conditions, I have no alternative than to ask that this 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.

Mr. DiGiulian seconded the motion.

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

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Page 69, July 10, 1984, Scheduled case of:

1:30 P.M. RAINBOW DAY CARE CENTER, INC., appl. under Sect. 3-103 of the Ord. to amend S-80-C-105 for child care center to permit change of permittee and continuation of the use, located 12604 Lee Jackson Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 ac., SPA 80-C-105-1. (OUT-OF-TURN HEARING GRANTED)

Jane Kelsey reviewed the staff report for the Board. She stated that this permit would be for 25 children. The day care center, located at the King of Kings Lutheran Church, was also asking to continue the use with a gravel surface. Staff recommended approval of the permit for the interim period between now and when the church vacates the property. Ms. Kelsey stated that there was a pending application made by the church for the gravel surface, but that it needed to be addressed in this application also, because it was a different use.

Ilene Hanley, 12112 Toreador Lane, presented the application. She stated that she was the owner of Daisey Day Care, and there was no problem with the gravel surface when they were operating there. There would be no changes in the operation of the school, they were just asking for a name change.

There was no one to speak in support or opposition.

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Page 69, July 10, 1984 Board of Zoning Appeals
RAINBOW DAY CARE CENTER, INC.

RESOLUTION

In Application No. SPA 80-C-105-1 by RAINBOW DAY CARE CENTER, INC. under Section 3-103 of the Zoning Ordinance to amend S-80-C-105 for child care center to permit change of permittee and continuation of the use, on property located at 12604 Lee Jackson Highway, tax map reference 45-2((1))28, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 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-1.
3. The area of the lot is 2.49816 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 maximum daily number of children enrolled shall be twenty-five (25) and the maximum number of employees shall be six (6).
6. The hours of operation shall be 7:00 A.M. to 6:30 P.M.
7. All gravel surfaces shall be maintained in good condition at all times in accordance with the 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. This special permit shall terminate at such time as the church discontinues the use of the property. The special permit for the waiver of the dustless surface required for this use shall run concurrently with this use, but shall not exceed 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 5 - 0. (Messrs. Hyland and Hammack being absent)

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// There being no further business, the Board adjourned at 2:00 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 July 17, 1984

APPROVED:: July 24, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, July 17, 1984. The Following Board Members were present: Daniel Smith Chairman; John DiGiulian, Vice-Chairman (arriving at 8:15 P.M.); Ann Day; Paul Hammack; John Ribble (arriving at 8:10 P.M.) and Mary Thonen. (Mr. Gerald Hyland was absent).

The Chairman opened the meeting at 8:00 P.M. and Mrs. Day led the prayer.

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

8:00 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. (DEFERRED FROM MARCH 27, 1984 & MAY 8, 1984 AT THE REQUEST OF THE APPLICANT. PROPERTY NEEDS NOTICES & REPOSTING)

The Board was in receipt of a letter dated July 11th from the applicant seeking a withdrawal of the special permit application. Mr. Hammack moved that the Board allow the withdrawal without prejudice. Mrs. Day seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hyland & Ribble being absent).

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Page 71, July 17, 1984, Scheduled case of

8:05 P.M. KINDER CARE LEARNING CENTERS, INC., appl. under Sect. 3-203 of the Ord. for a child care center, located Buckman Rd., R-2, Lee Dist., 101-3((1))17, 36,136 sq. ft., SP 84-L-014. (DEFERRED FROM JULY 10, 1984 AT THE REQUEST OF THE APPLICANT AND STAFF)

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. She explained that the maximum number of children had been reduced from 99 to 90. The extension of Pole Road would include a portion of the applicant's property. In order to meet the yard requirements, the staff was recommending a modification of the transitional screening along the northeastern lot line.

As the site only contained 36,136 sq. ft., the Board questioned the amount of land area to remain after the dedication for Pole Road. Mr. Hamilton was unable to inform the Board of the exact amount. However, she stated that because of the dedication, the building had to be pushed back further to the east. The applicant would not be able to provide the full transitional screening along the northeastern lot line. The proposed play area would be to the south and the east. In further response to questions from the Board, Ms. Hamilton stated that the property behind the site was zoned C-8 and was operated as a bicycle shop.

The Board questioned the staff's recommendation of approval in light of the memorandum from the Office of Transportation which indicated that the proposed traffic exceeded the allowable for Buckman Road. Ms. Hamilton explained that was the custom for a day care center in a residential area. She further explained that the Office of Transportation had given its verbal approval after receipt of the revised site plan was received on July 9th. There had been problems in locating the extension of Pole's Road which necessitated the deferral the previous week. Ms. Hamilton informed the Board that many of the problems Transportation had been concerned with had been alleviated with the revised plan. The applicant had redesigned the parking lot and was now providing 15 parking spaces.

Mr. Fred Taylor, an attorney with an office on Old Keene Mill Road in Springfield, represented the applicant. He stated that Kinder Care had obtained a private traffic study and the traffic engineer was present to answer any questions. Mr. Taylor explained that the maximum number of children had been reduced from 99 to 90. There would be seven employees. Kinder Care was not a franchise and was controlled by a regional office located in Falls Church. Mr. Taylor stated that the one story brick building would be built on approximately 36,000 sq. ft. to accommodate the 90 children. The hours of operation would be from 6:30 A.M. until 6:30 P.M.

Because traffic was an issue, Kinder Care had commissioned a traffic survey which indicated that there would be 3.2 trips generated for every child in the center. The peak hours would be from 7 A.M. to 8 A.M. and from 5 P.M. to 6 P.M. The majority of the parents using the Kinder Care Centers travelled the streets anyway. Therefore, it was anticipated that the traffic increase on Buckman Road would be no more than 5 to 8%.

Mr. Taylor informed the Board that the area along Rt. 1 was growing and there was a lot of activity there. Kinder Care was attempting to locate where they were needed the most. There were new townhouses across Buckman Road which would be served by the day care center.

Kinder Care proposed to have seven employees. The ratio of employees to children would be determined by the state licensing agency based on the ages of the children enrolled. Kinder Care would operate Monday through Friday with some special parent events held once or twice a year.

Mr. Steven Peterson, Traffic Consultant, of 1665 Southwesterly Drive in Gaithersburg, Md. explained the traffic survey which had been performed on six other Kinder Care centers located in the Northern Virginia area. The general consensus of the surveys had been that the parents would have been using the streets anyway going to and from work if they were not using the day care facilities. Mr. Peterson stated that the Buckman Road site had been selected for the convenience of parents in the area as it allowed a child to be dropped off in his own neighborhood.

With respect to the revised plat, the Board questioned whether the proposed play area satisfied the standards of the Ordinance. Ms. Hamilton stated that the play area was located in front of the proposed building. The play area was small so that it would not occupy any of the front yard setback area. The required front yard area was 35 ft. from Pole Road. It did not occupy more than 80% of the total rear & side yards. The Board inquired if there was any specific standard on the number of children for the play area. According to Ms. Hamilton, the staff used a standard rule of thumb that the play area be sufficient to accommodate one-third of the maximum number of children enrolled. The Ordinance required 100 sq. ft. of play area for each child using the play area at any one time. In this instance, the play area had to contain at least 3,000 sq. ft.

In response to questions concerning the extension of Pole Road, Ms. Hamilton stated that it was on the plan to be funded and had just been added during the last annual plan review. The Board questioned what would be the result if they insisted that the applicant meet the transitional yard and screening requirements. Ms. Hamilton stated that the applicant would have to move the play area out of the transitional screening area and relocate the parking lot.

There was no one else to speak in support and no one to speak in opposition. Mr. Hammack informed the Board that he felt this was a very intense use for only 36,000 sq. ft. of land. Mrs. Thonen was concerned about the commercial encroachment along the Rt. 1 corridor. Mr. Hammack stated that he was not hostile to day care centers and Kinder Care had good qualified centers around the area. Nevertheless, he could not support the application as it was too intense and had negative traffic impacts. In addition, the Board was being asked to waive the barrier requirements. Mr. Hammack felt the applicant was shoe-horning the development onto the property and he did not feel it satisfied the standards of the Ordinance. Accordingly, Mr. Hammack moved that the Board deny the application for the reasons he had mentioned. Mrs. Thonen seconded the motion. The vote on the motion failed by a tie-vote of 3 to 3 (Messrs. Smith, DiGiulian and Ribble).

As the Board was not certain what action resulted in a tie-vote of a motion to deny, the Chairman suggested that the hearing be recessed for an opinion from the County Attorney. Other Board members indicated that the special permit was denied. After discussion of the motion, Mr. Taylor requested the Board to reconsider its denial and allow a deferral so that he could work with the applicant to revise the plat and lessen the impact of the use. Mrs. Thonen moved that the Board allow the reconsideration. Mr. DiGiulian seconded the motion and it passed by a vote of 5 to 0 with 1 abstention (Mr. Hammack)(Mr. Hyland being absent).

Mrs. Thonen then moved that the Board defer the special permit application to allow the applicant to reengineer the site in order to meet the transitional yard and screening requirements and to reduce the maximum number of children to 75 to lessen the impact. Mr. Ribble seconded the motion. The motion to defer passed by a vote of 5 to 0 with 1 abstention (Mr. Hammack). It was the consensus of the Board to defer the special permit until July 24, 1984 at 2:00 P.M.

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Page 72, July 17, 1984, Scheduled case of

8:15 P.M. KEENE MILL VILLAGE JOINT VENTURE, appl. under Sect. 3-503 of the Ord. for community tennis courts, Keene Mill Village, R-5, Springfield Dist., 88-2((1))10, 135,793 sq. ft., SP 84-S-044.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. Ms. Hamilton informed the Board that the tennis courts had been profferred with original development of the property. In 1980, the Board of Zoning Appeals had approved special permit S-80-S-020 for the construction of the two tennis courts. However, as the permit was not extended by the applicant, it had expired. The applicant was requesting permission to construct the tennis court without the eight parking spaces which had been required with the original permit. Staff had reduced the parking requirement from eight to four parking spaces.

Mr. John Harris of Patton, Harris, Rust & Associates, represented the Keene Mill Village Joint Venture. He explained that the original special permit approved for construction of two tennis courts had expired because construction had not commenced. For the past 3 1/2

years, the applicant and the homeowners had designed the new proposal. At the request of the homeowners, the applicant was proposing to establish a berm which would be planted with twenty-six 6 to 8 ft. high white pines. In addition, they were proposing a bike rack by the sidewalk from Fieldmaster Drive, relocating the tennis courts and deleting the parking spaces. The homeowners association did not want any parking as the units were within easy walking distance.

With respect to the staff's condition no. 9 that four parking spaces be provided, Mr. Harris suggested an alternative that the applicant install no parking signs along Fieldmaster Drive. It was felt that VDH&T would support such a suggestion as it had allowed no parking signs to be installed in an adjacent subdivision having trouble with commuters. Mr. Harris explained to the Board that providing the parking would mean moving the tennis courts into a wooded area which served as a buffer from Old Keene Mill Road for the homeowners. Because this was a community tennis court rather than a commercial tennis facility, Mr. Harris did not feel that parking needed to be provided. Ms. Hamilton explained the staff's recommendation for reducing the eight parking spaces to four. It was reasonable to expect half of the community to walk to the facilities. Staff was concerned about on-street parking by users of the tennis courts.

Mr. Harris suggested that the condition limiting the permit to the applicant only be amended to include the homeowners association when the property was conveyed. The Board did not have a problem with that suggestion.

Mr. Sam Wood of 9033 Blarney Stone Drive in Springfield spoke in support of the application. He represented the homeowners association who had worked to redesign the tennis courts to meet the needs of the community. Mr. Wood stated that the parking lot which had been originally proposed was not needed. The location of the tennis courts as originally proposed would eliminate the wooded area which was a natural screen to the traffic from Old Keene Mill Road. In addition, deletion of the parking would discourage loitering and trespassing of the property.

Mr. Gordon Hodgson of 8943 Park Forest Drive in Springfield represented the Park Forest subdivision to the south of the proposed tennis courts. The residents of that community were not in opposition but were concerned about any lighting of the courts and any removal of trees. Mr. Hodgson stated that several homes in his community would have a direct view of the tennis courts and would be impacted by any noise. The existing buffer of trees would provide a sight and noise buffer. The residents were also concerned about the lack of parking proposed for the tennis courts as they were apprehensive about tennis players parking in their community and walking across to the courts.

During rebuttal, Mr. Wood stated that the homeowners had relocated the tennis courts and eliminated the parking lot because the site dropped off towards floodplain. Construction of the tennis courts as originally proposed would require a lot of fill and really was not suitable. He assured Mr. Hodgson that the residents would not have the inclination to park and walk across a busy commuter road. The homeowners wanted to retain the existing buffer of trees as much as the adjacent subdivision owners.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-S-044 by KEENE MILL VILLAGE JOINT VENTURE under Section 3-503 of the Zoning Ordinance to permit community tennis courts on property located at tax map reference 88-2((1))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 July 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-5.
3. The area of the lot is 135,793 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:

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 except that the applicant may convey to the Keene Mill Village Homeowners Association with approval by the Zoning Administrator 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 barrier requirement shall be waived provided that the ten (10) foot high chain link fence is erected around the tennis courts.
6. Transitional screening shall be modified as shown on the plat and the limits of clearing and grading shall be as shown on the plat.
7. The site shall be graded and cleared of vegetation only in the locations for the tennis courts and the parking spaces.
8. In the graded areas erosion devices shall be installed, and a stabilizer shall be used as a subgrade material as directed by the Director, DEM.
9. There shall be two (2) parking spaces located off of Fieldmaster Drive in close proximity to the asphalt sidewalk.
10. There shall be no tennis courts lights and the hours of operation shall be daylight hours only.
11. This approval is subject to submission of revised plats for review by the Board of Zoning Appeals in accordance with the development conditions.

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. DiGiulian seconded the motion.

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

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Page 74, July 17, 1984, Scheduled case of

8:30 P.M. WILLIAM LIETO, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 12 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 6016 Kathmoor Dr., R-1, Kathmoor Subd., Lee Dist., 81-4((2))pt. of 10, 25,013 sq. ft., VC 84-L-068. (DEFERRED FROM JULY 10, 1984 FOR NOTICES.)

The Clerk informed the Board that the notices were in order. Ms. Jane Kelsey presented the staff report. She informed the Board that the applicant was requesting a 8 ft. variance to construct a garage addition 12 ft. from the western lot line of his property.

Mr. William Lieto of 6016 Kathmoor Drive in Alexandria informed the Board that he purchased the property in 1979. He was requesting permission to construct a two car garage. He explained that his property was zoned R-1 which had a side yard restriction of 20 ft. Under the R-1 zoning category, the minimum lot width was 150 ft. and his property only contained 100 ft. Mr. Lieto stated that his property was one of two lots in the community that was not equivalent in lot area or lot width which restricted his building plans.

Mr. Lieto stated that he had considered building behind his house but it would mean closing and filling a working well. In addition, there was a septic tank and field and a concrete patio to consider. There was an existing metal shed in the rear yard which could no longer be secured and was an eyesore. Mr. Lieto assured the Board that he planned to remove the shed and store the contents in the garage. Mr. Lieto stated that he was police officer in Washington D.C. and worked an erratic schedule. The garage would provide protection and security for his home and belongings.

There would be 72 ft. between the proposed garage and his neighbor's home. At present, there was 36 ft. from his house to the property line. The two car garage would be 24 ft. wide and have separate doors. The 12 ft. sideyard after construction of the garage would not alter or change the zoning district. Mr. Lieto stated that he had examined other alternative and this was the most reasonable. The garage would be constructed of the same type brick as the existing home and would not exceed the height of the house.

In response to questions from the Board, Mr. Lieto stated that the property behind him had been a large farm which had been subdivided. The old farmhouse had been purchased by the Korean Church. The adjoining lots had been given a choice of extending their rear yards for approximately 70 ft. However, the owner of Mr. Lieto's property had not chosen to extend his property.

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

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-L-068 by WILLIAM LIETO under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 12 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), on property located at 6016 Kathmoor Drive, tax map reference 81-4((2))pt. of 10, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 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-1.
3. The area of the lot is 25,013 sq. ft.
4. That the applicant's property is exceptionally irregular in shape, including narrow and has an unusual condition in the location of the septic tank, septic field and the well on the subject 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 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.

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 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 with 1 abstention (Mr. Smith)(Mr. Hyland being absent).

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Page 76, July 17, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of minutes for July 3, 1984. Mrs. Day moved that the minutes be approved as submitted. Mr. Hammack seconded the motion and it passed by a vote of 6 to 0 (Mr. Hyland being absent).

In addition, the Board was in receipt of back minutes for August 3, 1982; August 5, 1982; September 14, 1982; and September 16, 1982. Mrs. Day moved that the Board approve the minutes as submitted. Mr. Ribble seconded the motion and it passed by a vote of 6 to 0 (Mr. Hyland being absent).

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Page 76, July 17, 1984, After Agenda Items

UNITED ARTISTS APPEAL: The Board was in receipt of a memorandum signed by the County Executive authorizing a defense fund in the appeal application involving United Artists. The Clerk informed the Board that Mr. Brian McCormack had agreed to represent the BZA in the appeal.

// 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

Submitted to the Board on July 24, 1984

Daniel Smith
Daniel Smith, Chairman

Approved: July 31, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 24, 1984. The Following Board Members were present: Daniel Smith, Chairman; Ann Day, Gerald Hyland, and Mary Thonen. John Ribble arrived at 10:30 A.M. John DiGiulian arrived at 11:30 A.M. Paul Hammack arrived at 12:00 P.M.

The Chairman opened the meeting at 10:07 A.M. and Mrs. Day led the prayer.

//MATTERS PRESENTED BY BOARD MEMBERS: The Board considered the out-of-turn hearing request from J.L. Sibley Jennings for SP 84-L-056. Mr. Yates handed out a memo to the Board requesting a reconsideration of the Board's action from the previous week, which was to deny the request and schedule the application for October 2, 1984. Mr. Yates stated that he had received letters supporting an earlier hearing from both the Board of Supervisors and the Architectural Review Board. Also, Mr. Jennings had convinced him that if he and his firm were going to be involved in the restoration of the Huntley estated, restoration work on the roof had to be started and completed before the onset of cold weather to prevent damage to the historic structure. Based on those considerations, Mr. Yates asked the BZA to endorse a public hearing date in mid to late September.

It was the consensus of the Board to grant the request and schedule the hearing for September 25, 1984.

//MATTERS PRESENTED BY BOARD MEMBERS: The Board was in receipt of a memo from Phil Yates requesting a date and time for public hearing on A 84-W-005 and A 84-W-006, The Session of Mount Vernon Presbyterian Church and Leroy A. Rowell, Davis S. Prowitt, Thomas M. Davis, III and Sandra L. Duckworth. Mr. Yates also suggested that since these appeals were concerned with the general issue that is the subject of Interpretation #52 and were not directly concerned with a given property, it would be confusing to post any particular property or notify any adjacent property owners. He recommended that notice of the public hearing be limited to publication of legal advertisement in local newspapers as required by Par. 1 of Sect. 18-110.

It was the consensus of the Board to schedule both appeals on October 16, 1984 at 8:00 P.M.

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The Chairman called the scheduled 10 o'clock case at 10:20 A.M.:

10:00 A.M. DICK BROWN COMPANY, INC., appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, with proposed lots 52A and 52B having widths of 88 ft. and 12 ft., respectively (100 ft. min. lot width req. by Sect. 3-206), and to allow existing dwellings on proposed lots 52 and 52A to remain 2.0 ft. and 9.3 ft., respectively, from existing side lot lines (15 ft. min. side yard req. by Sect. 3-207), located 7019 and 7021 Woodland Dr., Leewood Subd., R-2, Annandale Dist., 80-1((4))52 and 52A, 2.15 ac., VC 84-A-078.

The agent, Charles L. Shumate, from the law firm of Bettius, Fox & Carter, requested a deferral of the application. He stated that he had asked Dick Brown to get in touch with all the notified property owners to explain the nature of the application and to seek their favorable approval. He stated that Mr. Brown had been able to accommodate that with the exception of one gentleman across the street. Mr. Shumate indicated that he had received information that this property owner had questions that needed to be answered regarding this application, and he wanted to meet with him and explain the nature of the application before going forth with the hearing.

It was the consensus of the Board to defer the application to September 25, 1984 at 1:30 P.M.

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Page 77, July 24, 1984, scheduled 10:15 A.M. case heard at 10:25 A.M.:

10:15 A.M. HANNIBAL S. & MARTHA M. DE SCHMERTZING, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, proposed lots 1 and 2 each having width of 17 ft., and proposed lot 3 having width of 16.51 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 1025 and 1027 Towlston Rd., R-E, Dranesville Dist., 19-2((1))31A & 31B, 6.2186 ac., VC 84-D-080.

William Shoup reviewed the staff report for the Board. He stated that on February 13, 1979, the BZA approved V-10-79 for minimum lot width variances to allow the subdivision of original lot 31 into the current lots. The applicants had attempted to subdivide those two lots into three lots under the cluster provisions of the Zoning Ordinance, but that request was denied. The major issues involved in the application were transportation and environmental concerns. Mr. Shoup stated that given the fact that the existing lots are comparable in size to nearby lots, it is staff's judgment that the applicant could enjoy reasonable use of the property absent the need for a variance.

Charles Runyon represented the applicants in the case. He stated that 31B was not a very desirable lot because of its odd shape. The owners lived on lot 31A and had been trying to sell lot 31B. Because it is narrow and odd-shaped, you don't get what you pay for in terms of a lot of comparable size and style in that neighborhood, therefore it had been on the market for quite a while. The applicants wanted to change the lot configuration so that lot 2 contained a two acre parcel and the third lot would take advantage of the existing stream. Lot 3 had steep slopes, but there was a nice house site there that would afford a nice view of the stream valley. Mr. Runyon stated that the same driveway would serve all the lots. Directly across the street from this property was the same configuration serving six different parcels of land. Mr. Runyon stated that the density would not change due to this subdivision. Most of the density in this area comes about because of the topographic constraints, lack of perk areas, and streams that go through the area.

Mr. Runyon indicated that most of the properties in the area are served by some type of modified frontage, be it easement or pipestem. He said he didn't think this request was out of character with the existing neighborhood. Mr. Runyon stated that the existing kennel shown on the plat had been removed. As far as the pool, it would go with lot 3 when it is purchased.

Mrs. Thonen brought up the fact that the staff report indicated the development of proposed lot 3 would encroach into the designated EQC. The EQC is comprised of floodplain soils and adjacent steep slopes, and should be preserved in undisturbed open space. Mr. Runyon replied that the house would not be located in the EQC, but would be on a knoll overlooking the stream valley.

Mr. Freeley, 1130 Bellview Road, McLean, stated that he just had some questions to ask about the application. He asked questions that were all covered in the staff report.

Casey Thompson, 1060 Cedrus Lane, lot 31, spoke in opposition. She stated that if this variance was approved, her lot would have traffic on three sides. The lot faces Cedrus Lane, the De Schmertzing's existing driveway borders the entire back property line, and this variance would create a pipestem, allowing traffic on the third side. She stated that the pipestem would be approximately 50 feet from her house. Ms. Thompson showed the Board an old plat showing the original subdivision of the whole tract of land in the area. She stated that the De Schmertzing's had the opportunity to purchase more land so their parcel wouldn't be landlocked.

Richard Collins, 9257 Bailey Lane, Fairfax, spoke in opposition. He stated that he owned lot 2A and hoped to build on it in the next few years. He objected to the proposed subdivision based on property values. He stated that with the value of the house he would be building and the property, it would be in the half-million dollar range. He thought that the proposed properties and subdivision would be less than that overall cost. He stated that there was a pond on his property and easements on the lower portion. That land is very low and exceedingly wet.

Ms. McGill of Tuttle & McGill, 1079 Rocky Run Road, spoke in opposition. She said if she were the De Schmertzing's, she would probably do the same thing, but she did not like to see any more density than necessary in the area.

During rebuttal, Mr. Runyon stated that the applicants had worked with a developer and had tried to obtain frontage onto Cedrus Lane. It got to be a bidding contest, and they could not work it out. He stated that if access was provided from Cedrus Lane, it would not be as handsome a lot, because there was a steep bank that comes off where Cedrus Lane could adjoin this property. As far as the flood plain and stream valley, it is wet during the spring. It is pretty dry now. The house will be situated on a knoll overlooking this area.

There was no one else to speak regarding the application.

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R E S O L U T I O N

In Application No. VC 84-D-080 by HANNIBAL S. & MARTHA M. DE SCHMERTZING under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, proposed lots 1 and 2 each having width of 17 ft., and proposed lot 3 having width of 16.51 ft. (200 ft. min. lot width req. by Sect. 3-E06), on property located at 1025 and 1027 Towlston Road, tax map reference 19-2((1))31A & 31B, 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 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 6.2186 acres.
4. Mr. Runyon, the engineer, has walked the property and probably knows it like the back of his hand. He has stated relating to the lower end where the flood plain is, the house on proposed lot 3 will be in the upper right hand corner. Mr. Collins said the stream runs from his property down to the lower part of that. Well, Mr. Collins' property is not really affected by that lower part of what would be lot 3. Mrs. Thompson has stated that she faces Cedrus Lane, and there is already the pipestem behind her lot. I think we relieved her to some extent when the question about the new driveway to the proposed lots would be moved all the way from her property and there would be screening of trees. The engineer has stated that if this is granted, the developers will meet the standards for flood plains and the steep slope and utilize the location of the property. Mr. Runyon also stated that any more dedication of Towlston, the developers would cooperate with the appropriate department. I cannot see that having three lots will have any adverse effect on the neighbors or the area. I have listened to all the testimony, and at first I was on the fence. All of us would like to have our own private island in life but that's not possible. The applicant's bought the property in 1961 and have maintained it. They don't seem to have any problems with any neighbors in the area. It's stated that they plan to remain in their home which would be on lot 1. It's stated that the kennel has already been removed, and that the pool can be used on lot 3. If there is a variance at the time they come in, that can take care of the pool in the future. The applicants have made an effort to get access from Cedrus Lane, and couldn't work something out that they felt was fair and honorable to them. The engineer has stated that even though they could get access to Cedrus Lane, there is a steep slope there which would not be the best entrance.
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 two lots into three 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 requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code.
4. Dedication for public street purposes shall be provided along Towlston Road to be consistent with dedication that has been provided immediately to the east as determined by the Director, DEM.
5. Access to all three (3) lots from Towlston Road shall be via one (1) shared driveway entrance constructed in accordance with all applicable standards.
6. Existing vegetation along the eastern lot line of lots 2 and 3 shall be retained except where removal is necessary to accommodate construction and supplemental plantings shall be made, both as determined by the Director, Department of Environmental Management.
7. Use of the swimming pool on lot 3 shall not be permitted until a dwelling is constructed on the lot.
8. The location of the existing dwelling shall satisfy all minimum yard requirements.

Mr. Hyland seconded the motion.

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

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Page 80, July 24, 1984, Scheduled 10:30 A.M. case heard at 11:30 A.M.:

10:30 A.M. CROSS BUILDERS, appl. under Sect. 18-401 of the Ord. to allow construction of a deck addition to dwelling to 15 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-207 & 2-412), located 5031 Oakcrest Dr., North Hill Subd., R-2, Springfield Dist., 68-1((11))30, 15,810 sq. ft., VC 84-S-084.

Jeffrey Nein, Paciulli, Simmons and Associates, the agent for the applicants, was present. He stated that it had come to his attention the day before that the subject property had changed ownership since the application was filed. The present owner of the property, George Willbrandt, was the former contract purchaser of the property. Mr. Nein requested that the application be deferred until the current owner could sign the required documents and to allow time to amend the application.

It was the consensus of the Board to defer the application to October 2, 1984 at 10:15 A.M.

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Page 80, July 24, 1984, Scheduled 10:45 A.M. case heard at 11:35 A.M.:

10:45 A.M. J. C. DENNIS, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 8.67 ft. from one side lot line and 10 ft. from the other (15 ft. min. side yard req. by Sect. 3-207), located 3311 Collard St., Valley View Subd., R-2, Lee Dist., 92-2((19))47, 10,800 sq. ft., VC 84-L-085.

William Shoup presented the staff report to the Board. In response to a question from Mr. Hyland, Mr. Shoup replied that this proposed dwelling was over 41 feet in width, and there was some question as to whether the dwelling had to be that size. You could have a smaller dwelling or orient it differently on the site.

J. C. Dennis, 2390 Beacon Hill Road, presented his application. He stated that he did not want to build anything smaller in size, because it would not be compatible with other houses in the neighborhood. He stated that he had purchased the lot in May of 1984, and he had been aware of the setbacks on the property. He stated that the money he had put down on the lot was in a trust, and if the variance was not approved, the money would be returned to him.

Mrs. Robert Morris, spoke in regard to the application. She stated that she lived next door to the property. She stated that her house had been built in 1951, and they had to stay 15 feet from the side lot line. She said that she did not mind Mr. Dennis building, but thought he shouldn't have to build quite so close to the side lot line. The Board had considerable discussion about the previous setback requirements in the subdivision. They asked staff to research the old files and determine from the building permits what the original setback requirements were.

The application was deferred to July 31, 1984 at 1:00 P.M.

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Page 80, July 24, 1984, Scheduled 11:00 A.M. case heard at 12:00 Noon:

11:00 A.M. CHARLES R. & ROSEMARY H. DARBY, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 3.6 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), located 6163 Mori St., R-3, Dranesville Dist., 31-3((19))3, 11,184 sq. ft., VC 84-D-087.

William Shoup reviewed the staff report for the Board. On October 31, 1978, the BZA had approved variance application V-225-78 to allow the construction of a carport identical to the one proposed in this application. However, the applicant had not begun construction within the one year time period imposed. As a result, that variance approval had expired.

Charles Darby presented his application. He stated that his lot was pie-shaped, and no matter how they moved the carport around, it requires a variance. The house was purchased in 1965, and it had no garage or carport. He stated that this was one of the few houses in the area without a two-car garage or a carport. Mr. Darby stated that there were underground footings on that side of the house, which meant they had to have a wall built two feet from the house which cut into the carport area, to keep two feet of earth over the footings. The cars would be put in end to end.

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

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RESOLUTION

In Application No. VC 84-D-087 by CHARLES R. & ROSEMARY H. DARBY under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 3.6 ft. from side lot line (7 ft. min. side yard req. by Sects. 3-307 & 2-412), on property located at 6163 Mori Street, tax map reference 31-3((19))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 July 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 11,184 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 shape at the time of the effective date of the Ordinance. The lot is pie-shaped and the house is situated at an unusual angle 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 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. DiGiulian seconded the motion.

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

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

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Page 81, July 24, 1984, Scheduled 1:00 P.M. case heard at 1:15 P.M.:

1:00 P.M. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, appl. under Sect. 3-103 of the Ord. to amend S-80-S-001 for church and related facilities to permit addition of a storage building to existing facilities, located 6942 Sydenstricker Rd., R-1, Springfield Dist., 89-1((1))14A, 3.1165 ac., SPA 80-S-001-1.

William Shoup reviewed the staff report for the Board. He stated that he had been contacted by a property owner adjacent to the church in the rear complaining about screening on site when this church was constructed. Mr. Shoup stated that one of the the development conditions recommended in the staff report was in response to this complaint. The parking area of the church is elevated above the properties to the rear, and vehicle headlights shine into the dwellings located there. At the time of site plan approval for the church, the citizens signed a statement agreeing to waive the barrier requirement. It was waived under the condition that there would be low screening provided adjacent to the parking area. Apparently the transitional screening was put in by the church, but DEM couldn't require them to put in the bushes that the citizens had requested.

Carlton Price, a civil engineer at 1222 Woodcliff Court, Alexandria, represented the applicant. He stated that this brick storage building would be constructed of brick to match the church. Mr. Price stated he was not sure if all the screening was completely planted, but the church worked on everything required by the site plan and it was approved.

There was no one to speak in support or opposition.

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R E S O L U T I O N

In Application No. SPA 80-S-001-1 by CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS under Section 3-103 of the Zoning Ordinance to amend S-80-S-001 for church and related facilities to permit addition of a storage building to existing facilities, on property located at 6942 Sydenstricker Road, tax map reference 89-1((1))14A, 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 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-1.
3. The area of the lot is 3.1165 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 and the barrier requirement shall be modified to allow the existing vegetation on site to satisfy this requirement except along the western edge of the parking lot where low evergreen shrubs shall be planted to lessen the impact of the vehicle headlights on adjacent properties. The exact location and type of planting shall be determined by the Director, of the Department of Environmental Management.
6. The maximum number of seats shall be 317 and the maximum number of parking spaces shall be 166.
7. The hours of operation shall be the normal hours of church operation.

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. Ribble seconded the motion.

The motion passed by a vote of 7 - 0.

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Page 83, July 24, 1984, Scheduled 1:15 P.M. case heard at 1:30 P.M.:

1:15 P.M. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, appl. under Sect. 3-303 of the Ord. to amend S-81-V-066 for church and related facilities to permit addition of a storage building to existing facilities, located 2000 George Washington Memorial Pkwy., Mallinson Subd., R-3, Mt. Vernon Dist., 111-1((1))2, 7.30 ac., SPA 81-V-066-1.

William Shoup reviewed the staff report for the Board. He stated that the staff had no objection to the proposed shed, but it should be noted that the non-residential use permit for the church has not yet been issued. Mr. Shoup stated that there were site problems related to drainage, and the Department of Environmental Management have indicated those problems were resolved. The bond had been in default, but DEM indicated that that situation has also been taken care of. In view of these facts, Mr. Shoup asked that the Board add another condition to read "No building permit for the storage shed shall be issued until the non-residential use permit is obtained."

Carlton Price, a civil engineer at 1222 Woodcliff Court, Alexandria, represented the applicant. He stated that this building was a complete duplication of the last request. Mr. Price stated that he was not aware the non-residential use permit had never been issued, but that was just a technical problem that could be quickly taken care of. Mr. Hyland stated that it was not just a technical problem, but a substantial condition imposed by the Board several years ago. Mr. Hyland said he hoped something like that would never be permitted to happen again, and that he would like information pertaining to how this could have happened.

Winsdale Irby, Jr., 8555 Richmond Highway, Alexandria, spoke with regard to the non-residential use permit. He stated that he was the custodian of the church building, and said a building inspector had come by the previous week to see if a non-residential use permit had been issued. Mr. Irby said they found a sticker posted in the electrical room, and assumed that was the non-residential use permit.

In regard to letters of opposition that were received, Mr. Hyland asked Mr. Price questions about adverse drainage problems resulting from the construction of the church. Mr. Price indicated that there were some complaints during construction about the water run-off, but a retention pond was constructed and the operation is apparently satisfactory. Mr. Shoup indicated that staff felt the drainage problems had been resolved. He had forwarded the letters of opposition to DEM, and their preliminary position was that based on the engineering figures provided, any drainage problems are not being caused by the church.

Frank Mallinson, 9100 Vernon View Drive, an adjacent property owner, spoke in support of the application. He said the church was badly in need of a building to store equipment in. Thomas Dayley, President of the Potomac Valley Citizens Association, 8820 Vernon View Drive, also spoke in support. He stated that the church had been vandalized, and needed a safe place to store their equipment.

Citizens speaking in opposition included Carol Smith, President of the Stratford-On-The-Potomac Citizens Association, 2101 Prices Lane and George Sheya, 2000 Prices Lane. The Board was also in receipt of several letters of opposition, including one from Amy Swann, 1910 Prices Lane, indicating that ever since the church had been built, she had suffered severe flooding of her property. The main concern of the people speaking in opposition was the heavy water flow on Prices Lane, which had no ditch or culvert that could handle the water. Carol Smith showed the Board members recent photos taken after a typical storm, showing the water flowing across Prices Lane from the south where the church is located, to the north and flooding residential property. The citizens were concerned that any additional construction would compound the severity of the problem.

Mrs. Thonen said she was concerned about the storm water run-off problem, and would like to get it solved before allowing the church to construct the storage building. She made a motion that the application be deferred to have DEM look into the situation and make a recommendation to the Board. Mr. DiGiulian seconded the motion. The motion passed by a vote of 5 - 2 (Messrs. Hammack and Smith). The application was deferred to September 11, 1984 at 11:15 A.M.

//The Board recessed for five minutes and returned at 2:15 P.M. to take up the scheduled agenda.

Page 84, July 24, 1984, Scheduled 1:30 P.M. case heard at 2:15 P.M.:

1:30 P.M. CHRISTIAN COMMUNITY FELLOWSHIP CHURCH UNITED CHURCH OF CHRIST, appl. under Sect. 3-103 of the Ord. for church and related facilities, located 2501-2505 Foxmill Rd., Mumford Park Subd., R-1, Centreville Dist., 25-2((5))51 & 52, 5.319 ac., SP 84-C-045.

William Shoup reviewed the staff report for the Board. He stated that the major concerns involved in this issued related to the transportation impact and screening. He indicated that they had been addressed in the staff report. Mr. Shoup also pointed out that the applicant had initially proposed two entrances on Fox Mill Road. Because of site distance problems, staff had recommended that one of the entrances be eliminated.

Michael Vanderpool, 3900 University Drive, Fairfax, represented the applicant. He stated that staff had reviewed the application carefully and had raised a number of issues. A revised plat had been submitted and all the development conditions were acceptable to the applicant.

There was no one to speak in support or opposition.

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CHRISTIAN COMMUNITY FELLOWSHIP CHURCH UNITED CHURCH OF CHRIST

R E S O L U T I O N

In Application No. SP 84-C-045 by CHRISTIAN COMMUNITY FELLOWSHIP CHURCH UNITED CHURCH OF CHRIST under Section 3-103 of the Zoning Ordinance for a church and related facilities, on property located at 2501-2505 Foxmill Road, tax map reference 25-2((5))51 & 52, 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 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-1.
3. The area of the lot is 5.319 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. There shall be only one (1) entrance to the site from Fox Mill Road generally in the location shown on the plat. Such entrance shall satisfy all applicable sight distance requirement as determined by the Director, of the Department of Environmental Management (DEM).
6. Dedication for public street purposes shall be provided as determined by the Director, DEM, and such dedication shall not be less than forty-five (45) feet from centerline.

7. A right turn deceleration lane, curb, and gutter, shall be provided in accordance with all applicable standards.
8. A sidewalk shall be provided along the frontage of the site in accordance with Article 17 and the Countywide Trails Plan.
9. Phased development of the site shall be permitted provided that the building does not exceed the limits of the maximum church building area as shown on the approved plat.
10. Transitional screening shall be provided as follows:
- o Transitional Screening 1 shall be provided without modification along the side and rear lot lines as shown on the approved plat. Existing vegetation within the twenty-five (25) foot strip shall be retained and supplemented with evergreen plantings to fulfill the transitional screening requirement in a manner that will effectively screen the use from adjacent residential properties.
- o Transitional screening shall be waived along the front lot line provided that landscaping is provided at the front of the property and around the building in a manner that will reduce the visual impact of the use. Such landscaping shall incorporate, where possible, existing poplar, oak, maple, and hickory trees as approved by the Fairfax County Arborist.
- o Barrier D shall be provided along the side and rear lot lines as shown on the plat. The barrier requirement along the front lot line shall be waived.

11. Adequate disposition of drainage shall be provided as required by the Director, DEM.
12. The seating capacity in the main worship area shall not exceed eight hundred and forty-four (844).
13. The minimum number of parking spaces required shall be in accordance with the provisions of Article 11 and the maximum number of parking spaces provided shall be two hundred and eleven (211).
14. If parking lot lighting is installed, such 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 projecting onto adjacent properties.
15. Any portion of the structure that is within 163 feet of the centerline of Fox Mill Road shall be acoustically treated as follows:
- o Exterior walls shall have a laboratory sound transmission class (STC) of at least 39.
- o Doors and windows shall 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.

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.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 7 - 0.

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Page 85, July 24, 1984, Scheduled 2:00 P.M. case heard at 2:30 P.M.:

2:00 P.M. KINDER CARE LEARNING CENTERS, INC., appl. under Sect. 3-203 of the Ord. for a child care center, located Buckman Rd., R-2, Lee Dist., 101-3((1))17, 36,136 sq. ft., SP 84-L-014. (DEFERRED FROM JULY 10, 1984 AT THE REQUEST OF THE APPLICANT AND STAFF AND FROM JULY 17, 1984 FOR SUBMISSION OF REVISED PLATS)

Chairman Smith indicated that on July 17, 1984, there had been a no action vote of 3 - 3 on this application on a motion to deny. Ms. Kelsey stated that she had consulted the County Attorney about a ruling on the Board's vote last week. It was the position of the County Attorney that there was no action taken, and the Board would have to take some action to remedy this. By making a motion to rehear the case, you are essentially starting over. Ms. Kelsey stated that the applicant had provided two new sets of plats for the Board to review.

Mr. Hyland, who had not been present for the previous hearing, stated that he had reviewed the minutes as well as the staff report and felt it was very clear to him what had occurred during the first hearing.

Cheryl Hamilton stated that the applicant had submitted new plats as suggested by the Board, reducing the number of children to 75 and removing the play area from the front yard. Also the parking lot was removed from the transitional screening area. The applicant also submitted a plat for the original request of 90 children showing 15 parking spaces. Ms. Hamilton stated that the applicant was providing two alternatives.

Fred Taylor represented the applicant. He stated that the only place where there was a problem with the transitional yard requirements was on the north side of the property. The east side of the property is commercial and there would be no transitional yard requirements. Mr. Taylor stated that he had supplied two plans to the Board because he felt they should still consider granting the application for 90 children. He had submitted an improved plan for 90 children showing a masonry wall in one area where they had asked for a waiver of the transitional screening. There was a deep ravine on the other side of the proposed wall, and Mr. Taylor felt the school property was topographically removed from the adjacent property. Mr. Taylor still felt that the plan for 90 children was a better one. There was a need for child care in the area. Kinder Care felt they could provide a better service with no more impact if they could have 90 children. The property could possibly be commercially rezoned in the future if the school didn't build there.

In response to a question from Mr. Hammack, Harry Lunstrom, a civil engineer, explained why the building was shifted slightly on the revised plats. He stated that Kinder Care put their logo on a pyramid, which they used to shelter the sidewalk. When the parking location was changed, he had shifted the building slightly to accommodate the logo.

Ms. Kelsey discussed the dedication of property for road improvements on Pole Road. She indicated that the Board could ask that the dedication be deferred until such time that the road improvements took place, but that it was up to the Department of Environmental Management at the time of site plan approval to make the judgment.

During a discussion of the proposed masonry wall suggested by the applicant, Ms. Hamilton stated that staff did not like to see brick walls used to screen from residential properties. They preferred to see some type of planting. Mr. Taylor stated that he would be willing to provide plantings in addition to the masonry wall.

There was no one to speak in support or opposition to the request.

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R E S O L U T I O N

In Application No. SP 84-L-014 by KINDER CARE LEARNING CENTERS, INC. under Section 3-203 of the Zoning Ordinance to for a child care center, on property located at Buckman Road, tax map reference 101-3((1))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 Codes and with the by-laws of 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 10, 1984 and July 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 36,136 sq. ft.
4. That compliance with the Site Plan Ordinance is required.
5. After looking at the two plats, I feel we should allow the development of the site for 90 children. I'm talking about the plat dated July 24, 1984 which shows a six foot masonry screen and the tabulation area sets forth the number of children being 90. The reason I support this...it may seem inconsistent with my motion last week, but I felt that we were trying to put too many children on, and there were too many compromises being made under the proposal we had at the time. To my way of thinking, this new plat satisfies a lot of those, if not all the problems, or minimizes them. I personally favor the six foot masonry screen. Although it does allow some development in what would otherwise be known as the transitional screening area, you get a good six foot barrier. The applicant has said that he would break up the severity of the six foot wall by putting in some additional plantings on that side of the property. One of the objections I had last week was the reduced size of the play area, because I think you have to look at what the use actually is, the kids are going to have to be there. This wall, as it goes down the north side of the property on the bicycle shop would allow a larger and better play area for the children that are going to be there. I think that makes it an improvement over what would be allowed under the plan for 75. While it may appear somewhat of a reversal, I think this is a better plan, and it seems to me it satisfies a lot of the concerns I had last week.

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 land for the construction of Pole Road as shown on the plat dated July 24, 1984 shall be provided at the time of site plan approval. This may be deferred until such time the road is required at the discretion of DEM.
6. Dedication shall be provided to thirty (30) feet from the centerline of Buckman Road.
7. A sidewalk shall be constructed along the full frontage of Buckman Road.
8. There shall be a maximum of ninety (90) children daily.
9. There shall be fifteen (15) parking spaces.
10. The barrier requirement shall be waived provided the outdoor recreation area is entirely enclosed by a fence.
11. The number of children using the outdoor recreation area at any one time shall not exceed fifty-three (53).
12. The Transitional Screening requirement shall be modified along the northeastern lot line to allow for the construction of a six foot masonry screen as shown on the revised plat dated July 24, 1984. In addition, the applicant shall provide additional evergreen screening between the property line and the construction of the six foot masonry screen as required by the Director, DEM in order to break up the severity of the long wall. The masonry screen on the north end along the proposed R-12 lot line shall be extended to intersect with the extension of the 35 foot building restriction line which will add approximately forty feet of additional wall to it, but will provide for the development of the adjacent property. It will provide a barrier so any townhouses that are built will not have to look at the parking lot. The exterior wall shall be constructed of solid brick or brick veneer. (Brick shall be facing the adjacent property) The required transitional screen yard shall be provided along the frontage of Buckman Road.
13. A soils report may be required prior to approval of the site plan as determined by the Director, of the Department of Environmental Management.
14. The hours of operation shall be from 6:30 A.M. to 6:30 P.M. daily.
15. There shall be a maximum of seven (7) employees.

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. Ribble seconded the motion.

The motion passed by a vote of 7 -0.

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Page 88, July 24, 1984, AFTER AGENDA ITEMS:

BEACON DAY CARE CENTER/SP 84-L-061: The Board was in receipt of a letter from Bernard Fagelson requesting an out-of-turn hearing for the above referenced special permit. It was the consensus of the Board to grant the request and schedule the application for September 11, 1984.

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// There being no further business, the Board adjourned at 3:30 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 Sept. 6, 1984

APPROVED: Sept. 11, 1984

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 31, 1984. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland (arriving at 11:00 A.M.); Ann Day; Paul Hammack; John Ribble (departing at 1:00 P.M.); and Mary Mary Thonen (departing at 2:00 P.M.). (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. JOHN & CAREN CAMP, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's denial of a Home Occupation Permit for an office, located Tremayne Pl., Unit 107, R-20, The Colonies at McLean, Providence Dist., 29-4((4))(7)Unit 107, 1,080 sq. ft., A 84-P-002.

Ms. Gloria Solomon, attorney at law, represented John and Caren Camp. She stated that the Camps presently owned a condo at The Colonies in McLean and a home in Middleburg. Mrs. Camp was a regional distributor of a major cosmetic company. Her job involved travel at least three to four days a week in the supervision of field representatives. One day a week was spent at the condo setting up appointments and doing paperwork. Mrs. Camp performed these duties at a desk in the second bedroom of the condo.

Ms. Solomon informed the Board that Mrs. Camp had applied for a home office permit for the condo and was denied. The basis for the denial was that home office permits were to be allowed only in the bona fide residence of the applicant. The Zoning Administrator had determined that bona fide residence meant primary residence. In addition, he had also stated that the office was to be secondary or subordinate to the residence which he did not feel was the case in Mrs. Camp's situation.

Ms. Solomon argued that the Camps had purchased the condo as a residence to live in near Washington D.C. She stated that if all the Camps needed was an office one day a week, they would not have purchased the condo with all of its expenses. The Camps used the condo and its facilities like a residence and often socialized there. There was not any customer traffic at the condo and Mrs. Camp did not sell cosmetics from door to door.

Ms. Solomon stated that the two bedroom condo was equipped with a sofa bed in one bedroom. The Camps did not store much food at the condo because Mrs. Camp rarely cooked meals, even at the Middleburg residence. The impact of the office use was not must different from a residence in the amount of mail and packages which were delivered. Accordingly, Ms. Solomon stated that it was clear that the office use was subordinate to the residence.

With respect to the office, Mrs. Camp had a memory typewriter, a copy machine and an adding machine. Before Mrs. Camp was aware of the limitations for a home office permit, she had employed a secretary who came to the condo to do work. That no longer occurs as Mrs. Camp has the secretary pick up the mail to perform office tasks at the secretary's home.

Mr. Hammack questioned the fact that the condo was furnished with office equipment rather than household furnishings. Ms. Solomon replied that a table for dining was situated in the living room. In response to further questions from the Board, Ms. Solomon stated that the condo unit was purchased by Venture Investments, Inc. which lease the unit to Caren Camp. Mrs. Camp was provided a $300 office maintenance fee from her employer. Mrs. Camp informed the Board that her friend was performing secretarial and housekeeping duties. Occasionally, she would type personal letters for Mr. Camp. Mrs. Camp informed the Board that she travelled out of Dulles and National Airports and often stayed overnight at the condo. In response to questions from the Board, Mrs. Camp stated that she stayed three to four nights in Middleburg and two to three nights in McLean. She spent weekends in Middleburg. The Camps were registered to vote and paid personal property taxes in Middleburg.

Mr. Edward Hallman, 7720 Tremayne Place, Apt. 204, a resident of The Colonies; Mr. Bill Marr, an attorney representing the Council of Unit Owners; and Mr. George Gould of 7621 Tremayne Place, Apt. 211, spoke in support of the Zoning Administrator's position. A petition signed by 275 residents opposed to the office use was presented to the Board by Mr. Hallman. The opposition was concerned about security of the building, excessive traffic, cramped parking, and the property value of the units. The office use was in violation of the condo by-laws. In addition, Venture Investments had not provided a copy of the lease to the Unit Owners as required.

Mr. Philip G. Yates, Zoning Administrator, presented the staff report. He stated that the Camp's condo was a secondary residence and was not their primary residence. Mr. Yates informed the Board that he was not convinced the office use was subordinate in this situation. Therefore, he had made a determination that a home occupancy permit not be approved and that the use of the property as an office cease.

During rebuttal, Ms. Solomon stated that the deliveries to the condo were not more in number than for a family living at the residence fulltime. The secretary no longer came to the condo to work except for housekeeping duties. Ms. Solomon informed the Board that the Camps owned the unit at The Colonies and intended to use it as their permanent residence in the Washington area. There would not be any clients involved in the home office. Mrs. Camp would perform routine paperwork and make telephone calls.

In Appeal A 84-P-002 by JOHN & CAREN CAMP to deny a home occupation permit for an office located at 7720 Tremayne Place, Unit 107, Mr. Hammack moved that the Board of Zoning Appeals uphold the decision of the Zoning Administrator for the following reasons:

There has been a lot of evidence that the Camps consider their primary residence to be in Middleburg. There has been a lot of discussion on the use of the word "bona fide" residence of the individuals as used in the Fairfax statutes. Even the case of Hiles v. Hiles distinguishes between a bona fide permanent abode and a sojourn or transitory abode.

Mr. Hammack felt the Zoning Administrator was correct in this case. The Board had evidence that when the complain came in there was a secretary, although an independent contractor but still an employee, employed in the residence. We have had evidence of deliveries of supplies necessary to operate an office such as paper products and other deliveries occurring at the business both before and after the corrective measures were taken to have the secretary do the work out of her own home. Nonetheless, the secretary still comes over and checks the mail and does things which are incidental to a business purpose although if it was used primarily as a home, a neighbor might very well come in and do the same thing for a person who was out of town.

Mr. Hammack believed that the evidence showed that this unit was used primarily as an office and only incidentally or secondarily as a residence. The fact that the dining room had a secretary's desk in it and the dining facilities were in the living room, one bedroom was used as bedroom and another bedroom was used only as a studio which could be converted to a bedroom if either of the occupants chose to use it, shows that its not really set up for residential use. Mr. Hammack stated that the Board had to look at those facts.

Furthermore, the property was held for investment property through a subchapter corporation and was paid for out of an office allowance according to the testimony of Mrs. Camp. Lastly, the equipment that was found in the office, its true might be found in a hobby home but for the most part, Mr. Hammack knew of no one who had a memory typewriter in their home for their own personal use or copy equipment, even a small machine, or the adding machine.

So, Mr. Hammack agreed that the Camps did meet some of the technical requirements under the statutes, but he felt that the Zoning Administrator was correct in his interpretation in this particular case and moved that the Board uphold his decision.

Mrs. Thonen seconded the motion.

The motion to uphold the decision of the Zoning Administrator passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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Page 90 July 31, 1984, Scheduled case of

10:30 A.M. FIRST VIRGINIA BANK, appl. under Sect. 18-401 of the Ord. to allow subdivision into 4 lots, proposed lots 2 & 3 each having width of 7.5 ft. (100 ft. min. lot width req. by Sect. 3-206), located 5336 Sideburn Rd., Bowles Property, R-1, Annandale Dist., 68-4((1))56, 2.0040 ac., VC 84-A-077.

Ms. Jane Kelsey presented the staff report. She informed the Board that the property had been the subject of a rezoning, RZ 83-A-104, which had been approved on March 15, 1984 with proffered conditions. Mr. Barnes Lawson of 2735 N. Randolph Street in Arlington represented the applicant. He explained that this application involved two acres which were rezoned to the R-2 category. The applicant had met with Supervisor Moore to develop a plan that the community could approve. Mr. Lawson stated that there was not any opposition to the request.

Mr. Lawson stated that the ideal way to develop the property was with the pipestem variance rather than a cul-de-sac. The proposed driveway was curved to avoid the large trees which the applicant was retaining. There was existing screening around the border of the property which would be destroyed if a cul-de-sac were required. In addition, an extra entrance would be required with the cul-de-sac.

With regard to the required standards, Mr. Lawson stated that the property had exceptional topographic conditions and an extraordinary condition. The property was infill. All the property surrounding it had already been developed. The best plan for the community and the developer was the pipestem variance.

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

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-A-077 by FIRST VIRGINIA BANK under Section 18-401 of the Zoning Ordinance to allow subdivision into 4 lots, proposed lots 2 & 3 each having width of 7.5 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 5336 Sideburn Road, tax map reference 68-4((1))56, 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 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 2.0040 acres.
4. That the applicant's plan was the best for the community.

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.

(4)
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NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations:

1. This variance is approved for the subdivision of 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. Development of the property shall be in accordance with the proffered conditions of Rezoning RZ 83-A-104.

4. Access to all four (4) lots shall be via the pipestem driveway.

Mr. Hammack seconded the motion.

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

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Page 92 July 31, 1984, Scheduled case of

10:45 A.M. CHRISTIAN FELLOWSHIP CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-82-D-066 for church and related facilities to permit classroom and storage shed additions to existing building, increase the land area, raise the height of the parking lot light poles, and relocate the driveway to the interior of the site on Parcel C, located 10237 Leesburg Pk., R-1, Dranesville Dist., 18-2((7))A, B, & C, 7.5472 ac., SPA 82-D-066-1.

At the request of the applicant, the special permit application was deferred until October 31, 1984 at 8:30 P.M.

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Page 92 July 31, 1984, Scheduled case of

11:15 A.M. MT. VERNON CHURCH OF CHRIST, appl. under Sect. 3-203 & 8-901 of the Ord. to permit building addition and gravel surface parking lot addition to existing church, located 8607 Old Mill Rd., R-2, Lee Dist., 100-4((1))1, 3.02 ac., SP 84-L-047.

11:15 A.M. ALEXANDRIA CHURCH OF CHRIST/MT. VERNON CHURCH OF CHRIST, appl. under Sect. 18-401 of the Ord. to allow additions to church having existing building 3.6 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 8607 Old Mill Rd., R-2, Lee Dist., 100-4((1))1, 3.02 ac., VC 84-L-086.

Ms. Jane Kelsey presented the staff report which recommended approval of SP 84-L-047 subject to the conditions set forth in Appendix I. In response to questions from the Board regarding the modification to the screening requirements, Ms. Kelsy stated that most churches preferred to be visible. In addition, the parking lot was temporary. When the new construction began, the parking lot would be moved further back on the property. Therefore, staff had recommended the modification. The applicant had volunteered to install a fence. Ms. Kelsey informed the Board that approval of the fence would be up to ARB. Some Board members questioned whether this would be in conformance with the historic district. Ms. Kelsey responded that the Architectural Review Board had approved the application. The fence had been an afterthought of the church and was not shown on the plat. The Board discussed amending the condition no. 5 regarding the screening.

With regard to the variance request, Ms. Kelsey stated that staff had not taken a position to recommend approval or denial. However, because there was not a statement from staff with regard to how the variance met the standards, the Board felt it would not distress staff if it was considered favorably. Ms. Kelsey informed the Board that the church building originally was a garage. It had been changed to a church but had never gone through the team inspection process.

Mr. Ronald Bosworth of 6650 Tower Drive in Alexandria informed the Board that the church property was purchased in 1973 and the garage was existing at that time. The property had been purchased with the intent of having a church. The property was owned by the Alexandria Church of Christ and the Mt. Vernon Church of Christ were only the property managers.

Mr. Chris Wilt of 8406 Wagon Wheel Road in Alexandria informed the Board that the transitional screening on the north side of the property did not belong to the church. It was part of the adjacent property which had been maintained by the church for the past ten years in agreement with the owner. The church kept the swamp area cleared to keep snakes from coming onto the church property. Mr. Wilt informed the Board that it would defeat this effort if the church were required to provide screening.

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

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-L-047 by MT. VERNON CHURCH OF CHRIST under Section 3-103 of the Zoning Ordinance to permit building addition and gravel surface parking lot addition to existing church on property located at 8607 Old Mill Road, tax map reference 100-4((1))1, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 31, 1984; and

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

1. That the applicant is the property manager.
2. The present zoning is R-2.
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 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 existing entrance along the northern property line shall be closed. Transitional Screening 1 shall be provided in all areas except that an additional screening I along Old Mill Road and the norther lot line may be modified to allow landscaping which will soften the visual impact of the parking lot and the church facility. Supplemental plantings shall be provided if deemed necessary by the Director, Department of Environmental Management, DEM, in combination with the existing vegetation along the eastern and southern lot lines to satisfy Transitional Screening 1. The type and amount of such plantings shall be determined by the Director, DEM.
6. The maximum number of seats shall be 130 and the corresponding number of parking spaces shall be 33.
7. Interior parking lot landscaping shall be provided in accordance with Article 13.
8. If parking lot lights are installed, they shall not exceed twelve (12) feet in height and shall be shielded so that the light is directed onto the parking lot and not spill over onto adjacent properties.

RESOLUTION

(continued)

9. The special permit for the gravel parking lot shall automatically expire, without notice, five (5) years from date of approval. This parking lot shall be constructed within six (6) months from date of approval.

10. The entrance to the property shall be paved with a dustless surface twenty-five (25) feet into the site.

11. 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.

12. There shall be an annual inspection of the gravel parking lot 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.

13. A walkway shall be provided between the parking lot and the sanctuary.

14. If a fence is installed along the frontage of the property, such fence shall be in accordance with the Zoning Ordinance provisions regarding fences, Sect. 10-104, Location Regulations. The location and type fence shall be reviewed and approved by the Architectural Review Board for conformance with the guidelines for the Woodlawn Historic Overlay District.

15. The special permit for the addition shall automatically expire, without notice, eighteen (18) months after date of approval.

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, in accordance with the time limitations set forth above 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. Day seconded the motion.

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

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-L-086 by ALEXANDRIA CHURCH OF CHRIST/MT. VERNON CHURCH OF CHRIST under Section 18-401 of the Zoning Ordinance to allow additions to church having existing building 3.6 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 8607 Old Mill Road, tax map reference 100-4((1))1, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 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 3.02 acres.
4. That the Board has received evidence that the church acquired the property in 1973 and at the time the property was acquired, there was existing on the site, a garage which is located approximately 3 ft. from the side lot line. Further, we have received evidence that in 1975, the church made application for a building permit to construct an addition to the garage and a review of the building permit indicates that certain inspections were performed by the appropriate County offices. More particularly, there is an indication that the Zoning Inspector did make an inspection of the addition once it was completed. We have received evidence and testimony from the representatives of the applicant that the addition to the garage which was completed in 1976, in fact, was for

RESOLUTION

(continued)

purposes of using that addition as a church facility. It is fair to conclude that when the Zoning Inspector or Building Inspector reviewed the " church facility" the garage with the addition, that it should have been obvious that the use to which that addition would be put would be a church. And, that being the case, that probably should have but it certainly didn't trigger the additional requirement to obtain approval by way of special permit from the County. But I believe that we have testimony that the County either knew or should have known in 1976 that this addition was to be used for church purposes. In view of that background, I feel that under the provisions of the Zoning Ordinance, a variance is certainly justified and required. To do otherwise, would be to required demolition of the facility which I find to be a result totally unsuitable. Particularly, because at the time the garage was built, it could have been built that close to the side lot line and particularly because the County should have known that a church facility was being placed or added to that garage. I think, for those reasons, that those facts would justify the granting of the variance in this case.

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 of 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 structure shown on the plat included with this application and is not transferable to other land or other * structures on the same land.
2. A Team Inspection shall be obtained for the use of this structure for a church sanctuary.

Mr. Ribble seconded the motion.

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

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Page 95 July 31, 1984, Recess

At 12:15 P.M., the Board recessed for lunch and reconvened at 1:20 P.M. to continue with the scheduled agenda. Mr. John Ribble left the meeting during the luncheon recess and did not return.

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Page 95 July 31, 1984, Scheduled case of

11:30 A.M. TUCKAHOE RECREATION CLUB, INC., appl. under Sect. 3-303 & 8-901 of the Ord. to amend SP 82-D-055 for community recreation club to permit construction of addition to existing indoor swimming building and modification or waiver of dustless surface requirement for overflow parking area, located 1814 Great Falls St., R-3, Dranesville Dist., 40-1((1))1, 2, & A; and 40-2((1))1B, 9.1574 ac., SPA 82-D-055-2.

Ms. Jane Kelsey presented the staff report which recommended approval subject to the conditions set forth in Appendix I. In response to questions from the Board regarding concerns raised by John C. & Sally R. Bassler of 1825 Susquehannock Drive, Ms. Kelsey explained that staff recommended approval of the grass over gravel parking lot. The Basslers were concerned that the paving over of that area would add to the storm water runoff and noise.

Mr. Harry Eisenbeiss of 1804 Baldwin Drive in McLean represented the applicant. He informed the Board that the addition to the indoor pool would not have an impact on the membership. The expansion of the pool was for a spa. The building would be on a hillside and would not have any visual impact on the neighbors except for the roof. There would not be any windows or doors on the west or south sides except as required for emergency access. With regard to the grass over gravel parking area, Mr. Eisenbeiss stated that it had existed for 25 years. The grass had even survived the last drought.

Ms. Virginia Thorson, former president of Tuckahoe, informed the Board that the club had talked to all the residents who were affected by the pool. She presented the Board with a petition signed by 27 people who supported the expansion and wanted the club to keep the grass over gravel parking lot.

Mr. Robert Moore of 1823 Baldwin Drive in McLean endorsed the comments made by the club's representatives. He stated that his property adjoined Tuckahoe which was an extremely attractive lot.

There was no one else to speak in support and no one to speak in opposition. For clarification purposes, Ms. Kelsey suggested adding words to conditions no. 15.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-D-055-2 by TUCKAHOE RECREATION CLUB, INC. under Section 3-303 of the Zoning Ordinance to amend SP 82-D-055 for community recreation club to permit construction of addition to existing indoor swimming building and modification or waiver of dustless surface requirement for overflow parking area, on property located at 1814 Great Falls Street, tax map reference 40-1((1))1, 2 & A, 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 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 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 with the following limitations:

1. 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

(continued)

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 shall be as follows:
   - o Transitional screening along the eastern lot line along Lot 1A may be modified to allow a five (5) foot walkway within the 25 foot screening strip as shown on the plat submitted with this 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 paved 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 Additional evergreen plantings shall be planted between the addition and lots 35 & 36 of Sect. 3 of Great Falls Manor subdivision. The location and type of plantings shall be determined by the Director, Department of Environmental Management (DEM), at the time of site plan review.
   - o The barrier shall be as shown on the plat submitted with this application.

6. The hours of operation shall be as follows:
   - o The indoor pool hours - 8:00 A.M. to 10:00 P.M.
   - o The outdoor pools - 9:00 A.M. until 9:00 P.M.
   - o The tennis courts to the north - 9:00 A.M. to 10:00 p.m.
   - o The two southerly or newer tennis courts - 9:00 A.M. to 9:00 P.M.
   - o The backboard - 9:00 A.M. to 8:00 P.M.

7. No loudspeakers shall be used in conjunction with swimming meets or practices prior to 9:00 A.M. or after 9:00 P.M.

8. All loudspeakers, noise and lights shall be confined to the site. There shall be an automatic timer for the lights for the northerly tennis courts which turns off at 10:00 p.m. The lights for the southerly tennis courts shall be on an automatic timer which turns off at 9:00 P.M.

9. The minimum number of parking spaces shall be 128.

10. After hours 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 only after the successful conclusion of a previous after hour party.

11. There may be a maximum of four (4) swimming meets a year which shall be allowed to begin at 8:00 A.M. subject to the applicant obtaining prior written permission from the Zoning Administrator.

12. The Zoning Enforcement Branch shall make an inspection and take a decibel reading of the noise emitting from the backboard prior to the issuance of the Non-Residential Use Permit (Non-Rup).

13. The special permit for the waiver of the dustless surface shall automatically expire, without notice, five (5) years from date of approval.

14. The grassed over gravel overflow parking area shall continue to be maintained in good condition at all times in accordance with standards approved by the Director, DEM.

15. The special permit for the addition shall automatically expire, without notice, eighteen (18) months from the date of approval unless construction on the addition has begun and is diligently pursued.

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, in accordance with the limits set forth above, 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. Hyland seconded the motion.

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

1:00 P.M. J. C. DENNIS, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 8.67 ft. from one side lot line and 10 ft. from the other (15 ft. min. side yard req. by Sect. 3-207), located 3311 Collard St., Valley View Subd., R-2, Lee Dist., 92-2((19))47, 10,800 sq. ft., VC 84-L-085. (DEFERRED FROM JULY 24, 1984 TO ALLOW STAFF TIME TO RESEARCH THE SETBACKS IN THE SUBDIVISION)

Mr. Hyland praised the staff for the fine job in providing the additional information which put the Board in better position to make a decision in the matter. Mr. Shoup informed the Board that he had gone back 30 years in the files but there were a lot of gaps. The information provided was a loose estimate based on the information in the file.

Mrs. Dorothea Morris expressed concern over the good of zoning laws if no one obeyed them. However, after being presented with the information furnished by staff, Mrs. Morris indicated that she would consent to a variance to allow the structure no closer than 10 ft. to the side lot lines.

Chairman Smith stated that he could not support the variance unless it was tied down to a enclosed garage facility which would then be compatible and in harmony with the surrounding area. Chairman Smith stated that the Board would need a new plat consistent with the amended variance.

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

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-L-085 by J. C. DENNIS under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to *8.67 ft. from one side lot line and 10 ft. from the other (15 ft. min. side yard req. by Sect. 3-207), on property located at 3311 Collard Street, tax map reference 92-2((19))47, 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 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 10,800 sq. ft.
4. That the property is exceptionally narrow and is substandard. The Board has received evidence from staff as well as from abutting property owners indicating that there are a substantial number of homes in that subdivision which are located 10 ft. from the side lot lines. Staff has indicated in its report which is part of the record and part of the hearing the history concerning the subdivision which shows a varying situation as far as the number of feet properties are located from the side lot lines. But, it is clear from the testimony received that there are a substantial number of homes located 10 ft. from 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 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.

RESOLUTION

(continued)

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 construction of dwelling to 10 ft. from each side lot line) with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat to be submitted to this Board 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.
4. That the applicant shall be given the right pursuant to this variance to construct a home on the subject site which will include an enclosed garage, said home to be located no closer to the side lot lines than 10 ft.
5. That the applicant shall submit to the Board a new plat indicating the location of the dwelling and the size of the dwelling and showing that it will be located no closer than 10 ft. to the side lot line.

Mr. Hammack seconded the motion.

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

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Page 99 July 31, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for September 21, 1982 and September 28, 1982. Mr. Hyland moved that the Minutes be approved as submitted. Mrs. Day seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Ribble being absent).

The Board was also in receipt of Minutes for July 17, 1984. Mrs. Day moved that the Minutes be approved as submitted. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Ribble being absent).

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Page 99 July 31, 1984, After Agenda Items

ST. TIMOTHY'S CHURCH, SPA 81-S-049-1: The Board was in receipt of a request from Father Cornelius O'Brien of the St. Timothy's Catholic Church for an out-of-turn hearing on the special permit application. It was the consensus of the Board to grant the request. The Board scheduled the hearing for September 11, 1984 at 2:30 P.M.

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(12)
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ANTOINE S. & HIAM H. KHOURY, SP 84-M-043: The Board was in receipt of a memorandum from Cheryl Hamilton, Staff Coordinator, forwarding a request from the Broyhill Crest Citizens Association. They were requesting that the special permit application of Antoine S. and Hiam H. Khoury be deferred until an evening meeting so that the residents in the area could participate in the hearing. After discussion of the matter, Mr. Hyland moved that it be the Board's intent to defer the special permit application scheduled for August 7th until September 18, 1984. Mrs. Thonen seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Messrs. DiGiulian, Hammack, and Ribble being absent).

// There being no further business, the Board adjourned at 2:20 P.M.

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

Submitted to the Board on Sept. 6, 1984

Daniel Smith
Daniel Smith, Chairman

Approved: Sept. 11, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, August 7, 1984. The Following Board Members were present: Daniel Smith, Chairman; Ann Day, Gerald Hyland, Mary Thonen, and John Ribble. John DiGiulian and Paul Hammack were absent.

The Chairman opened the meeting at 10:05 A.M. and Mrs. Day led the prayer.

//Mr. Ribble made a motion that the Board go into Executive Session to discuss an opinion rendered by the Supreme Court on the Blair W. Cupp case.

//The meeting reconvened at 10:35 A.M. to take up the scheduled 10:00 A.M. case of:

10:00 A.M. MARTHA R. MCLEAN, appl. under Sect. 18-401 of the Ord. to allow subdivision into 4 lots, proposed lots 30B and 30C each having width of 45 ft., and proposed lot 30D having width of 91 ft. (100 ft. min. lot width req. by Sect. 3-206), located 4815 Powell Rd., Vertain Park Subd., R-2, Annandale Dist., 69-3((2))30, 2.066 ac., VC 84-A-088.

Cheryl Hamilton reviewed the staff report for the Board. Manny Goetz, 7471 Clifton Road, Clifton, Virginia, represented the applicant. He handed a letter to the Board members that showed the approval of this request from all the adjacent neighbors. Mr. Goetz stated that there were many old trees on the property they were trying to save. He showed the Board pictures of the property showing the trees, and indicated that putting a state road through the property would diminish them. When Ms. McLean purchased this property, she was told there was sewer and water at the location. A investigation revealed that the sewer was 300 feet away which would be costly to bring in for one lot. Also, the septic field at the existing house had ceased to work properly. Mr. Goetz stated that the soils in the area do not have a good perk rate. He stated that he had discussed this development plan with Audrey Moore and Mr. Harsell, and they suggested a pipestem instead of trying to put in a state road. One pipestem driveway will serve all the lots, and Mr. Goetz felt that any opposition was satisfied about this proposal.

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-A-088 by MARTHA R. MCLEAN under Section 18-401 of the Zoning Ordinance to allow subdivision into 4 lots, proposed lots 30B and 30C each having width of 45 ft., and proposed lot 30D having width of 91 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 4815 Powell Road, tax map reference 69-3((2))30, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 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 2.066 acres.
4. In this case we have had evidence presented which complies with the standards for granting a variance under Sect. 8-006 of the Zoning Ordinance. I would note that we have received testimony indicating the irregular shape of the lot as well as it being narrow. We have received testimony and find as a matter of fact that the contiguous property owners have indicated they have no objection and would support the development of the property in the manner that has presented to us. Also, the staff report includes the rezoning application which the Board of Supervisors has approved. Of course, the Board properly pointed out that notwithstanding the rezoning application approval, that the applicant would have to come before the BZA to obtain a variance in order to develop the property in accordance with the plan presented the the Board of Supervisors. The proposal that we have before us is a reasonable development of the subject property. To deny the application would result in undue hardship to the property owner.
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:

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THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use 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 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. Access to lots 30B, 30C and 30D shall be via a shared driveway. This requirement shall be recorded with the deeds to each of these proposed lots among the land records of Fairfax County.
4. The Arborist shall review and approve the grading plan for this subdivision to ensure that quality vegetation is preserved.
5. A double row of white pines shall be planted along the northeastern boundary of lot 30B to screen the view of the plant nursery.
6. The development of this property shall be in accordance with the proffer conditions of RZ 83-A-101.

Mr. Ribble seconded the motion.

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

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Page 102 August 7, 1984, Scheduled 10:30 A.M. case heard at 10:55 A.M.:

10:30 A.M. PARKWOOD BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. for a child care center, located 8726 Braddock Rd., R-1, Annandale Dist., 70-3((1))6, 8.6782 ac., SP 84-A-048.

Cheryl Hamilton reviewed the staff report for the Board. Shirley Havens presented the application. She stated that this program had been in operation for 12 years. The Mother's Day Out Program was operated from 1971 to 1978 one day a week with a maximum enrollment of 64 children. At that time, it was a permitted use. In 1978, the program was increased to two days per week with a maximum enrollment of 89 children. Ms. Havens stated that the church was not aware they were operating in violation. When the Health Department inspected the facility in order to renew their permit, it was then realized that the number of children exceeded the Health Department permit and also required the approval of a special permit.

There was no one to speak in support or opposition.

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RESOLUTION

In Application No. SP 84-A-048 by PARKWOOD BAPTIST CHURCH under Section 3-103 of the Zoning Ordinance for a child care center, on property located at 8726 Braddock Road, tax map reference 70-3((1))6, 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 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 R-1.
3. The area of the lot is 8.6782 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. There shall be a total maximum enrollment of 112 children with a maximum daily attendance of 85 children.
6. The hours of operation shall be 10:00 A.M. to 2:00 P.M. on Tuesdays and Thursdays.
7. There shall be a maximum of sixteen (16) employees.
8. No additional transitional screening shall be required. The barrier requirement shall 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 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 5 - 0. (Messrs. Hammack and DiGiulian being absent)

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Page 103 August 7, 1984, Scheduled 10:45 A.M. case heard at 10:45 A.M.:

10:45 A.M. THE SPRINGS, INC., appl. under Sect. 3-203 of the Ord. to amend S-13-79 for private school of general education by changing to nursery school and child care center for max. of 99 children, ages 2 1/2 to 6, hours of operation 7:30 A.M. to 6:00 P.M., and to permit continuation of the use without term, located 5407 Backlick Rd., R-2, Lee Dist., 80-2((1))4, 147,559 sq. ft., SPA 79-L-013-1.

Cheryl Hamilton reviewed the staff report for the Board. Cathy Saifer presented the application. She stated that the school had been in operation for 18 years, and they leased space from the church. Ms. Saifer stated that she would comply with all the development conditions in the staff report, but she didn't agree with number 8 which stated: "The Transitional Screening 1 requirement shall be modified to retain the existing vegetation provided that a single row of evergreens are planted along the frontage of Backlick Road." She had contacted the people at the church, and they didn't want to plant any trees because it would ruin the landscaping that had been done. Also, the trees would block the site distance for people trying to exit from the church.

Chairman Smith stated that churches wanted to be seen, not hidden by trees. The Board Members discussed the screening and decided that it was not a necessary condition to place on the school, since they didn't own the property and the church didn't want any more trees planted.

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

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RESOLUTION

In Application No. SPA 79-L-013-1 by THE SPRINGS, INC. under Section 3-203 of the Zoning Ordinance to amend S-13-79 for private school of general education by changing to nursery school and child care center for max. of 99 children, ages 2 1/2 to 6, hours of operation 7:30 A.M. to 6:00 P.M., and to permit continuation of the use without term, on property located at 5407 Backlick Road, tax map reference 80-2((1))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 August 7, 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 147,559 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 hours of operation shall be from 7:30 A.M. to 6:00 P.M., Monday through Friday.
6. There shall be a maximum daily enrollment of ninety-nine (99) children.
7. A "one-way, exit only" sign shall be posted at the northern curb cut.
8. The Transitional Screening 1 requirement shall be modified to retain the existing vegetation. The barrier requirement shall be modified to retain the existing fence.

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. Hyland seconded the motion.

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

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Page 105 August 7, 1984, Scheduled 11:00 A.M. case heard at 11:25 A.M.:

11:00 A.M. THE APPLETREE, INC., appl. under Sect. 3-203 & 8-901 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 87 students, ages 2 through 8, with modification or waiver of dustless surface requirement, located 9655 and 9657 Blake Ln., Willow Point Subd., R-2, Providence Dist., 48-3((19))2 & 3, 67,849 sq. ft., SPA 82-P-089-2.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit application subject to the development conditions set forth in the staff report. Ms. Kelsey indicated that the BZA had approved the applicant's request for a waiver of the twelve-month limitation on rehearing on May 22, 1984.

Bill Donnelly, 4011 Chain Bridge Road, Fairfax, represented the applicant. He stated that this request was a scaled down version of the previous request. The proposed new building was relocated to lot 2 to the rear of the existing building. They were connected only by a breezeway so that two large maple trees would not have to be removed. The applicant was going to provide plantings for better buffers and improve the present parking and driveway situation. Also, a four foot high interior fence was going to be added, set back 25 feet from the property line on the sides and the rear. There is an existing six foot high stockade fence along the rear and side property lines. Also with respect to buffering, the applicant will be putting additional landscaping along the front of the property. Mr. Donnelly submitted current pictures to the Board showing how well landscaped the property was. Mr. Donnelly stated that the stacked parking arrangement that currently existed would be eliminated. Parking would be provided in the rear for some of the staff. The driveway and parking on the front of the site would be paved. In terms of traffic impact, Mr. Donnelly stated that it would not be significant for several reasons. He referred to condition #14 in the staff report development conditions which limited the rush hour enrollment to the existing enrollment. Condition #16 required the applicant to provide a mini-bus to provide transportation to many students at one time. Mr. Donnelly stated that there was a high volume of traffic existing, and this application would not add a significant amount of traffic. Mr. Donnelly stated that he agreed with all the conditions except for condition #19 which referred to an existing shed and required the shed to be relocated or a variance obtained. He stated that the shed was not a part of the school and was an accessory to the residence.

Mr. Donnelly read several letters in support from people not able to be present at the meeting: Charles and Ruby Baughman, 9701 Blake Lane, adjacent to the property; Donald and Linda Williams, 9519 Barcellona Court, Mission Square townhouse development; Charles and Sandra Allport, parents that had a child in the Appletree School; John P. Methvin, 2969 Borge Street, a parent with a child in the school & Jonathan and Susan Stone, 9744 Water Oak Drive, located at the rear of the property in question but not contiguous. Mr. Donnelly also presented several petitions in support of the application signed by direct neighbors and people living in the Mission Square townhouse development.

(Mrs. Thonen left the meeting at 12:00 P.M.)

Dr. Robert Drake, 2721 Oak Valley Drive, spoke in support of the application. He stated that this school was of tremendous benefit to the community, and that the children attending have a safe, secure, educational place during the hours before and after school hours. He stated that the minimization of a few of the latch-key children in the area was a benefit to the community, parents and children.

Roger Kosak, 3025 Mission Square Drive, spoke in opposition. He stated that he had worked with the County on the Comprehensive Plan to get this area zoned for residential use only. He stated that he had lived at this address for ten years, and rush hour traffic had gotton worse through the years. The expansion of the school would only make it more congested. Mr. Kosak questioned the Transportation Analysis their information about the peak rush hour on Blake Lane. In response, Ms. Kelsey stated that the Transportation Department had indicated that the peak rush hour time for Fairfax County in general was between 7:00 A.M. and 8:00 A.M., but they did not know the peak rush hour for Blake Lane specifically, because there had not been such a study done. Chairman Smith stated that these times were consistent with the current records. Mr. Kosak stated that many times there was a significant traffic tie-up because of people turning left in the Appletree school. He also stated that the school was currently an eyesore and looked like a used car lot with all the cars parked in the front.

William Vincent, President of the Blakeview Homeowners Association, spoke in opposition. He stated that he wanted to voice a general objection from the community which centered around the hazardous traffic situation. He stated that the business was growing and successful, and perhaps the applicant should consider moving to another property.

During rebuttal, Mr. Donnelly responded to the letter of opposition in the file written by Peter and Concetta Morano, 9720 Water Oak Drive. The Morano's live to the rear of the property, and the additional buffering that would be put in should help provide a noise

barrier. Mr. Donnelly stated that he felt Mr. Kosak was apparently speaking for himself, because he had submitted a petition signed by twelve residents in the Mission Square townhouses in support of the application. He stated there was apparently a difference of opinion as to the desirability of this particular use. Mr. Donnelly stated that there were plans to widen Blake Lane to four lanes, which would help with the traffic. Mr. Donnelly questioned Mr. Vincent about whether he was representing the Blakeview Citizens Association. Mr. Vincent responded that there was no specific meeting of the association regarding this application, and no votes were taken. His comments were more of an accumulation of people voicing their comments to the Association over a period of time.

In closing, Mr. Donnelly stated that this was a less intense application than the previous one. He stated that on the petitions were the signatures of three individuals that lived across Blake Lane from the subject property that were in support. Ms. King, 9704 Blake Lane; Mrs. Craig, 9712 Blake Lane; and Mr. Finley at 9708 Blake Lane.

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

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RESOLUTION

In Application No. SPA 82-P-089-2 by THE APPLETREE, INC. under Section 3-203 & 8-901 of the Zoning Ordinance 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 87 students, ages 2 through 8, with modification or waiver of dustless surface requirement, on property located at 9655 and 9657 Blake Lane, tax map reference 48-3((19))2 & 3, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 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 R-2.
3. The area of the lot is 67,849 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 follow:

   - Along the side and rear lot lines a twenty-five (25) foot 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. Nineteen (19) parking spaces shall be provided as shown on the approved plat.
7. The ten (10) parking spaces and the entire driveway portions at the front of the property shall be paved with a dustless surface as shown on the approved plat. A gravel surface shall be permitted for the driveway and the nine (9) parking spaces to the rear of the property as shown on the approved plat.
8. All gravel surface areas shall be constructed in accordance with standards approved by the Director, DEM.
9. 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.
10. There shall be an annual inspection to ensure compliance with the conditions of this permit relative to the gravel surface, and the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.
11. The approval of the waiver of the dustless surface requirement is for a period of five (5) years.
12. Dedication for public street purposes shall be provided along the full frontage of Lot 3 to be consistent with previous dedication on Lot 2 as determined by the Director, DEM.
13. The deceleration lane shall be retained and the site entrance shall be improved subject to VDH & T approval. One-way vehicular movement shall be provided in the driveway area on Lot 2 as shown on the approved plat.
14. The total maximum enrollment shall be eighty-seven (87) 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).
15. The hours of operation shall be 7:00 A.M. to 6:00 P.M. five days a week.
16. The applicant shall use at least one (1) van/mini-bus vehicle to provide bus service for students and shall provide assistance to patrons in establishing carpools.
17. The use of the buildings shall be limited to daytime school uses.
18. The dwelling at the front of Lot 3 shall not be used for any purpose associated with the child care center/school use.
19. The 12 by 10 foot shed, located near the northwestern lot line shall be removed or relocated in compliance with the applicable location regulations set forth in the Zoning Ordinance.
20. The above conditions incorporate all applicable conditions of previous special permit approval and shall supercede all other previous conditions.

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. Ribble seconded the motion.

The motion *FAILED by a vote of 3 - 1 (Mrs. Day) (Messrs. Hammack & DiGiulian and Mrs. Thonen being absent)

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//The Board convened for lunch at 12:20 P.M. and returned at 1:30 P.M. to take up the scheduled agenda.

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1:00 P.M. GILBERT SECURITY SYSTEMS T/A GILBERT SECURITY SERVICE, appl. under Sect. 5-603 of the Ord. for an indoor firing range, located 8195 Backlick Rd., Backlick Center South, I-6, Mt. Vernon Dist., 99-1((1))25, 100,188 sq. ft., SP 84-V-049.

Cheryl Hamilton reviewed the staff report for the Board which recommended approval of the special permit subject to the conditions set forth in the staff report. She stated that the only issue regarding this permit was that the Zoning Ordinance requires nine parking spaces for this use. The applicant has exclusive right to eight parking spaces which are located behind the warehouse. Ms. Hamilton stated that the applicant could either reduce the number of employees on site at any one time, or reduce the number of clients.

Richard Hobson, from the firm of Boothe, Prichard & Dudley, represented the applicant. He stated that this facility would provide security services to over fifty different facilities in private industry and government, many of whom are highly sensitive security installations. The facility will be an indoor firing range that is completely soundproof, and the sound of shooting will not penetrate the walls. Mr. Hobson stated that someone would be present to monitor the facility at all times. The maximum number of patrons at any one time was 10 to 12. The peak use would be after 5 P.M. Mr. Hobson stated that the applicant would be willing to reduce the number of employees on site at any one time to two, so that the applicant could meet the parking requirements.

Fred Williams, President of GilbertSecurity Systems, Inc., spoke regarding the application. He explained that he wanted to build a firing range because of the overload on the available public facilities, and the lack of any range facilities in the area. He stated that he had visited over thirty ranges all over the country, and had incorporated all the best features into his facilities. He stated that the instructors would all be NRA weapons instructors.

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

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GILBERT SECURITY SYSTEMS, INC.

R E S O L U T I O N

In Application No. SP 84-V-049 by GILBERT SECURITY SYSTEMS T/A GILBERT SECURITY SERVICE under Section 5-603 of the Zoning Ordinance for an indoor firing range, on property located at 8195 Backlick Road, tax map reference 99-1((1))25, 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 August 7, 1984; and

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

1. That the applicant is the lessee.
2. The present zoning is I-6.
3. The area of the lot is 100,188 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 I 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 maximum hours of operation shall be from 10:00 A.M. to 10:00 P.M. daily.
6. There shall be no more than two (2) employees on site at any one time.
7. There shall be nine (9) parking spaces for this use, provided however that if the the number of employees is reduced to two (2), eight (8) parking spaces shall be provided.
8. The sale of fire arms and accessories shall be limited to patrons of the indoor firing range.
9. This use shall meet all applicable federal, state, and county safety 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.

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. Hyland seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Hammack & DiGiulian and Mrs. Thonen being absent)

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Page 109 August 7, 1984, Scheduled 1:15 case heard at 1:55 P.M.:

1:15 P.M. ANTOINE S. & HIAM H. KHOURY, appl. under Sect. 3-403 of the Ord. for a home professional office (accounting and tax service), located 3915 Annandale Rd., R-4, Beverly Manor, Mason Dist., 60-3((25))13 & 14, 37,880 sq. ft., SP 84-M-043.

The Board members were in receipt of several letters from the surrounding property owners, including one from the Broyhill Crest Citizens Association, asking that this application be deferred to an evening meeting. The letters indicated that most of the people interested in this application were unable to attend a day meeting because they worked during the day. The applicants agent, Gary Davis, indicated that his client had no problem with a deferral, provided that the hearing was set in September.

It was the consensus of the Board to defer the special permit application to September 18, 1984 at 7:30 P.M.

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Page 109 August 7, 1984, Scheduled 1:30 P.M. case heard at 2:00 P.M.:

1:30 P.M. SIDEBURN RUN RECREATION ASSOCIATION, INC., appl. under Sect. 3-103 of the Ord. to amend S-81-A-080 for community swimming pool to allow construction of covered pavilion, and an addition to the bath house, located 10601 Zion Rd., R-1, Bonnie Brea Subd., Annandale Dist., 68-3((1))16, 3.0 ac., SPA 81-A-080-1.

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit amendment subject to the conditions set forth in the staff report.

Charles Sammons, 5403 Earps Corner Place, represented the applicant. He stated that the proposed project would not detract from the neighborhood. All of the surrounding homeowners were contacted and no one had any opposition to the construction. Mr. Sammons stated that he was in agreement with all the development conditions contained in the staff report.

There was no one to speak in support or opposition.

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SIDEBURN RUN RECREATION ASSOCIATION, INC.

RESOLUTION

In Application No. SPA 81-A-080-1 by SIDEBURN RUN RECREATION ASSOCIATION, INC. under Section 3-103 of the Zoning Ordinance to amend S-81-A-080 for community swimming pool to allow construction of covered pavilion and an addition to the bath house, on property located at 10601 Zion Road, tax map reference 68-3((1))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 August 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 R-1.
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 set forth in Article 17, Site Plans.
5. The number of family members shall not exceed 450.
6. The hours of operation shall be from 8:00 A.M. to 9:00 P.M.
7. The number of parking spaces shall be 128.
8. 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.
   - A written 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 after the successful conclusion of a previous after hours party.

9. Additional plantings or a six (6) foot solid fence shall be provided along the eastern lot line to protect the adjacent residential subdivision. The existing plantings along the remaining lot lines shall be deemed to satisfy the transitional screening requirement.
10. The barrier requirement may be modified provided the existing fence shown on the plat is retained.

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 construction for the requested additions 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 4 - 0. (Messrs. Hammack & DiGiulian and Mrs. Thonen being absent)

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Page 111 August 7, 1984, Scheduled 1:45 P.M. case heard at 2:10 P.M.:

1:45 P.M. OLD KEENE MILL SWIM & RACQUET CLUB, INC., appl. under Sect. 3-103 of the Ord. to amend S-80-S-094 for community recreational facilities to permit addition of wood decking, shade pagodas and arbor to existing facilities, located 9534 Orion Ct., Benttree Subd., R-1, Springfield Dist., 78-3((1))7C, 3.27 acres, SPA 80-S-094-1.

Cheryl Hamilton reviewed the staff report for the Board which recommended approval of the special permit application subject to the conditions set forth in the staff report.

Robert Armstrong, 6201 Fushimi Court, Burke, represented the applicant. He stated that he was the President of the Old Keene Mill Swim and Racquet Club. The proposed addition was in response to several members' request for shaded area around the wading pool area. At one of the membership meetings, the Swim Club Board adopted this suggestion and voted on it at that time. Mr. Armstrong stated that this would be aesthetically pleasing to the community. He stated that he was in agreement with all the development conditions.

There was no one to speak in support or opposition.

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Page 111 August 7, 1984 Board of Zoning Appeals
OLD KEENE MILL SWIM & RACQUET CLUB, INC.

R E S O L U T I O N

In Application No. SPA 80-S-094-1 by OLD KEENE MILL SWIM & RACQUET CLUB, INC. under Section 3-103 of the Zoning Ordinance to amend S-80-S-094 for community recreational facilities to permit addition of wood decking, shade pagodas and arbor to existing facilities, on property located at 9534 Orion Court, tax map reference 78-3((1))7C, 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 August 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 R-1.
3. The area of the lot is 3.27 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 existing vegetation shall be used to satisfy the Transitional Screening, and barrier requirement. If supplemental and barrier screening is deemed necessary by the Director, of the Department of Environmental Management (DEM), the amount and type of such screening shall be determined by the Director, DEM.
6. The hours of operation shall be from 9:00 A.M. to 10:00 P.M. for the tennis courts and from 9:00 A.M. to 9:00 P.M. for the swimming pool.
7. Membership shall be limited to 600 families.
8. There shall be a minimum of eighty-four (84) parking spaces.
9. 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.

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. Ribble seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. Hammack & DiGiulian and Mrs. Thonen being absent)

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Page 112 August 7, 1984, Scheduled 2:00 P.M. case heard at 2:15 P.M.:

2:00 P.M. THE RESTON MONTESSORI SCHOOL, INC., appl. under Sect. 6-303 of the Ord. for a nursery school, located 2320 Hunters Woods Plaza, Reston, PRC, Centreville Dist., 26-1((7))3E, 898,144 sq. ft., SP 84-C-051. (Out-of-turn hearing granted).

The Board was in receipt of a letter from the applicant requesting withdrawal. It was the consensus of the Board to withdraw the special permit application without prejudice.

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Page 112 August 7, 1984, Scheduled 2:15 P.M. case heard at 2:15 P.M.:

2:15 P.M. CHRISTIAN ASSEMBLY CENTER, appl. under Sect. 3-203 of the Ord. for a private school of general education for 99 children, located 8200 Bell Ln., R-2, Providence Dist., 39-4((1))2 and 39-4((2))2, 3, & 4, 7.0 ac., SP 84-P-055. (Out-of-turn hearing granted).

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit application subject to the development conditions set forth in the staff report. She stated that the small lots to the south of the property had been recently rezoned. The applicant for the rezoning had proffered to widen and construct Bell Lane, and put in curb and gutters on both sides. Ms. Kelsey stated that this would change

condition #9, because staff was not sure dedication would now have to be provided by the church. She asked the Board to add the words, "if necessary" at the end of the sentence asking for dedication.

Dan Duis, the pastor of the church, presented the application. He stated that the developer that owned the recently rezoned properties had agreed to put in and pave the thirty foot street, Bell Lane, and bring up the intersection to improve conditions. In that proposal he has twenty five feet on both sides. Mr. Duis stated that the piece of property to the front of the church was under contract and would be settled in the next thirty days.

There was no one to speak in support or opposition.

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Page 113 August 7, 1984 Board of Zoning Appeals
CHRISTIAN ASSEMBLY CHURCH

RESOLUTION

In Application No. SP 84-P-055 by CHRISTIAN ASSEMBLY CENTER under Section 3-203 of the Zoning Ordinance for a private school of general education for 99 children, on property located at 8200 Bell Lane, tax map reference 39-4((1))2 and 39-4((2))2, 3, & 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 August 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 R-2.
3. The area of the lot is 7.0 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. There shall be a maximum daily enrollment of 99 students.
6. Sixteen (16) parking spaces shall be made available for the exclusive use of the school during the hours the school is in session.
7. A Barrier D, E, or F and Transitional Screening 1 shall be provided along the western and southern lot lines between the playing field and existing and planned residential developments. Transitional screening and a barrier may be modified along all other lot lines provided the existing vegetation remains.
8. The hours of operation shall be from 9:00 A.M. to 3:00 P.M., Monday through Friday.
9. Dedication shall be provided on Bell Lane to 26 feet from centerline, if necessary.

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. Hyland seconded the motion.

The motion passed by a vote of 4 - 0. (Messrs. DiGiulian and Hammack and Mrs. Thonen being absent)

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Page 114 August 7, 1984, AFTER AGENDA ITEMS:

THOMAS & BETTY THACHER/SP 84-S-057: The Board was in receipt of a letter requesting an out-of-turn hearing for the above referenced special permit which was currently scheduled for October 23, 1984. It was the consensus of the Board to grant the request, and schedule the application on October 2, 1984.

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Page 114 August 7, 1984, AFTER AGENDA ITEMS:

TURF SPECIALISTS OF NORTHERN VIRGINIA, INC./A 84-V-007: The Board was in receipt of a memo from the Zoning Administrator regarding the above referenced appeal application. It was the consensus of the Board that the appeal was complete and timely filed, and the hearing date was set for October 30, 1984 at 10:00 A.M.

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Page 114 August 7, 1984, AFTER AGENDA ITEMS:

VIETNAMESE BUDDHIST ASSOCIATION/SP 83-S-099: The Board was in receipt of a letter from Bernard M. Fagelson regarding the above referenced application granted by the Board on April 3, 1984. Mr. Fagelson had represented the applicants in this case. He stated that he had heard a rumor that certain persons associated with the Vietnamese Buddhist Association have indicated that it is not their intention to comply with the conditions of their special use permit. They had no intention of complying with the limitation of the number of persons who may be at the pagoda at any one time, the hours of operation, or outside public gatherings. Mr. Fagelson felt it was necessary to bring this to the attention of the BZA, and hoped his letter would prove unnecessary.

Mr. Hyland stated that he would be very distressed if the Vietnamese Buddhist Association did not live up to the terms of their permit. Ms. Kelsey stated that the site plan had not yet been submitted, but she had notified the Department of Environmental Management about the possibility of a problem. She stated that until such time as it was constructed and a violation existed, Zoning Enforcement would not be able to take any action.

Mr. Hyland stated that this was a very serious situation, and he wanted this matter looked into by staff. He stated that if the association says right now they are going to violate their special permit, he would move to deny their special permit. He suggested that if it was appropriate, the Zoning Enforcement Branch should get in touch with Mr. Vin and discuss the contents of this letter with him to determine what was going on. Mr. Hyland stated that this issue should be addressed immediately, rather than letting them proceed, fully intending not to comply with the permit. He stated that he was now making a formal complaint, on record, in connection with this organization, that he would like investigated. Chairman Smith stated that he wanted the record to show that the Zoning Administrator was the proper person to initiate and take action on any violation of the existing use permit.

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// There being no further business, the Board adjourned at 2:40 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 Sept. 6, 1984

APPROVED: Sept. 11, 1984

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 11, 1984. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble (arriving at 10:20 A.M.); and Mary Thonen (arriving at 10:35 A.M.). (Mr. John DiGiulian was absent).

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

MATTERS PRESENTED BY BOARD MEMBERS:

BENJAMIN L. III & KATHERINE E. ORCHARD, VC 84-M-005: The Board was in receipt of a letter from Mr. & Mrs. Benjamin Orchard requesting a waiver of the twelve month limitation on rehearing for the variance denied on April 3, 1984. Following discussion, Mr. Hyland moved that the Board approve the request and allow a refiling prior to the one year limitation. Mr. Hammack seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Mrs. Thonen and Messrs. DiGiulian and Ribble being absent).

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Page 115 September 11, 1984

At 10:20 A.M., Mr. Ribble arrived at the meeting.

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Page 115 September 11, 1984, Matters

ELEANOR C. THOMPSON, VC 83-P-138: The Board was in receipt of a letter from Mr. Brian Loe, agent for Mrs. Thompson, requesting a waiver of the twelve month limitation on rehearing for the variance denied on November 22, 1983. During the presentation, Mr. Loe discussed the scheduling of applications with the Board. In as much as the Board was presently scheduling applications in November, Mr. Loe asked that the Board not consider the waiver of the twelve month limitation but assign a hearing date for the pending variance application at the first meeting following the twelve month period. Mr. Hyland moved that the Board schedule the application for November 13, 1984. Mr. Hammack seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith)(Mr. DiGiulian and Mrs. Thonen being absent).

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Page 115 September 11, 1984, Scheduled case of

10:00 A.M. THE PRICE COMPANY, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that appellant's proposed use is a retail sales establishment, which is not a permitted use in the I-5 or I-6 districts, A 84-W-003.

The Board was in receipt of a memorandum from the Zoning Administrator forwarding a request from Mr. Middleton, agent for The Price Company, for a deferral of the above-captioned appeal for a period of two months. It was the consensus of the Board to defer the appeal until November 13, 1984 at 10:00 A.M. as requested by the applicant.

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Page 115 September 11, 1984, After Agenda Items

CHURCH OF JESUS CHRIST OF THE LATTER DAY SAINTS, SP 84-D-059: The Board was in receipt of request from Mr. Charles L. Shumate, agent for the applicant, regarding an out-of-turn hearing. The special permit was scheduled for the evening meeting of October 16, 1984. Mr. Hyland moved that the Board schedule the special permit for October 2, 1984 at 11:45 A.M. However, Mr. Hyland conditioned his motion by stating that should any citizen request the special permit application be heard at an evening meeting that it be deferred until October 16th as originally proposed. Mrs. Day seconded the motion and it passed by a vote of 3 to 2 (Messrs. Smith & Hammack) with 1 abstention (Mrs. Thonen)(Mr. DiGiulian being absent).

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Page 115 September 11, 1984, After Agenda Item

ARTHUR & EVELYN METZGER, V 81-D-164: The Board was in receipt of a memorandum from staff forwarding a request from Mr. & Mrs. Arthur Metzger for additional time to record their subdivision variance granted on November 3, 1981. The Board previously granted additional time for a period of six months which extended the expiration date until November 4, 1983. Prior to the expiration, Mr. & Mrs. Metzger had requested another period of additional time which was deferred by the BZA for additional information. It was the recommendation of staff that the BZA approve additional time for a period of eighteen months which would extend the expiration date until May 3, 1985. In addition, the Zoning Administrator was recommending that no further periods of additional time be approved.

Mr. Hyland moved that the Board approve the additional time request as recommended by staff. Mr. Ribble seconded the motion and it passed unanimously by a vote of 6 to 0 (Mr. DiGiulian being absent).

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Page 116 September 11, 1984, Scheduled case of

10:30 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 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; AND DEFERRED FROM MARCH 27, 1984 & JUNE 5, 1984 AT THE REQUEST OF THE APPLICANT).

10:30 A.M. KING OF KINGS LUTHERAN CHURCH, appl. under Sect. 18-401 of the Ord. to modify or waive the dustless surface requirements), located 12604 Lee Jackson Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 ac., SP 84-C-037. (DECISION DEFERRED FOR PERIOD OF 60 DAYS TO ALLOW INVESTIGATION OF THE POSSIBILITY OF COUNTY OR STATE ACQUISITION OF PROPERTY; AND DEFERRED FROM MARCH 27, 1984 & JUNE 5, 1984 AT THE REQUEST OF THE APPLICANT).

At the request of Mr. Charles L. Shumate, attorney for the applicant, the above-captioned applications were deferred until November 27, 1984 at 10:00 A.M.

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Page 116 September 11, 1984, Scheduled case of

10:45 A.M. ALICE L. GORANSON, appl. under Sect. 18-401 of the Ord. to allow construction of 10'6" high enclosure over swimming pool to 5.0 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-207 & 10-104), located 6301 Waterway Pl., Lake Barcroft Subd., R-2, Mason Dist., 61-1((11))669, 31,700 sq. ft., VC 84-M-091.

Mr. William Shoup presented the staff report. Mrs. Alice L. Goranson of 6301 Waterway Place informed the Board that for the past twelve years, she had been using an air inflated plastic cover over her swimming pool. She stated that this was not satisfactory because it deflated whenever the electricity went off. Mrs. Goranson proposed to construct a permanent solar cover of aluminum and fiberglass which would blend in with the woodsy setting. The 10.6 ft. high solar cover would be less visible than the present plastic bubble. Because of the layout of the pool and the irregular lot line, the solar cover would come to 5 ft. from the side lot line at its closest point.

In response to questions from the Board, Mr. Shoup stated that the existing bubble was considered to be a permanent structure, even though it was used seasonally, and was subject to the accessory structures provision of the Ordinance. He indicated that a building permit would also be required for that type of structure.

The Board questioned Mrs. Goranson regarding other methods of covering the pool. She explained that she could not use a plastic cover parallel to the pool surface because it was a big pool and there were a lot of trees. Too much dirt from the trees fell into the cover and the cover was too bulky for one person to maintain.

There was no one else to speak in support. However, Mrs. Goranson informed the Board that her neighbor, Mr. Fleming supported the variance request and had been the one to suggest that she construct the pool enclosure. Another neighbor, Mr. Ferry had written a letter of opposition. He indicated that he had complied with the side yard setback when constructing his garage and urged the Board to uphold the 15 ft. side yard restriction.

During rebuttal, Mrs. Goranson stated that Mr. Ferry had extended his driveway over to her fence where he parked his van. She stated that he had full utilization of the setback area.

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-091 by ALICE L. GORANSON under Section 18-401 of the Zoning Ordinance to allow construction of 10.6 ft. high enclosure over swimming pool to 5.0 ft. from side lot line (15 ft. minimum side yard required by Sects. 3-207 & 10-104), on property located at 6301 Waterway Place, tax map reference 61-1((11))669, 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 11, 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 31,700 sq. ft.
4. Mr. Hammack stated that he had a lot of sympathy with Mrs. Goranson's proposed use of her property. He liked the development of the pavilion that she had proposed but he did not think that she had satisfied all the requirements for the BZA to grant her a variance under the circumstances.

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. Thonen seconded the motion.

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

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11:00 A.M. JAMES M. & JERALDINE M. McDERMOTT, appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to 12.9 ft. from rear lot line (19 ft. min. rear yard req by Sects 6-106, 3-307 & 2-412), located 10903 Fox Sparrow Ct., Fairfax Club Estates, PDH-3, Annandale Dist., 77-1((12))260A, 7,309 sq. ft., VC 84-A-092.

Mr. William Shoup presented the staff report. In response to questions from the Board, Mr. Shoup stated that even though the Zoning Ordinance was being amended with respect to decks, this deck would not have been administratively approved because of its height. Mr. James McDermott of 10903 Fox Sparrow Court informed the Board that the property to the rear of his home was developed and all property owners had been notified. The proposed deck would be 8 ft. off the ground. Mr. McDermott explained that he would have been allowed a 6 ft. deck but he wanted to extend it to 12 ft. for more reasonable use. Mr. McDermott stated that he had not taken the builder's option for a sliding glass door and would have to install one off the dining room.

With regard to the justification, Mr. McDermott stated that his back yard sloped differently from the other lots in the area. The other homes all had decks. Drainage would not be affected by the construction of the deck.

Mrs. McDermott informed the Board that in order to watch her son playing in the back yard, she had to exit from the basement. A sliding glass door off the dining room with a deck would provide faster and easier access to the back yard enabling her to reach her son when necessary.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-A-092 by JAMES M. & JERALDINE M. McDERMOTT under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 12.9 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 6-106, 3-307 & 2-412), on property located at 10903 Fox Sparrow Court, tax map reference 77-1((12))260A, 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 11, 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 PDH-3.
3. The area of the lot is 7,309 sq. ft.
4. Mrs. Thonen stated that she had listened very carefully to the testimony and always felt that young people should be allowed some flexibility in what they have managed to put together.

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 is exceptionally narrow and has an extraordinary situation or condition of 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 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 5 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Mr. Ribble noted for the record that the applicants' property had topographic problems and the way the house was situated on the lot caused a problem and the need for the variance.

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Page 119 September 11, 1984, Scheduled case of

11:15 A.M. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, appl. under Sect. 3-303 of the Ord. to amend S-81-V-066 for church and related facilities to permit addition of a storage building to existing facilities, located 2000 George Washington Memorial Pkwy., Mallinson Subd., R-3, Mt. Vernon Dist., 111-1((1))2, 7.30 ac., SPA 81-V-066-1. (DEFERRED FROM JULY 24, 1984 FOR A REPORT FROM DEM REGARDING WATER RUN-OFF)

Mr. William Shoup introduced Mr. Jack White from DEM who reported to the Board on the drainage runoff situation. His report was provided to the Board in the staff package. Mr. White explained that the problem resulted from the outflow discharge pipe flowing into the roadside pipe. The excess runoff was stored in a detention pond and throttled down so that the rate or capacity for the pipe was not exceeded. It would take a longer period of time for the excess drainage to flow through the pipe but DEM felt the drainage system was adequate. Mr. White stated that the construction of the storage shed would not have any effect on the drainage.

Mrs. Carol Smith, President of the Stratford-on-the-Potomac Citizens Association, presented the Board with a copy of a letter dated September 10th wherein they wanted the BZA to rectify the problem of flooding.

In response to questions from the Board regarding the blocked culverts, Mr. White stated that the culverts were in the state highway right-of-way. Mr. Swann had blocked the culvert to protect himself from flooding. Mr. White informed the Board that the blocked culvert would protect Mr. Swann from smaller storms because it forced the water over the road into the other drainage culvert.

During further Board questioning, Mr. Carlton Price of 1222 Woodcliff Court in Alexandria stated that he did not feel there was a real problem. The culvert was old and the natural drainage pattern was next to Mr. Swann's house. Mr. Price stated that Mr. Swann's property was in a low spot and the water always ran there. When the church was developed, it was discovered that a retention pond was needed but the church did not aggravate the water situation. By Mr. Swann blocking the culvert, he was keeping the water from running up under his house. Mr. Price stated that the water situation was not any different now than it had been before the church construction.

During discussion as to how the situation could be remedied, Mr. White stated that the addition to the culvert capacity to the east of Mr. Swann's property might alleviate the problem. Mr. White stated that the church had complied with the requirements of DEM under the Public Facilitites Manual with regard to drainage. If the drainage problem could not be remedied by individual property owners, Mr. White suggested that the BZA initiate

action by the Board of Supervisors to authorize the funding necessary for the Department of Public Works to correct the situation. The other alternative was to provide piping through the church property to the south to the Potomac River. Mr. White stated that the culverts on the George Washington Parkway were adequate to handle the additional flow.

Mr. Hyland was concerned that the BZA shared a responsibility in the drainage problem because the BZA had always assured the citizens that DEM would handle any drainage problem. Mr. Hyland stated that the citizens were affected by the drainage in a different manner after the development of the church. Therefore, the BZA shared a responsibility since it approved the special permit for the church.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 81-V-066-1 by CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS under Section 3-303 of the Zoning Ordinance to amend S-81-V-066 for church and related facilities to permit addition of a storage building to existing facilities, on property located at 2000 George Washington Memorial Parkway, tax map reference 111-1((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 September 11, 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 7.30 acres.
4. That compliance with the Site Plan Ordinance is required.
5. The applicant is requesting the addition of a storage shed to the existing facilities. Testimony and staff has indicated that the shed will not adversely impact runoff on Prices Lane because it would drain to the south towards the George Washington Parkway. Testimony seems to indicate that the existing drainage problem on Prices Lane is one that cannot require the church to correct the problem. As a result of today's testimony, Mrs. Day moved that the Board request the Board of Supervisors to review the drainage problem on Prices Lane and, specifically, the Swann property with DEM and the Department of Public Works.

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. There shall be no additional landscaping, screening, or barrier required.
6. The seating capacity shall be 317.
7. The hours of operation shall be normal church related activities.
8. The number of parking spaces shall be 207.
9. No trees shall be disturbed within 170 feet of the northern right-of-way line of the parkway.

RESOLUTION

10. No trees or grading in any manner shall be performed within 25 feet of Prices Lane southern right-of-way line. Additional screening and supplemental plantings shall be provided along Prices Lane at the discretion of the Director of Environmental Management.

11. There shall be no removal of trees or grading within twenty-five (25) feet of Price's Lane's southern right-of-way line except for tree removal or grading necessary for:

- o The prospective installation of utility connections provided, however, that the areas to be temporarily disturbed shall be kept to a minimum and the Arborist's Office shall be notified and shall field inspect the utility easements prior to the installation of the utilities.

12. Means of ingress and egress for all vehicles, to include service and delivery vehicles, shall be via Lucia Lane, except for the temporary construction entrance provided for in Condition 11 above.

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.

During discussion, Mr. Hyland stated that he was reluctant to support the motion but would only because he did not think the storage shed was going to make any demonstrable difference at all in the drainage issue that had been raised by the citizens. The other matters which may be colateral with regard to this issue should not affect the application. In supporting the motion, Mr. Hyland stated that Mrs. Day had included a reference to the Board of Supervisors that something absolutely should be done concerning Prices Lane. He thought there was a shared responsibility there in terms of the development of the property which extended both to the County and the BZA. Something had to be done and Mr. Hyland stated that he had hoped the church would have done something about it or been willing to work with the neighbors in terms of the problem which he felt they shared some responsibility in as well because it was their additional water coming off the site even though the church did not feel it was a problem. Mr. Hyland indicated that he felt Mrs. Swann had reason to be extremely upset with everybody in this matter, including the BZA, the County of Fairfax, and the church. Mr. Hyland stated that it was clear that the problem had been exacerbated after the development of the property. Mr. Hyland stated that something had to be done for Mrs. Swann and he hoped that the motion would at least accomplish that.

Mrs. Thonen stated that she felt the same way as Mr. Hyland that the citizens should not be impacted on anything like this. If the Board did not have that reference to the Board of Supervisors, Mrs. Thonen stated that she would not support the motion.

Chairman Smith inquired of Mr. White as to whether there was a drainage fund available for that area. Mr. White stated that it would come out of the general fund unless it was identified as a storm bond project.

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

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Page 121 September 11, 1984, Recess

At 12:35 P.M., Mr. Hyland moved that the Board recess for lunch. Mrs. Day seconded the motion. When Mr. Hyland determined that the next scheduled case on the agenda involved the same representatives as the previous case, he rescinded his motion so that the applicant would not be inconvenienced by a delay.

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Page 122 September 11, 1984, Scheduled case of

11:30 A.M. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, appl. under Sect. 3-303 of the Ord. to amend S-82-M-060 for church and related facilities to permit addition of a storage shed to existing facilities, located 3900 Howard St., R-3, Mason Dist., 60-3((1))18A, 7.944 acres, SPA 82-M-060-1.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. Mr. Carlton Price of 1222 Woodcliff Court in Alexandria informed the Board that this application was identical to the previous special permit discussed by the BZA. The storage shed would match the building materials of the church and would utilize one parking space. The shed would not impact on the traffic or utilities. It would be surrounded by large trees and low growth shrubbery making it invisibile.

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

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Page 122 September 11, 1984 Board of Zoning Appeals
CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-M-060-1 by CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS under Section 3-303 of the Zoning Ordinance to amend S-82-M-060 for church and related facilities to permit addition of a storage shed to existing facilities, on property located at 3900 Howard Street, tax map reference 60-3((1))18A, 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 11, 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 7.944 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:

1. 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. Screening shall be provided as shown on the approved site plan. Existing vegetation between the shed and the Rolf Heights subdivision shall be retained.
6. The hours of operation shall be normal church hours.
7. There shall be a minimum of 355 parking spaces provided in the existing parking areas.
8. The shed shall be located so as not to conflict with existing travel aisles or parking spaces.
9. The dumpster shall be relocated near the shed and the location shall be designated at the time of the site plan consideration subject to final approval 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.

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 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 5 to 0 (Mr. DiGiulian being absent and Mr. Ribble being out of the room).

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Page 123 September 11, 1984, Recess

At 12:40 P.M., the Board recessed for lunch and reconvened at 1:45 P.M. to continue with the scheduled agenda.

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Page 123 September 11, 1984, Scheduled case of

1:00 P.M. CEDAR CREST COUNTRY CLUB, INC. AND EUGENE N. HOOPER & CELESTE HOOPER, appl. under Sect. 3-C03 of the Ord. to amend SUP #18683 for outdoor recreation uses to permit additional land area, approval of an existing equipment shed, tennis courts, picnic pavilion, outdoor concert area for 20,000 persons and other related uses (additional information in Clerk's office) located 16850 Sudley Rd., R-C, Springfield Dist., 52-3((1))1, 52-1((1))1 & 2, 52-2((1))4, 52-4((1))1, and 42-4((1))9, 812.4 ac., SP 84-S-038.

The Board was in receipt of a letter from Mr. Harold Miller, agent for the applicant, seeking a deferral of the special permit application for personal reasons and to work out some problems identified in the staff report. The applicant was agreeable to a two month deferral.

Mrs. Carol Simmons of 5625 Sudley Road in Prince William County informed the Board that she had no objection to the deferral but was concerned about existing violations such as the canoe launching, a road along the perimeter of the property, the port-a-johns along the floodplain, and trash along Bull Run. Mrs. Simmons stated that near the volleyball courts and the maintenance sheds was a huge pile of trash.

Ms. Kelsey informed the Board that the applicant was under violation for construction of structures without the proper approval which is what prompted the application before the BZA. However, she was unaware of the potential violations mentioned by Mrs. Simmons.

It was the consensus of the Board to defer the special permit until November 20, 1984 at 8:00 P.M.

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Page 123 September 11, 1984, Scheduled case of

1:30 ANTHONY R. AUDIA, TRUSTEE, appl. under Sect. 18-401 of the Ord. to allow subdivision into five (5) lots, with proposed lots 3, 4, and 5 having widths of 8.5 ft. each (80 ft. min. lot width req. by Sect. 3-306), located 6601 Old Chesterbrook Rd., R-3, Dranesville Dist., 30-4((1))59, 1.94 acres, VC 84-D-074. (DEFERRED FROM JULY 3, 1984 AT THE REQUEST OF APPLICANT'S AGENT IN ORDER TO WORK OUT PROBLEMS WITH ADJOINING PROPERTY OWNER).

Mr. William Shoup presented the staff report. Mr. Charles L. Shumate, attorney for the applicant, informed the Board that the proposed subdivision would not result in a hardship to anyone. It was subdivision for five lots involving three pipestems. Mr. Shumate cited other examples of subdivisions with pipestems being granted by the BZA such as the one for K. F. Enterprises on Old Chesterbrook Road. He presented the Board with a copy of the staff report and resolution for that variance. In addition, Mr. Shumate presented letters of support from the property owners of lots 58, 59 & 60 being the Carpers, Mr. Diamant and Ms. Davis, respectively. He also showed the Board a copy of what the subdivision would look like without the variance. A concern of staff had been the monarch trees which Mr. Shumate assured the BZA would be preserved if the variance were granted.

There was no one else to speak in support. Mrs. Perlich spoke in opposition and presented the Board with a letter from her attorney who was unable to attend the hearing. Mrs. Perlich stated that her property would be most affected by the granting of a variance. In response to questions from the Board, Mrs. Perlich stated that she owned six acres with two houses on it. As she was a recent widow, she was undecided as to what her future plans were for the property. Mrs. Perlich was concerned that her attorney and Mr. Shumate had been unable to meet to discuss the variance following the last public hearing.

During rebuttal, Mr. Shumate stated that his attempts to meet with Mrs. Perlich's attorney had been unsuccessful. He could not reach Mrs. Perlich as she did not reside on her property and had an unlisted number. Mr. Shumate asked the Board that if they had any doubts about the property to defer decision one more time and view the site.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-D-074 by ANTHONY R. AUDIA, TRUSTEE, under Section 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, with proposed lots 3, 4 and 5 having widths of 8.5 ft. each (80 ft. min. lot width req. by Sect. 3-306), on property located at 6601 Old Chesterbrook Road, tax map reference 30-4((1))59, 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 3, 1984 and deferred until September 11, 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 1.94 acres.
4. That the applicant's property is exceptionally deep and has an exceptional 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 is exceptionally deep and has an unusual 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.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use 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 five (5) 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.

RESOLUTION

3. The subdivision of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code.
4. Dedication of right-of-way for public street purposes shall be provided along the full frontage of Old Chesterbrook Road as required by the Director, Department of Environmental Management.
5. Road improvements shall be provided in accordance with all applicable requirements as determined by Director, Department of Environmental Management.
6. An engineering soils analysis shall be submitted to the Department of Environmental Management and reviewed by the County Soil Scientist prior to subdivision plat approval.
7. The six (6) monarch white oak trees and moderate sized oaks and tulip poplars shall be preserved. Plans for such preservation shall be approved by the County Arborist.
8. Evergreen plantings shall be provided between the pipestem driveway and the eastern lot line to reduce the impact from the use of the driveway as determined by the Director, Department of Environmental Management.
9. The location of structures on proposed lot 5 in relation to the southern lot line shall conform with the provisions of Par. 2 of Sect. 2-416 of the Zoning Ordinance.
10. The Letter of Agreement dated April 7, 1983 with property owners Jon and Linda Carper, Stephen Diamant and Justine Davis: This letter hereby confirms our meeting of April 5, 1983 whereby I agreed to plant pine trees (8' to 10' high approximately every ten feet) between the proposed common driveway and your property lines, and to asphalt the common driveways to the proposed houses. In consideration of my doing the foregoing, you have agreed and do hereby agree to support the variance I seek on the above referenced property. This agreement will be made part of the deed and will be passed along with the property. The undertaking on my part is of course contingent upon my securing such variance. If the foregoing terms of our understanding are accurate, understood and agreeable to each of you; I ask that each of you sign your names below as a manifestation of your acceptance and agreement to same. Signed by Anthony Audia and the above mentioned property owners on April 7, 1983.
11. The Letter of Agreement dated June 30, 1984 with property owners Jon and Linda Carper, Stephen Diamant and Justine Davis: We the undersigned would like you to know that we have met with Anthony R. Audia, the owner of 6601 Chesterbrook Road, McLean, Virginia, and have reviewed and discussed the proposed variance plat for the above-mentioned property. Since all three of our properties adjoin the referenced site, we are obviously concerned. Mr. Audia has addressed our concerns by meeting with us and agrees to asphalt the driveways and plat five to six foot white pines as a buffer between our properties. We have been assured by Mr. Audia that he is as concerned as we are about maintaining the present character of our neighborhood. We feel Mr. Audia's plan would minimize the amount of change to the land, and therefore, we support his plan and request that you approve his variance application. Signed by Jon and Linda Carper and Stephen Diamant on July 2, 1984 and by Justine Davis on June 30, 1984.
12. This approval is for a variances of minimum lot width requirement for three (3) pipestem lots as shown on the approved plat. The lot width for each of the three (3) pipestem lots shall not be less than 8.5 ft. and all other lots shall satisfy all applicable Ordinances and standards.

Mr. Hyland seconded the motion.

For clarification purposes as to the discrepancy of the height of the white pines mentioned in the agreements, Mr. Shumate assured the Board that Mr. Audia would plant 8' to 10' high white pines as agreed upon in the document dated April 7, 1983.

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

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Page 125 September 11, 1984, Scheduled case of

1:45 P.M. BEACON DAY CARE CENTER, appl. under Sect. 4-603 of the Ord. for a child care center within shopping center, located 7686 Richmond Hwy., C-6, Lee Dist., Mt. Vernon Shopping Center, 101-2((1))12A, 23.65 acres, SP 84-L-061. (Out-of-turn hearing granted)

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 there had been some concern over the location of the play area. However, the applicant had worked with staff to resolve the concern and provided revised plats relocating the play area. In response to questions from the Board regarding the asphalt surface for the play area, Mr. Shoup stated that the staff had not entered into any discussion regarding the type of surface.

Mr. Bernard Fagelson, an attorney in Alexandria, represented the applicant. He explained that the Beacon Day Care Center was celebrating its tenth anniversary. The center was operated by Mary Jane Oldham and Carol Scott. They had established a competent staff and attended child care classes conducted by the Office for Children. With regard to

questions raised by the Board concerning the trash dumpster, Mr. Fagelson stated that the children would be well supervised. Only twenty children would be in the play area at any one time and would be attended by three staff personnel. With respect to the question of the asphalt surface, Mr. Fagelson stated that part of the 9,000 sq. ft. play area would be grass. The remaining asphalt was more desirable for bad weather.

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. Sp 84-L-061 by BEACON DAY CARE CENTER under Section 4-603 of the Zoning Ordinance to permit a child care center within a shopping center on property located at 7686 Richmond Highway, tax map reference 101-2((1))12A, 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 11, 1984; and

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

1. That the applicant is the lessee.
2. The present zoning is C-6.
3. The area of the lot is 23.65 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. There shall be seventeen (17) parking spaces provided in the rear parking lot for the use of the patrons of the child care center during normal operating hours.
6. The applicant shall instruct patrons to access the parking spaces via the main parking lot and the travel aisle south of the Zayres store.
7. The required outdoor recreation area shall be provided adjacent to the building in a location generally as shown on the approved plat. The recreation area shall be enclosed with a four (4) foot high fence and shall be bounded on the north side by railroad ties or other appropriate material to delineate the travel aisle. Half of the play area shall be a grassed area.
8. Evergreen plantings shall be provided around the recreation area to reduce the visual impact. The type, size, and location of the plantings shall be determined by the Director, DEM at the time of site plan approval. If necessary to accommodate the plantings, the size of the recreation area may be reduced.
9. The number of children using the outdoor recreation area at any one time shall be in accordance with the provisions of Sect. 8-305 of the Zoning Ordinance.
10. Access to the building shall be through the rear entrance only.
11. The total maximum daily enrollment shall be ninety nine (99) children.
12. The hours of operation shall be 6:30 A.M. to 6:30 P.M., Monday through Friday

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 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. Hyland seconded the motion.

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

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Page 127 September 11, 1984, Scheduled case of

2:00 ST. TIMOTHY'S CATHOLIC CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-81-S-049 for church and related facilities to permit additions of school building with library, two temporary classrooms, storage space, parish center and fenced support center with bus parking lot, additional parking spaces, and a maintenance and equipment storage building to the existing facilities on the church property, located 13807 Poplar Tree Rd., R-1, Chantilly Subd., Springfield Dist., 44-4((1))8, 19.0933 acres, SPA 81-S-049-1.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. Mr. William Enderlee represented Bishop Keating and St. Timothy's Parish. Father Cornelius O'Brien was also present to answer questions of the Board. Mr. Enderlee stated that because of the dual character of the operation of the church and the school which accommodated over 100 students, the applicant was required to file both a Special Exception and a Special Permit. Mr. Enderlee presented the Board with a petition signed by over 1,000 parishoners who were in support of the proposed additions to the school.

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

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 81-S-049-1 by ST. TIMOTHY'S CATHOLIC CHURCH under Section 3-103 of the Zoning Ordinance to amend S-81-S-049 for church and related facilities to permit additions of school building with library, two temporary classrooms, storage space, parish center and fenced support center with bus parking lot, additional parking spaces, and a maintenance and equipment storage building to the existing facilities on the church property, on property located at 13807 Poplar Tree Road, tax map reference 44-4((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 September 11, 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 19.0933 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.

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. Transitional Screening 1 shall be provided along the rear and side lot lines and there shall be no clearing or grading performed within the 25 foot transitional screening area except that clearing shall be permitted to accommodate necessary utility work. The transitional screening shall consist primarily of the existing vegetation, and shall be supplemented with additional plantings, as determined by the County Arborist at the time of site plan review, to ensure that the Transitional Screening 1 requirement is satisfied. The barrier requirement shall be waived.
6. An evergreen hedge shall be planted along the Poplar Tree Road frontage, west of the entrance drive.
7. Conditions 5 and 6 above shall be satisfied prior to the issuance of a Non-Residential Use Permit for any of the proposed uses.
8. The proposed support center shall be fenced with a visually solid fence, a minimum of eight (8) feet in height. Evergreen trees shall be planted on the north and west sides of the support center to create a dense visual screen. This condition shall be satisfied prior to the issuance of a Non-Residential Use Permit for the support center.
9. The seating capacity in the main worship area shall not exceed seven-hundred and fifty (750).
10. A maximum of three-hundred and twenty (320) parking spaces shall be provided.
11. All development shall be subject to the provision 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 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 to 0 (Mr. DiGiulian being absent).

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Page 128 September 11, 1984, Scheduled case of

2:15 P.M. DONALD T. & GABRIELLE H. WILLIAMSON, appl. under Sect. 18-401 of the Ord. to allow construction of deck and patio additions to dwelling to the rear lot line (14 ft. min. rear yard req. by Sects. 3-1207 & 2-412), located 6364 Brampton Ct., Landmark Mews, R-12, Lee Dist., 72-3((26))26, 2,208 sq. ft., VC 84-L-090.

Mr. William Shoup presented the staff report. Mr. Donald Williamson of 6364 Brampton Court in Alexandria informed the Board that he and his wife purchased the property from Landmark Mews which was a townhouse development. His lot had exceptional topographic conditions consisting of five tiered slopes which comprised his back yard. This condition made the back yard unusable. Mr. Williamson stated that no other lot in the development had as much slope as his lot. The five tiers were unique for his lot. He stated that it was an undue hardship because the tiers made the back yard unusable without a deck. Mr. Williamson stated that he needed the back yard space.

In response to questions from the Board, Mr. Williamson stated that his back yard dropped a whole level of the house. He stated that the deck would not be visible. The owners of lot 27 did not object to his variance request. Mr. Williamson informed the Board that he had been aware of the problem of the five tiers when he purchased his home but had planned to construct a deck. He was unaware of the need for a variance. There was a sliding glass door which had been barred by the developer because of the steep drop. The only exit was from the lower level onto a small patio. Directly behind his property was open space used as the common area for the homeowners.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-L-090 by DONALD T. & GABRIELLE H. WILLIAMSON under Section 18-401 of the Zoning Ordinance to allow construction of deck and patio additions to dwelling to the rear lot line (14 ft. min. rear yard req. by Sects. 3-1207 & 2-412), on property located at 6364 Brampton Court, tax map reference 72-3((26))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 September 11, 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-12.
3. The area of the lot is 2,208 sq. ft.
4. That the applicants' property has a most unusual back yard. In Mrs. Day's opinion, it was impossible to utilize the back yard because of the five tiers. The Board received testimony that the proposed deck addition would not be visible and would not have a detrimental affect on the area. In fact, the lot 27 to the left of the applicants have a patio right up to the side lot line. This would add security at the back of the house so that the exit from the sliding glass door can enter onto a level area. Otherwise, there would be a deep drop. This is almost an unseen type of development.

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.

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 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 4 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

Mr. Hammack noted that this was an imagined effort to try to solve a difficult lot problem.

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Page 130 September 11, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt current Minutes for July 24, July 31 and August 7, 1984. Mr. Hyland moved that the Minutes be approved as submitted. Mr. Ribble seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

In addition, the Board was in receipt of old Minutes for October 5, October 12, October 26, October 28, November 9, November 16, November 23 and November 30, 1982. Mrs. Day moved that the Minutes be approved as submitted. Mr. Hyland seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

The Board took the opportunity to express appreciation to the Clerk and Deputy for their efforts in reducing the backlog of Minutes.

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Page 130 September 11, 1984, After Agenda Items

PULTE HOME CORPORATION, A 84-L-004: The Board was in receipt of a memorandum from the Zoning Administrator forwarding a request from the Planning Commission that the appeal of Pulte Home Corporation, A 84-L-004 be deferred until December 18, 1984 at 8:30 P.M. It was the consensus of the Board to approve the request.

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Page 130 September 11, 1984, After Agenda Items

CARL C. GREEN, JR., VC 84-P-110: The Board was in receipt of a request from Mr. Carl C. Green for an out-of-turn hearing on his variance application to construct an addition to his dwelling 8 ft. from the side lot line. The variance was presently scheduled for November 8, 1984. Mrs. Thonen moved that the Board deny the request. Mr. Ribble seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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Page 130 September 11, 1984, After Agenda Items

KEENE MILL VILLAGE JOINT VENTURE, SP 84-S-044: The Board was in receipt of revised plats from Keene Mill Village Joint Venture reflecting the inclusion of two parking spaces which had been required by the BZA's resolution of July 17, 1984. It was the consensus of the Board to approve the revised plat as submitted.

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BENJAMIN L. III & KATHERINE E. ORCHARD: As the applicants presently were under a zoning violation notice which was being held in abeyance pending the BZA's decision on the request for a waiver of the twelve month limitation for refiling, the Board directed staff to notify the applicants to file the variance as soon as possible. Staff indicated that the variance could be scheduled for November 13, 1984 if an application was submitted within two weeks.

// There being no further business, the Board adjourned at 3:55 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 Sept. 18, 1984

APPROVED: Sept. 25, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, September 18, 1984. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day (arriving at 7:45 P.M.); Paul Hammack (arriving at 8:00 P.M.); and John Ribble. (Mrs. Mary Thonen was absent).

The Chairman opened the meeting at 7:40 P.M. and Mr. Hyland led the prayer.

Chairman Smith called the recessed case of:

7:30 P.M. ANTOINE S. & HIAM H. KHOURY, appl. under Sect. 3-403 of the Ord. for a home professional office (accounting and tax service), located 3915 Annandale Rd., R-4, Beverly Manor, Mason Dist., 60-3((25))13 & 14, 37,880 sq. ft., SP 84-M-043. (DEFERRED FROM AUGUST 7, 1984 AT THE REQUEST OF THE CITIZENS)

Mr. Gary Davis, an attorney in McLean, represented the applicants. He presented the Board with a request for a deferral in order to continue meetings with the citizens in the area. Ms. Jane Kelsey informed the Board that the applicant had submitted a revised plat that afternoon which did not completely follow the staff's recommendations. Accordingly, she requested that should the application be deferred that the Board allow time for staff to evaluate the revised plat. The Board was also in receipt of a letter from Alice Bailey, President of the Broyhill Crest Civic Association, endorsing the request for deferral. Mr. Tom Cator and Mr. Manion White both spoke regarding the deferral and requested that the Board allow Ms. Kelsey the time necessary to evaluate the revised plat.

It was the consensus of the Board to defer the special permit application until Tuesday, November 20, 1984 at 8:30 P.M.

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Page 132 September 18, 1984

Mrs. Day arrived at the BZA Meeting at 7:45 P.M.

Page 132 September 18, 1984, After Agenda Items

SCHEDULE OF BZA MEETING DATES FOR 1985: The Clerk presented the Board with a copy of the proposed BZA Meeting Dates for 1985. After a brief review, it was the consensus of the Board to defer approval of the schedule until the next meeting.

Page 132 September 18, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of back Minutes for December 7 and December 14, 1982. Mrs. Day moved that the Board approve the Minutes as submitted. Mr. Hyland seconded the motion and it passed by a vote of 5 to 0 (Mr. Hammack and Mrs. Thonen being absent).

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Page 132 September 18, 1984

Mr. Hammack arrived at the BZA Meeting at 8:00 P.M.

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Page 132 September 18, 1984, Scheduled case of

8:00 P.M. ADVANCED MOBILE PHONE SERVICE, INC., appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirement to allow gravel driveway and parking for telecommunication facilities (dustless surface req. by Sect. 11-102), located 9325 Leesburg Pk., R-1, Dranesville Dist., 19-4((1))pt. 60, 22,689 sq. ft., SP 84-D-033. (DEFERRED FROM APRIL 10 AND JUNE 19, 1984 AT THE REQUEST OF THE APPLICANT).

The Board was in receipt of a letter from the Zoning Administrator administratively withdrawing the special permit application of Advanced Mobile Phone Service, Inc.

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Page 132 September 18, 1984, Board Discussion

ZONING ADMINISTRATOR'S INTERPRETATION NO. 52: Mr. Hyland inquired of Ms. Kelsey as to the status of the proposal before the Board of Supervisors reference the Shelter for the Homeless. Ms. Kelsey responded that the proposal was still in the preparation stage and had not been presented to the Board of Supervisors for advertising yet. She indicated that at this point, the BZA staff did not know whether the pending appeals regarding the Zoning Administrator's Interpretation No. 52 would be deferred to a date later than the presently scheduled date of October 16, 1984. In response to questions from the Board,

Ms. Kelsey indicated that the amendment process would take several months. Mr. Hyland expressed concern that the issue dealing with a shelter for the homeless would not be resolved before the onset of cold weather. He inquired if the matter could be expedited on an emergency basis. Ms. Kelsey agreed to present the Board's concern to the Zoning Administrator and report back to the BZA at its next meeting.

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Page 133 September 18, 1984, Board Discussion

PROPOSED ZONING ORDINANCE AMENDMENT REGARDING EXTENSIONS INTO YARD AREAS: Ms. Kelsey reported to the Board that the proposed Zoning Ordinance Amendment regarding extensions into yard areas had been sent to print and would be available for review by the next BZA Meeting. She informed the Board that the Planning Commission would review the amendment on October 10th and the Board of Supervisors would review the amendment on October 29th. Mr. Hyland inquired of Ms. Kelsey whether the proposed amendment included a provision for the enclosure of existing carports without a public hearing. Ms. Kelsey responded that the proposed amendment did not contain any language regarding enclosures as a matter of right. However, she was not certain whether such language was proposed in other pending amendments, particularly the amendment on accessory structures. Mr. Hyland asked that Ms. Kelsey determine the status of the carport matter and if it was not included in any of the proposed amendments, he wanted to know why. Mr. Hyland stated that some time ago, the Board had asked the Zoning Administrator to propose such language because of the number of applications appearing before the Board. Ms. Kelsey agreed to determine the status and report back to the Board at the next meeting.

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Page 133 September 18, 1984, Recess

The Board recessed its meeting from 8:20 P.M. and reconvened at 8:35 P.M. to continue the scheduled agenda.

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Page 133 September 18, 1984, Scheduled case of

8:30 CECIL CARR, appl. under Sect. 8-901 of the Ord. for a reduction to min. yard requirements based on error in building location to allow porch to remain 12.6 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-407), located 2505 Dawn Dr., 1st Add. to Temple View, R-4, Mt. Vernon Dist., 93-1((9))(2)504, 10,080 sq. ft., SP 84-V-052.

Ms. Jane Kelsey presented the staff report. Mr. Cecil Carr of 2505 Dawn Drive informed the Board that he had built the deck four years ago for a recreation area. Earlier this year, he had built a roof over the deck. Mr. Carr informed the Board that he had been unaware that a building permit was necessary for either the construction of a deck or the roof. After he was informed by the building inspector that a permit was necessary, he tried to obtain one. He was unable to get a building permit because the structure did not meet the setbacks. Mr. Carr informed the Board that the building inspector had taken the matter to court the previous month. The court had continued the case pending the outcome of the BZA's action on the special permit request. Mr. Carr stated that he was scheduled to reappear in court regarding this matter on September 20, 1984.

In response to questions from the Board, Mr. Carr stated that the deck was 18 inches above-ground. The Board inquired whether this special permit application for a deck would meet the provisions of the proposed Ordinance amendment on extensions into yard areas. Ms. Kelsey reported that this application did not meet the proposed setbacks because of the roof over the deck. Mr. Carr informed the Board that he had performed all the work on the deck and the roof himself. Behind his property were other residences which were situated close to their front lot lines providing a deep back yard for lots 505 and 506. The Board was in receipt of letters of support from the owners of lots 505 and 506.

The Board questioned how this matter came to the attention of the building inspector. Ms. Kelsey stated that an anonymous complaint was filed with the Building Code Office and the inspector had verified the violation.

The Board questioned the applicant as to the direction of the water flowing off the roof of the deck. Mr. Carr responded that his lot sloped so that the water flowed to the left of his property and down his driveway towards Dawn Drive. He indicated that the water runoff from the roof did not flow on adjacent properties. In his written justification, Mr. Carr had indicated that his house was situated 10.7 ft. farther back from the front street line than other houses. Mr. Carr could not explain why the builder had positioned the house in this manner. The house was 30 years old.

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. Hammack made the following motion:

WHEREAS, Application No. SP 84-V-052 by CECIL CARR 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 porch to remain 12.6 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-407), on property located at 2505 Dawn Drive, tax map reference 93-1((9))(2)504, 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 18, 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 porch indicated on the plat submitted 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 and all necessary inspections for this type of structure shall be performed and approved.

Mr. Hyland seconded the motion.

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

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Page 134 September 18, 1984, Scheduled case of

8:45 P.M. MARCUS J. & JANICE C. LANGHOLZ, 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 7.3 ft. from side lot line such that side yards total 26.5 ft. (6 ft. min., 34 ft. total min. side yard req. by Sects. 3-107 & 2-412), located 11519 Vale Rd., Foxvale Estates, R-1(C), Centreville Dist., 36-4((6))37A, 26,966 sq. ft., SP 84-C-053.

The Board was in receipt of a memorandum from the Zoning Administrator administratively withdrawing the special permit application as the deck was in compliance with the Zoning Ordinance provisions.

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8:45 P.M. MARCUS J. & JANICE C. LANGHOLZ, appl. under Sect. 18-401 of the Ord. to allow construction of a two-story addition to dwelling to 19.2 ft. from side lot line such that side yards total 38.0 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), located 11519 Vale Rd., Foxvale Estates, R-1(C), Centreville Dist., 36-4((6))37A, 26,966 sq. ft., VC 84-C-093.

Ms. Jane Kelsey presented the staff report. Mr. Marcus Langholz of 11519 Vale Road informed the Board that the two story addition would allow the expansion of a bedroom into a two room suite over the garage and the expansion of the master bedroom. The present garage was being converted into painting studio for Mrs. Langholz. The two room suite was to be used by an elderly parent who was moving in to live fulltime. A single car garage was being requested in order to provide housing for one vehicle and additional work storage space. Mr. Langholz stated that his house did not have a basement, storage area or workroom. In addition, Mr. Langholz anticipated the second parent having to move in with the family in the near future.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-C-093 by MARCUS J. & JANICE C. LANGHOLZ under Section 18-401 of the Zoning Ordinance to allow construction of a two-story addition to dwelling to 19.2 ft. from side lot line such that side yards total 38.0 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), on property located at 11519 Vale Road, tax map reference 36-4((6))37A, 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 18, 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 26,966 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 had 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.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the 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 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)(Mrs. Thonen being absent).

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Page 136 September 18, 1984, Scheduled case of

9:00 P.M. SPRINGFIELD GOLF & COUNTRY CLUB, INC., appl. under Sect. 3-303 & 4-503 of the Ord. to amend S-182-76 for country club to permit an addition to existing clubhouse and the removal of an existing wooden storage building, located 8301 Old Keene Mill Rd., R-3 & C-5, Springfield Dist., 89-1((1))9, 157.637 ac., SPA 76-S-182-2.

Ms. Jane Kelsey presented the staff report. Mr. Neal Putnam of 7915 Jansen Drive in Springfield represented the Springfield Golf & Country Club, Inc. He stated that the existing wooden storage building had been constructed in 1960 as a proshop but was presently used for storage. The club proposed to remove it. In addition, the club desired to expand the existing clubhouse by enlarging the grill room by 20'x60'. A smaller addition on the other side of the clubhouse would be used for storage.

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-182-2 by SPRINGFIELD GOLF & COUNTRY CLUB, INC. under Section 3-303 & 4-503 of the Zoning Ordinance to amend S-182-76 for country club to permit an addition to existing clubhouse and the removal of an existing wooden storage building 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 September 18, 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.

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.

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 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). The barrier requirement shall be waived.
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 with 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 expired, 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 or 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 (Mrs. Thonen being absent).

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// There being no further business, the Board adjourned at 9:15 P.M.

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

Submitted to the Board on Sept. 25, 1984

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: October 2, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, September 25, 1984. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 10:10 A.M.); John Ribble (arriving at 10:25 A.M.); and Mary Thonen. (Mr. John DiGiulian was absent).

The Chairman opened the meeting at 10:05 A.M. and Mrs. Day led the prayer.

Chairman Smith called the scheduled case of:

10:00 A.M. PULTE HOME CORPORATION, CONTRACT PURCHASER, appl. under Sect. 18-301 of the Ord. to appeal decision of the Director of Environmental Management to deny the appellant's preliminary subdivision plat for a cluster subdivision, Edgewood Acres, R-3, Lee Dist., 100-2((1))4, 191.3 acres, A 84-L-004.

As announced at an earlier hearing, it was the consensus of the Board to defer the above-captioned appeal as requested by the Planning Commission until December 18, 1984 at 8:30 P.M.

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Mr. Hammack arrived at the meeting at 10:10 A.M.

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Page 138 September 25, 1984, Board Discussion

ZONING ADMINISTRATOR'S INTERPRETATION NO. 52: Mr. Philip G. Yates, Zoning Administrator, presented the Board with a memorandum regarding Interpretation No. 52: Use of Places of Worship for Emergency Shelter Programs. Attached to the memorandum was a proposed amendment containing provisions for the overnight accommodations and/or conduct of shelter programs in a place of worship provided such temporary emergency shelter programs did not exceed a total of 72 nights in a given calendar year. The Board discussed the proposed amendment with the Zoning Administrator and several members personally expressed their opinions in the matter.

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Mr. Ribble arrived at the meeting at 10:25 A.M.

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Page 138 September 25, 1984, Board Matters

McLEAN'S CHILDREN'S ACADEMY; SPA 82-D-083-1: The Board was in receipt of a request from Mrs. Barbara Shumway, Director of McLean's Children's Academy, regarding a waiver of the twelve month limitation on rehearing. Ms. Cheryl Hamilton presented the background memorandum indicating that the special permit SPA 82-D-083-1 had been denied by the BZA on May 8, 1984 by a vote of 4 to 3.

Mr. Hyland moved that the Board approve a waiver of the twelve month limitation to allow the applicant an opportunity to refile. 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).

Mrs. Shumway questioned the Board's policy on reviewing the waiver requests as she had not been allowed an opportunity to present her request. After a review of the Board's adopted policy, it was determined that the applicant and all other interested parties were allowed three minutes each with the total time not to exceed fifteen minutes. Accordingly, Mrs. Thonen moved that the Board reconsider its denial and allow Mrs. Shumway an opportunity to speak. Mr. Hammack seconded the motion and it passed unanimously.

During her presentation, Mrs. Shumway explained to the Board that she wanted an opportunity to refile a special permit for the use of the block building which had been overshadowed in the last special permit because of the controversy regarding the increase in the number of students. After further discussion, Mrs. Thonen moved that the Board approve the waiver of the twelve month limitation on refiling. Mr. Hyland seconded the motion and it passed by a vote of 5 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

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10:30 A.M. ERMANNO TONIZZO, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow addition to dwelling to remain 9.15 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 9620 Percussion Way, Symphony Hill West, R-2, Centreville Dist., 28-3((8))11, 15,072 sq. ft., SP 84-C-039. (DEFERRED FROM 6/26/84 FOR ADDITIONAL INFORMATION)

Ms. Cheryl Hamilton informed the Board that the special permit had been deferred from June 26, 1984 to determine whether the applicant needed to file an application for the shed and the deck to remain. She informed the Board that these structures did not meet the setback but the applicant had not filed an application to correct the problem.

Mr. Tom Perrott, an attorney of the law firm Malloy & Johnson at 307 Maple Avenue in Vienna, submitted an affidavit from Mr. Ermanno Tonizzo regarding the circumstances of the error in the location of the proposed addition. He further informed the Board that he had been unable to meet with the County staff until August 1st. Mr. Perrott accepted full responsibility for the inaction regarding the filing of an applications because of a federal court case he was involved in. He promised the staff and the BZA that he would promptly attend to the filing by October 10th. Mr. Perrott urged the Board to proceed with the present application without further delay because the structure needed to be completed before the winter season. Mr. Perrott stated that Anthony Pools had constructed the pool in the back yard and had not made Mr. Tonizzo aware of any minimum yard coverage of the Ordinance. The pool had been inspected by County officials.

In response to questions from the Board, Mr. Perrott stated that Mr. Tonizzo had begun planning this addition seven years ago and talked to County officials regarding his plans. At that time, he had a three foot concrete slab constructed in anticipation of the future expansion of his home. When he began construction of the addition a year ago, it was done as an honest mistake based on the conversation he had with County officials in the past. Mr. Tonizzo was aware of the need for a building permit but assumed he would not have any problem with his proposed addition. Accordingly, he authorized his contractor to begin construction over a weekend prior to the onset of cold weather. The following week when Mr. Tonizzo applied for a building permit, he was made aware of the setback problem.

Mr. Perrott presented the Board with letters of support from Mr. Warren H. Keenan; Ms. Jean H. MacIntosh; Mr. and Mrs. John A. Biddiscombe; Mr. and Mrs. Arch Johnson; and Mr. and Mrs. Robert W. Dittrick. There was no one else to speak in support and no one to speak in opposition.

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Page 139 September 25, 1984 Board of Zoning Appeals
ERMANNO TONIZZO

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 84-C-039 by ERMANNO TONIZZO 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 addition to dwelling to remain 9.15 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 9620 Percussion Way, tax map reference 28-3((8))11, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on June 26, 1984 and deferred until September 25, 1984 for additional information; 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 the result of an error in the location of the building, 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:

RESOLUTION

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

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

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

1. This special permit is approved for the location and the specific addition shown on the plat submitted with this application only and is not transferable to any other land.

2. A Building Permit shall be obtained for the new room addition.

Mrs. Day seconded the motion.

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

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Page 140 September 25, 1984, Scheduled case of

10:45 A.M. MAYFAIR MANOR, INC., appl. under Sect. 3-2003 of the Ord. for an extension of temporary special permit for subdivision sales office and model home, located 10133, 10135, and 10137 Turnberry Pl., Mayfair at Oakton, R-20, Providence Dist., 47-4((9))60, 61 & 62, 5,616 sq. ft., SP 84-P-040. (DEFERRED FROM 6/26/84 FOR AMENDED APPLICATION)

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. Ms. Joan McCann represented Mayfair Manor, Inc. and informed the Board that one of the models would be a combination sales office and model home. The other two would be model homes. Ms. McCann stated that only twelve units remained to be sold.

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

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Page 140 September 25, 1985 Board of Zoning Appeals

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-P-040 by MAYFAIR MANOR, INC. under Section 3-2003 of the Zoning Ordinance to permit extension of temporary special permit for subdivision sales office and model home on property located at 10133, 10135 and 10137 Turnberry Pl., tax map reference 47-4((9))60, 61 & 62, 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 25, 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-20.
3. The area of the lot is 5,616 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:

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. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. This permit is granted for a period of two (2) years from the approval date.

6. There shall be a maximum of three (3) employees on site at any one time.

7. There shall be nine (9) parking spaces.

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. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 with 1 abstention (Mrs. Thonen)(Mr. DiGiulian being absent).

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Page 141 September 25, 1984, Recess

The Board recessed for lunch at 12:20 P.M. and reconvened at 1:20 P.M. to continue with the scheduled agenda. Mr. Hammack left during the luncheon recess and was not present for the remainder of the meeting.

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Page 141 September 25, 1984, Scheduled case of

11:00 A.M. JOHN W. & SHIRLEY B. CONOVER, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 12 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-407), located 7409 Lisle Ave., Pimmit View Subd., R-4, Dranesville Dist., 30-3((8))25, 8,506 sq. ft., VC 84-D-094.

Ms. Cheryl Hamilton presented the staff report. Mrs. Shirley Conover of 7409 Lisle Avenue in Falls Church informed the Board that she and her husband had owned the property for twenty-seven years. When they purchased the property, a lot of the homes had not been built. The builder informed the Conovers he had constructed their home further back on the lot because of a proposed cul-de-sac in front of their lot. At that time, Olmstead Street had not been constructed. The cul-de-sac was never built and the Conovers were left with very little back yard. Mrs. Conover stated that when they purchased the home, they assumed they would be able to add onto it at a later date. The two lots at the rear of their property were situated on a cul-de-sac and the houses were at an angle. Therefore, Mrs. Conover did not feel her proposed addition would interfere with anyone's back yard.

In response to questions from the Board, Mrs. Conover stated that the addition would be used to expand the kitchen and bedroom area. The house did not have a basement. Mrs. Conover stated that their two sons still lived with them.

With respect to justification for the variance, Mrs. Conover explained that their rear property line dipped inward instead of outward like other lots in the area. It was not possible to construct the addition at the front of the house. Mrs. Conover stated that her lot was one of the smallest in the subdivision.

There was no one else to speak in support and no one to speak in opposition. The Board was in receipt of letters in support of the variance from Mr. Raymond D. Linnenbrogger, Mr. and Mrs. Thomas R. Wulff, and Mr. Bryon R. Rothenhoefer, Jr.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-D-094 by JOHN W. & SHIRLEY B. CONOVER under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-407), on property located at 7409 Lisle Avenue, tax map reference 30-3((8))25, 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 25, 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 8,506 sq. ft.
4. That the applicants have owned the property for 27 years and were led to believe that a situation existed where there was a cul-de-sac. The lot has an exceptional irregular shape at the rear resulting in an unusual condition of a shallow back yard. Even if the addition were constructed at the front or the side, it would necessitate the need for a 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 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

RESOLUTION

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. DiGiulian and Hammack being absent).

Chairman Smith stated that he was supporting the variance because it was a small lot and there was high density development around the property.

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Page 143 September 25, 1984, Scheduled case of

11:15 A.M. JAMES E. & CHRISTINE BORN, appl. under Sect. 18-401 of the Ord. to allow extension and enclosure of carport into a garage 8.9 ft. from side lot line such that side yards total 17.9 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 8614 Nanlee Dr., Keene Mill Station, R-3(C), Springfield Dist., 89-1((9))163, 12,749 sq. ft., VC 84-S-095.

Ms. Cheryl Hamilton presented the staff report. Mrs. Christine Born of 8614 Nanlee Drive in Springfield informed the Board that she wanted to enclose the existing carport as they preferred a garage for security purposes. In response to questions from the Board, Mrs. Born stated that approximately 150 of the homes in her subdivision were built with garages and 6 were designed with carports. Mrs. Born stated that her house did not have a walkout basement. The house next door facing the garage had its living room with lounge area on the ground level with a bedroom or bath upstairs. They did not have any objection to the proposed addition.

With regard to the extension of the carport, Mrs. Born stated that the enlargement would be at the rear in order to accommodate two vehicles parked tandem. In addition, it would bring the garage back level with the house.

There was no one else to speak in support and no one to speak in opposition. Mr. Hyland inquired whether the proposed zoning ordinance amendment would provide a remedy for the applicant but was informed by Mr. Shoup it would not.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-84-S-095 by JAMES E. & CHRISTINE BORN under Section 18-401 of the Zoning Ordinance to allow extension and enclosure of carport into a garage 8.9 ft. from side lot line such that side yards total 17.9 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), on property located at 8614 Nanlee Dr., tax map reference 89-1((9))163, 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 25, 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 12,749 sq. ft.
4. That the Board has received testimony from the applicant indicating that there's an existing carport on the subject property which is presently located 7.0 ft. from the side lot line at the rear of the carport and 9.2 ft. from the side lot line at the front of the carport. Staff has indicated that in this case, the enclosure would result in the minimum side yard not being met to the extent of 2.9 ft. The Board has not receive testimony indicating an objection from any contiguous property owner. Mr. Hyland stated that the Board had a situation before it in which a property owner wished to enclose an existing carport structure which was proposed to be located where it existed and reasonable use could only be made if the BZA permitted the enclosure as requested. Mr. Hyland stated that he believed the standards for the granting of a variance had been met.

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.

Mr. Ribble seconded the motion.

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

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11:30 A.M. SEQUOIA BUILDING CORPORATION, appl. under Sect. 3-303 of the Ord. for community swimming pool and tennis courts, located 14300 Braddock Rd., Sequoia Farms Subd., R-3, Springfield Dist., 54-1((1))pt. 5, 2.95 acres, SP 84-S-054.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the conditions set forth in Appendix I. The applicant was requesting a modification of the transitional requirements. However, staff recommended that no modification be made to the transitional yard screening requirements because of the proximity of the proposed parking area to the adjacent residential lots. In addition, the applicant wanted to provide more parking than was required. Ms. Hamilton stated that the applicant needed to submit revised plats reflecting the proposed 37 parking spaces. The increase in parking was to accommodate employees.

In response to questions from the Board regarding the comments made by the Office of Transportation with respect to internal circulation in the parking area, Ms. Hamilton stated that the staff as a whole did not have a problem with circulation. If there was any problem, she indicated it would be addressed at the time of site plan review.

Mr. Roland T. dePolo of Middleburg, Va. represented the applicant. He stated that they had been developed the property for several years and a recreation area was necessary in order to sell the lots. In working with the County, it was determined that the maximum number of memberships would be 450. With regard to the internal parking, Mr. dePolo stated that the parking lot had a single entrance with a turnaround at the end and a 22 ft. travel aisle.

With regard to screening, the applicant was proposing a solid wooden fence along Sequoia Farms Drive to screen the parking. In addition, a hedge would be planted to supplement the screening. The pool would have a 6 ft. fence as required by the County.

There was no one else to speak in support. Mr. Jay Marsh of 14406 Coachway Drive in Centreville spoke in opposition. Mr. Marsh represented Bell Pond Farms, the subdivision adjacent to Sequoia Farms. They had concern over the location of the proposed pool and tennis courts and had inquired why the facilities were not located in the center of the subject property. Bell Pond Farms did not have any recreational facilities and had requested that memberships to the proposed facilities be made available to them also. Mr. Marsh questioned the removal of existing mature cedars which had served as screening between the two communities. He requested that 15 ft. to 20 ft. trees be planted to replace the lost screening since the residents of Bell Pond Farms were situated at a higher level than Sequoia Farms and would overlook the facilities. Mr. Marsh stated that the special permit application was premature as the final plans for the project had not been approved by the County.

During rebuttal, Mr. dePolo stated that he had submitted the revised plats reflecting the 37 parking spaces. With respect to the request from Bell Pond Farms to be included in the membership, Mr. dePolo stated that the applicant had agreed to set aside 46 memberships. In addition, the applicant guaranteed the first right of refusal to residents of Bell Pond Farms for any memberships that became available.

With regard to the location of the proposed facilities, Mr. dePolo stated that the construction of the large detention pond precluded location of the pool. The present proposed location was the largest area of open space that would impact as few residential lots as possible. Clearing of the property had been necessary for the construction of the storm outfall and the leveling of the pad for construction of the tennis courts. Mr. dePolo stated that it was not possible to plant 15 ft. to 20 ft. mature trees as the ground was underlaid with red shale. He had been informed by nurseymen that the soil in the area could not support life for replanting such mature trees. With regard to lighting, no lights were proposed for the tennis courts. Lights for the pool would be constructed at the absolute minimum height required and were proposed not to exceed 8 ft. in height.

Mrs. Thonen made a motion that the Board defer the application for a period of one week to allow the applicant to meet with the residents of Bell Pond Farms to work out some of their concerns. Mr. Hyland seconded the motion. He informed Mr. Marsh that the offer from of 46 memberships was very generous. Mr. Hyland was concerned about the screening between the two developments and hoped something could be worked out during the deferral period.

Chairman Smith was against the deferral as he felt most of the concerns of the residents of Bell Pond Farms had already been addressed by Mr. dePolo. He was concerned that a deferral would jeopardize the recreational facility for the applicant.

The vote on the motion to defer passed by a vote of 4 to 1 (Mr. Smith)(Messrs. DiGiulian and Hammack being absent). It was the consensus of the Board to defer the special permit until October 2, 1984 at 1:00 P.M.

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DICK BROWN COMPANY, INC., VC 84-A-078: At 2:45 P.M., Mr. Shumate requested the Board to defer the Dick Brown Company variance application scheduled for 1:30 P.M. until October 23, 1984. It was the consensus of the Board to defer the application when it was called later in the day.

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1:00 P.M. LAKEVIEW SWIM CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend S-80-A-025 for community swimming pool to permit increase in max. no. memberships from 375 to 400 and to permit a reduction in the required number of parking spaces from 118 to 115 spaces, located 5352 Gainsborough Dr., Kings Park West, R-2, Annandale Dist., 69-3((5))M, 2.41213 ac., SPA 80-A-025-1.

Ms. Cheryl Hamilton presented the staff report which indicated approval subject to the conditions set forth in Appendix I. Ms. Hamilton reported that the only issue in connection with this application was that staff had been notified by the Park Authority about drainage from the pool. There was concern about chlorine from the pool water running into Royal Lake which supported wildlife. Accordingly, staff was recommending a condition that the Health Department be notified prior to the drainage of the pool and that the pool waters being drained meet the Health Department requirements.

Mr. Brent Taylor, President of the Lakeview Swim Club, was present to answer any Board questions. There was no one else to speak in support and no one to speak in opposition.

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LAKEVIEW SWIM CLUB, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 80-025-1 by LAKEVIEW SWIM CLUB, INC. under Section 3-203 of the Zoning Ordinance to amend S-80-A-025 for community swimming pool to permit increase in maximum number of memberships from 375 to 400 and to permit a reduction in the required number of parking spaces from 118 to 115 spaces, on property located at 5352 Gainsborough Dr., tax map reference 69-3((5))M, 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 25, 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 2.41213 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. There shall be 115 parking spaces.
6. There shall be a maximum of 400 family memberships.
7. The hours of operation shall be from 8:00 A.M. to 9:00 P.M.
8. 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.
   - A written 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.

9. The transitional screening requirement shall be modified provided that the existing vegetation along the northern lot line abutting single family detached dwellings is retained. The barrier requirement may be waived provided that existing fencing as indicated on the plat is retained.
10. The applicant shall coordinate with the Park Authority to alleviate all drainage problems to the satisfaction of the Director, DEM.
11. All lighting for this use shall be directed on-site so as to prevent any glare on the adjacent properties.
12. All noise from the loudspeakers shall be in accordance with Chapter 108 of the Fairfax County Code.
13. The Fairfax County Health Department shall be notified prior to the discharge of pool water. Pool water shall be treated prior to discharge as required by the 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. This approval incorporates all previous applicable special permit development conditions.

Mr. Ribble seconded the motion.

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

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1:15 P.M. ST. FRANCIS EPISCOPAL CHURCH, appl. under Sect. 3-E03 of the Ord. to amend S-82-D-087 for church and related facilities to permit relocation of parking area, located 9222 Georgetown Pike, R-E, Dranesville Dist., 13-2((1))8, 6.9941 ac., SPA 82-D-087-1.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. Staff was requesting that the five parking spaces along the travel aisle be relocated because of poor circulation. A variance had been granted for the original parking lot. However, if the parking was relocated as proposed, Ms. Hamilton stated that the applicant would have to file another special permit for a modification in the parking. In addition, there were two trailers located on the site which have to be removed as their special permit had expired.

Mr. Charles Runyon, an engineer at 7649 Leesburg Pike in Falls Church represented the applicant. He stated that the church had no problem with the conditions in the staff report except with respect to the dustless surface. He did not believe that another variance was necessary and indicated that it could be handled administratively through the Department of Environmental management. The church was not experiencing a lot of growth. With respect to the parking along the entrance road, Mr. Runyon stated that the people parked on the grass and he wanted to keep the spaces there. Moving the parking would not accomplish anything.

In response to questions from the Board regarding the staff's position on the five parking spaces, Ms. Hamilton indicated that the spaces should be incorporated with the larger parking lot. The purpose was to provide sufficient ingress and egress. Ms. Hamilton stated that the staff had compromised by only requesting that five spaces be moved from area as they really felt all ten parking spaces should be relocated. However, there was an open chapel in this area so staff had agreed to allow five parking spaces to remain. Staff still felt that the five parking spaces at the entrance should be relocated.

There was no one else to speak in support or in opposition to the application. During rebuttal, Mr. Runyon stated that the parking area in question was all grass. The parishioners had been using that area for parking for eight years.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-D-087-1 by ST. FRANCIS EPISCOPAL CHURCH under Section 3-E03 of the Zoning Ordinance to amend S-82-D-087 for church and related facilities to permit relocation of parking area on property located at 9222 Georgetown Pike, tax map reference 13-2((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

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 25, 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 6.9941 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 maximum number of seats shall be 250 and a corresponding number of sixty-three (63) parking spaces shall be provided.
6. The hours of operation shall be the normal hours of church activities.
7. Dedication shall be provided 45 feet from the centerline for the full frontage of the property along Georgetown Pike as shown on the plat.
8. A ten (10) foot easement for a trail shall be provided as shown on the plat.
9. Plantings to shield vehicle lights and soften the visual effect of the parking lot shall be provided around the perimeter of the parking lot and along both sides of the the entrance drive. The amount and type of such planting shall be determined by the Director, Department of Environmental Management at the time of site plan review. Transitional Screening along all other lot lines may be modified to allow the existing vegetation to satisfy the requirement. The barrier may be waived.
10. The five (5) parking spaces closest to the entrance of the driveway shall be relocated to the northern portion of the parking lot.
11. The entrance to the site shall comply with VDH&T commercial entrance standards.
12. All parking spaces and driveways indicated on the plat shall be paved unless special permit approval or approval by the Director of DEM is obtained for a modification of the dustless surface.
13. Handicapped parking spaces shall be delineated by a free standing sign. Wheel stops may be required to delineate regular parking spaces at the discretion of the Director, Department of Environmental Management.
14. The two (2) trailers located on site shall be removed unless special permit approval is obtained to allow the trailers 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 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 unanimously by a vote of 5 to 0 (Messrs. DiGiulian and Thonen being absent).

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1:30 P.M. DICK BROWN COMPANY, INC., appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, with proposed lots 52A and 52B having widths of 88 ft. and 12 ft., respectively (100 ft. min. lot width req. by Sect. 3-206), and to allow existing dwellings on proposed lots 52 and 52A to remain 2.0 ft. and 9.3 ft., respectively, from existing side lot lines (15 ft. min. side yard req. by Sect. 3-207), located 7019 and 7021 Woodland Dr., Leewood Subd., R-2, Annandale Dist., 80-1((4))52 and 52A, 2.15 ac., VC 84-A-078. (DEFERRED FROM JULY 24, 1984 AT THE REQUEST OF THE APPLICANTS AGENT TO WORK OUT PROBLEMS WITH ADJOINING PROPERTY OWNER)

As the applicant's agent, Mr. Shumate, had requested a deferral of the above-captioned variance application, it was the consensus of the Board to defer the variance until October 23, 1984 at 1:00 P.M.

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1:45 P.M. J.L. SIBLEY JENNINGS, AIA, AND RANSOM J. AMLONG, TRUSTEE FOR R.G. AMLONG ESTATE, appl. under Sect. 3-803 & 8-901 of the Ord. for a home professional office (architect) within Historic Overlay District, with modification or waiver of the dustless surface requirement, located 6918 Harrison Ln., R-8(H.D.), Huntley Subd., Lee Dist., 92-2((1))8A, 16.39+ ac., SP 84-L-056. (OUT-OF-TURN HEARING GRANTED)

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. Mr. J. L. Sibley Jennings, a restoration architect, with offices in Washington, D.C. and Georgia informed the Board that his work was primarily involved in historic restoration preservation. Mr. Jennings was proposing to have a home professional office at Huntley. He stated that he proposed to restore the Huntley property, landscaping and buildings to the 1800s. The main house was not a large building. Mr. Jennings stated that he had a problem in how to make use of the cluster of the five historic buildings. The two story tenant house had been a two-unit residence and he proposed to continue its use that way. The main house would be his residence and home office. The storage rooms would become his workshop and file rooms. Mr. Jennings stated that his problem was that the main house was too small for guests or employees who would come up from Georgia. He proposed to restore the ice house and the kitchen house into one bedroom units to be used as guest houses.

Mr. Jennings informed the Board that according to the Zoning Ordinance, the guest house would have to be attached to the main dwelling. He explained that he proposed to restore the buildings to exactly what the architectural style of their period had been. It was unknown at this time whether curving arcade columns extended from the main house to the other buildings. Mr. Jennings asked the Board for permission to use the ice house and kitchen house as guest rooms even if they were not connected to the main house as required. Mr. Jennings stated that if he could not use the buildings, he could not go ahead with the restoration.

The Board questioned how Mr. Jennings would determine whether the arcade columns had been part of the original structure. He explained that over the years, an addition had been added to the main house. When he removed the addition, he hoped there would be evidence of whether the columns had ever been connected.

The Board questioned why the entire 16 acre parcel was included in the special permit request when portions of it were to be used for other purposes. Ms. Hamilton stated that staff had required the entire 16 acres to be under a special permit because the boundary line for the subdivision was not confirmed yet. The Department of Transportation had not determined the location for the lower road entrance to the proposed development. Eventually, Mr. Jennings' home would remain on 2.8 acres. The Board was concerned about granting a special permit for the entire 16 acres in accordance with the submitted plat which showed the total development for the site. To avoid any cloud on the title at a future date, Mr. Jennings suggested that the Board refer to Parcel A as identified on the map.

The Board questioned what to do about the buildings and whether they had to connected. There was concern about the Board dictating how to restore the buildings. Ms. Hamilton informed the Board that the buildings did not have to be connected unless he proposed to use them as guest houses. There was not any provision in the Ordinance to allow separate guest houses. Mr. Hyland stated that there was a conflict between the old and the new. He inquired whether the BZA had any authority to make an exception and was informed by Mr. Shoup there was not any provision.

Mrs. Thonen congratulated Mr. Jennings on the steps he had taken so far to restore the Huntley property. Mr. Jennings stated that if it was impossible to put utilities in the ice house and kitchen house, they would be converted back to storage.

Mr. McClain of the History Commission; Mrs. Andrea Masterson, Chairperson of the Revitalization Committee; Mr. Carl Sell, Lee District Member of the Planning Commission; and Mrs. Elizabeth David, Historian Planner of the Architectural Review Board, spoke in support of the application. They were impressed with Mr. Jennings' work and were concerned that there was not any provision in the Zoning Ordinance for waiving the requirements with respect to the guest houses. Mr. Sell indicated that he planned to propose an amendment to the Ordinance for historic districts. Mr. Hyland stated that he was examining a way to handle the situation that would not require a change. Mrs. David informed the Board that another concern was that the buildings were deteriorating. The house was on the National Register. As such, Mr. Jennings was required to comply with certain standards in accordance with the historic restoration and would be prohibited from adding any new elements.

Mrs. Thonen questioned if the BZA granted a special permit with condition no. 11 in it whether the applicant would have to come back for a plan amendment after the Board of Supervisors granted an amendment to the Zoning Ordinance. Ms. Hamilton stated that the applicant would have to file a plan amendment. Mr. Hyland requested that rather than waiting to see what would happen with respect to Mrs. Thonen's concern, that staff bring to Mr. Yates' attention the dilemma that the BZA had in this case in terms of trying to reconcile the objective of preserving historical sites such as this with the provisions of the Zoning Ordinance concerning the use to which those sites may be put. And, further, he requested that staff and Mr. Yates draft an appropriate amendment to be presented to the Board of Supervisors that would give staff the flexibility to make exceptions when the zoning regulations just do not fit the historical preservation that we are trying to accomplish here. Mr. Hyland stated that it needed to be done now rather than waiting as this was not the only site that the BZA would have. Mr. Hyland stated that it would take a long time to get a Zoning Ordinance amendment through and someone should have the authority to make an exception that makes sense in these kinds of situations. Mr. Ribble seconded the motion and it passed unanimously by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-L-056 by J. L. SIBLEY JENNINGS, AIA, AND RANSOM J. AMLONG, TRUSTEE FOR R. G. AMLONG ESTATE under Section 3-803 of the Zoning Ordinance to permit home professional office (architect) within Historic Overlay District on property located at 6918 Harrison Lane, tax map reference 92-2((1))8A, 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 25, 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-8(H.D.).
3. The area of the lot is 16.39+ acres but the home professional office shall be conducted on Parcel A only consisting of approximately 2.8 acres as shown on the plat.
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 J. L. Sibley Jennings 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. There shall be a maximum of six (6) employees, including the applicant Mr. Jennings.

6. There shall be no access to the site from the two (2) northern existing driveways on Harrison Lane. Access to the site shall be from the southern entrance on Harrison Lane, as indicated on the proffered plan.

7. Prior to site plan approval, the site plan shall be submitted to the Planning Commission for review and approval.

8. There shall be a minimum of six (6) parking spaces.

9. Occupancy of the main house with the attached guest quarters and the tenant house dwelling units shall be subject to the provisions of Sect. 2-502.

10. Landscaping and screening shall be accordance with rezoning proffer #5. The barrier requirement shall be waived.

11. There shall be no more than two (2) guest quarters. The guest quarters must be architecturally attached to the main house.

12. There shall be no permanent kitchen facilities located in the guest quarters.

13. All gravel surface areas shall be constructed in accordance with standards approved by the Director, Division of Environmental Management (DEM).

14. 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.

15. This approval is for the location of the driveway and parking spaces as shown on the plat approved by the Board of Zoning Appeals.

16. There shall be an annual inspection of the gravel driveways and parking lot 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.

17. This approval for the modification to the dustless surface requirement shall be for a period of five (5) years.

18. The home professional office shall be limited to the main house. No more than fifty percent (50%) of the main house shall be utilized as a home professional office.

19. The development of this property shall be in accordance with the proffer conditions of rezoning RZ 82-L-079.

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.

Mrs. Thonen seconded the motion.

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

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Page 151 September 25, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of backlogged Minutes for December 21, 1982; January 11, January 18, January 20 and January 25, 1983. Mr. Hyland moved that the Board approve the minutes as submitted. Mrs. Day seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

The Board was also in receipt of current minutes for September 11, 1984. It was the consensus of the Board to approve the minutes as submitted.

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Page 152 September 25, 1984, After Agenda Items

APPROVAL OF BZA CALENDAR FOR 1985: It was the unanimous consensus of the Board to approve the BZA Schedule of Hearing Dates for 1985. It was noted that staff could cancel the April 30th meeting at its discretion.

Page 152 September 25, 1984, After Agenda Items

CHURCH OF JESUS CHRIST OF THE LATTER DAY SAINTS, SP 84-D-059: The Clerk informed the Board of a verbal request from Supervisor Falck's Office that the special permit application of the Church of Jesus Christ of the Latter Day Saints which had been granted an out-of-turn hearing and scheduled for October 2, 1984 be reverted back to its originally scheduled evening hearing date of October 16, 1984. After discussion, it was the consensus of the Board that the hearing go forward on October 2, 1984 as advertised but be continued for additional testimony on October 16, 1984 from those parties not able to testify at the first hearing. The Chair directed that the staff keep a speaker's list of anyone wishing to testify.

Page 152 September 25, 1984, Board Discussion

ZONING ORDINANCE AMENDMENT ON EXTENSIONS INTO REQUIRED YARDS: Mr. Philip G. Yates, Zoning Administrator, informed the Board that he was available to answer any questions regarding the proposed Zoning Ordinance Amendment on extensions into required yards. Due to the lateness of the hour, Mr. Hyland stated that he would phone Mr. Yates to discuss his concerns.

// 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

Daniel Smith
DANIEL SMITH, CHAIRMAN

Submitted to the Board on Oct. 9, 1984

APPROVED: October 16, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 2, 1984. The Following Board Members were present: Daniel Smith, Chairman (arriving at 12:40 P.M.); Gerald Hyland; Ann Day; Paul Hammack; John Ribble; and Mary Thonen (arriving at 10:40 A.M.). (Mr. John DiGiulian was absent).

Mr. Gerald Hyland served as Chairman of the meeting in the absence of the Chairman and the Vice-Chairman. The meeting was delayed awaiting arrival of a quorum. Chairman Hyland opened the meeting at 10:30 A.M. and Mrs. Day led the prayer.

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

10:00 A.M. LARRY J. & SANDRA M. THOMAS, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling 10 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 1628 Seneca Ave., R-1, Hunting Ridge Subd., Providence Dist., 30-3((2))247, 11,919 sq. ft., VC 84-P-069. (DEFERRED FROM JULY 10, 1984 FOR FURTHER INFORMATION AND OPINION FROM THE COUNTY ATTORNEY)

The Board was in receipt of a letter from the applicants' attorney requesting a withdrawal of the above-captioned variance. It was the unanimous consensus of the Board to allow withdrawal without prejudice.

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Page 153 October 2, 1984, Scheduled case of

10:15 GEORGE WILLBRANDT (formerly CROSS BUILDERS), appl. under Sect. 18-401 of the Ord. to allow construction of a deck addition to dwelling to 15 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-207 & 2-412), located 5031 Oakcrest Dr., North Hill Subd., R-2, Springfield Dist., 68-1((11))30, 15,810 sq. ft., VC 84-S-084. (DEFERRED FROM JULY 24, 1984 TO ALLOW TIME TO AMEND APPLICATION)

Mr. William Shoup presented the staff report. In response to questions from the Board, Mr. Shoup indicated that the proposed Zoning Ordinance Amendment with respect to extensions into yard areas, if adopted as proposed, would allow by right what the applicant was seeking under a variance procedure. The applicant had been advised of the amendment but requested the variance to go forward.

Ms. Nancy Cranmer of Paciulli, Simmons & Associates at 307 Maple Avenue in Vienna represented the applicant. She stated that Mr. Willbrandt had been the contract purchaser at the time the variance was filed and was now the title owner. The proposed deck was a standard size deck for the area. The variance was requested to allow room for a table and chair. Ms. Cranmer stated that the applicant had acquired the property in good faith. The lot was irregularly shaped and the house was situated back on the lot in order to comply with the side yard requirements. The proposed deck was low and would not be visibly obtrusive. It would be a hardship to the applicant to deny him a usable size deck, the same as everyone else in the area.

In response to questions from the Board, Ms. Cranmer stated that a number of homes in the area had decks. Lots 32 and 34 directly behind the applicant's property were developed but the houses were not situated close to the proposed deck.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-S-084 by GEORGE WILLBRANDT under Section 18-401 of the Zoning Ordinance to allow construction of a deck addition to dwelling to 15 ft. from rear lot line (19 ft. min. rear yard req. by Sects. 3-207 & 2-412), on property located at 5031 Oakcrest Drive, tax map reference 68-1((11))30, 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 24, 1984 and deferred until October 2, 1984 for amendment of application; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 15,810 sq. ft.

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 had exceptional shape at the time of the effective date of the Ordinance. The west side property line is 142' long while the east side property line is 212' which leaves a very irregular shape lot with a truncated back yard.
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. An amended Building Permit reflecting the approved distance shall be obtained prior to any construction.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 0 (Mrs. Thonen & Messrs. Smith & DiGiulian being absent).

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Mrs. Mary Thonen arrived at the meeting at 10:40 A.M.

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Page 154 October 2, 1984, Scheduled case of

10:30 A.M. LINDA L. MCFADDEN, appl. under Sect. 18-401 of the Ord. to allow carport addition to dwelling to 2.1 ft. from side lot line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), located 3519 Pike Rd., Virginia Hills, R-4, Lee Dist., 82-4((14))(19)12, 14,235 sq. ft., VC 84-L-097.

Mr. William Shoup presented the staff report. In response to questions from the Board, Mr. Shoup responded that the width of the applicant's proposed carport was close to the average dimension. He further stated that the proposed Zoning Ordinance amendment with respect to extensions in yard areas would not affect this application.

Ms. Linda L. McFadden of 3519 Pike Road informed the Board that she purchased her property in 1979. She selected the eastern side of the property for the proposed carport because of the existing driveway and the door into the house. Construction on the western side would involve a new driveway and the relocation of electric and telephone utility lines. The back yard was suitable for construction because of a 20 ft. easement. Construction in the back yard would not allow sufficient turnaround and would extend into the easement. Ms. McFadden felt that construction of a carport at the front of her house would not be in not meet the front yard setback or be in keeping with the character of the neighborhood.

In response to questions from the Board, Ms. McFadden stated that her neighbors' bedroom windows would overlook the proposed carport. However, the neighbor did not object to the variance. Ms. McFadden stated that the neighbors' house was approximately 15 ft. from the property line. There was an existing hedge which would screen the back yard area parallel to the carport. The Board questioned the 13 ft. width for the proposed carport. Ms. McFadden informed the Board that a 3 1/2 ft. stoop extended into the proposed carport area. She indicated that she needed room to pull her car all the way forward without running into the stoop. She had already removed one stoop.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-L-097 by LINDA McFADDEN under Section 18-401 of the Zoning Ordinance to allow carport addition to dwelling to 2.1 ft. from side lot line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), on property located at 3519 Pike Road, tax map reference 82-4((14))(19)12, 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 2, 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 14,235 sq. ft.
4. That the applicant's property has a 20 ft. sewer easement and telephone and electric lines across the yard. The homes in this area were built before the Ordinance was changed.

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 is exceptionally narrow and has an unusual condition 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.
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:

RESOLUTION

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

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

1. This 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. Hammack seconded the motion.

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

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Page 156 October 2, 1984, Scheduled case of

10:45 A.M. WILLIAM J. & SANDRA L. MCKAY, 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 13.1 ft. from side lot line (15 ft. min. side yard req. by V-278-79), located 7130 Constantine Ave., Beverly Forest Subd., R-1, Lee Dist., 90-3((8))13, 23,709 sq. ft., SP 84-L-060.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. On November 13, 1979, the Board had approved a variance to allow the applicant to construct an addition to 15 ft. from the southern side lot line. In error, the addition was constructed 1.9 ft. closer to the side lot line than approved by the BZA. This error was discovered when the applicant applied for another variance to construct a garage on the northern side lot line. During staff review, it was discovered that the first addition had been built in error because of a discrepancy in the plats.

Mr. William J. McKay of 7130 Constantine Avenue informed the Board that he had acted in good faith 4 years ago when applied for a variance. Mr. McKay stated that he performed all the work himself and he took great pride in the construction of the addition. He had obtained architectural plans for the addition. The architect had prepared the plat necessary for the filing of the variance. The plat showed a 15 ft. setback from the rear of the structure to the side lot line. The error occurred because the architect had not realized that the house was not parallel to the side lot line and was closer than 15 ft. at the front of the dwelling. Mr. McKay assured the Board that the error had been an honest mistake and he assumed responsibility for any violation of the Code.

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

Mrs. Day made the following motion:

WHEREAS, Application No. SP 84-L-060 by WILLIAM J. & SANDRA L. McKAY 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 13.1 ft. from side lot line (15 ft. min. side yard req. by V 278-79 approved by the BZA on November 13, 1979), on property located at 7130 Constantine Avenue, tax map reference 90-3((8))13, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on October 2, 1984; and,

RESOLUTION

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 addition on the south side of the dwelling as indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.

2. A revised Building Permit, reflecting the actual distance to the lot line, shall be obtained.

Mr. Thonen seconded the motion.

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

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Page 157 October 2, 1984, Scheduled case of

11:00 A.M. THOMAS W. & BETTY A. THACHER, appl. under Sect. 8-901 of the Ord. for modification to min. yard requirement for R-C lot to allow construction of carport addition to dwelling to 6.4 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-C07 & 2-412), located 15303 Harmony Hill Ct., Pleasant Hill Subd., R-C, Springfield Dist., 53-4((5))67, 12,233 sq. ft., SP 84-S-057. (OUT-OF-TURN HEARING GRANTED)

Mr. William Shoup presented the staff report which recommended approval of the special permit application in accordance with the conditions set forth in Appendix I. Mr. Thomas W. Thacker of 15303 Harmony Hill Court in Centreville informed the Board that he was applying for a modification of the minimum yard requirements. He purchased his house in 1979 and occupied it in 1978. The zoning had been R-17 and was rezoned to R-2(C) which was later reclassified as R-C in July 1982. Mr. Thacher's neighbors did not object to the proposed carport. He indicated that an existing carport had been enclosed for additional living space and he was requesting permission to construct another carport in its place.

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

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THOMAS W. & BETTY A. THACHER

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Ribble made the following motion:

WHEREAS, Application No. SP 84-S-057 by THOMAS W. & BETTY A. THACHER under Section 3-C07 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, to allow construction of carport addition to dwelling to 6.5 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-C07 & 2-412), located at 15303 Harmony Hill Ct., tax map reference 53-4((5))67, 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 2, 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. The final plat was approved on April 15, 1976, and the subdivision was recorded on August 10, 1976.
2. 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 side 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 regulations require a minimum side yard of eight (8) feet, with a total minimum of 24 feet for cluster subdivision lots. With the provisions for extensions into yard areas set forth in Sect. 2-412, the proposed carport could have been approved prior to the comprehensive rezoning.
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 September 14, 1984 as follows:

1. This special permit 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 special permit shall automatically expire, without notice, eighteen (18) months after the approval date of the special permit 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 construction of the carport.

Mrs. Day seconded the motion.

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

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Page 158 October 2, 1984, Scheduled case of

11:15 A.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 addition of a classroom module unit to existing facilities, located 8508 Hooes Rd., R-1, Springfield Dist., 89-3((1))15, 4.9075 acres, SPA 78-S-264-2.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. The church had been to the Board earlier in the year requesting a new parsonage and to convert the use of the existing parsonage. Screening and water runoff had been concerns with that special permit but staff indicated that it would be reviewed by DEM at the time of site plan. Since the church had not filed for site plan review yet, those concerns had not been addressed. Mr. Shoup informed the Board that staff was now channeling those concerns to DEM through the normal complaint process. The initial compliant was that when the church paved its parking lot, there was a water runoff problem for Mr. Kruth.

The Board was concerned that the complaint of off-site drainage problems had not been addressed immediately with the previous special permit rather than waiting for site plan review. Mr. Shoup explained that the BZA had addressed the problem in its conditions but the church had not come forward with site plan. With the new application and because the problem still had not been resolved, staff had changed its position and forwarded the complaint to the appropriate agency. The Board directed that DEM review the present development proposal of the church and determine what additional off-site drainage problems would result. Mr. Shoup indicated that he felt DEM would be able to respond with a report in two weeks.

In response to further questions from the Board, Mr. Shoup stated that the temporary classroom trailer shown on the site plan had been purchased from another church. It was not shown where it eventually would be located.

Mr. Michael Congleton, an attorney in Springfield, represented the church. He stated that the church was seeking a special permit for a classroom trailer. The church had plans to construct a permanent educational building within two years. Mr. Congleton stated that the church had no objections to any of the development conditions contained in the staff report. With regard to the drainage concern, Mr. Congleton stated that the church had been before the BZA two months ago. At that time, the BZA listed a condition no. 12 to read: "The applicant shall take all necessary actions to correct drainage deficiencies as determined by the Director of Environmental Management." Mr. Congleton stated that the church still stood by that commitment. He indicated that the church needed the assistance of DEM to determine whether a drainage problem existed.

In response to questions from the Board as to whether the church had contacted its engineer or architect concerning the drainage problems. Mr. Congleton stated that the engineer, Mr. Arthur Hunsberger did not feel a drainage problem existed. He had indicated that perhaps the porous conditions had changed. Mr. Hunsberger informed the church that he would work with DEM to correct any deficiencies.

Mr. Congleton informed the Board that the use of the temporary trailer could not take place without site plan approval. The Board was concerned that the church could wait two years before processing the site plan. Mr. Congleton inquired as to what evidence was needed by the BZA to determine whether a drainage problem did or did not exist. The Board suggested that DEM do an on-site inspection with someone from the church to examine the problem. If there was a problem, the church could indicate what it would do to correct the situation.

With regard to the construction of a 6 ft. trail, Mr. Congleton stated that the church had no objection to a condition requiring the trail but wanted to request a deferral of construction from the County Executive until such time as the permanent educational facility was constructed.

Mr. Congleton requested the Board to continue the public hearing to another date. There was no one else to speak in support or in opposition. Mr. Ribble moved that the Board defer the hearing until October 16, 1984 at 7:30 P.M. to allow a site inspection regarding the drainage issue, to determine whether drainage was a problem and what corrective actions needed to be taken. 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 159 October 2, 1984, Scheduled case of

11:30 A.M. PROVIDENCE PRESBYTERIAN CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-82-A-039 for church and related facilities to permit addition of new sanctuary and classrooms to existing facilities, located 9019 Little River Turnpike, R-1, Annandale Dist., 58-4((1))1, 5.65 acres, SPA 82-A-039-2.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the conditions set forth in Appendix I. The major issues were screening, parking and site access. Staff was recommending construction of a deceleration lane.

Mr. Skip Morgan introduced Mr. Michael LeMay, an architect at 1320 Prince Street in Alexandria. Mr. LeMay stated that he had designed the addition to the church facility situated on 5.65 acres. He indicated that the addition would match the color, texture and form of the original building.

Mr. Skip Morgan informed the Board that the church was a good neighbor but had limited resources. He discussed the construction of the deceleration lane off of Little River Turnpike. He discussed other alternatives such as closing the access from Little River Turnpike and accessing the church property by other means. Staff responded that the requirement for construction of the deceleration lane came from the Department of Transportation and was not negotiable. The County Executive could waive some site plan improvements but staff did not want it to be subject to a waiver. The Board was concerned about making such a modification as it felt it was taking rights away from the Church which it did not have the authority to do. Mr. Shoup stated the reason for the request in the transportation analysis was because Little River Turnpike was an arterial highway with speeds of 45 m.p.h. Shutting down the access would create additional traffic problems in the surrounding developments.

There was no one else to speak in support. Mr. James H. Blondell of 4018 Elizabeth Lane and Mr. Robert Orr of 4035 Doveville Lane spoke in opposition. Mr. Blondell indicated that the church had held a meeting with residents of Elizabeth Lane on September 16, 1984. He stated that the residents were not in opposition but he requested a 6 ft. fence be erected and that the drainage problem be addressed. Mr. Robert Orr requested that the existing buffer be retained. He was concerned about an increase in parking if the seating capacity in the sanctuary was increased. In addition, Mr. Orr indicated that he was against any increased traffic on Doveville Lane.

The Board discussed changes to some of the conditions in the staff report. Some Board members were concerned about a traffic safety hazard if the deceleration lane were not built. Mr. Morgan informed the Board that in order to eliminate any concern, the church would build the deceleration lane; work to improve the drainage situation and construct the 6 ft. fence. Mr. LeMay indicated that he had reviewed the church site with the civil engineer and had discussed ways to eliminate the drainage. Mr. LeMay indicated that the water was not being abated. He suggested using heavy rocks to break the flow of water. H indicated that a detention pond might work but would reduce the screening.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-A-039-2 by PROVIDENCE PRESBYTERIAN CHURCH under Section X of the Zoning Ordinance to amend S-82-A-039 on property located at 9019 Little River Turnpike, tax map reference 58-4((1))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 October 2, 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 5.65 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. Specifically, that the gate which is shown on the new plat shall be opened only on Sundays and major church events during the week and that the trailer being granted for additional classrooms shall be used only on Sundays for classroom needs. 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.

RESOLUTION

5. Transitional screening shall be provided as follows:
   - o Existing vegetation on the southeast corner of the property shall be retained.
   - o Existing screening to the south and west of the rear parking area shall be provided as required in the approval of Site Plan Waiver #6477.
   - o Existing vegetation along the eastern lot line shall be retained and supplemented with evergreen plantings between the parking lot and the lot line as determined by the Director, DEM to screen the view of the church buildings from adjacent properties to the east.
   - o Complete Transitional Screening 1 shall be provided along the western lot line without modification except that the existing shed shall be permitted to remain, provided it is screened from adjacent properties.
   - o Transitional screening at the front of the property shall be waived provided the existing hardwood trees and landscape plantings are retained and additional landscaping is provided to reduce the visual impact from Little River Turnpike, as determined by the Director, DEM.

6. Existing barriers shall be retained and no additional barriers shall be required.
7. The seating capacity in the main worship area shall not exceed four hundred fifty (450).
8. There shall be one hundred sixty-two (162) parking spaces provided. The nine (9) parking spaces located on the travel aisle adjacent to the easternmost building shall be eliminated.
9. A right turn deceleration lane shall be constructed on eastbound Little River Turnpike in accordance with all applicable State and County standards as agreed to by the church at the time of the public hearing. The church shall not request a waiver of this provision.
10. Additional road improvements shall be provided as determined by the Director, DEM in accordance with the provisions of Article 17 of the Zoning Ordinance.
11. The applicant shall dedicate to seventy-seven (77) feet from the centerline of eastbound Little River Turnpike along the full frontage of the property.
12. The sanctuary building shall be acoustically treated as follows:
   - o Exterior walls shall have a laboratory sound transmission class (STC) of at least 45, and
   - o Doors and windows shall have a laboratory sound transmission class (STC) of at least 37. 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.
13. The parking lot lights approved in SPA 82-A-039-1 shall be of the design submitted in that application and shall be a height of eight (8) feet.
14. Permission to use the classroom trailer approved in SPA 82-A-039-1 shall expire on June 21, 1988. Further use shall be subject to renewal in accordance with applicable Zoning Ordinance provisions.
15. All garbage or trash shall be picked up at the entrance to the church on the access road parallel to Little River Turnpike or at an appropriate location on the church property near the building.
16. The church shall take appropriate action to correct water runoff problems attributable to its property on lots 98, 99 and 100 and the other lots adjacent to the east property line with the church property. After correction of those problems, the church shall construct a 6 ft. fence for those adjacent property owners on the east property line who request such 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 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.

During discussion, Mrs. Thonen moved that condition no. 9 be amended to include a statement wherein the church agreed to build the deceleration lane and that a waiver not be requested.

Mr. Ribble seconded the amendment to the motion.

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

The vote on the original motion as amended passed by a vote of 5 to 0 (Messrs. Smith & DiGiulian being absent).

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Mr. Daniel Smith arrived at the meeting at 12:40 P.M.

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Page 162 October 2, 1984, Scheduled case of

11:45 A.M. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, appl. under Sect. 3-103 & 3-203 of the Ord. for a church and related facilities, located 2034 Great Falls St., R-1 & R-2, Dranesville Dist., 40-2((1))8, pt. 7 and pt. 6, 6.0645 acres, SP 84-D-059. (OUT-OF-TURN HEARING GRANTED) (HEARING TO BE CONTINUED UNTIL OCTOBER 16, 1984 AT 9:00 P.M. FOR ADDITIONAL TESTIMONY).

Ms. Cheryl Hamilton presented the Board with revised development conditions. Chairman Hyland informed the Board that it was his understanding from the last BZA hearing that the matter was to be deferred until October 16, 1984. He further indicated that if anyone came forward at this hearing to present testimony, that they would be given an opportunity to do so. Mr. Charles Shumate, an attorney in Fairfax, represented the church. He indicated that at the BZA's hearing on September 11, 1984 when it considered the out-of-turn hearing request of the church, the Board directed that should staff not be able to respond in a timely fashion that the application be reverted back to October 16th. Subsequent to that action, a request came from Supervisor Falck's Office requesting that the special permit be deferred until October 16, 1984. Mr. Shumate informed the Board that he was working with citizens in the area and concurred with the deferral. He indicated that he would continue meeting with the citizens.

When asked staff's position on the matter, Ms. Hamilton stated that staff was prepared to present the application today or on October 16th. Mr. Tom Tillotson of 2100 Glen Spring Court in Falls Church requested the applicant to meet with the McLean Greens Civic Association and the Lemon Road Civic Association since they had not received notice of the special permit request. Mr. Walter Zaumseil of 2028 Greenwich Street in Falls Church indicated that he would like a meeting also. He was concerned about drainage issues.

There being no one to present testimony at this time, the Board deferred the special permit application until October 16, 1984 at 9:00 P.M. Mr. Shumate informed the Board that he would provide a rendering and landscaping plan at the next hearing.

(VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE)

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The Board recessed the meeting at 12:50 P.M. and reconvened at 1:20 P.M. to continue the scheduled agenda. Mr. Daniel Smith presided as Chairman the remainder of the meeting.

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Page 162 October 2, 1984, After Agenda Items

APPEAL OF INTERPRETATION OF PROFFERS IN REZONING APPLICATION 74-3-056: The Board was in receipt of a memorandum from the Zoning Administrator forwarding the appeals filed by the Board of Supervisors and the McLean Citizens Association involving his interpretation of proffers in Rezoning Application 74-3-056. Mr. Ribble moved that in view of the fact that the County Attorney's Office may have a conflict of interest in advising the BZA with respect to this appeal, that the Board take whatever steps were necessary to get outside independent legal service. He further moved that the Chairman request the funds necessary from the County Executive in order to pay the outside attorney. Mrs. Thonen seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

It was the consensus of the Board to schedule the appeals for January 22, 1985 at 8:00 P.M.

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Page 162 October 2, 1984, Board Discussion

As a matter of information, Mr. Hyland informed the Chairman that the Board had deferred the earlier special permit case of Sydenstricker United Methodist Church until the evening meeting of October 16, 1984 at 7:30 P.M. because of drainage issues which were unresolved.

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Page 162 October 2, 1984, Scheduled case of

1:00 P.M. SEQUOIA BUILDING CORPORATION, appl. under Sect. 3-303 of the Ord. for community swimming pool and tennis courts, located 14300 Braddock Rd., Sequoia Farms Subd., R-3, Springfield Dist., 54-1((1))pt. 5, 2.95 acres, SP 84-S-054. (DEFERRED FROM SEPTEMBER 25, 1984 FOR APPLICANT TO WORK OUT PROBLEMS WITH ADJACENT COMMUNITY).

Ms. Cheryl Hamilton informed the Board that at the last hearing, there had been some concern about traffic and the number of people attending swim meets. The Office of Transportation had indicated in its analysis that the parking lot could have internal circulation problems at the time of swim meets. The Board indicated that most swim clubs have parking problems at the time of swim meets.

Mr. Roland dePolo of Rt. 1 in Middleburg, Va. represented Sequoia Building Corporation. He stated that he had met with the Bell Pond Homeowners Association who requested that the tennis courts not be lighted unless the applicant came back to the BZA with an amended application. It was agreed that Sequoia Building would provide 46 memberships to the Bell Pond community for 90 days following the presentation of the by-laws.

Mr. Gilbert Lockwood, President of the Bell Pond Homeowners Association presented the Board with a memorandum of understanding between Bell Pone and Sequoia. It had been agreed that Sequoia would provide an asphalt path from the Bell Pond community to the pool.

Mr. dePolo requested the Board to approve the inclusion of a path so that they would not have to come back at a later date. Chairman Smith requested that a copy of the approved site plan be provided for the record. Mr. dePolo stated that Sequoia had agreed to plant evergreen trees outside the chain link pool fence on the Belle Pond side. In addition, they had agreed to include at least one row of 8 ft. evergreens in the 25 ft. tree screen between the tennis courts and Belle Pone and to plant 12 ft. deciduous trees in the tennis court screen.

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Page 163 October 2, 1984 Board of Zoning Appeals
SEQUOIA BUILDING CORPORATION

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-S-054 by SEQUOIA BUILDING CORPORATION under Section 3-303 of the Zoning Ordinance to permit community swimming pool and tennis courts, on property located at 14300 Braddock Road, tax map reference 54-1((1))pt. 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 September 25, 1984 and deferred until October 2, 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 2.95 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, upon conveyance of the parcels to the Sequoia Farms Homeowners 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. This use shall be subject to the provisions set forth in Article 17, Site Plans. The applicant shall plant evergreen trees outside the chain link pool fence on the Belle Pond side; include at least one row of 8 ft. evergreens in the 25 ft. tree screen between the tennis courts and Belle Pond; and plant 12 ft. deciduous trees in the tennis court screen.
5. The hours of operation shall be no earlier than 9:00 A.M. and no later than 9:00 P.M.
6. The maximum number of employees shall be two (2).
7. The maximum number of family members shall be 450.
8. There shall be thirty-four (34) parking spaces.

RESOLUTION

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 A written 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. 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.

11. Transitional Screening 1 shall be provided along all lot lines. The barrier requirement may be waived.

12. Stormwater management measures shall be provided as deemed appropriate by the Director, DEM.

13. The use of the loudspeakers shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code.

14. Forty-six (46) memberships shall be made exclusively available to residents of Belle Pond subdivision for a period of ninety (90) days after the presentation of a copy of the bylaws from Sequoia Building Corporation.

15 Sequoia Building Corporation has agreed to build an asphalt trail from the tennis courts and pool to the Belle Pond subdivision as determined by staff.

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.

Mrs. Thonen seconded the motion.

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

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Page 164 After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of current minutes for September 18, 1984. Mr. Hammack moved that the Board approve the minutes as submitted. Mr. Ribble seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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There being no further business, the Board adjourned at 1:50 P.M.

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

Submitted to the Board on October 9, 1984

Daniel Smith
Daniel Smith, Chairman

Approved: October 16, 1984
Date

The Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 9, 1984. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman (arriving at 10:30 A.M.); Gerald Hyland; Ann Day; Paul Hammack; John Ribble; and Mary Thonen (departing at 11:15 A.M.).

Chairman Smith opened the meeting 10:05 A.M.

THE SESSION OF MOUNT VERNON PRESBYTERIAN CHURCH, A 84-W-005 and LEROY A. ROWELL, DAVIS S. PROWITT, THOMAS M. DAVIS, III AND SANDRA L. DUCKWORTH, A 84-W-006: Chairman Smith informed the Board that a special meeting had been called to discuss the appeals of The Session of Mount Vernon Presbyterian Church, A 84-W-005 and Leroy A. Rowell, Davis S. Prowitt, Thomas M. Davis, III and Sandra L. Duckworth, A 84-W-006 scheduled before the BZA on October 16, 1984. Mr. Philip G. Yates, Zoning Administrator, presented the Board with a memorandum regarding the establishment of a committee to study a proposed Zoning Ordinance Amendment regarding permitted uses in places of worship. Mr. Yates informed the Board that some of the appellants involved in the appeals were in favor of a deferral of the hearing until such time as the Board of Supervisors took action on a Zoning Ordinance Amendment. One appellant, The Session of Mount Vernon Presbyterian Church, represented by Pastor Vin Harwell, were not in favor of a deferral. Mr. Harwell presented testimony as to why the appeal should proceed as scheduled irregardless of any Zoning Ordinance Amendment.

Following a lengthy discussion between the Board, Mr. Yates, and Pastor Harwell; Mr. Hammack stated that everyone still had the same position in the matter. Mr. Yates refused to withdraw his Interpretation No. 52. Pastor Harwell felt that the issue needed to be decided as soon as possible. Mr. Hammack indicated that the proposed Zoning Ordinance Amendment was not going to resolve the problem. Since no one was willing to yield, Mr. Hammack moved that the Board proceed with the appeal hearing as scheduled on October 16th. There was no second to his motion.

Following further comments from Pastor Harwell and Mr. Yates, Mr. Ribble moved that the Board indicate its intent to defer the scheduled appeals until after the Board of Supervisors and the committee met to decide on a new amendment. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 2 (Mr. Hyland and Mrs. Day)(Mrs. Thonen being absent). During the discussion, Mr. Yates indicated that the Zoning Office would not pursue the matter of the churches sheltering the homeless while the appeals were pending before the Board of Zoning Appeals.

Mr. Hyland then moved that the appeals be deferred until May or June of 1985. After a consultation with the Clerk regarding possible scheduling dates, Mr. Hyland requested a deferral of the appeals until May 7, 1985 at 10:00 A.M. Mr. DiGiulian seconded the motion and it passed by a vote of 5 to 1 (Mr. Hammack).

There being no further business, the Board adjourned at 11:40 A.M.

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

Submitted to the Board on October 11, 1984

Daniel Smith
Daniel Smith, Chairman

Approved: October 16, 1984
Date

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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 16, 1984. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland (arriving at 9:15 P.M.); Ann Day; Paul Hammack; and John Ribble. Mrs. Mary Thonen was absent).

The Chairman opened the meeting at 7:40 P.M. and Mrs. Day led the prayer.

Chairman Smith called the scheduled case of:

7:30 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 addition of a classroom module unit to existing facilities, located 8508 Hooes Rd., R-1, Springfield Dist., 89-3((1))15, 4.9075 acres, SPA 78-S-264-2. (DEFERRED FROM OCTOBER 2, 1984 FOR REPORT FROM DEM ON DRAINAGE PROBLEMS).

Mr. William Shoup presented the Board with the report from DEM on the drainage problems alluded to in the letter from Mr. Kruth. It indicated that the original church property drainage design met the County's drainage requirements at that time and met the present day requirements even though the original gravel parking lot had since been paved. The review revealed that the six foot diameter underground storm water detention pipe required some maintenance as there was a two foot buildup of sediment and debris at the bottom. In addition, the small swale on the church property behind lot 122 which delivered water to the drainageway on lot 121 was full of leaves and debris which could contribute to the discharge experienced on Mr. Kruth's property.

DEM recommended that the BZA have the church perform maintenance on the existing drainage/detention facilities (i.e., clean out sediment and debris from the six foot detention pipe and swale behind lot 122; cut weeds and remove cuttings from the pond behind lots 123 and 124) and that it be made an annual function. DEM further recommended that the church consider the installation, with the appropriate property owners' consent, a private small diameter pipe drain-out system from the six foot detention pipe in order to more quickly relieve underground water table pressures.

Mr. Michael Congleton, an attorney in Springfield, represented the church. He thanked the staff of DEM and the BZA Support Branch for their work of the past two weeks. Mr. Congleton stated that the church had no objection to the condition proposed by staff. However, he asked that the BZA amend condition no. 11 with respect to the requirement of a six (6) ft. wide asphalt trail along Hooes Road and Sydenstricker Road as the church did not feel it was appropriate since it would be a non-continuing trail. Instead, the church would request that the County Executive approve the deferral of the trail until the permanent education facility was constructed. He asked that the BZA indicate whether it had a problem with the deferral of the trail.

In response to questions from the Board, Mr. Shoup stated that there was an Ordinance requirement that dedication and construction be required. However, the County Executive could waive any of the site plan required improvements. Since the trail did not lead to anywhere, Mr. Shoup indicated that staff would not object if the County Executive wanted a deferral of construction. Mr. Shoup suggested that the BZA indicate its position that the final decision was up to the County Executive by amending the wording in condition no. 11 so it was not interpreted to absolutely require the construction of the trail.

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SYDENSTRICKER UNITED METHODIST CHURCH

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 78-S-264-2 by SYDENSTRICKER UNITED METHODIST CHURCH under Sect. 3-103 of the Zoning Ordinance to amend S-264-78 for church and related facilities to permit addition of a classroom module unit to existing facilities, on property located at 8508 Hooes Road, tax map reference 89-3((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 October 2, 1984 and deferred until October 16, 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:

167 (2)

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. Existing vegetation shall be retained and used to satisfy the transitional screening requirement except that supplemental plantings shall be provided in the following areas to reduce the visual impact of the uses to adjacent properties and streets:
   - along the western 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

   The amount and type of supplemental plantings shall be determined by the Director, Department of Environmental Management. Existing vegetation shall remain undisturbed except that removal shall be permitted to accommodated construction of the new parsonage and any required utility work. The requirement for a barrier shall be waived.
6. The seating capacity in the main worship area shall not exceed three hundred (300).
7. There shall be seventy-six (76) parking spaces provided.
8. 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.
9. This approval does not include the structure noted as "future addition" on the plat submitted with this application.
10. All signs for this use shall be in conformance with Article 12, Signs.
11. 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 the entire frontage of the property.
12. 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.
13. 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.
14. The applicant shall take all necessary actions to correct drainage deficiencies as determined by the Director, Department of Environmental Management.
15. All parking associated with this use shall be conducted on-site.
16. Under Sect. 8-015 of the Zoning Ordinance the activity authorized in this application shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit and the activities authorized in application SPA 78-S-264-1 shall automatically expire without notice, on November 1, 1985 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 the 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.
17. The applicant shall perform maintenance on the existing drainage and detention facilities as follows: that it shall clean out sediment and debris from the six foot detention pipe and swale behind lot 122 and that it should cut weeds and remove cuttings from the pond between lots 123 and 124 and that this maintenance function shall be performed annually or as often as required in order to minimize the off-site drainage impact.

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.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Hyland and Mrs. Thonen being absent).

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Page 168 October 16, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of current Minutes for September 25, October 2, and October 9, 1984. Mrs. Day moved that the Board adopt the Minutes as presented. Mr. Ribble seconded the motion and it passed unanimously by a vote of 5 to 0 (Mr. Hyland and Mrs. Thonen being absent).

The Board was in receipt of backlogged Minutes for February 8, February 15, February 22, and March 1, 1983. Mrs. Day moved that the Board adopt the Minutes as presented. Mr. Ribble seconded the motion and it passed unanimously by a vote of 5 to 0 (Mr. Hyland and Mrs. Thonen being absent).

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Page 168 October 16, 1984, After Agenda Items

MARILYN J. THOMPSON, DVM, S-80-S-060: The Board was in receipt of a memorandum from the Zoning Administrator forwarding a request for a change in name of permittee from Marilyn J. Thompson, DVM to Companion Animal Clinic of Virginia, Inc. Mrs. Day moved that the Board allow the change in name in accordance with its adopted policy. Mr. Ribble seconded the motion and it passed by a unanimous vote of 5 to 0 (Mr. Hyland and Mrs. Thonen being absent).

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Page 168 October 16, 1984, Recess

At 7:55 P.M., the Board recessed the meeting and did not reconvene until 8:25 P.M. to continue with the scheduled agenda.

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Page 168 October 16, 1984, Scheduled cases of

8:00 P.M. THE SESSION OF MOUNT VERNON PRESBYTERIAN CHURCH, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's interpretation number 52 regarding permitted accessory uses to a place of worship, A 84-W-005.

AND

LEROY A. ROWELL, DAVIS S. PROWITT, THOMAS M. DAVIS, III AND SANDRA L. DUCKWORTH, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's interpretation number 52 regarding permitted accessory uses to a place of worship, A 84-W-006.

Chairman Smith announced that at the BZA hearing on October 9, 1984, the Board had announced its intent to defer the appeal applications. As there was no one present objecting to the deferral, Mr. Ribble moved that the Board defer the appeal applications until May 7, 1985 at 10:00 A.M. Mr. DiGiulian seconded the motion and it passed by a vote of 5 to 0 (Mr. Hyland and Mrs. Thonen being absent).

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Page 168 October 16, 1984, Scheduled case of

8:30 P.M. CHRISTIAN FELLOWSHIP CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-82-D-066 for church and related facilities to permit classroom and storage shed additions to existing building, increase the land area, raise the height of the parking lot light poles, and relocate the driveway to the interior of the site on Parcel C, located 10237 Leesburg Pk., R-1, Dranesville Dist., 18-2((7))A, B, & C, 7.5472 ac., SPA 82-D-066-1. (DEFERRED FROM JULY 31, 1984 AT APPLICANT'S REQUEST).

Ms. Jane Kelsey informed the Board that a problem existed with regard to the legal advertising, notification and posting of the property involved in the special permit application of the Christian Fellowship Church. Parcel 1A was not included in the legal advertisement or in the notices to the surrounding property owners. She advised the Board that it could defer the entire application to accommodate the legal requirements or it could proceed with the hearing but defer decision until sufficient time to accommodate the advertising in accordance with the legal requirements.

Mr. Bill Hicks, an attorney, representing Christian Fellowship Church, requested the Board to defer the entire application until mid-November of mid-December so that all the testimony could be taken at the same time. Mr. Charles Steinmetz of 1304 Tulip Poplar Lane in Vienna represented the citizens in opposition. He agreed with Mr. Hicks that the application should be deferred in its entirety until mid-November.

Following further discussion between staff and the Board, it was the consensus of the Board to defer the special permit application of the Christian Fellowship Church until January 22, 1985 at 8:15 P.M.

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Page 169 October 16, 1984, Recess

The Board recessed its meeting at 8:40 P.M. and did not reconvene until 9:00 P.M. to continue the scheduled agenda.

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Page 169 October 16, 1984, Scheduled case of

9:00 P.M. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, appl. under Sect. 3-103 & 3-203 of the Ord. for a church and related facilities, located 2034 Great Falls St., R-1 & R-2, Dranesville Dist., 40-2((1))8, pt. 7 and pt. 6, 6.0645 acres, SP 84-D-059. (DEFERRED FROM OCTOBER 2, 1984 FOR ADDITIONAL TESTIMONY.) (VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE)

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit in accordance with the revised development conditions dated October 16, 1984. She indicated that staff was concerned with the accesses to the site and was requesting that the entrance closest to Idylwood Road be deleted. In addition, the large amount of parking in a residential area was also a concern. The Zoning Ordinance required 90 parking spaces but the applicant was proposing 404 in order to accommodate persons during the six proposed conferences each year. Accordingly, the staff requested that the parking lot be well screened. Ms. Hamilton informed the Board that Transitional Screening I and Barriers D, E or F were required along all lot lines. She stated that a full 25 ft. transitional yard was required and should be provided along all lot lines. Ms. Hamilton stated that should the parking lot be redesigned for plant islands, it would eliminate 74 parking spaces bringing the total number of parking spaces to 330. A new condition no. 14 had been included to require an 8 foot asphalt trail pedestrian access from Greenwich Street to Idylwood Road along the full frontages of Great Falls Street and Idylwood Road.

Mr. Charles Shumate, an attorney with the firm of Bettius, Fox & Carter, represented the church. He stated that the church owned three parcels containing six acres of land at the intersection of Great Falls Street and Idylwood Road. He indicated that the church was sensitive to the neighbors' concerns and wanted to be a good neighbor.

The proposed building was a one-story structure with a peaked roof which would be used almost exclusively for Sunday worship with social gatherings and youth activities during the weekday. There was a question as to whether the church would sponsor a day care operation. Mr. Shumate assured the BZA that there was no intent now or in the future for the church to have a day care center operation. Six times a year, multi-family conferences would be held at the church. It was for that reason that the church was requesting the Board to retain the proposed 404 parking spaces to avoid spillover of parking into the neighborhood during the conferences.

In response to citizen concern regarding storm water runoff, Mr. Shumate stated that storm water management and Best Management Practices would be provided. He noted that there were existing drainage problems but they would be addressed by DEM in accordance with condition no. 10.

With respect to the visual impact of the facility, Mr. Shumate stated that the landscaping plan far exceeded what was required by the Ordinance. A tree survey had been performed by the County Arborist. Mr. Shumate stated that the church intended to preserve all the existing mature trees possible. Mr. Richards, a representative of the church, showed the Board a slide presentation of other Mormon churches with the detailed landscaping.

Mr. Shumate asked the Board to amend the language in the development conditions nos. 14 & 15 dealing with landscaping. He proposed new language for the conditions incorporating the conceptual or illustrative landscaping plan presented by the church. It was: "Applicant will provide landscaping on the site in general conformance with the conceptual landscaping plan submitted as part of this application. The final landscape plan will be reviewed and approved by the Department of Environmental Management."

Mr. Shumate urged the Board to grant the special permit. He stated that the church had agreed to the following:

- o limit the multi-familty conferences to no more than six times a year.
- o the percentage and scope of the landscaping plan.
- o the closure of the northern entrance on Great Falls Street.
- o dedication for the widening of Great Falls Street.
- o right-turn deceleration lanes on both of the remaining entrances.

With respect to condition no. 6 regarding screening, Mr. Shumate stated that because of the proposed widening of Great Falls Street, the church did not show a 25 ft. transitional screening on the plat but did show 26.5 ft. on the other three remaining yards. He suggested that with regard to screening on the Great Falls Street side, that it be left to the discretion of the Director of DEM.

In response to questions from the Board, Mr. Shumate stated that approximately 1,000 to 1,300 people would be attending the multi-family conferences six times a year. During those conferences, the folding screens adjoining the worship area would be removed to accommodate folding chairs.

Mr. J. C. Richards of 6716 Old Chesterbrook Road, a representative of the church, spoke in support of the special permit. He stated that the church had discussed the application before civic groups in the area. They had a special meeting with the adjoining property owners. Mr. Richards presented the Board with a petition signed by neighbors and 325 McLean citizens who were in support of the application. The petition was signed by both members and non-members according to Mr. Richards.

The following persons spoke in support of the application: Mr. Tom Georgeless, an architect, of 1371 Kirby Road; Mr. Rex E. Bliss, a highway engineer, of 1927 Ware Road; Mr. Milt Schultz, Jr. of 1935 Foxhall Road; Ms. Suzanne McNiven of 7134 Penguin Place; Mrs. Jacquelyn Thomas of 6814 Tennyson Drive; and Mr. Earl J. Roueche of 6510 Old Chesterbrook Road. The speakers in support of the special permit application informed the Board that the design of the proposed facility was unobtrusive. The traffic to be generated would be during off-peak hours. The proposed development conformed with the surrounding development and its proposed landscaping plan far exceeded the requirements of the Ordinance. The development would compliment the area and would have very little impact on the community.

The following persons spoke in opposition: Mr. Conrad Clark, President of the Lemon Road Civic Association, of 7058 Idylwood Road; Mrs. Vicky Sieber of 2036 Greenwich Street; Mr. Randy Williams of 6712 Haycock Road; Mr. Michael A. Calabrese of 7134 Idylwood Court; Mr. Richard Vodra of 7127 Hyde Road; Mr. Kenneth Bower of 6824 Deer Spring Court; and Mr. Phil Zanfagna of 7219 Hyde Road. The opposition was concerned that the proposed facility was not in harmony with the area because primarily it was not a church but a conference center making it a regional facility. They were concerned with the traffic impact of 190 vehicles per day on the saturated intersection. Aesthetics were a great concern because of the size of the proposed facility and the amount of parking. The opposition likened the facility to a shopping center. The proposed deceleration lane would not be accommodate the 400 vehicles attempting to enter the parking lot. The 404 vehicle parking lot would cause drainage problems to the surrounding community. The opposition felt that development of single family homes in accordance with the density was more desirable than the proposed church. The community was heavily burdened with regional facilities such as the Metro station, Rt. 66 and the Dulles access Road. Some members of the opposition served on the Metro Area Task Force which was studying the area to make recommendations as to the future land use development. Until the study was completed by the spring of 1985, the community had been promised that no changes in zoning or uses would take place. The opposition was not impressed with the proposed landscaping plan because the majority of the six acres would be in asphalt. They were concerned that the mature trees would not be saved if it did not fit into the proposed landscaping plan. Accordingly, they urged the Board to deny the special permit application.

During rebuttal, Mr. Shumate stated the church would not hold more than six multi-family conferences per year. He insisted that the parking remain at 404 spaces. The proposed landscaping plan was in excess of the Code requirements and would cost approximately $75,000. Traffic would not have an adverse impact as it would occur on off-peak hours. Mr. Shumate asked the Board for a waiver of the transitional screening in regards to the widening of Great Falls Street.

In response to questions from the Board concerning whether the conference center was a special exception use or fell into the special permit category as part of the church use, Mr. Shumate stated that this was a church facility. A conference center was not defined in the Zoning Ordinance. The Board questioned the need for 404 parking spaces if the maximum attendance at a multi-family conference was approximately 1,300 people. Mr. Richards informed the Board that the church desired the 404 parking spaces because of the large number of single adults in one of the area congregations.

During staff rebuttal, Ms. Hamilton indicated that staff felt the transitional screening along Great Falls Street and at the rear of the site should be provided. She informed the Board that the landscaping plan submitted by the applicant was not in accordance with the staff's recommendations as it did not show the 25 ft. transitional screening area along Great Falls Street or at the rear of the site. In addition, the trees were not shown and the height of the plantings was not indicated.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-D-059 by CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS under Section 3-103 & 3-203 of the Zoning Ordinance to permit a church and related facilities, on property located at 2034 Great Falls Street, tax map reference 40-2((1))8, pt. 7 and pt. 6, 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 2, 1984 and deferred until October 16, 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 & R-2.
3. The area of the lot is 6.0645 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 maximum number of seats shall be 357, with a corresponding minimum of 90 parking spaces. The maximum number of parking spaces shall be 300.
6. Transitional Screening 1 shall be provided along all lot lines without modification except, that along the frontage of Great Falls Street, the twenty-five (25) foot undisturbed transitional screening strip shall be provided and the planting requirement may be modified to provide a lawn area landscaped with evergreen shrubs and other low level plantings. The amount and type of plantings shall be determined by the Director, Department of Environmental Management (DEM). Driveway entrances, required sidewalks and trails, and necessary utility work shall be permitted within the transitional screening strips.
7. The County Arborist shall be consulted to determine the limits of clearing and grading to preserve existing trees.
8. 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 residential properties.
9. The number of conferences shall be limited to six (6) per year on Sundays only..
10. Storm water management and Best Management Practices shall be provided to the satisfaction of the Director, Department of Environmental Management to insure that the development does not exacerbate existing drainage problems.

RESOLUTION

11. Right turn deceleration lanes shall be provided for all entrances to the site.
12. The proposed northern most entrance to the site on Great Falls Street shall be eliminated.
13. Dedication of right-of-way to thirty feet from the centerline of Great Falls Street for the full frontage of the site shall be provided. Construction of improvements along Great Falls Street and Idylwood Road shall be provided at the discretion of the Director, DEM.
14. An eight (8) foot wide asphalt trail shall be constructed to provide pedestrian access from Greenwich Street to Idylwood Road. Trails shall be provided along the full frontages of Great Falls Street and Idylwood Road.
15. Interior parking lot landscaping shall be provided in excess of the minimum yard required in Article 13. Such landscaping shall include the provision of substantial planting islands in a manner that will soften the visual impact of the parking areas and building as determined by the Director, Department of Environmental Management. Landscaping shall be provided in accordance with a landscape plan submitted to and approved by the Director, Department of Environmental Management at the time of site plan review.
16. The landscape plan shall be reviewed by staff and returned to the Board of Zoning Appeals (BZA) for final approval.
17. This approval is subject to the applicant's submission and approval by the Board of Zoning Appeals of a revised site plan showing the location of the buildings, parking lot, transitional screening and other items required to be submitted on the site plan.

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 stated that he had reduced the parking to 300 parking spaces because testimony of the church was that there would be 1,000 to 1,300 people at a conference. Under the Ordinance, it required one parking place for every four parishioners. The 300 parking would allow 1,200 people which seemed to be a reasonable number to expect at one of the six multi-family conferences. It also allowed over three times the minimum number of parking required for a church with the 357 seat capacity. Mr. Hammack commended the applicant because many of the provisions were excellent but the parking was substantial. The application contained more parking than was required and more than was really compatible with the residential neighborhood. Mr. Hammack cited the general standards of the Code, Section 8-006, paragraph 3. Mr. Hammack felt the requested 404 parking spaces was excessive and did not allow the applicant to meet all of the transitional screening requirements. Mr. Hammack stated that the transitional screening requirements had to be met.

Mrs. Day seconded the motion.

The motion passed by a vote of 6 to 0 (Mrs. Thonen being absent).

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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 October 25, 1984

Approved: October 30, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 23, 1984. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble (departing at 12:00 Noon); and Mary Thonen (arriving at 10:25 A.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. SHELL OIL COMPANY c/o WALTER L. PHILLIPS, INC., appl. under Sect. 18-401 of the Ord. to allow construction of kiosk 16 ft. from street line of a corner lot (40 ft. min. front yard req. by Sect. 5-507), in connection with remodeling of service station within Highway Corridor Overlay District, located 8318 Lee Hwy., Providence Dist., I-5 (H.C.), 49-3((1))74A, 18,812 sq. ft., VC 84-P-096. (APPLICATION FILED CONCURRENTLY WITH SE 84-P-057 SCHEDULED BEFORE THE BOARD OF SUPERVISORS ON OCTOBER 15, 1984.)

The Board was in receipt of a letter from the applicant's agent requesting a deferral of the variance as the special exception had been deferred indefinitely by the Board of Supervisors. It was the consensus of the Board to defer the variance until January 29, 1985 at 10:30 A.M.

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Mrs. Thonen arrived at the meeting at 10:25 A.M.

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Page 173 October 23, 1984, Scheduled case of

10:15 A.M. MICHAEL W. TAYLOR, appl. under Sect. 18-401 of the Ord. to allow construction of 18 ft. high detached garage 4.7 ft. from rear lot line and 5.8 ft. from side lot line (18 ft. min. rear yard and 10 ft. min. side yard req. by Sects. 3-407 & 10-104), located 1808 Anderson Rd., Pimmit Hills Subd., R-4, Dranesville Dist., 30-3((4))196, 11,276 sq. ft., VC 84-D-098.

Ms. Cheryl Hamilton presented the staff report. Mr. Michael W. Taylor of 1808 Anderson Road in Falls Church informed the Board that his justification was presented in his written statement. The variance would not alter the character of the area. Mr. Taylor informed the Board that he owned a Corvette which was costing him $120 a month for security storage. He proposed to construct a one story 16'x24' garage which would be 18 ft. in height. It would store the Corvette and allow him room for a workbench.

Mr. Taylor informed the Board that construction of the garage in conformance with the setback requirements was not possible because of a drainage problem across his back yard. In response to questions from the Board, Mr. Taylor stated that the water from the roof of the proposed garage would drain into gutters and then down across his property. Mr. Taylor informed the Board that all the houses in the area suffered from this drainage problem through the middle of the rear yards. The houses were built in 1955. There were other garages in the area as large and in approximately the same location as Mr. Taylor proposed. However, he indicated that most of them were built prior to 1978. One neighbor had a four car gargage. Mr. Taylor informed the Board that he had planned to construct a cement driveway to the garage but because of the drainage problem felt that a gravel driveway would be better.

The Board was in receipt of a letter of opposition from Mr. George Falck who was the owner of lot 160 located diagonally across the street from the subject property. Mr. Taylor stated that the Falcks would not be able to view the garage due to the location of his house. In further response to Mr. Falck's letter, Mr. Taylor stated that he did not plan to house a truck on the property as he did not own one. He only planned to store his Corvette in the garage.

There was no one else to speak in support or in opposition. Mr. Hammack questioned whether the applicant was willing to scale down the dimensions of the proposed garage. Mr. Taylor stated that the 16'x24' dimensions were outside dimensions. He indicated that he needed room to walk around the Corvette and have room for a workbench. Mr. Taylor informed the Board that his other neighbors did not oppose the garage.

Mr. Hammack moved that the Board deny the variance application as the applicant had requested a structure that was larger than necessary. By doing so, he was requesting the Board of Zoning Appeals to grant a substantial variance. Mrs. Thonen seconded the motion.

Mr. Hyland offered the following substitute motion for discussion.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-D-098 by MICHAEL W. TAYLOR under Section 18-401 of the Zoning Ordinance to allow construction of *18 ft. high detached garage 4.7 ft. from rear lot line and 5.8 ft. from side lot line (18 ft. min. rear yard and 10 ft. min. side yard req. by Sects. 3-407 & 10-104), on property located at 1808 Anderson Road, tax map reference 30-3((4))196, 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 23, 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 11,276 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 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 construction of a 16 ft. high detached garage 8.7 ft. from the rear lot line and 7.8 ft. from the side lot line, garage dimensions 14'x20') with the following limitations:

1. This variance is approved for the location and the specific addition as indicated above and shown on a revised plat to be submitted for signature to the Board of Zoning Appeals. This variance 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. Ribble seconded the motion.

Ms. Kelsey presented a letter of opposition from the Pimmit Hills Civic Association which had been hand delivered. As the public hearing had been closed, the Board indicated that it was too late to enter the letter into the record and be considered in the Board's decision.

The motion passed by a vote of 5 to 2 (Messrs. Smith & Hammack).

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Page 175 October 23, 1984, Scheduled case of

10:30 A.M. EDWARD E. & CHERIE A. PAGETT, appl. under Sect. 18-401 of the Ord. to allow enclosure of porch for office space addition to building 18.15 ft. from a street line of a corner lot (25 ft. min. front yard req. by Sect. 4-207), located 6821 Richmond Hwy., Groveton, C-2, Mt. Vernon Dist., 93-1((1))2, 14,742 sq. ft., VC 84-V-099.

Ms. Cheryl Hamilton presented the staff report. Mrs. Cherie A. Pagett of 1124 Chadwick Avenue, owner of 6821 Richmond Highway, informed the Board that the property had been purchased seven years ago for use as a real estate office and had been rezoned. Presently, they were in need of additional office space to accommodate the computers and printers used in their business. The applicants proposed to enclose an existing open porch which would give them 180 sq. ft. of office space. Mrs. Pagett assured the Board that the space was not being requested to enlarge their staff.

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

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Page 175 October 23, 1984 Board of Zoning Appeals
EDWARD E. & CHERIE A. PAGETT

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-V-099 by EDWARD E. & CHERIE A. PAGETT under Section 18-401 of the Zoning Ordinance to allow enclosure of porch for office space addition to building 18.15 ft. from a street line of a corner lot (25 ft. min. front yard req. by Sect. 4-207), on property located at 6821 Richmond Highway, tax map reference 93-1((1))2, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 23, 1984; and

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

1. That the owners of the property are the applicants.
2. The present zoning is C-2.
3. The area of the lot is 14,742 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 had exceptional narrowness at the time of the effective date of the Ordinance and an extraordinary situation or condition of the subject property in that the structure was an existing open porch. The applicants would only be enclosing what was already existing.
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. Ribble seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith)(Mrs. Thonen being out of the room at the time of the vote).

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Page 176 October 23, 1984, Scheduled case of

10:45 NORMAN L. MASSEY, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 30.4 ft. from a street line of a corner lot, and 16.2 ft. from side lot line (40 ft. min. front yard and 20 ft. min. side yard req. by Sect. 3-107), located 2328 Stryker Ave., R-1, Little Vienna Estates, Centreville Dist., 37-2((9))2, 23,546 sq. ft., VC 84-C-100.

Ms. Cheryl Hamilton presented the staff report. Mr. Jeffrey B. Rice represented Mr. Massey. He informed the Board that the applicant was proposing to construct a one car garage which would be attached to his house. He indicated that many of the neighbors were in support of the variance. The proposed addition would be 14'x24' and would be in harmony with the design of the house. Mr. Rice stated that Mr. Massey had wanted a garage for a long time and was now in a position to construct it. The garage was necessary for security reasons. The garage would be guttered and because of the slope of the land, no water runoff would affect adjoining property owners.

Mrs. Day informed the Board that she had visited the site. The proposed garage would be hidden because of the angle of the property.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-C-100 by NORMAN L. MASSEY under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 30.4 ft. from a street line of a corner lot, and 16.2 ft. from side lot line (40 ft. min. front yard and 20 ft. min. side yard req. by Sect. 3-107), on property located at 2328 Stryker Avenue, tax map reference 37-2((9))2, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

RESOLUTION

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 23, 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 23,546 sq. ft.
4. That the applicant's property is a corner lot.

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. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith) with 1 abstention (Mr. Ribble).

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Page 178 October 23, 1984, Scheduled case of

11:00 A.M. CHARLES F. SCHEIDER, III, appl. under Sect. 18-401 of the Ord. to allow subdivision into 6 lots, proposed lots 3, 4, 5, and 6 each having width of 4.5 ft., and proposed lot 1 having width of 80.2 ft. (100 ft. min. lot width req. by Sect. 3-206), and to allow existing dwelling on proposed lot 1 to be 14 ft. from a contiguous pipestem (25 ft. min. front yard req. by Sect. 2-416), located 3450, 3452 and 3454 Gallows Rd., Shamrock Heights, R-2, Mason Dist., 59-2((1))49 and 59-2((10))1, 3.22 acres, VC 84-M-101.

The Board was in receipt of a letter from Mr. Shumate, the applicant's attorney, requesting a deferral of the variance. It was the consensus of the Board to defer the application until November 27, 1984 at 11:30 A.M.

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Page 178 October 23, 1984, Board Matters

Mr. Hyland suggested that the Board needed to adopt some procedure where it inferred in the minutes as a matter of reference all letters received in support or in opposition which led to the Board's decision. He stated that presently, unless the letter were read into the record, there was not any reference in the minutes.

Mr. Ribble questioned whether the Board had accepted the letter of opposition from the Pimmit Hills Civic Association regarding Michael Taylor's variance, VC 84- D-098. Mr. Hyland moved that the letter be removed from the file. He further indicated that those matters that come to the Board after a public hearing had been held and the Board had made a decision, that those matters not be included as part of the record. Mr. Ribble seconded the motion and it passed by a vote of 7 to 0.

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Page 178 October 23, 1984, Scheduled case of

11:30 A.M. NEIL & CATHERINE MCDONALD T/A OLD PARSONAGE ANTIQUES, appl. under Sect. 3-303 of the Ord. for renewal of S-156-79 (as amended by S-80-D-018) for antique shop in older structure, located 1500 Chain Bridge Rd., West McLean, R-3, Dranesville Dist., 30-2((7))(2)1-4, 14,684 sq. ft., SPR 80-D-018-1.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the Special Permit subject to the development conditions contained in Appendix I. Mr. Neil McDonald of 1506 Chain Bridge Road in McLean, Va., presented staff with a revised plat indicating the location of the taking of property by the VDH&T for the widening of Chain Bridge Road. Mr. McDonald stated that this would not affect his special permit as the parking for the use was at the rear of the property. He informed the Board that the antique shop had been operated for five years and they enjoyed good relations with the community. He urged the Board to approve the renewal request.

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

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Page 178 October 23, 1984 Board of Zoning Appeals
NEIL & CATHERINE MCDONALD T/A OLD
PARSONAGE ANTIQUES

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPR 80-D-018-1 by NEIL & CATHERINE McDONALD T/A OLD PARSONAGE ANTIQUES under Section 3-303 of the Zoning Ordinance to permit renewal of S-156-79 (as amended by S-80-D-018) for antique shop in older structure, on property located at 1506 Chain Bridge Road, tax map reference 30-2((7))(2)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 October 23, 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-3.
3. The area of the lot is 14,684 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.

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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 transitional screening requirement along the northern and western lot lines may be modified provided that the existing vegetation is retained. The barrier requirement may be waived
6. The hours of operation shall be from 9:00 A.M. to 9:00 P.M., Monday through Saturday, and 12:30 P.M. to 6:00 P.M. on Sundays.
7. The maximum number of employees shall be one (1).
8. The maximum number of clients on site at any one time shall be four (4). If on site parking is required for the applicant the maximum number of clients at any one time shall be three (3).
9. There shall be four (4) parking spaces.
10. This permit shall be approved 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 within three (3) months of the approval date, and this special permit shall not be valid until this has been accomplished.

Mr. DiGiulian seconded the motion.

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

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Page 179 October 23, 1984, Board Matters

The Board continued discussion on the subject of BZA files. It was the consensus of the Board that the application be marked as Exhibit I; the plat as Exhibit II; the applicant's written statement as Exhibit III; the staff report as Exhibit IV; documents in support of the application be designated as Exhibit V; and documents in opposition to the application be designated as Exhibit VI.

Ms. Kelsey discussed this procedure with the Board and asked that the Board allow her an opportunity to review the matter of the files with the County Attorney's Office. The Board agreed to recess the matter to allow Ms. Kelsey to discuss the matter with the County Attorney's Office.

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Page 179 October 23, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of backlogged Minutes for March 8, and March 15, 1983. Mr. Hammack moved that the Minutes be approved as submitted. Mrs. Day seconded the motion and it passed by a vote of 7 to 0.

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Page 179 October 23, 1984, After Agenda Items

PS PARTNERS II/AMERICAN STORAGE CORPORATION, SPA 76-V-235-1: The Board was in receipt of an out-of-turn hearing request from Mr. James R. Tate, an attorney in Vienna, representing PS Partners II, Ltd., requesting an out-of-turn hearing on the special permit application to allow a change in ownership.

Mr. Hyland indicated that this item was more of an administrative matter and he asked staff to determine if it could be handled accordingly rather than scheduled for a public hearing. Mr. DiGiulian seconded the motion. Chairman Smith was concerned that a staff report be prepared to determine whether the corporation was registered to do business in the State of Virginia.

Ms. Kelsey assured the Board that she would investigate the matter. She was not certain whether it had been determined that this was not a simple name change that could be handled administratively. Ms. Kelsey indicated that if the application was filed in error, she would ensure that the applicant received notification to that effect and refund of the filing fee. Ms. Kelsey indicated that if the matter was to be handled as a special permit through a public hearing process, the staff would accommodate the applicant's request for an expedited hearing.

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Page 180 October 23, 1984, Scheduling of Appeals:

ALBERT H. HARACZ, JR., A 84-M-008: The Board was in receipt of a memorandum from the Zoning Administrator forwarding the appeal of Albert H. Haracz, Jr. Mr. Hyland moved that the appeal application be accepted as filed and scheduled for January 8, 1985 at 10:00 A.M. Mr. Ribble seconded the motion and it passed by a vote of 7 to 0.

RICHARD A. WATERVAL, LTD., A 84-M-009: The Board was in receipt of a memorandum from the Zoning Administrator forwarding the appeal of Richard A. Waterval, Ltd. Mr. Hyland moved that the appeal application be accepted as filed and scheduled for January 15, 1985 at 10:00 A.M. Mr. Ribble seconded the motion and it passed by a vote of 7 to 0.

FRIENDLY VILLAGE MOBILE HOME PARK, A 84-S-010: The Board was in receipt of a memorandum from the Zoning Administrator forwarding the appeal of the Friendly Village Mobile Home Park. Mr. Hyland moved that the appeal application be accepted as filed and scheduled for January 29, 1985 at 10:00 A.M.

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Page 180 October 23, 1984, Recess

The Board recessed for lunch at 12:00 Noon. Mr. Ribble left the meeting during the luncheon recess and did not return. The Board reconvened at 1:10 P.M. to continue the scheduled agenda.

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Page 180 October 23, 1984, Scheduled case of

1:00 P.M. DICK BROWN COMPANY, INC., appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, with proposed lots 52A and 52B having widths of 88 ft. and 12 ft., respectively (100 ft. min. lot width req. by Sect. 3-206), and to allow existing dwellings on proposed lots 52 and 52A to remain 2.0 ft. and 9.3 ft., respectively, from existing side lot lines (15 ft. min. side yard req. by Sect. 3-207), located 7019 and 7021 Woodland Dr., Leewood Subd., R-2, Annandale Dist., 80-1((4))52 and 52A, 2.15 ac., VC 84-A-078. (DEFERRED FROM JULY 24, 1984 AND SEPTEMBER 25, 1984 AT THE REQUEST OF THE APPLICANT'S AGENT).

As there was a discrepancy regarding the time the variance application of Dick Brown Company was scheduled, the Board passed over the case until 1:30 P.M.

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Page 180 October 23, 1984, Board Discussion

The Board continued discussion on the BZA Files and the marking of exhibits. Mr. Hammack discussed development of a process to keep track of the various exhibits in order to know what each file should contain. Other Board members were concerned that it would involve too much record keeping for staff.

Ms. Hamilton informed the Board that Ms. Kelsey wanted to discuss the matter with the Board but was unable to return to the meeting. It was the consensus of the Board to keep the matter open to receive Ms. Kelsey's comments.

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1:00 P.M. DICK BROWN COMPANY, INC., appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, with proposed lots 52A and 52B having widths of 88 ft. and 12 ft., respectively (100 ft. min. lot width req. by Sect. 3-206), and to allow existing dwellings on proposed lots 52 and 52A to remain 2.0 ft. and 9.3 ft., respectively, from existing side lot lines (15 ft. min. side yard req. by Sect. 3-207), located 7019 and 7021 Woodland Dr., Leewood Subd., R-2, Annandale Dist., 80-1((4))52 and 52A, 2.15 ac., VC 84-A-078. (DEFERRED FROM JULY 24, 1984 AND SEPTEMBER 25, 1984 AT THE REQUEST OF THE APPLICANT'S AGENT).

Mr. William Shoup presented the staff report. He distributed revised development conditions, "Set A" and "Set B". Set A contained conditions regarding the approval of the subdivision and setback variances. Set B contained conditions regarding approval only for the setback variance should the BZA choose to deny the subdivision. Mr. Shoup explained that when the original subdivision occurred, neither of the existing dwellings met the setback and there was no record of a variance being granted with regard to their location. He indicated that should the BZA choose to deny the subdivision, the location of the dwellings still needed to be legalized as indicated in the development conditions marked "Set B".

Mr. Charles Shumate, an attorney with Bettius, Fox & Carter in Fairfax, represented the applicant. He informed the Board that the property was narrow but were oversized lots for the R-2 zoning district. It would be a hardship to the applicant to deny him the highest yield of his property but the variance would alleviate that hardship. Mr. Shumate informed the Board that the property across the street had been developed with a variance in a similar fashion. He presented the Board with a copy of the variance granted to Mr. Augustus Johnson on March 10, 1981. In addition, he presented a petition of support signed by Mr. and Mrs. Horton, the adjoining property owners, and Dorothea Steffen of the Fairfax County Park Authority.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-A-078 by DICK BROWN COMPANY, INC. under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, with proposed lots 52A and 52B having widths of 88 ft. and 12 ft., respectively (100 ft. min. lot width req. by Sect. 3-206), and to allow existing dwellings on proposed lots 52 and 52A to remain 2.0 ft. and 9.3 ft., respectively, from existing side lot lines (15 ft. min. side yard req. by Sect. 3-207), on property located at 7019 and 7021 Woodland Drive, tax map reference 80-1((4))52 and 52A, 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 23, 1984; being deferred from July 24, 1984 and September 25, 1984 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
3. The area of the lot is
4. That the applicant's property has exceptional narrowness.

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 subdivision of two lots into three (3) lots and the location of existing dwellings 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 shall be justified in writing and must be filed with the Zoning Administrator prior to the expiration date.

3. The County Arborist shall be consulted to determine which hardwood trees should be preserved.

Mr. DiGiulian seconded the motion.

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

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//There being no further business, the Board adjourned at 1:50 P.M.

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

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on October 25, 1984

Approved: October 30, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 30, 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).

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:
(VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE)

10:00 TURF SPECIALISTS OF NORTHERN VIRGINIA, INC., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that the current primary use of appellant's property is that of a contractor's office and shop, a use not permitted in the R-1 District. The appellant claims a vested right to a scale of use as of October 1979. The property is located at 10504 Old Colchester Rd., R-1, Colchester Subd., Mt. Vernon Dist., 113-4((1))31, 5.4811 acres, A 84-V-007.

Mr. James P. Downey of 25 Winchester Street in Warrenton represented the applicant, Mr. Carpenter. Mr. Downey conceded that the Zoning Ordinance was amended on October 2, 1979 and a new definition came into effect for the first time which specified that a lawn maintenance and landscaping operation would be deemed a contractor's shop from that day forward. He also pointed out that prior to that time the Ordinance did not contain a definition which specifically addressed whether this kind of operation would be an agricultural or not. He indicated that the Ordinance became more restrictive but it also expanded to include what were horticultural and floricultural uses beginning in 1978. Mr. Downey stated that the ambiguity became crystal clear on October 2, 1979.

Mr. Downey informed the Board that the appellant began operation between 1976 and 1979. The reason for the appeal was that after 1979, particularly in 1980, the County began to act upon the clarity of law. The County contended that Mr. Carpenter's operation was a contractor's shop.

Mr. Hyland inquired as to when the operation became a contractor's shop and was informed it was after 1979 because of the definition. Mr. Hyland inquired as to what use started between 1976 and 1979. Mr. Downey stated that during that time period, a sod farm and a lawn maintenance company, pasturing and growing of plant nursery type shrubs were conducted on the property. Sod was physically grown on the property between 1976 and 1979 and thereafter.

Mr. Hyland inquired if equipment was rented from the site between 1976 and 1979 and was informed by Mr. Downey it was not. Mr. Hyland inquired if equipment was rented at the present time and was informed it was not. Mr. Hyland stated that there was a listing in the telephone book for equipment rental services at 10500 Old Colchester Road. Mr. Downey replied that it was a business that repaired tractors on the site but it had ceased. Mr. Hyland inquired as to when it had commenced. Mr. Downey stated that it was a business conducted on a small scale from the outset in 1976.

Mr. Hyland inquired as to the level of activity or gross income produced from the equipment and rental and repair service from 1976 to 1979. Mr. Downey stated that he would have Mr. Carpenter respond later in the meeting when he finished his presentation.

Continuing his presentation, Mr. Downey stated that Mr. Carpenter acted on what he felt were his legal rights at the time he acquired ownership of the property. Mr. Carpenter submitted to permits and regulations of the Virginia Department of Agriculture and Commercial Services. Mr. Downey stated that Mr. Carpenter had a degree in horticulture. Mr. Carpenter felt he had the right to begin the operation and use his property for this purpose from the beginning. Mr. Downey indicated that the County Ordinance did not state otherwise. When Mr. Carpenter applied for the first building permit he erected on the site, it was deemed a metal, farm barn building but the staff called it an industrial type building.

Mr. Downey submitted a chart to the Board. He stated that in determining a good faith reasonable belief on how the Ordinance definition of agriculture on a commercial scale could be interpreted at that time, you had to look at the surrounding area. The chart was highlighted to indicate the proximate industrial and commercial uses. Mr. Carpenter's property backed up to railroad tracks. Mr. Downey stated that Colchester Road constituted the main buffer between Mason Neck and the Richmond Highway corridor.

Chairman Smith questioned the relevance of the chart to the subject appeal. Mr. Downey replied that it illustrated several things. He stated that Mr. Carpenter had purchased the property and had certain rights to the use of it. Some of the rights were not as clear as Mr. Carpenter thought. The Ordinance was ambiguous and in need of interpretation. Mr. Carpenter had acted without any official interpretation from the County. What he acted upon was a reasonable understanding of what would be compatible with the area and what would not. Mr. Downey stated that the chart illustrated that there were numerous industrial and commercial uses in the general vicinity which led Mr. Carpenter to believe that he was not in conflict with anything.

Mr. Downey explained the coloring coding on the chart. Brown constituted the landfilling; orange was the industrial area; and the reddish maroon was the commercial uses in the area. Mr. Downey stated that the RF&P railroad track ran along the back of Mr. Carpenter's property. The dark green dots indicated the location of barns in the Colchester Road area. Mr. Downey submitted a petition signed by 27 people who concurred that what Mr. Carpenter was doing was not offensive in anyway and they were represented on the chart by light green dots. Mr. Hyland inquired if any abutting property owners were represented on the petition and was informed they were not affected.

Chairman Smith inquired if the other barns were used for industrial or commercial uses. Mr. Downey stated that they were not quasi-industrial or quasi-commercial agricultural uses. Mr. Downey stated that the building erected by Mr. Carpenter was no different than what was found on a lot of farms and it did not have a greater impact than a livestock barn, or a chicken barn or a building used to house farm equipment.

Mr. Downey stated that Mr. Carpenter's operation was a non-conforming use which evolved during the period of the "gray area" of the Ordinance. Property rights were believed to have existed and now because the use had exceeded legitimate limits and was on a larger scale than in October 1979, the County was designating him a contractor's shop and was attempting to shut him down. To do so would take away Mr. Carpenter's livelihood even though he had invested $50,000 in it and acted on a good faith belief under an ambiguous Ordinance definition. Mr. Downey informed the Board that it was not necessary for the Board to go to that extreme as it had an option and a statutory authority to act in a more flexible manner which would provide equity and justice.

Mr. Downey informed the Board that the appellant was willing to make certain concessions and had submitted a letter to the Zoning Office as to the scale of use in October 1979. The appellant admitted that there had been a lot of unclarity in the past. At that time, there were only four employees at the shop and ten on crews. Because the use presented certain visual impact to the surrounding properties, the appellant would build a screening fence to reduce those impacts. Mr. Downey stated that it was possible for the Board to correct an inequity without taking away someone's livelihood.

Mr. Hammack questioned the level of activity since Mr. Downey had admitted that the level of activity was much greater at the present time than it was in 1979. Mr. Hammack inquired as to the level of agriculture prior to 1979 and at the present time, particularly in view of the Zoning Administrator's claim that Mr. Carpenter had abandoned the agricultural use which permitted the other activities. For two years of abandonment, the non-conforming use would be terminated. Mr. Downey responded that it was not possible to say that a landscaping company or a lawn maintenance company was not agricultural. Mr. Downey stated that it was a pursuit defined by the State as agricultural. Mr. Downey stated that his arguments to support that position were demonstrated in the memorandum which had been hand delivered to the Board.

Mr. Hammack inquired as to the type of sod farm and landscaping business Mr. Carpenter was operating prior to 1979 and the kind of business he was operating at the present time. Mr. Downey stated that at the beginning Mr. Carpenter had a 6 acre tract with a 20 acre tract next door which he leased. In 1976, he cleared the land, grubbed it, dug a pond, and used a dilapidated farm building for storage of the tractors and other implements used in the clearing of the site and the cutting of sod on both sites. Mr. Downey stated that the sod farm was initiated on the site on the same scale as the landscaping and lawn maintenance business. The sod farming and the nursery activities which included shrubs and pine trees began on a small scale. Mr. Downey stated that all the uses increased together. The lawn and landscaping maintenance increased to a larger extent than the others but the sod farming continued according to Mr. Downey. He submitted invoices showing that the contracting out for installation of sod had continued since 1976. He stated that sod had been cut on 6 acres of the total 10 acres throughout the entire period. Mr. Downey stated that he could not say that the operation was entirely a sod farm nor could he say that it was entirely a landscaping and lawn maintenance operation. Mr. Downey stated that the sod farming was never abandoned.

Mr. Hyland inquired as to when the growing of sod terminated on the site. Mr. Downey responded that it had never terminated and was still being grown primarily on the 6 acres. Mr. Hyland inquired if in addition to the sod grown on the site whether sod was brought to the site to be sold and was informed it was not. Mr. Downey stated that when the crews were out doing work, sod was contracted from other growers and installed. Mr. Downey stated that there were a lot of trailers, mowers, etc. which were visible on the site. However, the crews that performed the actual landscaping work primarily went to the job sites where they were employed. Mr. Downey stated that his client would agree to limit the scope of activity so that Mr. Carpenter could only have four employees in the shop and ten employees coming to the site and departing to the various job sites.

Mr. Hammack referred to the Zoning Administrator's report which indicated that no evidence was found that either a sod farm or other agricultural use existed on the subject property during the most recent inspection of the site. Since the appellant insisted there was a sod farm, Mr. Hammack inquired as to the extent of it and the number of plantings before 1979. Mr. Hammck questioned the number of plantings sold in 1984. Mr. Downey replied that the sod farm existed on approximately 3 acres of the 6 acre site along the front and sides. Mr. Downey stated that there had not been any recent sales of pine trees or shrubbery. He stated that the sod planting was used as a reserve for when sod was unavailable from other suppliers. Mr. Downey stated that the sod farm was integral to the landscaping business. Mr. Downey stated that the reason the Zoning Administrator could not find evidence depended on when he made the inspection and when the last cutting had been. Mr. Hammack inquired if Mr. Carpenter had sold any sod this year and was informed he had. Mr. Hyland stated that the invoices submitted by Mr. Downey indicated a very substantial amount of sod had been sold in 1984. One invoice was for $7,000 for 4,000 yards of sod.

In response to questions from Mr. Hammack, Mr. Downey stated that the diesel fuel tanks were above ground in 1979. Mr. Hammack inquired about the number of vehicles on the site. Mr. Downey stated that there were more vehicles on the site than in 1979 but the level was the same as on the list given to the Zoning Administrator in 1980.

Mr. Hammack inquired as to the excuse given by Mr. Carpenter for having expanded his operation beyond the agreement with the County in 1980. Mr. Downey stated that Mr. Carpenter had exceed it and it constituted a violation to that extent. Mr. Downey argued that the County could not ignore the rights Mr. Carpenter still had regardless of the expansion. Mr. Downey stated that the remedy was to put the level of activity back to where it should have stayed in 1980. He stated that the rights to the non-conforming use went only to that extent. Mr. Downey stated that the agreement with the County had never been concluded because one building was being negotiated for removal even though it was built before October 1979. Mr. Carpenter had gone on disability during that period and was out of work for some time. Mr. Hammack inquired who built the building without a building permit. Mr. Downey replied that Mr. Carpenter had built it because the County told him that for agricultural buildings, a building permit was not necessary.

Mr. Hammack inquired as to what assurances the BZA had if they imposed any restrictions that Mr. Carpenter would abide by them in the future. Mr. Downey replied that the BZA could adopt a legally, binding resolution which would not be like the 1976 or 1978 Ordinance. Mr. Hammack differed with Mr. Downey's argument because the application was an appeal of the Zoning Administrator's decision and not a special permit. The County had gone through the whole process with the applicant in 1980 and thought it had an agreement with him. Now, he was willing to comply with what he had agreed to in 1980.

Mr. Hyland questioned the equipment kept on the site in connection with the business of sod cutting. Mr. Downey stated that the sod cutter did not stay on the property at all times. Mr. Carpenter stated that the list of equipment given to the Zoning Administrator did not contain equipment which had been depreciated. The list only contained the main equipment and nothing was listed if it had a value less than $2,500. Mr. Carpenter stated that any equipment he had to pay personal property taxes was listed.

In response to questions from Mr. Hyland, Mr. Carpenter stated that his gross receipts for Turf Specialists of Northern Virginia, Inc. were $400,000 in 1980 and $650,000 at the present time. Mr. Hyland inquired as to the gross receipts for the equipment rental between 1976 and 1979. Mr. Carpenter replied that there were not any receipts because the business began operation in 1980. Mr. Carpenter informed the Board that the equipment rental was no longer located on the site as he had moved it to a warehouse off of Telegraph Road.

Mr. Hyland inquired as to how much of the equipment listed was used on the site for the operation. Mr. Carpenter stated that approximately 20% of the equipment was used on the site at one time or another. Mr. Hyland questioned the amount of equipment housed on the property for only 3 acres of sod farming and was informed it took a lot of equipment to maintain the sod. In response to questions from the Board, Mr. Carpenter stated that his land had a water table problem and he could not grow enough sod for his business.

Mr. Hyland questioned the amount of money made from the sod farm as compared to the landscaping and lawn maintenance operation. Mr. Carpenter stated that it took both operations to make an income. He indicated that the most money he made from the sod farm was $40,000. Mr. Hyland inquired as to how the level of activity had changed on the property. Mr. Carpenter replied that he had been in an auto accident and was away from the business for eight months. He stated that the majority of his income was now derived from his contract with the Navy Yard. He informed the Board that he had other work locations in Arlington County and in Park Fairfax where equipment and employees were housed.

Mr. Joseph Stevens of 7813 Lorton Road spoke in support of the appeal by testifying to the character of Mr. Carpenter. Mr. Philip Brook of 10505 Old Colchester Road indicated that he did not have a problem with Mr. Carpenter's business and did not want to see him deprived of his livelihood.

Mr. Yates' presentation indicated that there was some confusion about the sod operation on the subject property. Visual evidence such as site inspections and aerial photographs back to 1970 did not support that there was an active sod operation on Mr. Carpenter's property. Mr. Yates stated that even if 3 acres were used for production of sod to be used off-site, it was a use considered agriculture in 1976 to 1979. At that point in time, it was the practice of the Zoning Administration Office to allow lawn maintenance services and landscaping firms to operate ancillary to a primary use such as a sod farm or a plant nursery which was then defined as an agricultural use. The Ordinance had been changed over the intervening years. The question now was what rights Mr. Carpenter had under the previous Ordinance.

Mr. Yates stated that the use represented to the County when it was established during the 1976 to 1979 time frame was a sod farm with an ancillary lawn maintenance service. Even if sod was being grown on the property at the present time, Mr. Yates stated that the use had flipped. The primary use was a lawn maintenance operation with a limited accessory use of an agricultural use.

Accordingly, Mr. Yates indicated that he had to hold to his position set forth in his memorandum dated October 23, 1984 that if Mr. Carpenter did enjoy a non-conforming right, the right no longer existed because the primary use of the property was no longer agricultural. Mr. Yates stated that Mr. Downey stretched two issues such as the definition of agriculture and the County's tolerance of the of the use in 1976 because of the ambiguous definition of agriculture on a commercial scale. Mr. Yates informed the Board that he had checked with the previous Zoning Administrator and other members of the zoning staff in charge during that time frame. No one admitted that at that point in time, a lawn maintenance service as a primary use would have been deemed agriculture on a commercial scale. Had the business been a legitimate sod farm operation for commercial sale off-site, a lawn maintenance service would have been tolerated as an ancillary, secondary use.

With respect to the representations made at the meeting between Mr. Carpenter and the County in 1980, Mr. Yates differed with Mr. Downey's assessment that the bottom line was that the lawn maintenance operation was deemed agriculture on a commercial scale. Mr. Yates admitted that the staff had not done its homework in 1980 and when he met with Mr. Downey and Mr. Carpenter, he was under the impression and it was represented to him that there was a legal, non-conforming agricultural use taking place on the property. Mr. Yates stated that he was under the impression that there was a sod farm that was the primary use and that the lawn maintenance service was ancillary. Mr. Yates stated that he had not deemed the lawn maintenance as being the primary use as agriculture on a commercial scale.

In response to questions from the Board, Mr. Yates indicated that the County had issued a notice of violation to Mr. Carpenter by letter dated June 6, 1984 which was the basis for the appeal. Mr. DiGiulian inquired if there had been any change in the Ordinance since 1980 of the definitions used by the Zoning Administrator. Mr. Yates stated that the last amendment was in 1981. Mr. DiGiulian indicated that he was concerned that there had been some kind of an agreement made between the Spring of 1979 and January 1981 and he asked what effect the amendment had. Mr. Yates stated that the agreement was based on a misunderstanding that there was a primary agricultural use taking place on the property which had not been verified by the County. Mr. DiGiulian inquired as to what the amendment was to the definition that made it different during that period from 1979 to 1981. Mr. Yates stated that the amendments were not germane to the determination made because they dealt with plant nurseries and further defined agriculture to exclude plant nurseries as an agricultural use. In response to further questioning, Mr. Yates stated that with the current definitions, he would have made the same decision now that he had in 1980 based on the assumption that a sod farm existed on the property.

The following persons spoke in opposition of the appeal by supporting the Zoning Administrator's position: Mr. Robert Bodeine of 6210 Greeley Boulevard in Springfield; Mr. Pete Paule of 10621 Gunston Road in Lorton, President of the Mason Neck Civic Association; Mr. George Bixbee of 8004 Cardiff Street in Lorton; Ms. Jean Brunner of 10500 Old Colchester Road; Mr. Harrison Leach of 8131 Baid Street in Harbor View; and Ms. Nancy May of lot 39 across from Mr. Carpenter. Letters in support of the Zoning Administrator were submitted by Ms. Nancy B. Sage, 10509 Old Colchester Road in Lorton; Mr. Henry J. Sage of 10509 Old Colchester Road in Lorton; Mr. & Mrs. Eston R. Lockwood of 8139 Baid Street in Lorton; and Mr. Christopher P. Haakon, President of the Harbor View Civic Association. The opposition objected to the misrepresentation of the use. Ms. Brunner submitted photographs showing the various vehicles kept on the site. She was concerned that the compost and junk lying around on the property would soak into the ground and contaminate area wells. The opposition felt the business belonged in a commercial zone. Ms. May testified that she had never observed sod cutting taking place on the 3 acres in question.

During rebuttal, Mr. Downey stated that this appeal was not a simple or straight forward case as indicated by the Zoning Administrator. The whole case rose from language contained in the Zoning Ordinance, "agricultural on a commercial scale" as part of the pre-existing definition of agriculture. Mr. Downey stated that the definition was ambiguous and in need of interpretation which was why he looked to other regulations and statutes.

Mr. Downey stated that a compromise was struck with the County when Mr. Koneczny visited the site and discussed the case with Mr. Carpenter but it had fallen through. Mr. Downey stated that the use of the tract to a certain extent was used for the sod farm and to a larger extent for the commercially oriented agricultural use which evolved over a period of time.

Mr. Hyland inquired as to what representation was made to the County in 1980 as far as the level of activity for the sod business and the other levels of activities. Mr. Downey recalled that approximately 3 acres of the 6 acre was used for cutting and sod production. However, he indicated that there was never a concrete point of reference to indicate that it was primarily a sod farm. Mr. Downey stated that they never attempted to mislead anyone. Mr. Downey stated that the vagueness and uncertainty of the Ordinance was not of Mr. Carpenter's making.

Chairman Smith closed the public hearing.

In Appeal A 84-V-007 by TURF SPECIALISTS OF NORTHERN VIRGINIA, INC., to the Zoning Administrator's decision that the primary use of the appellant's property is that of a contractor's office and shop, a use which is not permitted in the R-1 District and that the appellant has lost rights he may have had to continue the operation of this business based upon rights which he may have had under a non-conforming use definition previously, Mr. Hammack moved that the Board of Zoning Appeals support the decision of the Zoning Administrator for the following reasons:

First, the County has admitted candidly that it may not have done as thorough a job as it should have back in 1979. That doesn't make it right. Notwithstanding that, it seems to me the substance of this testimony and what went on in 1979 is important because Mr. Carpenter and his operation, I believe, were on notice at that time that there was a real question as to whether this was an agricultural use which would be permitted as a non-conforming use or whether it may have been in violation of the Zoning Ordinance at that time. In fact, there was enough discussion about it, there was a so-called agreement entered into and it seems to me that Mr. Carpenter was well aware of the limitations which should have been adhered to pursuant to that agreement.

I have read the definitions carefully. The agricultural use, I'm not going to repeat the whole thing, the argument that Mr. Downey makes that an agricultural use other than such as is incidental to a residential use shall be deemed to be agricultural on a commercial scale, I think still falls because it's my opinion that there has been really no evidence of...I shouldn't say, no evidence...very, very little evidence that the basic agricultural use that may have existed back in 1974 and prior to 1979 has been carried forward until today. I think that this has some significance to me because although Mr. Downey argues that this should be a non-conforming use in which they have vested right, I think that the appellant was very well aware back in 1979 that the use or the business operation of a lawn maintenance service was hinged on his continuation of an agricultural use as a primary use. And, we have had substantial evidence here today that this is a lawn maintenance service and the agricultural use that would clearly fall within the definition: the tilling of soil, growing of crops or plant growth of any kind, maintenance of nurseries or greenhouses, is simply not continued even in proportion to what it was previous to 1979.

The appellant has candidly admitted that he doesn't grow any plants or replanting in a nursery situation and even if he did previously, he has admitted that he doesn't really use his sod growing operation except to a minimal extent and that he buys sod from other growers outside. The evidence, I think, that has been developed is that the lawn maintenance operation has been greatly expanded. There are certainly many more vehicles associated with the use of the property than there was in 1979 and probably some other incidental uses also have been developed that were non-existent prior to 1979. And, the appellant has really conceded this.

And, so for those reasons, I guess the basic thing is I believe that back in 1979, the appellant was aware that he had to maintain the agricultural use and if anything, he is allowed the contractor's office and the operation to expand and I believe that for those reasons that...oh, one other thing...since 1979 we have had a change in the statute and I think this is important too because, I think, in 1979 that the County through its own inadvertence or otherwise was giving the appellant the benefit of a doubt in coming to some kind of an agreement with him. And since that time, we have had this additional statute that says if any non-conforming use ceases for any reason for a continuous period of two years or more other than for reasons beyond the control of the owner, etc., that the land and buildings theretofore devoted to such non-conforming use shall be subject to all regulations of the Zoning district.

And, I just don't think that the evidence supports the continued agricultural use that the...that the shop lawn maintenance activities was tied to. I think, that if anything, perhaps the appellant has been candid in admitting this. He's probably done what any normal businessman would have done and allowed his business to expand. But, I think that's important. We all have to comply with statutes that are changed in the future and that wasn't a consideration in 1979 but it is now.

So, for those reasons, I move that the opinion of the Zoning Administrator be upheld. Mr. Hyland seconded the motion.

Mr. Hyland commented that he was mindful of the testimony and the very substantial number of neighbors in the community who had indicated their support of Mr. Carpenter's record of community involvement. However, Mr. Hyland commented that the only issue before the Board was a land use issue and the extent to which Mr. Carpenter's operation either complied or did not comply in the residential neighborhood and whether or not it was a commercial enterprise.

Mr. Hyland stated that he was forced to the same conclusions as the maker of the motion that in 1976 to 1979 even assuming that there was an agricultural use on the site such as the growing of sod, it was clearly incidental percentage wise to the overall and principal activity of the off-site contracting business.

In addition, Mr. Hyland stated that there was a conflict as to whether or not there was any agricultural use of the property. One neighbor indicated that she had never seen any sod grown, cut, planted or plowed on the site. Mr. Carpenter indicated that he had three acres of sod planted.

Mr. Hyland stated that the aspect that concerned him was the level of activity that had commenced after 1980 and dramatically increased after the County had reviewed the operation because it increased the nature of commercial enterprise located in a residential district. Mr. Hyland stated that he could not conclude that there was an agricultural use in the sense that the Code would permit the grandfathering or the non-conformity beginning in 1976. Mr. Hyland believed that from the beginning until the present date, the principal use of the property had not been typically an agricultural use but an off-site contracting lawn maintenance business which was not permitted in a residential zone.

Chairman Smith commented that the uses allowed in the zoning district would not be denied the appellant if the Zoning Administrator's decision was upheld although he would have to cease the operation at this site.

The vote on the motion to uphold the decision of the Zoning Administrator passed unanimously by a vote of 6 to 0 (Mrs. Thonen being absent).

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Page 188 October 30, 1984, Recess

The Board recessed for lunch at 12:35 P.M. and did not reconvene until 1:50 P.M. Mr. John DiGiulian and Mr. Hammack left during the recess and did not return to the meeting.

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Page 188 October 30, 1984, Scheduled case of

10:30 A.M. FRANK D. MCCREERY, JR., appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 lots, one having width of 20.19 ft. and the other 68.82 ft. (100 ft. min. lot width req. by Sect. 3-206), located 6360 Evangeline Ln., Lincolnia Park Subd., R-2, Mason Dist., 72-3((20))6 & A, 1.1696 ac., VC 84-M-104.

Mr. William Shoup presented the staff report. Mr. Frank D. McCreery, Jr. of 6360 Evangeline Lane informed the Board that he had resided on his property since 1970. He stated that he owned lots 6, 5 & 3 on the cul-de-sac. The only other lot on the cul-de-sac was owned by the Dolley keys who had subdivided the lots originally. She had given Mr. McCreery the outlot A so he would have enough property to meet the spirit of the half-acre zoning with his pipestem request. Mr. McCreery stated that he now exceeded the minimum squarefootage required for the district.

In response to questions from the Board, Mr. McCreery stated that his neighbors supported the variance. He indicated that he met the standards of the Ordinance except for the frontage requirements. Mr. McCreery assured the Board that the subdivision would not have any negative impact on the community.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-104 by FRANK D. MCCREERY, JR. under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots, one having width of 20.19 ft. and the other 68.82 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 6360 Evangeline Lane, tax map reference 72-3((20))6 & A, 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 30, 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 1.1696
4. The Board received testimony indicating that the area designation of lots 6 & 6A were above the requirement for that designation. The applicant resides on lot 6-B. He indicated that he owned 2 or 3 other lots in the same area. Mrs. Day did not see any problem. Staff noted that there was not any problem with the environmental impact. Mrs. Day did not see any impact on Transporation.

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 as shown on the plat submitted with this application.

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 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.

Mr. Ribble seconded the motion.

The motion *FAILED by a vote of 3 to 1 (Mr. Smith)(Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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Page 190 October 30, 1984, Scheduled case of

10:45 A.M. BEN JACK KINNEY, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport 6.7 ft. from side lot line such that total side yards total 35.1 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), located 3813 Shelley Ln., R-2(C), Winterset Subd., Mason Dist., 59-3((15))98, 10,500 sq. ft., VC 84-M-105.

The Clerk informed the Board that the applicants were unable to return following the delay and had requested a deferral of their variance application. It was the consensus of the Board to defer the variance until Thursday, November 8, 1984 at 1:00 P.M.

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Page 190 October 30, 1984, Request for Waiver

FRANK D. MCCREERY, JR., VC 84-M-104: Mr. Frank McCreery requested the Board to grant a waiver of the twelve month limitation on refiling. Mr. McCreery informed the Board that he had not realized that a vote of four was necessary. He stated that he had been present during the morning session when his variance was scheduled and when there were more Board members present at the meeting.

Mr. Ribble moved that the Board grant the waiver request. Mrs. Day seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Messrs. DiGiulian, Hammack and Mrs. Thonen being absent). Mr. Hyland explained to the applicant that a vote of four was necessary to grant applications but a vote of 3 was acceptable for all other Board matters.

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Page 190 October 30, 1984, Scheduled case of

11:00 A.M. DAVID B. BROWN, appl. under Sect. 18-401 of the Ord. to allow construction of elevated walkway and patio 1.0 foot from side and 1.0 foot from rear lot lines (15 ft. min. side yard and 19 ft. min. rear yard req. by Sects. 3-207 & 2-412), located 6409 Recreation Ln., Lake Barcroft Cloisters, R-2, Mason Dist., 61-3((18))12, 15,250 sq. ft., VC 84-M-106.

Mr. William Shoup explained to the Board that the variance application had been administratively withdrawn as it had been determined that a variance was not necessary for the proposed construction.

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Page 190 October 30, 1984, Scheduled case of

11:15 A.M. KENT A. WOMACK, appl. under Sect. 18-401 of the Ord. to allow construction of 17 ft. high detached garage 3.0 ft. from side lot line and 5.0 ft. from rear lot line (12 ft. min. side yard and 17 ft. min. rear yard req. by Sects. 3-307 & 10-104), located 3718 Terrace Dr., Columbia Pines Subd., R-3, Mason Dist., 60-4((3))100, 10,668 sq. ft., VC 84-M-107.

Mr. William Shoup presented the staff report. Mr. Kent Womack of 3718 Terrace Drive informed the Board that he wanted to build a detached garage to protect his vehicles and his personal property. He indicated that he could not place the garage at any other location because of topographic problems in the rear yard and due to the location of his dwelling on the lot. To build the garage in compliance with the setbacks would place it too close to the house making it impossible to drive into the garage. He stated that his neighbor to the rear supported the variance request because he did not want the garage to block his line of sight.

In response to questions from the Board, Mr. Womack stated that the height of 17 ft. was necessary because his lot dropped off. The only low area was the back corner where he proposed to construct a 24'x24' detached garage. He indicated that he had a '37 Chevrolet Pickup Truck which he wanted to restore in the garage. In addition, the garage would be used for storage of lawnmowers, bicycles, and other equipment as he planned to remove the existing red barn storage building. Mr. Womack stated that he had owned his property since 1972.

The Board discussed scaling down the proposed garage and relocating it behind the house. Mr. Womack compromised to scaling down the garage to 20'x24' but indicated he wanted it to remain in the location proposed.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-107 by KENT A. WOMACK under Section 18-401 of the Zoning Ordinance to allow construction of 17 ft. high detached garage 3.0 ft. from side lot line and 5.0 ft. from rear lot line (12 ft. min. side yard and 17 ft. min. rear yard req. by Sects. 3-307 & 10-104), on property located at 3718 Terrace Drive, tax map reference 60-4((3))100, 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 30, 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 10,668 sq. ft.

Mr. Hyland stated that he had reviewed the staff report and asked that it be accepted into evidence as an exhibit. He stated that a review of the staff report as well as testimony and the plat presented to the BZA indicated that Mr. Womack was asking to put a 24'x24' garage located to the rear of his property. The variances he had requested, both to the rear lot line and to the side lot line, amounted to 12 ft. and 9 ft. respectively. Testimony received by the BZA indicated that Mr. Womack could locate the garage on his property without needing a variance, albeit, he would have to either reduce the size of the garage or move the garage to the center of the back yard. Mr. Hyland stated that there was not any evidence or facts which afforded a basis for granting the requested variances. Although there was some indication of some slight topographic problem, there was the clear alternative to move the garage forward toward the rear of the dwelling or to the right to avoid the necessity for a variance from the side lot line.

For those reasons stated above, the applicant has not presented testimony which afforded a basis for granting a variance as the 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.

Mr. Ribble seconded the motion.

The motion passed by a vote of 3 to 1 (Mrs. Day)(Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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Page 192 October 30, 1984, Scheduled case of

1:00 P.M. COMMUNITY CHURCH OF GOD, appl. under Sect. 3-103 of the Ord. to amend SP 83-P-028 for church and related facilities to permit addition of a garage to the approved facilities, located 2458 Gallows Rd., R-1, Providence Dist., 39-4((1))30A, 168,064 sq. ft., SPA 83-P-028-1.

A representative of the church requested the Board to defer the special permit application for a full Board. Mr. Hyland moved that the BZA grant the request. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent). The applicant requested that the application be rescheduled for a night meeting. It was the consensus of the Board to defer the special permit until Tuesday, December 18, 1984 at 8:00 P.M.

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Page 192 October 30, 1984, Scheduled case of

1:15 P.M. RYAN HOMES, INC., appl. under Sect. 3-303 of the Ord. for a subdivision sales office, located 5401 Ashcomb Ct., Cabells Mill Subd., R-3, Springfield Dist., 54-2((4))16, 10,313 sq. ft., SP 84-S-058.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. He stated that the staff report had incorrectly indicated that a driveway existed on the subject property. He stated that there was nothing but a sidewalk. Mr. Shoup stated that parking for all special permit must be contained on the site. He indicated that the applicant could make arrangements to limit the number of employees in order to accommodate parking in accordance with the conditions.

Mr. William Arnold, an attorney in Fairfax, represented the applicant. He stated that the sales office was contained in the garage. At the present time, there was not a paved driveway. Mr. Arnold stated that because the driveway was not deep enough, the applicant would agree to limit the number of employees to two so parking could be accommodated in the double driveway. Mr. Arnold assured the Board that the sales office would terminate as soon as all the houses were sold.

In response to questions from the Board, Mr. Arnold stated that there would not be a problem with having the employees park on undeveloped lots so that parking would be available on site for clients. The Board questioned staff as to whether an arrangement as suggested by Mr. Arnold was possible. Mr. Shoup stated that the other lots would have to be incorporated into the special permit application.

It was the consensus of the Board to recess the hearing to allow the applicant an opportunity to work with staff regarding the parking situation. The special permit was deferred until Thursday, November 8, 1984 at 1:15 P.M.

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Mr. Green stated that his development was old and most of the houses had additions built onto them. He stated that he needed the additional bedroom and the extra 2 ft. in the kitchen for the smooth flow of the design of the house. His lot was only 50 ft. in width. The addition would be 26.8'x13.7'. Mr. Green stated that his application satisfied the nine standards of the Ordinance.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-110 by CARL C. GREEN, JR. under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8 ft., from side lot line (10 ft. min. side yard req. by Sect. 3-407), on property located at 2913 Cherry Street, tax map reference 50-4((8))13, 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 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-4.
3. The area of the lot is 5,000 sq. ft.
4. That the applicant's property is in one of the oldest housing developments in the area. At that time, there was only an 8 ft. side yard setback in effect and the house was built before the new Ordinance went into effect. In addition, the applicant's property is exceptionally small and narrow.

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.

Page 193 October 30, 1984, Request for Waiver

KENT A. WOMACK, VC 84-M-107: Mr. Kent A. Womack requested the Board to waive the twelve month limitation on refiling of applications. After discussion, Mrs. Day moved that the Board grant the request. Mr. Ribble seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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Page 193 October 30, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of current Minutes for October 16, and October 23, 1984. Mrs. Day moved that the Minutes be approved as submitted. Mr. Hyland seconded the motion and it passed by a unanimous vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

// 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 November 8, 1984

DANIEL SMITH, CHAIRMAN

APPROVED: Nov. 13, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, November 8, 1984. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack (arriving at 10:15 A.M.); John Ribble; Mary Thonen. (Messrs. John DiGiulian and Gerald Hyland were absent).

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

MATTERS PRESENTED BY STAFF:

THE APPLETREE, INC., SPA 82-P-089-2: The Board was in receipt of a request for consideration of a waiver of the twelve (12) month limitation on refiling of an application. Mr.William Shoup presented the background of the case. The Board received five letters in support of the waiver request from: Susan Stone, 9744 Water Oak Drive; Dr. Robert A. Drake, 2721 Oak Valley Drive; Charles and Ruby Baughman, 9701 Blake Lane; Donald W. Williams, 9519 Barcellona Court; and Beverly Methvin, 2969 Borge Street. In addition, the Board received five letters in opposition to the waiver request from: Iraj Riahi Nezhad, 9718 Water Oak Drive; Paul C. Hoshall, 9716 Water Oak Drive; Peter and Concetta L. Morano, 9720 Water Oak Drive; William T. Vincent, President of the Blakeview Homeowners Association, 9527 Barcellona Court; and Patricia T. Grutter, 9653 Blake Lane.

(Mr. Hammack arrived at the meeting at 10:15 A.M.)

Mr. William Donnelly, an attorney at 4011 Chain Bridge Road in Fairfax, represented Mr. & Mrs. Klaassen of The Appletree, Inc. He informed the Board that the last special permit application resulted in a denial because of a lack of four votes. He asked the Board for another chance to present the application before a full Board.

Ms. Jean Hoshall of 9716 Water Oak Drive spoke in opposition to the waiver request. She was concerned that the citizens be given as much consideration as the applicant.

Following discussion of the merits of the application, Mrs. Thonen moved that the waiver request be granted. Mr. Ribble seconded the motion and it passed by a vote of 3 to 2 (Messrs. Smith and Hammack)(Messrs. DiGiulian and Hyland being absent).

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Page 194 November 8, 1984, Matters

ARTHUR W. KROP, JR. & BERNICE KROP, VC 83-D-0020: The Board was in receipt of a request for additional time to allow recordation of subdivision for variance granted May 3, 1983 and due to expire November 3, 1984. Mr. Krop was requesting additional time of twelve (12) months but staff recommended nine (9) months as the engineer had indicated that it would take approximately six to nine months to complete the subdivision process.

Mrs. Thonen moved that the Board grant the additional time for a period of twelve (12) months. 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 194 November 8, 1984, Scheduled case of

10:00 A.M. VIRGINIA ELECTRIC AND POWER COMPANY, appl. under Sect. 18-401 of the Ord. to allow construction of addition to office to 30 ft. from front lot line (40 ft. min. front yard req. by Sect. 5-507), located 7888 Backlick Rd., I-5, Fullerton Industrial Park, Lee Dist., 99-1((5))17, 18 & 20, 7.4223 acres, VC 84-L-111.

As there was not a full Board present, Mr. William Donnelly requested the Board to defer the variance application until December 4, 1984. Following discussion of the request, Mrs. Thonen moved that the Board defer the application until December 4, 1984 at 11:30 A.M. with the understanding that the application would heard at that time regardless of whether there was a full Board. Mr. Hammack seconded the motion and it passed by a vote of 3 to 2 (Messrs. Smith and Ribble)(Messrs. DiGiulian and Hyland being absent).

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Page 194 November 8, 1984, Scheduled case of

10:10 A.M. JEROME S. ERVIN, JR., appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to the rear lot line (19 ft. min. rear yard req. by Sects. 3-507 & 2-412), located 7302 Belinger Ct., Beverly Park Subd., R-5, Lee Dist., 90-3((10))52, 3,000 sq. ft., VC 84-L-108.

Ms. Jane Kelsey informed the Board that the variance application of Mr. Jerome S. Ervin, Jr. was affected by the recent Zoning Ordinance amendment regarding decks. Accordingly, the variance would have to be amended and readvertised. It was the consensus of the Board to defer the application until December 11, 1984 at 10:15 A.M.

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10:20 A.M. JAY FERNANDEZ, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition to dwelling to 10.5 ft. from a street line of a corner lot (20 ft. min. front yard req. by Sect. 3-307), located 10353 Commonwealth Blvd., R-3, Kings Park West Subd., Annandale Dist., 68-4((9))1184, 13,801 sq. ft., VC 84-A-109.

Ms. Jane Kelsey presented the staff report. Mr. Jay Fernandez of 10353 Commonwealth Boulevard informed the Board that his dwelling had been a commercial sales office for the subdivision. It had an unusual situation because it was surrounded by three streets and had three front yard setbacks. Mr. Fernandez informed the Board that he wished to construct a garage and had no alternative but to seek a variance.

In response to questions from the Board, Mr. Fernandez stated that he could not construct in the back yard as there was a topographic problem. The back yard was 10 ft. higher than the street level. He further explained that the garage was necessary because of the difficulty of parking on the street. Parking was restricted and the few available parking spaces were often taken by commuters. Mr. Fernandez stated that he owned three vehicles and a trailer.

The Board questioned whether Mr. Fernandez would consider cutting down the dimensions of the proposed garage. He responded he could reduce the width but desired the depth for the parking of his vehicles. Mr. Fernandez stated that he would enter the garage from Commonwealth Court and would have to build a new driveway. The existing concrete parking pad would remain for parking of the other vehicles not accommodated by the garage.

Mr. Hammack suggested that a carport might be better than a garage due to the size of the structure and the proximity to the street. There was concern that the garage would block sight distance. Mr. Fernandez stated that he had discussed the garage with his immediate neighbor and there was not any objection.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-A-109 by JAY FERNANDEZ under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 10.5 ft. from a street line of a corner lot (20 ft. min. front yard req. by Sect. 3-307), on property located at 10353 Commonwealth Blvd., tax map reference 68-4((9))1184, 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 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 13,801 sq. ft.

Mr. Hammack stated that this was an unusual case and that the applicant had made some good points. There were three front yard setbacks which was unusual in Fairfax County. But in this particular case, Mr. Hammack stated that he had examined the photographs and felt that the setback was there for a purpose. Even though the neighbor on lot 1185 was not opposed to the variance, Mr. Hammack felt that the size of the garage was too large for the house as it left only 10.5 ft. line of sight and placed the building too close to the property line. Mr. Hammack stated that the applicant had indicated his willingness to reduce the size of the building. However, unless it was a minor adjustment, Mr. Hammack did not want to get involved in relocating the structure at the Board level. He stated that he wanted to see the structure moved substantially towards the rear to minimize the variance. The applicant proposed to leave the existing concrete pad which was too much driveway and concrete pad and was not compatible according to Mr. Hammack.

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;

RESOLUTION

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. Thonen seconded the motion.

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

Chairman Smith stated that the applicant could construct a carport without a variance by moving the structure. He stated that the applicant could build a usable carport to get the driveway entrance further away from the intersection. There was not any room to park a car in the driveway of the present proposal.

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Page 196 November 8, 1984, Scheduled case of

10:30 A.M. CARL C. GREEN, JR., appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 8 ft., from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 2913 Cherry St., R-4, Hillwood Subd., Providence Dist., 50-4((8))13, 5,000 sq. ft., VC 84-P-110.

Ms. Jane Kelsey presented the staff report. There was a notation in the report which indicating that the staff could not locate a building permit for the existing shed which was located close to the side lot line. Ms. Kelsey informed the Board that if the shed was less than 7 ft. in height, it did not have to meet the side or rear yard setbacks. However, the plat did not indicate the height of the shed.

Mr. Carl C. Green, Jr. of 2913 Cherry Street in Falls Church informed the Board that the shed was approximately 6 1/2' in height and was 9'x10'. With respect to the variance application, Mr. Green informed the Board that his home was a two bedroom starter home. His two children were ages 6 and 4 and the family needed another bedroom. Mr. Green explained that he proposed to build two additions to the house which would conform to the original structure. The original house was located 8 ft. from the side lot line. A Zoning Ordinance change increased the setback to 10 ft. Mr. Green stated that he needed a variance in order to extend his kitchen as he had a small and narrow lot.

In response to questions from the Board, Ms. Kelsey stated that there was not any provision in the current Zoning Ordinance for non-conforming lots with regard to setbacks.

Mr. Green stated that his development was old and most of the houses had additions built onto them. He stated that he needed the additional bedroom and the extra 2 ft. in the kitchen for the smooth flow of the design of the house. His lot was only 50 ft. in width. The addition would be 26.8'x13.7'. Mr. Green stated that his application satisfied the nine standards of the Ordinance.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-110 by CARL C. GREEN, JR. under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8 ft., from side lot line (10 ft. min. side yard req. by Sect. 3-407), on property located at 2913 Cherry Street, tax map reference 50-4((8))13, 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 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-4.
3. The area of the lot is 5,000 sq. ft.
4. That the applicant's property is in one of the oldest housing developments in the area. At that time, there was only an 8 ft. side yard setback in effect and the house was built before the new Ordinance went into effect. In addition, the applicant's property is exceptionally small and narrow.

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.

RESOLUTION

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 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. DiGiulian and Hyland being absent).

Chairman Smith stated that he supported the variance because it was a classic example of why the variance section was in the Zoning Ordinance.

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Page 198 November 8, 1984, Scheduled case of

10:45 A.M. PLEASANT VALLEY RECREATION ASSOCIATION, INC., appl. under Sect. 3-C03 of the Ord. for community recreation facility including swimming pool, wading pool, bathhouse, tennis courts, community meeting room and associated parking, located 4347 Cub Run Rd., Pleasant Valley Subd., R-C, Springfield Dist., 33-4((2))D1 & E1, 4.4891 ac., SP 84-S-062.

Ms. Jane Kelsey presented the staff report along with revised development conditions. She indicated that the concerns in the staff report had been addressed by the applicant which necessitated the development conditions being revised. Because of staff's concern regarding parking, the applicant had agreed that during swim meets the tennis courts would not be used. Accordingly, staff agreed to the 37 parking spaces. With the revised development conditions, staff was recommending approval of the special permit.

In response to questions from the Board, Ms. Kelsey stated that 41 parking spaces were required in the original special permit. However, the Director of the Department of Environmental Management could modify the parking if the recreational facility was within walking distance. Ms. Kelsey stated that staff still had concerns about the parking but felt the 37 parking spaces would be sufficient if the tennis courts were closed during the swim meets. The Board was concerned about the closing of the tennis courts during the swim meets because of the parking since it would deprive tennis players the use of the courts for half a day.

Chairman Smith inquired whether the application should have been an amendment to the original special permit. Ms. Kelsey reported that the original special permit was never validated and the tennis courts had been established illegally.

Mr. Ed Johnson, a resident of 15212 Louis Mill Drive, and an employee of Paciulli, Simmons and Associates, represented the applicant. He stated that the original special permit in 1981 showed 38 parking spaces and a larger swimming pool. The original permit had included parking spaces for the four employees. Because the staff primarily was concerned with parking, Mr. Johnson had suggested closure of the tennis courts during the swim meets and having residents in attendance of the swim meets walk to the pool.

Mr. Johnson stated that the applicant was requesting permission to increase the membership to 542 families as there were 542 lots in the subdivision and they wanted everyone to have an equal opportunity to become members. Mr. Johnson informed the Board that parking was restricted because of the floodplain, the drainage area along the tennis courts and the front setback.

In response to questions from the Board, Ms. Kelsey stated that the applicant was under violation at the present time because of the tennis courts. The Board questioned Mr. Johnson regarding the size of the pool. He indicated that the pool had decreased from 6,400 sq. ft. to 5,400 sq. ft.

Following further discussion with the Board regarding the required 42 parking spaces, Mr. Johnson asked the Board to defer the matter to allow him an opportunity to prepare revised plats. Mr. Larry Palmer, President of the Pleasant Valley Recreation Association, requested the Board to allow him an opportunity to present the background before it made its decision in the special permit application. Chairman Smith advised Mr. Palmer to present the background at the deferred hearing.

Mr. Robert Beaudine of 6210 Greeley Boulevard in Springfield questioned the construction of the tennis courts in the floodplain without any permit from the County. He indicated that the gully between the tennis courts had been illegally filled and should have required a Special Exception from the Board of Supervisors. Mr. Beaudine further stated that he did not feel increase of the membership to 542 families was justified. In his experience, only half of the residents ever joined a community recreational facility. Mr. Beaudine stated that there were a lot of unanswered questions.

Ms. Kelsey advised the Board that it was true that any filling in a floodplain would require a Special Exception. She stated that the tennis court structure was not the problem. It was the area between the two tennis courts.

Mrs. Thonen moved that the Board defer the special application in obtain a written reply from the Department of Environmental Management regarding the floodplain issue. Mr. Hammack seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hyland being absent). It was the consensus of the Board to defer the application until December 4, 1984 at 11:45 A.M. for revised plats and the written report from DEM.

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Page 199 November 8, 1984, Recess

At 12:05 P.M., the Board recessed for lunch and reconvened at 1:25 P.M. to continue with the scheduled agenda.

Page 199 November 8, 1984, Scheduled case of

11:00 A.M. HAZEL/PETERSON, INC. AND/OR SOUTH RUN REGENCY, appl. under Sect. 3-103 of the Ord. for a community recreation center, South Run Subd., R-1, Springfield Dist., 88-3((6))G, 9.78 ac., SP 84-S-063.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. Mr. Francis McDermott, an attorney in Fairfax, represented the applicant. Mr. McDermott informed the Board that the use was contained on 9.78 acres. Across the street from the use was Fairfax County parkland. To the north of the use was a site proposed for church use. Mr. McDermott stated that the property had a topographic problem in that the proposed pool was 25 ft. above Rolling Ridge Drive. There was a substantial treed buffer area in this area. In the areas along the single family detached homes, the staff had suggested that the applicant continue the 25 ft. transitional yard which Mr. McDermott agreed to do. He stated that the multi-purpose court would be located in the treed area and some of the existing screening would have to be removed for clearing of the court.

Mr. McDermott suggested the following changes to the development conditions proposed by staff:

7. Change of hours for operation of the tennis courts from 7:00 A.M. to 10:00 P.M.; the swimming pool from 8:00 A.M. to 9:00 A.M. to allow for swim team activities and swimming lessons; and the swimming pool from 9:00 A.M. to 9:00 P.M. for general pool purposes;
10. That the Transitional Screening I not be imposed on Rolling Ridge Drive as the adjoining property had been designated for a church. Also, that the fence required around the multi-purpose court be waived;
12. That the easement required for the trail be deleted and be imposed by the Director of DEM at the time of final site plan;
13. That a sidewalk or trail be provided from South Park Circle to the bathhouse sidewalk; and
14. That the dedication along the frontage of Lee Chapel Road be to 60 ft. from the existing center-line of Lee Chapel Road and that any other required dedication be obtained from the County parkland across the street.

Ms. Yasmin Anderson discussed the requirement of the trail and indicated that it did not apply if the applicant was proposing an internal trail system parallel to Lee Chapel Road. However, the trail needed to shown on the plat as a pedestrian facility.

Mr. Harrington of the Office of Transportation discussed condition no. 14 and informed the Board that it was difficult to require dedication from the parkland, particularly if there was any federal money involved in the operation of the park property. The 90 ft. was required in order to have a standard four lane divided highway.

There was no one else to speak in support of the application. Mr. Robert Beaudine of 6210 Greeley Boulevard in Springfield questioned the affidavit as it listed the owner of the subject property as Hazel/Peterson, Inc. and/or the South Run Regency. The affidavit did not identify what the South Run Regency was. Mr. Beaudine questioned the 700 family memberships for the pool. He was also concerned about the multi-purpose court and suggested that the buffer be wider to protect the single family homes in that area.

During rebuttal, Mr. McDermott stated that the 60'x90' asphalt multi-purpose court would be located in the treed area. It was a steep location and not easily accessible. However, he indicated that if fencing would take care of any concerns, the applicant would fence the multi-purpose court. With regard to Mr. Beaudine's concerns, Mr. McDermott stated that the owner of the property was Hazel/Peterson, Inc. The property would be conveyed to South Run Regency which was the homeowners association.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. Sp 84-S-063 by HAZEL/PETERSON, INC. AND/OR SOUTH RUN REGENCY under Section 3-101 of the Zoning Ordinance to permit community recreation center on property located at tax map reference 88-3((6))G, 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 8, 1984; and

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

1. That the owner of the subject property is Hazel/Peterson, Inc. and the co/applicant is the contract purchaser of the property.
2. The present zoning is R-1.
3. The area of the lot is 9.78 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 maximum number of family memberships shall be 700..
6. There shall be a minimum of and a maximum of fifty-four (54) parking spaces.
7. The hours of operation shall be as follows:
   - Tennis courts: 7:00 A.M. to 10:00 P.M.
   - Swimming Pool: 8:00 A.M. to 9:00 A.M. for swim team activities and swimming lessons and 9:00 A.M. to 9:00 P.M. for general pool purposes.
   - Multi-purpose court: 9:00 A.M. to 9:00 P.M.
8. 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.
   - A written 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.

9. Lighting shall be in accordance with the following:
   - The combined height of the light standards and fixtures for the tennis courts shall not exceed twenty (20) feet. There shall be an automatic shut off devices installed which turns the lights off at 10:00 P.M.
   - The lights shall be a low-intensity design which directs the light directly onto the facility.
   - Shields shall be installed, if necessary, to prevent the light from projecting beyond the pool or tennis court area.
   - The combined height of the light standards and fixtures for the pool and parking lot shall be twelve (12) feet.

10. Transitional Screening 1 shall be provided along all lot lines except along the eastern lot line abutting Lee Chapel Road which is across from a public park and along Rolling Ridge Drive. The barrier requirement shall be waived provided the pool, tennis court and multi-purpose court are fenced.

11. The use of loudspeakers shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code.

12. A sidewalk or trail shall be provided from South Park Circle to the bathhouse sidewalk.

13. Dedication shall be provided along the entire frontage of Lee Chapel Road to 60 feet from the existing center-line of Lee Chapel 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 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 4 to 1 (Mr. Smith)(Messrs. DiGiulian and Hyland being absent).

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Page 201 November 8, 1984, Scheduled case of

11:15 A.M. THE SWIM AND TENNIS CLUB AT FAIRFAX STATION, INC., appl. under Sect. 3-C03 of the Ord. to amend SP 83-S-012 for community swimming pool and tennis courts to permit relocated tennis courts, addition of tennis shelters, fencing, loudspeakers, tot lot, bike rack, parking spaces, basketball hoop, and parking lot lights to existing facilities, and extension of swimming season to two weeks past Labor Day, located 6203 Arrington Dr., Fairfax Station Subd., R-C, Springfield Dist., 77-3((6))438A, 439A, 540 & 541, 3.3 acres, SPA 83-S-012-1.

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. Robert Richardson, an attorney in Fairfax, represented the applicant. He informed the Board that the original special permit had been obtained when it was thought that sanitary sewer was available. When it became necessary to install septic, the tennis courts had to be relocated for the installation of the septic lines. Mr. Richardson stated that since it was necessary to amend the original special permit for this purpose, the club polled its members for any other additional changes desired.

However, as a result of objections from nearby neighbors, the applicant had decided to withdraw some of the proposed additions to the site. The club still desired increased membership from 400 members to 500 members. They were no longer requesting permission to construct the two basketball goals or the tennis shelter. Accordingly, the extension of the parking lot was not necessary and parking would remain at 48 spaces.

Mr. Richardson informed the Board that the applicant currently held four swim meets a year at the facility. He requested permission to hold additional swim meets for the "B" League one night per week. Ms. Kelsey advised the Board that this issue was not addressed in the advertisement and could not be changed.

Mr. Richardson addressed the development conditions and asked that use of the loudspeaker be extended from 6:00 P.M. to 9:00 P.M. for the evening swim meets. He assured the Board that the loudspeakers would not be used for any music or paging purposes. With regard to condition no. 17, Mr. Richardson presented the Board with a detailed landscaping plan.

The Board questioned the applicant regarding complaints of noise way into the night at the facility. Mr. Richardson informed the Board that the club did not have a gate or any way to maintain it. The club was also distubred about the noise.

The following persons spoke in support of the application: Mrs. Monica Weinberg of 6101 Henry House Ct.; Mrs. Claudia Brady; and Ms. Rosemary Szymczak of 6026 Makely Drive. Mrs. Weinberg assured the Board that the club's loudspeaker would only be used for swim meets, and announcements at parties and would not be used for music. Mrs. Claudia Brady questioned the Board regarding its regulations and what constituted an amendment to the special permit. Ms. Szymczak inquired about increasing the swim meets to eight but was informed by the BZA that this change was not advertised and could not accomplished at this time.

Ms. Vicki Lombard of 11119 Robert Carter Road informed the Board that no one opposed the special permit since the club had withdrawn the major concerns. There was no one else to speak in opposition.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 83-S-012-1 by THE SWIM AND TENNIS CLUB AT FAIRFAX STATION, INC. under Section 3-C03 of the Zoning Ordinance to amend SP 83-S-012 for community swimming pool and tennis courts to permit relocated tennis courts, ~~*addition of tennis shelters~~, fencing, loudspeakers, tot lot, bike rack, parking spaces, ~~*basketball hoop~~, and parking lot lights to existing facilities, and extension of swimming season to two weeks past Labor Day, on property located at 6203 Arrington Drive, tax map reference 77-3((6))438A, 439A, 540 & 541, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution: *(deleted by applicant during the public hearing)

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 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-C.
3. The area of the lot is 3.3 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 maximum number of family members shall be 500.
6. There shall be 53 parking spaces and bike racks shall be provided in such a manner so that there is a minimum of twenty (20) bike spaces.
7. Interior parking lot landscaping shall be provided in accordance with Article 13

RESOLUTION

8. The maximum hours of operation shall be as follows:
Swimming pool: 10:00 A.M. to 9:00 P.M.
Swim team practice may begin at 7:00 A.M., excluding Saturday and Sunday
Four (4) swim meets may be held during the swim season to begin no earlier than 9:00 A.M.
Tennis courts: 7:00 A.M. to 10:00 P.M.

9. After hour parties for this facility 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 A written 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. The tennis court lights shall be no higher than 22 feet, and of a low intensity design which directs the light directly onto the courts. Shields shall be installed, if necessary, to prevent the light from projecting beyond the courts. There may be a maximum of fourteen (14) light poles for all three tennis courts.

11. 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.

12. Parking lot lighting shall be of a low intensity design on standards not exceeding 6 feet in height and, if necessary, shielded in such a manner that will prevent light from projecting beyond the property.

13. Except for emergencies or swim meets, the loudspeakers may be used only between the hours of 10:00 A.M. and 6:00 P.M. and during approved after hour parties, provided their use is in conformance with the provisions of Article 14 of the Zoning Ordinance, Performance Standards and Chapter 108 of the County Code, Noise Ordinance.

14. During the hours of swim team practice prior to 10:00 A.M., no loudspeakers, bullhorns, whistles, or any other noise making device shall be used. This restriction shall not apply to the four swim meets during the year. After 9:00 P.M. at the pool, the same noise-making devices shall not be used. The clean-up crew shall complete the required duties as quietly and as quickly as possible in consideration of the area residents.

15. 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 draining or cleaning operations.

16. This use shall be subject to the provisions of the Water Supply Protection Overlay District.

17. Transitional Screening 1 may be modified as shown on the plat with additional plantings being provided around the tennis courts along the southern and western lot line. The amount and type of such plantings shall be determined by the Director, Department of Environmental Management, but shall be equivalent to Transitional Screening 1. The barrier requirement shall be waived provided the fencing as shown on the plat remains.

18. A temporary grading easement shall be provided contiguous to the dedicated area for the Springfield Bypass.

19. Traffic shall be controlled by installation of a fence or a chain at the entrance.

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 for the additional structures and uses 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. Ribble seconded the motion.

The motion passed by a vote of 4 to 0 with 1 abstention (Mr. Hammack)(Messrs. DiGiulian and Hyland being absent).

Ms. Kelsey informed the Board that if the landscaping plan submitted by the applicant met the requirements of DEM, staff would not have any objection to it being substituted for condition no. 17.

The Board directed the applicant to submit a revised plat consistent with the resolution to be signed by the Chairman.

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11:30 A.M. MANSION HOUSE YACHT CLUB, INC., appl. under Sect. 3-103 & 8-901 of the Ord. to amend S-80-V-112 for a marina as community use to permit a modification to the dustless surface requirement for the existing driveway and parking lot and to permit an increase in membership from 90 to 200, located 9321 Old Mount Vernon Rd., Belle Rive Subd., R-2, Mt. Vernon Dist., 110-4((8))3, 2.9 ac., SPA 80-V-112-1.

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. Roger Madsen of 8618 Bluedale Street informed the Board that the club had been in operation for seven years. It was accessed by a one lane gravel road. Mr. Madsen disputed the transportation analysis of traffic impact of 60 vehicle trips per day. The club had 90 members and the maximum number of vehicles during the busiest time was only 20. Mr. Madsen explained that the club had requested an increase in membership so that it could establish the funds necessary for paving the parking lot and the access road. A five year extension with the increased membership would enable the club to build the capital necessary for paving. Mr. Madsen assured the Board that the current one lane road situation was not hazardous.

There was no one else to speak in support. Mr. Robert Beaudine of 6210 Greeley Boulevard in Springfield was opposed to the increase in membership as it would violate the wetlands. There was no one else to speak in opposition.

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MANSION HOUSE YACHT CLUB, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 80-V-112-1 by MANSION HOUSE YACHT CLUB, INC. under Sections 3-103 & 8-901 of the Zoning Ordinance to amend S-80-V-112 for a marina as community use to permit a modification to the dustless surface requirement for the existing driveway and parking lot and to permit an increase in membership from 90 to 200, on property located at 9321 Old Mount Vernon Road, tax map reference 110-4((8))3, 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 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-2.
3. The area of the lot is 2.9 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 (the increase to 200 memberships is denied) with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated 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 number of family members shall be ninety (90).
6. The hours of operation shall not begin earlier than 7:00 A.M. or extend beyond 10:00 P.M. daily
7. The maximum number of parking and boat storage spaces shall be 104.

RESOLUTION

8. The Transitional Screening yard shall be modified as shown on the plat provided the existing trees and vegetation remain and supplemental plantings are provided if deemed necessary by the Director, Department of Environmental Management. The limits of clearing shall be preserved. The barrier shall be waived provided the fence and gate remain in the location shown on the plat and is kept closed when the marina is closed.
9. Interior parking lot landscaping shall be provided in accordance with Article 13.
10. No filling, clearing, or grading shall be permitted within the 100 year floodplain delineated as a Floodplain Overlay District except as set forth in Sect, 7-705.
11. Conditions of all State and Federal permits shall be met.
12. The special permit for the gravel access driveway and parking lot shall automatically expire, without notice, five (5) years from the date of approval.
13. 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.
14. There shall be an annual inspection of the gravel access driveway and parking lot 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.

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 5 to 0 (Messrs. DiGiulian and Hyland being absent).

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Page 205 November 8, 1984, Scheduled case of

1:00 P.M. BEN JACK KINNEY, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing carport 6.7 ft. from side lot line such that total side yards total 35.1 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), located 3813 Shelley Ln., R-2(C), Winterset Subd., Mason Dist., 59-3((15))98, 10,500 sq. ft., VC 84-M-105. (DEFERRED FROM OCTOBER 30, 1984 AT REQUEST OF APPLICANT).

Mr. William Shoup presented the staff report. Mrs. Kathleen Kinney of 3813 Shelley Lane in Annandale informed the Board that she desired to enclose the existing carport into a garage to increase insulation, privacy and safety. It would also provide for additional storage for mowers, bicycles, etc. and conform with the neighborhood. Mrs. Kinney stated that a precedent had been set when the BZA granted a variance for her next door neighbor to enclose his carport into a garage. The neighor across the street had also enclosed his carport. Mrs. Kinney presented the Board with photographs to indicate the location of the garages to the other houses in the area. Mrs. Kinney stated that the requested variance was minimal, being only 1.3 ft.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-105 by BEN JACK KINNEY under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport 6.7 ft. from side lot line such that total side yards total 35.1 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), on property located at 3813 Shelley Lane, tax map reference 59-3((15))98, 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 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-2(C).
3. The area of the lot is 10,500 sq. ft.
4. That testimony from the applicant indicates that a great many neighbors have enclosed carports into garages.

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 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.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use 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. Thonen seconded the motion.

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

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Page 206 November 8, 1984, Scheduled case of

1:15 P.M. RYAN HOMES, INC., appl. under Sect. 3-303 of the Ord. for a subdivision sales office, located 5401 Ashcomb Ct., Cabells Mill Subd., R-3, Springfield Dist., 54-2((4))16, 10,313 sq. ft., SP 84-S-058. (DEFERRED FROM OCTOBER 30, 1984 FOR APPLICANT TO WORK WITH STAFF ON PARKING REQUIREMENTS).

Mr. William Shoup informed the Board that the applicant would have to amend the existing special permit in order to accommodate parking on another lot. It was the consensus of the Board to further defer the special permit application until January 8, 1985 at 10:30 A.M..

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Page 206 November 8, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of backlogged Minutes for March 22, March 29, April 12 and April 19, 1983. Mrs. Thonen moved that the Board adopt the minutes as submitted. Mrs. Day seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hyland being absent).

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Page 207 November 8, 1984, After Agenda Items

LAKE BARCROFT RECREATION CENTER, INC., SPA 75-M-179-1: The Board was in receipt of a request from Mr. Robert Kinberg, President of the Lake Barcroft Recreation Center, Inc., regarding an out-of-turn hearing for its special permit application for erection of a temporary bubble over the 25 meter swimming pool. It was the consensus of the Board to defer the request until the next meeting.

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Page 207 November 8, 1984, After Agenda Items

SOUTHVIEW BAPTIST CHURCH, SPA 80-C-111-1: The Board was in receipt of a request from Mr. Roger R. Campbell of the Southview Baptist Church regarding an out-of-turn hearing for its special permit application for construction of two portable classroom buildings on the church site. It was the consensus of the Board to defer the request until the next meeting.

// There being no further business, the Board adjourned at 4:05 P.M.

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

Submitted to the Board on Nov. 13, 1984

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: Nov. 20, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 13, 1984. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 10:25 A.M.); John Ribble (arriving at 10:30 A.M.); and Mary Thonen (arriving at 10:25 A.M. and departing at 12:30 P.M.).

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

MATTERS PRESENTED BY STAFF MEMBERS:

LAKE BARCROFT RECREATION CENTER, INC., SPA 75-M-179-1: The Board was in receipt of a request from Mr. Robert Kinberg, President of the Lake Barcroft Recreation Center, Inc., regarding an out-of-turn hearing for its special permit application for erection of a temporary bubble over the 25 meter swimming pool. Following discussion with staff, it was the consensus of the Board to grant the out-of-turn hearing request and schedule the special permit for December 18, 1984 at 9:00 P.M.

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Page 208 November 13, 1984, Matters

SOUTHVIEW BAPTIST CHURCH, SPA 80-C-111-1: The Board was in receipt of a request from Mr. Roger R. Campbell of the Southview Baptist Church regarding an out-of-turn hearing for its special permit application for construction of two portable classroom buildings on the church site. Following discussion with staff, it was the consensus of the Board to grant the out-of-turn hearing request and schedule the application for December 11, 1984 at 1:00 P.M.

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Mr. Paul Hammack and Mrs. Mary Thonen arrived at the meeting at 10:25 A.M.

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Page 208 November 13, 1984, Scheduled case of

10:00 A.M. THE PRICE COMPANY, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that appellant's proposed use is a retail sales establishment, which is not a permitted use in the I-5 or I-6 districts, A 84-W-003. (DEFERRED FROM SEPTEMBER 11, 1984 AT REQUEST OF THE APPLICANT).

The Board was in receipt of a letter from the applicant's agent requesting withdrawal of the appeal application. It was the consensus of the Board to allow withdrawal as requested.

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Page 208 November 13, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of current Minutes for October 30, 1984. Mrs. Day moved that the Board approve the Minutes as submitted. Mr. Hammack seconded the motion and it passed by a vote of 6 to 0 (Mr. Ribble being absent).

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Mr. Ribble arrived at the meeting at 10:30 A.M.

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Page 208 November 13, 1984, Scheduled case of

10:30 A.M. CHARLES F. & PATRICIA M. MATHEWS, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage to the side lot line (15 ft. min. side yard req. by Sects. 3-207 & 10-104), located 3249 Jermantown Rd., R-2, Providence Dist., 47-3((1))29A, 22,000 sq. ft., VC 84-P-112.

Ms. Cheryl Hamilton presented the staff report. The Board questioned the fact that the certified plat indicated the subject property was owned by Barry D. Murphy. Mrs. Patricia Mathews of 3249 Jermantown Road in Oakton informed the Board that her engineer had drawn the proposed garage on an old plat. She indicated that they had purchased the property in August 1970 and had not had a new survey prepared. Mrs. Mathews stated that it was not possible to construct the garage anywhere on the property without a variance to the 15 ft. side yard setback. It was not possible to locate the proposed garage to the left of the property because of the location of septic fields, an underground sprinkler system, and an 100 ft. Oak Tree. In addition to a grading problem on that side of the property, a new driveway would have to constructed. Mrs. Mathews expressed concern about accessing Jermantown Road at this location because it widened at this point and there was a traffic safety problem.

In response to questions from the Board, Mrs. Mathews assured the Board that the existing 10'x10' shed would be removed from the property. According to Mrs. Mathews, the next door neighbor would not be impacted as their house was located way in front of the proposed garage.

The Board questioned the dimensions of the proposed garage. Mr. Mathews stated that he was willing to reduce the size of the garage but stated that he needed enough room to house two vehicles, a motorcycle, a lawn mower, patio furniture, a billy goat leaf vacuum and various other garden equipment.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-112 by CHARLES F. & PATRICIA M. MATHEWS under Section 18-401 of the Zoning Ordinance to allow construction of detached garage to the *side lot line (15 ft. min. side yard req. by Sects. 3-207 & 10-104), on property located at 3249 Jermantown Road, tax map reference 47-3((1))29A, 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 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 22,000 sq. ft.
4. That the applicants' property is exceptionally long and narrow. There is not any place else in which to construct the detached garage that would not require a 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:

RESOLUTION

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

NOW, THEREFORE, BE IT RESOLVED that the subject application is *GRANTED IN PART (to allow construction of a 22 ft. x 27 ft. garage, 18 ft. in height, to 3 ft. from the side lot line) with the following limitations:

1. This variance is approved for the location and the specific addition indicated in as shown on the revised plat to be submitted in accordance with the resolution. This variance 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. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 2 (Messrs. Smith & Hammack)

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Page 210 November 8, 1984, Scheduled case of

10:45 A.M. MT. TABOR SOCIETY, INC., co/appl. REV. ARTHUR F. VERSTRAETE, C.I.C.M., appl. under Sect. 3-103 of the Ord. for renewal of S-171-79 for monestery/seminary, located 2363 Hunter Mill Rd., R-1, Kemper Park Subd., Centreville Dist., 37-2((1))29 & 37-2((11))43 & 44, 97,630 sq. ft., SPR 79-C-171-1.

As the required notices were not in order, the Board deferred the special permit renewal until January 15, 1985 at 10:30 A.M.

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Page 210 November 13, 1984, Matters

Ms. Jane Kelsey informed the Board that she had discussed Mr. Hyland's inquiry of October 23, 1984 regarding the marking of exhibits in the BZA files. It was the opinion of Karen Harwood of the County Attorney's Office that the marking of exhibits was an administrative procedure and would not have any relevance as far as litigation matters. Several Board members were concerned about the placing of materials in the BZA file after the close of the public hearing. It was felt that should there be litigation, the courts would assume the BZA had considered everything in the file when making its decision when it was not really part of the record. Ms. Kelsey explained the office policy of marking such materials to indicate that it had been received after the close of the hearing and was not considered by the BZA in its decision.

Following further discussion, Chairman Smith asked that the matter be placed on an agenda for further discussion with the Zoning Administrator and the County Attorney.

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Page 210 November 13, 1984, Scheduled case of

11:00 A.M. HERNDON CONGREGATION OF JEHOVAH'S WITNESSES, appl. under Sect. 3-103 of the Ord. for a church and related facilities, located 1526 Beulah Rd., R-1, Dranesville Dist., 28-1((1))3A, 2.0 acres, SP 84-D-064.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. She informed the Board that the applicant was seeking modification of the 25 ft. transitional screening requirement for the lot line adjacent to the Dulles Airport Access Road. Staff did not object to the modification as the land was banked higher than the road and the parking lot would not be visible.

Mr. William W. Beall of 9046 Jeffrey Road in Great Falls represented the church. He indicated that the congregation presently shared a Kingdom Hall on Jermantown Road in Fairfax. Mr. Beall stated that the proposed church and sign would be in harmony with the surrounding area. He questioned development condition nos. 6 and 12.

With respect to the requirement for a trail, Ms. Hamilton stated that the Department of Environmental Management could defer construction of the trail until such time as the adjacent property was developed. Ms. Hamilton stated that even though the site plan showed two entrances into the property, staff was proposing the elimination of the northernmost entrance on Beulah Road. According to the Office of Transportation, the southern entrance was safer, had better sight distance, and was already established.

The following persons were not in opposition to the church but had comments or concerns to express. Mr. Robert Bodine of 6210 Greeley Boulevard in Springfield disagreed with leaving the issue of trail construction to the Department of Environment Management to determine. Ms. Bonnie Taggett of 9411 Atwood Drive was concerned about traffic congestion and did not want to see the land abused. R. M. Michaux, President of the Cinnamon Creek Homes Association, Inc., forwarded a letter requesting that should the Board approve the special permit request, it be in accordance with the development conditions contained in the staff report.

During rebuttal, Mr. David Lutke of 2834 Hale Road, a member of the Board of Trustees for the church, stated that the traffic would be during off-peak hours. He indicated that there were difficulties with the site because of the Dulles Airport Access Road which created problems with trails.

The engineer for the church, Mr. William Haas of Herndon, informed the Board of the difficulty in developing the site with a 25 ft. transitional screening area as it would impact the parking area. Ten parking spaces would have to be eliminated and could not be replaced due to the 15% grade. Eighty parking spaces were provided which was in excess of the required number of parking for the seating capacity. However, the church felt 80 parking spaces were more desirable.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-D-064 by HERNDON CONGREGATION OF JEHOVAH'S WITNESSES under Section 3-103 of the Zoning Ordinance to permit church and related facilities on property located at 1526 Beulah Road, tax map reference 28-1((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 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-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.

RESOLUTION

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.
5. The maximum number of seats shall be 231, with a corresponding minimum of 58 parking spaces. The maximum number of parking spaces shall be 80.
6. Transitional Screening 1 shall be provided along all lot lines without modification except that a modification may be permitted along the southern lot line to provide a 15 foot transitional screening yard. In addition, along the frontage of Beulah Road, a fifteen (15) foot undisturbed transitional screening yard shall be provided and the planting requirement may be modified to provide a lawn area landscaped with evergreen shrubs and the low level plantings. The amount and type of these plantings shall be determined by the Director, Department of Environmental Management. The barrier requirement may be modified except that a barrier shall be provided along the southern lot line.
7. Interior parking lot landscaping shall be provided as required in Article 13.
8. 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 projecting onto adjacent residential properties.
9. All signs shall comply with the provisions of Article 12 of the Zoning Ordinance.
10. Storm water management shall be provided at the discretion of the Director, DEM.
11. Appropriate noise attenuation measures shall be provided to attain a maximum interior noise level of 45 dBA Ldn.
12. A trail shall be provided along the full frontage of Beulah Road pursuant to the policies of the Department of Environmental Management (DEM).
13. The proposed northernmost entrance to the site on Beulah Road shall be eliminated.
14. A right turn deceleration lane shall be provided for the entrance on Beulah Road.
15. Dedication shall be provided from 45 feet to the centerline of Beulah 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 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. Hyland seconded the motion.

The motion passed by a vote of 5 to 2 (Mr. Smith and Mrs. Thonen).

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Page 212 November 13, 1984, Scheduled case of

11:15 A.M. BOULEVARD BAPTIST CHURCH, appl. under Sect. 3-403 of the Ord. for grading, landscaping and parking spaces addition to existing church and related facilities, located 7000 Arlington Blvd., R-4, City Park Homes, Providence Dist., 50-4((16))127-129, 182-185 & 182A, 3.469 acres, SP 84-P-065.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix I. Pastor Eugene Forman of 2945 Rosemoor Lane in Fairfax represented the church. He commended the staff for its fine staff report. Pastor Forman stated that the church was seeking the modification to the grading and the parking lot in order to improve the accessibility of the church. With respect to the staff's suggestion that the southeast entrance be eliminated, Pastor Forman indicated that it had been designed as a one-way drive even though it was not so designated on the plat. By maintaining the southeast entrance and keeping the traffic flow in one direction, it would improve any internal congestion of the parking lot and allow for two exits from the service drive adjacent to Rt. 50.

Pastor Forman stated that Westcott Street was very narrow and many of the homes did not have on-site parking. People parked their cars parallel to the curb. The staff was concerned about the parking spaces next to Westcott Street. However, Pastor Forman assured the Board that this area was not designed for parking but as an unloading zone. He indicated that the church did not wish to eliminate this area as it would increase the parking problems on Westcott Street if delivery trucks had to park at the curb or doublepark. Pastor Forman urged the Board to grant the special permit as requested.

In response to questions from the Board, Ms. Hamilton stated that staff had been unaware of the pattern of circulation and the unloading zone. She requested that the Office of Transportation be allowed an opportunity to review the plat and make further comments

before staff indicated that the changes were all right. Chairman Smith stated that he did not believe the Office of Transportation had been aware of the hilly condition of the property. Ms. Hamilton assured the Board that these conditions were known at the time of staffing.

The Board questioned Pastor Forman regarding meeting the required number of 72 parking spaces since the unloading zone could no longer be counted. Pastor Forman stated that with a slight modification of grading, additional parking for handicapped persons could be accommodated.

Mr. George Schneider of 3064 Holmes Run Road in Falls Church spoke in support of the application and commended the staff. Mr. Robert Bodine of 6210 Greeley Boulevard in Springfield spoke in opposition because of the terrain contours. He was concerned about siltation problems and the steep slopes and the fact that there was nothing in the staff report to indicate how it would be protected.

There was no one else to speak in support or in opposition. The Board was in receipt of a letter in support of the application from Supervisor James Scott of the Providence District. In addition, the Board received a letter of opposition from A. A. Gunnels of 7000 Aronow Drive in Falls Church who was concerned that the special permit would allow increased traffic on Aronow Drive.

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Page 213 November 13, 1984 Board of Zoning Appeals
BOULEVARD BAPTIST CHURCH

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-P-065 by BOULEVARD BAPTIST CHURCH under Section 3-403 of the Zoning Ordinance to permit grading, landscaping and parking spaces addition to existing church and related facilities on property located at 7000 Arlington Boulevard, tax map reference 50-4((16))127-129, 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 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 3.469 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 maximum number of seats shall be 288, with a corresponding minimum of 72 parking spaces.
6. The Transitional Screening 1 requirement shall be modified provided that along the frontages of Westcott Street and the service drive along Arlington Boulevard are landscaped with evergreen shrubs and other low level plantings. The amount and type of planting shall be determined by the Director, Department of Environmental Management. The barrier requirement shall be waived.

RESOLUTION

7. The entrance to the proposed driveway shall be redesigned to facilitate easy access from the middle entrance of the service drive along Arlington Boulevard.
8. All parking spaces located on Westcott Drive shall be relocated on site to the satisfaction of the Director, Department of Environmental Management.
9. The handicapped parking spaces shall meet the requirements of the BOCA code.
10. The hill behind the new parking area shall be vegetated with plants of a type and amount to be determined by the Director, Department of Environmental Management, for the purpose of minimizing erosion.

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 a new or an amended 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 for these parking spaces shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the parking spaces have been constructed 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 unanimously by a vote of 7 to 0

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Page 214 November 13, 1984, Recess

The Board recessed for lunch at 12:30 P.M. and reconvened at 1:35 P.M. to continue the scheduled agenda. Mrs. Thonen left the meeting during the luncheon recess and did not return.

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Page 214 November 13, 1984, Scheduled case of

11:30 A.M. UNITY OF FAIRFAX, CHURCH OF THE DAILY WORD, appl. under Sect. 3-107 of the Ord. to amend S-7-73 for church and related facilities to permit additional land area, use of existing building for sunday school, and construction of additional parking spaces, with modification of the dustless surface requirement, located 2854 Hunter Mill Rd., R-1, Providence Dist., 47-2((1))17A, 17B & pt. 17, 3.373 acres, SPA 73-P-007-1.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix I. The applicant was requesting modification of the transitional screening requirement. Ms. Hamilton stated that staff recommended modification provided that the existing vegetation was retained and evergreen trees were planted along the south, west, and northwest lot lines as indicated on the plat. She further recommended that the transitional screening yard be increased to provide a 15 ft. buffer strip along the north lot line adjacent to the parking area on lot 17.

Mr. Larry Turner of 3203 Burbank Lane of Woodbridge represented the church. He stated that they were a regional church and persons travelled considerable distances. The church was seeking approval of the special permit to allow use of an adjacent house for sunday school purposes. Mr. Turner presented a letter of support from an adjacent property owner, Mr. Finch, who had no objection to the additional parking.

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 73-P-007-1 by UNITY OF FAIRFAX, CHURCH OF THE DAILY WORD, under Section 3-107 of the Zoning Ordinance to amend S-7-73 for church and related facilities to permit additional land area, use of existing building for sunday school, and construction of additional parking spaces, with modification of the dustless surface requirement on property located at 2854 Hunter Mill Road, tax map reference 47-2((1))17A, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

RESOLUTION

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 13, 1984; and

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

1. That the applicant is the contract purchaser/lessee.
2. The present zoning is R-1.
3. The area of the lot is 3.373 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 maximum number of seats shall be 250, with a corresponding minimum of 63 parking spaces. The maximum number of parking spaces shall be 99.
6. The Transitional Screening 1 requirement shall be modified, provided that the existing vegetation is retained and evergreen trees are planted along the south, west, and northwest lot lines as shown on the plat dated August 9, 1984, and a 15 foot transitional screening yard shall be provided along the northern lot line adjacent to the proposed parking area on Lot 17. The barrier requirement shall be waived.
7. Interior parking lot landscaping shall be provided for all new parking areas as required by Article 13 of the Zoning Ordinance.
8. Parking lot lighting, if provided, 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 residential properties.
9. Storm water management shall be provided at the discretion of the Director, Department of Environmental Management.
10. The entrance to the site shall be widened to thirty (30) feet.
11. Access shall be provided from Hunter Mill Road to the remaining portion of Lot 17.
12. All gravel surface areas shall be constructed in accordance with standards approved by the Director, DEM.
13. 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.
14. 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.
15. 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 amendment 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.

RESOLUTION

Mr. Ribble seconded the motion.

The motion passed by a vote of 6 to 0 (Mrs. Thonen being absent).

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Page 216 November 13, 1984, Scheduled case of

11:45 A.M. PHILIP A. WELLS, appl. under Sect. 3-303 of the Ord. to permit renewal of S-82-V-088 for a home professional office (law), located 8707 Thomas J. Stockton Pkwy., Stratford Landing Subd., R-3, Mt. Vernon Dist., 111-1((6))(7)3, 10,780 sq. ft., SPA 82-V-088-1.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix I. Mr. Hyland questioned the reason for requiring three parking space when the original special permit was granted requiring only two parking spaces. Ms. Hamilton responded that two parking spaces would be used by the occupants of the dwelling and the third parking space would be reserved for clients coming to the site.

Mr. Hyland questioned the practice of time limitations on home occupations and home professional office. Ms. Kelsey informed the Board that time limitations were recommended if the property was under a lease agreement or if the property was subject to proposed changes in the area. Since the applicant had been operating without any problems and there were not any proposed changes in the area, staff was recommending approval without any time limitation.

In response to whether there were any other special permits for home professional offices in the area, Ms. Hamilton indicated that the only special permit was for a recreational use for Stratford Landing.

Mr. Philip Wells of 8707 Stockton Parkway informed the Board that he was an attorney and had received a special permit for a home professional office two years ago. He stated that he had been with a law firm in Fairfax until he had medical problems which necessitated his request for a home practice. Mr. Wells informed the Board that he had not received any complaints about his special permit. He did not have a sign nor did he have any employees. Parking was provided in his driveway.

Mr. Wells stated that he was seeking a continuation of the special permit as he was not ready to return to practice in a law firm and was not certain he ever would be. Mr. Wells stated that his neighbors relied on his practice and there were several letters in support of the request for renewal.

In response to questions from the Board, Mr. Wells stated that he did not hold real estate settlements at his home but rented a conference room from another attorney located at 4085 Chain Bridge Road. In the past year, he had conducted approximately three settlements. Mr. Wells stated that he had a general practice and dealt mostly with wills, corporate charters and contracts.

With regard to his medical problems, Mr. Wells stated that he did not have a malignancy any longer and radiation treatment had been discontinued in 1981. It was necessary for him to receive a bone scan every year for the next five years. In response to further questions from the Board, Mr. Wells stated that he did his own typing at 85 wpm. He did not advertise his practice in the Yellow Pages but did list it in his community directory.

Mr. Clark Shoaff of 8705 Stockton Parkway spoke in support of the special permit. In addition, the Board had received letters of support from Joyce Galbraith Colony, 8703 Waterford Road; Donald E. Merritt; Clark and Marilyn Shoaff, 8705 Stockton Parkway; Lois Reed, 5821 Berkshire Court; and Katherine W. Burns, 8611 Waterford Road.

Mr. Hyland inquired of staff as to the number of special permits granted for home professional offices in Fairfax County. Ms. Kelsey replied that she could not answer without some research. However, she indicated that a lot of home occupation letters were given over the counter. Mr. Hyland referred to a previous special permit request for a home professional office to practice law from a gentleman retired from the Department of the Internal Revenue Service. His special permit application had been denied by the BZA but on another occasion, a former judge was granted his request for a home professional office. Mr. Hyland inquired as to what criteria staff used in evaluating the requests. Ms. Kelsey stated that the number of clients were considered as well as the percentage of the home to be used for the home professional office.

Chairman Smith questioned the fact that staff was recommending approval of the special permit without term when the application was for a special permit renewal of the original permit which had been limited to two years. He indicated that if the current advertisement had not mentioned a change in the two year term, it could not be approved without term.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-V-088-1 by PHILIP A. WELLS under Section 3-303 of the Zoning Ordinance to permit renewal of S-82-V-088 for a home professional office (law), on property located at 8707 Thomas J. Stockton Parkway, tax map reference 111-1((6))(7)3, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 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-3.
3. The area of the lot is 10,780 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. There shall be no persons involved in the use other than the applicant.
6. The transitional screening requirement shall be modified provided that the existing vegetation is retained.
7. There shall be a maximum of one (1) client visiting the site at any one time and a total of two (2) per day.
8. The hours of operation shall be 9:00 A.M. to 5:00 P.M., Monday through Saturday.
9. There shall be three (3) parking spaces provided in the existing garage and driveway.
10. This special 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.

Mrs. Day seconded the motion.

During discussion, Mr. Hyland stated that when the original special permit came before the BZA two years ago, he had supported it because of the medical problems Mr. Wells was experiencing. He indicated that Mr. Wells had made a good case then for having his practice located in his home. The practice had been in operation for the past two years. Now, Mr. Wells was requesting an additional period of time. Mr Hyland indicated that there were several Board members who only wanted to renew the permit for a one year period of time. Mr. Hyland stated that he would be most disinclined to approve a continuation of the use in another two years. Mr. Hyland stated that to renew the permit without term was not a reasonable approach. He stated that he was sensitive to the changes in the community as this was a commercial type activity in the community. Mr. Hyland stated that two years from now, he would not support a continuation because of the representations made two years ago for operation on a temporary basis. The applicant was requesting more time which was what Mr. Hyland had recommended, but not on a permanent basis.

RESOLUTION

Mr. Hammack stated that he shared Mr. Hyland's views. He indicated that he had voted for the special permit two years ago because of the temporary need to continue his practice. Mr. Hammack instructed Mr. Wells to be prepared to set up an affiliation in a regular law practice operation. Mr. Hammack indicated that he was sensitive to running a home professional office in a residential community.

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

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// There being no further business, the Board adjourned at 2:20 P.M.

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

Submitted to the Board on Nov. 20, 1984

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: Nov. 27, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Night, November 20, 1984. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 8:15 P.M.); and Mary Thonen. (Messrs. John DiGiulian and John Ribble were absent).
The Chairman opened the meeting at 8:10 P.M. and Mrs. Day led the prayer.

MATTERS PRESENTED BY STAFF MEMBERS:

CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, SP 84-D-059: The Board was in receipt of a memorandum from Jane C. Kelsey, Chief, BZA Support Branch, regarding the special permit application of the Church of Jesus Christ of Latter Day Saints. On October 16, 1984, the BZA approved the special permit application. One of the conditions of approval required that the applicant submit a landscape plan for approval by the BZA. In addition, in accordance with development condition no. 17, a revised site plan was to be submitted to the BZA for approval. Ms. Cheryl Hamilton provided the Board with a copy of the minutes, the revised site plan and the landscape plan for review. She stated that the landscaping plan had been reviewed by the Department of Environmental Management and it was acceptable, including the trail.

Mrs. Day moved that the landscaping plan and the revised site plan be approved. Mrs. Thonen seconded the motion and it passed by a vote 4 to 0 (Messrs. DiGiulian, Hammack and Ribble being absent).

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(Mr. Hammack arrived at the meeting at 8:15 P.M.).

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SEQUOIA BUILDING CORPORATION, SP 84-S-054: The Board was in receipt of a memorandum from Jane Kelsey, Chief, BZA Support Branch, regarding the special permit application of the Sequoia Building Corporation for a community swim and tennis club. At the meeting on September 25, 1984, the applicant had presented revised plats requesting to increase the number of parking spaces from 34 to 37 spaces. Staff had no objection to the request. The BZA deferred decision on the application until October 2, 1984 to allow the applicant to work out problems with a neighboring subdivision. When the hearing resumed, the development condition no. 8 had not been revised to reflect the 37 parking spaces as requested by the applicant and as reflected on the revised plat. Accordingly, staff was requesting that the BZA approve a revised development condition no. 8 to read: "There shall be thirty-seven (37) parking spaces.

Mr. Hyland moved that the Board approve the revised development condition no. 8 as presented by staff. Mrs. Day seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Ribble being absent).

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8:00 P.M. CEDAR CREST COUNTRY CLUB, INC. AND EUGENE N. HOOPER & CELESTE HOOPER, appl. under Sect. 3-C03 of the Ord. to amend SUP #18683 for outdoor recreation uses to permit additional land area, approval of an existing equipment shed, tennis courts, picnic pavilion, outdoor concert area for 20,000 persons and other related uses (additional information in Clerk's office) located 16850 Sudley Rd., R-C, Springfield Dist., 52-3((1))1, 52-1((1))1 & 2, 52-2((1))4, 52-4((1))1, and 42-4((1))9, 812.4 ac., SP 84-S-038. (DEFERRED FROM SEPTEMBER 11, 1984 AT REQUEST OF APPLICANT'S ATTORNEY).

Ms. Jane C. Kelsey presented the staff report which recommended approval of the special permit in accordance with the revised development conditions contained in Appendix 1. The applicant was proposing development of the site in two phases. There was a request to delete some of the requested uses such as an open air concert center and a resort lodge with 100 rooms. Ms. Kelsey reviewed the revised development conditions.

For the record, Ms. Kelsey informed the Board that in 1980, Congress had passed a Bill increasing the boundaries of the Manassas National Battlefield Park to enable the Park Service to purchase land adjoining Bull Run to keep it from further development.

In response to questions from the Board, Ms. Kelsey stated that staff was recommending against the riding facilities because of the potential traffic impact on Bull Run Post Office Road.

Mr. Roland Swain, Supervisor of the Manassas National Battlefield Park, P. O. Box 1830, Manassas, informed the Board of Congress's authorization to expand the battlefield by purchase of the scenic easement 900 ft. back from the banks of Bull Run. Development was prevented within 500 ft. of Bull Run but limited development between 500 ft. and 900 ft. of Bull Run was allowed for one residential unit per two acres. Mr. Swain informed the Board that the Park Service was concerned about the increased uses such as the canoe concession which impacted Bull Run. The purpose of the scenic easement was to preserve the scene much as it was in 1862.

Mr. Harold Miller, an attorney, of 11715 Bowman Greene Drive in Reston, represented Eugene Hooper. He stated that they had withdrawn the more controversial uses but objected to the removal of the riding stable and showroom. Mr. Miller felt the riding stable was an appropriate use as Cedar Crest Country Club owned 1500 acres in Loudoun County. Staff objected to the impact of the horse vans on Bull Run Post Office Road and horse manure in a watershed area. Mr. Miller informed the Board that horses were already located on the site and asked that the Board allow the horse facility in stages. Mr. Hammack questioned Mr. Miller regarding the number of persons allowed on the site per day and whether non-members were allowed to board horses. Mr. Miller stated that the club would work with the Board on any condition if it could keep the horses.

With regard to the scenic easement, Mr. Miller stated that he did not believe that the Park Service could restrict the waterway on Bull Run. Mr. Miller stated that the club did not run a canoe concession but had cut a few steps into the bank so picnickers could ride canoes. Mr. Miller requested the Board to waive the twelve month limitation on filing on the other uses which had been withdrawn.

In response to questions from the Board, Mr. Miller stated that the horse manure would be spread out on the site. The Health Department limited the site to 700 persons per day. The staff had recommended a limitation on the number of members because of the intensification of the use. The replica of the sawmill and the historic center would not be open to the general public according to Mr. Miller.

Mr. Charles Simmons of 5625 Sudley Road was in opposition to the canoe launch as it was located 100 ft. from his house. He objected to the party atmosphere of the splashing and tipping of the canoes occurring every weekend which was not conducive to the rural atmosphere. In addition, the path to the canoe launch provided access for hunters, three-wheelers, and all terrain vehicles which were intrusions into the residential neighborhood. Mr. Derek Wilson of 5649 Sudley Road in Manassas also spoke in opposition to the expansion. Mr. Wilson stated that the 17 metal canoes created a great deal of noise. He was also concerned about the problem of hunters.

During rebuttal, Mr. Miller stated that of the 15 homes in the immediate area, only one or two were near the two mile stretch of Bull Run. He stated that hunting was not allowed on the club property. Canoeing was a healthy activity. With regard to the all terrain vehicles, Mr. Miller stated that Mr. Hooper's grandson owned one but it was not part of the facilities. Mr. Miller stated that the club had not had any limitation on membership since 1959.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-S-038 by CEDAR CREST COUNTRY CLUB, INC. AND EUGENE N. HOOPER & CELESTE HOOPER under Section 3-C03 of the Zoning Ordinance to amend SUP #18683 for outdoor recreation uses to permit additional land area, approval of an existing equipment shed, tennis courts, picnic pavilion, outdoor concert area for 20,000 persons and other related uses on property located at 16850 Sudley Road, tax map reference 52-3((1))1 & 2, 52-2((1))4, 52-4((1))1, and 42-4((1))9,, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 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 37,880 sq. ft.
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 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 existing approved buildings and uses and certain additional structures and uses as itemized in Condition No. 5 below and in the locations shown on the plat submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
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 approval is for the following uses and structures:
   - Three (3) existing outdoor tennis courts
   - Deck addition to second story of clubhouse (25' wide)
   - 9600 square foot addition to clubhouse for dining, bathroom, and locker room facilities for use of club members and their guests, provided the additional bathrooms are approved by the Health Department.
   - Conversion of an open air maintenance shed (35' x 144') to a picnic pavilion
   - Removal of an existing golf cart storage shed and the construction of a new golf cart storage shed and range ball shed (36' x 150')
   - Two (2) story addition to pro shop for women and men's lounges and locker rooms (25' x 52')
   - Nine (9) additional golf holes provided that these holes are located such that the disturbed area will not interfere with the natural filtration system remaining between the holes and the stream. Prior to site plan approval, the location of these holes and their proximity to the Environmental Quality Corridor shall be approved by the Department of Environmental Management in coordination with the Environment and Policy Division, OCP.
   - Existing snack bar building on golf course
   - Existing volleyball court
   - Four (4) softball diamonds, (two (2) of which are existing)
   - Existing pumphouses
   - Existing picnic pavilion (50' x 120')
   - Existing cooking shed and smokehouse (35' x 119')
   - Replica of a sawmill, railroad camp and historic center
   - Existing security trailer
   - Fishing pond
6. The existing vegetation shall be deemed to satisfy the transitional screening and barrier requirement.
7. There shall be a maximum of 550 parking spaces which currently exist on the property.
8. There shall be a maximum of 700 memberships for the Club whether individual, family or some other class and a maximum of 700 persons including members and/or guests which are permitted on the site in any given day.
9. Access to the site shall be limited to the existing entrance on Bull Run Post Office Road. Improvements to the existing entrance should be considered by the Director at the time of site plan review.
10. No clearing or grading shall occur in the Environmental Quality Corridor (EQC) except for the golf holes, if such can be installed in accordance with the policies set forth for the Environmental Corridor and is approved by DEM and OCP. Prior to final approval of the grading plans; the applicant shall coordinate with the Department of Environmental Management, DEM, and the Environment and Policy Division of the Office of Comprehensive Plan to insure that this condition has been satisfied.
11. All development shall be subject to the provisions of the Water Supply Protection Overlay District.
12. The site plan shall be approved by the County Arborist to assure that quality vegetation is preserved in all areas except in the location of new structures or uses and in utility line areas.
13. All gravel surface areas shall be constructed in accordance with standards approved by the Director, DEM.

RESOLUTION

14. 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.
15. A sand and gravel trench shall be installed on the downhill side of the parking areas for initial collection and filtration of water running off the parking lot.
16. The approval of the waiver of the dustless surface requirement is for a period of five (5) years.
17. This special permit for the camp and recreation ground is approved for a period of three (3) years provided that the permit may be extended for three (3) successive periods of one (1) year each in accordance with the provisions of Sect. 8-012. At the expiration of six (6) years, the permit may be renewed in accordance with the provisions of Sect. 8-013.

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 prior to the expiration date.

Mr. Hyland seconded the motion.

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

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8:30 P.M. ANTOINE S. & HIAM H. KHOURY, appl. under Sect. 3-403 of the Ord. for a home professional office (accounting and tax service), located 3915 Annandale Rd., R-4, Beverly Manor, Mason Dist., 60-3((25))3 & 14, 37,880 sq. ft., SP 84-M-043. (DEFERRED FROM AUGUST 7, 1984 AT THE REQUEST OF THE CITIZENS AND FROM SEPTEMBER 18, 1984 AT THE REQUEST OF THE APPLICANT).

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the revised development conditions set forth in Appendix I. Mr. Gary Davis, an attorney in McLean, represented the applicant. He informed the Board that the opposition concerning the use had been resolved by the preparation of a covenant to the land records which would be recorded to prevent the property from becoming commercial property. Mr. Davis assured the Board that his client did not have any problem with the revised development conditions. He questioned condition no. 9 regarding dedication for sidewalks along the frontage of Annandale Road as it did not specify an exact amount to be dedicated.

In response to questions from the Board, Mr. Davis stated that the facility contained 8 or 9 offices at the present time. The amount of office space would be reduced to four offices and a room for the xerox machine.

Mr. Tom Cator of 7232 Brookcrest Place in Annandale spoke in support of the application. He noted Mr. Davis' promise to file the covenant in the land record. Mr. Cator stated that the dedication should not be open-ended.

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

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-M-043 by ANTOINE S. & HIAM H. KHOURY under Section 3-403 of the Zoning Ordinance to permit home professional office (accounting and tax service) on property located at 3915 Annandale Road, tax map reference 60-3((25))3 & 14, 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 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-4.
3. The area of the lot is 37,880 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 parking lot shall contain a maximum of five (5) parking spaces.
6. The entrance to the parking lot shall not exceed a width of thirty (30) feet.
7. The office portion shall be limited to the existing offices and the glass enclosed porch shall not be used in connection with this use.
8. An eight (8) foot strip along the frontage of Beverly Manor Drive shall be landscaped with evergreen plantings and shrubbery in order to screen the view of the parking area from nearby residences. Landscaping shall also be provided along the edge of the two (2) parking spaces located to the southwest. The existing vegetation on the site shall be retained.
9. A maximum of six (6) foot dedication shall be provided for a sidewalk along the frontage of Annandale Road.
10. The hours of operation shall be from 9:00 A.M. to 5:00 P.M., Monday through Friday.
11. In addition to the applicant there shall be no more than three (3) employees.
12. Access to the site from Annandale Road shall be for residential use only.
13. There shall be no more than four (4) clients daily. And there shall be no more than two (2) clients on site at any one time.

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, twelve (12) months after the approval date of the Special Permit unless the parking area has been installed in accordance with the conditions set forth above and the activity has been established, 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 4 to 1 (Mrs. Day).

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8:45 P.M. BENJAMIN L. III & KATHERINE E. ORCHARD, appl. under Sect. 18-401 of the Ord. to allow a 6 ft. high fence to remain partially in front yard (4 ft. max. height for fence in front yard req. by Sect. 10-104), located 4800 Edwards St., R-2, Glendale Subd., Mason Dist., 72-1((12))2, 21,780 sq. ft., VC 84-M-120.

Mr. William Shoup presented the staff report. He explained that the entire property was fenced but only the front yard area required a variance. Zoning Enforcement had contacted the Orchards as their fence had been erected in violation of the Ordinance. The Orchards had filed a variance which had been denied by the BZA on April 3, 1984. Later, the BZA approved a waiver of the twelve month limitation which allowed the Orchards to refile the variance.

Mr. Benjamin L. Orchard, III and Mrs. Katherine E. Orchard of 4800 Edwards Street informed the Board that they felt they met the required nine standards for the granting of a variance. Their property was acquired in good faith. The fence had been there when they purchased the property. However, the height of the fence had been extended for the health, safety, and welfare of the public. Mr. Orchard stated that his property had an extraordinary condition because of the pool in the back yard. The fence prevented anyone from straying onto the property and getting hurt by the three Doberman Pinschers kept on the property. Mr. Orchard claimed it would be an undue hardship to have to remove the fence as older children walked to school in front of his property. There were not any sidewalks so the fence marked the perimeter of Mr. Orchard's property.

Mr. Orchard stated that his home was located in the middle of nine home on Edwards Street. At the last hearing, two property owners had been against the fence. All the others had been in support of the fence. Mr. Orchard stated that the 6 ft. fence allowed him to fully utilize his property. He did not feel the fence would change the character of the zoning district. He indicated that commercial property was located behind his property.

In summary, Mr. Orchard stated that he wanted to keep his 6 ft. fence. If the variance were denied, he stated that he would be forced to install an underground electric fence to keep the dogs on his property. However, he did not feel the underground fence would be in the best interest of the community. Mr. Orchard presented the petition signed by neighbors in support of the fence.

Mrs. Joyce Park, a resident for 26 years, of 6521 Fairland Street, informed the Board that she supported the fence because of the dogs. She was a walker and could walk down Edwards Street without being afraid of the dogs. In response to questions from the Board, Mrs. Park stated that she would not object to the fence even if there were not any dogs. According to Mrs. Park, there was not a difference between a tall hedge or a fence.

The next speaker in support was Mrs. Carole Shackelford of 4731 Edwards Street. She indicated that Edwards Street was a little different than most residential areas because of the two schools and the High's store. Mrs. Shackelford stated that the children rode their bicycles on Edwards Street all day long. The fence protected the children and was not ugly. In response to questions from the Board, Mrs. Shackelford stated that the Ordinance was for the protection of the public. As part of the public, she wanted the fence to remain.

There was no one else to speak in support of the application. The Board was in receipt of letters of opposition from Mrs. Nancy L. Brown, President of the Lincolnia Park Civic Association; Mrs. Betty Lee Javage; and Mr. Hal L. Young.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-120 by BENJAMIN L. III & KATHERINE E. ORCHARD under Section 18-401 of the Zoning Ordinance to allow a 6 ft. high fence to remain partially in front yard (4 ft. maximum 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. 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 20, 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 21,780 sq. ft.
4. That the applicants' extraordinary condition was brought on by themselves and there is no hardship.

RESOLUTION

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. Thonen seconded the motion.

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

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Page 225 November 20, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of current Minutes for November 8, 1984 and backlogged Minutes for April 26, 1983. Mrs. Day moved that the Board approve the Minutes as submitted. Mr. Hammack seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Ribble being absent).

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

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

Submitted to the Board on Nov. 27, 1984

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: December 4, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 27, 1984. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (arriving at 10:15 A.M.); Gerald Hyland; Ann Day; Paul Hammack; and Mary Thonen. (Mr. John Ribble was absent).

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

10:00 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; DEFERRED FROM MARCH 27, JUNE 5, & SEPTEMBER 11, 1984 AT THE REQUEST OF THE APPLICANT).

10:00 A.M. KING OF KINGS LUTHERAN CHURCH, appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirements), located 12604 Lee Jackson Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 ac., SP 84-C-037. (DECISION DEFERRED FOR PERIOD OF 60 DAYS TO ALLOW INVESTIGATION OF THE POSSIBILITY OF COUNTY OR STATE ACQUISITION OF PROPERTY; DEFERRED FROM MARCH 27, JUNE 5, & SEPTEMBER 11, 1984 AT THE REQUEST OF THE APPLICANT).

The Board was in receipt of a letter from Mr. Charles L. Shumate, attorney for the applicant, requesting a further deferral of the above-captioned applications to permit continued negotiations with the County. It was the consensus of the Board to schedule the applications for Tuesday, February 12, 1985 at 10:00 A.M.

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Page 226 November 27, 1984, Scheduled case of

10:10 A.M. ELEANOR THOMPSON, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, proposed lots 2 & 3 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 acres, VC 84-P-089.

Mr. William Shoup presented the staff report. He stated that a variance to allow a subdivision into four lots had been approved by the BZA in June 1980 but the applicant had failed to record the subdivision in a timely manner and the variance had expired. Subsequent variance applications to permit the same subdivision had been denied. Mr. Shoup stated that the present variance application had been reduced to request a subdivision for three lots. Staff was concerned about the access for the three lot subdivision. Mr. Shoup explained that staff did not feel the variance met the required standards of the Ordinance. However, should the BZA chose to grant the variance, Mr. Shoup amended development condition no. 5 to read, "Access to all three (3) lots shall be via one (1) shared driveway entrance on Idylwood Road. The access shall be recorded with the deeds to these properties among the land records of Fairfax County."

Mr. Brian R. Loe, an attorney with Holst & Hartshorn, with an office located at 6400 Arlington Boulevard, Suite 142, Falls Church, Va., represented Mrs. Thompson. He indicated that his written statement set forth the justification for the granting of the variance. Mr. Loe informed the Board that the staff report was well written and Mrs. Thompson was prepared to meet the development conditions set forth in the report.

Mr. Loe stated that Mrs. Thompson had applied for a variance in good faith on three occasions. He indicated that she had difficulty in pursuing the first variance granted in 1980. There were problems with access to to the sewer hookup but after assistance from the County and a cost of $3500, the sewer easement was obtained in 1983. However, when Mrs. Thompson applied for the variance after solving the sewer hookup problem, it was denied. Because of criticism regarding the four lot subdivision, Mr. Loe explained that Mrs. Thompson had amended her original request and was now requesting three lots.

At the last hearing, there had been some concern regarding the pipestem driveway. Mr. Loe stated that all Mrs. Thompson wanted to do was to upgrade the point of access and build two houses on the front lots. She had resided on the property for 30 years. Mrs. Thompson proposed to develop the property and sell the lots for use in her retirement.

Mr. Loe informed the Board that Idylwood Towers had been built across the street from Mrs. Thompson. Down the street were two townhouse developments. More development was taking place on Virginia Lane. Mr. Loe stated that the BZA could grant the variance to permit the three lots as the property was zoned R-3 or someone else could buy the property and ask for a more intensive use. Mr. Loe indicated that townhouses would not be appropriate around the cemetery. The property could not be developed by right because of the access problem. The staff report expressed concern regarding sight distance for the pipestem. Mr. Loe stated that the access had been used in this manner since Idylwood Road had been paved. With respect to the staff concern regarding trip generation, Mr. Loe felt the increase was not significant.

In response to questions from the Board, Mr. Loe stated that the adjoining lot 65 was owned by Mrs. Ruckstuhl who also owned lots 59, 61A, and 64. The other adjoining property had been owned by Mrs. Howell who was now deceased. Her estate was still in probate. Mr. Loe informed the Board that these large pieces of land were capable of a more intensive use. However, Mrs. Thompson was requesting development in accordance with her property's existing zoning.

There was no one else to speak in support. Mr. Ray Keating, an attorney located at 311 Park Avenue in Falls Church, represented Dr. Ruckstuhl who was in opposition to the the proposed development of the property and the pipestem driveway. Mr. Keating indicated there were transportation problems with Idylwood Road which ran from Rt. 7 to Cedar Lane. He was concerned about sight distance at the pipestem because of the bend in the road. Mr. Keating informed the Board that Dr. Ruckstuhl had no intention of developing her property. In the past, she had expressed a desire to use her property for a cancer research facility. Dr. Ruckstuhl had owned her property for as long as Mrs. Thompson. Mr. Keating indicated that there was not any sound reason for granting a variance to Mrs. Thompson. He was concerned about the access easement next to Mrs. Howell's property.

In response to questions from the Board concerning Dr. Ruckstuhl's desire to use her property for scientific research, Mr. Keating indicated that there was not any application pending for such use and he doubted it would ever go forward. There was no one else to speak in opposition.

During rebuttal, Mr. Loe stated that Mrs. Thompson's property was located on the straight away of Idylwood Road. Sight distance was better at this location that on any other outlet on Idylwood Road. With regard to opposition to the request, Mr. Loe indicated that some of the rental people were fearful that the area was being rezoned and they would be forced out of their homes.

In response to questions from the Board concerning lot 67 becoming a non-conforming use because of the 25 ft. setback requirement, Mr. Shoup explained that the area along the pipestem would become a front yard. He further indicated that a great portion of that area was already considered a front yard. Mrs. Thonen was concerned about lot 67 losing the use of 25 ft. of its property. Mr. Hyland responded that it would only be restricted by the difference between the current side yard setback and the 25 ft. setback. Mr. DiGiulian inquired if the current access to the cemetery already restricted lot 67 with the 25 ft. setback requirement. Mr. Shoup explained that it was the pipestem access that initiated the setback requirement.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-089 by ELEANOR THOMPSON under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lots 2 & 3 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. 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 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 1.3942 acres.

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 is unusually shaped, being deep with the larger area located away from Idylwood Road. The lot is unusual for the reason that its adjacent to a cemetery. The property ingress/egress is severely restricted.
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.

RESOLUTION

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 (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. The subdivision of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code.
4. Dedication of right-of-way for public street purposes to forty-five (45) feet from centerline shall be provided along the frontage of Idylwood Road.
5. Access to all three (3) lots shall be via one (1) shared driveway entrance on Idylwood Road. The access to the three (3) lots shall be recorded with the deeds to these properties among the land records of Fairfax County.
6. If access to the cemetery is necessary across any of the proposed lots, such shall be permitted.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4 to 2 (Mrs. Day and Mrs. Thonen)(Mr. Ribble being absent).

Chairman Smith stated that he had not supported the other variance applications as he felt the request for four lots was over development of the property.

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Page 228 November 27, 1984, Scheduled case of

10:30 A.M. KAMAL Y. PETRUS, appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 lots, proposed lot A-1 having width of 8.21 ft. (100 ft. min. lot width req. by Sect. 3-206), located 8036 Idylwood Rd., R-2, John Bell Subd., Providence Dist., 39-4((1))51, 46,790 sq. ft., VC 84-P-113.

Mr. William Shoup presented the staff report. The Board recessed the hearing at 11:05 A.M. to allow Mr. Petrus an opportunity to review the letters of opposition. At 11:15 A.M., the Board reconvened to continue the hearing. Mr. Kamal Petrus of 1836 Idylwood Road in Dunn Loring informed the Board that his property had been zoned R-2 when he purchased it in good faith in 1980.

In response to questions from the Board, Mr. Petrus indicated that he was proposing to develop the second lot on a septic tank and well as the closest sewer was approximately 250 ft. away. In addition, he explained that his land was higher than the bumping point for the sewer so it was more practical to have a septic tank.

When questioned by the Board regarding the setbacks, Mr. Shoup explained that the provisions for the 25 ft. setback from pipestems did not apply in this instance as the pipestem was only for one lot. He stated that the normal side yard of 15 ft. applied.

The Board questioned the location of the current drainfield as it was not shown on the plat. Mr. Petrus pointed out the location on the map. He stated that the closest house to his property belonged to Mr. Boyd Fletcher.

There was no one else to speak in support. The following persons spoke in opposition: Mr. Nicholas Hamisevicz of 8017 Elm Place; Mrs. Ann Moran of 8017 Elm Place; Mrs. Janet Fletcher of 8032 Idylwood Road; Mr. Boyd Fletcher of 8032 Idylwood Road; Mrs. Elizabeth Black of 2346 Gallows Road; Mr. Michael Cochran of 8031 Idylwood Road; Mr. Robert N. Bodine of 6210 Greeley Boulevard in Springfield; and Mr. Ronald Ware of P. O. Box 128, Dunn Loring. The opposition was concerned about the steep slope of the proposed pipestem driveway as car headlights would shine into adjoining residences. The location of the proposed property on a wooded curve on Idylwood Road would limit sight distance. It was feared that the variance for the pipestem lot would set a precedent in the area. The opposition did not wish the rural beauty of the area disturbed. The hazardous traffic condition of Idylwood Road was another concern since traffic backs up beyond Mr. Petrus' property. Concern was expressed for commuters stopped at the light in front of the proposed access because of the steep slope which would be hazardous during icy conditions. Some felt that the real estate values of their property would be depreciated for Mr. Petrus' gain. The opposition indicated that zoning laws should be upheld.

During rebuttal, Mr. Petrus indicated that he appreciated the opinions and views of his neighbors but they had to face facts that the area was being commercially developed.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-113 by KAMAL Y. PETRUS under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot A-1 having width of 8.21 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 8036 Idylwood Road, tax map reference 39-4((1))51, 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 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-2.
3. The area of the lot is 46,790 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.

RESOLUTION

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. Thonen seconded the motion.

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

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Page 230 November 27, 1984, Scheduled case of

10:45 A.M. HOWARD T. ARNI, appl. under Sect. 18-401 of the Ord. to allow construction of carport addition to dwelling to 3.5 ft. from side lot line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), located 3303 Graham Rd., R-4, Broyhill Park Subd., Mason Dist., 60-1((21))1, 12,761 sq. ft., VC 84-M-114.

Mr. William Shoup presented the staff report. Mr. Howard T. Arni of 3303 Graham Road informed the Board that he wanted to build a carport on the north side of his lot to protect his cars. He stated that his justification was contained in his written statement. The chief reason for desiring the carport was because of a neighbor's oak tree which overshadows everything. Mr. Arni stated that when he constructed his fence, he had to jog the fence around the tree. The tree dropped sap and leaves onto his automobiles. Mr. Arni stated that he had always wanted a carport but this was the first time he had money enough to build one. He indicated that it would not change the character of the area. In response to questions from the Board, Mr. Arni stated that his stoop extended out 2 feet into the proposed carport.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-114 by HOWARD T. ARNI under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 3.5 ft. from side lot line (5 ft. min. side yard req. by Sects. 3-407 & 2-412), on property located at 3303 Graham Road, tax map reference 60-1((21))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 November 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 12,761 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 is narrow and located in an area where its impossible to build a carport anywhere else.
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 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. DiGiulian seconded the motion.

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

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Page 231 November 27, 1984, Scheduled case of

11:00 A.M. HUGH C. & ANTOINETTE C. MCKEE, appl. under Sect. 18-401 of the Ord. to allow construction of an addition to dwelling to 9 ft. from side lot line such that side yards total 29.1 ft. (12 ft. min., 40 ft. total min. side yard req. by Sects. 3-107), located 2722 Valestra Circle, R-1(C), Berryland Farm Subd., Centreville Dist., 37-3((12))100A, 20,018 sq. ft., VC 84-C-115.

Mr. William Shoup presented the staff report. Mr. Hugh McKee of 2722 Valestra Circle in Oakton informed the Board that the design of his house had been influenced by the idea of having a porch at this proposed location. Mr. McKee stated that his neighbor on lot 99, Mr. Earl Gore, had a septic field which was next to the property line. Therefore, Mr. McKee indicated that he felt it was reasonable to build his porch in this location. He informed the Board that he had failed to examine the zoning laws when he was contemplating the porch. It was not until he had saved the money and was serious about the project that he discovered he needed a variance. Mr. McKee informed the Board that he had the support of his neighbors and the homeowners association.

In response to questions from the Board, Mr. McKee stated that he had anticipated the porch when the house was constructed. Accordingly, he had done away with a furnace and located a door 5 ft. above the foundation.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-C-115 by HUGH C. & ANTOINETTE C. MCKEE under Section 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 9 ft. from side lot line such that side yards total 29.1 ft. (12 ft. min., 40 ft. total min. side yard req. by Sects. 3-107), on property located at 2722 Valestra Circle, tax map reference 37-3((12))100A, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

RESOLUTION

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 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(C).
3. The area of the lot is 20,018 sq. ft.
4. That the applicant desires to build a 11'x16' screened porch 9 ft. from the side lot line. The Berryland Farm Homeowners Association have given approval of the application. The variance would not have an adverse affect on lot 99 because of the septic field on lot 99 which would be parallel to the proposed porch. The house is situated further back on the lot.

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. Thonen seconded the motion.

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

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Page 233 November 27, 1984, Scheduled case of

11:15 A.M. BETHELEM BAPTIST CHURCH AND ACADEMY, appl. under Sect. 3-103 of the Ord. to amend S-80-S-067 for church and school of general education to permit deletion of a portion of previously approved uses and the addition of new structures and uses (see Clerk for details), located 4601 West Ox Rd., R-1, Springfield Dist., 56-1((1))10, 11, 11C, 11D & 11E, 23.88 acres, SPA 80-S-067-1.

The Board was in receipt of a letter from Mr. Ken Murphy requesting withdrawal of the above-captioned application. Mr. Hyland moved that the Board allow withdrawal without prejudice. Mr. Hammack seconded the motion and it passed by a vote of 6 to 0 (Mr. Ribble being absent).

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Page 233 November 27, 1984, Scheduled case of

11:30 A.M. CHARLES F. SCHEIDER, III, appl. under Sect. 18-401 of the Ord. to allow subdivision into 6 lots, proposed lots 3, 4, 5, and 6 each having width of 4.5 ft., and proposed lot 1 having width of 80.2 ft. (100 ft. min. lot width req. by Sect. 3-206), and to allow existing dwelling on proposed lot 1 to be 14 ft. from a contiguous pipestem (25 ft. min. front yard req. by Sect. 2-416), located 3450, 3452 and 3454 Gallows Rd., Shamrock Heights, R-2, Mason Dist., 59-2((1))49 and 59-2((10))1, 3.22 acres, VC 84-M-101. (DEFERRED FROM OCTOBER 23, 1984 AT REQUEST OF APPLICANT'S ATTORNEY).

Ms. Cheryl Hamilton presented the staff report. Mr. Charles L. Shumate, agent for the applicant, presented the Board with a letter and a petition in support of the proposed variance. He indicated that no one was in opposition. Mr. Scheider owns 3.22 acres and wants to subdivide it into six lots. Three houses currently exist on the property. Mr. Shumate stated that the R-2 zoning would yield six lots. Mr. Scheider intends to give each of his children one of the lots for their own residence. Mr. Shumate informed the Board that Mr. Scheider had met with Supervisor Davis to discuss the proposed variance. He presented a letter of support dated October 20, 1984 from Supervisor Davis.

In response to questions from the Board, Mr. Shumate stated that Mr. Cowan was now in favor of the variance. In further response to questioning, Mr. Shumate stated that a street was not desirable as it would not yield the same number of lots and the applicant could not provide the deceleration lanes. Mr. Shumate indicated that infill development was common on both sides of Gallows Road.

There was no one else to speak in support and no one to speak in opposition. Mr. Hammack indicated that he had some reservations regarding the variance. Accordingly, he moved that the Board defer decision for a period of one week to allow a visitation to the site. Mr. DiGiulian seconded the motion and it passed by a vote of 6 to 0 (Mr. Ribble being absent). It was the consensus of the Board to schedule the decision at the beginning of the meeting on Tuesday, December 4, 1984 at 10:00 A.M. under Board matters.

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Page 233 November 27, 1984, After Agenda Items

GORDON L. ERNEST, V-82-C-134: The Board was in receipt of a request from Mr. Gordon L. Ernest for additional time to allow recordation of subdivision for his variance. Mr. Hyland moved that the Board approve additional time for a period of six months. Mr. Hammack seconded the motion and it passed by a vote of 6 to 0 (Mr. Ribble being absent).

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Page 233 November 27, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of current Minutes for November 13, 1984. Mrs. Day moved that the minutes be approved as submitted. Mr. Hammack seconded the motion and it passed by a vote of 6 to 0 (Mr. Ribble being absent).

The Board was in receipt of backlogged Minutes for May 3, May 10, May 17 and May 24, 1983. Mrs. Day moved that the minutes be approved as submitted. Mrs. Thonen seconded the motion and it passed by a vote of 6 to 0 (Mr. Ribble being absent).

// There being no further business, the Board adjourned at 12:30 P.M.

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

Submitted to the Board on Dec. 4, 1984

Daniel Smith
DANIEL SMITH, CHAIRMAN

APPROVED: December 11, 1984
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 4, 1984. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 10:25 A.M.); John Ribble; and Mary Thonen (arriving at 10:20 A.M.). (Mr. John DiGiulian was absent).

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

Chairman Smith called the recessed case of

10:00 A.M. CHARLES F. SCHEIDER, III, appl. under Sect. 18-401 of the Ord. to allow subdivision into 6 lots, proposed lots 3, 4, 5, and 6 each having width of 4.5 ft., and proposed lot 1 having width of 80.2 ft. (100 ft. min. lot width req. by Sect. 3-206), and to allow existing dwelling on proposed lot 1 to be 14 ft. from a contiguous pipestem (25 ft. min. front yard req. by Sect. 2-416), located 3450, 3452 and 3454 Gallows Rd., Shamrock Heights, R-2, Mason Dist., 59-2((1))49 and 59-2((10))1, 3.22 acres, VC 84-M-101. (DEFERRED FROM OCTOBER 23, 1984 AT REQUEST OF APPLICANT'S ATTORNEY. DEFERRED FROM NOVEMBER 27, 1984 FOR DECISION AFTER VISITATION OF SITE BY BZA MEMBERS).

As Mr. Hammack was not yet present at the meeting and he had been the member moving to defer the above-captioned variance application to allow a visitation of the site, Mr. Hyland moved that the Board defer decision until Tuesday, December 11, 1984 at 1:45 P.M. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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Mrs. Thonen arrived at the meeting at 10:20 A.M. and Mr. Hammack arrived at 10:25 A.M.).

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Page 234 December 4, 1984, Scheduled case of

10:00 A.M. FIRST BAPTIST CHURCH OF SPRINGFIELD, appl. under Sect. 3-303 of the Ord. for addition of buildings, including new sanctuary, and additional parking to existing church and related facilities, located 7300 Gary St., R-3, Monticello Forest Subd., Lee Dist., 80-3((3))3, 3.4746 acres, SPA 75-L-215-1.

Ms. Cheryl Hamilton presented the staff report which recommended denial of the special permit because of the significant transportation issues, the size of the of the proposed structure, and it not being harmonious with the neighboring properties. In addition, Ms. Hamilton noted that the revised plat submitted to staff the day before indicated a shed which had not been included with the special permit application. Accordingly, it was staff's position that the Board could not consider the inclusion of the shed as a part of the present special permit application and that it would have to be the subject of another special permit amendment application.

Ms. Hamilton informed the Board that the subject property had been the subject of a recent rezoning application which rezoned the property from R-3 to the R-8 zoning category. The Board was concerned that the rezoning was not consistent with the Comprehensive Plan.

Mr. Van Adams, Chairman of the Sanctuary Steering Committee, represented the First Baptist Church of Springfield. The existing 27 year old sanctuary seats 435 persons and the church holds two services each Sunday in order to accommodate its 1300 member congregation. Mr. Adams informed the Board that the proposed additions would benefit the community for the following reasons:

- It was an attractive structure. The church had made changes in the design to reduce the impact of the building on the community.
- The site was not screened at the present time. The church was proposing landscaping, screening and earth berms.
- Interior landscaping and inner green space were proposed for the open parking lot.
- Parking would be provided underneath the structure for twenty (20) vehicles so approximately 25 percent of the total parking would not visible.
- The existing entrance to the church next to St. Christopher's would relocated to the middle of the property on Monticello Boulevard and the entrance at the corner of Gary Street and Monticello Boulevard would be moved to the side on Gary Street. An entrance would be provided for each parking lot.
- The abandonment of the service drive approved by the Board of Supervisors on September 10, 1984 would be developed as part of the church parking and screening. The closing of the service drive would eliminate the conflicting parallel traffic flow which was a danger to the community.

Mr. Adams informed the Board that this was a regional church with 30 percent of the membership residing in Lee District. He presented the Board with a petition signed by 335 people in support of the application. Mr. Adams informed the Board that the church

had held numerous meetings with the community, Supervisor Alexander of Lee District, and the Springfield Civic Association. The representatives of the church had walked the residential streets and talked personally to the residents in the area. On October 4, 1984, the church held a neighborhood meeting inviting all thirty neighbors from Gary Street, Falmouth Street, and Monticello Boulevard. Only two neighbors attended and they had no objections to the church's plans. Mr. Adams assured the Board that the church had worked with the community in good faith.

With regard to development conditions contained in the staff report, Mr. Adams suggested modifying language for condition numbers 5 and 12. He suggested modifying the language for condition number 5 to approximate language contained in the rezoning proffer of November 19, 1984. With respect to condition number 12, Mr. Adams suggested that it be modified to indicate that the entrances would comply with VDH&T requirements.

Mr. Adams informed the Board that the proposed floor area ratio would not exceed .4 including the 15 foot by 20 foot storage shed. Mr. Adams asked that the shed be included with the current application as it had been included on the landscaping plan submitted wit the rezoning application.

In response to questions from the Board, Mr. Adams stated that the expansion of the church building would be used only for church purposes and sunday school education but not for the existing 148 pupil day school.

The following persons spoke in support of the special permit application: Mr. John Vickers-Smith of St. Christopher's Episcopal Church; Ms. Yvonne Stroder of 7405 Gary Street; Mr. J. T. Estridge, Vice-President of the Springfield Civic Association, 5905 Flanders Street; and Mr. Lawrence Cook, the architect for the church. The support indicated that the church had been faithful in keeping them informed and addressing the neighbors' needs. The neighbors were pleased with the closing of the service drive. No one from the Springfield Civic Association objected to the church's proposals. The architect for the church informed the Board that the shed had been on the plan for several weeks and was drawn to scale. He indicated that the shed would not be visible from any neighboring property.

Following further discussion among the Board, staff and the applicant regarding whether the shed could be considered as part of the present special permit application, it was the consensus of the Board that it would require a separate application and public hearing.

In response to questions from the Board, Mr. Adams stated that the petition in support of the special permit application was signed by members of the congregation, some of whom were residents. He indicated that he had personally talked to non-member residents but had not asked them to sign the petition.

Mr. Robert N. Bodine of 6210 Greeley Boulevard in Springfield spoke in opposition. He stated that he resided approximately two miles from the church. Mr. Bodine objected to the rezoning of the church property as he felt the Board of Supervisors had blatantly violated the Comprehensive Plan. He was concerned that should the church choose to move its regional facility elsewhere, the R-8 zoning designation would allow for townhouses to be constructed in the midst of the single family residential area. Mr. Bodine stated that the matter should have gone the route of an Annual Plan Review rather than a rezoning of the property. Mr. Bodine stated that the proposal did not make any sense at all of having a regional church with only 30 percent of the congregation coming from Lee District. He indicated that the site was too small. Mr. Bodine wondered what would prevent the adjoining church from becoming a regional church and having 1300 people on the site.

Mr. Adams chose not to rebut the opposition except to say that the R-8 zoning was proferred for church use only. It could not be used for any other use anytime in the future. There was no one else to speak in support or in opposition.

During discussion, Chairman Smith and Mr. Hyland indicated that Mr. Bodine's comments were very well taken. Chairman Smith stated that he could not see how the Board of Supervisors had found the rezoning to be within the concepts of good zoning and proper planning when it was not in the Comprehensive Plan. Mrs. Thonen indicated that the Board of Zoning Appeals should not judge the Board of Supervisors.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 75-L-215-1 by FIRST BAPTIST CHURCH OF SPRINGFIELD under Section 3-303 of the Zoning Ordinance to permit addition of buildings, including new sanctuary, and additional parking to existing church and related facilities, on property located at 7300 Gary Street, tax map reference 80-3((3))3, 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 4, 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 3.4746 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 failed to satisfy the requirements and 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:

1. Mr. Hammack referred to the conclusions and recommendations of the staff. He indicated that where he felt the church had failed to satisfy the requirements was that the church has an existing 430 seat sanctuary. It now seeks to have a 770 seat sanctuary. But in doing this, it would almost double the existing floor area of the building. Mr. Hammack agreed with the staff's findings that the building bulk is not harmonious with the adjacent single family residential neighborhood. Furthermore, the staff noted that the floor area ratio of the existing church was .21 which would be almost doubled at .4 which in Mr. Hammack's mind categorized the church as a commercial use. He indicated that a .4 floor area ratio is low for commercial but it is still a density which is consistent with commercial to his way of thinking and not consistent with a residential neighborhood.

2. Mr. Hammack agreed with the staff that the traffic flow would be almost doubled by the increased size of the sanctuary which Mr. Hammack felt to be incompatible with the residential neighborhood. The staff had pointed out in its report that the traffic would be eight times as great as that which would be generated by a residential neighborhood if the property were developed as residential.

3. Mr. Hammack agreed with the staff that the intensity of the use or the level of the use of the building is not compatible with the surrounding area. He indicated that there was a point where churches have to seek other ways to accommodate their membership by having additional services or starting new parishes someplace else. He indicated that he could not always agree to allow unlimited expansion on an existing site.

Mr. Hammack noted it was curious that the property had been rezoned to an R-8 category although he felt it was not the issue. Mr. Hammack stated that the first real issue was whether the request satisfies the requirements for the special permit to be allowed to expand to the level to which the applicant seeks in a residential neighborhood. The second issue is whether it complies with the Master Plan requirements. Mr. Hammack stated that he tended to agree with Mr. Bodine that if the church wanted to seek an R-8 zoning , preferable course of action would be to go to the Annual Plan Review which allows more public hearing. Mr. Hammack did not think the church's reasons that it would now landscape the site carried too much weight. He stated that the site could be improved but it was not a make way when it came to allowing a church of this size. Mr. Hammack stated that if the church wanted to put in some landscaping and islands to make the property look attractive, nothing prevented them from doing it right now.

Mr. Hammack complimented the church on developing a rather innovative plan. He thought the plan was interesting from a number of points of view. However, in trying to address the problem of parking, the church had increased the height of the structure to 48 feet which is almost a five story building. So in trying to address one problem, they had created another one.

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

Mr. Ribble seconded the motion.

During discussion of the motion, Mr. Hyland indicated that the motion was very tempting in terms of support. However, he could not support the motion for a number of reasons. Mr. Hyland commented on Mr. Bodine's testimony that his points were well taken in terms of the Board of Supervisors' action on rezoning. But notwithstanding the Comprehensive Plan, the Board's action indicates that the proposed church development is okay.

RESOLUTION

Mr. Hyland stated that the reason he could not support the motion is because he has seen few cases in his short tenure on the Board of Zoning Appeals in which an applicant has gone to such great lengths to take a proposal for additional development to a community, involving the not only the entire community but members of the Board of Supervisors, civic associations, affected property owners, and neighbors who would be directly affected. Mr. Hyland stated that there is not one scintilla of evidence before this Board that anyone objects to this proposal which was unusual. It was unusual because of the significant extent to which the church was proposing to expand its facility. Mr. Hyland stated that to the extent that an applicant could satisfy abutting property owners and an entire community, notwithstanding the increase in transportation identified by staff which he did not consider an inconsequential issue, and notwithstanding what the Comprehensive Plan says, what the Board has in this case is a community, civic associations, individual members of the Board of Supervisors, and an entire Board of Supervisors having voted on the rezoning all saying that they do not have a problem with this development.

Mr. Hyland stated that it is very tempting to support the motion and it would be very easy to support the motion under normal circumstances but this is not a normal case. It is a case in which a community has said it is okay for the church to do what it wants to do. So, Mr. Hyland indicated that he has great difficulty not supporting the request that the church has made notwithstanding its conflict with the Comprehensive Plan. However, he feels that the rezoning clearly takes care of the conflict. Mr. Hyland stated that the Board of Supervisors were aware of the conflict as they certainly know what the Comprehensive Plan says. But to go through the Annual Plan Review process in terms of revising the plan as Mr. Bodine has suggested would result in the citizens doing exactly that. That would be what they would do and, in effect, that's what was done by the action of the Board of Supervisors.

Mr. Hyland stated that he understood the reasons why the motion has been made and seconded but he felt this is a tough case which could go either way. But he was not prepared to say that a community could not do what it wants done in its own community when no one objected. For that reason, Mr. Hyland stated that he could not support the motion.

Mrs. Thonen indicated that she was going to support the application because the short time she has been on the Board she has heard churches coming up for special permit requests with neighbors saying that the church has been flooding out their property, that it wasn't a good neighbor, or it hadn't worked with the community. Mrs. Thonen stated that those things have always bothered her quite a bit. And this time, to have a church come in and say they went the extra mile to work with everyone was commendable. Mrs. Thonen hoped other churches followed this example.

Mr. Hammack responded that in making the motion the way he did, it was often times more difficult to make a motion to deny something that's popular than not. He stated that he realized that there was no opposition to the application that had surfaced at this point. He indicated that was impressive, but he did not think popularity had a lot to do with it. There is a scale of development that ceases to become compatible with the residential neighborhood and the fact that there is not a lot of opposition doesn't really change it. Mr. Hammack felt that if he supported something like this, he would have to feel that anytime a church came in and didn't have opposition and wanted a .4 FAR that he might have to grant it to them. He felt he couldn't be selective if everytime somebody came in without opposition and had the tacit support of civic associations or individual County Board members, he would have to support it. He didn't think that was the right criteria. Mr. Hammack stated that the BZA members were here to make their own independent judgment apart from political or popular decisions and that's how he arrived at his motion. He indicated that he still felt the structure was too large and too intense of a proposed addition to be allowed in an R District. He might have supported something like this if it were in a different district but not in the R District.

Mr. Hyland stated that less there be any doubt, the reason for his opposing the motion was not just because there has not been any opposition registered to this application. To the contrary, that was just one reason that he wouldn't support it. Mr. Hyland indicated that the major reason that he was not supporting the motion and supporting the application was because the entire process has been complied with in terms of bringing it through a Planning Commission, a community, and a Board of Supervisors, all of whom are representative of what should or should not be permitted to be done in any given community. He respected that process because basically, it was a message from citizenry saying, reference this application, no one has any problem. Mr. Hyland stated that this shows that a community has had an opportunity to object, to express itself and that a Planning Commission has approved it, the Board of Supervisors has approved it, and that every significant person in a community directly affected who has had an opportunity, has not objected. So, it was a threefold approach as far as he was concerned and that is the reason why each case has to be heard on its facts. He stated that there were members of this Board who knew of his prior problems with the development, particularly, by some

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RESOLUTION

churches in given neighborhoods. But in this case, no one has a problem with it from either the official structure which handles these or from the persons directly affected. And that's the reason that he supports the applicant's proposal.

Chairman Smith stated that he could not remember ever voting not to approve a church since he has been on the Board except on one other occasion. But on this occasion, he stated that he must support the resolution simply because he took an oath to defend the Ordinance when he was first appointed to the Board and has been reappointed a few times by both the Board of Supervisors and the Courts. Chairman Smith stated that as he read the Ordinance and heard the case, it does not meet the general standards set forth for Special Permits in a residential area. It was not in harmony with the adopted Comprehensive Plan and was not compatible with the existing development in the area. Chairman Smith stated that he was not convinced that the proposed use and the pedestrian and vehicle traffic associated with the use would not be hazardous or conflict with the existing, anticipated traffic in the neighborhood. He stated that all of the traffic reports the Board has received had indicated that it would be hazardous. Chairman Smith stated that the rezoning had no effect and had no bearing on the standards as far as his decision was concerned. Neither did the fact that no one has objected to it because he had voted for many churches where people did object to it strenuously because he felt they did meet the standards set forth in the Ordinance. Chairman Smith stated that his only reasons for supporting the resolution were those outlined in his statement.

The motion passed by a vote of 4 to 2 (Mr. Hyland and Mrs. Thonen)(Mr. DiGiulian being absent).

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Page 238 December 4, 1984, Scheduled case of

10:15 A.M. RICHARD J. TELESCO, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow deck addition to dwelling to remain 9.7 ft. from rear lot line (14 ft. min. rear yard req. by Sects. 3-807 & 2-412), located 8046 Sleepyview Ln., R-8, Saratoga Townhouses, Springfield Dist., 98-2((8))141A, 1,650 sq. ft., SP 84-S-066.

As the above-captioned special permit had been administratively withdrawn, the Board did not take any further action.

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Page 238 December 4, 1984, Scheduled case of

10:30 A.M. JOHN M. & CHERYL A. HUBBARD, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow deck addition to dwelling to remain 6.9 ft. from rear lot line (14 ft. min. rear yard req. by Sects. 3-807 & 2-412), located 4313 Gypsy Ct., R-8, Loftridge Subd., Lee Dist., 82-1((15))166, 2,457 sq. ft., SP 84-L-067.

Ms. Jane Kelsey presented the staff report. Mr. John Hubbard of 4313 Gypsy Court informed the Board that he was seeking approval of the special permit to allow a deck that was constructed in error to remain 6.9 feet from the rear lot line. He stated that he moved into the area in July 1983 and purchased a townhouse from Edward R. Carr Associates. Mr. Hubbard indicated that he had a contract with Parsons Tree Contractors for landscaping and construction of a deck. Mr. Hubbard stated that he went to a professional builder because he did not have time to research the laws. However, he did request written verification from the homeowners association managed by Edward R. Associates for approval of the deck. Mr. Davis approved the construction and design of the deck.

Mr. Hubbard informed the Board that a special situation existed on his lot because of the drainage system. His lot was not rectangular because of the way the developer designed the sewer system.

In response to questions from the Board, Mr. Hubbard stated that he had not been aware of any policy or anything in writing from the Parsons Tree Contractors regarding responsibility for obtaining a building permit. He indicated that to the best of his knowledge, the deck was in conformance with all other structures in the area and was not visible from the front of his house. Mr. Hubbard stated that he had been assured that the deck met all Code requirements. He further stated that he had not intentionally avoided obtaining a building permit. It was only after contacting Suzanne Phillips of the Parsons Tree Contractors to inform her of the visit from the County Building Inspector after construction had already commenced that Mr. Hubbard learned that a building permit had not been obtained. Mr. Hubbard indicated that he had only been aware that he needed approval from the Architectural Review Board of the homeowners association.

In response to further questions from the Board, Mr. Hubbard stated that the deck had been completed when he learned about the need for a building permit. There had not been option for a deck from Edward R. Carr Associates as they did not build decks. Mr. Hubbard had been informed by the salesperson that it was cheaper to have a quality builder construct a deck. He indicated that there were other decks already built in the area. Mr. Hubbard stated that the deck would not be offensive to anyone as his property abutted County park land.

Mr. Michael Allen of 4319 Gypsy Court spoke in support of the application. He informed the Board that Mr. Hubbard had made considerable improvements to his property which was an example to everyone in the neighborhood. Mr. Allen stated that he did not know Mr. Hubbard personally but felt sure he had not deliberately disrupted the zoning laws. He felt it was more of a misunderstanding between Mr. Hubbard and the contractor. Mr. Allen stated that the deck and landscaping were beautiful and he urged the Board to allow Mr. Hubbard to maintain the deck which was a landmark in the community.

Mr. Kenneth F. Parsons, the contractor, informed the Board that a misunderstanding had occurred between his salesperson and Mr. Hubbard. He indicated that the salesperson was unable to attend the hearing as she was with child. In response to questions from the Board, Mr. Parsons stated that his firm gave the customer the option of obtaining the building permit or they would obtain for an additional fee. Mr. Hyland was concerned that construction as begun without the contractor determining whether a building permit had been obtained. Mr. Hyland examined the language in the contract which he felt was misleading as it indicated that the contractor would do all that was necessary to meet the Code requirements. Mr. Parsons stated that the particular language Mr. Hyland was referring to was added to the contract afterwards and was not a normal procedure.

Following further discussion with Mr. Parsons, the Board directed the contractor to ensure that a building permit was obtained and attached to the site prior to construction. There was no one else to speak in support or in opposition.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 84-L-067 by JOHN M. & CHERYL A. HUBBARD 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 addition to dwelling to remain 6.9 ft. from rear lot line (14 ft. min. rear yard req. by Sects. 3-807 & 2-412), on property located at 4313 Gypsy Court, tax map reference 82-1((15))166, 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 4, 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.

RESOLUTION

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:

1. This approval is granted for the location of the addition of the south side of the dwelling as indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.

2. A Building Permit shall be obtained and all necessary inspections shall be performed and approved.

Mrs. Day seconded the motion.

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

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Page 240 December 4, 1984, Recess

At 12:30 P.M., the Board recessed for lunch and did not reconvene until 1:35 P.M. to continue the scheduled agenda.

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Page 240 December 4, 1984, Scheduled case of

10:45 A.M. AMERICO & PATRICIA RONCI, appl. under Sect. 18-401 of the Ord. to allow existing residence to remain .52 ft. from side lot line of lot 70 in order to make lot 69 a buildable lot, located 6338 Hillcrest Pl., Lincolnia Hgts. Subd., R-3, Mason Dist., 72-1((7))69 & 70, 21,000 sq. ft., VC 84-M-116.

Ms. Cheryl Hamilton presented the staff report. Mr. Americo Ronci of 6338 Hillcrest Place informed the Board that he wanted to build a house on lot 69. He indicated that it would be his first residence of his own as the his existing residence had been deeded to them by his inlaws who were deceased. Mr. Ronci stated that by situating the proposed house, there would be approximately 22.5 feet between the existing structure and the proposed structure.

With regard to the staff report, Mr. Ronci stated that his existing house is totally on one lot. The other homes cited in the report as having similar conditions were not according to Mr. Ronci. He indicated that the other houses either overlapped or were centered on the two properties which was not similar to his situation. Mr. Ronci did not believe approval of his variance would result in a substantial change to the neighborhood. He further indicated that he had no problem in meeting the conditions contained in the staff report should the Board grant the variance.

Mr. Robert N. Bodine of 6210 Greeley Boulevard in Springfield spoke in support of the variance. He indicated that the applicant was honest in his remarks about the variance being for self-interest. Mr. Bodine urged the Board to grant the variance.
There was no one else to speak in support and no one to speak in opposition.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-116 by AMERICO & PATRICIA RONCI under Section 18-401 of the Zoning Ordinance to allow existing residence to remain .52 ft. from side lot line of lot 70 in order to make lot 69 a buildable lot, on property located at 6338 Hillcrest Place, tax map reference 72-1((7))69 & 70, 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

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 4, 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 21,000 sq. ft.

Mrs. Day stated that the staff report and testimony indicates that each lot would be 10,500 square feet to equal 21,000 square feet which is approximately a half-acre in the R-3 zoning district. The existing house was built some time ago and the lot was developed as one building lot. Therefore, the house was almost on the middle proposed line of the two lots. The house on lot 70 does not satisfy the minimum standards and it's located less than the distance from the side lot line. Mrs. Day stated that the BZA has had similar cases, many of them were two lots, and have been developed separately. But in this instance, she felt that the first existing house was developed on the two lots as one buildable lot. In addition, she felt that any hardship has been brought on by the builder.

Therefore, the 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. Thonen seconded the motion.

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

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(9)
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11:00 A.M. WILLIAM H. BARRETT, appl. under Sect. 18-401 of the Ord. to allow extension and enclosure of existing carport to two-car garage addition to dwelling to 5.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6122 Old Dominion Dr., R-2, Dranesville Dist., 41-1((1))28A, 40,897 sq. ft., VC 84-D-117.

Ms. Jane Kelsey presented the staff report. In response to questions from the Board, she indicated that the dimensions of the proposed garage were 15.5 feet by 20.9 feet. Mr. William H. Barrett of 6122 Old Dominion Drive in McLean informed the Board that he wanted to enclose his carport into a garage. He indicated that at the time he bought his house, he did not have a need for expanding the structure but had talked about the possibility of having that flexibility with the real estate agent. Mr. Barrett stated that the setback requirement was 15 feet. He had consulted his father who was an architect to help design the proposed expansion. In addition, Mr. Barrett indicated that he had informed all of the ten adjoining property owners. Only the two neighbors on either side would be able to see his house because it set down in the woods. The topography of the lot was such that Mr. Barrett did not have any alternative but to redesign the house. The carport was connected to the house by a covered walkway. The closest house was located approximately 100 feet from the proposed addition.

In response to questions from the Board, Mr. Barrett stated that the structure was so large because it included the dimensions of the covered walkway. He presented the Board with a black and white photograph of the structure as it presently exists.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-D-117 by WILLIAM H. BARRETT under Section 18-401 of the Zoning Ordinance to allow extension and enclosure of existing carport to two-car garage addition to dwelling to 5.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 6122 Old Dominion Drive, tax map reference 41-1((1))28A, 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 4, 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 40,897 sq. ft.

This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance. In addition, Mr. Hyland stated:

1. That the applicant has presented testimony as to the location of the proposed carport addition and enclosure of existing carport with reference to the Stillman's residence being located about 100 ft. from the closest dwelling to the neighbor on the right.
2. There is from the applicant's justification as well as a review of the applicant's plat an indication of severe topographic problems on the lot to include substantial narrowness as far as the location of the home itself.
3. A review of the plat would indicate that there is no any other practical place in which to construct a garage on the entire property.
4. There has been no evidence received by any abutting property owner or anyone in the neighborhood objecting to the proposed addition to the property.
5. The unusual configuration of the property was noted in terms of the home itself being placed on stilts with the carport being located in front of the home. The plat indicates that the proposed garage would have dimensions of 20.8 feet by 28.5 feet in which under the circumstances appears to be a bit larger than normal. It appears from its location on that property that the applicant has shown that he has topographic conditions which justify placing it there.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance 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 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 to 1 (Mr. Smith)(Mr. DiGiulian being absent).

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Page 243 December 4, 1984, Scheduled case of

11:15 A.M. GREAT FALLS SWIM & TENNIS CLUB, INC., appl. under Sect. 3-103 of the Ord. to amend S-82-D-019 for community recreation facilities to permit addition of lighted platform tennis courts to existing facilities, located 761 Walker Rd., R-1, Dranesville Dist., 5.5244 ac., SPA 82-D-019-2.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit amendment subject to the development conditions set forth in Appendix I. Mr. Bob Raven of 824 Great Cumberland Road in McLean represented the applicant. He indicated that they had spoken with neighbors to explain why they had located the platform tennis courts in this location. The nearest neighbor was approximately 15,000 feet from the platform tennis court on one side and approximately 24,000 feet on the other.

In response to questions from the Board, Mr. Raven stated that the existing tennis courts were at ground level. The lighting was requested for security purposes when the courts were not being used. Mr. Raven presented the Board with photos of the proposed platform tennis platform courts.

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

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-D-019-2 by GREAT FALLS SWIM & TENNIS CLUB, INC. under Section 3-103 of the Zoning Ordinance to amend S-82-D-019 for community recreation facilities to permit addition of lighted platform tennis courts to existing facilities, on property located at 761 Walker Road, tax map reference 13-1((1))27, 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 4, 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 5.5244 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 1 may be modified provided the area between the chain link fence and the southern side lot line is bermed to the extent possible and at least eight (8) foot high evergreen trees with an ultimate height of 40 feet are planted every ten (10) linear feet. The feasibility of the berm and the size, height, and location of the trees shall be determined by the Director, Department of Environmental Management (DEM). The existing vegetation along the remainder of the site shall be preserved to satisfy Transitional Screening 1. If there is an area where insufficient plantings exist to screen this use from adjacent residences, additional supplemental evergreen plantings shall be provided as determined by the Director, DEM. The existing chain link fence which encircles the pool and tennis court areas shall remain to satisfy the barrier requirement.

** 6. The hours of operation for the facility shall be as follows:
- o Tennis Courts & Platform Tennis Courts: 7:00 A.M. to 10:00 P.M.
- o Swimming Pool: 12:00 Noon to 9:00 P.M.

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 exceed beyond 12:00 midnight.
- o A written request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
- o Request shall be approved for only one (1) such party at a time and such requests shall be approved for only after the successful conclusion of a previous after-hour party.

8. There shall be a minimum of sixty-seven (67) parking spaces and a maximum of one hundred and eighteen (118) parking spaces.

9. The maximum number of family memberships shall be four hundred (400).

10. All activities shall comply with the provisions of Chapter 108 of the County Code, Noise Ordinance, and the glare performance standards of the Zoning Ordinance.

11. Bicycle racks shall be provided to accommodate a minimum of twenty-five (25) bicycles.

12. All gravel surfaces shall be constructed in accordance with standards approved by the Director, Department of Environmental Management (DEM).

13. 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.

14. All required handicapped parking spaces shall be constructed with a dustless surface and in accordance with all applicable standards.

15. There shall be an annual inspection of the gravel parking areas 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.

16. The approval of a waiver of the dustless surface requirement shall be valid until June 19, 1989.

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 new 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 for the addition to the garage 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 to 0 (Mr. DiGiulian being absent).

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** By action of the Board of Zoning Appeals on 11/07/85, the hours of operation for the Great Falls Swim and Tennis Club were administratively corrected to state: "o Swimming Pool: 9:00 A.M. - 9:00 P.M."

Page 245 December 4, 1984, Recess

At 2:15 P.M., the Board recessed the meeting. It reconvened at 2:45 P.M. to continue the scheduled agenda.

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Page 245 December 4, 1984, Scheduled case of

11:30 A.M. VIRGINIA ELECTRIC AND POWER COMPANY, appl. under Sect. 18-401 of the Ord. to allow construction of addition to office to 30 ft. from front lot line (40 ft. min. front yard req. by Sect. 5-507), located 7888 Backlick Rd., I-5, Fullerton Industrial Park, Lee Dist., 99-1((5))17, 18 & 20, 7.4223 acres, VC 84-L-111. (DEFERRED FROM NOVEMBER 8, 1984 AT REQUEST OF THE APPLICANT).

Mr. Gerald Hyland informed the Board and the applicant that he had a preliminary matter reference this application which was why he had requested the recess. He indicated that he had to ensure compliance with respect to disclosure. Mr. Hyland noted in the application that the law firm of Hunton and Williams represented the applicant. He further noted that his former law clerk had made a contribution of $100 to his campaign for supervisor. That same law clerk was presently working for the firm of Hunton and Williams. However, Mr. Hyland stated that neither Mr. Hunton or Mr. Donnelly were aware of the contribution. Mr. Hyland indicated that there was some question about whether the contribution had to be disclosed because the former law clerk was not the individual making the presentation before the BZA.

Ms. Jane Kelsey presented the staff report. Mr. Randolph Church represented the applicant. He informed the Board that he had not been aware of the contribution made to Mr. Hyland's campaign after the affidavit was prepared. He asked that the application be amended to reflect that matter.

Mr. Church informed the Board that ten to fifteen years ago, Vepco only had one district office which was located in Fairfax. At the present time, Vepco has three districts: Fairfax, Herndon and Springfield. Each district office handles accounting, operations, etc. When the Springfield District Office was established in 1978, it handled approximately 50,000 customers. Now 94,0000 customers are being served at the facility. Mr. Church informed the Board that there has been a massive increase in this district which has created pressure on the building and the shoehorning of new employees. It was necessary to expand the facility. Because of the unusual shape of the property and the deep ravine, it was necessary to request a ten foot variance. Mr. Church stated that the building was oriented towards Backlick Road. There was not any setback requirement for a side lot line but this area was considered a front yard. The architect, Mr. Ward, had indicated that this was the only practical location to expand the building because of the internal and exterior layout. Parking was vital on the site because of the new employees.

Chairman Smith questioned why the applicant did not expand the building where the parking was located and relocate the parking. Mr. Church indicated that such a proposal would not work internally. He stated that the proposal before the Board was the only way in which to add onto the building and not interfere with the driveway on Backlick Road. He indicated that the customer service area at the front entrance of the building was the area which needed expanding. It could not be relocated elsewhere in the building because of the computer terminals.

Mr. Hammack stated that the request was for a small addition. He was concerned regarding the amount of growth over the past six years and felt the small addition would not satisfy the business requirements. Mr. Hammack inquired if Vepco would be back before the BZA in the next few years for another addition. Mr. Church responded that the obvious solution was to create another district which would take approximately three years.

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

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Page 245 December 4, 1984 Board of Zoning Appeals
VIRGINIA ELECTRIC AND POWER COMPANY
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-L-111 by VIRGINIA ELECTRIC AND POWER COMPANY under Section 18-401 of the Zoning Ordinance to allow construction of addition to office to 30 ft. from front lot line (40 ft. min. front yard req. by Sect. 5-507), on property located at 7888 Backlick Road, tax map reference 99-1((5))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 Codes and with the by-laws of 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 4, 1984; and

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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 I-5.
3. The area of the lot is 7.4223 acres.
4. The applicant has satisfied the required nine standards due to the unusual growth in the service area of the customers serviced by Vepco and the testimony with regard to the existing uses on the property and the existing building. The property has an unusual configuration with a deep gully going across one side and it also has two front yards which creates certain additional problems. Mr. Hammack did not feel the granting of the variance would impact on the other industrial properties in the area.

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.

Mr. Hyland seconded the motion.

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

11:45 A.M. PLEASANT VALLEY RECREATION ASSOCIATION, INC., appl. under Sect. 3-C03 of the Ord. for community recreation facility including swimming pool, wading pool, bathhouse, tennis courts, community meeting room and associated parking, located 4347 Cub Run Rd., Pleasant Valley Subd., R-C, Springfield Dist., 33-4((2))D1 & E1, 4.4891 ac., SP 84-S-062. (DEFERRED FROM NOVEMBER 8, 1984 FOR ADDITIONAL INFORMATION AND REVISED PLATS).

Ms. Jane Kelsey presented the staff report. She informed the Board that the hearing had taken place on November 8, 1984 but was deferred for new plats to show parking without reduction. Ms. Kelsey stated that three additional parking spaces had been provided. At the last hearing, Mrs. Thonen had made a motion requesting information about the floodplain and whether the tennis courts were located in error. Ms. Kelsey presented the Board with a copy of a memorandum from Claude Cooper, Director, Department of Environmental Management (DEM) which indicated that there was not any violation of the Floodplain Ordinance.

Mr. Kendrick Sanders, an attorney in Fairfax, represented the applicant. He stated that the plat had been revised to increase the parking. Ms. Kelsey noted some corrections to the development conditions contained in Appendix I of the staff report. She requested that condition no. 8 be changed to reflect 542 family memberships; condition no. 9 be amended to reflect forty-four (44) parking spaces; and condition no. 12 have a phrase added to the end of the first sentence to reflect, "...if deemed necessary by the Director, DEM".

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

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PLEASANT VALLEY RECREATION ASSOCIATION, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-S-062 by PLEASANT VALLEY RECREATION ASSOCIATION, INC. under Section 3-C03 of the Zoning Ordinance to permit community recreation facility including swimming pool, wading pool, bathhouse, tennis courts, community meeting room and associated parking, on property located at 4347 Cub Run Road, tax map reference 33-4((2))D1 & E1, 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 4, 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 4.4891 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 hours of operation for the facility shall be as follows:
   Tennis courts: 8:00 A.M. to 9:00 P.M.
   Swimming pool: 10:00 A.M. to 9:00 P.M.
   Swim team practice only shall be permitted to begin at 8:00 A.M.
   Meeting room: 8:00 A.M. to 11:00 P.M.
   During the summer months, the pool will be closed prior to any community meeting.

RESOLUTION

6. 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 A written 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.

7. A 25 foot transitional screening yard shall be provided along all lot lines except those abutting the Cub Run Stream Valley Park. The amount and type of the plantings within this yard shall be equivalent to Transitional Screening 1 as determined by the Director, Department of Environmental Management, at the time of site plan review. The barrier requirement shall be modified to allow the fence as shown on the plat.

8. The maximum number of family memberships shall be 542.

9. There shall be forty-four (44) parking spaces provided. The travel aisles and turnaround aisles shall be provided in accordance with the Public Facilities Manual.

10. A bicycle rack shall be installed near the bathhouse.

11. 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.

12. A soil survey shall be completed prior to pool construction if deemed necessary by the Director, DEM. If high water table soils or unstable soils resulting from uncompacted fill, resource removal or any other circumstance resulting in instability 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 hydrostatic relief valves and other appropriate measures.

13. All loudspeakers, noise and lights shall be confined to the site. 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 twelve (12) 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.

14. This use shall be subject to the provisions of the Water Supply Protection Overlay District.

15. Since the meeting room is within the 65-70 dBA Ldn Impact Area of the Airport Noise Overlay District, acoustical treatment measures which achieves an interior noise level not to exceed 45 dBA Ldn shall be provided. This standard shall be met by one of the following:
   - o The use of roof and exterior wall assemblies which have a laboratory sound transmission class (STC) of at least 39 and doors and windows which have a laboratory STC of at least 28. The STC of construction assemblies shall be determined by a certified sound testing laboratory, or
   - o A certification by a acoustical engineer that the construction practices and/or materials of the structure will achieve the specified interior noise level. The acoustical professional shall submit relevant information to permit the Director to verify that the proposed measures will achieve the interior noise level standard, or
   - o A determination by the Director that the interior noise level standard is met based on the exterior and/or interior wall and roof assemblies and the location of the use in the structure.

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 new 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 amendment shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been legally established, or unless, after appropriate approvals, construction of the pool 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 to 0 (Mr. DiGiulian being absent).

Page 249 December 4, 1984, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of current Minutes for November 20, 1984. Mr. Hyland moved that the Minutes be approved as submitted. Mrs. Day seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

// There being no further business, the Board adjourned at 3:20 P.M.

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

Submitted to the Board on January 2, 1985

DANIEL SMITH, CHAIRMAN

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, December 11, 1984. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; John Ribble; and Mary Thonen. Paul Hammack arrived at 1:20 P.M. Gerald Hyland was 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. BEUFORD H. MILLS, appl. under Sect. 3-203 of the Ord. for a home professional office as approved in S-82-P-096, revoked; located 2917 Chain Bridge Rd., Gray's Subd., R-2, Providence Dist., 47-2((5))5 & 6, approx. 20,741 sq. ft., SP 84-P-069.

The Chairman announced that the notices were not in order. The Board deferred the special permit application to January 8, 1985 at 12:00 Noon.

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Page 250 December 11, 1984, AFTER AGENDA ITEMS:

//The Board was in receipt of a memo from Philip Yates advising them of his intent to terminate employment with Fairfax County effective January 4, 1985. The Board members commented that they felt fortunate to have had him as Zoning Administrator for the time that they did, and had enjoyed working with him. They felt that the remaining staff would continue to pursue the goals Phil had established, and looked forward to working with the staff he had put together.

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Page 250 December 11, 1984, AFTER AGENDA ITEMS:

//Mrs. Day made a motion that the Board approve the current BZA minutes for November 27, 1984. She also moved that the Board approve the backlogged minutes for June 7, June 14 and June 21, 1983. Mr. Ribble seconded the motion. The motion passed by unanimous vote.

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Page 250 December 11, 1984, Scheduled 10:15 A.M. case heard at 10:15 A.M.:

10:15 A.M. JEROME S. ERVIN, JR., appl. under Sect. 18-401 of the Ord. to allow construction of deck addition to dwelling to the rear lot line (13 ft. min. rear yard req. by Sects. 3-507 & 2-412), and to permit lot coverage in excess of 30% of the area of the minimum required rear yard (30% max. coverage of the area of the req. rear yard allowed by Sect. 10-103), located 7302 Belinger Ct., Beverly Park Subd., R-5, Lee Dist., 90-3((10))52, approx. 3,000 sq. ft., VC 84-L-108. (DEFERRED FROM NOVEMBER 8, 1984 FOR READVERTISING.)

Jane Kelsey reviewed the staff report for the Board. She indicated that the proposed deck covered an area which was 40% of the minimum required yard. Jerome Ervin presented his application. He stated that his home faced open space and there were no homes located behind him. Therefore, he felt his request would not disturb any neighbors. Mr. Ervin stated that he had owned the property for six years and was the second owner. He had purchased the property in November of 1978.

During a discussion between the Board members and staff, it was determined that Mr. Ervin could build a 5 foot by 30 foot deck by right, without obtaining a variance.

The Board members were in receipt of a letter of opposition from Kailash Mathur, the next door neighbor on lot 53. He indicated that the applicant's home projected out much further in the rear than his home, and he felt the addition would infringe on his privacy by making it easy for the applicant's to look into his family room and kitchen. There was no one to speak regarding the application.

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Page 250 December 11, 1984 Board of Zoning Appeals
JEROME S. ERVIN, JR.

R E S O L U T I O N

In Application No. VC 84-L-108 by JEROME S. ERVIN, JR. under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to the rear lot line (13 ft. min. rear yard req. by Sects. 3-507 & 2-412), and to permit lot coverage in excess of 30% of the area of the req. rear yard allowed by Sect. 10-103), on property located at 7302 Belinger Court, tax map reference 90-3((10))52, 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 11, 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-5
3. The area of the lot is 3,000 sq. ft.
4. I have read the rules we need to go by. I feel the applicant does not meet these rules and there doesn't seem to be any way we could give him a deck any larger than 5 ft. by 30 ft. You are supposed to be no more than 5 ft. to the rear lot line. The minimum side and rear yard requirements are 8 ft. and 25 ft., and as the proposed deck is located 7 ft. from the side lot line and up to the rear lot line, I feel that we are limited in what we can do. In addition, a variance to the provision of Paragraph 3 of Section 10-103 is also required. This paragraph, which was also recently amended, states that any use or structure accessory to a single family detached dwelling, to include those extensions permitted by Sect. 2-412, shall not cover more than 30% of the area of the minimum required rear yard. The proposed deck covers an area which is 40% of the minimum required yard. It is also noted that under the new special permit use for modifications to the provisions of Sect. 2-412, the Board of Zoning Appeals is limited to approving extensions which exceeds the applicable distance by 50% or less. As the requested extension exceeds this limitation, that's why they filed this variance application. I feel that we are really limited and I do not think that we should approve this.

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 above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would 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 - 0 (Messrs. Hyland and Hammack absent)

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Page 251 December 11, 1984, Scheduled 10:30 A.M. case heard at 10:35 A.M.:

10:30 A.M. C.A. & NAN B. MCCOMBER, appl. under Sect. 18-401 of the Ord. to allow construction of solar room addition to dwelling to 19.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 7915 Shreve Rd., R-3, West Stafford Landing, Providence Dist., 49-2((23))14, approx. 10,691 sq. ft., VC 84-P-118.

Cheryl Hamilton reviewed the staff report for the Board. Clarence McComber presented his application. He stated that the house had been constructed further toward the rear of the lot than others in the area because of street dedication on the front of his lot. He stated that he needed a six foot variance in order to construct a solar room at the back of the house. To place the solar room on either side of the house would also require a variance. Also, the rear of the house faced south, and the glass enclosed solar room was going to be used to provide heat to the rest of the house. The room would be entered through the kitchen.

There was no one to speak in support or opposition.

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R E S O L U T I O N

In Application No. VC 84-P-118 by C.A. & NAN B. MCCOMBER under Section 18-401 of the Zoning Ordinance to allow construction of solar room addition to dwelling to 19.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 7915 Shreve Road, tax map reference 49-2((23))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 December 11, 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 10,691 sq. ft.
4. That 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. The house is 10 feet further back than required by the Ordinance. If it had been constructed 30 feet from the front lot line, there would have been room to construct the addition.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use 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 and Hammack being absent)

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Page 252 December 11, 1984, Scheduled 10:40 A.M. case heard at 10:55 A.M.:

10:40 A.M. EDWARD E. NELSON, appl. under Sect. 18-401 of the Ord. to allow construction of a deck addition to dwelling to 5 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-C07 & 2-412), located 11677 Havenner Rd., R-C, Fairfax Station, Springfield Dist., 76-4((9))885, approx. 28,106 sq. ft., VC 84-S-119.

Cheryl Hamilton reviewed the staff report for the Board. Edward Nelson presented his application to the Board. He stated that he had contracted with Cross Builders to build his home in January of 1984. At that time, the zoning on the property was R-1. He stated that the property had exceptional topographic conditions, with a steep grade from the front to the rear on the east portion and relatively level on the west portion. The required septic field prevented sitting the house further west which would have alleviated the variance request. Mr. Nelson submitted a letter of support from the adjoining property owner, Mr. Angel, who owned lot 1221.

There was no one to speak in support or opposition.

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R E S O L U T I O N

In Application No. VC 84-S-119 by EDWARD E. NELSON under Section 18-401 of the Zoning Ordinance to allow construction of a deck addition to dwelling to 5 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-C07 & 2-412), on property located at 11677 Havenner Road, tax map reference 76-4((9))885, 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 11, 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 28,106 sq. ft.
4. We have seen the plats which show the applicant has a most unusual lot configuration with a septic field. This caused the house to be situated further to the left of the lot. The intention of the builder was that there would be a deck. The next door neighbor, William Angel, on lot 1221, has written a letter saying he had no objection.
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. The subject property has exceptional topographic conditions.
D. 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 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 - 1 (Mr. Smith) (Messrs. Hyland & Hammack being absent)

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Page 253 December 11, 1984, Scheduled 10:50 A.M. case heard at 11:10 A.M.:

10:50 A.M. WILLIAM K. HUBBARD, appl. under Sect. 18-401 of the Ord. to allow construction of living space addition to dwelling to 15 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 6509 Spring Terr., R-1, Hillwood Subd., Mason Dist., 51-3((5))44, approx. 21,800 sq. ft., VC 84-M-121.

Cheryl Hamilton reviewed the staff report for the Board. William Hubbard presented his application. He stated that the house had been built in 1949 when the side yard requirements were 15 feet. He wanted to build a small extension of living space along the existing line of the house.

There was no one to speak in support or opposition.

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WILLIAM K. HUBBARD

RESOLUTION

In Application No. VC 84-M-121 by WILLIAM K. HUBBARD under Section 18-401 of the Zoning Ordinance to allow construction of living space addition to dwelling to 15 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), on property located at 6509 Spring Terrace, tax map reference 51-3((5))44, 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 11, 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 21,800 sq. ft.
4. This application meets the Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically:
   A. At the time the present Zoning Ordinance was passed, the side yard was exceptionally narrow and the existing house was within 15 feet of the property line. The current Zoning Ordinance requires a 20 foot side yard so to extend the line of the existing structure will require a variance.

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

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

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. Thonen seconded the motion.

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

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Page 254 December 11, 1984, Scheduled 11:00 A.M. case heard at 11:15 A.M.:

11:00 A.M. P S PARTNERS II, LTD./AMERICAN STORAGE CORPORATION, appl. under Sect. 8-014 of the Ord. to amend S-235-76 for mini-warehousing establishment to permit change of ownership, located 9915 Richmond Hwy., C-8, Lorton Station, Mt. Vernon Dist., 113-2((1))74, approx. 90,818 sq. ft., SPA 76-V-235-1.

Cheryl Hamilton reviewed the staff report for the Board. She stated that under current Zoning Ordinance provisions a mini-warehouse is a special exception use. However, the BZA could approve this type of amendment provided that it did not permit the use to be enlarged, expanded, increased in intensity, relocated, or continued beyond any time limitation specified in the existing permit.

Douglas Bywater represented the applicant. He stated that the subject property which had a commercial storage building located on it had been sold. As a result of this sale, he requested that the Board allow the change in name on the existing special permit. He stated that the character of the buildings had not changed, and the individual tenants renting storage space would remain the same, with the exception of those tenants whose leases may have expired.

There was no one to speak in support or opposition.

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P S PARTNERS II, LTD./AMERICAN STORAGE CORPORATION

RESOLUTION

In Application No. SPA 76-V-235-1 by P S PARTNERS II, LTD./AMERICAN STORAGE CORPORATION under Section 8-104 of the Zoning Ordinance to amend S-235-76 for mini-warehousing establishment to permit change of ownership, on property located at 9915 Richmond Hwy., tax map reference 113-2((1))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 December 11, 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 90,818 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. The storage facilities shall contain a minimum of 73 per cent residential type storage.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Hyland & Hammack absent)

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Page 255 December 11, 1984, Scheduled 11:15 A.M. case heard at 11:20 A.M.:

11:15 A.M. THE ENTERPRISE OF NORTHERN VIRGINIA, appl. under Sect. 3-303 of the Ord. for renewal of S-81-D-062 for school of general education, located 1670 Chain Bridge Rd., R-3, Dranesville Dist., 30-3((1))54 & 55, approx. 4.00018 acres, SPR 81-D-062-1.

Cheryl Hamilton reviewed the staff report for the Board. She stated that the major issues regarding this application were adequate site access and parking provisions. Staff recommended approval of the special permit application subject to the conditions listed in the staff report which addressed the staff concerns.

Michele Surwit, 2229 Regina Drive, Clarksburg, VA, represented the applicant. She stated that she understood from the current owners that the property was being sold, and she told the Board members that the school did not plan to stay at that location much longer. The schools lease was to expire on August 31, 1985. Ms. Surwit stated that the school would provide the three extra parking spaces that the staff was requiring, but she asked if they could be gravel spaces instead of paved. She indicated that the school was not in a position financially to pave at this time.

The Board members were in receipt of a letter of opposition from Margaret Spurgeon, 1506 Wasp Lane, adjacent to the school property. Ms. Spurgeon indicated that one of the requirements of the original special permit for this school was a barrier between the

school property and her yard. Currently, the only barrier was a dilapidated country-style fence, and she asked the Board to require a chain link fence. She was also concerned about trash blowing into her yard from the school. Ms. Surwit indicated to the Board members that the children attending the school clean up any trash in the yard and place it in plastic garbage bags. Apparently, neighborhood dogs were tearing the bags and scattering the trash. Ms. Surwit felt that this was the landlords concern, not the schools. The Board members indicated that they felt she should be a good neighbor to the adjacent property owners and try to do something about the fence and debris.

There was no one else to speak regarding the application.

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THE ENTERPRISE OF NORTHERN VIRGINIA

R E S O L U T I O N

In Application No. SPR 81-D-062-1 by THE ENTERPRISE OF NORTHERN VIRGINIA under Section 3-303 of the Zoning Ordinance for renewal of S-81-D-062 for school of general education, on property located at 1670 Chain Bridge Road, tax map reference 30-3((1))54 & 55, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 11, 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 4.00018 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. There shall be a maximum of thirty (30) students enrolled at any one time, ages 13 through 18.
6. The hours of operation shall be 8:30 A.M. to 3:30 P.M., Monday through Friday.
7. There shall be eleven (11) parking spaces. All parking shall be in the general location of the main parking area to the west of the building.
8. The eastern most entrance shall be closed. The entrance shall be at least 12.5 feet from the property line and at least thirty (30) feet wide. Dedication may not be required at the time of site plan review.
9. The transitional screening and a barrier requirements shall be waived provided the existing vegetation is retained.
10. There shall be a maximum of of seven (7) employees.
11. This special permit is approved for a period of one year.

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 a new 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. Ribble seconded the motion.

The motion passed by a vote of 5 - 0. (Messrs. Hyland & Hammack absent)

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Page 257 December 11, 1984, Scheduled 11:30 A.M. case heard at 11:35 A.M.:

11:30 A.M. DRANESVILLE CHURCH OF THE BRETHREN, appl. under Sect. 3-103 of the Ord. for addition of a trailer Sunday school classroom to existing church and related facilities, with modification or waiver of the dustless surface requirement, located 11500 Leesburg Pk., R-1, Dranesville Dist., 11-2((1))20, approx. 1.181 acres, SP 84-D-068.

Cheryl Hamilton reviewed the staff report for the Board which recommended approval of the special permit subject to the development conditions set forth in the report.

Kenneth Shaw, 1404 Sky Haven Court, Herndon, represented the applicants. He stated that this was a small country church located in a fast growing area. He stated that they needed the trailer addition for Sunday school use because there was not enough room in the church at the present time for all the members. Mr. Shaw indicated that the church was presently looking for a new location, and that they should move within the next three years. He stated that the church had no problem with any of the suggested development conditions.

There was no one to speak in support or opposition.

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R E S O L U T I O N

In Application No. SP 84-D-068 by DRANESVILLE CHURCH OF THE BRETHREN under Section 3-103 of the Zoning Ordinance for addition of a trailer Sunday school classroom to existing church and related facilities, with modification or waiver of the dustless surface requirement, on property located at 11500 Leesburg Pike, tax map reference 11-2((1))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 11, 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 1.181 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 maximum number of seats shall be 87, with a corresponding minimum of 22 parking spaces. There shall be a maximum of 29 parking spaces.
6. The Transitional Screening 1 requirement shall be modified provided that low level plantings and/or evergreen shrubs are planted along the western side of the gravel outlet road and along the southern lot line. The amount and type of plantings shall be determined by the Director, Department of Environmental Management (DEM). The barrier requirement shall be waived.
7. The approval for the trailer is for a period of three (3) years.
8. All gravel surface areas shall be repaired to be free of ruts with a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area. Both the repair and the maintenance shall be in accordance with standards approved by the Director, DEM.
9. The outlet road shall be paved from Leesburg Pike to the property line and twenty-five feet into the site.
10. This approval for the gravel parking lot and outlet road is for a period of five (5) years.
11. Dedication shall be provided from 98 feet of the centerline of Leesburg Pike and may be deferred until such time as dedication is required from 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 new 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 for the classroom trailer 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.

Mrs. Thonen seconded the motion.

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

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Page 258 December 11, 1984, Scheduled 11:45 A.M. case heard at 11:50 A.M.:

11:45 A.M. ST. MARK'S CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-81-C-081 for church and related facilities to permit addition to existing garage for storage, located 9970 Vale Rd., Tanglewood Subd., R-1, Centreville Dist., 37-4((1))42, approx. 19.621 acres, SPA 81-C-081-1.

Cheryl Hamilton reviewed the staff report for the Board which recommended approval of the special permit application subject to the suggested development conditions in the report.

William Enderle, 200 N. Glebe Road, Arlington, represented the applicant. He stated that the church wanted to add an addition onto an existing garage for the storage of lawn and maintenance equipment.

There was no one to speak in support or opposition.

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R E S O L U T I O N

In Application No. SPA 81-C-081-1 by ST. MARK'S CHURCH under Section 3-103 of the Zoning Ordinance to amend S-81-C-081 for church and related facilities to permit addition to existing garage for storage, on property located at 9970 Vale Road, tax map reference 37-4((1))42, 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 11, 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 19.621 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 18 by 21 foot storage shed addition to the garage as indicated on the plat submitted with this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.
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. There shall be a maximum of 1000 seats with a corresponding minimum of 250 parking spaces. The maximum number of parking spaces shall be 300.
6. The transitional screening shall be modified provided that the existing vegetation is retained. The barrier requirement shall 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 new 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 for the addition to the garage 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. DiGiulian seconded the motion.

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

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Page 259 December 11, 1984, AFTER AGENDA ITEMS:

WORD OF LIFE ASSEMBLY OF GOD CHURCH/SPA 81-A-078-1: 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 and have it remain on the February 19, 1985 agenda.

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Page 259 December 11, 1984, AFTER AGENDA ITEMS:

KENT D. & MARCIA C. CARSON/SP 84-D-077: 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 and have it remain on the February 19, 1985 agenda.

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//The Board recessed for lunch at 12:00 Noon and returned at 1:05 P.M. to take up the scheduled agenda.

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Page 260 December 11, 1984, Scheduled 1:00 P.M. case heard at 1:05 P.M.:

1:00 P.M. SOUTHVIEW BAPTIST CHURCH, appl. under Sect. 3-203 of the Ord. to amend S-80-C-111 for church and related facilities to permit addition of two portable classroom buildings to existing facilities, revise condition 9 & 10 pertaining to parking & employees, and allow existing storage shed and basketball hoop to remain, located 2620 Reston Ave., R-2, Centreville Dist., 26-3((1))23; approx. 184,891 sq. ft., SPA 80-C-111-1. (OTH REQUEST GRANTED BY BZA ON 11/13/84.)

William Shoup reviewed the staff report for the Board. He stated that the Board had approved S-80-C-111 to allow a phased development of the site that would ultimately include four integrated building units and a maximum of 140 parking spaces. In May of 1982, the BZA approved a six month additional period of time to commence construction, and approved the applicant's request to substitute phases and revise the arrangement of the building units. Mr. Shoup stated that the major issues of concern were the trailers and the screening, which were addressed in the suggested development conditions.

Roger Campbell, 12555 Flat Meadow Lane, Herndon, represented the applicant. He stated that the church was in its seventh year of operation and had two hundred members. The church currently had one permanent building. Mr. Campbell stated that they were not in a position to construct Phase II at this time, but that they could afford to lease some temporary buildings to help accommodate the growth of the church. He stated that the trailers were only a temporary measure, and they church was trying to raise money to complete all the construction phases.

There was no one to speak in support or opposition.

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Page 260 December 11, 1984 Board of Zoning Appeals
SOUTHVIEW BAPTIST CHURCH

R E S O L U T I O N

In Application No. SPA 80-C-111-1 by SOUTHVIEW BAPTIST CHURCH under Section 3-203 of the Zoning Ordinance to amend S-80-C-111 for church and related facilities to permit addition of two portable classroom buildings to existing facilities, revise condition 9 and 10 pertaining to parking & employees, and allow existing storage shed and basketball hoop to remain, on property located at 2620 Reston Avenue, tax map reference 26-3((1))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 11, 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 184,891 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 transitional screening requirement along the northern lot line adjacent to the fire station shall be waived. The transitional screening requirement along Reston Avenue and Lawyers Road shall be modified as follows:

o existing plantings shall be retained

o supplemental screening and landscape plantings shall be provided in a manner that will reduce the visual impact of the proposed ultimate development of the site. The type, amount, and arrangement of such plantings shall be determined by the Director, Department of Environmental Management (DEM) at the time of site plan approval for the trailers.

The barrier requirement shall be waived.

6. Use of the two (2) classroom trailers shall be permitted in the location indicated on the plat for a period of three (3) years from the date of approval. Occupancy of the trailers shall not be permitted until all required permits have been obtained and all necessary inspections have been satisfied.
7. The maximum seating capacity in the main worship area shall not exceed three hundred and ten (310).
8. A minimum of fifty-four (54) parking spaces shall be provided. A maximum of one hundred and forty (140) parking spaces shall be permitted, provided that the number of parking spaces at any given time satisfies the minimum requirements of Article 11 for the seating capacity in existence at that time.
9. Future parking areas may be lighted provided that the lights are on standards that are similar in design and height to the existing standards. All parking lot lights shall be provided in a manner that will prevent light from projecting beyond property lines.
10. There shall be no limit on the number of employees.
11. Signs shall be permitted in accordance with Article 12 of the Zoning Ordinance.
12. The hours of operation shall be the normal hours for church operation.
13. Phased development of the site shall be permitted as represented on the plat submitted with this application.
14. Site plans for future phases of development shall be submitted to the BZA for review prior to their approval.
15. Under Sect. 8-015 of the Zoning Ordinance, this Special Permit amendment 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 expiration 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.

Mr. DiGiulian seconded the motion.

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

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//Mr. Hammack arrived at 1:20 P.M.

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Page 261 December 11, 1984

1:45 A.M. CHARLES F. SCHEIDER, III, appl. under Sect. 18-401 of the Ord. to allow subdivision into 6 lots, proposed lots 3, 4, 5, and 6 each having width of 4.5 ft., and proposed lot 1 having width of 80.2 ft. (100 ft. min. lot width req. by Sect. 3-206), and to allow existing dwelling on proposed lot 1 to be 14 ft. from a contiguous pipestem (25 ft. min. front yard req. by Sect. 2-416), located 3450, 3452 and 3454 Gallows Rd., Shamrock Heights, R-2, Mason Dist., 59-2((1))49 and 59-2((10))1, 3.22 acres, VC 84-M-101. (DEFERRED FROM OCTOBER 23, 1984 AT THE REQUEST OF APPLICANT'S ATTORNEY AND FROM DECEMBER 4, 1984 TO ALLOW THE BOARD MEMBERS TIME TO VIEW THE SITE.)

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R E S O L U T I O N

In Application No. VC 84-M-101 by CHARLES F. SCHEIDER, III under Section 18-401 of the Zoning Ordinance to allow subdivision into 6 lots, proposed lots 3, 4, 5, and 6 each having width of 4.5 ft., and proposed lot 1 having width of 80.2 ft. (100 ft. min. lot width req. by Sect. 3-206), and to allow existing dwellings on proposed lot 1 to be 14 ft. from a contiguous pipestem (25 ft. min. front yard req. by Sect. 2-416), on property

located at 3450, 3452 and 3454 Gallows Road, tax map reference 59-2((1))49 and 59-2((10))1, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 11, 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 3.22 acres.
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 subdivision of one lot into six (6) 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 he expiration date.

Mrs. Thonen seconded the motion.

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

//Mr. Hammack stated that he had viewed the property from all angles, and he agreed with the staff comments. He stated that there was enough land area on lots 3, 4, 5 and 6 to accommodate a cul-de-sac that would be required for a regular subdivision. Mr. Hammack stated that if those improvements were made to the property they would be more marketable and lend themselves to a higher quality level of development. He did not see the difference an 18 or a 24 foot right of way would make. Both of the houses on lots 1 and 2 were very close to the right-of-way as it stood now.

Mr. DiGiulian commented that he also looked at the site. He felt that in addition to the constraints imposed by the two existing dwellings and the need to put a road between them, there was somewhat of a topographical problem. Mr. DiGiulian stated that there was a relatively steep grade from the public street back into the two rear lots. He felt that this was the only way to obtain reasonable development of the property.

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1:30 P.M. DOME BUILDING PARTNERS & BASEBALL ACADEMIES, INC., appl. under Sect. 8-501 of the Ord. for an indoor baseball academy, located 5633 Leesburg Pk., Baileys Crossroads, C-8, Mason Dist., 61-2((21))pt. lots 1 & 2, 19, 20, 21, 22; approx. 91,327 sq. ft., SP 84-M-072. (OTH REQUEST GRANTED BY BZA ON 11/20/84.)

Cheryl Hamilton reviewed the staff report for the Board which recommended approval of the special permit application subject to the development conditions. The staff report indicated that the baseball academy had a ten year lease agreement for the second floor of the Dome building. The facility would contain eight practice batting cages, five instructional cages and a small infield. In addition, there would be two small administrative offices and a pro shop to sell equipment to patrons of the facility. The building was constructed in 1957 and was currently non-conforming in some respects. It was the position of the Zoning Administrator that new uses can be established without effecting the non-conforming status of buildings, and without requiring the other uses in the buildings to meet the current parking standards, provided that the new use had an equivalent or lesser parking requirement than the existing use or uses that are being replaced.

John Hardin Young, 1629 K. Street, Washington, DC, represented the applicant. He stated that the Dome building was located in the triangle between Route 7 and Seminary Road. It was the applicant's intent to assist the County in providing a use that would temporarily increase the economic viability of this area. He stated that the baseball academy had two five year leases. After that time, the building would then be revitalized in keeping with the Comprehensive Plan.

Ken Kelly, 4515 McArthur Blvd., Washington, DC, the President of Baseball Academies, Inc. and a baseball coach at Georgetown University, spoke in support of the application. He stated that this facility would be for youths of all ages for instructional purposes. The highly trained staff would be providing a public service and quality instruction to youths in the area. He indicated that in speaking with the Fire Marshal, he was informed that his occupancy load for special events was up to the Fire Marshal's office. The Board informed Mr. Kelly that he was not to exceed 51 persons, which was the maximum number of persons permitted in the facility at any one time.

Mr. Zinser, an architect at 2070 Chain Bridge Road and Paul Tischler, 1725 K. Street, Washington, DC, also spoke in support of the application. They indicated that this use would assist the parking problem by providing more off hours usage of the parking area.

There was no one to speak in opposition.

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Page 263 December 11, 1984 Board of Zoning Appeals
DOME BUILDING PARTNERS & BASEBALL ACADEMIES, INC.

R E S O L U T I O N

In Application No. SP 84-M-072 by DOME BUILDING PARTNERS & BASEBALL ACADEMIES, INC. under Section 8-501 of the Zoning Ordinance for an indoor baseball academy, on property located at 5633 Leesburg Pike, tax map reference 61-2((21))pt. lots 1 & 2, 19, 20, 21, 22; 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 11, 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 91,327 sq. ft.
4. That compliance with the Site Plan Ordinance is required.
5. The tape will bear up all the testimony that has been said today. To highlight some comments, the property is surrounded by other commercial properties. The use is not commonly requested in this area, it is unusual, at least for this member, but it sounds like a nice one. Baseball skills will be taught to youths. Three employees at any one time. The maximum capacity of 51 persons will be using the second floor of the Dome Building. It meets the Comprehensive Plan map for retail use and has no environmental impacts. Development Condition #8 really addresses the transportation issue. This new use requires less parking than the previous use, as few will arrive individually. Busses will be used for groups. The Zoning Administrator has explained the staff's feeling or interpretation, re: The non-conforming status of this building, on page two on the next to the last paragraph on the staff report. And this Development Plan Analysis is part of my motion. The use will be instructional and will not hold competitive meets.

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. The maximum number of employees on site at any one time shall not exceed three (3).
6. The maximum number of persons permitted in the facility at any one time shall not exceed 51.
7. The pro shop shall only sell equipment to patrons of the baseball academy unless additional parking is provided in accordance with Article 11.
8. The entrance on Seminary Road shall be reduced to a width between thirty (30) and fifty (50) feet and all travel aisles shall meet the requirements of the Public Facilities Manual.
9. There shall be a minimum of 20 parking spaces provided for this use..
10. This special permit is approved 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 legally established, or unless building permits have been obtained and renovation 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. DiGiulian seconded the motion.

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

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// There being no further business, the Board adjourned at 2:50 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 Evening, December 18, 1984. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; John Ribble; Mary Thonen; Paul Hammack and Gerald Hyland.

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

The Chairman called the scheduled 8:00 o'clock case of:

8:00 P.M. COMMUNITY CHURCH OF GOD, appl. under Sect. 3-103 of the Ord. to amend SP 83-P-028 for church and related facilities to permit addition of a garage to the approved facilities, located 2458 Gallows Rd., R-1, Providence Dist., 39-4((1))30A, 168,064 sq. ft., SPA 83-P-028-1. (DEFERRED FROM OCTOBER 30, 1984 AT REQUEST OF APPLICANT).

William Shoup reviewed the staff report for the Board which recommended approval of the special permit amendment subject to the suggested development conditions.

Pastor Jennings Wood, 9001 Ellenwood Lane, Fairfax, represented the applicant. Pastor Wood stated that due to opposition from the Dunn Loring Improvement Association about the proposed masonry garage, the church had decided to build a frame structure with imitation brick siding. Pastor Wood stated that the front of the garage would be facing to the rear of the church. It would be an oblong structure with a peaked roof. The garage would be used to house two busses and three vans. The church performed minor maintenance on these vehicles and would also be using the garage for this purpose. Pastor Wood stated that they were going to break ground in the spring for the new church. He stated that he would like to construct the garage first to use it for the storage of building materials for the new church. He estimated that the entire construction process might take two and a half years. Pastor Wood stated that the church would comply with all of the suggested development conditions.

Robert Summers, 2400 Spring Street, Vice-president of the Dunn Loring Improvement Association, brought up some concerns from surrounding property owners. He referenced a letter from Louise Glassmyer, 2500 Gallows Road, a contiguous property owner. She asked that the garage building be of similar construction to other buildings placed on the property, and in harmony with other structures in the neighborhood. Mr. Summers stated that in a recent conversation with Ms. Glassmyer, she had expressed concern that proper screening be provided between her house and the garage to shield her from headlights. Currently, there were many large oak and pine trees, but Mr. Summers felt that they were not enough for screening purposes. The Board members determined that Ms. Glassmyer's house was approximately 230 feet away from the proposed structure.

The Board discussed condition number 9 in the staff report which discussed vehicle maintenance and repair. It was the consensus of the Board that minor repairs would include changing the oil and tires, tune-ups, and any general maintenance that would normally be required to keep the vehicles in good running order. Major repairs that would not be permitted would include transmission or engine overhauls.

There was no one else to speak regarding the application.

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R E S O L U T I O N

In Application No. SPA 83-P-028-1 by COMMUNITY CHURCH OF GOD under Section 3-103 of the Zoning Ordinance to amend SP 83-P-028 for church and related facilities to permit addition of a garage to the approved facilities, on property located at 2458 Gallows Road, tax map reference 39-4((1))30A, 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 18, 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 168,064 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 1 shall be provided along Cedar Street and along the western lot line as shown on the plat submitted with this application. Evergreen plantings shall be provided around the parking areas adjacent to Parcel 2A and along Gallows Road to screen these areas from view of the roads and the adjacent property and from headlight glare from the garage. The amount and type of such plantings shall be determined by the Director, Department of Environmental Management. Additional screening and landscaping may be required as determined by the Director of Environmental Management at the time of site plan review. Additional plantings shall be provided between the garage and Lot 2A.
6. Interior parking lot landscaping shall be required in accordance with the provisions of Sect. 13-106 of the Zoning Ordinance.
7. If parking lot lights are installed, they shall be no higher than 12 feet and shall be shielded if necessary to prevent glare onto adjacent properties. 8. The maximum number of seats shall be 400 with a corresponding maximum of number of 100 parking spaces.
9. All maintenance and minor repair of vehicles shall be conducted within the interior of the garage and shall be limited to vehicles owned by the church. There shall be no outside storage of vehicle parts. Maintenance and minor repairs shall be conducted during daylight hours and there shall be no major repair of vehicles on this property.
10. The facade of the garage shall be of a brick appearance.

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, the Special Permit for the garage, church and related facilities 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.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 7 - 0.

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8:30 P.M. PULTE HOME CORPORATION, CONTRACT PURCHASER, appl. under Sect. 18-301 of the Ord. to appeal decision of the Director of Environmental Management to deny the appellant's preliminary subdivision plat for a cluster subdivision, Edgewood Acres, R-3, Lee Dist., 100-2((1))4, 191.3 acres, A 84-L-004. (DEFERRED FROM SEPTEMBER 25. 1984 AT THE REQUEST OF THE PLANNING COMMISSION).

The Board was in receipt of a letter from the applicant's attorney requesting a deferral of the appeal application. He indicated that the Planning Commission had not yet considered the matter, and he was hoping that the issue would be resolved so the hearing would not be required. It was the consensus of the Board to defer the application to February 19, 1985 at 8:00 P.M. The applicant would be required to send out notification letters to contiguous property owners notifying them of the hearing date and time since that had not yet been done.

8:45 P.M. MT. PLEASANT BAPTIST CHURCH, appl. under Sect. 3-203 & 8-901 of the Ord. to amend S-60-75 for church and related facilities to permit additional land area and construction of additional parking to existing facilities, and to permit a waiver or modification of the dustless surface requirement for existing gravel parking lot; located 6477 Lincolnia Rd., R-2, Mason Dist., 61-3((1))4 & 61-3((3))26B, 69,669 sq. ft., SPA 75-M-060-1.

The Board was in receipt of a letter from the applicant's attorney requesting a deferral of the special permit application. He indicated that he wanted to allow the applicant and the citizens more time to get together and discuss any problems they might have. It was the consensus of the Board to defer the application to January 22, 1985 at 8:45 P.M.

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9:00 P.M. LAKE BARCROFT RECREATION CENTER T/A BARCROFT RECREATION CENTER, LESSEE, appl. under Sect. 3-203 of the Ord. to amend S-179-75 for community recreation facilities to permit addition of bubble enclosure of existing outdoor swimming pool, located 6424 Recreation Ln., R-2, Lake Barcroft Subd., Mason Dist., 61-3((18))A1 & B1, 12.4633 ac., SPA 75-M-179-1. (OTH REQUEST GRANTED BY BZA ON 11/13/84).

Cheryl Hamilton reviewed the staff report for the Board. Background information on the Lake Barcroft Recreation Center included the facts that the original special permit was approved on September 8, 1970. On September 13, 1972, the BZA approved a minor engineering change. On October 30, 1973, the BZA temporarily revoked the special permit for the recreation center because of a breach of certain conditions of the permit, and on November 1, 1973, the Circuit Court reversed the BZA's decision and stayed the revocation action. Ms. Hamilton stated that the Zoning Enforcement Branch had received recent complaints about people loitering on the site.

Chairman Smith indicated that the Board was in receipt of a letter from Jefferson Collins, 6523 Jay Miller Drive, who was present at the meeting, requesting a deferral of the subject application because a number of affected property owners were unable to attend the meeting, including Julia Abrams, 6525 Jay Miller Drive and Ralph & Laura Stimson, 6515 Jay Miller Drive. It was the consensus of the Board that the notification requirements had been met, and the citizens had sufficient time to submit any written comments they might have.

Robert Kinberg, 6501 Lakeview Drive, the President of Lake Barcroft Recreation Center, represented the applicant. He stated that he had taken a petition around the neighborhood, and he had fifteen signatures in support of the application from homeowners abutting the facility on Lakeview Drive, Jay Miller Drive and Whispering Lane. Mr. Kinberg stated that the proposed bubble would go up in mid-September and be taken down in mid-May. The recreation facility wanted to provide a year-round swim program to help children continue with their swimming skills. He stated that he had read all the suggested development conditions and had some comments and changes he would like to make. Mr. Kinberg indicated that condition number nine, which addressed the perimeter gates being locked, was a new condition that would help alleviate the staff concern about trespassing and loitering on site after the facility had closed. He stated that it had been the policy of Lake Barcroft to lock the gates every evening at closing time, but that this rule had been abused. He stated that there was new management of the facility and new procedures were being developed to remedy this problem.

With regard to condition number fifteen, Mr. Kinberg stated that the revised site plan he had submitted was in error, and that the gravel turnaround area was already paved with an oil based seal, like the connected parking lot. The Board questioned whether the turnaround area met the current provisions of the Zoning Ordinance for dustless surfaces. Ms. Hamilton told the Board that if the dustless surface met the requirements to the satisfaction of the Director of the Department of Environmental Management, then the condition could be eliminated.

Mr. Kinberg addressed condition number eleven which limited the height of the light standards and fixtures for the recreation facility to twenty feet. He stated that the lights inside the bubble might be higher than that, and he asked that the condition be applied only to the outdoor lighting. Ms. Hamilton stated that the staff had no problem with that request. Mr. Kinberg indicated that any lights inside the bubble would be taken down when the bubble was removed.

Mr. Kinberg asked that condition number five be amended to show the daily hours of operation as 5:30 A.M. to 10:00 P.M. He stated that these hours would provide greater flexibility for children attending school and adults that worked full-time. Mr. Hyland stated that he was concerned with the proposed hours of operation because he felt that the noise from the increased traffic would be at the expense of the neighborhood. Mr. Kinberg stated that there was 146 feet of screening between the facility and the property line which would help eliminate any noise problems.

Bernard Scheps, 3838 Pinewood Terrace, lot 92, spoke in conditional support of the application and submitted a letter to the Board signed by two other households. Mr. Scheps stated that on several occasions he had called the police about after hour parties, noise, and loitering. He stated that it had taken much time for the neighbors and the recreation facility to achieve agreement on the conditions of the original special permit. He felt that the applicant had not followed the conditions and the

abutting land owners had been denied the protection intended by the BZA. Mr. Scheps stated that on this special permit, the BZA should strictly enforce the conditions they imposed on the applicant. He asked that the noise be contained within the bubble and the lights be directed away from residential properties. He felt that if the applicant couldn't meet these requests, he and his neighbors would object to any further development on the applicant's property.

Edward Lombard, 3706 Quaint Acre Circle, spoke in support of the application. He stated that he was in agreement with the hours the recreation center was requesting. He felt that this would make it easier for children who attended school, and working parents. Victor Abranathy, a coach at Lake Barcroft, also spoke in support. He stated that the center had no problems during the hours of operation, and though the gates were locked at night, people still climbed over them and created a disturbance.

People speaking in opposition included: Ahmad Shahna, 6512 Oakwood Drive; Jefferson Collins, 6523 Jay Miller Drive; William Goodell, 3817 Larchwood Road; and Mary Kathryn Kubat, 6425 Lakeview Drive. The opposition indicated that ever since this center had started operation, they had failed to comply with conditions placed on them by the BZA, and had no consideration for adjacent property owners. Their main concerns included the fact that the parking lot had become a group meeting place for teenagers who created a disturbance in the evenings after the club had closed and vandalized adjacent properties. The neighbors felt that the club was not making sure the gates were secured. Also, the citizens indicated that the club often violated the hours of operation imposed by the BZA, with noisy activities extending well past midnight. Mr. Goodell stated that he was speaking as a representative of the Bellvedere-Barcroft Hills Civic Association. He was taking notes so that the association could meet and review the proposal and assess the impact it would have on the community. He stated that he was very familiar with bubble construction, and they were made of a thin membrane which focused noise not contained it. Mr. Goodell also stressed his opposition regarding leasing the recreation center. He asked the Board not to make any final decision on the application until members of the community could obtain copies of the proposal and impact statements related to the application.

During rebuttal, Robert Kinberg stated that a lot of concern appeared to be over the locking of the gates. He assured the Board that there would be a remedy for that very soon. He stated that the gate on the lower lot on Lakeview Drive had been permanently locked since early in the season. It was the club's policy to lock the other gate after hours. He stated that on occasion it had remained open due to improper procedures. Mrs. Thonen said she would have felt better if he had taken care of this problem before coming to the Board and asking for something else, when he couldn't live up to the standards that had previously been placed on the club. She stated that it was not right to impose on the community. With regard to the question on leasing the facility, Mr. Kinberg stated that they did not plan to lease it, but would sell winter memberships.

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

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LAKE BARCROFT RECREATION CENTER
T/A BARCROFT RECREATION CENTER
SPA 75-M-179-1

Board of Zoning Appeals

Mrs. Thonen made the following motion: The applicant has not proved that he is a good neighbor to the people. I think there are a lot of things that can be done, but I also would like to say that I'd like to see the people there have extended use of the pool. Therefore, I would like to recommend that we give the people their thirty days that they have requested, and that we defer this application. We should keep the record open for written testimony so that we don't have to have such a long, drawn out presentation the next time. I would recommend that the applicant get together with the people to see if some of the problems can't be worked out, and prove themselves to be a better neighbor when they come back the next time.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 - 1. (Mr. Smith) Deferred to January 15, 1985 11:20 A.M

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Page 268 December 18, 1984, AFTER AGENDA ITEM:

A 84-P-011/FAIR OAKS MOTEL: The Board was in receipt of a request from Phil Yates for a date and time for a public hearing on the referenced appeal application. It was the consensus of the Board to schedule the application for March 5, 1985 at 10:00 A.M.

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// There being no further business, the Board adjourned at 10:35 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 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, January 8 1985. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; John Ribble; and Mary Thonen. (Messrs. John DiGiulian and Paul Hammack were absent).

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

ELECTION OF OFFICERS:

Clerk to the Board of Zoning Appeals: Mr. John Ribble nominated Sandra L. Hicks to serve as Clerk to the Board of Zoning Appeals for 1985. Mr. Hyland seconded the nomination and it passed unanimously by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

Vice-Chairman of the Board of the Zoning Appeals: Mr. Hyland nominated Mr. John DiGiulian to serve as Vice-Chairman of the Board of Zoning Appeals for 1985. Mr. Ribble seconded the nomination and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

Chairman of the Board of Zoning Appeals: Mr. Hyland nominated Mr. Daniel Smith to serve as Chairman of the Board of Zoning Appeals for 1985. Mr. Ribble seconded the nomination and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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The Chairman called the scheduled case of:

10:00 A.M. ALBERT H. HARACZ, JR., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that appellant's 1941 Chevrolet army truck is a commercial vehicle despite the fact it is licensed as an antique vehicle, and that this vehicle is in excess of the number of commercial vehicles allowed to be parked on appellant's residential property, located 6633 Pine Rd., Braddock Acres Subd., R-2, Mason Dist., 71-4((9))22, approx. 21,780 sq. ft., A 84-M-008. (VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE)

Mr. Albert H. Haracz, Jr. of 6633 Pine Road in Alexandria submitted documents in support of his position from the American Truck Historical Society; Mr. & Mrs. W. Winston Payne, 6629 Pine Road; Mr. & Mrs. Martin L. Mounier, 5109 Birch Lane; and Nancy P. McIntyre, 6636 Pine Road. Mr. Haracz disagreed with the Zoning Administrator's background report which referred to a letter from Mr. Bakos dated June 28, 1983 wherein Mr. Haracz supposedly agreed to remove the 1941 Chevrolet truck from his property. The report also referred to a 1970 VW wherein Mr. Bakos wanted Mr. Haracz to show that it was not a junk vehicle. Mr. Haracz stated that the VW had all its tags and parts and is not a junk vehicle.

Mr. Haracz referred to the Zoning Administrator's request that information be provided regarding vehicles he considered commercial. Mr. Haracz indicated his refusal as the Zoning Administrator already had the title numbers, dates of acquisition, etc. available through the Virginia Division of Motor Vehicles. During several phone calls from Mr. McDermott of the Zoning Administrator's staff regarding this matter, Mr. Haracz received verbal information indicating that two of the vehicles were considered to be non-conforming and could remain on the property. In addition, the third vehicle was considered to be excluded by right. Later after providing the requested information in writing, Mr. Haracz was sent a letter indicating that the previous verbal information had been in error.

Mr. Haracz informed the Board that his antique vehicles were not commercial vehicles. Mr. Yates refused to recognize antique vehicles for fear of the County being inundated with them. Motor homes and school buses were considered to be more common usage according to Mr. Yates. Mr. Haracz argued that the County was more inundated with these types of vehicles than antique vehicles.

Mr. Haracz discussed the definition of an antique vehicle. He indicated that the Zoning Ordinance obtained its powers from the basic police powers going back to the Virginia Constitution. Statutes and case laws developed the rules and procedures governing the authority and requiring equal protection for everyone under the law. Mr. Haracz stated that the Zoning Ordinances were use oriented. Virginia Law takes precedent over any County Law or Ordinance. Mr. Haracz stated that there is an obligation to protect the equal rights of those who wish to proceed as they may legally do just as there is an obligation to restrict those uses not permitted. Mr. Haracz stated that according to case law, a County Ordinance cannot discriminate unless the case relates substantially to public health, safety or welfare. It cannot be irrational and cannot be based on aesthetic considerations.

Mr. Haracz stated that the State Code contains a definition of an antique vehicle. Mr. Hyland inquired if there is a definition of commercial vehicle in the State Code. Mr. Haracz indicated that to his knowledge there is not one in the State Code. The definition is contained in the Zoning Ordinance. Mr. Haracz indicated that there is a definition of a commercial vehicle in effect by the state. Years ago, he had requested a definition for a commercial vehicle from the State Corporation Commission, the Insurance Commission, and the State Police. The response he received was that if the vehicle is a "for hire" vehicle, it was commercial.

Mr. Hyland inquired if it was possible to have an antique vehicle under the definition of the State Code and also a vehicle which would be considered a commercial vehicle under the County Ordinance. Mr. Haracz responded that the State Code would have to govern. Mr. Hyland replied that if that was the case, Fairfax County would not have the right to change the definition of what is or is not an antique vehicle under the State Code. They could not make it a stricter definition. Mr. Hyland inquired if it was possible to have an antique vehicle under the categorization of the State Code and also have the same vehicle categorized as a commercial vehicle under the Ordinance of Fairfax County because of the weight capacity. Mr. Haracz stated that he did not understand the weight capacity but it was in the Ordinance definition. He indicated that there were exclusions in the Ordinance definition. Mr. Haracz stated that the State definition and requirements for antique vehicles parallel the exclusions outlined in the definition.

Continuing his presentation, Mr. Haracz stated that there was a definition of antique vehicle in the State Code which in the absence of such a definition in the County Code must be accepted and used. Mr. Haracz stated that the definition restricts the use of antique vehicles to private recreational uses coupled with the license plates issued for use on the vehicles describes the very same uses excluded from the County definition of commercial vehicles. Mr. Haracz stated that the state law would prevail even if the exclusion were not present in the Ordinance.

Mr. Haracz stated that his vehicle is smaller and lighter than other motor homes and school buses that could be excluded from the Ordinance. Therefore, he indicated that he could come to no other conclusion but that Mr. Yates' determination is based on aesthetics which is not permitted in Virginia. Accordingly, he requested the Board find that any vehicle licensed as an antique vehicle is personal and private and, therefore, excluded from the County definition of a commercial vehicle.

Chairman Smith inquired as to the carrying capacity of the 1941 Chevrolet truck. Mr. Haracz responded that it was rated as a 1 1/2 ton vehicle which exceeded the 3/4 ton limitation cited by Mr. Yates. In response to questions regarding the current Virginia inspection sticker, Mr. Haracz stated that the truck is an antique vehicle. He was not certain of the requirements for Virginia inspection. Mr. Haracz stated that the truck has an antique tag which is issued for the life of ownership. Chairman Smith stated that the vehicle would require an inspection sticker if it is driven on the highways. Mr. Haracz responded that the vehicle is not typically driven on the roads and highways. In response to further questions, Mr. Haracz stated that all of the lights worked on the truck but he has not had it inspected. He stated that he does not drive the vehicle on the road. He stated that the vehicle was complete and operable but it rides so rough that he does not want to drive it for any great distance. Mr. Haracz informed the Board that the vehicle is a fun play toy and is his hobby. He indicated that when he moves it to a show, he tows the vehicle because it drives so rough.

Chairman Smith inquired as to the other two antique vehicles housed on the property. Mr. Haracz responded that one antique is the 1941 Chevrolet truck already discussed. The other antique is a 1950 Ford truck of approximately the same capacity and size as the Chevrolet. Chairman Smith inquired if it has a current inspection and was informed it is tagged with an antique license tag also. Chairman Smith inquired if the vehicle is inoperable. Mr. Haracz responded that he has not started it in sometime but nothing has been removed from it. Mr. Haracz indicated that he has not had an opportunity to work on it.

Mr. Haracz informed the Board that he has a third vehicle which the Zoning Administrator in his strictest interpretation has deemed to be a commercial vehicle. It is a 3/4 ton 1971 Ford Pickup truck. It is a private, not for hire, truck and is normally kept inside the garage. Mrs. Thonen inquired about several small cars depicted in photographs submitted to the Board. After review of the photographs, Mr. Haracz stated that the 1971 VW is tagged, inspected, and operating.

Chairman Smith reminded the members that the only issue before the Board is the 1941 truck which exceeds the 1500 pound capacity. . Mr. Hyland stated that only becomes an issue if the appellant has another commercial vehicle on the premises. Mr. Hyland stated that the appellant is entitled to one commercial vehicle. Mr. Hyland challenged Mrs. Thonen's statement that any vehicle over 3/4 ton is not allowed. Ms. Jane W. Gwinn, Acting Zoning Administrator, informed the Board that one 3/4 ton or larger vehicle is permitted per lot which by definition is a commercial vehicle.

In discussing the case with the Board, Ms. Gwinn stated that the appellant has three vehicles which are deemed commercial. The 1950 Ford truck and the 1971 Ford truck were grandfathered as the appellant presented evidence that these vehicles were registered to him at his current address prior to the 1978 amendment to the Zoning Ordinance which defined commercial vehicles. Prior to that time, the previous Zoning Ordinance only allowed one commercial vehicle per dwelling but there was not a definition. The 1941 Chevrolet was acquired subsequent to the 1978 amendment which the Zoning Administrator deemed to be an expansion.

In response to questions from the Board, Ms. Gwinn stated that the issue before the Board is whether the 1941 Chevrolet truck, deemed to be an antique vehicle, excluded from the definition of commercial vehicle. If the Board decides that it should not be deemed a commercial vehicle, then there is not a limitation and Mr. Haracz would be allowed to continue it.

Mr. Hyland stated that it is a two pronged definition as far as capacity and the designation on the side of the vehicle. He indicated that there is not any reference in the definition of commercial vehicle as to the use of the vehicle. Mr. Hyland questioned how a vehicle could be considered a commercial vehicle if it is not used for commercial purposes.

Mr. Hyland inquired if there is any limit on the number of motor homes, horse trailers, boats, etc. that a person could have on his property. Ms. Gwinn responded that there are not any specific zoning Ordinance provisions which limit anyone to the number of items mentioned. She further stated that if someone had a fleet of motor homes, the County would probably rule that it is not a permitted accessory use as it is customary for a person to have only one or two such vehicles.

Mr. Hyland inquired as to how to reconcile the recognition under State law as to the definition of an antique vehicle with the commercial vehicle language in the Zoning Ordinance when there is no commercial use or purposes being enjoyed by the appellant. Ms. Gwinn responded that the definition is two pronged. She indicated that the definition might be a misnomer. However, there was an intent when the definition was drafted to regulate the size of vehicles that could be kept on a property as it was not deemed appropriate in a residential district because of the impact on adjacent properties.

With respect to the antique vehicle designation in the State Code, Ms. Gwinn indicated that she is aware of what the provisions say and concur with the limitations placed on them which negates them being used for commercial purposes. However, the County was concerned about exempting antique vehicles from the definition as someone might decide to collect antique "Greyhound" buses and antique fire trucks. She indicated that the size could not be ignored.

Following further discussion among the Board members, Chairman Smith stated that the Zoning Ordinance took precedence over the State Code as far as the residential parking of vehicles. Mr. Hyland stated that in examining the definition of commercial vehicles and the exceptions to the definition, it is clear that the County exempted out all of those kinds of vehicles and type of equipment that are used for agricultural purposes or for recreation. Mr. Hyland stated that to ignore the purpose for which the appellant purchased the vehicle is not recognizing the purpose for which the vehicle is on the site. Mr. Hyland felt that the Ordinance amendment was intended to prohibit people from having two commercial vehicles on their site to prevent a commercial operation in a residential area.

Mr. Hyland stated that the appellant had indicated that the purposes for his vehicles is as a recreational hobby. It's not used for commercial or business purposes. Mr. Hyland inquired as to how the Board reconciled that it is okay for everybody else to have their recreational vehicles. Mr. Hyland stated that the Ordinance did not make sense. Chairman Smith stated that the limitation is on the weight capacity and the number of vehicles which is to protect the residential character of the area.

Mrs. Philippa R. Schanke of 6605 Pine Road in Alexandria spoke in support of the appeal. She stated that she has know Mr. Haracz for 21 years. He is a good neighbor and a tremendous help in raising her five children because of his interest in old vehicles. She indicated that her children have learned to deal with life because of the antique hobby. Mrs. Schanke did not want it to be outlawed just because some people did not like antique trucks.

During staff's representation, Ms. Gwinn noted that the state definition of antique vehicle is set forth in the Motor Vehicle Code which deals with licensing requirements and traffic. She indicated that it did not negate or supercede a land use or Zoning Ordinance as it is in the State Code for different reasons.

Mr. Hyland inquired as to whether there was any discussion when the Zoning Ordinance was amended in 1978 as to the requirement of use of a commercial vehicle. For example, he inquired if he could have two trucks, both of which exceed 3/4 ton, housed on the property and not used for commercial purposes but for his own personal use. Ms. Gwinn responded that it was not allowed. She indicated that the definition of commercial vehicle is two pronged. One is use and the other is capacity. In terms of when the Ordinance was adopted in 1978, Ms. Gwinn stated that there was discussion or acknowledgement that the amendment applied to the size of vehicles. She stated that there was even some testimony suggested that the County should change the provisions to limit the length of a cargo bed. It was clearly presented that the amendment did have a two pronged type of regulation: commercial use in terms of advertising or for hire versus the size of the vehicle.

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Mr. Hyland indicated his problem with the capacity limitation. He cited an example of having the top of a motor home cut off where there is as much capacity in the motor home as in a 3/4 ton truck.

Mrs. Bess Chambers of 5100 Birch Lane spoke in opposition to the appeal. She presented the Board with photographs showing the condition of the vehicles kept on Mr. Haracz's property. Mrs. Chambers lived across the side of the property. She indicated that she was able to view the vehicles from her front yard, her front window, and her driveway. Mrs. Chambers informed the Board that she obtained signatures from neighbors who felt the vehicles were unsightly. Mrs. Chambers indicated that she built her home in the 1950s and paid approximately $1500 real estate taxes to the County. She was unhappy with the services from Fairfax County because of the condition of Mr. Haracz' property in the residential community. Mrs. Chambers felt there was an unusual amount of trash on the property which affected her property and her home. Mrs. Chambers stated that the truck were not a hobby as the antiques were not being restored. They were sitting on the property, rusting and deteriorating. She asked the Board to deny the appeal because the trucks were commercial and an eyesore to the community.

During rebuttal, Mr. Haracz stated that the Zoning Ordinance could not discriminate on aesthetic values which seemed to be the main argument. With regard to discussion on the motor homes, Mr. Haracz stated that they are typically constructed on 1 1/2 to 2 ton chasis which are just as big as the 1941 truck. The body of the motor homes run from 30 to 36 feet long. Mr. Haracz reminded the Board that any number of motor homes are permitted on a lot.

Chairman Smith stated that he only had the Ordinance to guide his decision. Mr. Hyland inquired as to the meaning of the language of "similar recreational vehicles' which is contained in the Ordinance. Chairman Smith responded that it covered boats, snow mobiles, sleds, etc.

At the conclusion of the public hearing, Mrs. Thonen moved that the Board uphold the decision of the Zoning Administrator in Appeal A 84-D-008 by Albert H. Haracz, Jr. Mrs. Day seconded the motion.

During discussion of the motion, Mr. Hyland stated that he was not pleased with the circumstances. He indicated that he appreciated the neighbors and the appellant's view in terms of the antique vehicles. Mr. Hyland stated that he found considerable difficulty in the definition because of inconsistencies in the Ordinance to the extent other vehicles can be permitted without limitation for recreational purposes. It was clear to Mr. Hyland that the sole purpose of Mr. Haracz's vehicles are for recreational purposes and not for commercial uses. He indicated that the vehicles were similar to other vehicles which were exempted from the definition of commercial vehicles, namely, trailers, boat trailers, horse trailers, and similar recreational equipment. Mr. Hyland suggested that the language, "similar recreational equipment" to the extent that it includes an antique vehicle which is used solely for that purpose, fits that definition. On the other hand, it is also clear that the army truck fits the definition of a vehicle which exceeds the capacity of 1500 pounds.

Mr. Hyland stated that the Board has an Ordinance definition which says it is a commercial vehicle. Then there is another definition which says that although it is a commercial vehicle, it has no commercial use. Mr. Hyland stated that the result does not make much sense. He indicated that the definition is woefully inadequate to the extent that it does not tie use to the vehicle.

Mr. Hyland stated that as a member of the Board of Zoning Appeals, he has no choice but to apply the literal definition because the army truck meets that definition. However, Mr. Hyland felt the result is not one he liked or made any sense. He indicated that the Ordinance provision in terms of being applied in this manner did not make any sense. Mr. Hyland stated that it did not make any sense to him that one could have an unlimited number of other types of vehicles and be restricted in terms of the antique trucks. But until the County changes the Ordinance definition, Mr. Hyland indicated that he did not have any choice but to support the motion that has been made. Mr. Hyland stated that he did not like it and advised the appellant to either appeal or get the Board of Supervisors to change the regulation.

The vote on the motion to uphold the decision of the Zoning Administrator passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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10:30 A.M. RYAN HOMES, INC., appl. under Sect. 3-303 of the Ord. for a subdivision sales office and related parking, located 5401 Ashcomb Ct., Cabells Mill Subd., R-3, Springfield Dist., 54-2((4))16 & 21, approx. 20,313 sq. ft., SP 84-S-058. (DEFERRED FROM OCTOBER 30, 1984 FOR APPLICANT TO WORK WITH STAFF ON PARKING REQUIREMENTS AND FROM NOVEMBER 8, 1984 FOR APPLICANT TO AMEND APPLICATION FOR READVERTISING).

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix 1. Mr. William Arnold, an attorney at 10521 Judicial Drive in Fairfax, represented Ryan Homes. He explained that the application was to allow an extension of a special permit granting the use of a residential dwelling as a sales office for Ryan Homes, Inc. Mr. Arnold indicated that there had been a problem previously regarding adequate parking. The applicant worked out a situation where the parking would be provided on an additional lot.

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

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-S-058 by RYAN HOMES, INC. under Section 3-303 of the Zoning Ordinance to permit subdivision sales office and related parking on property located at 5401 Ashcomb Court, tax map reference 54-2((4))16 & 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 January 8, 1985; 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 20,313 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 plats 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. Four (4) parking spaces shall be provided for the use on Lot 21 in accordance with the provisions of Article 11.
5. The hours of operation shall be from 12:00 Noon to 8:00 P.M., daily.
6. This permit is granted for a period of two (2) years from the approval date.
7. Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, thirty (30) days after the approval date of the Special Permit unless the applicant has applied for, and diligently pursues approval under Article 17, Site Plans, 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.
8. If these conditions have not been met, the use shall cease within thirty (30) days of this approval.

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 a new 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 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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Page 274 January 8, 1985, Scheduled case of

10:45 A.M. DOUGLAS C. KLINE, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 9.5 ft. from side lot line such that side yards total 24.3 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), located 10414 Hunter Ridge Dr., R-1(C), Oakleigh Woods, Providence Dist., 37-4((14))12, approx. 34,835 sq. ft., VC 84-P-122.

Ms. Jane C. Kelsey presented the staff report. Mr. Douglas Kline presented a diagram detailing the layout of his house with the proposed addition as well as a plat showing the location of the adjoining residences to his property. He informed the Board that his reason for requesting a variance is to enlarge his house which bordered on lots with much larger houses than his. Mr. Kline stated that his lot is exceptionally narrow and has a long narrow pipestem driveway. His lot is an interior lot consisting of approximately 8/10ths of an acre. There is an easement running diagonally across the back of the lot.

In response to questions from the Board, Mr. Kline stated that the steep sloping of his lot on the western side along with two retaining walls and a brick patio prevented him from constructing the addition in any other location. Because of the steep slopes, it was necessary to use a pumping septic system with a catch basin which precluded expansion at the rear of the house. He presented the Board with photographs to show the steep slope of the property.

Mr. Kline informed the Board that he wished to upgrade his home to be similar in design to the other homes in the neighborhood. His neighbors' homes were situated at some distance from the common property lines and the proposed addition.

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

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Page 274 January 8, 1985 Board of Zoning Appeals
DOUGLAS C. KLINE

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-122 by DOUGLAS C. KLINE under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 9.5 ft. from side lot line such that side yards total 24.3 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), on property located at 10414 Hunter Ridge Drive, tax map reference 37-4((14))12, 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 8, 1985; and

WHEREAS, the 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 34,835 sq. ft.
4. That the applicant has presented evidence with regard to the topography of the lot. First of all, it is clear that there is a substantial slope coming from the front of the property to the home. And to the rear of the home where there would appear to be room for expansion, there is located a retaining wall, a pumping station which is necessary because of the rear slope to the rear of the property, as well as another retaining wall next to the brick patio, all of which preclude expansion of the home directly to the rear. Mr. Hyland stated that the lot is narrow and there are topographic conditions which exist on the property which are referenced and further set out in the applicant's statement of justification.

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 4 to 1 (Mr. Smith)(Messrs. DiGiulian and Hammack being absent).

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11:00 A.M. ALAN J. HOFFMAN, appl. under Sect. 18-401 of the Ord. to allow construction of a roofed deck located 21.4 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 1544 Coat Ridge Rd., R-3(C), Stuart Ridge Subd., Dranesville Dist., 11-3((3))73, approx. 9,468 sq. ft., VC 84-D-123.

Ms. Jane C. Kelsey presented the staff report. Mr. Alan J. Hoffman of 1544 Coat Ridge Road in Herndon informed the Board that he wished to enclose a roofed deck which is located within the 25 foot minimum yard requirement. He stated that he acquired his property in good faith. The lot is exceptionally shallow as there is 21.4 feet to the rear boundary. Mr. Hoffman indicated that strict application of the Code would produce undue hardship as his immediate neighbors have roofs over enclosed decks. Accordingly, he stated that his proposal would not be a detriment, change the character of the area, or be contrary to the public interest.

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In response to questions from the Board, Mr. Hoffman noted that using his present deck without a roof and screening would not provide shade and protection from mosquitoes. Mr. Hoffman noted that the neighbors on either side of his property both had screened porches. There was wooded parkland immediately behind the neighbor to his rear. Mr. Hoffman stated that the enclosure of the deck would enhance the qualify of life for his wife and three children. He indicated that no one objected to his proposal.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-D-123 by ALAN J. HOFFMAN under Section 18-401 of the Zoning Ordinance to allow construction of a roofed deck located 21.4 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), on property located at 1544 Coat Ridge Road, tax map reference 11-3((3))73, 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 8, 1985; and

WHEREAS, the 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 9,468 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 shallowness 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.

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

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

Mrs. Day seconded the motion.

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

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11:15 A.M. WILFRED R. SCHLARMAN, appl. under Sect. 18-401 of the Ord. to allow construction of garage and enclosed porch addition to dwelling to 5.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 4614 Duncan Dr., R-3, Chapel Square Subd., Annandale Dist., 70-1((6))72, approx. 24,016 sq. ft., VC 84-A-124.

The Board was in receipt of a letter from the applicant seeking withdrawal of the above-captioned variance application. Mr. Hyland moved that the Board allow withdrawal without prejudice. Mr. Ribble seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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11:30 A.M. LA PETITE ACADEMY, INC., appl. under Sect. 3-103 & 4-503 of the Ord. for a child care center, R-1 & C-5, Floris Subd., Centreville Dist., 25-1((1))22A, approx. 48,787 sq. ft., SP 84-C-070.

Ms. Jane C. Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix 1. Mrs. Thonen inquired about the requirements for sprinkler systems and whether it was based on the number of children using the facility. Ms. Kelsey responded that the Zoning Ordinance did not address the interior design of the structure. However, she indicated that the applicant would have to comply with all requirements of other county codes. Mrs. Thonen stated that she would not support the special permit application unless the installation of a sprinkler system was made a condition of the granting.

Ms. Lee B. Guerry, an attorney with Boothe, Prichard and Dudley at 4103 Chain Bridge Road in Fairfax, represented the applicant. In response to questions from the Board, Mr. Guerry stated that the applicant would be planning to install the sprinkler system to the building. With regard to her presentation, Ms. Guerry stated that the special permit application of La Petite Academy showed a one story structure with landscaping. The hours of operation would be 6:30 A.M. to 6:30 P.M., Monday through Friday, and the school would have eleven employees. The child care center would be in harmony with the Comprehensive Plan and conformed to the C-5 zoning category. Ms. Guerry informed the Board that the small slice of the lot which is zoned R-1 would be used for screening purposes.

Ms. Guerry stated that the proposed use was harmonious. To the west of the site is a vacant lot and a veterinary hospital. To the north are other C-5 lots. The other properties to the east and south are vacant residential lots and Frying Pan Park. Ms. Guerry stated that all play areas would be bounded by a 4 foot high chain link fence. Adequate drainage would be provided. Eighteen parking spaces would be provided on site. There is not any objection to the proposed construction.

Mrs. Thonen inquired of staff as to whether a report from the Health Department is required. Ms. Kelsey distributed a copy of the report to the Board members.

In response to Mrs. Thonen's concern regarding the sprinkler system, Mr. Mike Giguere, an attorney with Boothe, Prichard and Dudley, indicated that he was reluctant to have the BZA add a condition if it is not required. He informed the Board that La Petite Academy was a national organization and has an excellent safety record. Some of the facilities require sprinkler systems and some do not. The requirement was based on the type of construction, size of the room, water pressure, etc. Mr. Giguere assured the Board that if it is a requirement for this proposed structure, the applicant would provide the sprinklers.

(10)

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Mrs. Thonen indicated that the Planning Commission is concerned about the sprinkler systems. She was not satisfied with the BZA's condition that the applicant comply with all existing Code requirements. Several Board members expressed concern whether the BZA has the legal authority to require sprinklers under its Zoning Ordinance.

Mr. William Shoup of the BZA Support Branch contacted the Plans Review Division of the Department of Environment Management regarding the requirements for sprinklers. He was advised that the important determining factor is the ages of the children involved. Sprinklers are required if the children are less than 2 1/2 years. If the children are more than 2 1/2 years, there is not a requirement for the sprinklers. However, sprinklers could be required in some areas of the facility regardless of the age of the children. Ms. Kelsey informed the Board that the applicant's statement indicates that the ages of the children will be less than 2 1/2 years so the sprinkler system would be required.

In response to questions from the Board regarding parking, Ms. Guerry indicated that the 17 parking spaces designated on the plat were miscalculated as there were really 18 parking spaces provided.

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. SP 84-C-070 by LA PETITE ACADEMY, INC. under Section 4-503 of the Zoning Ordinance to permit child care center on property located at 2706 West Ox Road, tax map reference 25-1((1))22A, 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 8, 1985; and

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

1. That the applicant is the contract purchaser/lessee.
2. The present zoning is R-1 & C-5.
3. The area of the lot is 48,787 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. There shall be a maximum of ninety-nine (99) children.
6. There shall be eighteen (18) parking spaces.
7. The maximum hours of operation shall be from 6:30 A.M. to 6:30 P.M.
8. There shall be a maximum of eleven (11) employees.
9. Transitional Screening 1 shall be provided along the eastern and southern lot lines. The barrier requirement shall be waived provided the play area is fenced. The play area shall be removed from the front yard and landscaping shall be provided along the entire frontage of the site to soften the impact of this use from the adjacent residential properties.

RESOLUTION

10. Twenty (20) per cent of the gross land area in the C-5 zoned portion of the site shall be landscaped open space as required in the Zoning Ordinance.
11. A thirty (30) foot dedication shall be provided as shown on the plat. Road improvements shall be provided as determined by the Department of Environmental Management (DEM) at the time of site plan review. A right turn deceleration lane shall be provided in accordance with VDH&T standards.
12. Accoustical treatment shall be provided in order to achieve a maximum interior noise level of 45 dBA Ldn and an exterior noise level for the playarea of 65 dBA Ldn.

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. Ribble 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. CALVARY ROAD BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. for building additions to existing church and related facilities, additional parking, and for three (3) temporary classroom trailers, located 6811 Beulah St., R-1, Franconia Subd., Lee Dist., 91-1((1))61, approx. 6.2288 acres, SP 84-L-071.

Ms. Jane C. Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. Staff concerns such as additional parking and transportation improvements were addressed by the applicant on the revised plat included in the report.

Mr. G. T. Ward, of Ward and Hall Engineering of 12011 Lee Jackson Highway in Fairfax, represented the church. He stated that they wanted to build an addition and enlarge the church site. The only space available is on the westerly end of the building. The sanctuary would be enlarged to house 700 people and parking would be increased to satisfy the requirements. There would also be a modest addition planned to the rear of the church which would be used for educational purposes. Mr. Ward informed the Board that the church was limited the floor area ratio to what is currently allowed for the R-1 district. However, the church plans to request a change in the zoning which would allow a greater floor area ratio. The three temporary trailers were being requested for a period of eighteen months. Mr. Ward assured the Board that the trailers would be removed when the educational space is completed.

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. SP 84-L-071 by CALVARY ROAD BAPTIST CHURCH under Section 3-103 of the Zoning Ordinance to permit building additions to existing church and related facilities, additional parking, and three (3) temporary classroom trailers, on property located at 6811 Beulah Street, tax map reference 91-1((1))61, 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 8, 1985; 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.
3. The area of the lot is 6.2288 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 maximum number of seats shall be 702 with a corresponding minimum number of 176 parking spaces. The maximum number of spaces shall be 185.
6. Transitional Screening 1 shall be provided in all areas except as follows:
   - Along the proposed parking area abutting a private street in Manchester Lakes subdivision where a six foot stockade fence has been erected, a ten (10) foot screening yard shall be provided planted in accordance with Transitional Screening 1.
   - Along the existing driveways and parking areas to the northeast and south of the church as shown on the plat. The existing plantings shall be supplemented with plants of a type and amount to be determined by the Director, DEM. A 25 foot screening area shall be provided to the north of the existing outlet easement as shown on the plat with plantings of a type and amount to be determined by the Director, DEM.
   - Along the lot line west of the existing garage there shall be Transitional Screening 1 of twenty (20) feet.
   - Along the entire frontage of Beulah Street from the southernmost lot line to the corner of the cemetery at least a ten (10) foot screening yard shall be provided. The type and amount of plantings within this yard shall be determined by the Fairfax County Landscape Architect and approved by the Director, Department of Environmental Management, DEM. This ten (10) foot screening yard shall be measured from the lot line formed after dedication and vacation and shall extend along the entire frontage of the site to the cemetery. If, after dedication and vacation, there is in excess of ten (10) feet between the parking area and the new lot line, this area shall be included in the landscape plan.
7. The barrier shall be waived provided the play area is fenced, as shown on the plat.
8. An entrance may be provided to Charles Arrington Drive provided approval is obtained from DEM and the Virginia Department of Highways and Transportation, VDH&T.
9. The three (3) classroom trailers are approved for a period of two (2) years from this approval date.
10. The southernmost entrance shall be used for exiting traffic only and appropriate signs shall be installed in appropriate locations to advise parishioners of this limitation.

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 new Non-Residential Use Permit through established procedures for the trailers and subsequent building additions, and this special permit shall not be valid until this has been accomplished. A Non-Residential Use Permit shall be obtained for the three (3) classroom trailers before occupancy.

RESOLUTION

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit for the building additions shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit 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. Day seconded the motion.

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

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12:00 NOON BEUFORD H. MILLS, appl. under Sect. 3-203 of the Ord. for a home professional office as approved in S-82-P-096, revoked; located 2917 Chain Bridge Rd., Gray's Subd., R-2, Providence Dist., 47-2((5))5 & 6, approx. 20,741 sq. ft., SP 84-P-069. (DEFERRED FROM DECEMBER 11, 1984 FOR NOTICES.)
(VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE)

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. Mr. Beuford H. Mills of 2917 Chain Bridge Road informed the Board that his request is to allow an accounting and tax consultant firm to operate on the upper level of the house. He indicated that the entire lower level is his personal residence. The structure itself is owned by his partner. The business consisted of Mr. Mills, his partner, one other accountant and a secretary.

In response to questions from the Board, Mr. Mills stated that the only portion of the downstairs living area used in connection with the business is for the storage of old files which are referred to only once or twice a year. Further questioning of Mr. Mills revealed that he is not a CPA but an accountant and has a business license with Fairfax County. He has owned the business with his partner since February 4, 1982. Mr. Mills stated that he is separated but his son has been living with him for the past 2 1/2 months. Mr. Mills informed the Board that he previously resided at 4528 Andes Drive in 1981.

In response to questions from the Board as to why the applicant did not comply with the conditions of the original granting and obtain the non-residential use permit, Mr. Mills indicated that he made every effort to comply. He stated that he cut the hedges out front. He indicated that with regard to the heating system, Mr. Mills stated on four separate occasions the heating unit ordered would not fit. It had to be custom made and was installed four months ago.

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

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Page 281 January 8, 1985 Board of Zoning Appeals
BEUFORD H. MILLS

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-P-069 by BEUFORD H. MILLS under Section 3-203 of the Zoning Ordinance to permit home professional office as approved in S-82-P-096 (revoked), on property located at 2917 Chain Bridge Road, tax map reference 47-2((5))5 & 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 January 8, 1985; 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 20,741 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. Existing vegetation and landscaping shall be retained, and additional evergreen plantings shall be provided between the parking area at the front of the property and the eastern side lot line in a manner that would screen the view of the parking area from the dwelling on adjacent Lot 4. The type, amount, and location of such plantings shall be determined by the Director, Department of Environmental Management (DEM) at the time of site plan approval. The required plantings shall be provided no later than April 1, 1985.
6. The applicant shall obtain a Non-Residential Use Permit (Non-RUP) within sixty (60) days of the approval of this application. The Non-Residential Use Permit shall be conditioned to reference compliance with Condition Number 5 above.
7. If either of the conditions numbered 5 or 6 above are not satisfied within the specified time limits, then this special permit shall automatically expire without notice.
8. There shall be five (5) parking spaces provided as shown on the plat.
9. The maximum number of employees shall be four (4) including the applicant.
10. There shall not be more than one (1) client vehicle on site at any one time with a maximum of three (3) client vehicles per day.
11. The hours of operation shall be 9:00 A.M. to 5:00 P.M., Monday through Friday.
12. No more than fifty (50) per cent of the floor area of the dwelling shall be devoted to the home professional office use.
13. Prior to issuance of the Non-RUP, the applicant shall submit an affidavit attesting to the fact that the property is his domicile and will continue to be his domicile as long as he continues to operate the home professional office.
14. There shall be no signs displayed on the property in conjunction with this use. One plaque, not exceeding one (1) square foot in size may be affixed to the front door of the dwelling for identification purposes. The inscription on the plaque shall not be visible from off of the property.
15. The property shall be open for inspection by County personnel during the hours of operation.
16. If the dwelling is remodeled to the extent that additional insulation can reasonably be provided, then such should be required, if necessary, in accordance with the following Sound Transmission Class (STC) standards for exterior walls:
    - walls in those portions of the dwelling used for residential purposes shall have a minimum STC of 45; and
    - walls in those portions of the dwelling used for office purposes shall have a minimum STC of 39.

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. Ribble seconded the motion.

The motion *FAILED by a vote of 2 to 2 (Mrs. Day & Mrs. Thonen) with 1 abstention (Mr. Smith)(Messrs. DiGiulian and Hammack being absent).

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Mrs. Thonen left the Board meeting at 12:40 P.M. and did not return for the after agenda items.

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Page 283 January 8, 1985, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of current Minutes for December 4, 11, and 18, 1984. Mr. Ribble moved that the Board approve the Minutes as submitted. Mr. Hyland seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

The Board was in receipt of backlogged Minutes for June 28, July 7, July 12, July 18, July 19, and July 26, 1983. Mr. Hyland moved that the Board approve the Minutes as submitted. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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Page 283 January 8, 1985, After Agenda Items

RICHARD & JUDITH A. WELLS AND ALLEN JOHN JR. & MARTHA E. OLMSTEAD, VC 84-C-143: The Board was in receipt of a letter from Mr. Thomas O. Lawson, attorney for the applicants, requesting an out-of-turn hearing on the variance application to allow subdivision into three (3) lots, proposed lot 1 having width of 12 ft. and proposed lots 2 and 3 each having width of 6 ft. (150 ft. min. lot width req. by Sect. 3-106), located 2740 Hunter Mill Rd., Bonnet Subd., R-1, Centreville Dist., 37-4((1))17C & pt. 17, approx. 3.599 acres.

Following discussion with staff, it was the consensus of the Board to defer the request for a period of one week to determine why the Department of Environmental Management approved the subdivision plat for one lot in lieu of the subdivision originally approved by the BZA.

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Page 283 January 8, 1985, After Agenda Items

BOARD RESOLUTION REGARDING DEPARTURE OF ZONING ADMINISTRATOR: The Board members signed the following resolution regarding the departure of Philip G. Yates, Zoning Administrator:

> WHEREAS, it is with sincere regret this Board has learned of your termination of employment with Fairfax County; and
>
> WHEREAS, the members of the Board of Zoning Appeals feel the County is losing one of its top administrators, who will be solely missed for present and future achievements; and
>
> WHEREAS, the County has seen the Zoning Administration Office upgraded in the past six years under your leadership, and the members of this Board look forward to working with the remaining staff to pursue the goals that you have established; now therefore
>
> BE IT RESOLVED that the Fairfax County Board of Zoning Appeals hereby extends their wishes for success in your new endeavor and thanks you for your years of support.

The Board directed that the resolution be properly framed and that Mr. Yates be invited to a future Board meeting so the resolution can be personally presented on behalf of the BZA.

// There being no further business, the Board adjourned at 12:45 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 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, January 15, 1985. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 10:15 A.M.); John Ribble (arriving at 11:20 A.M.); and Mary Thonen.

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

EXECUTIVE SESSION: The Clerk informed the Board that she had neglected to verify the Executive Session with the County Attorney until this morning. As the County Attorney was in another meeting, the Board passed over the Executive Session until it could be determined whether the County Attorney would be available later in the day.

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Page 284 January 15, 1985, Matters Presented by Staff Members

JAY FERNANDEZ, VC 84-A-109: The Board was in receipt of a request from Mr. Jay Fernandez regarding a waiver of the twelve month limitation on refiling of application. Mr. Hyland indicated that at the previous hearing there was not a full Board present. At the hearing, the applicant was prepared to reduce the amount of the requested variance. Apparently, he is still proposing to reduce the variance if he is allowed to refile. Accordingly, Mr. Hyland moved that the Board grant the requested waiver. Mr. Hammack seconded the motion.

For the purposes of discussion, Chairman Smith stated that he felt the applicant had done a fine job of presenting his case with what he had to offer. He indicated that the applicant had a rather large variance request. Chairman Smith stated that he hoped the applicant would come in with a better request in a better location that he had originally.

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

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Page 284 January 15, 1985, Matters

GREENDALE ACADEMY, S-81-L-004: The Board was in receipt of a request for a change in name only from Greendale Academy, Inc. to Heritage Academy and Child Care Center at Greendale Academy, Inc. Mr. Hammack moved that the Board allow the change as requested. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 1 (Mr. Ribble being absent).

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Page 284 January 15, 1985, Scheduled case of

10:00 A.M. RICHARD A. WATERVAL, LTD., appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that South George Mason Drive, at the subject location is one continuous major thoroughfare, such that appellant's shopping center is not entitled to two (2) freestanding shopping center identification signs, located 3827-3831 South George Mason Dr., Buildamerica 7, C-6, Mason Dist., 62-3((13))8A & 8B, approx. 16,903 sq. ft., A 84-M-009.

The Board was in receipt of a request from Mr. Richard A. Waterval regarding the withdrawal of the above-captioned appeal application. Mr. Hyland moved that the Board allow the withdrawal without prejudice. Mr. Hammack seconded the motion and it passed by a vote of 6 to 0 (Mr. Ribble being absent).

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VIETNAMESE BUDDHIST ASSOCIATION, SP 83-M-099: Mr. Hyland discussed a letter dated August 1, 1984 from Mr. Barnard Fagelson regarding the temple's compliance with the development conditions as imposed by the Board with the granting of the special permit. Mr. Hyland inquired of staff as to the status of the special permit application given the disturbing situation outlined in Mr. Fagelson's letter.

Ms. Jane Kelsey informed the Board that she could not respond to Mr. Hyland's inquiry until she has time to research the matter. In response to questions from the Board, Ms. Kelsey indicated that the last time she checked on the situation, the applicant had not submitted a site plan. Mr. Hyland expressed concern that if the applicant has no intention of complying with the Board's conditions, that the special permit come back to the BZA. He indicated concern on behalf of the neighbors who had opposed the special permit originally. Chairman Smith stated that the Zoning Administrator was the proper authority to take steps to bring the special permit back to the Board.

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EXECUTIVE SESSION: At 10:25 A.M., Mr. Hyland moved that the Board convene into Executive Session, without staff, to discuss a legal matter. The Board reconvened at 10:45 A.M. to continue with the scheduled agenda.

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Page 285 January 15, 1985, Scheduled case of

10:30 A.M. MT. TABOR SOCIETY, INC., co/appl. REV. ARTHUR F. VERSTRAETE, C.I.C.M., appl. under Sect. 3-103 of the Ord. for renewal of S-171-79 for monastery/seminary, located 2363 Hunter Mill Rd., R-1, Kemper Park Subd., Centreville Dist., 37-2((1))29 & 37-2((11))43 & 44, approx. 97,630 sq. ft., SPR 79-C-171-1. DEFERRED FROM NOVEMBER 13, 1984 FOR NOTICES).

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit renewal, without term, in accordance with the development conditions set forth in Appendix 1. Father Verstraete informed the Board that the land on which the monastery is located is owned by American I. N. N. Providence, Inc. He stated that the monastery has been in existence for five years and there have not been any complaints.

In response to questions from the Board, Father Verstraete indicated that they planned to continue the use as they have in the past without any changes. However, Father Verstraete informed the Board that the previous existing gravel road has been paved.

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

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Page 285 January 15, 1985 Board of Zoning Appeals
MT. TABOR SOCIETY, INC.,
co/appl. REV. ARTHUR F. VERSTRAETE, C.I.C.M.
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPR 79-C-171-1 by MT. TABOR SOCIETY, INC., co/appl. REV. ARTHUR F. VERSTRAETE under Section 3-103 of the Zoning Ordinance to permit renewal of S-171-79 for monastery/seminary on property located at 2363 Hunter Mill Road, tax map reference 37-2((1))29 & 37-2((11))43 & 44, 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 15, 1985; 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 97,630 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 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 number of residents shall be eight (8).
6. The meetings and services shall be limited to ten (10) hours per week.

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RESOLUTION

7. The minimum number of parking spaces shall be thirteen (13) and the maximum number shall be nineteen (19).
8. The maximum number of persons attending services shall be eighteen (18). This limitation shall not include residents of the monastery/seminary.

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 within thirty (30) days, 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).

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Page 286 January 15, 1985, Scheduled case of

10:45 A.M. ERMANNO & MANUELA TONIZZO, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow 10 ft. high shed to remain 1.0 ft. from rear lot line and 3.0 ft. from side lot line (10 ft. min. rear yard and 15 ft. min. side yard req. by Sects. 3-207 & 10-104), and to allow existing shed, swimming pool and appurtenant accessary uses and structures to remain in excess of 30% of the area of the required minimum rear yard (30% max. coverage of req. min. rear yard by accessory use and structures req. by Sect. 10-103), located 9620 Percussion Way, R-2, Symphony Hill West Subd., Centreville Dist., 28-3((8))11, approx. 15,072 sq. ft., SP 84-C-073.

Mr. Thomas Parrott, attorney for the applicant, informed the Board that the required notices had not been sent. The notification letter had been forwarded to Mr. Tonizzo who assumed that Mr. Parrott had also received such notification. Mr. Parrott indicated that he had contacted the BZA staff to ensure that he is named as agent in all future correspondence. However, the mistake was discovered too late to satisfy the notice requirements.

Following discussion of the matter, Mrs. Thonen moved that the application be deferred until February 12, 1985 at 11:30 A.M. and that the notification letter be forward to Mr. Parrott. Mr. Hyland seconded the motion and it passed by a vote of 6 to 0 (Mr. Ribble being absent).

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Page 286 January 15, 1985, Matters

NOTIFICATION PROCEDURES: Because of a situation such as the one previously cited, Mr. Hyland moved that the BZA staff develop a form for applicants to utilize such that the person who is to serve as the agent of record on behalf of an applicant complete the form and that the notification letter be sent to that person who is acting as agent for the applicant. Further, Mr. Hyland moved that a copy of the notification letter be forwarded to the applicant as well. Mrs. Thonen seconded the motion and it passed by a vote of 6 to 0 (Mr. Ribble being absent).

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Page 286 January 15, 1985, Scheduled case of

11:00 A.M. EDWARD M. & ROSEMARIE F. VELLINES, appl. under Sect. 8-916 of the Ord. to allow construction of a carport addition to dwelling to 3.2 ft. from the side lot line (5 ft. min. side yard req. by Sects. 3-207 & 2-412), located 10013 East Constable Ct., Kings Park West, R-2(C), Annandale Dist., 68-4((6))949, approx. 11,083 sq. ft., SP 84-A-080.

Ms. Cheryl Hamilton 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 this is the first application heard under Section 8-916 which provides for modifications to the regulations on permitted extensions into minimum required yards. As there was some confusion regarding the two different provisions of Sections 8-916 and 2-412, Ms Hamilton explained how much of the extension was permitted by right under Section 2-412. She informed the Board that it could permit a further modification under Section 8-916 providing it does not exceed the applicable distances specified by Section 2-412 by more than 50 percent.

Mr. Edward M. Vellines of 10013 East Constable Court informed the Board that he and his wife Rosemary applied for a variance on October 19, 1984. However, the Zoning Ordinance was amended on October 29th. and Mr. Vellines agreed to amend his variance application to come under Section 8-916. The proposed carport would be 3.2 feet from the property line at its closest point with the distance increasing to 4.2 feet at the rear. Mr. Vellines discussed the project with his neighbors who supported the application. He presented a letter of support from the neighbor on lot 948 who would be the one most impacted by the addition.

In response to questions from the Board, Mr. Vellines stated that the 36 feet length was necessary to align the carport structure with the existing house and roofline. He indicated that despite its length, he would not be able to park two vehicles in the carport because of the chimney. Mr. Vellines stated that if he ever purchased a compact car for one of his four children, he might be able to park two vehicles in the carport.

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

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-A-080 by EDWARD M. & ROSEMARIE F. VELLINES under Sections 2-412 & 3-207 of the Zoning Ordinance to allow construction of carport addition to dwelling to 3.2 feet from the side lot line, on property located at 10013 East Constable Court, tax map reference 68-4((6))949, 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 15, 1985; 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 11,083 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 Sections 8-006 and 8-916 of the Zoning Ordinance.

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

1. This approval is for the location and specific addition as shown on the plat included with this application and is not transferable to other land.
2. 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 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.
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 0 (Mr. Ribble being absent).

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Mr. Ribble arrived at the Board meeting at 11:20 A.M. and was present for the remainder of the scheduled agenda.

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11:10 A.M. ROBERT B. & SANDRA S. PHELPS, appl. under Sect. 18-401 of the Ord. to allow enclosure of carport for room addition to dwelling 10.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 3913 Melvern Pl., Barcroft Terrace, R-3, Mason Dist., 61-3((9))66, approx. 11,804 sq. ft., VC 84-M-127.

Ms. Cheryl Hamilton presented the staff report. Mrs. Sandra S. Phelps of 3913 Melvern Place in Alexandria informed the Board that when she and her husband purchased their home in 1968, they intended to build a room which met the setback requirement of 10 feet. However, the Code was amended in 1979 which changed the minimum side yard requirement from 10 feet to 12 feet. Mrs. Phelps stated that her 90 year old mother-in-law and 80 year old mother often visited with them for long periods of time. Eventually, it might be necessary for one or both of them to permanently reside with the Phelps. Accordingly, Mrs. Phelps wanted to convert the existing carport into a living space to provide more room for adults. The enclosure of the carport would allow a dining room at the rear with a sitting area in front.

In response to questions from the Board, Mrs. Phelps stated that their driveway could accommodate their vehicles so it would not be necessary to park in the street. Mrs. Phelps presented the Board with a letter of support from the property owner at the rear. In further response to questions, Mrs. Phelps stated that her addition would have one window on the side facing the neighbor's bedroom area. A sliding glass door would be constructed at the rear of the dining room and would face the back yard. Mrs. Phelps stated that the conversion of the carport would provide privacy and extra living space.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-127 by ROBERT B. & SANDRA S. PHELPS under Section 18-401 of the Zoning Ordinance to allow enclosure of carport for room addition to dwelling to 10.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), on property located at 3913 Melvern Place, tax map reference 61-3((9))66, 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 15, 1985; and

WHEREAS, the 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 11,804 sq. ft.
4. That the applicants' property is unusually shaped. The applicants desire to enclose the existing carport for more privacy and additional living space. The addition would have one window on the side next to the neighbor and a sliding glass door at the rear. There will not be any adverse impact on the neighbors.

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.

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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.

Mr. Ribble seconded the motion.

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

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EXECUTIVE SESSION: Ms. Jane Kelsey informed the Board members that the County Attorney had come down to inform her there was no way he could arrange an Executive Session today as he has to bring in outside counsel. An alternative date of January 29, 1985 at 9:30 A.M. was selected by the Board as a convenient time for everyone concerned.

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Page 289 January 15, 1985, Scheduled case of

11:20 A.M. LAKE BARCROFT RECREATION CENTER T/A BARCROFT RECREATION CENTER, LESSEE, appl. under Sect. 3-203 of the Ord. to amend S-179-75 for community recreation facilities to permit addition of bubble enclosure of existing outdoor swimming pool, located 6424 Recreation Ln., R-2, Lake Barcroft Subd., Mason Dist., 61-3((18))A1 & B1, 12.4633 ac., SPA 75-M-179-1. (DEFERRED FROM DECEMBER 18, 1985 TO ALLOW APPLICANT & CITIZENS TIME TO WORK OUT PROBLEMS AND SUBMIT WRITTEN TESTIMONY ONLY).

The Clerk presented the Board with additional written testimony, both in support and in opposition, which had been received subsequent to the mailing of the Board's staff package. Mr. Robert Kinberg, President of the Lake Barcroft Recreation Center, Inc. informed the Board that due to the opposition regarding extension of hours, the association modified the opening time to 7 o'clock in the morning. He indicated that the bubble enclosure would contain noise. There would not be any glaring light from the bubble shining into nearby properties. The site was completely screened by trees. In response to questions from the Board, Mr. Kinberg stated that the bubble would not be used for swim meets. In addition, the club would not be selling memberships outside the community.

Mr. Kinberg presented a statement in response to the concerns of the opposition. The first issue was securing the gate. Mr. Kinberg stated that the club hired a person to ensure that the gates are locked each evening. With respect to the hours of operation, the Lake Barcroft Recreation Association amended its request to seek a starting time of 7 A.M. on weekdays so its members could utilize the facility. The closing time would remain at 10 P.M. On weekends, the facility would maintain its summer operating hours of 9 A.M. to 9 P.M.

Mr. Hyland questioned the matter of fencing around the property. Mr. Kinberg responded that fencing completely enclosed the facility except for one section of land on the other side of Recreation Lane. He indicated that there was a fence along the major portion of that area. Mr. Dan Lecos, President of the Lake Barcroft Recreation Association which owned the property of the recreation center, informed the Board that when the property was developed, the residents in the area had the option of having the 6 foot chain link fence installed at the back of their properties at the expense of the recreation center. The property owner at that time chose not to have the fence installed. The present property owner, Mr. Shauna, was concerned about debris thrown on his property and trespassers crossing the tip of his property to get to the recreation center. In Mr. Kinberg's opinion, this was not a legitimate complaint against the recreation center as everyone in the community experienced problems with debris.

With respect to trespassers, Mr. Kinberg stated that only a small portion of the membership walked to the recreation center and not all of them passed by Mr. Shauna's property. Mr. Kinberg indicated that this area was not an attractive shortcut to the recreation center because of the thorny underbrush and steep hill. The recreation center only cut the grass 6 feet out from the sidewalk so the remaining area presented a barrier to walkers.

Mr. Kinberg stated that he discussed the complaint with Mr. Shauna and informed him the recreation center would give him the legal right to install a fence. However, Mr. Shauna wanted the property deeded to him. Mr. Hammack questioned why the recreation center did not comply with the condition in the original special permit which required a 6 foot chain link fence to be built 1 foot inside the property line around the perimeter of the entire property. Chairman Smith explained that the recreation center had worked very closely with the community and adjoining residents who were given an opportunity to object to the fence.

Chairman Smith stated that the Board could not approve a change in hours for the recreation center as it was not advertised. The application requested construction of a bubble. Accordingly, the hours would remain as 9 A.M. to 9 P.M. for the pool and from 8 A.M. to 9 P.M. for the tennis courts, yearround. Several Board members expressed concern that so much time had been spent at the previous hearing regarding the extension of hours when it was not included as part of the application.

Mr. Kinberg expressed concern that staff is able to change the development conditions without advertisement. Ms. Kelsey informed the Board that in reviewing applications that will increase the intensity of the use, staff has the authority to place additional development conditions on the use to make it compatible. She indicated that staff tries to incorporate all of the previous development conditions into one resolution. With respect to the previous development conditions, Mr. Hammack indicated that he could not find anything which required a locked gate. Ms. Kelsey responded that it was a new condition recommended by staff. Previously, the Board had required the installation of the gates but there was not a specific requirement that the gates be locked when the facility was closed. In summary, Ms. Kelsey informed the Board that staff can add new development conditions but could not change a condition without advertising it.

Mr. Hammack questioned how the recreation center proposed to handle the limitation on the 400 family memberships. Mr. Kinberg stated that the present membership is approximately 200 families. The recreation center allowed outside organizations such as ACCA and the local elementary school to use its facilities free of charge on occasion. Considerable discussion followed regarding whether the Board should restrict this type of use. Mr. Hammack was concerned that the development conditions restricted the leasing of the premises for any outside activity. Some Board members felt the condition was not intended to prohibit community charitable organizations from using the facility.

In summary, Mr. Kinberg stated that the recreation center is entitled to six after hours parties per year. He stated that the association has lived up to the original development conditions since its inception and has never received a formal or informal complaint. He felt it was unfair of the Board to take the current complaints at face value.

In response to questions from the Board concerning complaints, Ms. Hamilton stated that the Zoning Enforcement Branch (ZEB) has received complaints concerning the after hour parties and drinking of alcohol. In an effort to alleviate citizen complaints, the commander of the Mason District Police Substation suggested to ZEB that the recreation center secure its gates after hours. However, ZEB was unsuccessful in persuading the recreation center to agree to this condition. Accordingly, staff decided to include the locking of the gates as one of its proposed development conditions.

Mr. Kinberg presented a pertinent point in that the 1974 special permit included authorization for the construction of an indoor pool which the recreation center was not able to accomplish financially. Accordingly, the recreation center is now requesting the BZA to approve the construction of the bubble which is basically what was previously approved.

With respect to the opposition, Mr. Kinberg stated that Mr. Goodell had indicated that he represented the Bellevere Civic Association when in fact he did not according to a letter submitted by Mr. Lieber, President of the Bellevere Civic Association. Mr. Kinberg further indicated that Mr. Jefferson Collins has a personal vendatta. He is not a member of the recreation center and is opposed to everything in the community according to Mr. Kinberg.

Mr. Kinberg reiterated that the recreation center has lived up to the conditions of the special permit. In a ten year period, there have only been one or two complaints about a locked gate which he did not feel to be outlandish. Mr. Kinberg stated that trespassers and unauthorized users of the facility were a concern to the recreation center as well as the community. The center has now hired a person to check the gates each evening.

Mr. William Goodell of 3817 Larchmont Drive informed the Board that when he attended the hearing on December 18th, he had been given verbal approval by Mr. Jack Lieber to represent the Bellevere Civic Association for the purposes of obtaining information. In response to questions from the Board, Mr. Goodell stated that he no longer opposed the construction of the bubble since the expansion of hours was no longer a consideration.

Mr. J. M. Collins of 6523 Jay Miller Drive informed the Board that he was not a liar and could prove everything contained in his letters against the recreation center. He was concerned that the recreation center had moved its fence and basketball facility closer to his property than any of the other adjoining properties. In addition, the unpaved portion of the parking lot is adjacent to his home. Mr. Collins stated that all he was asking for was quiet title to his home which the recreation center was preventing. He indicated that the activities do not cease at 9 P.M. He requested that the recreation center restrict itself to the original conditions.

In response to questions from the Board, Mr. Collins stated that since the hearing on December 18th, the recreation center has been making the effort to lock its gates so the late night activities have ceased. With regard to the bubble, Mr. Collins indicated that he is still opposed to such construction because it would open the door for other things. He asked the Board to reinforce the current restrictions on the recreation center. Mr. Collins stated that he had not complained to the ZEB previously as he was unaware they existed. He indicated that he now had their number in his file.

At the close of questioning, Ms. Hamilton restated the changes to the proposed development conditions as follows: condition no. 6, add "s" to the word subdivision; condition no. 11, delete the first bullet.

During Board discussion, Mr. Hyland indicated that he was perplexed regarding this matter. He admitted that he did not have a problem with the bubble but indicated that he did have a problem with the amount of opposition generated by the community. Mr. Hyland stated that he has seen a substantial number of special permits while he has served on the Board but he has never seen as many letters in opposition to a special permit such as this. He indicated that he does not take the letters lightly. The abutting property owners have a problem which is not imagined. The complaints are real and are filed with the Mason District Police Substation. There is some adverse impact on the community. Mr. Hyland indicated that he would like to consider granting the request but the community is indicating that the previous conditions have not been met. If the Board increased the intensity of the use, Mr. Hyland inquired as to how it would convince the community that it would not create the same or greater problems than in the past.

Chairman Smith stated that during the original hearing for the recreation center, the Board had received far more petitions than were received with the present application. He indicated that this was a large tract of land and there would never be a time when everyone is in agreement on the use of it. Chairman Smith stated that the use is already in existence. The present request seems to be a reasonable use.

Mrs. Thonen stated that when the recreation center wanted something, it was able to solve some of the problems as evidenced by the action taken since the December 18th hearing. She stated that she could not figure out what took the recreation center so long to solve the problems before coming back with a request for something else.

Chairman Smith responded that often times an applicant is not aware of problems until they get to a public hearing. He indicated that the opposition objects to the recreation center just being there. Chairman Smith stated that the bubble would not have any additional impact on the community. He felt the additional recreation is needed.

LAKE BARCROFT RECREATION CENTER, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 75-M-179-1 by LAKE BARCROFT RECREATION CENTER T/A BARCROFT RECREATION CENTER, LESSEE, under Section 3-203 of the Zoning Ordinance to amend S-179-75 for community recreation facilities to permit addition of bubble enclosure of existing outdoor swimming pool, on property located at 6424 Recreation Lane, tax map reference 61-3((18))A1 & B1, 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 15, 1985; 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 12.4633 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. Hyland indicated that he was perplexed regarding this matter. He admitted that he did not have a problem with the bubble but indicated that he did have a problem with the amount of opposition generated by the community. Mr. Hyland stated that he has seen a substantial number of special permits while he has served on the Board but he has never seen as many letters in opposition to a special permit such as this. He indicated that he does not take the letters lightly. The abutting property owners have a problem which is not imagined. The complaints are real and are filed with the Mason District Police Substation. There is some adverse impact on the community. Mr. Hyland indicated that he would like to consider granting the request but the community is indicating that the previous conditions have not been met. If the Board increased the intensity of the use, Mr. Hyland inquired as to how it would convince the community that it would not create the same or greater problems than in the past.

Mr. Hyland stated that from the testimony received, there is an indication that the applicant has heretofore not met some of the conditions under the original granting of the special permit. The Board has an indication that at least in one of those problem areas in connection with the locking of the gate that that matter has been corrected as of December 18th. which, apparently, has eliminated several of the problems complained of by the neighbors.

But, the Board finds that over the period of time that the applicant has operated under special permit, there have been some difficulties in terms of compliance with the original conditions imposed by it. The expansion of the use which has now been requested as far as placing the bubble over the swimming pool would allow expansion from the current 200 memberships to 400 persons which would mean more persons coming to the site. In view of the fact that there have been some prior problems at the recreation center from the standpoint of the neighbors, Mr. Hyland indicated that his position is to deny the application because the applicant has not presented testimony indicating compliance with the standards for the Special Permit Uses. He further stated that that lack of compliance is the failure of the applicant to meet the prior conditions established by the Board.

Mr. Hyland was confident that if this motion passes, that if in the ensuing year which is the length of time an applicant must wait before refiling a subsequent application unless the applicant obtains a waiver of the twelve month limitation on refiling, that in the following ensuing months the applicant will have the opportunity to demonstrate complete compliance with all of the conditions of the special permit to eliminate the kind of opposition and objections that have been filed by the neighbors. In the event that an application is refiled, Mr. Hyland indicated his support that if all of the conditions have been complied with and the Board receives no objection, putting aside the objections of the fact that some of the neighbors just don't want the facility there and don't want the bubble, he stated that he does not have a problem with the bubble.

However, if the fifteen conditions of the special permit have been met, then Mr. Hyland indicated that he would support, without reservation, the enclosure of the swimming pool. That would give the association the opportunity of ensuring strict compliance and making the neighbors happy to the extent that they can in terms of meeting all of the conditions of the prior special permit. And again, Mr. Hyland stated that the applicant does have the opportunity of coming in earlier than one year to request a waiver of the twelve month limitation on refiling.

RESOLUTION

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

Mr. Ribble seconded the motion.

During discussion of the motion, Chairman Smith stated that the enclosure of the bubble would increase the usage of the facility but only allow the membership to use the facility during the winter months. Presently, the facility remains idle during the winter months. This is a large tract of land which Chairman Smith felt could be put to better usage such as the current proposal.

Mrs. Day indicated that she agreed with Mr. Hyland and felt the Board should see how the applicant lived up to the original fifteen conditions of the special permit in the next year.

Chairman Smith stated that the applicant was before the Board at this time. He stated that he has not heard anything giving him the desire to deny the special permit request. There is no indication that the applicant has had any infraction of the conditions. Chairman Smith reminded the Board that the staff has recommended approval of the special permit request for the bubble.

The motion passed by a vote of 5 to 2 (Messrs. Smith and DiGiulian).

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Page 293 January 15, 1985, After Agenda Items

RICHARD & JUDITH A. WELLS AND ALLEN JOHN JR. & MARTHA E. OLMSTEAD, VC 84-C-143: The Board was in receipt of a letter from Mr. Thomas O. Lawson, attorney for the applicants, requesting an out-of-turn hearing on the variance application to allow subdivision into three (3) lots, proposed lot 1 having width of 12 ft. and proposed lots 2 and 3 each having width of 6 ft. (150 ft. min. lot width req. by Sect. 3-106), located 2740 Hunter Mill Rd., Bonnet Subd., R-1, Centreville Dist., 37-4((1))17C & pt. 17, approx. 3.599 acres. The request had been deferred from the last Board meeting to allow staff an opportunity to research the history involved in this subdivision.

Ms. Jane Kelsey informed the Board that the original variance had been approved by the Board on October 28, 1982 to allow a subdivision into three lots. In November 1982, a preliminary plat was submitted to DEM which was approved on December 28, 1982 with several notations. She indicated that it was these notations which created a problem for the applicant. DEM required that the applicant provide a deceleration lane, right turn lane and acceleration lane, site stormwater detention prior to any permit, and an adequate drainage system subject to the Public Facilities Manual. According to the applicant's engineer, the applicant could not economically afford to subdivide all three lots at one time. In addition, there were several conditions which were required for a subdivision of three lots but some of the requirements were not required if the applicant only divided the property into one lot. Therefore, the applicant requested DEM to approve one lot out of the three lot subdivision which DEM approved. Ms. Kelsey stated that later the applicant neglected to record the entire subdivision as approved by the BZA in the eighteen month time period. Instead, the applicant only recorded the one lot which was all that had been approved by DEM. Because the lapsed on the other two remaining lots, the applicant's variance expired necessitating the current variance request.

Ms. Kelsey stated that she inquired of DEM as to why they approved the one lot subdivision despite the BZA's approval for three lots but DEM is unable to respond at this time.

With regard to justifying the out-of-turn hearing request, Ms. Kelsey stated that the applicant had a problem because of economical conditions and had forgotten about the eighteen month time limitation. Ms. Kelsey informed the Board that staff has scheduled the variance application for March 12, 1985 which is as much an out-of-turn hearing that staff could possibly allow on its own. Following further discussion, it was the consensus of the Board to grant the out-of-turn hearing request for March 5, 1985.

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There being no further business, the Board adjourned at 1:25 P.M.

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

Submitted to the Board on Jan. 22, 1985

Daniel Smith
Daniel Smith, Chairman

Approved: January 29, 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 22, 1985. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-chairman; Ann Day; John Ribble; Paul Hammack and Gerald Hyland. Mary Thonen was absent.

The Chairman opened the meeting at 8:25 P.M. and Mrs. Day led the prayer.

Before calling the scheduled 8:15 P.M. case of Christian Fellowship Church, the Chairman announced that the Board was in receipt of an appeal filed earlier that day by Virginia M. McGavin. The appeal pertained to property owned by the Christian Fellowship Church and under consideration in application number SPA 82-D-066-1. The Board questioned Ms. Kelsey about the application. She stated that the special permit amendment was filed on May 2, 1984 and subsequently amended on June 26, 1984, to increase the land area and for two other items. That was the land area in question on the appeal. Ms. Kelsey stated that a plat included with the amendment showed the increased land area being lot 1A. The Zoning Administrator had ruled that lot 1A should be included in the application prior to June 26, 1984. A copy of the amended staff report had been furnished to Frederick Goldbecker, Ms. McGavin's attorney on October 15, 1984.

Jane Gwinn stated that the two major issues in the appeal were that lot 1A should not be included, and that the submission requirements were not met for the inclusion of the parcel. Ms. Gwinn stated that she deemed the submission requirements as being complete, and indicated that the application would not have been processed if it had been incomplete.

Virginia Lee McGavin, 10305 Leesburg Pike, addressed the Board regarding the appeal. She stated that she was not aware of lot 1A being included in the application, or what the statement "increase in lot area" meant until she talked to Ms. Kelsey on December 26, 1984. Her concern was that they were non-contiguous properties. Upon learning of this issue, the code was researched and the appeal was filed. Mr. Hyland stated that the staff report published on October 15, 1984 clearly included lot 1A in the application.

Mr. Ribble made a motion to deny the application based on the fact that he did not think the appeal was timely filed. Mrs. Day seconded the motion. The motion passed by a vote of 5 - 1 (Mr. Hyland) (Mrs. Thonen absent)

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Page 294 January 22, 1985, Scheduled 8:15 P.M. case heard at 8:50 P.M.:

8:15 P.M. CHRISTIAN FELLOWSHIP CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-82-D-066 for church and related facilities to permit classroom and storage shed additions to existing building, increase the land area, raise the height of the parking lot light poles, and relocate the driveway to the interior of the site on Parcel C and to permit the amendment to S-80-D-009 for a day care center to include a nursery school and school of general education for 99 children and to permit three (3) temporary classroom trailers; located 10237 Leesburg Pk., R-1, Dranesville Dist., 18-2((7))A, B, & C and 18-2((13))1A, approx. 13.1842 ac., SPA 82-D-066-1. (DEFERRED FROM JULY 31, 1984 AT APPLICANT'S REQUEST AND FROM OCTOBER 16, 1984 TO ALLOW READVERTISING, RENOTIFICATION & REPOSTING OF PROPERTY).
(VERBATIM TRANSCRIPT ON FILE IN THE CLERK'S OFFICE)

Jane Kelsey reviewed the staff report for the Board which recommended approval of the special permit application subject to the development conditions set forth. Bill Hicks, an attorney at 8805 Terry Lynn Court, Springfield, represented the applicant. He indicated that he wanted to address some of the conditions in the staff report. The church did not want the trailers to be limited to Sunday school use, but wanted them to be used for church related functions and office space during the week also. He clarified that the new building would be used for all church related functions which were ongoing virtually every day of the week. Mr. Hicks stated that the church was terribly overcrowded in the existing facilities.

Mr. Hicks stated that it was stated in the staff report and everyone was aware, that over a period of time there had been violations. He stated that all of the violations had now been corrected and the church was in total compliance with the County. He stated that this had occurred due to the fact that the church had not had the financial ability to always hire professionals to oversee every action. Most of the building program was conducted by church members who were volunteers, and one specific individual was never chosen to oversee the entire operation. At the present time, Pastor Wayne Guinn had the primary function of acting as liaison to the County and providing anything needed. Mr. Hicks handed a letter to the Board from Mr. Carl Silvertsen, a Zoning Administrator in Montgomery County, who was also helping the church with their expansion efforts. Mr. Hicks stated that most of the violations were minor, except the problem with the drainage. The church had gone to a great expense to put in a storm water detention facility.

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Mr. Hicks stated that the church had some problems with two of the conditions staff had written into the staff report. One was the condition of the requirement for the installation of a trail along Route 7 along the front of the property. He felt that the trail would not be useful and would lead nowhere. The other problem was the planting of trees on parcel A. Mr. Hicks stated that the church did not have access to that property unless they went out on Route 7, climb over a guardrail and went over a deep ravine to get to that portion of the property.

Mrs. Day questioned Mr. Hicks about the increase in the height of the light standards. She stated that there had been complaints received about the existing lights shining into neighboring homes. Mr. Hicks replied that one of the reasons was for safety, because the higher the light, the more area that is covered by the light. The other reason was so that the visiting buses and trucks would not run into the lights. Mr. Hicks stated that all light would be contained on site. Ms. Kelsey stated that the Board had received approximately 65 letters in opposition that day, and many of them mentioned problems with the existing lights.

James Ahlemann, 744 Florence Place, Herndon, the pastor of the church, spoke regarding the application. He stated that the church was in need of the additional space to serve the existing congregation. Other citizens speaking in support of the application were Rev. Ahlemann, Sr. 904 McDaniel Court, Herndon; Christine Sullman, 12746 Bradwell Road, Herndon; Linda Rohmann, 1293 Colvin Forest Drive, Vienna; and Frazier Worley, 2534 Sandburg Street, Dunn Loring.

Mr. Hyland stated that he had never seen so many letters in opposition to a request by a church. He stated that most of the letters covered some of the same issues such as the lights, the church sign, the height of the flagpole, traffic problems, and continual non-compliance with County regulations.

Citizens speaking in opposition included: Thomas Leonard, 10324 Dunn Meadow Road, Vienna; Chuck Cook, 10203 Yellow Pine Drive; Charles Steinmetz, 1304 Tulip Poplar Lane; Virginia McGavin, 10305 Leesburg Pike; and Mario Fiori, 10316 Dunn Meadow Road.

Mr. Leonard represented the Colvin's Glen and Colvin's Forest neighborhood group which included over 200 contiguous homeowners and county residents. He presented a slide presentation to the Board which showed the on-sight view from the perspective of surrounding community residents. Mr. Leonard covered points regarding traffic congestion and the fact that the County should protect against encroachment upon historic areas. He stated that existing landscape barriers were not adequate enough to neutralize the severe negative impact of the church.

Chuck Cook, speaking in opposition, presented slides to the Board which showed the church's non-compliance with screening and barrier requirements. He brought up the fact that the church had been required to put up a fence, but the County had waived the installation without any input from neighbors. The required trees on the east and west property lines were planted six years late, and only then because approval of the parking facilities on lot C was delayed until all violation were cleared. Mr. Cook showed the Board members slides showing the vegetation before and after grading was done. The overgrading eliminated the barrier strip indicated on the approved plans. In order to get fill dirt for the front of the site, he indicated that the church changed the elevation of the building by lowering it. Mr. Cook stated that CFC had made no attempts to compromise or ease the concerns of the neighborhood.

It was the general consensus of the citizens speaking in opposition that the church had a past history of poor performance. A traffic analysis commissioned by the neighbors surrounding CFC was turned in to the Board members. The neighbors indicated that this application was not consistent with the adopted comprehensive plan. They urged the Board to vote against the application to help hold down the increasing vehicular traffic generated by the church, and recommend to CFC to better use their existing facilities rather than infringe on the surrounding area.

During rebuttal, Bill Hicks stated that most of the concerns addressed had been about events that had taken place in the past. He stated that the church had showed their good faith by correcting all the deficiencies. Mr. Hicks stated that there were a lot of inaccuracies stated by the neighbors because of their lack of familiarity with on-going problems and facts. He stated that all of the violations had been corrected and the church was in total compliance and intended to continue to do that.

Brian Smith, from the Department of Environmental Management, presented facts to the Board concerning the church. He stated that there was still a conflict in terms of the screening requirements on parcel C. It was required by DEM to install a barrier fence as a part of the barrier required on the plan along the western property line. To date, about 70% had been installed, but the requirements had not been completely met. DEM had asked the church to have the fence completed by January 18, 1985, otherwise they would take action to have the non-rup for parcel C revoked. Mr. Hicks, the applicants

attorney, stated that it was his understanding that there were only 18 panels left to be put up. He stated that the church had people working night and day all the way up to the hearing trying to complete the fence.

There was no one else to speak regarding the hearing.

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RESOLUTION

In Application No. SPA 82-D-066-1 by CHRISTIAN FELLOWSHIP CHURCH under Section 3-103 of the Zoning Ordinance to amend S-82-D-066 for church and related facilities to permit classroom and storage shed additions to existing building, increase the land area, raise the height of the parking lot light poles, and relocate the driveway to the interior of the site on Parcel C and to permit the amendment to S-80-D-009 for a day care center to include a nursery school and school of general education for 99 children and to permit three (3) temporary classroom trailers, on property located at 10237 Leesburg Pike, tax map reference 18-2((7))A, B & C; and 18-2((13))1A, 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 31, 1984; October 16, 1984; and January 22, 1985; 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 13.1842 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 the general standards for special permit uses as contained in Section 8-006 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED, IN PART, <u>to allow parcel 1A to be used for storm water detention purposes only.</u> Any and all other expansions, additions and requests in application SPA 82-D-066-1 are denied for the following reasons:

- o conscious indifference to meeting the requirements of the Code and conditions imposed by the BZA:
- o the substantial expansion which doubles the existing capacity of the building when the existing use already impacts the site and generates traffic congestion at peak periods of ingress and egress;
- o the application has not satisfied general standard number three, that requires the use to be harmonious with and not adversely affect the use and development of neighboring properties or impair the value thereof;
- o the application does not satisfy general standard number four that requires that the traffic associated with the use will not be hazardous or conflict with the existing or anticipated traffic in the neighborhood;
- o the proposed uses are significant and a substantial expansion which is not harmonious with the standards for special permits.

After discussion at Board level, Mr. Hammack stated that he had no objection to granting the application in part and amended his motion to approve the use of Parcel 1A to be used for storm water detention purposes only.

Mr. DiGiulian seconded the motion and accepted the amendment.

The motion passed by a vote of 5 - 1 (Mr. Smith voted No) (Mrs. Thonen was absent)

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//The Board recessed at 11:15 P.M. and returned to take up the scheduled agenda at 11:20 P.M.

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Page 297 January 22, 1985, Scheduled 8:45 P.M. case heard at 11:20 A.M.:

8:45 P.M. MT. PLEASANT BAPTIST CHURCH, appl. under Sect. 3-203 & 8-901 of the Ord. to amend S-60-75 for church and related facilities to permit additional land area and construction of additional parking to existing facilities, and to permit a waiver or modification of the dustless surface requirement for existing gravel parking lot; located 6477 Lincolnia Rd., R-2, Mason Dist., 61-3((1))4 & 61-3((3))26B, approx. 69,669 sq. ft., SPA 75-M-060-1. (DEFERRED FROM DECEMBER 18, 1984 AT APPLICANT'S REQUEST)

William Shoup stated that he had spoken with the applicant's attorney, Mr. Douglas Adams, who had indicated that the church wanted to withdraw the application. Mr. Adams was unable to get a letter to the Board in time for the scheduled hearing. It was the consensus of the Board that they needed a formal request in writing before they could take any action on the request. The application was deferred to January 29, 1985 at 12:00 Noon.

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Page 297 January 22, 1985, AFTER AGENDA ITEMS:

The Board approved the current BZA Minutes for January 8, 1985 and the backlogged BZA minutes for August 2, September 6, and September 13, 1983.

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//There being no further business, the Board adjourned at 11:30 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, January 29, 1985. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Vice-Chairman; Ann Day; Paul Hammack (departing at 1:00 P.M. and returning at 1:25 P.M.); 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 case of:

10:00 A.M. FRIENDLY VILLAGE MOBILE HOME PARK, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that the addition of a new double-wide mobile home sales office and a new double-wide model home to a non-conforming mobile home park would constitute an expansion of a non-conforming use that is prohibited by Sect. 15-103, Springfield Dist., I-3, 34-3((1))21, approx. 82.2614 acres, A 84-S-010.

Mr. Thomas Dugan, Esquire, 4010 University Drive, Fairfax, represented the appellant. For background purposes, Mr. Dugan stated that Dulles Friendly Village was an established mobile home community which has been in existence for 15 years. It was zoned RMPH through the 1970s. However, as part of the Occuquan Basin Study, the property was rezoned to I-3. Mr. Dugan explained that the then owners of the mobile home park were not aware of the rezoning classification as notice had been sent to a corporation which formerly owned the property. The present owners found out about the new classification prior to purchase. They hired Mr. Dugan to make an inquiry of the Zoning Administrator to insure that the property would be protected.

In response to questions from the Board, Mr. Dugan stated that the matter of a sales office had not been been discussed with the Zoning Administrator at that time. The owners decided six months after purchase that they desired a sales office. He indicated that the owners did not care whether the sales facilities were conducted in a separate building on the site or in a mobile home. Mr. Dugan informed the Board that his was his client's position that the sales office was permitted as an accessory use to the principal use of the mobile home park.

Mr. Dugan did not feel that the Zoning Administrator had any discretion about the sales facility. He indicated that site plan could determine the location and setbacks of the facility. Accordingly, the appellant is appealing the decision of the Zoning Administrator that the sales facility activity is prohibited.

In response to questions from the Board, Mr. Dugan stated that he did not consider the sales facility an expansion of the non-conforming use for two reasons. First, an accessory use which by definition is a different use cannot be an enlargement or an expansion to that which it is an accessory. Secondly, Mr. Dugan stated that the different use is also a non-conforming use as the I-3 district does not permit mobile home sales. With regard to the rule that a non-conforming use cannot be changed, Mr. Dugan indicated that the rule did not apply in this case as accessory uses are permitted by right in the I-3 district.

The Board questioned the retail sales of the mobile home sales facility envisioned by the appellant. Mr. Dugan stated that he believed his client wanted to be able to sell mobile homes to anyone, not just residents or prospective residents of the mobile home park. In response to concern from the Board about this use not being subordinate to the principal use, Mr. Dugan indicated that there would be very few occasions when the use was not being an accessory activity.

Mr. Dugan informed the Board that a rezoning was pending before the Planning Commission to rezone the mobile home park to the RMPH category. Once the rezoning is accomplished, the appellant desires to expand the park. Mr. Hyland inquired as to whether the appellant would have been allowed a mobile home sales facility prior to the change in zoning. Mr. Dugan stated that accessory uses were permitted by right in the RMPH category. Ms. Jane W. Gwinn, Zoning Administrator, informed the Board that the definition of mobile home park in the Zoning Ordinance precludes any sales lot. She indicated that under the Ordinance, the appellant might have been allowed a sales office but he would not have been allowed a model mobile home. Ms. Gwinn was uncertain as to what the Zoning Ordinance prior to 1978 would have allowed as she did not have it available at the meeting.

In response to questions from the Board, Mr. Dugan stated that approximately 20 acres of the total 86 acres was undeveloped. He indicated that the owners had rejected offers to develop the remaining acreage in accordance with its I-3 category designation. Mr. Dugan stated that the mobile home park is 100 per cent surrounded by industrial zoned land.

Mr. George W. Stinger, Park Manager, informed the Board that rentals were not allowed in the park. With regard to the sales of trailers, Mr. Stinger stated that individual owners were responsible for the sale of their trailers and the park did not assist them in advertising or sales. The lots are rented and management has the right to approve or disapprove all future tenants before entering into a new lease.

The Board questioned whether a sales facility would be allowed if the property were successfully rezoned to the RMPH category. Ms. Gwinn stated that it would be her position that a conforming mobile home park could have a sales office, not a model home, that is solely for the use of the residents and prospective residents. The Board inquired if that same qualification is imposed in the present situation, whether or not the use would qualify as an accessory use. Ms. Gwinn replied that the appellant proposed to add two new structures which is an expansion of the non-conforming use. The appellant rents lots and not trailers. Therefore, Ms. Gwinn believes the sale of trailers to be a new use. The Board stated that the sale of trailers by individual owners have taken place since day one. The only difference would be the manner in which the sales take place. Ms. Gwinn indicated that more traffic would be generated by the appellant's sales facility.

Mr. Hyland questioned the Zoning Administrator as to under what conditions or circumstances the appellant would be allowed to have a sales facility. Other Board members did not feel it is the Zoning Administrator's responsibility to tell someone what has to be done to conform. Following further discussion, Mr. Dugan requested the Board to continue the appeal for a period of thirty days to allow him an opportunity to confirm his client's intent with respect to the sales facility.

Mr. Samuel Barton, President of the Dulles Meadows Citizens Association, 14513 Liberia Circle, Chantilly, Va., spoke in support of the appellant's request for a mobile home sales facility. Mr. Barton indicated that real estate salespersons will not handle mobile home sales. Only a broker specializing in mobile home sales is able to obtain financing on the units. Mr. Barton stated that the existing mobile home sales facility which is located on an adjacent parcel is being removed to make way for development of a small convenience center. He stated that with the loss of this facility, the individual owners would have to sell their units themselves. Mr. Barton felt that there should be a sales facility on the premises as used mobile homes are not allowed to be brought into the park.

It was the consensus of the Board to continue the appeal until February 12, 1985 at 1:00 P.M. for additional information from the appellant.

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Page 299 January 29, 1985, Scheduled case of

10:30 A.M. SHELL OIL COMPANY c/o WALTER L. PHILLIPS, INC., appl. under Sect. 18-401 of the Ord. to allow construction of kiosk 16 ft. from street line of a corner lot (40 ft. min. front yard req. by Sect. 5-507), in connection with remodeling of service station within Highway Corridor Overlay District, located 8318 Lee Hwy., Providence Dist., I-5, (H.C.), 49-3((1))74A, approx. 18,812 sq. ft., VC 84-P-096. APPLICATION FILED CONCURRENTLY WITH SE 84-P-057 SCHEDULED BEFORE THE BOARD OF SUPERVISORS ON OCTOBER 15, 1984. (DEFERRED FROM OCTOBER 23, 1984 BECAUSE OF PENDING SPECIAL EXCEPTION).

The Board was in receipt of a memorandum from staff regarding the indefinite deferral of the special exception. In a letter dated October 24, 1984, the applicant's agent, Mr. Robert A. Kinsey, requested a withdrawal of the above-captioned variance without prejudice. Mr. Hyland moved that the Board allow withdrawal without prejudice as requested. Mr. Hammack seconded the motion and it passed by a vote of 5 to 0 (Messrs. Ribble and DiGiulian being absent).

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Page 299 January 29, 1985, Scheduled case of

10:40 A.M. ALFRED R. & HELEN R. CATLIN, appl. under Sect. 18-401 of the Ord. to allow construction of a room addition to dwelling to 1.9 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-507), located 6916 Deer Run Dr., Deer Run Crossing, R-5, Lee Dist., 92-1((12))68, approx. 5,000 sq. ft., VC 84-L-128.

As the applicant had failed to provide the required notices until the time of the hearing, the Board recessed its meeting to allow the Clerk an opportunity to check them. Following the recess, the Clerk announced that the notices were not in order. It was the consensus of the Board to defer the variance until March 12, 1985 at 10:15 A.M. for notices.

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Page 299 January 29, 1985, Recess

At 12:00 Noon, the Board recessed its meeting for lunch. When the Board reconvened at 1:05 P.M., Mr. Hammack was absent but he returned later in the meeting.

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10:50 A.M. ELBERT M. SLEEKER, appl. under Sect. 8-916 of the Ord. to allow construction of addition to carport for a two-car carport 27.30 ft. from street line of a corner lot (30 ft. min. front yard req. by Sect. 3-307), located 4109 Sleepy Hollow Rd., R-3, Sleepy Hollow Run Subd., Mason Dist., 60-4((22))114, approx. 12,194 sq. ft., SP 84-M-078.

Mr. William Shoup presented the staff report. Mr. Elbert Sleeker of 4109 Sleepy Hollow Road in Annandale informed the Board that his carport would be approximately 23 feet wide. He stated that he had two automobiles and was presently able to keep one under cover. By expanding the carport, it would allow him to keep both vehicles under cover and prevent he and his wife from having to go out into the weather. Mr. Sleeker's written statement indicated that his property is a corner lot having two front yards.

There was no one else to speak in support and no one to speak in opposition. The Board was in receipt of a letter of support from George H. and Mary A. Hill of 4106 Breezewood Lane in Annandale.

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ELBERT M. SLEEKER

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-M-078 by ELBERT M. SLEEKER under Section 8-916 of the Zoning Ordinance to allow construction of addition to carport for a two-car carport 27.30 ft. from street line of a corner lot (30 ft. min. front yard req. by Sect. 3-307), on property located at 4109 Sleepy Hollow Rd., tax map reference 60-4((22))114, 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 29, 1985; and

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

1. That the owner of the subject property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 12,194 sq. ft.

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 for the location and specific addition as shown on the plat included with this application and is not transferable to other land.

2. 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 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.

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).

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11:10 A.M. SIMONE E. CYR, 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 0.5 ft. from side lot line and 9.6 ft. from rear lot line (4 ft. min. side yard, 14 ft. min. rear yard req. by Sects. 3-507 & 2-412), located 5209 Cannes Ct., D'Evereux West Subd., R-5, Lee Dist., 91-2((9))51A, approx. 2,189 sq. ft., SP 84-L-074.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix 1. Ms. Simone Cyr of 5209 Cannes Court in Alexandria informed the Board that the photographs she submitted showed the drainage and topographic problems of her property. The builder had attempted to solve the drainage problems by installing drainage tiles. However, Ms. Cyr indicated that her property still suffers drainage problems.

In response to questions from the Board, Ms. Cyr stated that she purchased her townhouse three years ago and had not been aware of any problems when she signed the contract. The deck was constructed by family members and had been approved by the architectural control committee of her community. She was not aware that a building permit was necessary. When informed of the need, Ms. Cyr attempted to obtain a building permit and was informed of the problem with the setbacks. The height of the deck varies from 30 inches at one corner to 1 inch at the other corner.

There was no one else to speak in support and no one to speak in opposition. The Board was in receipt of a letter in support from James D. and Donna B. Pickett of 5207 Cannes Court in Alexandria.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Day made the following motion:

WHEREAS, Application No. SP 84-L-074 by SIMONE E. CYR 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 0.5 from side lot line and 9.6 ft. from rear lot line (4 ft. min. side yard, 14 ft. min. rear yard req. by Sects. 3-507 & 2-412), on property located at 5209 Cannes Court, tax map reference 91-2((9))51A, 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 29, 1985; and,

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

That the applicant's property has a hilly terrain and a drainage problem which the contractor has not remedied. The family members did not realize that a building permit was necessary when they started construction of the deck. Upon receipt of a notice of violation, they made an effort to correct the situation but the deck extended into the setback area. The deck looks professional and it would be a hardship on the applicant to have to remove it.

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.

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RESOLUTION

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 or other structures on the same land.

2. A Building Permit shall be obtained and all necessary inspections for this type of structure shall be performed and approved.

Mr. Hyland seconded the motion.

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

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Mr. Hammack returned to the meeting at 1:25 P.M.

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Page 302 January 29, 1985, Scheduled case of

11:30 A.M. LITTLE ACORN PATCH, LTD., appl. under Sect. 4-603 of the Ord. to amend S-82-S-075 for child care center within shopping center to permit change in name of permittee and increase max. number of children to 58, located 6226 Rolling Rd., West Spfd. Center, C-6, Springfield Dist., 79-3((4))42, 43 & 44, approx. 6.9447 acres, SPA 82-S-075-1.

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11:30 A.M. LITTLE ACORN PATCH, LTD./B. MARK FRIED, appl. under Sect. 18-401 of the Ord. to allow child care center in shopping center with playground in required front yard (playground outside limits of required front yard req. by Sect. 8-307), located 6226 Rolling Rd., West Spfd Center, C-6, Springfield Dist., 79-3((4))42, 43 & 44, approx. 6.9447 acres, VC 84-S-135.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions set forth in Appendix 1. Staff made no recommendation with respect to the variance application. Mr. Shoup informed the Board that the applicant had provided the requested parking tabulation which had been reviewed by the Department of Environmental Management (DEM). The tabulation would be included in the site plan review process.

Ms. Barbara Kaplan of 5806 Wood Laurel Court in Burke informed the Board that the variance for the fenced play area is vital for the safety of the children as it is located in the front yard area of a shopping center. The 6 foot wooden fence is screened with evergreen trees. Ms. Kaplan stated there has not been any complaint about the location of the play area during the past four years it has been in existence. It was shown on the plats submitted with two previous special permit applications heard by the BZA in 1980 and 1982. Ms. Kaplan informed the Board that the location of the play area allowed direct access to the child care center so individual children could come and go without direct supervision allowing staff to remain with the other children. To relocate the play area would be a financial burden on the child care center and would disrupt the curriculum.

In response to questions from the Board, Mr. Shoup stated that the play area is located approximately 15 to 20 feet from Bauer Drive and does not interfere with sight distance. The building is located 40.8 feet from Bauer Drive.

With regard to the special permit application, Ms. Kaplan informed the Board that when the Little Acorn Patch began operation, it was limited to 45 children because of the number of bathrooms. She indicated that the number of bathrooms had been increased to four which would allow an increase in the number of children from 45 to 58. The chief concern with the increase is the parking. Ms. Kaplan prepared two parking studies which dealt with the child care center's actual usage and a parking tabulation for the entire shopping center which had been approved by DEM.

Ms. Kaplan informed the Board that she is requesting a change of name of permittee. The corporation purchased Ms. Biers' stock as she is no longer associated with the business.

There was no one else to speak in support or in opposition. The Board was in receipt of a petition in support of the variance signed by parents of the children attending the Little Acorn Patch.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-S-135 by LITTLE ACORN PATCH, LTD./B. MARK FRIED under Section 18-401 of the Zoning Ordinance to allow child care center in shopping center with playground in required front yard (playground outside limits of required front yard req. by Sect. 8-307), on property located at 6226 Rolling Road, tax map reference 79-3((4))42, 43 & 44, 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 29, 1985; and

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

1. That the owner of the property is the applicant.
2. The present zoning is C-6.
3. The area of the lot is 6.9447 acres.

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 of the subject property and was shown on prior site plans in two previous special permits. It has been in existence for four years.
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:

This variance is approved for the location and the specific outdoor recreation area shown on the plat included with this application and is not transferable to other land or other structures on the same land.

Mr. Hyland seconded the motion.

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

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-S-075-1 by LITTLE ACORN PATCH, LTD. under Section 4-603 of the Zoning Ordinance to amend S-82-S-075 for child care center within shopping center to permit change in name of permittee and increase max. number of children to 58, on property located at 6226 Rolling Road, tax map reference 79-3((4))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 29, 1985; and

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

1. That the applicant is the lessee.
2. The present zoning is C-6.
3. The area of the lot is 6.9447 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 building designated as 6226 Rolling Road and the child care center and related uses as 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 existing evergreen plantings and solid wood fencing at the rear and side of the facility shall be maintained to satisfy screening and barrier requirements.
6. A parking tabulation shall be provided to the satisfaction of the Director, DEM, prior to site plan approval, to ensure that there are a sufficient number of parking spaces on-site to accommodate the use.
7. The maximum daily enrollment for the facility shall be 58 children, ages two (2) to seven (7) years.
8. The maximum hours of operation shall be 6:30 A.M. to 6:30 P.M., Monday through Saturday.
9. The use and location of the outdoor recreation area shall be in accordance with the provisions of Sect. 8-305 of the Zoning Ordinance and the approval of VC 84-S-135.

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. DiGiulian being absent).

Page, 305January 29, 1985, Scheduled case of

11:45 A.M. CARLIN COMPANY, INC./DANIEL R. BAKER, appl. under Sect. 18-401 of the Ord. to allow subdivision into five (5) lots, proposed lot 4 having width of 50.70 ft. and proposed lots 2 and 3 having width of 6.28 ft. (80 ft. min. lot width req. by Sect. 3-306), located 7600 Shreve Rd., Sherman W. Phillips Subd., R-3, Providence Dist., 49-2((1))162A, approx. 1.8155 ac., VC 84-P-125.

Mr. William Shoup presented the staff report. Mr. Dan Baker of 6413 Carolyn Drive in Falls Church informed the Board that his property has a peculiar configuration and is zoned R-3. Mr. Baker informed the Board that he is the contract purchaser of the property and wanted to be able to develop the property close to the allotment it is allowed. The property is heavily wooded and the applicant felt it was better to develop the property with pipestems rather than curb and gutters. He indicated that he could develop the property into three lots by right.

Mr. Baker's written statement indicated that the property was acquired in good faith with the intent of subdividing the parcel into five lots. He cited a financial hardship if required to provide a paved road, sanitary sewer and water in order to develop the property.

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

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Page 305 January 29, 1985 Board of Zoning Appeals
CARLIN COMPANY, INC./DANIEL R. BAKER
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-125 by CARLIN COMPANY, INC./DANIEL R. BAKER under Section 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, proposed lot 4 having width of 50.70 ft. and proposed lots 2 and 3 each having width of 6.28 ft. (80 ft. min. lot width req. by Sect. 3-306), on property located at 7600 Shreve Road, tax map reference 49-2((1))162A, 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 29, 1985; and

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

1. That the owner of the property is Carlin Company, Inc. and Daniel R. Baker is the contract purchaser.
2. The present zoning is R-3.
3. The area of the lot is 1.8155 acres.

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.

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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. Thonen seconded the motion.

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

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Page 306 January 29, 1985, Scheduled case of

12:00 NOON MT. PLEASANT BAPTIST CHURCH, appl. under Sect. 3-203 & 8-901 of the Ord. to amend S-60-75 for church and related facilities to permit additional land area and construction of additional parking to existing facilities, and to permit a waiver or modification of the dustless surface requirement for existing gravel parking lot; located 6477 Lincolnia Rd., R-2, Mason Dist., 61-3((1))4 & 61-39(3))26B, approx. 69,669 sq. ft., SPA 75-M-060-1. (DEFERRED FROM DECEMBER 18, 1984 AT APPLICANT'S REQUEST AND FROM JANUARY 22, 1985 TO ALLOW APPLICANT TIME TO SUBMIT LETTER OF WITHDRAWAL).

The Board was in receipt of a letter from Mr. C. Douglas Adams requesting withdrawal of the above-captioned special permit application without prejudice. Mrs. Thonen moved that the Board allow withdrawal without prejudice. Mr. Hammack seconded the motion.

During discussion of the motion, Ms. Kelsey, Chief, BZA Support Branch, stated that the words "prejudice" or "without prejudice" were not contained in the Zoning Ordinance. Instead, she referred the Board to the provisions of paragraph 2, Section 18-108 of the Zoning Ordinance which states that if an application is withdrawn at least 30 days prior to the public hearing, there is no limitation on rehearing. Since the applicant's agent was requesting withdrawal well after the first public hearing, Ms. Kelsey stated that there would be a one year limitation on rehearing unless the Board waived the requirement.

Following further discussion, Mrs. Thonen amended her motion to exclude the words without prejudice. Mr. Hammack accepted the amendment as seconder to the motion. The amended motion passed by a vote of 4 to 2 (Messrs. Hyland and Ribble)(Mr. John DiGiulian being absent).

Mr. Hyland then moved that the Board allow a waiver of the twelve month limitation on rehearing for the special permit application of the Mount Pleasant Baptist Church. Mrs. Thonen seconded the motion and it passed by a vote of 4 to 2 (Messrs. Smith and Hammack)(Mr. John DiGiulian being absent).

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Page 306 January 29, 1985, After Agenda Items

LITIGATION INVOLVING THE FIRST BAPTIST CHURCH OF SPRINGFIELD: Ms. Jane Kelsey advised the Board that the County Attorney had recommended that the Board of Zoning Appeals seek outside legal counsel in the litigation involving the First Baptist Church of Springfield.

Accordingly, Mr. Ribble moved that the Board direct the Clerk to seek authorization from the County Executive for a defense fund to hire outside legal counsel. Mr. Hammack seconded the motion. The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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Page 307 January 29, 1985, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for January 15, 1985. Mr. Ribble moved that the Minutes be approved as submitted. Mrs. Day seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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EXECUTIVE SESSION: Ms. Kelsey informed the Board that the County Attorney apologized for having to cancel the scheduled 9:30 A.M. Executive Session on Anti-Trust as the outside counsel were unable to attend due to a trial being held over in Michigan. Following discussion of alternate dates, the Board indicated that March 26, 1985 or April 2, 1985 at 10:00 A.M. were acceptable.

Mr. Hyland moved that if there is any correspondence or documentation concerning the anti-trust matter, that it be distributed to the Board prior to the Executive Session so it will be a more productive briefing. Mr. Hammack seconded the motion and it passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

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There being no further business, the Board adjourned at 2:30 P.M.

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

Submitted to the Board on: February 5, 1985

Daniel Smith
Daniel Smith, Chairman

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, February 5, 1985. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Mary Thonen; Ann Day; John Ribble; and Paul Hammack. John DiGiulian was absent.

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

CHAIRMAN SMITH: It is my pleasure, this morning, on behalf of the Board of Zoning Appeals of Fairfax County to present...and I'm honored to do so, to present to Mr. Philip Yates a resolution honoring Mr. Yates for his dedication and service to this Board for the past six and a half years.

R E S O L U T I O N
In honor of
PHILIP G. YATES

WHEREAS, it is with sincere regret this Board has learned of your termination of employment with Fairfax County; and

WHEREAS, the members of the Board of Zoning Appeals feel the County is losing one of its top administrators, who will be sorely missed for present and future achievements; and

WHEREAS, the County has seen the Zoning Administration Office upgraded in the past six years under your leadership, and the members of this Board look forward to working with the remaining staff to pursue the goals that you have established; now therefore

BE IT RESOLVED that the Fairfax County Board of Zoning Appeals hereby extends their wishes for success in your new endeavor and thanks you for your years of support.

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MR. HYLAND: Mr. Chairman, and before Mr. Yates has the opportunity of leaving the room, if the Chair would extend a matter of personal privilege to this member, and any other members who might be so disposed. I've been on this Board I guess approximately four years, and in that four year period of time, obviously we've all, and I've had the opportunity of having a lot of contact with Mr. Yates, our Zoning Administrator. I recall the first contact that I had, which I think concerned the issue of notice of Zoning Administrator's decisions Phil, if my memory serves me. I think we talked about trees falling in the forest and how one would get notice of the Zoning Administrator's decision.

But since that first experience and contact that I had with the Zoning Administrator, and certainly he knows and certainly I know, and each Board member knows, there have been few times that we have had unanimity of opinion. Not only with the Zoning Administrator as a group but certainly among the Board itself on a number of issues. But notwithstanding our differences at times, and we have certainly locked heads on a number of thorny difficult issues. But through it all, and notwithstanding those differences, through it all Phil Yates had been in my opinion one of the best administrators and one of the most professional people that I've ever had the experience of coming into contact with.

Service in government, to me, is a commitment that many times expects an awful lot as opposed to those of us in the private sector. The hours that I know Phil Yates has contributed to this County, and it has been anything but an eight to five job. But each of us knows the effort that he has put in on behalf of the citizens of Fairfax County. And I think it is rare to find a civil servant with that kind of commitment and dedication. And the result is clear, because he has left his imprint upon Fairfax County in terms of the Zoning Ordinance and rules and regulations that certainly make Fairfax County a better place to live.

In addition, it is the mark of a true professional and administrator when that person attracts to him or her persons who similarly are professional and can carry on. And Phil Yates obviously has done that because he had produced and developed a staff of very competent people. And of course, the best testimony to his administration is the fact that his deputy, Jane Gwinn, has moved into his position. A step in a selection which I certainly applaud. But from my standpoint, having been exposed to both Federal Government and County Government and State Government in terms of persons who are in civil service, there are few people Phil, who in my opinion, can hold a candle to you. You are one of the best I've ever seen and from the bottom of my heart I wish you nothing but the best in your private endeavors. I think Dewberry and Davis is very lucky and very fortunate to have you. And I'm very happy that you're still here in Fairfax County, and I would hope that the relationship that you've had with the Board and with each of us will continue. I wish you nothing but the best.

MRS. THONEN: Mr. Chairman, I'd like to say one thing. I am looking eagerly to the day Mr. Yates appeals the Zoning Administrator's ruling. I am dying to see that happen.

MRS. DAY: I've been on the Board about three and half years and I've always found Mr. Yates very helpful and to take a minute on the few times I've called to ask him a question. I found him always knowledgeable about the Ordinance and professional in his demeanor and a very professional appearance.

MR. RIBBLE: Mr. Chairman, I'd like to echo Mr. Hyland's sentiments and those of the other members of the Board that have spoken. My first case that I heard was an appeal that was based on whether or not somebody could keep a chicken in his yard. I didn't go along with Phil on that one, but today I probably would. I've gotten to know Phil very well too over the past two years and I think he's always been very professional in his demeanor. And it's been a pleasure working with him. I will go on to agree with Mr. Hyland that he has built up a fine staff and they're very easy to work with as far as I'm concerned. We realize how professional they are. Phil, thank you again.

CHAIRMAN SMITH: Phil, I've been around longer than anyone else, so I can appreciate you more than anyone else. Having served under several Zoning Administrators, all being good and qualified people. But certainly you have followed a degree of professionalism to the office and assembled a staff superior to any in the region and possibly within Virginia itself to carry on the duties of this office. And for that, I certainly am very appreciative, from my position on this Board. And good luck to you.

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Page 309 February 5, 1985, Scheduled 10:00 A.M. case heard at 10:25 A.M.:

10:00 A.M. - VULCAN QUARRY ANNUAL REPORT

Cheryl Hamilton reviewed the staff report for the Board. The staff conclusion stated that it appeared that all the Development Conditions of Special Permit S-82-V-091 were being met.

Lee Fifer, a lawyer with the firm Boothe, Prichard and Dudley, represented the applicant. He stated that the quarry was more active than the previous year because of the economy. The paving of the entranceway was to be completed as soon as the weather permitted, covering an area from the Water Authority property to beyond the scale area. This area was more than 60% of the area that the on-the-road trucks would travel on. Mr. Fifer stated that this would help with the control of the particulate matter.

Mr. Fifer stated that condition number two of the special permit required Vulcan Quarry to report any changes that were occurring on the property. Normally these changes were reported to staff and approved, since they did not usually occur during the time the annual report was being prepared. He stated that the quarry was requesting permission from the Air Pollution Control Division to install a portable stone crushing plant for the purpose of crushing overburden from the stockpiles. It was estimated that this plant would be needed for approximately eighteen months. Mr. Fifer stated that he had submitted copies of the design and location of the plant to the Zoning staff, and that it was a minor change. In response to a question from Mr. Hyland, Mr. Fifer stated that the plant was so designed to meet all the air standards and to basically its own pollution issue. The portable stone crushing plant was not expected to add to the current levels on site.

Mr. Hyland moved that the Board accept the 1984 annual report for Vulcan Quarry. Mr. Ribble seconded the motion and it passed by unanimous vote. Mr. Hyland stated that it was not his intention to approve the portable stone crushing plant in his motion to accept the annual report. The Board members questioned whether the portable stone crushing plant would require a new special permit. It was determined that the normal procedure was for the Zoning Administrator to review any changes made in the Vulcan Quarry special permit and either approve the changes or make recommendations.

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Page 309 February 5, 1985, Scheduled 10:15 A.M. case heard at 11:00 A.M.:

10:15 A.M. WILLS AND VAN METRE, INC., appl. under Sect. 3-2003 of the Ord. to renew S-300-79 for commercial recreation facilities and amend to allow Saint Stephens School students to use pool during restricted hours, located 2722 Arlington Dr., R-20, Mt. Vernon Dist., 93-3((1))5, approx. 2.88005 acres, SPA 79-V-300-1.

Chairman Smith stated that the application had to be deferred to amend the wording of the application and allow time for re-notification, re-posting and re-advertising. The case was deferred to March 12, 1985 at 11:30 A.M.

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Page February 5, 1985, Scheduled 10:30 A.M. case heard at 11:05 A.M.:

10:30 A.M. LEWIS SUSKIEWICZ, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow 12.2 ft. high shed to remain 8.6 ft. from rear lot line (12.2 ft. min. rear yard req. by Sects. 3-107 & 10-104), located 5824 Hall St., Homewood Subd., R-1, Springfield Dist., 79-3((10))26; approx. 34,054 sq. ft., SP 84-S-076.

William Shoup reviewed the staff report for the Board. He indicated that the applicant had not obtained a building permit for the shed. In response to a complaint, a building

inspector issued the applicant a Notice of Violation. When the applicant attempted to obtain a building permit, it was determined that the shed was not in compliance with Zoning regulations.

Wayne Cyron, an attorney, represented the applicant. He stated that the applicant had contacted the County before building the shed and was told a building permit was not needed. Mr. Cyron stated that Mr. Suskiewicz was never informed that this only applied if the height of the shed was seven feet or less.

Mr. Cyron stated that the area around the shed was heavily wooded and the lot to the rear of the property was vacant. He stated that the shed was barely visible from the adjacent streets. The site of the shed had been chosen because it could be located in an area that would not require the removal of any trees or disturb the natural terrain. The shed could not be moved to the east because of a drainage ditch and the slope of the land. A sanitary sewer easement was also located on the property which prevented relocation. Mr. Cyron stated that he had talked to adjacent property owners, and they had indicated their approval of the shed remaining in its present location. He submitted a petition to the Board signed by adjacent property owners.

Robert Cook, 5822 Hall Street, the owner of lot 27, spoke in support of the application. He stated that if the applicant had to move the shed to bring it into compliance with the Zoning Ordinance, it would require the removal of more trees and make it more conspicuous-looking from his house. He felt the shed should be left where it was.

Alfred Overstreet, the owner of lot 41, the vacant lot behind the subject property spoke in opposition. He stated that the shed would have a visual impact on his future house when he decided to build it. He indicated that he had owned the property since 1966. After a discussion with Mr. Hyland, Mr. Overstreet stated that he felt additional trees planted around the shed would reduce the visual impact, although he questioned the fact that the shed encroached on the sanitary sewer easement which was property owned by the County. After a discussion between the Board and staff members, it was determined that a hold harmless agreement had to be obtained to allow the shed to remain in the sanitary sewer easement. It was the consensus of the Board to defer decision on the application and allow the applicant time to obtain a hold harmless agreement from the County. The application was scheduled for March 5, 1985 at 11:30 A.M.

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Page 310 February 5, 1985, Scheduled 10:40 A.M. case heard at 12:00 Noon:

10:40 A.M. FRANK D. MCCREERY, JR., appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 lots with one having width of 20.19 ft. and the other 68.82 ft. (100 ft. min. lot width req. by Sect. 3-206), located 6360 Evangeline Ln., R-2, Lincolnia Park Subd., Mason Dist., 72-3((20))6 & A, approx. 1.1696 acres, VC 84-M-130.

William Shoup reviewed the staff report for the Board. Frank McCreery presented the facts for his application. He stated that he had owned the property since 1971 and he presently resided on the property. Mr. McCreery stated that he had purchased outlot A in 1983 so he would have enough total lot area to resubdivide and still exceed the R-2 zoning requirements. The lots were larger than one-half acre, and the natural topography of the area would not change in that the proposed location of the new home would be completely hidden by the woods. Mr. McCreery handed the Board members a petition in support of the application signed by homeowners in the neighborhood.

There was no one to speak in support or opposition.

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Page 310 February 5, 1985 Board of Zoning Appeals
FRANK D. MCCREERY, JR.

R E S O L U T I O N

In Application No. VC 84-M-130 by FRANK D. MCCREERY, JR. under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots with one having width of 20.19 ft. and the other 68.82 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 6360 Evangeline Lane, tax map reference 72-3((20))6 & A, 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 5, 1985; and

WHEREAS, the 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 1.1696 acres.
4. The Transportation Department has indicated there's no impact by the pipestem lot due to limited trips. The Environmental analysis shows no adverse impact to the adjacent properties. Although the property does not adjoin open space and has no reverse frontage on a public road, it is larger than the required 18,000 square feet. This lot A was created by subdivision in January 1983 and the site is served by public sewer and water. Although the lots at the end of Evangeline Lane are similar in size, to create two lots of over 25,000 square feet with one pipestem lot, will not have an adverse impact on the area. Mr. McCreery has selected a home site, as stated in his letter, to minimize the loss of vegetation. Both lots are over a half an acre, and the new home will be completely hidden by woods according to the applicant. To deny the application would cause a hardship in that he then could not fully utilize a lot that's over an acre which is larger than those at the end of the street. The applicant states that neighbors have commented favorably and there has been no opposition on this application. The applicant is requesting a variance of 79.81 ft. and 31.18 ft.

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 size 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.
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 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 subd. has been recorded among the land records of Fx. Co. 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. Ribble seconded the motion.

The motion passed by a vote of 4 - 2 (Messrs. Smith and Hammack)
(Mr. DiGiulian was absent)

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Page 311 February 5, 1985, Scheduled 10:50 A.M. case heard at 12:20 P.M.:

10:50 A.M. DR. DOUGLAS J. FRASER, JR., appl. under 18-401 of the Ord. to allow construction of two-story addition to dwelling to 1 ft. from side lot line such that side yards total 17.1 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 8717 Whitson Ct., R-3(C), Rolling Valley Subd., Springfield Dist., 89-3((6))189, approx. 9,180 sq. ft., VC 84-S-131.

William Shoup reviewed the staff report for the Board. Dr. Fraser presented the facts for his application. He stated that the addition would be a two-car garage with a room addition above. The room would be used as a central study and a medical book library.

The garage would be used for the protection of his cars and the storage of his childrens toys. Dr. Fraser stated that the adjacent neighbor most affected by this addition was in support of the application as long as proper drainage was provided.

It was the consensus of the Board that the addition was too close to the property line. The application was deferred to April 2, 1985 at 10:00 A.M. to allow the applicant time to reduce the request and submit new plats for further consideration.

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Page 312 February 5, 1985, Scheduled 11:00 A.M. case heard at 12:35 P.M.:

11:00 A.M. EDGEL B. & REBA J. ALVERSON, appl. under Sect. 18-401 of the Ord. to allow 6 ft. high fence to remain in a front yard (4 ft. max. height for fence in a front yard req. by Sect. 10-104), located 2045 Woodford Rd., R-1, Wells A. Sherman Subd., Providence Dist., 39-1((7))2, approx. 0.90 acres, VC 84-P-136.

William Shoup reviewed the staff report for the Board. Ann Morris, from Rinker-Detwiler and Associates represented the applicant. She stated that the applicants had purchased the property in 1963, when Wolftrap Road was just a one-lane dirt road. In 1982, Wolftrap Road was widened by Capital Homes, and the applicant sold some of his property for the dedication of the road. Ms. Morris stated that due to the closeness of the home to the upgraded street and the exceptional topographic conditions, the applicants felt the need for a visual and noise barrier. The house sits low on the property, and the height of the road comes to an elevation of about the middle of the windows in the house. Most of the other homes in the area sat higher than the road and did not have the same topographic conditions. She stated that 50% of a previous fence that was removed during the upgrading of Wolftrap Road was six feet in height. She submitted letters of support from adjacent neighbors and the Wolftrap Homeowners Association to the Board members.

Mr. Alverson stated that although the County had indicated there was no sight distance problem with his fence, he had removed a portion of it at the corner to improve the sight distance. Mr. Hyland indicated that the Board had received a letter in opposition from Edna Moyer, 8501 Wolftrap Road, stating that many accidents had occurred at that corner and she felt that the fence was blocking the view. Mr. Shoup indicated that staff had found no problem with sight distance at that corner.

There was no one to speak in support or opposition.

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Page 312 February 5, 1985 Board of Zoning Appeals
EDGEL B. & REBA J. ALVERSON

R E S O L U T I O N

In Application No. VC 84-P-136 by EDGEL B. & REBA J. ALVERSON under Section 18-401 of the Zoning Ordinance to allow 6 ft. high fence to remain in a front yard (4 ft. max. height for fence in a front yard req. by Sect. 10-104), on property located at 2045 Woodford Road, tax map reference 39-1((7))2, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 5, 1985; and

WHEREAS, the 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 0.90 acres.
4. We've received testimony indicating that prior to the road widening there was substantial natural cover by the way of trees that were located in the area that we now find the six foot fence. In addition, prior to the road widening and understanding that the road widening was done by the owner of the property selling that portion along the front of their property, that there was a fence that went along the property line, a portion of it being six feet in height. Further testimony indicated that the subject property as far as its topographical condition, sits lower in comparison to the road surface than other surrounding properties which have homes built on them which enjoy a higher elevation above the roadway. We have received testimony indicating that with the widening of the road there is additional traffic because of the development that is occurring in the area which would produce an increase in noise as well as light coming onto the property. And in view of those circumstances, there is sufficient justification to support the granting of the variance. And particularly in view of the fact that the applicant has voluntarily removed a portion of the six foot fence at the intersection which would give greater sight distance to cars coming to that intersection,

notwithstanding the fact that the County sight distance requirements have been met even without having removed those sections of the fence.
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 height of the fence located in the front yard as shown on the plat included with this application and is not transferable to other land.
2. The applicant must leave the fence in its present configuration. The 24 feet of fence that has already been removed is not to be rebuilt, which will alleviate the sight distance problem.

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 - 2 (Messrs. Smith and Hammack)
(Mr. DiGiulian was absent)

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Page 313 February 5, 1985, Scheduled 11:10 A.M. case heard at 1:10 P.M.:

11:10 A.M. ST. ANDREW LUTHERAN CHURCH, appl. under Sect. 3-303 of the Ord. to amend S-351-79 for church and related facilities to permit operation of a nursery school, located 14640 Soucy Pl., Chalet Woods Subd., R-3, Springfield Dist., 54-1((6))1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A, and 9A, approx. 2.6 acres, SPA 79-S-351-1.

Chairman Smith announced that the notices were not in order for the special permit application. The case was deferred to March 26, 1985 at 10:00 A.M.

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Page 313 February 5, 1985, AFTER AGENDA ITEMS:

MR. & MRS. CONRAD J. CLARK & CHERYL K. BAKER/VC 83-D-050: The Board was in receipt of an extension request for the captioned variance application. It was the consensus of the Board to deny the request.

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Page 313 February 5, 1985, AFTER AGENDA ITEMS:

The Board approved the BZA minutes for September 20, September 27, October 4, October 11, and October 18, 1983.

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//There being no further business, the Board adjourned at 1:25 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: February 12, 1985 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, February 12, 1985. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 10:00 A.M); John Ribble; and Mary Thonen.

The Chairman opened the meeting at 9:35 A.M. and Mrs. Day led the prayer.

MATTERS PRESENTED BY BOARD MEMBERS:

EXECUTIVE SESSION: At 9:35 A.M., Mr. Hyland moved that the Board adjourn into Executive Session to discuss legal matters with the County Attorney concerning anti-trust as it relates to zoning. Mrs. Thonen seconded the motion and it passed by a vote of 6 to 0 (Mr. Hammack being absent).

The BZA reconvened at 10:20 A.M. to continue with the scheduled agenda.

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Page 314 February 12, 1985, Scheduled case of

10:00 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; DEFERRED FROM MARCH 27, JUNE 5, SEPTEMBER 11, & NOVEMBER 27, 1984 AT THE REQUEST OF THE APPLICANT).

10:00 A.M. KING OF KINGS LUTHERAN CHURCH, appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirements), located 12604 Lee Jackson Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 ac., SP 84-C-037. (DECISION DEFERRED FOR PERIOD OF 60 DAYS TO ALLOW INVESTIGATION OF THE POSSIBILITY OF COUNTY OR STATE ACQUISITION OF PROPERTY; DEFERRED FROM MARCH 27, JUNE 5, SEPTEMBER 11, & NOVEMBER 20, 1984 AT THE REQUEST OF THE APPLICANT).

Ms. Jane C. Kelsey informed the Board that the applicant's attorney had contacted her this morning requesting another deferral until the latter part of March or early April. Following discussion, it was the consensus of the Board to defer the above-captioned applications until April 2, 1985 at 10:15 A.M.

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Page 314 February 12, 1985, Scheduled case of

10:10 A.M. WILLIAM A. & SUGANYA BARBERRY, appl. under Sect. 18-401 of the Ord. to allow construction of a room (enclosed porch) addition to dwelling to 14.5 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-C07), located 6329 Youngs Branch Dr., R-C, Fairfax Station, Springfield Dist., 76-4((9))1124; approx. 27,004 sq. ft., VC 84-S-132.

Ms. Cheryl Hamilton presented the staff report. Mr. William A. Barbery of 6329 Youngs Branch Drive in Fairfax Station informed the Board that he had not realized a variance would be necessary to construct a screened porch until after he had moved into his home. The screened porch is desired to avoid bothersome insects. Mr. Barbery explained that his two-thirds of an acre is hilly which resulted in the builder placing the dwelling further back on the property than normal. Because of the placement of the dwelling, Mr. Barbery stated that he is restricted by the rear yard setback. The 10.5 foot variance would not be noticeable to anyone because the adjoining property is undeveloped.

There was no one else to speak in support. Mr. William Pope of 2409 Lexington Road in Falls Church represented his parents, Mr. and Mrs. Farnham G. Pope, owners of a 9 acre parcel identified as 76-4((2))3, located adjacent to the Barbery property. Mr. Pope stated that his parents objected strenuously to the proposed variance as it would be located parallel to their proposed homesite. Due to the topography of the land, the only available area to locate their home is on a ridge paralleling the boundary line.

In response to questions from the Board, Mr. Pope stated that there would be approximately 100 feet distance between the structures. Because of the ridge, his parents' home would be overlooking the proposed screened porch. He did not feel that the existing vegetation would be sufficient to block the view, particularly if his parents chose to construct a two story home. Mr. Pope stated that his parents had no objections to the porch if it was constructed within the guidelines of the zoning regulations.

During rebuttal, Mr. Barbery stated that he is asking for a modest variance. Only the right hand portion of the porch will extend into the required rear yard setback. Mr. Barbery stated that when he had offered to purchase part of the Pope property, he was informed that they did not have any plans for use of the property. Mr. Barbery informed the Board that he had asked for the minimum amount of a variance and needed to accommodate a four foot setout of the house. Anything less than the 12 foot porch would not be functional and would have an unbalanced design.

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-S-132 by WILLIAM A. & SUGANYA BARBERY under Section 18-401 of the Zoning Ordinance to allow construction of a room (enclosed porch) addition to dwelling to *14.5 ft. from rear lot line (25 ft. min. side yard req. by Sect. 3-C07), on property located at 6329 Youngs Branch Drive, tax map reference 76-4((9))1124, 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 12, 1985; and

WHEREAS, the 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 27,004 sq. ft.
4. That the applicants' property has an unusual shape and situation with the conditions of the property being that there is a right-of-way easement across the front of the property and the location of the septic field in the front half results in the house being situated closer to the rear than in other circumstances.

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 construction of a 14 foot enclosed porch addition to the rear of the house which will allow a usable porch space of 10 feet instead of the requested 12 feet due to the 4 foot walkout extension) with the following limitations:

RESOLUTION

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.

4. That the applicant provide supplemental 6 foot evergreen plantings across the rear of the property in correlation with the location of the screened porch as determined appropriate by the Director of Environmental Management.

5. That revised plats in accordance with the granting in part be provided by the applicant for final Board approval.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 to 2 (Messrs. Smith & Hyland).

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Page 316 February 12, 1985, Scheduled case of

10:30 A.M. LEE H. & ADELLA B. KANAGY, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots, each having width of 136.5 ft. (150 ft. min. lot width req. by Sect. 3-106), located 11519 Warren Ln., R-1, Springfield Dist., 56-4((3))4, approx. 2.1580 acres, VC 84-S-134.

Ms. Cheryl Hamilton presented the staff report. She informed the Board that a previous variance approved by the BZA had expired. Mr. Lee H. Kanagy of 11519 Warren Lane in Fairfax informed the Board that he purchased his property in 1974. He stated that he is requesting a variance in order to subdivide his property so a friend could purchase one acre for a homesite. In response to questions from the Board, Mr. Kanagy stated that he did not have a written contract but only a verbal agreement. He explained that his friend is an architect and had moved to Indiana which is why he allowed the original variance to expire. Now the friend has moved back and is still interested in building.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-S-134 by LEE H. & ADELLA B. KANAGY under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, each having width of 136.5 ft. (150 ft. min. lot width req. by Sect. 3-106), on property located at 11519 Warren Lane, tax map reference 56-4((3))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 February 12, 1985; and

WHEREAS, the 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 2.1580 acres.

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.

(3)
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(4)
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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 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 2 (Messrs. Smith & Hyland).

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Page 317 February 12, 1985, Scheduled case of

10:40 A.M. LAWRENCE D. COOK, AIA, appl. under Sect. 3-203 of the Ord. for renewal of S-324-79 for home professional office (architect) and for modification of dustless surface requirement, located 3424 Mansfield Rd., R-2, Lake Barcroft Subd., Mason Dist., 61-1((11))990, approx. 26,500 sq. ft., SPR 79-M-324-1.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit renewal in accordance with the development conditions contained in Appendix 1. In response to questions from the Board, Ms. Hamilton stated that the only changes in the present application were the extension of the hours of operation in the evenings and on Saturdays.

Mr. Lawrence D. Cook, an architect, of 3424 Mansfield Road in Falls Church informed the Board that he has been operating his home professional office for the past five years without any complaints from the neighbors. In fact, Mr. Cook reported that his neighbors liked having him in the area all day long as it provided security in an isolated area. In response to questions from the Board, Mr. Cook stated that he has three employees. The number of clients visiting the site averaged one per week. With regard to the expansion of hours, Mr. Cook explained that he has a flex-time policy with his employees.

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

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPR 79-M-324-1 by LAWRENCE D. COOK, AIA, under Section 3-203 of the Zoning Ordinance to permit renewal of S-324-79 for home professional office (architect) and for modification of dustless surface requirement, on property located at 3424 Mansfield Road, tax map reference 61-1((11))990, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

(5)
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RESOLUTION

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 12, 1985; 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 26,500 sq. ft.

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

THAT the applicant has presented testimony indicating compliance with the General Standards for Special Permit Uses as set forth in Section 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-907 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 maximum number of employees, including the applicant, shall be four (4).
6. The hours of operation shall be 8:00 A.M. to 6:00 P.M., Mondays through Fridays, with occasional operating hours on evenings and Saturdays.
7. The transitional screening requirement shall be modified provided that the existing vegetation is retained.
8. All parking for this use shall be on site and there shall be a maximum of one (1) client vehicle on site at any one time.
9. There shall be six (6) parking spaces provided in the existing garage and driveway.

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. Ribble seconded the motion.

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

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11:00 A.M. MCLEAN CHILDREN'S 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 use of block building for school purposes, located 6900 Elm St., Beverly Manor Subd., R-3, Dranesville Dist., 30-2((5))3, approx. 10,390 sq. ft., SPA 82-D-083-2.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit amendment subject to the development conditions contained in Appendix 1. In response to questions from the Board, Ms. Hamilton stated because the site is not suitable for a nursery school, staff has not recommended any extension of the use beyond the remaining 2 1/2 years of the existing special permit. Staff has recommended approval of the request to use the block building for office and school purposes as it will not cause any additional impact to the site with the addition of a turnaround area.

Ms. Barbara Shumway, Director of McLean Children's Academy, Inc., informed the Board that it would be a hardship not to have reasonable use of the property. She stated that the block building is not needed for parking spaces and she wanted to use it for office space. Ms. Shumway indicated that she is not requesting any other changes to the special permit. Because there is a waiting list, Ms. Shumway indicated that she would continue to look for another location.

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

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MCLEAN CHILDREN'S ACADEMY, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-D-083-2 by MCLEAN CHILDREN'S 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 use of block building for school purposes, 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 February 12, 1985; 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 10,930 sq. ft.

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

THAT the applicant has presented testimony indicating compliance with the General Standards for Special Permit Uses as set forth in Section 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 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 maximum daily enrollment shall be thirty (30).
6. The maximum hours of operation shall be 8:00 A.M. to 6:00 P.M., five days a week.
7. There shall be a maximum of four (4) employees, including the applicant.
8. The three (3) parking spaces located in the driveway shall be reserved for employees only. An area shall be reserved to provide adequate turning movements in the vicinity of the turnaround area.

RESOLUTION

9. A turnaround, 12 feet wide and a minimum of 18 feet long shall be provided to the east of the existing driveway. Approval for a gravel surface shall be requested in accordance with Sect. 11-102 of the Zoning Ordinance from the Director, Department of Environmental Management.
10. All parking and pick up and delivery of children for this use shall be on site.
11. The applicant shall actively encourage the use of carpools and endeavor to stagger arrival times so that the arrival and departure times of the children will be evenly spaced between 8:00 A.M. and 9:00 A.M. and between 5:00 P.M. and 6:00 P.M.
12. The transitional screening and barrier requirements shall be modified provided the existing vegetation and fencing is retained.
13. All signs shall comply with Article 12 of the Zoning Ordinance.
14. The approval for this use shall terminate with the expiration of SP 82-D-083.

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 before use of the block building, 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 1 (Mr. Smith).

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Page 320 February 12, 1985, Scheduled case of

11:15 A.M. BELLE HAVEN COUNTRY CLUB, INC., appl. under Sect. 3-303 of the Ord. to amend S-82-V-093 for country club to permit building addition to existing club house, located 6023 Fort Hunt Rd., R-3, Mt. Vernon Dist., 83-4((1))5, approx. 156.7000 ac., SPA 82-V-093-1.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. Ms. Hamilton noted that the club is limited to a membership of 540 families but the applicant's written statement indicates that there are 957 members.

Mr. Richard Hollis, President of the Belle Haven Country Club, 1100 Bayliss Drive in Alexandria, informed the Board that the club is applying for permission to construct a storage addition to the kitchen. He indicated that the construction would be compatible with the existing materials and design. The addition would be built over the dumpster pads. With regard to the membership, Mr. Hollis assured the Board that the club does not have more than 540 active family memberships.

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

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-V-0-93-1 by BELLE HAVEN COUNTRY CLUB, INC. under Section 3-303 of the Zoning Ordinance to amend S-82-V-093 for country club to permit building addition to existing club house, on property located at 6023 Fort Hunt Road, tax map reference 83-4((1))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 12, 1985; 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 156.7000 acres.

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

THAT the applicant has presented testimony indicating compliance with the General Standards for Special Permit Uses as set forth in Section 8-006 and the additional standards for this use as contained in Sections 8-403 and 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. There shall be a minimum of 170 parking spaces and a maximum of 192 parking spaces. The existing overflow parking area shall be retained. All parking shall be confined to the site.
6. All lighting and noise shall be confined to the site.
7. The total family membership shall not exceed 540 family members unless an amendment to the special permit allowing an increase in membership has been approved by the BZA.
8. The transitional screening and barrier requirements shall be modified provided that the existing screening and barriers are retained.
9. A Non-Residential Use Permit shall be obtained for the tennis court covers approved in special permit S-18-79, and it shall be obtained prior to issuance of a Building Permit for the proposed kitchen addition.
10. Construction of the deceleration/acceleration lanes and road improvements shall be provided at such time as determined necessary by the Director, Department 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 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. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 with 1 abstention (Mr. Ribble).

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Page 321 February 12, 1985, Scheduled case of

11:30 A.M. ERMANNO & MANUELA TONIZZO, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow 10 ft. high shed to remain 1.0 ft. from rear lot line and 3.0 ft. from side lot line (10 ft. min. rear yard and 15 ft. min. side yard req. by Sects. 3-207 & 10-104), and to allow existing shed, swimming pool and appurtenant accessary uses and structures to remain in excess of 30% of the area of the required minimum rear yard (30% max. coverage of req. min. rear yard by accessory use and structures req. by Sect. 10-103), located 9620 Percussion Way, R-2, Symphony Hill West Subd., Centreville Dist., 28-3((8))11, approx. 15,072 sq. ft., SP 84-C-073. (DEFERRED FROM JANUARY 15, 1985 FOR NOTICES).

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1 if the BZA believed that the applicant has met the standards. The application is to allow a 10 foot high shed to remain 1 foot from the rear lot line and 3 feet from the western side lot line. In addition, there is an Ordinance provision which precludes accessory structures from covering more than 30 percent of the minimum rear yard area. Ms. Hamilton informed the Board that in this application, the applicant exceeded that requirement as the accessory structures cover 37 percent of the rear yard.

For background purposes, Ms. Hamilton indicated that in September 1984, the Board had approved a special permit to allow a partially constructed addition to remain closer to the rear lot line than allowed. In response to questions from the Board, Ms. Hamilton stated that even without the addition of the shed, the pool and deck would have exceeded the minimum rear yard coverage. Some Board members were concerned that the building inspectors who visited the site during construction of the pool had not informed the applicant of the violation. Ms. Hamilton responded that the oversight was because the building inspectors are not familiar with the Zoning Ordinance requirements. In addition, the plats that were submitted with the building permit only showed the pool which did not exceed the 30 percent coverage provision. The deck was not indicated on the plat at the time the building permit was approved.

Mr. Hyland stated that the situation could have been avoided if every building inspector is knowledgeable of the Zoning Ordinance provisions. The County expected the citizens to know what is in compliance and what is not. Mr. Hyland did not feel it is unreasonable to expect the building inspectors to be more familiar with the Code than the citizens.

Mr. W. Thomas Parrott, III, with the law firm of Molloy & Johnson, 307 Maple Avenue, W., Suite E, Vienna, Virginia, represented the applicants. He informed the Board that the pool was constructed by the pool contractor who had not shown the deck on the plans submitted with the building permit. The pool contractor was excluded from liability because of language in his contract. In response to questions from the Board, Mr. Tonizzo stated that he had only added the shed. He had not applied for a building permit as it was his understanding a permit was not necessary for a 10'x10' shed. Unfortunately, Mr. Tonizzo had not known about the provisions for location of sheds based on the height. Mr. Parrott stated that the 100 square foot shed is 10 feet high. He indicated that by relocating the shed to resolve the problem, it would worsen the situation due to the topography of the property. The property slopes off on the upper right hand corner where the shed is located.

The Board was concerned that the applicant was requesting too many variances for the property. Mr. Parrott assured the Board that Mr. Tonizzo would not request any other variances. There was a question concerning the size of the shed as the plat indicated dimensions other than 10'x10'. However, Mr. Parrott stated that the off-sets were correct.

Mr. Ribble moved that the Board defer the application until the plats are revised to indicate the correct dimensions of the shed. Mr. DiGiulian seconded the motion and it passed by a unanimous vote of 7 to 0. It was the consensus of the Board to defer the matter until April 2, 1985 at 10:30 A.M.

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Page 322 February 12, 1985, Recess

At 12:15 P.M., the Board recessed the meeting for lunch. It reconvened at 1:15 P.M. to continue the scheduled agenda.

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Page 322 February 12, 1985, Scheduled case of

1:00 P.M. FRIENDLY VILLAGE MOBILE HOME PARK, appl. under Sect. 18-301 of the Ord. to appeal Zoning Administrator's determination that the addition of a new double-wide mobile home sales office and a new double-wide model mobile home to a non conforming mobile home park would constitute an expansion of a non conforming use that is prohibited by Sect. 15-103, Springfield Dist., I-3, 34-3((1))21, approx. 82.2614 acres, A 84-S-010. (DEFERRED FROM JANUARY 29, 1985 FOR ADDITIONAL INFORMATION FROM APPELLANT).

Ms. Jane W. Gwinn, Zoning Administrator, presented the Board with copies of a letter dated February 12, 1985, addressed to Mr. Thomas P. Dugan, Esquire, concerning her position on a sales office in the mobile home park. The letter states:

> "It is my position that the sales of mobile homes on this property could be allowed provided the sales are limited to the residents and prospective residents of the Park and the sales office is located in conjunction with the existing rental office. Both office uses could be located in the existing community building in which the rental office is currently located, or in a new or existing mobile home unit located on an existing pad. This mobile home unit could be used as a combination rental/sales office and model home unit. I believe a combination office and model home would be in keeping with the definition of mobile home park as the unit would be occupied and would not be parked solely for purposes of inspection and sales as it would also contain the office uses. It is my opinion that this combination use would not constitute an enlargement or expansion of the nonconformity."

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Mr. Thomas P. Dugan, III, 4010 University Drive, Fairfax, informed the Board he was happy that the Zoning Administrator and the appellant could resolve the dispute. Accordingly, he requested the Board to withdraw the appeal application.

Mr. Hyland moved that the Board allow withdrawal of the appeal application based on the Zoning Administrator's position as set forth in her letter dated February 12, 1985 which renders the appeal moot. Mrs. Thonen seconded the motion and it passed unanimously by a vote of 7 to 0.

Mr. Hyland congratulated the Zoning Administrator and Mr. Dugan for coming to grips on a tough issue. He appreciated the Zoning Administrator working within the system to examine facts and provide guidance. In addition, Mr. Hyland congratulated Mr. Dugan for obtaining the clarification from the appellant. Mr. Hyland felt that the results would serve the residents of the mobile home park in a desirable manner.

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Page 323 February 12, 1985, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of current Minutes for January 29, 1985. Mrs. Day moved that the Board approve the Minutes as submitted. Mr. Ribble seconded the motion and it passed by a vote of 7 to 0.

The Board was in receipt of backlogged Minutes for October 25, and November 1, 1983. Mrs. Day moved that the Minutes be approved as submitted. Mr. Ribble seconded the motion and it passed by a vote of 7 to 0.

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Page 323 February 12, 1985, After Agenda Items

BZA DEFENSE FUND: The Clerk informed the Board that the County Executive had approved the request for outside counsel to represent the BZA in the denial of the special permit application for the First Baptist Church of Springfield. The Board directed the Clerk to contact Mr. Brian McCormack to represent it in the litigation.

// There being no further business, the Board adjourned at 1:20 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: February 26, 1985

Approved: March 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, February 19, 1985. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland (departing at 9:00 P.M.); Ann Day; Paul Hammack (arriving at 8:15 P.M.); John Ribble (arriving at 8:20 P.M.); and Mary Thonen.

Chairman Smith opened the meeting at 8:10 P.M. and Mrs. Day led the prayer.

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

8:00 P.M. PULTE HOME CORPORATION, CONTRACT PURCHASER, appl. under Sect. 18-301 of the Ord. to appeal decision of the Director of Environmental Management to deny the appellant's preliminary subdivision plat for a cluster subdivision, Edgewood Acres, R-3, Lee Dist., 100-2((1))4, approx. 191.3 acres, A 84-L-004. (DEFERRED FROM SEPTEMBER 25. 1984 AT THE REQUEST OF THE PLANNING COMMISSION AND FROM DECEMBER 18, 1984 AT THE APPLICANT'S REQUEST.)

The Board was in receipt of a letter from Jerry K. Emrich, attorney for the appellant, seeking a further deferral of the appeal until the evening meeting in April. Ms. Kelsey advised the Board that staff, under Board members, intended to discuss a change in the meeting dates in April at the request of the Planning Commission. Accordingly, the Board passed over the deferral request until later in the meeting.

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Mr. Hammack arrived at the BZA meeting at 8:15 P.M. and Mr. Ribble arrived at 8:20 P.M. Both were present for the remaining scheduled agenda.

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Page 324 February 19, 1985, Board Members

PLANNING COMMISSION REQUEST: The Board was in receipt of a memorandum from Suzanne Harsel, Acting Chairman of the Planning Commission. In addition, Ms. Harsel personally appeared before the BZA to request the BZA change its evening meeting from April 16, 1985 to accommodate the Planning Commission in the 1985 Annual Plan Review.

Following a discussion with staff and a review of the BZA Bylaws, Mr. Hyland moved that the Board accommodate the Planning Commission by changing the April 16th evening meeting to a day meeting; scheduling an evening meeting for Monday, April 22nd; and cancelling the day meeting of April 23rd. Mr. DiGiulian seconded the motion and it passed by a unanimous vote of 7 to 0.

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Page 324 February 19, 1985, Recessed case of

8:00 P.M. PULTE HOME CORPORATION, CONTRACT PURCHASER, appl. under Sect. 18-301 of the Ord. to appeal decision of the Director of Environmental Management to deny the appellant's preliminary subdivision plat for a cluster subdivision, Edgewood Acres, R-3, Lee Dist., 100-2((1))4, approx. 191.3 acres, A 84-L-004. (DEFERRED FROM SEPTEMBER 25. 1984 AT THE REQUEST OF THE PLANNING COMMISSION AND FROM DECEMBER 18, 1984 AT THE APPLICANT'S REQUEST.)

Following the continued discussion on the request for deferral of the appeal application, Mrs. Thonen moved that the Board approve the request as the appellant is still meeting with citizens in the area. Mr. Hammack seconded the motion and it passed by a vote of 6 to 1 (Mr. Ribble). It was the consensus of the Board to schedule the deferral for Monday, April 22, 1985 at 8:00 P.M.

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Page 324 February 19, 1985, Scheduled case of

8:30 P.M. REBECCA ANN CRUMP, appl. under Sect. 3-103 of the Ord. for a kennel, located Ox Rd., R-1, Springfield Dist., 87-1((1))11, approx. 14.83 ac., SP 84-S-079.

Ms. Rebecca Ann Crump and Mr. Brian Bennett of 9700 Burke View Avenue in Burke, Va. informed the Board that they were requesting a deferral of the special permit application pending the outcome of a Zoning Ordinance amendment relating to the length of term for kennel operation. Messrs. Norman Stachura and Kevin Hazard spoke regarding the request for deferral. They preferred the Board to proceed with the hearing. Following discussion, it was the consensus of the Board to proceed with the hearing but defer decision.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. He indicated that a veterinary practice had been requested originally but was deleted due to staff concerns.

Ms. Rebecca Ann Crump and Mr. Brian Bennett informed the Board that they were requesting a special permit to operate an indoor kennel to accommodate 180 animals with hours of operation from 9 A.M. to 6 P.M. with the employees attending to the animals at anytime. With regard to citizen concern about a kennel in a residential neighborhood, Mr. Bennett explained that the laws of Fairfax County do not allow operation of a kennel in a commercial area. Such use is only allowed in residential or industrial districts. The kennel is proposed to be located on a 14 acre tract which exceeds the minimum two acre requirement under the Ordinance.

With regard to design of the indoor kennel, Mr. Bennett stated that it would have a greenhouse and a Florida room. The runs would be stacked to a combined height of approximately 10 feet. The bottom runs would accommodate large dogs with the upper runs housing medium to small dogs and cats.

In response to questions from the Board, Mr. Bennett stated that the breakdown of the 180 animals to be kept at any one time would be a maximum of 140 dogs and 40 cats. However, he assured the Board that the maximum number would not be reached. A total of 180 runs is requested in order to accommodate the animals during cleaning of the kennel. The runs would be designed with a drainage system between the walls and along the front. This design would allow spraying of the runs with water and clorox which would drain into the septic system.

Ms. Crump stated that the proposed kennel would be similar to the Dulles Gateway Kennel and would have a controlled environment. She indicated that she agreed with the staff's development conditions.

There was no one else to speak in support. The following persons spoke in opposition to the special permit application: Mr. Norman Stachura, 6554 Ox Road; Mr. Kevin Hazard, 6600 Ox Road; Mr. John Waylones, 6545 Ox Road; and Ms. Jean Howery, 6561 Ox Road. The opposition was concerned about property values; noise; traffic and visual impact; safety; sight distance; adequate screening; use of the structure should the kennel operation fail; use of the acreage not needed to accommodate the kennel; the use being in harmony with the Comprehensive Plan; and establishment of a precedent for bringing commercial uses into a residential area.

During rebuttal, Mr. Bennett stated that the kennel operation would be in harmony with the surrounding uses such as the church, 7-11, and a service station and would not affect the property values. There were proposed developments in the area but portions of the land were unbuildable. Mr. Bennett felt that development of the subject property into 28 homes would have more of a traffic impact than the proposed kennel operation.

In response to questions from the Board, Ms. Crump stated that her parents owned the subject property. The placement of the structure on the property was determined by the slope of the land for the drainage system. She indicated that it was not possible to get the size drainage needed anywhere else on the property. Ms. Crump assured the Board that the entire 14 acres would be kept for kennel use.

At the close of the public hearing, it was the consensus of the Board to defer decision until March 19, 1985 at 8:30 P.M.

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Page 325 February 19, 1985, Scheduled case of

8:45 P.M. WORD OF LIFE ASSEMBLY OF GOD CHURCH, appl. under Sect. 3-303 of the Ord. to amend S-81-A-078 for church and related facilities to permit reduction of land area, addition of parking spaces, and sanctuary, academy and community life buildings to existing facilities, located 5225 Backlick Rd., R-3, Lee Dist. (formerly Annandale Dist.) Braddock Oaks Subd., 71-4((1))40C, approx. 12.6185 acres, SPA 81-A-078-1.

Mr. William Shoup presented the staff report which recommended approval of the special permit application subject to the revised development conditions distributed at the beginning of the hearing. In response to questions from the Board regarding the reduction in land area, Pastor Wendell Cover of 7308 Backlick Road indicated that he was not aware of the reduction. However, Pastor Cover indicated that perhaps the land area was reduced because of the proffer for the drainage ditch easement between the church and the adjoining subdivision. Mr. Shoup informed the Board that at one time the church owned all of the land. The additional land area had been sold off for development of Sequoia Park. The property line between the church and Sequoia Park had been adjusted subsequent to the 1982 special permit.

Mr. Claude Wheeler of 6300 Wayles Street in Springfield informed the Board that the seven acres for Sequoia Park had been segregated from the church's original application for special permit. However, a site plan had not been submitted and the property line was not clear at that time. The church contributed two acres for a detention drainage ditch.

The Board was concerned about utilization of the academy building and instructed the applicant not to use the facility until obtaining a special exception from the Board of Supervisors. Pastor Cover understood that this was a different use.

During his testimony, Pastor Cover stated that in 1982 the church had presented a comprehensive building plan which had been approved by the BZA and the community. At that time, the church thought it included all the future additions. Now the church is seeking approval for an academy building with the understanding that it would go to the Board of Supervisors for an increase in student enrollment. In addition, the church is seeking enlargement of the parking and approval for construction of a community life center.

In response to questions from the Board concerning the community life center, Pastor Cover indicated that the church was uncertain as to exactly how the center would be used. He cited examples of recreation, banquet facilities, social or education. The Board stated that the church had to be more specific as the use has to be accessory to church uses. Pastor Cover stated that the original plan called for a 50'x100' garage in the location of the proposed community life center. The church felt the center would be more advantageous.

The Board expressed concern over the church's excessive grading of the property outside of the permitted area. Pastor Cover responded that the church needed fill dirt to complete a project. It has since applied for a new grading permit with respect to the affected area.

With regard to the revised development conditions, Pastor Cover questioned language in condition no. 12 which states, "Prior to site plan approval for the first phase, the applicant shall provide a contribution equivalent to the estimated cost of constructing the left turn deceleration lane as determined by the Office of Transportation and Public Works." He inquired whether the church could execute a legal agreement providing for construction rather than contributing cash.

Mr. Shoup explained that the road bond project was not finalized for this site. If the church constructed the left turn deceleration lane immediately, it might have to be torn out later. In lieu of immediate construction, staff is recommending the applicant provide a cash contribution at the time of site plan to implement construction when the road bond project is finalized. In response to whether the church could provide a bond in lieu of a cash contribution, Mr. Shoup stated that the County has had problems in executing bonding on follow-ups.

The Board was concerned that the church was building up to its full potential which is too intense of a use on the proposed site. It indicated that there was enough land prior to the church selling off part of the acreage. Pastor Cover responded that the church had to buy the whole twenty acres to get any part of it for church construction. He indicated that the church sold the acreage for the same price it paid. There was a long delay in building the church and the church needed the money.

Mr. Gerald Rupert, the church's architect, distributed a landscaping plan to the Board and spoke in support of the application. He stated that the parking island and the proposed Phase II of the project is located in the northern section of the property. Landscaping will consist of various deciduous trees with screening of evergreens along the berms. Shade trees will be scattered throughout the parking lot with screening along the outside edge of Japanese Black Pine. In response to questions from the Board, Mr. Rupert stated that the trees would be planted 40 feet on center in the parking area and have a spread of about 30 feet. The trees in the parking islands will be protected by curbing.

There was no one else to speak in support of the application. The following persons spoke in opposition: Mr. Vernon Wong, President of the Sequoia Park Owners' Association, 6734 Anders Terrace; Mr. Ken Yost, Past President of the Edsall Park Civic Association, 6809 Front Royal Road; Mr. Don Greenwood, 6750 Anders Terrace; and Ms. Lisa Dwoskin, 6748 Anders Terrace.

Mr. Wong stated that the residents of Sequoia Park were not opposed to the construction of the academy and sanctuary but were opposed to the proposed community life center building and the expansion of parking. He showed a slide presentation depicting the existing screening and the location of the proposed community life center and expanded parking lot to the Sequoia Park residents. Mr. Wong stated that the residents supported the church's efforts to remove the requirement for a trail. In closing, Mr. Wong stated that the residents supported the church's special permit request if adequate screening is provided and the community life center is deleted.

Mr. Yost indicated that the Edsall Park Civic Association's primary concern is the community life building because of its unknown characteristics and purposes. He indicated that when the church first purchased the property, it explained its plans in detail to the community. Edsall Park Civic Association has no objections to the four buildings in the center of the property. Mr. Yost indicated that they supported Mr. Wong's statements regarding screening and traffic.

Mr. Don Greenwood, owner of lot 12 adjacent to the church, stated that the proposed community life center would be approximately 50 feet from his rear property line affecting property values. He felt that the church's proposals were out of character and scale with the surrounding dwellings. He presented a petition signed by people directly adjoining the church property. In closing, Mr. Greenwood stated that he could not accept the fact that the proposed community life center would be closer to his property than the main church complex.

Ms. Lisa Dwoskin supported Mr. Greenwood's statements. She informed the Board that she was concerned about the large community life center building being so close to the drainage ditch and the uncertainty as to what it would be used for.

In response to questions from the Board regarding the floor area ratio,. Mr. Shoup stated that it is right at 0.15. He indicated that in reviewing it, the 0.15 might not include the foyer area in the center of the building. However, Mr. Shoup did not feel that the F.A.R. would exceed the 0.25 maximum allowed in the R-3 zoning district.

During rebuttal, Pastor Cover stated that the church was uncertain as to what the community life center would be used for because it did not know how fast the congregation would grow. He indicated that it might be used for a gymnasium. In response to concern from the Board that the area is too densely populated to move the building elsewhere on the property, Pastor Cover stated that the church might possibly five acres for a retirement center for the elderly. He indicated that the church site has only used 50 percent of the allowable density.

Following further discussion, it was the consensus of the Board to defer decision of the special permit application until May 21, 1985 at 8:00 P.M. pending Board of Supervisors' action on an anticipated special exception application to increase the academy enrollment. In addition, the BZA directed that the applicant provide revised plats to indicate:

- deletion of the proposed community life building;
- location of the trail proffered at the time of rezoning or approval of a Proffered Condition Amendment from the Board of Supervisors deleting the trail requirement; and
- proposed transitional screening and landscaping.

The applicant was directed to provide the requested revised plats in sufficient time for staff review prior to the May 21st deferral date.

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Page 327 February 19, 1985, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of current Minutes for February 5, 1985. Mr. Hammack moved that the Minutes be approved as submitted. Mr. Ribble seconded the motion and it passed by a vote of 6 to 0 (Mr. Hyland being absent).

The Board was in receipt of backlogged Minutes for November 15 and 17, 1983. Mr. Hammack moved that the Minutes be approved as submitted. Mr. Ribble seconded the motion and it passed by a vote of 6 to 0 (Mr. Hyland being absent).

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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

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on February 26, 1985

Approved: March 5, 1985
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 5, 1985. The Following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack (departing at 11:15 A.M.); John Ribble (arriving at 12:00 Noon); and Mary Thonen. (Mr. John DiGiulian was absent).

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

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

10:00 A.M. FAIR OAKS MOTEL, appl. under Sect. 18-301 of the Ord. to appeal the Zoning Administrator's determination that appellant's motel is part of a shopping center, and, therefore, is not entitled to a free-standing sign; C-7, Providence Dist., 46-3((8))18-A1, approx. 217,800 sq. ft., A 84-P-011.

Mr. Ed Prichard, an attorney with the firm of Boothe, Prichard & Dudley, represented the appellant. The appellant, Fair Oaks Motel a/k/a Holiday Inn, is seeking reversal of the Zoning Administrator's interpretation of the Zoning Ordinance denying the appellant a free-standing sign on its property. The appellant is seeking reversal of the decision based on Section 12-205 of the Zoning Ordinance which states:

> "An individual enterprise which is not located within or on the same lot with a shopping center shall be permitted one (1) free-standing sign. Such sign shall be limited to a maximum sign area of eighty (80) square feet."

The Zoning Administrator's position was based on the definitions contained in the Zoning Ordinance; specifically definition of a shopping center and definition of a regional shopping center. The Zoning Administrator felt that the appellant's use was a part of the Fair Oaks Shopping Center and, therefore, was not entitled to a free-standing sign based on the provisions of paragraph 10 of Section 12-203 of the Zoning Ordinance.

Mr. Prichard argued that the Holiday Inn is not part of the Fair Oaks Shopping Center as it is located on a separate parcel of ground and is separated by a four lane road from the center. In addition, it has direct frontage onto Rt. 50 and the Rt. 66 interchange. Mr. Prichard cited other examples of the use not being a part of the shopping center such as the fact that it does share parking facilities or attract the same customers. Mr. Prichard felt that the appellant is entitled to a free-standing sign as the use has frontage on a major thoroughfare and is not located in a sign controlled district.

In response to questions from the Board, Mr. Prichard stated that the Zoning Administrator contended that the use is not part of a regional shopping center but is part of a shopping center. Mr. Prichard stated that the use is not located on the same lot and is a separate business from the shopping center. He agreed with the Zoning Administrator that the use is not part of the regional shopping center. They did not share party walls, parking, or architecture, and were not part of the merchants association.

Mr. Prichard stated that the issue of this appeal was whether the appellant's rights could be taken away. According to Mr. Prichard, the Zoning Administrator's decision was based on the fact that the appellant shared access with the shopping center. He stated that the use could have a separate driveway. However, when the area was assemblied, a transportation study indicated that they wanted limited access to Rt. 50. The property had all been zoned at the same time. Mr. Prichard stated that if the hotel is deemed to be part of the shopping center because it is commercially zoned and is adjacent to the regional center then the golf course, church and veterinary clinic across the street should also be deemed to be part of the regional shopping center.

Mr. Prichard reminded the Board of a previous appeal involving signage at the shopping center. Mr. Bettius had argued that the theaters were part of the regional shopping center and were entitled to a free-standing sign. Mr. Prichard stated that he was agreeing with the Zoning Administrator that the Holiday Inn was not part of the regional shopping center. They do not serve the same group of people. The free-standing sign is necessary for the travelling public who are unfamiliar with the area. The sign would allow them to find their way to the motel without great difficulty.

In response to questions from the Board as to what distinguishes the motel from the term "group" in the definition of a shopping center, Mr. Prichard stated that the hotel was not connected in any way by any structures and there is no provisions made for patronizing the same group of people.

In response to questions from the Board as to whether the theater is part of the shopping center, Mr. Prichard stated that the BZA had ruled it is. The Board of Supervisors disagreed with the ruling and have filed suit. In further response to questioning, Mr. Prichard stated that the theater is located on a separate lot. Mr. Prichard assured the Board that the question of signage would not have to be dealt with again as there are only offices remaining at the complex.

Ms. Jane Gwinn, Zoning Administrator, informed the Board that her position is set forth in the memorandum dated February 25, 1985. The issue of the appeal is simply that the appellant and Ms. Gwinn disagree on how to interpret the definition of a shopping center. It was Ms. Gwinn's position that the appellant's triangular piece of ground and the whole tract comprise the shopping center.

In response to questions from the Board, Ms. Gwinn stated that the Zoning Ordinance defines regional and shopping center. There are not any descriptive definitions of a neighborhood or community shopping center. The Board questioned whether the golf course across the street could be considered a part of the shopping center. Ms. Gwinn stated it could not because there was not a connecting point of ingress and egress and it is not defined as a general commercial group.

The Board questioned whether the road that divides the hotel from the shopping center is a public or private road. Ms. Gwinn responded it is a private road. She informed the Board that her position was influenced by the fact that the whole quadrant is serviced by an internal circulation loop road providing access to Rt. 50. and designed for customer interchange between the sites.

The Board recessed the hearing at 10:50 A.M. and reconvened at 10:55 A.M. to continue with the appeal.

Mrs. Shirley Sweeney of 11713 Valley Road, Fairfax Farms Subdivision, spoke in support of the Zoning Administrator's position. In addition, the Board was in receipt of a letter from Mr. Jeffrey Parnes, Land Use Committee Chair, Greenbriar Civic Association. Mrs. Sweeney opposed the free-standing sign as it would conflict with the urban village concept for development and would be aesthetically unsightly. In addition, she felt that a free-standing sign placed along Rt. 50 near the entrance to Fairfax Farms Subdivision would be a safety hazard.

Mr. Parnes' letter cited opposition to the construction of a free-standing sign as the Greenbriar Civic Association felt that the motel's massive structure is a suitable location for any identification desired. The letter stated that the motel's current sign is clearly visible from both Rt. 66 and Rt. 50.

During rebuttal, Mr. Prichard stated that the main reason the appellant wants the free-standing sign is with respect to traffic safety. It would direct the travelling public easily into the site. He stated that people from both Rt. 66 and Rt. 50 need to be able to see the sign. With regard to Ms. Gwinn's statements that the other office uses would also request a free-standing sign, Mr. Prichard noted that the last phrase under the definition of shopping center states: "...for the purpose of this Ordinance, a grouping of predominantly office uses which meet the characteristics specified above shall not be deemed to be a shopping center." Accordingly, he did not feel that this appeal would establish a precedent.

In the Appeal of the Zoning Administrator's decision in Appeal A 84-P-011 by Fair Oaks Motel, Mr. Hammack moved that the Board uphold the decision of the Zoning Administrator. Mr. Hammack based his motion on testimony received during the hearing and in reading the appeal. He noted that this is an entire different case than the movies at Fair Oaks which introduced a different issue.

Mr. Hammack agreed with almost everything stated by Mr. Prichard concerning the way the statute is written and the definitions. However, he still had a problem with Subsections D and E in the definition of shopping center. Mr. Hammack felt that there are common points of vehicular ingress and egress into the Fair Oaks shopping center complex. He felt it presented an appearance of one continuous commercial area which brings the motel within the definition of a shopping center. Mr. Hammack stated that those were the two controlling facts as he saw them in what is otherwise a section of the statute where there is some ambiguity and inconsistency. Mr. Hammack stated that this is a close case and Mr. Pritchard has made some good arguments with good points.

Mr. Hyland seconded the motion to uphold the decision of the Zoning Administrator. During discussion, Mrs. Thonen noted that she was not a bit enthralled with having to deny the sign. She indicated that she would like for the conditions in the Ordinance to be spelled out better. Mrs. Thonen stated that the one thing which led her to support the Zoning Administrator's position is the fact that the road is a private road. She indicated that its possible the road is maintained by all the businesses in the complex which would make it a part of the entirety. Mrs. Thonen noted that she would like to see the appellant get a sign on the other side of the building to accommodate travellors on Rt. 66.

Mr. Hammack noted concern to the Zoning Administrator that an individual party's development rights are limited in some ways by broad definitions. He indicated that when someone purchases a parcel, they look at an individual lot number and find out the zoning district. If all the parcels are assemblied and developed as one contiguous unit or are rezoned for the whole batch, that was one matter. But when you have lots sold off as the lots were in this complex and then they are developed independently of the mall complex, Mr. Hammack was concerned about the rights being limited or affected by just a definition. Mr. Hammack stated that the definitions are not as clear as they should be. He understood the appellant's position.

Chairman Smith stated that the appellant was aware of the Ordinance limitations on signs when the property was purchased as other developers were for the other structures developed on the complex.

Mr. Hyland noted that he did not recall any testimony which indicates that when the property was purchased for the motel use that the developer knew or did not know what the interpretation of the Zoning Administrator would be regarding the denial of a free-standing sign as part of the shopping sign. Mr. Hyland stated that he was certain the developer was unaware of that interpretation at the time. For the record, Mr. Hyland noted that he would assume the developer did not know the position of the Zoning Administrator. Mr. Hyland stated that the Board has struggled with this issue and he agreed with Mr. Hammack that this is not a clear case. Mr. Prichard has made some good arguments. Mr. Hyland noted that he was hung up with the language of group. He felt that the motel is part of a group. Mr. Hyland felt that either one of the subsections D or E were sufficient to bring the motel into the group.

Mr. Hammack stated that the regional part of the shopping center, the mall itself, was developed several years ago. The motel is being developed now several years apart in time. Mr. Hammack stated that his point is that a person ought to be able to examine the Zoning Ordinance to determine what category they are in and what their rights are. He stated that they should not have to go through a laborious definitional process that says it may be this or it may not be this in order to determine their rights. Mr. Hammack stated that this part of the Ordinance is somewhat inconsistent.

The vote on the motion to uphold the decision of the Zoning Administrator passed by a vote of 5 to 0 (Messrs. DiGiulian and Ribble being absent).

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Mr. Hammack left the meeting at 11:15 A.M. and did not return for the remainder of the day.

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Page 330 March 5, 1985, Scheduled 10:30 A.M. case heard at 11:15 A.M.

10:30 A.M. WILLIAM V. WREN, TRUSTEE/THOMAS F. JR. & GELYA A. CAMP, appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, proposed lot 1A having width of 15.16 ft. (100 ft. min. lot width req. by Sect. 3-206), located 2009 Windmill Ln., R-2, Unitarians Addn. to Mason Hill, Mt. Vernon Dist., 93-3((1))10E, 10F & 10G, approx. 1.6191 ac., VC 84-V-138.

Ms. Jane Kelsey presented the staff report which outlined the requested reconfiguration for lots 10E, 10F, and 10G to permit lot 10E to have width of 15.16 feet which is less than the minimum required lot width for the R-2 zoning district. In response to questions from the Board as to whether two vehicles could pass each other, Ms. Kelsey stated that the ingress/egress did not have to be positioned in the 15 feet lot width. An easement could be acquired from the proposed lot 2-A to accommodate a driveway access for lot 1-A. When questioned why this was not indicated on the plat, Ms. Kelsey stated that the access has to be approved by DEM as part of the subdivision process.

Mr. Bernard Fagelson, an attorney in Alexandria, represented the Mr. William Wren and Mr. Thomas Camp, an adjoining neighbor. Mr. Fagelson explained to the Board that the original variance was approved for four lots subsequent to the building on lot 10-G which is now lot 3-A. A boundary change is being requested in order that an existing water supply pipe which is currently located on Mr. Camp's property be included as part of Mr. Wren's property for which it serves. In addition, the present boundaries would require the demolition of a large Oak Tree in order to build the driveway to lot 1-A. By allowing a change in boundaries, the driveway could be relocated saving the Oak Tree. Mr. Wren and Mr. Camp had worked out an arrangement which preserves the quality of Windmill Lane.

In response to questions from the Board, Mr. Fagelson stated that the proposed subdivision was within two to three dwelling units per acre allowed by the Comprehensive Plan. The total size of the property is 1.6 acres. Mr. Fagelson stated that the basic size of the lots has not changed by the resubdivision.

Chairman Smith called for a recess of the hearing at 11:30 A.M.. The Board reconvened at 11:35 A.M. to continue with the case. Mr. Fagelson presented photographs to the Board and a plat marked up to show the original subdivision in relationship to the proposed resubdivision. The Board reviewed the minutes from the original variance hearing.

Dr. Tom Camp of 210 Windmill Lane spoke in support of the variance. There was no one to speak in opposition.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-V-138 by WILLIAM V. WREN, TRUSTEE/THOMAS F. JR. & GEYLA A. CAMP under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lot 1A having width of 15.16 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 2009 Windmill Lane, tax map reference 93-3((1))10E, 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 March 5, 1985; and

WHEREAS, the 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 1.6191 acres.
4. That this is a realignment of lot lines from a previously granted variance. The boundary in front of the existing dwelling on lot 1-A is shifted to the west to allow construction of a new driveway. The boundary of lot 2-A is also shifted further west as the Oak Tree at the top of the original pipestem prevents construction of a driveway. The resubdivision will save the Oak Tree and allow each new lot to have approximately the same lot area. The owners are in agreement.

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:

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RESOLUTION

(continued)

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of the reasonable use 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 a resubdivision of lots 10E, 10F, and 10G 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.

Mrs. Day seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Ribble being absent).

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Page 332 March 5, 1985, Scheduled 10:45 A.M. case heard at 11:45 A.M.

10:45 A.M. MARCIA LYNN CHASE, appl. under Sect. 18-401 of the Ord. to allow a 6 ft. high fence to remain in front yard (4 ft. max. height for fence in front yard req. by Sect. 10-104), located 3315 Holly Ct., R-3, Holmes Run Acres, Providence Dist., 59-2((8))(4)39, approx. 11,523 sq. ft., VC 84-P-139.

Ms. Jane Kelsey presented the staff report. Mr. Robert Adams, an attorney with the law firm of Swayze, Tydings, Bryan & Adams in Fairfax, represented the applicant. He presented photographs showing the location and height of the fence constructed by Long Fence Co. in April 1984. Mr. Adams reported that the Holmes Run Acres Community Association had submitted a letter in support of the variance. Mr. Adams informed the Board that the fence was aesthetically pleasing and functionally oriented. He indicated it would be a hardship to remove two feet of the fence as Ms. Chase's dogs could jump a four foot fence. Mr. Adams stated that Ms. Chase was totally innocent of the height limitations for fences. She contracted with Long Fence Company to install a fence in order to keep her dogs in her yard. She was made aware of the technical requirements at a later date.

The Board was concerned that Long Fence Company strikes again as it should be aware of the fence regulations better than the citizens. Mr. Hyland moved that a representative of the Long Fence Company appear before the BZA to explain the situation. He asked that the hearing be deferred until the Board receives an explanation. Mrs. Thonen seconded the motion and it passed unanimously by the Board members present.

Ms. Kelsey informed the Board that it would have to subpoena the witness from Long Fence Company in order to ensure his presence. Mrs. Thonen indicated that the County Attorney's Office should do something about Long Fence Company's license as this problem has come up over and over again.

In response to questions from the Board, Ms. Kelsey stated that Ms. Chase's problem came to the attention of the Zoning Inspectors through a series of chain reactions. A complaint was registered against a fence in the community and each owner complained about others in the area. Ms. Kelsey stated that Ms. Chase was the first homeowner who chose to apply to the BZA for a variance.

The Board requested a copy of the contract with Long Fence Company. Mr. Adams indicated that he did not have a copy with him but would furnish it to the Clerk. It was the consensus of the Board to continue the hearing until April 16, 1985 at 10:00 A.M.

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Page 332 March 5, 1985, Recess

Mr. Ribble arrived at the meeting a few minutes prior to the Board recess at 12:00 Noon. The Board reconvened at 1:00 P.M. to continue with the scheduled agenda.

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11:00 A.M. HELEN M. RICHARDS, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots, proposed lot 10B-1 having width of 61.96 ft. (80 ft. min. lot width req. by Sect. 3-306), located 6907 Churchill Rd., R-3, Dranesville Dist., 30-2((3))10B, approx./.822 ac., VC 84-D-140.

Ms. Jane Kelsey presented the staff report. She informed the Board that the parcel 10B had been subdivided by a previous owner. The applicant is requesting a variance in order to subdivide the property into two lots, with one having lot width of 61.96 feet. Ms. Kelsey stated that the major portion of the proposed lot is located in floodplain. Ms. Kelsey showed the Board a viewgraph depicting the only buildable area on the proposed lot. Staff is concerned that a house could not be constructed within that area and still satisfy the zoning setback requirements as well as the 15 foot setback required from a floodplain. The applicant felt that these requirements could be satisfied without the necessity of a variance. However, it would require the construction of a very small house and might create the need for a future variance for any additions.

Ms. Helen Richards of 6907 Churchill Road in McLean stated that her property fronts on both Churchill Road and Ingleside Avenue. Based on its lot size and zoning category, it is possible to subdivide into two lots. The engineer informed Ms. Richards that the major portion of the property on Ingleside Avenue is in floodplain. A variance was necessary because of having to go to the Churchill Road side of the property. The minimum lot width for the R-3 district is 80 feet and the proposed lot only has 62 feet. Ms. Richards stated that the purpose of the proposed lot is to build a small house for her daughter and herself to live. She proposed to sell her existing house. Ms. Richard cited the hardship as not being able to cut off a lot if the variance was denied.

In response to questions from the Board, Ms. Richards stated that the existing structure is a split level, 55 feet in length. Ms. Richards stated that her request is in keeping with the other lots in the R-3 district as some lots have been developed with 50 feet frontages along Churchill Road going towards Dolley Madison Highway.

There was no one else to speak in support. Letters of opposition were received from Mrs. Marie Abell of 1221 Ingleside Avenue and William and Page Gormly of 6890 Churchill Road. Both letters cited concern about a precedent being set if the variance was granted. Mr. Stan Enatsky of 1222 Ingleside Avenue spoke in opposition. He felt that construction of a small house on a small lot would detract from property values in the area. In addition, he felt that the safety hazard would be increased by the addition of another driveway so close to the intersection.

In response to questions from the Board, Ms. Kelsey stated that the driveway entrance for the second lot would be from Churchill Road. She indicated that with an easement, the other lot could use the same driveway. Ms. Richards stated that she was proposing that the lots share a driveway. The existing home has a turnaround. She plans to construct a circular driveway with a better access on the existing lot and a similar circular drive on the proposed lot.

Mr. Hyland and Mr. Ribble drew diagrams for the proposed circular driveways having a common access from Ingleside Avenue. Following review of the diagrams, Ms. Richards indicated that she had no problem with Mr. Ribble's diagram.

During rebuttal, Ms. Richards stated that the driveway access would continue to be in the same general area as it is now located. Both houses would use the one access but there would be a circular drive in front of the existing home and one in front of the proposed dwelling. Accordingly, Ms. Richards failed to see how the entrance would impact the traffic on Ingleside Avenue. She stated that the lot size is adequate for the R-3 district.

In response to questions from the Board, Ms. Kelsey stated that it is always better when the number of entrances on a street are limited. She stated that VDH&T has a specific distance that a driveway can be located from an intersection. Ms. Kelsey felt that VDH&T would not allow an additional driveway that close to the intersection. Ms. Kelsey further informed the Board that the new dwellings referred to by Ms. Richards on the 50 foot lots were in an area of substandard lots. A building permit can be issued if the structure meets all the yard requirements.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-D-140 by HELEN M. RICHARDS under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 10B-1 having width of 61.96 ft. (80 ft. min. lot width req. by Sect. 3-306), on property located at 6907 Churchill Road, tax map reference 30-2((3))10B, 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

RESOLUTION

(continued)

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 5, 1985; and

WHEREAS, the 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 approximately 0.822 acres.

Mr. Hyland made the following additional findings of fact:

- That the applicant's testimony and a review of the plat indicates that a substantial portion of lot 10B is located in a floodplain;
- That the proposed subdivision of lot 10B into two lots could only be accomplished by constructing a second dwelling towards the front of that lot on Churchill Road because of the existence of floodplain;
- That the requested variance approximates 18 feet as far as the requisite frontage that normally would be required for a lot;
- That the subdivision of the two lots would result in the one lot and the lot that is proposed to be developed by the improvement of home to be 10,500 sq. ft. which meets the minimum lot size;
- That the remaining lot would be almost double that amount having 19,000+ square feet;
- And, further, the Board has received testimony from the applicant that ingress and egress to the new lot would be provided along the driveway which currently serves lot 10B and that the turnaround would be constructed on both lots 10B-1 and 10B-2 and that access to both lots would be limited to the one entrance.

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 one lot into two (2) lots as shown on the plat submitted with this application.

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RESOLUTION

(continued)

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.

Mr. Ribble seconded the motion.

The motion *FAILED by a vote of 3 to 2 (Mr. Smith & Mrs. Thonen)(Messrs. DiGiulian and Hammack being absent).

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As the above variance resolution failed for lack of a vote of four, Mr. Hyland informed the applicant of her rights to request a waiver of the twelve month limitation on rehearing which would allow her to file another variance application without waiting the one year period.

Accordingly, Ms. Richards requested that the Board waive the twelve month limitation and allow her an opportunity to refile. Mr. Hyland moved that the Board approve the request. Mr. Ribble seconded the request.

During discussion of the motion, Mrs. Thonen noted that she would support a motion for the waiver request but would not support the variance request as she felt it was too close to the floodplain.

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

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Page 335 March 5, 1985, Scheduled 11:15 A.M. case heard at 1:45 P.M.

11:15 A.M. RICHARD & JUDITH A. WELLS AND ALLEN JOHN JR. & MARTHA E. OLMSTEAD, appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, proposed lot 1 having width of 12 ft. and proposed lots 2 and 3 each having width of 6 ft. (150 ft. min. lot width req. by Sect. 3-106), located 2740 Hunter Mill Rd., Bonnet Subd., R-1, Providence Dist., 37-4((1))17C & pt. 17, approx. 3.599 acres, VC 84-P-143. (OUT-OF-TURN HEARING)

Ms. Jane Kelsey presented the staff report. For background purposes, Ms. Kelsey stated that in 1982 a similar variance had been approved by the BZA to permit a subdivision of lot 17 into three lots in the approximate same area. Two of the resultant lots had a minimum lot width of six feet with the other having twelve feet. Only lot 17C had been recorded within the 18 month period. Accordingly, the variance expired for the subdivision of the other two lots. Ms. Kelsey stated that the proposed application is similar to the original application except that some of the lot lines have been changed. Proposed lot 1 would have a minimum width of 12 feet with proposed lot 2 and 3 each having a width of 6 feet.

In summary, Ms. Kelsey stated that a portion of the property was subdivided and is developed with a single family dwelling. The applicant is requesting a reconfiguration of the lot which slightly decreases the land area. At the time of the submission to DEM, the applicant was requesting to provide a right turn deceleration land and an acceleration lane. However, because only one lot was subdivided, the applicant was not required to perform the construction.

The Board questioned how the applicant was allowed to develop the one lot which is not in accordance with the approved development plat. Ms. Kelsey responded that she questioned DEM and was informed that the situation was similar to churches with garages or administrative buildings. They can construct one building which does not preclude them from constructing the other providing that they do so within the time limits. In this instance, the applicant only recorded lot 1 which was in the same location as was originally approved. The lot lines have now been reconfigured with this subdivision request.

The Board was concerned that DEM allowed the subdivision to take place without compliance of the conditions for constructing the deceleration/acceleration lanes. Ms. Kelsey stated that these were not conditions of the variance approval but were DEM conditions for approval of a three lot subdivision.

Mr. Thomas Lawson, at attorney in Fairfax, represented the applicants. Mr. Lawson stated that on October 28, 1982, the BZA had approved approximately this same subdivision. He indicated that problems arose because Mr. Wells is not a developer but a school teacher. Through oversight, the time elapsed on the recordation of the subdivision plat.

For background purposes, Mr. Lawson stated that a preliminary subdivision plat had been filed with the DEM staff. Because Mr. Wells only had one sale at that time, lot 1 was the only lot approved by DEM and recorded in the subdivision. In reliance with the original subdivision, Mr. Wells obtained approval from VDH&T to construct the driveways and widen Marbury Drive. Mr. Lawson stated that there was some variation in size from the original lots because of the topographic conditions, a large drainage swale at the rear of the lots, and septic tank drain fields.

Mr. Richard Wells informed the Board that he lived in the house situated on the five acres and is a school teacher at Lanier Intermediate. Mr. Wells indicated that part of the problem arose because he would not have been selling his property if he hadn't needed the money. Construction of the road was slowed down by Mr. Wells attempts to locate a contractor who could do the work at a reasonable rate. The lots were not recorded within the eighteen months because the road was not completed. Mr. Wells stated that work had been ongoing this past weekend. The trees had been cut down for sight distance. With respect to complaints regarding erosion, Mr. Wells stated that the edges of the road have been scraped and graded and the area has been seeded and fertilized. The contractor was not able to plant grass during the winter months and some mud did enter on the highway. Mr. Wells informed the Board that he personally blocked the road with bales of straw to prevent problems.

In response to questions from the Board regarding visibility, Mr. Wells stated that the problem was corrected towards Hunter Mill Road. He indicated that VDH&T is holding his bond and all sight distance problems will be corrected at his expense.

Ms. Nancy Jo Cranmer, an engineer with Paciulli, Simmons and Associates, spoke in support of the application. The following persons spoke in opposition: Mr. Barry W. Holman of 10396 Adell Road and Mrs. Debbie Turner of 10397 Adell Road. Mr. Holman was concerned about the narrowness of lot 2 and the type of house to be constructed due to its narrowness. Mr. Holman felt that any home on lot 2 would be constructed towards the rear of the lot which is in close proximity to his property.

The Board recessed the hearing at 2:15 P.M. to allow the engineer an opportunity to discuss house locations with Mr. Holman. The Board reconvened its meeting at 2:20 P.M. to continue the hearing.

Mrs. Turner informed the Board that she resided across the street from Mr. Wells and is concerned about the impact of drainage onto her property if construction takes place on the Wells property.

During rebuttal, Mr. Lawson stated that there is an existing drainage swale running through the area. Water has not been a problem up until this time and he did not feel the construction of a house would create one. Mr. Lawson indicated that there are ways of controlling erosion which would be enforced by DEM. He stated that construction has already taken place on lot 17-C and drainage was not a problem when it was being built. Mr. Lawson stated that the price of the land dictates the quality of the homes. The Wells live here and its their permanent home.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-143 by RICHARD & JUDITH A. WELLS AND ALLEN JOHN JR. & MARTHA E. OLMSTEAD under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lot 1 having width of 12 ft. and proposed lots 2 and 3 each having width of 6 ft. (150 ft. min. lot width req. by Sect. 3-106), on property located at 2740 Hunter Mill Road, tax map reference 37-4((1))17C & pt. 17, 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 5, 1985; and

RESOLUTION

(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-1.
3. The area of the lot is 3.599 acres.
4. The Board has received testimony from several neighbors that there are problems with the topography and drainage. Even though Lot 2 would have 42,440 square feet, the buildable area is small due to the drainage and terrain. Economics are not a consideration in the merits of an application.

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. Thonen seconded the motion.

During discussion, Mrs. Thonen stated that the applicant owned so much land that the subdivision could be redone in such a way as to not require a variance. She did not believe that the granting of the variance would alleviate a hardship and did not feel that the applicant had proven he had a hardship. Mrs. Thonen felt that the variance would be a detriment to the adjacent property because it would be so located as to impact on the neighbors and change the character of the zoning district. She stated that if the existing house was as old as Mr. Wells indicated, it should be included in a Historic District.

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

11:30 A.M. LEWIS SUSKIEWICZ, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow 12.2 ft. high shed to remain 8.6 ft. from rear lot line (12.2 ft. min. rear yard req. by Sects. 3-107 & 10-104), located 5824 Hall St., Homewood Subd., R-1, Springfield Dist., 79-3((10))26; approx. 34,054 sq. ft., SP 84-S-076. (DEFERRED FROM FEBRUARY 5, 1985 TO ALLOW APPLICANT TIME TO OBTAIN A HOLD HARMLESS AGREEMENT)

Mr. William Shoup informed the Board that the applicant had pursued a hold harmless agreement and had obtained the final signoff from the County Executive just this morning. Mr. Shoup indicated that he did not believe it had been recorded yet.

Mr. Wayne F. Cyron, an attorney in Arlington, represented the applicant. In response to questions from the Board, Mr. Cyron stated that the applicant had promptly submitted the request for the hold harmless agreement. He had not heard anything more until last Friday when he received a call from the County to provide a runner if he wanted the approval in time for the BZA hearing. Mr. Cryon assured the Board that the applicant had diligently pursued this matter.

Mr. Alfred Overstreet spoke in opposition and requested that the shed be relocated to the north so as not to visually impact his property. Mr. Overstreet expressed concern that one of the neighbors who assisted Mr. Suskiewicz in the building of the shed was in the contracting business and should have been aware of the requirement for a building permit.

During rebuttal, Mr. Suskiewicz stated that the side of his property sloped down into the drainage easement. He presented the Board with photographs taken from the back of his house.

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Page 338 March 5, 1985 Board of Zoning Appeals
LEWIS SUSKIEWICZ

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Ribble made the following motion:

WHEREAS, Application No. SP 84-S-076 by LEWIS SUSKIEWICZ 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 12.2 ft. high shed to remain 8.6 ft. from rear lot line (12.2 ft. min. rear yard req. by Sects. 3-107 & 10-104), on property located at 5824 Hall Street, tax map reference 79-3((10))26, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on March 5, 1985; 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.

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LEWIS SUSKIEWICZ

RESOLUTION

(continued)

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

1. This approval is granted for the location of the shed indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.

2. A Building Permit shall be obtained and all necessary inspections for this type of structure shall be performed and approved.

Mrs. Day seconded the motion.

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

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Page 339 March 5, 1985, After Agenda Items

RESCHEDULING OF BZA MEETINGS DURING THE LAST TWO WEEKS OF JUNE: The Board was informed that the the Board Room would be unavailable from June 17th through July 7th for renovation of the public address system. In order to accommodate the evening meeting of June 18th, the Clerk reserved Circuit Court Room "5D" in the Judicial Center. In addition, the Clerk reserved two additional days meetings for Thursday, June 6 and June 13, 1985.

Following discussion, the Clerk was directed by the Board to further explore the possibility of holding the night meeting in early June, preferably June 11th, if the Board Room was available.

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Page 339 March 5, 1985, After Agenda Items

HALIM Y. KORZYBKSI, SP 83-M-034: The Board was in receipt of a request for additional time to commence construction for the special permit home professional (architect) office issued to Halim Y. Korzyski. The Board questioned what Mr. Korzyski has done in order to pursue construction within the past eighteen months. Ms. Kelsey responded that the entrance to the applicant's property was a large hill. One of the conditions of the special permit was that the applicant widen the entrance to provide adequate sight distance to his property. The applicant had not been aware of this requirement at the time he filed the special permit and did not have the necessary funds to comply with this condition. Ms. Kelsey stated that the applicant had a home occupancy permit to operate an office out of home and had continued operation of his business in this manner.

Mrs. Day moved that the Board deny the request for additional time. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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Page 339 March 5, 1985, After Agenda Items

KINDER CARE LEARNING CENTERS, INC./RAVENSWORTH ROAD VENTURE, A VIRGINIA GENERAL PARTNERSHIP, VC 84-M-146: The Board was in receipt of a request for an out-of-turn hearing on the variance application filed by Kinder Care Learning Centers, Inc. Ms. Kelsey informed the Board that the applicant was seeking a variance in order to locate the child care center closer to the front lot line of a corner lot and to permit the play area to be located in the front yard. The use itself was permitted by right in the commercial district.

Mr. Hyland moved that the Board deny the request for an out-of-turn hearing. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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(13)

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APPROVAL OF MINUTES: The Board was in receipt of Minutes for February 12, and 19, 1985. Mrs. Day moved that the Minutes be approved as submitted. Mr. Hyland seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

// There being no further business, the Board adjourned at 3:30 P.M.

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

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: March 19, 1985

Approved: March 26, 1985
Date

(1)
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The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 12, 1985. The Following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 10:50 A.M.); and John Ribble (departing at 1:00 P.M.). (Mary Thonen was absent).

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

Chairman Smith called for matters presented by the Board Members:

THE APPLETREE, INC., SPA 82-P-089-3: Mr. William Shoup informed the Board that the applicant for the the special permit application of The Appletree, Inc. scheduled for March 19, 1985 was requesting a deferral for a period of one month. Because this is a case having citizen interest, Mr. Shoup was seeking the Board's intent as to whether they would honor the deferral request. Mr. Hyland made a motion to announce the Board's intent to allow deferral of the application. Mr. DiGiulian seconded the motion and it passed by a vote of 5 to 0 (Mr. Hammack and Mrs. Thonen being absent). The Board indicated that it was set a deferral date on the evening of March 19th. Staff was requested to notify Mr. Donnelly of the intent to defer.

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Page 341 March 12, 1985, Scheduled case of 10:00 A.M. heard at 10:15 A.M.

10:00 A.M. GEORGE & ELIZABETH HETLAND, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 5.5 ft. from side lot line such that side yards total 18.5 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), located 8018 Falstaff Rd., R-2(C), McLean Hamlet, Dranesville Dist., 29-2((3))326; approx. 13,004 sq. ft., VC 84-D-133.

Ms. Cheryl Hamilton presented the staff report. Mr. George Hetland, Jr. of 8018 Falstaff Road in McLean informed the Board that he and his wife were owners of the property. He indicated that they have had serious flooding in their basement ever since they moved in. However, after a great deal of expense, they have solved the flooding problem. They have added a patio and a drainage system around the house. Now, the applicants desire a garage but the only feasible place to add it is on the side of the house. If the structure is built anywhere else on the property, it will impact the patio, plantings and drainage system.

In response to questions from the Board, Mr. Hetland stated that a two garage is typical for the homes in the area. The Board questioned how the runoff would be controlled. Mr. Hetland stated that there is a natural swale on both sides of the property. Some of the water runs to the left and some to the right. The proposed addition would not interfere with the drainage.

After examining the photographs of other homes with garages submitted with the application, the Board inquired if any neighbor had obtained a variance in order to construct the garages. Mrs. Hetland was aware whether a variance had been granted for the construction. She stated that she took pictures of the homes on Falstaff and McBeth with the same architectural design as her home.

With respect to the water problem, Mrs. Hetland stated that the water used to drain down the areaway into the basement which is completely finished. She stated that she has had as much as 6 feet of water. She discussed the water problem with a civil engineer who advised her how to correct the topography to correct the water problem. She followed his instructions and has completely rebricked the back area.

Mrs. Hetland assured the Board that the garage addition would be an enhancement to the neighborhood. There was no one else to speak in support and no one to speak in opposition. The Board was in receipt of a letter in support from Gisela M. and Wolfgfang Laudan, owners of the property at 8023 Falstaff Road.

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Page 341 March 12, 1985 Board of Zoning Appeals
GEORGE & ELIZABETH HETLAND

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-D-133 by GEORGE & ELIZABETH HETLAND under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5.5 ft. from side lot line such that side yards total 18.5 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), on property located at 8018 Falstaff Rd., tax map reference 29-2((3))326, 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

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RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 12, 1985; and

WHEREAS, the 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 13,004 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 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.

Mr. Ribble seconded the motion.

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

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Page 342 March 12, 1985, Scheduled case of 10:15 A.M. heard at 10:25 A.M.

10:15 A.M. ALFRED R. & HELEN R. CATLIN, appl. under Sect. 18-401 of the Ord. to allow construction of a room addition to dwelling to 1.9 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-507), located 6916 Deer Run Dr., Deer Run Crossing, R-5, Lee Dist., 92-1((12))68, 5,000 sq. ft., VC 84-L-128. (DEFERRED FROM JANUARY 29, 1985 FOR NOTICES).

Mr. William Shoup presented the staff report. He presented the Board with revised development conditions submitted as a result of an on-site inspection performed by the Park Authority. Mr. Shoup explained that the applicant's house is located close to the rear lot line as it had been developed under provisions of the previous Zoning Ordinance.

The side and rear yards were determined by the Building Code at that time. Because o the location of the existing house, the Park Authority indicated it would have no objection if the enclosure of the patio if it was not any closer than 4 feet to the rear lot line. However, if the BZA approves a variance closer than the existing house which is located 2.8 feet from the rear lot line, the Park Authority is requesting that a fencing condition be imposed. Mr. Shoup stated that the applicant wishes to extend and enclose an existing patio. In response to questions from the Board, Mr. Shoup explained that the requirement for fencing is because of the Park Authority concern of trespassing during construction and for maintenance of the addition.

Mr. Alfred R. Catlin introduced Mr. Jay O'Dell of Patio Enclosures. Mr. Catlin stated that he and his wife reside at 6916 Deer Run Drive. They purchased the property from J. B. Builders in May 1981. Mr. Catlin stated that there are twelve homes on the west side of Deer Run Drive that are similarly configured with the same dimensions from the rear lot line. Mr. Catlin stated that he was at a loss as to how the builder was allowed to develop the property in this manner.

In response to questions from the Board, Mr. Shoup stated that the setback was based on the provisions of the Building Code. A portion of a building or garage not used for living purposes could come as close as 4 feet to the rear lot line if it was constructed of fireproof materials. The Board questioned whether Mr. Catlin would be allowed to building to 4 feet by right. Mr. Shoup stated that he would not as only the dwellings shown on the original development plan were allowed by right.

Continuing with his presentation, Mr. Catlin stated that when he tried to get a building permit, he was informed that his structure was too close to the property line. Mr. Catlin stated that his hardship for the variance is based on the extreme narrowness of the lot. His property borders Huntley Meadows Park. He indicated that other homeowners would also have to obtain a variance in order to build similar structures. Mr. Catlin informed the Board that he had already ordered custom made materials from Patio Enclosures. Other property owners would not share this same hardship. In addition, other homeowners across the street did not share the narrow lot situation and have already enclosed their patios. Mr. Catlin did not understand why the builder was allowed to build so close to the rear lot line without any fencing requirements or opposition from the Park Authority. Mr. Catlin presented a letter in support of his variance from David and Carol McKissick of 6918 Deer Run Drive.

With respect to the Park Authority's requests, Mr. Catlin stated that encroachment onto the park property and vice versa was a day to day occurrence. Tree branches from the park encroached on his property as well as patrons of the park trespassing through his yard. In respect to questions from the Board, Mr. Catlin stated that the existing patio is flush with the ground and he was able to mow the grass without difficulty.

Mr. Joseph Odell, a representative of Patio Enclosures, stated that the proposed patio enclosure would have approximately a 10 to 12 inch overhang. In response to questions from the Board, Mr. Odell stated that his company had enclosed patios for the homes across the street but Mr. Catlin's property is the first lot parallel to the park for which they have a contract. Mr. Catlin informed the Board that the parkland was heavily wooded. The enclosed patio would be used as a summer room with sliding glass doors. It would not be heated year round.

In response to questions from the Board, Mr. Shoup stated that the development plan had been approved in 1977. There was no one else to speak in support and no one to speak in opposition.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-L-128 by ALFRED R. & HELEN R. CATLIN under Section 18-401 of the Zoning Ordinance to allow construction of a room addition to dwelling to 1.9 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-507), on property located at 6916 Deer Run Drive, tax map reference 92-1((12))68, 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 12, 1985; and

(4)
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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-5.
3. The area of the lot is 5,000 sq. ft.
4. That the applicant has stated that all of the lots along Deer Run Drive are narrow and of the same average configuration. Some of the other houses on the drive extend further back to the lot line than the applicant is requesting. Presently, there is no fence along any of the rear property lines. The Huntley Meadows Park of the Fairfax County Park Authority is open and is County recreation property maintained by taxpayers. It is heavily wooded behind the applicant's property. The existing patio is 10'x21.5' which presently extends 4.6 ft. from the rear lot line. The applicant wishes to extend the patio to be 1.9 ft. from the rear property line and then enclose it to enhance the enjoyment of his property. The applicant stated that the patrons of the park do walk through his property and the letter from the neighbor stated the same thing.

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 exceptional narrowness at the time of the effective date of the Ordinance; exceptional shape at the time of the effective date of the Ordinance; and an extraordinary situation or condition of 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.

Mr. Ribble seconded the motion.

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

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Mr. Hammack arrived at the meeting at 10:50 A.M. and was present for the remainder of the agenda.

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Page 345 March 12, 1985, Scheduled case of 10:30 A.M. heard at 10:50 A.M.

10:30 A.M. COLVIN RUN PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow subdivision into seven (7) lots, proposed lots 3, 4 and 5 having widths of 113.98 ft., 6.34 ft. & 6.40 ft. respectively, and proposed corner lots 1 and 7 having widths of 145 ft. and 154.64 ft. respectively (150 ft. min. interior lot width, 175 ft. min. corner lot width req. by Sect. 3-106), located 10216 Colvin Run Rd., R-1, Dranesville Dist., 12-4((1))35, approx. 8.6827 ac., VC 84-D-137.

Ms. Cheryl Hamilton presented the staff report which concluded that a subdivision of the property could be accomplished with a lesser number of variances if the public street could be extended. The Board questioned whether the requested variances could be eliminated entirely if the street were extended. Ms. Hamilton responded that if the street were extended, the applicant would probably lose one lot but would reduce the amount of variances needed. The Board was concerned that the plan was not consistent with the Comprehensive Plan. Ms. Hamilton stated that the Comprehensive Plan recommended development of one house per every lot of two to five acres. These lots are less than two acres.

Mr. Andres I. Domeyko, an engineer with an address of P. O. Box 1001 in Fairfax, represented the applicant. He indicated that he is working with Bartlett Consultants of 4126 Leonard Drive in Fairfax. Mr. Domeyko stated that the applicant is seeking creation of three pipestem lots. The requested variances apply to one side of the lots only. Mr. Domeyko stated that the property was acquired under the assumption that a cluster subdivision could be obtained. However, the citizens in the area opposed the cluster but promised support of the pipestem proposals. Mr. Domeyko stated that the property has topographic problems with 30% of the property being in floodplain. The topography is such that construction of the road other than along the natural ridge line would be extremely costly. In addition, it would increase the length of the road thereby disturbing the area with utilities. Construction would impact the environment with no other advantages other than complying with the Zoning Ordinance.

In response to questions from the Board, Mr.Domeyko stated that an alternate road would be three times in length as it would have to curve along the sides of the property due to the topography. Mr. Domeyko informed the Board that they had met with the citizens with different proposals which met with opposition. The citizens preferred this plan. Mr. Domeyko stated that the property was surrounded by other properties of higher density and numerous pipestem lots. Ms. Hamilton showed the Board an overlay map of the area which did not indicate a substantial number of pipestem lots. The Board noted that immediately contiguous to the subject property are much larger lots and there is no cluster development immediately adjacent.

Mr. Badreddin Plaseied, an architect with an office at 380 Maple Avenue, Vienna, informed the Board that Colvin Run Partnership purchased the property one year ago. At that time, they met with the County Planners who indicated that under the current zoning the property could be developed into eight lots providing it satisfied the Code with respect to frontage, size of the lots, and approved perc sites. Mr. Plaseied stated that they wanted a cluster plan.

Mr. Plaseied stated that the property has a nice hill which drops off into a parklike area. The cluster subdivision was desired in order to retain the beauty of the hill. However, the citizens did not like the cluster proposal in the Great Falls area and wanted the conventional plan for one acre lots. Mr. Plaseied informed the Board that nothing would be gained by extending the road and increasing the frontage. The proposed street is in the center of the property with all the homes having a natural walkout basement. There would be a park and floodplain area along the stream. With the current proposal, the applicant could subdivide into eight lots.

Ms. Estelle Holley, President of the Great Falls Civic Association, 9421 Cornwell Farm Road in Great Falls, spoke in support of the variance. She indicated that the citizens were pleased that the applicant worked with them on the development plan. Ms. Holley informed the Board that the citizens preferred the straight street with the seven lots as it would have a lot less damage to the environment.

There was no one else to speak in support of the application. Mr. and Mrs. Edward Micheletch of 10208 Colvin Run Road in Great Falls informed the Board that they were not members of the civic association. They were not opposed to the variances but were concerned with the request for three pipestem lots and drainage runoff across their property. Mrs. Micheletch stated that they have an existing pool which is situated very close to the property line.

In response to questions from the Board whether their property would be adversely impacted by the drainage, Mr. Micheletch stated that it would depend upon how the subject property is graded. He asked for assurance from the Board that his property would not be harmed by the development as he did not want to walk through mud.

During rebuttal, Mr. Plaseied stated that the hill brings water to the Micheletch property anyway. However, he indicated that during the final site plan approval, they would have to justify the water runoff. The property would be graded in accordance with the Code. The water from the backyards would drain into a trough area down into the floodplain. Mr. Plaseied stated that all drainage has to flow towards the subject property.

Mr. Hammack informed the Board that he could not support the variance request with what has been presented. He indicated that perhaps a subdivision of five or six lots would be more consistent with the Master Plan. Mr. Hammack indicated that he would like to see one of the pipestems eliminated. Accordingly, rather than deny the variance outright, Mr. Hammack moved that the applicant provide an alternate development plan. Mrs. Day seconded the motion. It was the consensus of the Board to defer the variance until April 30, 1985 at 1:00 P.M.

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Page 346 March 12, 1985, Scheduled case of 10:45 A.M. heard at 11:30 P.M.

10:45 A.M. DEHARD B. JOHNSON, appl. under Sect. 18-401 of the Ord. to allow construction of 9 ft. high accessory structure on the rear lot line and 4.5 ft. from side lot line (9 ft. min. rear yard and 10 ft. min. side yard req. by Sects. 3-407 & 10-104), located 6646 Hawthorne St., R-4, Bryn Mawr Subd., Dranesville Dist., 30-4((11))2A, approx. 9,918 sq. ft., VC 84-D-141.

Ms. Cheryl Hamilton presented the staff report. Mr. Dehard Johnson of 6646 Hawthorne Street in McLean informed the Board that he was requesting a variance to the rear and side yard setbacks. He stated that he planned to build a rain shelter with a 9 foot high roof which would be attached to an existing retaining wall. Mr. Johnson stated that his property is trapezoid shaped. The rain shelter would be used to store garden equipment. He indicated that it would also be used to keep water away from his house as he had a water problem in the basement. The property drops off 18 to 19 feet from the street. Mr. Johnson stated that he owned the adjoining lot and would treat the two lots as one for building purposes.

There was no one else to speak in support of the application. Mr. James R. Peoples of 6648 Hawthorne Street spoke in opposition to the request. He stated that the proposed accessory structure would be 24 feet by 21.5 feet and consist of 516 square feet. Mr. Peoples stated that water would reach the crawl space under Mr. Johnson's area before it reached the basement area. Mr. Peoples stated that if there was a water problem, it was created by Mr. Johnson when he built the house or when he paved over the entire rear yard. He indicated that Mr. Johnson was a contractor and presently stores construction equipment in the rear yard. Mr. Peoples stated that the rain shelter would be large enough to use as a workshop or carport.

There was no one else to speak in opposition. During rebuttal, Mr. Johnson stated that he did provide the proper drainage as the water falls away beautifully. He did not know how the water gets into the basement. The only equipment stored in the back yard is a utility trailer, wheelbarrow, tractor and snowblower. The rain shelter would be used to store the welder and carpentry tools. Mr. Johnson did not understand Mr. People's opposition to the building. He stated that it could be built 7 feet high by right and placed right up against the wall.

The Board questioned whether the provision in the Zoning Ordinance regarding a maximum 30% rear yard coverage would affect this application with respect to the paving over of the rear yard. Ms. Hamilton responded that the provision affected accessory structures only. Blacktop is not considered an accessory structure.

Mr. Johnson informed the Board that he could reduce the size of the structure but he wanted to retain the side yard variance request. He indicated that anything he built other than what he had originally proposed would look terrible.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-D-141 by DEHARD B. JOHNSON under Section 18-401 of the Zoning Ordinance to allow construction of 9 ft. high accessory structure on the rear lot line and 4.5 ft. from side lot line (9 ft. min. rear yard and 10 ft. min. side yard req. by Sects. 3-407 & 10-104), on property located at 6646 Hawthorne Street, tax map reference 30-4((11))2A, 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 March 12, 1985; and

WHEREAS, the 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 9,918 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.

Mr. Ribble noted that he thought this was an easy case until he heard the comments from Mr. Peoples. There are topographic problems and its an unusual lot. Mr. Johnson has received variances in the past which enabled him to build a big house with 2,000 square feet of garage/workshop and storage space. Mr. Ribble stated that Mr. Johnson apparently has some sort of drainage problem but he may have created it himself. There may be other alternatives to alleviate them.

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 (Mrs. Thonen being absent).

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Following the motion to deny, Mr. Johnson requested the Board to waive the twelve month limitation on rehearing to allow him an opportunity to file another variance request. Mr. Peoples informed the Board that he was not crazy about any structure being constructed as any structure in this area of Mr. Johnson's property would affect his property. He asked that the Board allow time for this matter to settle down as he did not want to have to go through this again. Mr. Hyland moved that the Board deny the waiver request. Mr. Ribble seconded the motion and it passed by a vote of 5 to 1 (Mrs. Day)(Mrs. Thonen being absent).

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Page 348 March 12, 1985, Recess

The Board recessed for lunch at 12:05 P.M. and reconvened at 1:05 P.M. to continue with the scheduled agenda. Mr. Ribble left the meeting during the luncheon recess and did not return. Mr. Hammack returned from lunch at 1:30 P.M.

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Page 348 March 12, 1985, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of backlogged Minutes for November 22, and 29, 1983. 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 (Messrs. Hammack, Ribble and Mrs. Thonen being absent).

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Page 348 March 12, 1985, After Agenda Items

WILLIAM A. & SUGANYA BARBERY, VC 84-S-132: On February 12, 1985, the BZA approved in part the variance application of William A. & Suganya Barbery to allow construction of a room addition to a dwelling. The BZA granted the request in part by reducing the size of the addition from 20 feet by 16 feet to 20 feet by 14 feet. One of the conditions of the Board's approval was that the applicant provide revised plats in accordance with the reduction. Staff presented the revised plats to the Board for final approval. Mr. Hyland moved that the revised plats submitted by the applicant be approved. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 0 (Messrs. Ribble, Hammack and Mrs. Thonen being absent).

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Page 348 March 12, 1985, After Agenda Items

BZA MEETING SCHEDULE: The Board had previously deferred decision regarding rescheduling of the BZA meeting dates in June due to renovation of the Board Room. The Board and staff discussed alternate scheduling. Staff was directed to bring the matter back to the BZA for decision at its next meeting.

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Page 348 March 12, 1985, Matters

MARCIA CHASE, VC 84-P-139: Mr. Hyland inquired as to the status of the subpoena for Long Fence Company regarding the variance request of Marcia Chase which had been deferred until April 16, 1985. He was advised by the Clerk that the applicant's attorney had requested a further deferral as he was unable to attend the continuation hearing on April 16th. The Board was informed that the staff is working with the County's Attorney Office to issue the subpoena.

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Page 348 March 12, 1985, Scheduled case of 11:00 A.M. heard at 1:30 P.M.

11:00 A.M. LEESBURG PIKE COMMUNITY CHURCH, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots, proposed lot 3A having width of 15 ft. (150 ft. min. lot width req. by Sect. 3-106), located 11209 Leesburg Pk., R-1, Heatherfield Subd., Centreville Dist., 12-1((1))51, approx. 2.8570 acres, VC 84-C-142.

Ms. Cheryl Hamilton presented the staff report. Mr. Charley Runyon, an engineer, 7649 Leesburg Pike, Falls Church, represented the applicant. Since the Board's previous denial of a special permit, the church obtained a site on Utterback Store Road. Mr. Runyon explained that the existing site needs to be taken care of by the church. The proposed subdivision of the parcel into two lots would not impact the community. In fact, Mr. Runyon stated that the proposal for two single family dwellings would not cause a traffic problem. Mr. Runyon stated that the lot has almost enough frontage to satisfy the lot width requirements without a variance. However, he indicated that he could not run a lot line through the middle of the proposed drainfield. Mr. Runyon informed the Board that the pipestem would not used for a driveway. He stated that the church is requesting a variance because of the narrowness of the property and the topographic conditions.

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-C-142 by LEESBURG PIKE COMMUNITY CHURCH under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 3A having width of 15 ft. (150 ft. min. lot width req. by Sect. 3-106), on property located at 11209 Leesburg Pike, tax map reference 12-1((1))51, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 12, 1985; and

WHEREAS, the 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 2.8570 acres.

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 and exceptional topographic conditions. Specifically, the property would require the dedication of a drainfield towards Leesburg Pike. Testimony has been received that there would only be one entrance for the two lots.
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 two (2) 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 and development of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions, of the Fairfax County Code and the Public Facilities Manual.
4. Access to both lots from Leesburg Pike shall be via one shared driveway entrance constructed in accordance with all applicable standards.
5. Dedication of right-of-way sufficient for any public street improvement and a trail shall be provided at the time of subdivision review and approval.
6. A right turn deceleration land shall be provided at the entrance to the site for Route 7 at subdivision approval.

RESOLUTION

Mrs. Day seconded the motion.

Prior to the Board vote, Mr. Runyon questioned condition number 6 regarding the deceleration lane. He requested that the matter of a deceleration lane be left to the discretion of DEM. Ms. Hamilton responded that the Office of Transportation required the deceleration lane because of the hazardous road conditions on the major arterial highway. Mr. Runyon stated that if the deceleration lane is required by VDH&T, the church would not have a problem with abiding by the condition. However, if VDH&T indicates that it is not necessary, he did not want to have to come back to the Board to have the condition amended. He preferred that DEM have the discretion to make the final determination. The Board decided to leave condition number 6 as written in the development conditions.

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

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Page 350 March 12, 1985, Scheduled case of 11:15 A.M. heard at 2:00 P.M.

11:15 A.M. WILLIE E. MUSTIN, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 11 ft. from each side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6457 Holyoke Dr., R-2, B.M. Smith's Mt. Pleasant, Mason Dist., 61-3((6))35, 9,596 sq. ft., VC 84-M-144.

Ms. Cheryl Hamilton presented the staff report. Mrs. Eunice Mustin of 6455 Holyoke Drive in Annandale informed the Board that at the present time, she and her husband were residing with her 82 year old mother. The Mustins wanted to erect a house on the lot adjoining her mother's property. This would allow her mother to live alone but Mrs. Mustin would be close by when needed. In addition, Mrs. Mustin stated that she has connections with the church and the community and wants to remain here. The property is narrow and the Mustin attempted to locate a house with a 20 foot width; however, it would not be adequate for their needs. Mrs. Mustin stated that this is an old subdivision with small lots. She assured the Board that the home would be for their personal use only.

Reverend Harold Smith spoke in support of the application. He stated that he lived across the street and has known Mrs. Mustin since she was a baby. He indicated that no one in the community opposed the variance. In fact, he indicated that the community would rejoice to have such wonderful neighbors.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-144 by WILLIE E. MUSTIN under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 11 ft. from each side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 6457 Holyoke Drive, tax map reference 61-3((6))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 March 12, 1985; and

WHEREAS, the 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 9,596 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 at the time of the effective date of the Ordinance and an extraordinary situation or condition of 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 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. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Ribble and Mrs. Thonen being absent).

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Page 351 March 12, 1985, Scheduled case of 11:30 A.M. heard at 2:05 P.M.

11:30 A.M. WILLS AND VAN METRE, INC., appl. under Sect. 3-2003 of the Ord. to renew S-300-79 for commercial recreation facilities and to increase the hours of operation for the swimming pool, located 2722 Arlington Dr., R-20, Mt. Vernon Dist., 93-3((1))5, approx. 2.88005 acres, SPA 79-V-300-1. (DEFERRED FROM FEBRUARY 5, 1985 FOR READVERTISING AND REPOSTING).

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. She explained that the applicant is seeking renewal of its special permit in addition to an increase in the hours of operation for the summer months. The original special permit was approved for a period of five years. Ms. Hamilton stated that staff is recommending that the use be continued without term.

Ms. Anne Hurst Hardock, of the law firm Boothe, Prichard and Dudley, represented the applicant. She introduced Mr. Jerry Rhoades of Wills and Van Metre. The applicants are seeking renewal of a special permit approved in 1979 and for an increase in the hours of operation. Ms. Hardock stated that the increased hours would allow a more flexible use of the facilities. Swim classes could be conducted from 9 A.M. to 11 A.M. with free swim from 11 A.M. to 9 P.M. The increased hours would benefit the residents. Ms. Hardock stated that the use has not had any problems in the past five years. Accordingly, the applicant would prefer the open-ended special permit.

In response to questions from the Board concerning the policy for placing terms on special permits, Ms. Hamilton stated that staff is guided by the Zoning Ordinance. In other cases, staff bases its recommendations on the past performance of the applicant. The Board questioned whether there are other similar facilities that have been approved without term. Ms. Hamilton stated that the Zoning Ordinance does not require a time limitation. She was unaware whether other similar facilities have been approved without term.

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

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WILLS AND VAN METRE, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 79-V-300-1 by WILLS AND VAN METRE, INC. under Section 3-2003 of the Zoning Ordinance to renew S-300-79 for commercial recreation facilities and to increase the hours of operation for the swimming pool, on property located at 2722 Arlington Drive, tax map reference 93-3((1))5, 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 12, 1985; 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 2.88005 acres.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 3-2003 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 recreational 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 for the recreational uses approved by this Board, other than minor engineering details, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes in these recreational uses, 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 hours of operation for the facility shall be 9:00 A.M. to 9:00 P.M., daily.
6. There shall be a minimum of 61 parking spaces provided for this use.
7. The transitional screening and barrier requirements shall be modified provided the existing vegetation and barriers are retained.
8. There shall be a maximum of ten (10) employees.
9. This permit is granted 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.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Ribble and Mrs. Thonen being absent).

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There being no further business, the Board adjourned at 2:25 P.M.

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

Submitted to the Board on March 19, 1985

Daniel Smith
Daniel Smith, Chairman

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, March 19, 1985. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; and Mary Thonen. (Messrs. John DiGiulian, Gerald Hyland and John Ribble were absent).

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

The Chairman called the scheduled 8:15 P.M. case of:

8:15 P.M. THE APPLETREE, INC., appl. under Sect. 3-203 & 8-901 of the Ord. to amend S-82-P-089 for a child care center to permit addition of land area & private school of general education and related facilities, and to increase enrollment to 87 students, ages 2 through 8, with modification or waiver of the dustless surface requirement; located 9655 & 9657 Blake Ln., Willow Point Subd., R-2, Providence Dist., 48-3((19))2 & 3, approx. 67,849 sq. ft., SPA 82-P-089-3.

The Board was in receipt of a request from the applicant's attorney, Mr. William Donnelly, III, for a deferral of the special permit application. As there was no one present to speak against the deferral, it was the consensus of the Board to grant the request. The special permit application was deferred until April 22, 1985 at 8:15 P.M.

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Page 353 March 19, 1985, Scheduled case of 8:00 P.M. heard at 8:20 P.M.

8:00 P.M. RANDALL B. CASE, M.D., appl. under Sect. 6-104 of the Ord. for a home professional office (doctor); located 7831 Belleflower Dr., Hunter Village Subd., PDH-3, Springfield Dist., 89-2((14))(12)23, approx. 16,510 sq. ft., SP 84-S-083.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. Mr. Ralph Coburn, an attorney from Middleburg, VA, represented Dr. Case. Mr. Coburn indicated that Dr. Case was surprised about the opposition to his application as he had not received any feedback from his letters. The proposed professional office would be low key. Dr. Case is an emergency medical specialist in the shock trauma unit at Fairfax Hospital. The purpose of the home office is to be able to provide FAA flight physicals on a limited basis for no more than 12 patients per week. Each exam would last a maximum of one hour. Mr. Coburn stated that the bylaws of the community allow low key office use such as the proposed use.

The Board questioned why with only 12 patients per week, there would be a need for 2 employees. Mr. Coburn stated that Dr. Case would also use the office for administrative affairs in connection with his work at the hospital. He would need a part-time secretary for approximately 8 to 10 hours per week and someone to assist him in the medical examinations, neither of which would be present at the same time. Mr. Coburn explained that Dr. Case is required to prepare studies and reports on his work at the hospital.

In response to questions from the Board, Mr. Coburn stated that Dr. Case is not allowed office space to perform administrative duties at the hospital. It's not economically feasible for Dr. Case to establish an office in a commercial office building. The home professional office would be low key as Dr. Case would only perform medical examinations on flight personnel. Only 750 square feet of his home would be used for the office. Traffic would not be noticeable. There would not be any sign in connection with the office other than a small plague designating the entrance. With regard to the pipestem driveway, Mr. Coburn stated that four families shared the pipestem which is paved macadam.

Dr. Randolph Case of 7813 Belleflower Drive in Springfield informed the Board that the request for a home professional office is as a result of his application to the FAA for certification to perform physicals on flight personnel. Dr. Case was asked to perform flight physicals on the Fairfax County Police Department helicopter pilots in association with the hospital's joint Air Medical Facility. He was informed by the FAA that he cannot perform the physicals on a select group but must be available to the general flight public as well.

Dr. Case stated that his 50 hour weeks at the hospital would only allow him approximately 10 to 12 hours per week for the home office. He has owned his home for nine months and is the first occupant. In response to questions from the Board, Dr. Case stated that the flight physical did not involve the use of any x-ray, electrocardiogram, or lab equipment other than dipsticks. He explained that he is applying to perform physicals on Class 2 and Class 3 pilots rather than Class 1 airline personnel.

The Board was concerned regarding comments in the staff report from DEM concerning maintenance of the pipestem driveway. Dr. Case stated that the BZA staff did not raise that as an issue in the development conditions. He informed the Board that he did not believe an extra 12 vehicle trips per week could shorten the life of the pipestem. Mr. Coburn assured the Board that Dr. Case could work out a reasonable agreement for maintenance with the neighbors.

With regard to the hours of operation for the home office, Mr. Coburn stated that Dr. Case has a rotating schedule with Fairfax Hospital. Dr. Case agreed not to schedule any appointment before 8 A.M. or after 9 P.M. or on Saturdays and Sundays.

After examination of the covenants presented by Mr. Coburn, the Board questioned whether Dr. Case's proposed use would fit the allowed limited office activity. The covenants specifically prohibited clinic operation. Mr. Coburn stated that the use is limited in intensity and would not be at odds with the neighborhood.

There was no one else to speak in support of the application. The following persons spoke in opposition: Mr. Robert F. Diegelman, 6831 Spring Beauty Court; Mr. Charles Tucker, 7904 Belleflower Dr.; Ms. Brenda Moore Edwards, 7860 Vervain Ct.; Mr. Earl S. Riggs, 7839 Belleflower Dr.; Mr. Robert Churchwell, 7837 Belleflower Dr.; and Mr. Ralph K. Benesch, 7847 Vervain Ct. The opposition was concerned that:

- granting of a special permit would establish a precedent in the community;
- safety of the children playing along the pipestem would be endangered by the increased vehicular traffic;
- security of the area would be affected as the residents would not know who belonged in the community;
- the low profile office desired by Dr. Case would eventually develop into a fulltime practice; and
- maintenance of the pipestem could not be addressed to the mutual satisfaction of the residents.

During rebuttal, Mr. Coburn stated that this would be a discreet use and no one would know that Dr. Case was conducting these physicals. He urged the Board to grant the special permit.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-S-083 by RANDALL B. CASE, M.D. under Section 6-104 of the Zoning Ordinance to permit home professional office (doctor) on property located at 7831 Belleflower Drive, tax map reference 89-2((14))(12)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 19, 1985; 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 PDH-3.
3. The area of the lot is 16,510 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 the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-907 of the Zoning Ordinance.

Mr. Hammack indicated that his basic reason for denial is because Dr. Case could not limit his practice. He would have to hold his practice out to the general public as well as to the limited use of examining pilots for the Fairfax County Police Department Helicopter Unit. In addition, Mr. Hammack stated that the use is on a pipestem which raised questions in his mind because of the additional traffic involving people from outside the community. One neighbor testified that everyone's service truck has driven over his lawn as the pipestem curves around his property. The pipestem is macadam and does not have any curb, gutter, or sidewalk. The children play on the pipestem which is a safety problem. Further, the proposed use would not satisfy the requirements that it be consistent with the residential use. Mr. Hammack stated that he could not support the enlargement of the parking area for additional employees. He stated that he would have a difficult time agreeing to limitations which were discussed because they are not viable.

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 0 (Messrs. DiGiulian, Hyland and Ribble being absent).

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Page 355 March 19, 1985, Scheduled case of 8:30 P.M. heard at 9:20 P.M.

8:30 P.M. REBECCA ANN CRUMP, appl. under Sect. 3-103 of the Ord. for a kennel, located Ox Rd., R-1, Springfield Dist., 87-1((1))11, approx. 14.83 ac., SP 84-S-079. (DEFERRED FROM FEBRUARY 19, 1985 FOR DECISION).

Mr. William Shoup informed the Board that the special permit application of Rebecca Ann Crump for a kennel had been deferred at the previous hearing pending an amendment to the Zoning Ordinance. Prior to the amendment, there would have been a time limitation on the use. Mr. Shoup also noted that there were seven Board members at the previous hearing and only a quorum existed for the decision.

Chairman Smith stated that unless the Board could reach a unanimous decision, the special permit application should be deferred until all the members who heard the case originally are present. Chairman Smith noted that staff recommended approval of the application. It is a large tract of land and all activity would be inside the building. Mrs. Thonen stated that there was opposition to the location and size of the kennel.

Mr. Brian Bennett of 9700 Burke View Avenue in Burke informed the Board that the location of the building was determined by the location for the septic field and the topographic conditions. He indicated that the neighbors would not see the building as the adjacent lots were large and heavily wooded.

Following discussion with the applicant, the Board deferred decision pending receipt of revised plats reducing the size of the structure and moving it further back on the property; indicating the type of screening; and the location of the deceleration lane to be provided. It was the consensus of the Board to defer the special permit until April 16, 1985 at 1:30 P.M.

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Page 355 March 19, 1985, After Agenda Items

HALIM Y. KORZYBSKI, SP 85-D-011: The Board was in receipt of an out-of-turn hearing request for a special permit application of Halim Y. Korzybski for reduction to minimum yard requirements based on error in building location to allow dwelling to remain 30.9 feet from front lot line on property located at 321 Springvale Road, tax map reference 3-4((3))6. It was the consensus of the Board to grant the request. The special permit was scheduled for May 14, 1985 at 10:30 A.M.

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Page 355 March 19, 1985, After Agenda Items

THE ISLAMIC CENTER, NORTHERN VIRGINIA, INC., SP 85-S-005: The Board was in receipt of an out-of-turn hearing request for the Islamic Center, Northern Virginia, Inc. for a mosque and related facilities at property located on Shirley Gate Road, tax map reference 56-4((1))12B & 12C.

Following discussion of the request, Mrs. Thonen moved that the request be denied. Mrs. Day seconded the motion. The motion passed by a vote of 3 to 0 with 1 abstention (Mr. Hammack)(Messrs. DiGiulian, Hyland and Ribble being absent).

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Page 355 March 19, 1985, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of backlogged Minutes for December 6 and 13, 1983. Mrs. Day moved that the Minutes be approved as submitted. Mr. Hammack seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hyland and Ribble being absent).

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There being no further business, the Board adjourned at 10:00 P.M.

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

Submitted to the Board on March 26, 1985

Daniel Smith
Daniel Smith, Chairman

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, March 26, 1985. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (arriving at 10:25 A.M. and departing at 1:10 P.M.); Gerald Hyland (arriving at 10:20 A.M.); Ann Day; Paul Hammack; John Ribble (departing at 1:10 P.M.); and Mary Thonen.

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. ST. ANDREW LUTHERAN CHURCH, appl. under Sect. 3-303 of the Ord. to amend S-351-79 for church and related facilities to permit operation of a nursery school, located 14640 Soucy Pl., Chalet Woods Subd., R-3, Springfield Dist., 54-1((6))1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A, and 9A, approx. 2.6 acres, SPA 79-S-351-1. (DEFERRED FROM FEBRUARY 5, 1985 FOR NOTICES)

The Clerk reported that the required notices were in order. Ms. Jane Kelsey presented the staff report which recommended approval of the special permit in accordance with the development conditions contained in Appendix 1. The applicant is requesting approval of a special permit to allow a nursery school for 20 children from 9 A.M. to 12 Noon. There would be two employees. The church currently operates a mother's day out program for 30 children. Staff did not foresee any major problems with the application. It is an low intensity use and would not have any major impact to the surrounding community. Staff requested additional screening between the playground area and Braddock Road. Ms. Kelsey amended development condition no. 5 to reflect a maximum enrollment of 20 children rather than 30.

Pastor Linn Opderbecke represented the church. He informed the Board that 20 children were sufficient rather than the 30 children specified in the development condition. Pastor Opderbecke had nothing more to add to the presentation.

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 79-S-351-1 by ST. ANDREW LUTHERAN CHURCH under Section 3-303 of the Zoning Ordinance to amend S-351-79 for church and related facilities to permit operation of a nursery school, on property located at 14640 Soucy Place, tax map reference 54-1((6))1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A, and 9A, 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 26, 1985; 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 approximately 2.6 acres.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-305 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.

(2)
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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 set forth in Article 17, Site Plans.
5. The maximum enrollment shall be limited to no more than twenty (20) children.
6. The hours of operation for the school shall be no earlier than 9:00 A.M. and no later than 12:00 Noon.
7. The hours of operation for the church shall be the normal church hours.
8. The barrier requirement shall be waived provided the play area is fenced as shown on the plat submitted with this application.
9. Transitional Screening 1 shall be required along the lot line along Braddock Road. The existing vegetation may be used to satisfy this requirement provided it is supplemented to be equivalent to Transitional Screening 1.
10. The maximum number of seats in the church shall be 270.
11. The minimum and maximum number of parking spaces shall be 72 including three (3) handicapped spaces.

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 New 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 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 5 to 0 (Messrs. DiGiulian and Hyland being absent).

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Page 357 March 26, 1985

Mr. Hyland arrived at the Board meeting at 10:20 A.M. and was present for the remainder of the scheduled agenda.

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Page 357 March 26, 1985, Scheduled 10:15 A.M. case called at 10:20 A.M.

10:15 A.M. COLD STREAM DEVELOPMENT LTD., A VIRGINIA CORPORATION, appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 lots, proposed lot 1 having width of 147.4 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 324 Walker Rd., R-E, Dranesville Dist., 7-2((1))5, approx. 5.0 ac., VC 85-D-001.

At the request of the applicant, the above-captioned variance application was deferred until April 16, 1985 at 1:45 P.M.

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Page 357 March 26, 1985

Mr. DiGiulian arrived at the Board meeting at 10:25 A.M.

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Page 357 March 26, 1985, Board Matters

Mr. Hammack distributed copies of a letter addressed to John F. Herrity, Chairman, Fairfax County Board of Supervisors, regarding compensation for members of the Board of Zoning Appeals. Following BZA review, it was the unanimous resolution of the Board to endorse the letter.

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Page 357 March 26, 1985, After Agenda Items

BZA MEETING SCHEDULE: The Board was presented with a revised scheduling calendar reflecting the changes in June and July meeting dates due to the renovation of the Board room. Mrs. Thonen moved that the revised calendar be adopted. Mrs. Day seconded the motion and it passed unanimously by a vote of 7 to 0.

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APPROVAL OF MINUTES: The Board was in receipt of backlogged Minutes for December 20, 1983 and January 10, 1984. Mr. Hammack moved that the Minutes be approved as submitted. Mr. DiGiulian seconded the motion and it passed unanimously by a vote of 7 to 0.

The Board was also in receipt of current Minutes for March 5, and March 12, 1985. Mrs. Thonen moved that the Minutes be approved as submitted. Mrs. Day seconded the motion and it passed unanimously by a vote of 7 to 0.

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Page 358 March 26, 1985, Scheduled 10:30 A.M. case called at 10:30 A.M.

10:30 A.M. KOURY/TIPTON HOMES, INC., appl. under Sect. 6-303 of the Ord. for a subdivision sales office, located 11998 Sentinel Point Ct., PRC, Carriage Gate Subd., Centreville Dist., 27-1((12))(2)1, approx. 2,400 sq. ft., SP 84-C-082.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. Ms. Hamilton stated that the hours of operation would be from 12:00 P.M. until 7:00 P.M. with one employee. There would be an average of two visitors visiting the site per day.

Ms. Charlynn S. Loebl represented Koury/Tipton Homes, located at 3833 Plaza Drive, Fairfax, VA. She had nothing more to add to the presentation.

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

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Page 358 March 26, 1985 Board of Zoning Appeals
KOURY/TIPTON HOMES, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-C-082 by KOURY/TIPTON HOMES, INC. under Section 6-303 of the Zoning Ordinance to permit subdivision sales office on property located at 11998 Sentinel Point Court, tax map reference 27-1((12))(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 March 26, 1985; 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 approximately 2,400 sq. ft.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-808 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. There shall be a maximum of one (1) employee on site at any one time.
5. There shall be three (3) parking spaces provided for this use.
6. The model townhouse sales office shall be used only for sales incidental to Carriage Gate subdivision.
7. The hours of operation shall be from 12:00 P.M. to 7:00 P.M., daily.
8. This permit is granted for a period of two (2) years from the approval date.

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 within sixty (60) days from the date of approval, and this special permit shall not be valid until this has been accomplished.

Mr. Ribble seconded the motion.

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

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Page 359 March 26, 1985, Board Matters

PROPOSED ZONING ORDINANCE AMENDMENTS: Mrs. Thonen stated that the Board has discussed sending off a written request to the Zoning Administrator's Office regarding special permits and standards. She indicated that she would like the section on home professional offices examined to determine if they could be restricted to transitional areas. She indicated that when she examines the standards for home professional offices, almost anyone can meet the requirements.

Ms. Kelsey informed the Board that she had discussed this matter with Mrs. Thonen the previous week. She indicated that she would pass the Board's concern on to Ms. Jane Gwinn who is responsible for all Zoning Ordinance amendments.

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Page 359 March 26, 1985, Scheduled 10:45 A.M. case called at 10:45 A.M.

10:45 A.M. PAUL J. & TERESA M. KLAASSEN, AND SUNRISE TERRACE, INC., appl. under Sect. 3-203 of the Ord. to amend S-81-P-051 for medical care facilities to permit building and parking lot additions, increase max. no. patients from 27 to 48 and increase land area to include parcel 74 consisting of 1.54 acres for a total of 3.29 acres, located 10322 Blake Ln., R-2, Providence Dist., 47-2((1))70 & 74, approx. 3.29 ac., SPA 81-P-051-1.

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10:45 A.M. PAUL J. & TERESA M. KLAASSEN, AND SUNRISE TERRACE, INC., appl. under Sect. 18-401 of the Ord. to allow building addition to medical care facilities to 27 ft. from side lot line abutting the R-2 District (100 ft. min. distance from lot lines abutting R-A through R-4 Districts req. by Sect. 8-306), located 10322 Blake Ln., R-2, Providence Dist., 47-2((1))70 & 74, approx. 3.29 ac., VC 84-P-145.

Ms. Jane Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. The applicant proposed:

- an addition to the medical care facility of approximately 10,000 square feet with a gazebo porch entrance;
- additional parking spaces in the circular drive; and
- additional land area to the north to include lot 74 which is the applicant's personal residence.

Ms. Kelsey stated that staff has no major problems with the applications as the proposed additions are residential in character and design. The applicant has provided additional landscaping. Staff supports the applicant's request for a modification of the transitional screening requirements except for two areas. Staff suggests additional screening be provided between the parking lot and the townhouses to the rear and between the proposed addition and the eastern lot line.

Chairman Smith questioned when the personal residence of the applicant which had once been used as a medical care home for mobile patients had been discontinued. Ms. Kelsey was unable to answer the Chairman's question.

Mr. Paul Klaassen of 10334 Blake Lane in Oakton informed the Board that there has been a special permit on the site since June 22, 1957 which comprised the two parcels. Three years ago, he applied for a special permit after the property had sat vacant for awhile. Mr. Klaassen stated that he is requesting that the two parcels be combined together under the special permit once more. Parcel 74 contains the personal residence in which he, his wife, and two children plan to continue to reside.

In response to the Chairman's question, Mr. Klaassen stated that his residence was included in the original special permit. It was used for ambulatory residents. He assured the Board that is not his intent now. The dwelling would always be used as the personal residence for the administrator of the property.

The additions to the property would allow an increase in patient number from 27 to 48. In addition, a variance would be required as the additions would be located less than 100 feet from the adjoining lot line. Lot 74 was being included in the request in order to meet the floor area ratio. The architecture of the building is one story which will enhance the attractiveness of the building.

Mr. Klaassen informed the Board that the adjoining Oakleigh Homeowner's Association; the Fairfax County Health Care Advisory Board; and the BZA Support Branch supported the application. He stated that he could have avoided the need for a variance by constructing a multi-story addition. With respect to the 100 foot setback from abutting residential districts in the R-A through R-4 category, Mr. Klaassen stated that the adjoining property is slated for higher density of 4 to 5 dwelling units per acre.

Mrs. Roberta Childs of 10300 Blake Lane spoke in support of the application. She stated that she would prefer not to have a fence or any more screening at the rear of the property. There presently existed a stand of pine trees and the rear yard has a parklike setting. Mrs. Childs stated that she is in agreement with the applicant's proposal.

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

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Page 360 March 26, 1985 Board of Zoning Appeals
PAUL J. & TERESA M. KLAASSEN,
AND SUNRISE TERRACE, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 81-P-051-1 by PAUL J. & TERESA M. KLAASSEN AND SUNRISE TERRACE, INC. under Section 3-203 of the Zoning Ordinance to amend S-81-P-051 for medical care facilities to permit building and parking lot additions, increase max. no. patients from 27 to 48 and increase land area to include parcel 74 consisting of 1.54 acres for a total of 3.29 acres, on property located at 10322 Blake Lane, tax map reference 47-2((1))70 & 74, 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 26, 1985; 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 3.29 acres.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-306 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. This should not preclude any changes or modification which might be made to the residence on Lot 74, provided these changes and modifications are for the residential use and not for the use or for the purpose of the medical care facility.
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 approval is for a total of 48 patients in this facility and a maximum of four (4) employees.
6. The dwelling on Lot 74 shall be used as the residence.

RESOLUTION

7. There shall be a minimum and maximum of twenty (20) parking spaces provided for the use.

8. The transitional screening and barrier requirement may be waived provided that additional plantings are installed to the rear of the property between the existing parking lot and the northeastern lot line and between the addition and the eastern lot line. The type and number of such plantings shall be determined by the Director, Department of Environmental Management. The existing trees and shrubs which exist on the property shall remain except in the area where the addition is to be constructed and the driveway is to be widened.

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 for the addition shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit 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. Day seconded the motion.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-145 by PAUL J. & TERESA M. KLAASSEN AND SUNRISE TERRACE, INC. under Section 18-401 of the Zoning Ordinance to allow building addition to medical care facilities to 27 ft. from side lot line abutting the R-2 District (100 ft. min. distance from lot lines abutting R-A through R-4 Districts req. by Sect. 8-306), on property located at 10322 Blake Lane, tax map reference 47-2((1))70 & 74, 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 26, 1985; and

WHEREAS, the 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 3.29 acres.

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 of 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.

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RESOLUTION

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.

Mr. Ribble seconded the motion.

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

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Page 362 March 26, 1985, Recess

The Board recessed the meeting at 11:05 A.M. The meeting reconvened at 11:20 A.M. to continue with the scheduled agenda.

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Page 362 March 26, 1985, Scheduled 11:15 A.M. case called at 11:20 A.M.

11:15 A.M. FAIR OAKS ESTATES COMMUNITY ASSOCIATION, appl. under Sect. 3-303 of the Ord. for a community swim club and meeting room, located 3720 Charles Stewart Dr., R-3, Fair Oaks Estates, Centreville Dist., 45-2((6))E & F, approx. 6.01 ac., SP 85-C-001.

Ms. Jane C. Kelsey presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. The proposed use is located on property which has been designated as open space for the Fair Oaks Estates subdivision and is adjacent to the site of a future hospital. The facility is designed to serve a total of 420 families. The applicant has agreed to offer 150 memberships to the adjacent Fair Woods townhome development.

In response to questions from the Board, Ms. Kelsey stated that this use is a community non-profit facility. She indicated that the applicant may need to draw memberships from the adjacent community in order to make the pool economically viable. However, the residents of Fair Oaks Estates would have first priority on a permanent basis for membership purposes.

Ms. Kelsey noted that staff is concerned that parking for the use will be inadequate. Accordingly, the development conditions noted that at some future date, it may be necessary for the applicant to provide additional parking spaces as all parking must be contained on site.

Mr. Russell A. Sotkovsky, Chairman of the Pool and Recreation Community, represented the applicant. He stated that the pool was proffered to be in the Fair Oaks Estates subdivision and was identified to buyers. At a meeting of the homeowners on October 3, 1984, 135 homeowners approved development of the community pool with 8 homeowners against it. The pool committee met with the abutting homeowners who are concerned with drainage and landscaping. Mr. Sotkovsky stated that the applicant will construct swales to improve the drainage area; not worsen it.

With regard to the development conditions, Mr. Stokovsky requested that condition no. 11 be amended to allow use of the community room until 11 P.M. He stated that the board of directors and homeowner's association meetings which occur on a quarterly basis often last beyond 10 P.M. In response to questions from the Board, Mr. Sotkovsky stated that the community room would be available to the community for scout meetings, etc. With regard to the membership draw from other communities, Mr. Stokovsky indicated that they would only draw from within a three-quarter mile area. He stated that there are paths running through the Fair Oaks Estates subdivision which will allow the members to walk to the facility. The applicant did not propose to extend memberships to any community other than Fair Woods.

Ms. Kelsey requested that the Board amend development condition no. 1 with respect to approval being granted to the applicant only. At such time as the recreation association is formed, the applicant would transfer the special permit to the recreation association. She asked that both be included as permittees at this time.

There was no one else to speak in support. The following persons spoke in opposition: Mr. Stephen G. Berman, Attorney at Law, 12505 Alexander Cornell Drive; Mr. Les Zimmerman, 3813 Reuben Simpson Court; Mr. Michael Miller, 3807 Reuben Simpson Court; Mr. Stephen Goldstein, 12493 Alexander Cornell Drive; and Mr. Robert Bodine, 6210 Greeley Blvd., Springfield, VA.

Mr. Berman represented the neighbors who bordered the pool site. He presented the Board with a letter addressing their concerns. These concerns were a lack of financial planning by the applicant; leasing of association land to a new association; use of the facility by persons other than the Fair Oaks homeowners; impact of drainage; erosion due to the erodible soils; clearing of trees; inadequate parking; and noise from swim meets, etc. The other speakers endorsed Mr. Berman's statements. Other concerns mentioned were loss of value of the homes abutting the pool facility.

During rebuttal, Mr. Stokovsky indicated that they shared the opposition's concerns and planned to address them. He stated that the homeowners have the right to the land. As far as the site for the pool area, it was approved by the majority vote of the homeowners association. Mr. Stokovsky discussed amending development condition no. 17 to limit memberships to Fair Oaks Estates and Fair Woods. Ms. Kelsey noted concern regarding such an amendment as priority should be given to the owners of the proffered open space.

Mr. Chip Paciulli of Paciulli, Simmons and Associates, 307 Maple Avenue in Vienna, stated that a drainage system could be designed which would decrease the amount of water in the back yards. He indicated that a storm water detention area existed downstream which could accommodate the additional water. Mr. Paciulli stated that DEM would have to approve the use of the off-site system.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-C-001 by FAIR OAKS ESTATES COMMUNITY ASSOCIATION under Section 3-303 of the Zoning Ordinance to permit community swim club and meeting room on property located at 3720 Charles Stewart Drive, tax map reference 45-2((6))E & F, 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 26, 1985; 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 6.01 acres.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-403 of the Zoning Ordinance.

(9)
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R E S O L U T I O N

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

1. This approval is granted to the applicant only, except that at such time as the recreation association is formed, this special permit may be transferred to allow both the homeowners association and the recreation association to be permittees, 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. Memberships shall be limited to the said two subdivisions in keeping with the parking spaces.

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. 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 number of family memberships shall be 420.

6. The minimum and maximum number of parking spaces shall be forty-three (43). Bicycle racks may be provided. If in the future it is determined by the Zoning Administrator that there is insufficient parking on site which results in parking on the street, the applicant will be required to submit an amendment to provide additional parking spaces on site to alleviate the insufficiency. Pedestrian access shall be encouraged from the northern portion of the subdivision.

7. Transitional screening shall be modified in accordance with the screening and landscaping shown on the plat. The proposed plan may need to be modified slightly in the eastern corner abutting the intersection in order to provide adequate sight distance. This shall be determined by the Director, Department of Environmental Management, at the time of site plan review. The limits of clearing shall be as shown on the plat.

8. The barrier requirement shall be waived.

9. All noise shall be regulated in accordance with the provisions of Chapter 108 of the Fairfax County Code. In addition, no loudspeakers, bullhorns, or any other such noise-making device shall be used except for a whistle which is required by the life guard.

10. If lights are provided for the pool and parking lot, they shall be in accordance with the following:

- The combined height of the light standards and fixtures shall not exceed twelve (12) feet.
- The lights shall be a low-density design which directs the light directly onto the facility.
- Shields shall be installed, if necessary, to prevent the light from projection beyond the pool or parking lot area.

11. The hours of operation for the pool shall be from 10:00 A.M. to 9:00 P.M. Swim team practice shall be included within these hours. The hours of operation for the meeting room shall be from 10:00 A.M. to 10:00 P.M. except for meetings of the homeowners association or Board of Directors which are held on a quarterly basis and which may extend until 11:00 P.M.

12. After-hour parties for the entire use shall be governed by the following:

- Limited to four (4) per season for the pool and eight (8) for the meeting room for the remaining months of the year.
- Limited to Friday, Saturday and pre-holiday evenings.
- Shall not extend beyond 12:00 midnight.
- A written 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.

13. 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 before being released into the storm sewer system.

14. At the discretion of the Director, DEM, a soil survey shall be completed prior to pool construction. If high water table soils or unstable soils resulting from uncompacted fill, resource removal or any other circumstance resulting in instability 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 hydrostatic relief valves and other appropriate measures.

15. The proposed sign shall be in accordance with Article 12, Signs. The proposed location of the sign, as shown on the plat, may need to be changed if necessary to ensure adequate sight distance.

RESOLUTION

16. This use shall be subject to the provisions of the Water Supply Protection Overlay District.
17. Residents of the surrounding Fair Oaks Estates shall have priority membership. Memberships shall be limited to Fair Oaks Estates and Fair Woods subdivision.
18. Development of the pool shall decrease the amount of water currently running off the pool site area onto lots 73 through 75 and 79 through 83. Details of the drainage design shall be to the satisfaction of the Director, Department of Environmental Management.
19. The facility shall be closed quickly and quietly.

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. Ribble seconded the motion.

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

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Page March 26, 1985, Scheduled 11:30 A.M. case called at 1:00 P.M.

1:00 P.M. CALVARY MEMORIAL PARK, INC. T/A FAIRFAX MEMORIAL PARK, appl. under Sect. 3-103 of the Ord. to amend SP-81-A-022 for cemetery to permit addition to existing mausoleum facilities, located 4401 Burke Rd., R-1, Annandale Dist., 69-1((1))1 & 12, approx. 128.13856 ac., SPA 81-A-022-2.

Mr. Grayson Hanes, an attorney in Fairfax, requested deferral of the above-captioned special permit. It was the consensus of the Board to grant the deferral and the special permit was scheduled for June 11, 1985 at 10:00 A.M.

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Page March 26, 1985,

Mr. DiGiulian and Mr. Ribble left the meeting at 1:05 P.M.

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Page March 26, 1985, Board Discussion

ZONING ORDINANCE AMENDMENT: At the Board's request, Ms. Lu Wright, Assistant to the Zoning Administrator, gave a brief presentation concerning the recent amendment to the Zoning Ordinance regarding keeping of animals or livestock.

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

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

Submitted to the Board on: April 2, 1985

Daniel Smith, Chairman

Approved: _____
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 2, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; John Ribble (arriving at 11:15 A.M.); and Mary Thonen. (Mr. Gerald Hyland was absent).

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

10:00 A.M. DR. DOUGLAS J. FRASER, JR., appl. under 18-401 of the Ord. to allow construction of two-story addition to dwelling to 1 ft. from side lot line such that side yards total 17.1 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located 8717 Whitson Ct., R-3(C), Rolling Valley Subd., Springfield Dist., 89-3((6))189, approx. 9,180 sq. ft., VC 84-S-131. (DEFERRED FROM FEBRUARY 5, 1985 TO ALLOW APPLICANT TIME TO REDUCE REQUEST AND SUBMIT NEW PLATS)

Mr. William Shoup informed the Board that the revised plats had been submitted by the applicant. At the request of the Board, Mr. Shoup presented the staff report. He stated that at the hearing on February 5, 1985, the matter had been deferred to allow the applicant to modify his request. Dr. Fraser is now requesting that he be allowed to construct the addition 4 feet from the side lot line. Mr. Shoup explained that the revision eliminates the need for a variance from the total minimum side yard of 20 feet and seeks approval of a variance from the 8 foot minimum side yard to 4 feet.

There was no one else to speak in support or in opposition to the request.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-A-131 by DR. DOUGLAS J. FRASER, JR. under Section 18-401 of the Zoning Ordinance to allow construction of two-story addition to dwelling to *1 ft. from side lot line such that side yards total 17.1 ft. (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), on property located at 8717 Whitson Court, tax map reference 89-3((6))189, 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 5, 1985 and deferred until April 2, 1985 for submission of new plats reducing the requested variance; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3(C).
3. The area of the lot is 9,180 sq. ft.
4. That the applicant's property is an odd shaped lot and has a storm easement on one side. The applicant has reduced his requested variance by 3 feet and has cooperated completely with the Board.

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.

RESOLUTION

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 construction of two-story addition to dwelling to 4 ft. from side lot line (8 ft. min. side yard req. by Sect. 3-307) 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. DiGiulian seconded the motion.

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

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Page 367 April 2, 1985, Scheduled 10:15 A.M. case called at 10:25 A.M.

10:15 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; FROM MARCH 27, JUNE 5, SEPTEMBER 11, NOVEMBER 27, 1984 AND FEBRUARY 12, 1985 AT THE REQUEST OF THE APPLICANT).

10:15 A.M. KING OF KINGS LUTHERAN CHURCH, appl. under Sect. 8-901 of the Ord. to modify or waive the dustless surface requirements), located 12604 Lee Jackson Hwy., R-1, Centreville Dist., 45-2((1))28, 2.49816 ac., SP 84-C-037. (DECISION DEFERRED FOR PERIOD OF 60 DAYS TO ALLOW INVESTIGATION OF THE POSSIBILITY OF COUNTY OR STATE ACQUISITION OF PROPERTY; DEFERRED FROM MARCH 27, JUNE 5, SEPTEMBER 11, NOVEMBER 20, 1984 AND FEBRUARY 12, 1985 AT THE REQUEST OF THE APPLICANT).

Ms. Jane C. Kelsey informed the Board that the church is negotiating to purchase another piece of land. She indicated that her office would pre-staff the application with a little bit of information to determine if the site would be suitable for a church before the church swaps land. The church needs time to continue its negotiations.

Accordingly, the Board deferred the above-captioned matters until June 4, 1985 at 10:00 A.M.

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Page 367 April 2, 1985, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of current Minutes for January 22, and March 19, 1985. Mr. Hammack noted a correction to the resolution involving Christian Fellowship Church. Mrs. Day moved that the Minutes be approved as amended. Mr. DiGiulian seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith)(Messrs. Hyland and Ribble being absent).

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RESIGNATION OF DEPUTY CLERK TO THE BZA: Ms. Jane C. Kelsey informed the Board that Judy Moss, Deputy Clerk to the Board of Zoning Appeals, has submitted her resignation effective April 12th. She invited the Board to a luncheon the next day to be held in Judy's honor. In addition, Ms. Kelsey invited the Board members to attend a farewell party on Friday, April 12th.

Mrs. Thonen stated that Judy will be greatly missed as she has brought some good vibes to the Board. Mr. DiGiulian seconded the praise 'word for word'. Chairman Smith noted that the Board has had some of the best qualified Clerks and Deputies in the State of Virginia. He indicated that the Board has been blessed with excellent people. Chairman Smith stated that Judy has been one of the driving forces in catching up the backlog in the BZA Minutes.

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Page 368 April 2, 1985, Scheduled 10:30 A.M. case called at 10:40 A.M.

10:30 A.M. ERMANNO & MANUELA TONIZZO, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow 10 ft. high shed to remain 1.0 ft. from rear lot line and 3.0 ft. from side lot line (10 ft. min. rear yard and 15 ft. min. side yard req. by Sects. 3-207 & 10-104), and to allow existing shed, swimming pool and appurtenant accessory uses and structures to remain in excess of 30% of the area of the required minimum rear yard (30% max. coverage of req. min. rear yard by accessory use and structures req. by Sect. 10-103), located 9620 Percussion Way, R-2, Symphony Hill West Subd., Centreville Dist., 28-3((8))11, approx. 15,072 sq. ft., SP 84-C-073. (DEFERRED FROM JANUARY 15, 1985 FOR NOTICES AND FROM FEBRUARY 12, 1985 FOR REVISED PLATS).

Ms. Cheryl Hamilton stated that during the last hearing, the Board had requested revised plats with respect to the dimensions of the shed. She indicated that the Board is in receipt of the revised plats which appear to be in order. In response to questions from the Board, Ms. Hamilton stated that the variance has not been reduced by the correction to the dimensions of the shed.

Mr. Thomas Parrott, attorney for the applicant, informed the Board that it would be a hardship to move the shed. He indicated that the shed is constructed of wood and shingles with glass panel doors. He looks more like a house than a shed. Mr. Parrott stated that there is fence around the shed with heavy vegetation. The shed is situated in a low hollow on the property.

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

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Page 368 April 2, 1985 Board of Zoning Appeals
ERMANNO & MANUELA TONIZZO
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 84-C-073 by ERMANNO AND MANUELA TONIZZO 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 allow 10 foot high shed to remain 1.0 ft. from rear lot line and 3.0 ft. from side lot line (10 ft. min. rear yard and 15 ft. min. side yard req. by Sects. 3-207 & 10-104), and to allow existing shed, swimming pool and appurtenant accessory uses and structures to remain in excess of 30% of the area of the required minimum rear yard (30 % max. coverage of req. min. rear yard by accessory use and structures req. by Sect. 10-103), on property located at 9620 Percussion Way, tax map reference 28-3((8))11, 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 15, 1985 and the special permit was deferred for notices until February 12, 1985; and was further deferred until April 2, 1985 for submission of revised plats showing dimensions of shed; 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.

RESOLUTION

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.

3. Mr. Hammack noted that the applicant's property has a topographic problem. The shed is situated down in a little valley which is off the grade of the rear yard. The shed is a quality shed and is not obtrusive to the neighbors and is separated by a fence. The back yard is truncated sharply with a triangular line which does not allow a shed. To relocate the shed anywhere else on the property would easily cause other setback problems for the applicant.

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 swimming pool and shed as indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.

2. An amended building permit reflecting the size and location of the existing swimming pool shall be obtained. A building permit shall be obtained for the existing shed.

3. The shed shall be maintained in good condition at all times.

Mr. DiGiulian seconded the motion.

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

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Page 369 April 2, 1985, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of backlogged Minutes for January 17; January 24; January 31; February 7; February 14; and February 21, 1984. Mrs. Day moved that the Minutes be approved as submitted. 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 369 April 2, 1985, Recess

The Board recessed its meeting at 10:55 A.M. and reconvened at 11:15 to continue with the scheduled agenda. Mr. Ribble arrived at the meeting at 11:15 A.M.

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Page 369 April 2, 1985, Scheduled 11:00 A.M. case called at 11:15 A.M.

11:00 A.M. DONALD J. & LILIAN A. YETMAN, appl. under Sect. 18-401 of the Ord. to allow 6 ft. high fence to remain in a front yard on a corner lot (4 ft. max. hgt. for fence in front yard req. by Sect. 10-104), located 9206 Hunting Pines Pl., PDH-3, Hunter's Glen Subd., Annandale Dist., 58-4((32))9, approx. 7,232 sq. ft., VC 85-A-003.

The Board was in receipt of a letter from the applicant seeking a deferral of the variance as Mrs Yetman would be out of the country. It was the consensus of the Board to defer the variance until June 4, 1985 at 10:15 A.M. as requested and for notices.

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11:15 A.M. NEIL H. HOLBEN, appl. under Sect. 18-401 of the Ord. to allow construction of courtyard and garage addition to dwelling to 6.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 4100 Tidewater Ct., R-2, Mt. Vernon Forest, Mt. Vernon Dist., 110-4((3))45, approx. 21,611 sq. ft., VC 85-V-004.

Ms. Cheryl Hamilton presented the staff report. In response to questions from the Board, Ms. Hamilton reported that the front yard setback for the R-2 zoning district is 35 feet.

Mr. Neil Holben of 4100 Tidewater Court informed the Board that his presentation is set forth in his written statement. In summary, Mr. Holben stated that his request is a reasonable and meets all nine standards as described in the Ordinance. In response to questions from the Board, Mr. Holben stated that the house next door sits 57 feet from the lot line and would not be impacted by the variance. There were dense woods between the structures which were only visible in the winter. Mr. Holben stated that his house was built in 1962. The garage addition would be constructed of brick and siding to match the house.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-V-004 by NEIL E. HOLBEN under Section 18-401 of the Zoning Ordinance to allow construction of courtyard and garage addition to dwelling to 6.8 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 4100 Tidewater Court, tax map reference 110-4((3))45, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 2, 1985; and

WHEREAS, the 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 21,611 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 an extraordinary situation or condition of the subject property in that the lot has two rear yards. The house is situated 25 feet further away from Volunteer Drive.
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.

RESOLUTION

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 to 1 (Mr. Smith)(Mr. Hyland being absent).

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Page 371 April 2, 1985, Board Discussion

Ms. Jane C. Kelsey queried the Board as to whether they would be interested in having a representative from the Office of Transportation and the Office of Comprehensive Planning present a 10 to 15 minute discussion on how they arrive at the recommendations in the staff report and an overall review of the Comprehensive Plan Amendments. Chairman Smith indicated that he would welcome any presentation to clear up any points.

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Page 371 April 2, 1985, Scheduled 11:30 A.M. case called at 11:30 A.M.

11:30 A.M. GREGORY K. JOHNSON, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage to 11.6 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-107 & 10-104), located 11256 Oakton Rd., R-1, Hill Acres Subd., Providence Dist., 46-4((5))3B, approx. 1.17784 ac., VC 85-P-005.

Ms. Cheryl Hamilton presented the staff report. Mr. Gregory K. Johnson of 11256 Oakton Road in Oakton stated that his house was purchased in May 1983. The garage was shown on the original grading plans. The footings were dug and partially poured by the previous property owner as it was assumed that it met the setbacks. Mr. Johnson stated that when he applied for a building permit to construct the garage, he realized that the garage would not meet the setbacks. The adjacent property is within 17 feet of the side lot lines.

In response to questions from the Board Mr. Johnson stated that he could not move the garage forward or back because of the grade. He indicated that he entered his house on the second floor.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-P-005 by GREGORY K. JOHNSON under Section 18-401 of the Zoning Ordinance to allow construction of detached garage to 11.6 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-107 & 10-104), on property located at 11256 Oakton Road, tax map reference 46-4((5))3B, 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 2, 1985; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 1.17784 acres.
4. That the residence on lot 3A is 75 ft. from the jointly owned lot line. There is not any objection to the structure being built. The pictures depict a very unusual

RESOLUTION

topographic configuration. The site for the garage was leveled and prepared by the previous owner. The pictures show that the house is down on a lower level and the lot has several different heights similar to mountain property. The applicant has 1.17784 acres which is a good size property. The applicant has to enter his home from the back of his property. This will not have any adverse effect on any of the adjoining property or cause any future problems. This is a unique situation.

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.

Mr. Hammack seconded the motion.

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

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Page 372 April 2, 1985, Recess

The Board recessed for lunch at 11:40 A.M. and reconvened at 1:05 P.M. to continued with the scheduled agenda.

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1:00 P.M. JACK H. & DELORES MERRITT, SR. AND JACK H. MERRITT, JR., appl. under Sect. 3-103 of the Ord. for a child care center, located 2159 Chain Bridge Rd., R-1, Old Courthouse Subd., Providence Dist., 39-1((3))19A, approx. 20,991 sq. ft., SP 85-P-002.

Ms. Cheryl Hamilton presented the staff report which recommended denial of the special permit application as the requested use is too intense for the site and is not in accordance with the Comprehensive Plan or harmonious with the neighboring properties. In addition, the proposal does not comply with the standards as set forth in Sect. 8-006. Ms. Hamilton stated that the applicant is seeking approval of a child care center for 98 children, ages infant to 10 years. The child care center is to be located in an existing dwelling which was constructed subject to an approved variance in October 1979 which allowed the dwelling to be located less than the required minimum front and side yards. Ms. Hamilton informed the Board that the structure exceeds the 0.15 Floor Area Ratio as permitted by the Zoning Ordinance.

Ms. Hamilton stated that to meet the floor area ratio requirements, the applicants propose to convert a section of the structure into an open air porch. In addition, as Sect. 8-305 of the Ordinance limits child care centers which provide access to the site via a local street to a maximum of 75 children, the applicant proposes to reduce his request to 75 children. Ms. Hamilton noted that only 525 square feet out of the 2200 square feet playground area conforms with the Zoning Ordinance regulations. As 100 square feet of playground space per child is required, only 5 children would be allowed to use the playground at any one time.

Ms. Hamilton further noted that Transitional Screening 1 and barrier D, E, or F is required along all lot lines. However, no screening has been provided on the plat as the applicant is requesting modification of the screening requirements. Staff recommends approval of the modification except along the eastern and western lot lines.

In response to questions from the Board, Ms. Hamilton stated that the playground cannot be located in a front yard unless a variance is obtained. In addition, a transitional barrier of 25 feet is required along all lot lines which has not been provided. By the time the playground area is reduced to accommodate the front yard setback and the transitional barrier, a total of approximately 500 square feet is left which only allows 5 children. Ms. Hamilton noted that staff recommends at least 30 percent of the total enrollment to be accommodated in the outside play area at any one time. She indicated that 5 children is a much lower number than staff would recommend.

In response to further questions, Ms. Hamilton noted that should the Board choose to grant the special permit request, a variance would still be necessary to allow the play area in the front yard. The site has two front yards on Chain Bridge Road and Horseshoe Drive. The area is heavily traveled. Ms. Hamilton stated that the Comprehensive Plan recommends that the area be a stable residential area. Special Permits and Special Exceptions are not to be approved for this location.

Mr. Jack Merritt, Jr. of 5236 Backlick Road in Springfield informed the Board that because of the restrictions in the Ordinance, they had agreed to reduce the number of children to 75 from infants to 6 years old. Mr. Merritt indicated that the site was selected as some parents enrolled in the Springfield location work near Tysons Corner. He stated that all building codes have been met and all inspections have been performed on the property. The 3100 square foot building is suitable for institutional use.

Mr. Merritt stated that his mother and father have operated child care centers and schools for 27 years. He indicated that he was a product of their school. Mr. Merritt stated that his parents operated schools under special permits set forth at that time which has not changed the integrity of the neighborhoods. He indicated that the schools were maintained liked homes and he did not feel that they should be located in commercial or industrial zones. It is Mr. Merritt's belief that young children should be educated in a home like atmosphere in a residential setting.

In response to questions from the Board, Mr. Merritt stated that he is amending his request with respect to the ages of the children to a maximum of 6 years of age. The original request was to allow children up to 10 years of age as that is the limit at their other schools.

Mr. Merritt stated that this is an ideal location. The existing home has bars on the windows which will be removed and replaced with shutters. The appearance of the dwelling would not be changed any more than possible. The existing circular drive would remain. Parking would be provided for staff and parents. The transitional screening on the perimeters of the property has to be intensified along Rt. 123 which Mr. Merritt assured the Board would be accomplished at the time of site plan review.

Mr. Merritt discussed access to the site. He indicated that access from the south towards from the Town of Vienna is the easiest as you could continue north without any problem. As far as access from the north, there are several ways to access the facility. Mr. Merritt stated that Westbriar Drive goes to Old Courthouse Drive where there is a median break. If one is traveling from Rt. 123 north, there are two ways to access. One way is

down a local road which has a median break. Another way is along Rt. 123 which has a median break with a deceleration lane. Mr. Merritt stated that the local school buses do not have any problem with getting from the north to the south on Rt. 123.

With respect to the suggested variance for the playground area, Mr. Merritt stated that the subject property is a corner lot with two front yards. In trying to move the playground area as far from Rt. 123 as possible, they applicant ran into a problem with the square footage. Mr. Merritt stated that the playground area would be fenced and transitional screening would be provided. He indicated that all the abutting property owners had reviewed the site plan and approved the location of the play area.

In closing, Mr. Merritt stated that he did not believe the special permit application would change the integrity of the neighborhood. It would be a benefit to the area. Mr. Merritt stated that they would work with the neighbors and staff to see that the integrity of the area is maintained. He indicated that a lot of work has to be done on the property. With regard to staff concern on the traffic impact and noise decibels, Mr. Merritt stated that they would provide the necessary acoustical barriers.

Mr. Horace D. Payne of 2155 Chain Bridge Road spoke in support of the application. He indicated that he lives adjacent to the property. Mr. Payne is in favor of the special permit due to the fact that if the property is sold, he would rather see a child care center on the site than three or four families. The Board was in receipt of a letter of support from Mrs. Frances S. Waters who lives adjacent to the site.

The following persons spoke in opposition: Mr. Jack Mitchell, President of the Westbriar Civic Association, 1005 Country Club Drive, N.E., Vienna; and Mr. Richard B. Bier, 1951 Horseshoe Drive, Vienna. The opposition was concerned that approval of special permits or special exceptions were not permitted for this particular community by the Comprehensive Plan. It was felt that a dangerous precedent would be established if the special permit were granted. It was noted that approval for two other day care centers were situated in a mixed use area. The opposition was also concerned about the intensity of the developed use on such a small lot. Traffic congestion and potential hazards were other considerations.

During rebuttal, Mr. Merritt stated that all of the child care centers operated by his parents abutt residential properties, not commercial areas. He stated that traffic is not a problem as the school bus gets across Rt. 123 without difficulty. Mr. Merritt stated that the existing dwelling is suitable for the 75 children. He indicated that he attempted to meet with the Westbriar Civic Association to discuss the plans but was only allowed to speak with Mr. Mitchell. Traffic for the child care center would be staggered so as not to impact the area. Mr. Merritt stated that the homeowners adjoining the site have voiced support of the application.

Ms. Hamilton clarified remarks made earlier in the hearing with respect to a home professional office being located across the street. She stated that it was located in the Town of Vienna which staff has no jurisdiction over. In addition, she stated that the Comprehensive Plan has changed since 1975 or 1976 when previous special permits for child care centers were approved in the area. Ms. Hamilton stated that the Comprehensive Plan was amended last year. Staff cannot overlook the Comprehensive Plan recommendation that pinpoints this particular area to be protected. The traffic generation for the area is 375 vehicle trips per day. With the addition of 98 children, it would increase the vehicle trips per day to 490. Ms. Hamilton stated that staff is not in disagreement with the use. However, this use is too intense for the site.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-P-002 by JACK H. & DELORES MERRITT, SR. & JACK H. MERRITT, JR. under Section 3-103 of the Zoning Ordinance to permit child care center on property located at 2159 Chain Bridge Road, tax map reference 39-1((3))19A, 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 2, 1985; and

(10)
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RESOLUTION

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 20,991 sq. ft.
4. Mr. Ribble stated that he felt this is a commercial enterprise in nature which is not in accordance with the Comprehensive Plan. The applicant is requesting too much for the size of the site. In addition, Mr. Ribble felt that if this were granted, it would encourage other uses in the area. This use is not harmonious with the neighboring properties.

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

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-303 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 6 to 0 (Mr. Hyland being absent).

Chairman Smith noted that he supported the motion but not for the reasons indicated in the motion. He stated that his interpretation of the Comprehensive Plan is that it addresses special permits in general which is one of the issues as far as the Comprehensive Plan is concerned. Chairman Smith stated that there is no doubt about the impact of the use because of the limited land area for the number of students and other factors that have been enumerated by staff and the Office of Transportation.

Mr. Hammack stated that he seconded the motion because he agreed with Mr. Ribble. He indicated that as he was listening to testimony, he recalled that six or seven years ago the Wolftrap Task Force studied this particular area. This particular side of Vienna had been intended to be protected from commercial encroachment for a period of years. He indicated that it was important to the plan and general development in the area that the Board recognize that in this case. Mr. Hammack felt that significant impact on Horseshoe Drive would occur during the peak hour traffic. In addition, he was concerned about the inadequacy of the building proposal itself.

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Page 375 April 2, 1985, Scheduled 1:15 P.M. case called at 2:00 P.M.

1:15 P.M. SEPTEMBER CHILD CORPORATION T/A DEVELOPMENT CHILD CARE CENTER, appl. under Sect. 3-403 of the Ord. to amend S-82-A-021 for child care center to permit change of permittee, located 4616 Ravensworth Rd., R-4, Annandale Dist., 71-1((1))63, approx. 41,282 sq. ft., SPA 82-A-021-1.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit amendment subject to the conditions set forth in Appendix 1. Ms. Hamilton noted a letter from Supervisor Moore regarding the citizens' request for 4 foot or higher evergreens to be provided as screening along the property line abutting the residences of Davian Drive.

Mr. Royce Lee Givens, Jr., an attorney with an office located at 105D E. Market Street, Leesburg, Va., represented the applicant. He indicated that they did not have any problems with the development conditions.

The Board discussed the request regarding evergreen screening of 4 feet or higher. Chairman Smith stated that 4 feet is the average height sold in nurseries as it has the best survival rate. Anything higher than 4 feet is more expensive and has a lower survival rate. Chairman Smith stated that there was no doubt about the noise from the heavily traveled street.

Mr. Givens stated that the rear portion of the site is wooded and is not used. The only other concern is the traffic pattern in the area. Mr. Givens stated that a police officer directs traffic into St. Michaels School which is located across the street. This would help the traffic flow in and out of the area.

There was no one else to speak in support. Mrs. Thu Trang T. Brunk of 4620 Ravensworth Road spoke in opposition. She stated that Paradise Child Haven has gone out of business and she would prefer to see a business office rather than another child care center.

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RITA SCOZZAFARA & SEPTEMBER CHILD CARE CORPORATION
T/A DEVELOPMENT CHILD CARE CENTER
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-A-021-1 by SEPTEMBER CHILD CORPORATION T/A DEVELOPMENT CHILD CARE CENTER under Section 3-403 of the Zoning Ordinance to amend S-82-A-021 for child care center to permit change of permittee, on property located at 4616 Ravensworth Road, tax map reference 71-1((1))63, 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 2, 1985; and

WHEREAS, the 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 41,282 sq. ft.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-303 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 maximum number of children on site at any one time shall be limited to 49, ages 2 to 12 years.
6. The hours of operation shall be 7:00 A.M. to 6:00 P.M., Monday through Friday.
7. The number of parking spaces provided for this use shall be twelve (12).
8. The transitional screening requirement shall be modified provided the existing vegetation is retained and a single row of evergreens, at least four (4) feet in height, are planted along the southern and western lot lines where there is no existing quality vegetation. The amount, type, height, and location of these plantings shall be determined by the Director of DEM.
9. The applicant shall obtain site plan approval, install the plantings, and obtain a new Non-Residential Use Permit within six (6) months from the date of approval or this special permit shall be void.

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 new 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 6 to 0 (Mr. Hyland being absent).

// There being no further business, the Board adjourned at 2:20 P.M.

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

Daniel Smith
Daniel Smith, Chairman

Submitted to the Board on: April 11, 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 16, 1985. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland (arriving at 10:35 A.M.); Ann Day; Paul Hammack (arriving at 10:30 A.M.); John Ribble (departing at 1:05 P.M.); and Mary Thonen (departing at 4:10 P.M.). (Mr. John DiGiulian was absent).

The Chairman opened the meeting at 10:30 A.M. and Mrs. Day led the prayer.

Chairman Smith called the scheduled 10 o'clock case at 10:30 A.M. (TAPE 1)

10:00 A.M. MARCIA LYNN CHASE, appl. under Sect. 18-401 of the Ord. to allow a 6 ft. high fence to remain in front yard (4 ft. max. height for fence in front yard req. by Sect. 10-104), located 3315 Holly Ct., R-3, Holmes Run Acres, Providence Dist., 59-2((8))(4)39, approx. 11,523 sq. ft., VC 84-P-139. (DEFERRED FROM MARCH 5, 1985 TO SUBPOENA FENCE CONTRACTOR & FOR DECISION).

The Board was in receipt of a request from the applicant's attorney for a further deferral of the above-captioned variance. It was the consensus of the Board to defer the variance until May 14, 1985 at 10:00 A.M.

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Page 377, April 16, 1985

Mr. Hammack arrived at the meeting 10:30 A.M. Mr. Hyland arrived a few minutes later at 10:35 A.M. Both were present for the remainder of the meeting.

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Page 377, April 16, 1985, Scheduled 10:30 A.M. case called at 10:30 A.M. (TAPE 1)

10:30 A.M. ABDUL & JULIE V. RASHID, appl. under Sect. 18-401 of the Ord. to allow construction of second story addition over portion of a dwelling to 5 ft. from side lot line and 18 ft. from rear lot line (8 ft. min. side yard and 25 ft. min. rear yard req. by Sect. 3-507), located 7259 Beverly Park Dr., R-5, Beverly Park Subd., Lee Dist., 90-3((10))46, approx. 3,000 sq. ft., VC 85-L-006.

Mr. William Shoup presented the staff report. Mr. Abdul Rashid of 7259 Beverly Park Drive informed the Board that he was the owner of the property. He explained the need for the room addition because of circumstances involving his family. His wife is a kidney patient and receives all medical treatment at home. Mr. Rashid stated that he needed space to store the many medical supplies necessary for her treatment. In addition, his 65 year old mother is also ill. Mr. Rashid stated that when he purchased his home, his three children were small. Now they are between the ages of 14 to 22.

Mr. Rashid informed the Board that he planned to build an addition on top of the existing recreation room. He indicated that he would not be encroaching on the setback in any way. In response to questions from the Board, Mr. Rashid stated that the proposed addition would be in harmony with the existing house. He stated that he has owned the home for six years and that most of the other homes in the area have recreation rooms or garages. Mr. Rashid informed the Board that the Ordinance in effect at the time the house was built would have allowed the proposed addition. He indicated that it had always been his intent to build the addition ever since the purchase of the home.

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

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Page 377, April 16, 1985 Board of Zoning Appeals
ABDUL & JULIE V. RASHID

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-L-006 by ABDUL & JULIE V. RASHID under Section 18-401 of the Zoning Ordinance to allow construction of second story addition over portion of a dwelling to 5 ft. from side lot line and 18 ft. from rear lot line (8 ft. min. side yard and 25 ft. min. rear yard req. by Sect. 3-507), on property located at 7259 Beverly Park Drive, tax map reference 90-3((10))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 16, 1985; 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-5.
3. The area of the lot is approximately 3,000 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 an extraordinary situation or condition of the subject property 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 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. Thonen seconded the motion.

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

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Page 378, April 16, 1985, After Agenda Items

STRATFORD RECREATION ASSOCIATION, INC., SP 85-V-019: The Board was in receipt of a letter from Mr. Peter Brinitzer, Chief of Operations for Stratford Recreation Association, Inc., requesting an out-of-turn hearing on the special permit application. Following review of the request, Mr. Hyland moved that the Board grant the out-of-turn hearing request. It was the consensus of the Board to schedule the special permit for June 4, 1985.

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Page 379, April 16, 1985, Scheduled 10:45 A.M. case called at 10:50 A.M. (TAPES 1 & 2)

10:45 A.M. ELLIOTT H. RUBINO, appl. under Sect. 18-401 of the Ord. to allow construction of 16 ft. high detached garage 2.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307 & 10-104), located 7609 Roanoke Ave., R-3, Davian Place Subd., Annandale Dist., 70-2((3))27, approx. 20,201 sq. ft., VC 85-A-007.

Mr. William Shoup presented the staff report. He indicated that the size of the structure had been reviewed by the Zoning Administrator who has no objection to the size. However, the Zoning Administrator's approval of the size should not be construed as support for the location.

Mr. Elliott Rubino of 7609 Roanoke Avenue informed the Board that his house was a Cape Code which only has crawl space and no attic which leaves him with limited storage space. Mr. Rubino stated that he needs a place to house his vehicles in addition to a place for storage. He stated that he proposed to build a 24'x30' garage which would house the two vehicles and allow the opening of car doors without hitting walls. In addition, Mr. Rubino stated that he repairs his own vehicles and wanted enough room to work when both vehicles were parked inside. Also, he needed room for his workbench and tools. The 16 foot height of the garage would provide ample storage area.

Mr. Rubino informed the Board that the location of the garage 2.5 feet from the side lot line was selected for several reasons as:

it would allow the garage to line up with the existing driveway;
it would eliminate the problem of locating the garage in accordance with the setbacks which would place the garage in the middle of the back yard blocking his view from the living and dining room windows;
it would provide security for his wife when he was working late and she returns home alone as she would be visible to the neighbors; and
it would keep the distance between the garage and the house to a minimum and not block the view of the street.

Mr. Rubino informed the Board that the neighbor most impacted by the variance was in support of the request. In response to questions from the Board, Mr. Rubino stated that the Lipscombs' house next door was situated such that their dining room and living room would be adjacent to the proposed garage.

The Board questioned staff regarding whether there were any other garages within 2 feet of the property line in the immediate area. Mr. Shoup was unable to respond but Mr. Rubino informed the Board that there were three single car garages within 2 feet of the line on his street. Mr. Shoup explained that under the previous Zoning Ordinance, a detached garage could be built as close as 2 feet to the rear and side lot lines provided it was constructed of fireproof materials.

Mr. Rubino stated that he purchased his property in 1977 and the Ordinance changed in 1978. He indicated that his lot is substandard as he only has lot width of 72.8 feet. He stated that the lot itself has never met the standards. Mr. Rubino assured the Board that the garage would match the existing house in color and materials.

Mrs. Linda Lipscomb of 7611 Roanoke Avenue spoke in support of the application. She stated that there were enough large trees in the yards that the proposed garage would not block her view whatsoever.

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

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Page 379, April 16, 1985 Board of Zoning Appeals
ELLIOTT H. RUBINO

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-A-007 by ELLIOTT H. RUBINO under Section 18-401 of the Zoning Ordinance to allow construction of 16 ft. high detached garage *2.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307 & 10-104), on property located at 7609 Roanoke Avenue, tax map reference 70-2((3))27, 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 16, 1985; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3.
3. The area of the lot is 20,201 sq. ft.

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.

Mrs. Thonen noted that a 24 foot garage might be a little wide and she preferred to cut it down to 22 feet which would place it 4.5 feet from the side property line. She indicated that she likes to see people improve their property but felt that where the garage was proposed would be a problem in meeting the setbacks. Safety of the house is another problem. If the garage were moved, it would interfere with the privacy of the owners at 7611 Roanoke Avenue. However, since they supported the application, Mrs. Thonen felt that it must be a good thing for the community. The applicant acquired the property in good faith in September 1977 and the standards were changed in 1978. The property is narrow being only 72.8 ft. wide when it should be a minimum of 80 feet wide. The request will not change the character of the area at all as there are other single car detached garages in the area which are located 2 feet from the lot line. Therefore, Mrs. Thonen felt that the applicant's double garage should be moved to 4 feet.

NOW, THEREFORE, BE IT RESOLVED that the subject application is *GRANTED (to allow construction of a 16 ft. high, 22 ft. x 30 ft. detached garage, 4.5 ft. from side lot line) 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 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.
4. The dimensions of the structure shall not exceed twenty-two (22) by thirty (30) feet.
5. The structure shall be used solely as an accessory use to the dwelling and shall not be used for any commercial purposes.
6. A new plat shall be submitted reflecting the approved dimensions of the structure and the location not less than 4.5 feet from the side lot line.

Mrs. Day seconded the motion.

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

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11:00 A.M. WILLIAM O. SAUNDERS/JOHN F. GHILARDI, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, proposed lots 1 and 2 each having width of 10.5 ft. (100 ft. min. lot width req. by Sect. 3-206), located 1927 Birch Rd., Chesterbrook Subd., R-2, Dranesville Dist., 41-1((1))35, approx. 1.5 acres, VC 85-D-002.

Mr. William Shoup presented the staff report which cited major transportation issues involving sight distance, access to the property, and dedication along the front property line. He indicated that there is a significant curve in Birch Road which concerned the Office of Transportation with respect to sight distance. In addition, there was also concern about the impact of the pipestem on the adjacent lots 36A and 37. Mr. Shoup informed the Board that parcel 36A was proposed to be subdivided into four lots but only one of those lots would be affected by the pipestem.

Mr. John Ghilardi of 1642 Strine Drive in McLean informed the Board that the lot is narrow and has insufficient road frontage. He stated that he proposed to build a house for his family on one of the lots. The subject property is much larger than the neighboring parcels and lends itself ideally to the variance.

Mr. Ghilardi felt that the variance met the nine standards of the Zoning Ordinance. He indicated that the property was acquired by the Saunders in good faith. He stated that the hardship involved the unfair tax burden which has existed for over 30 years because of the large parcel of land with only one house on it.

In response to questions from the Board, Mr. Ghilardi stated that he planned to construct his home on lot 2. At the present time, he did not have any immediate plans to construct a house on lot 1 but indicated it would be for resale purposes.

The Board questioned the impact of the pipestem on lots 36A and 37. Mr. Shoup explained that with the construction of the pipestem, portions of the adjacent 36A and 37 which are presently side and rear yards would become front yards. Accordingly, there would be certain restrictions of use in the front yard in addition to the 25 foot setback from the pipestem. He indicated that should the building permits be approved first for any of the subdivided lots of parcel 36A, it would not affect the location of the dwelling. However, it would affect any future addition to the dwelling.

At the request of the Board, Mr. Ghilardi presented a copy of his contract with the Saunders. He also indicated that the owner of parcel 36A is in support of the variance. The Board questioned whether it was possible for the applicant to obtain additional land in order to gain ingress and egress from McArthur Drive.

Mr. William O. Saunders of 1927 Birch Road in McLean spoke in support of the application. He informed the Board that he has owned the property since 1946. He developed it in 1951 and has lived there ever since. Mr. Saunders stated that he needed to get rid of the property because of the high taxes. He indicated that the owner of lot 37, Mrs. DeJarnette, and the owner of lot 36 do not have any objections to the variance. Mr. Saunders stated that these were the only lots that the proposed pipestem would impact in any way. If the pipestem was a concern of the Board, Mr. Saunders stated that perhaps it could be relocated.

The following persons also spoke in support: Mrs. Louise DeJarnette, 1921 Birch Board; Mr. Milton Simpson, 6634 Briarcross Drive in Clifton; and Mrs. Alicia McCormack, 1937 Birch Road. There was no one to speak in opposition.

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WILLIAM O. SAUNDERS/JOHN F. GHILARDI

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-D-002 by WILLIAM O. SAUNDERS/JOHN F. GHILARDI under Section 18-401 of the Zoning Ordinance to allow subdivision into 3 lots, proposed lots 1 and 2 each having width of 10.5 ft. (100 ft. min. lot width req. by Sect. 3-206), on property located at 1927 Birch Road, tax map reference 41-1((1))35, 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 16, 1985; and

WHEREAS, the 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 approximately 1.5 acres.

RESOLUTION

Mrs. Day indicated that this is a difficult decision because of the pros and cons. She stated that she understood the problems of the seller in wanting to dispose of the property. The property is narrow and does not have adequate frontage and is located on a sharp curve on Birch Road which makes sight access difficult. But to grant the application would have an adverse effect on lot 37 and parcel 36A, regardless of its present undeveloped condition, as it would change the side and rear yards into front yards. Mrs. Day indicated that the site has possibilities but she could not support the application in its present form.

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.

Mr. Hammack seconded the motion.

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

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Page 382, April 16, 1985, Scheduled 11:15 A.M. case called at 11:55 A.M. (TAPES 3 & 4)

11:15 A.M. THE CHURCH OF THE GOOD SHEPHERD, appl. under Sect. 3-E03 of the Ord. for building and parking lot additions to existing church and related facilities, located 2361 Hunter Mill Rd., R-E, Centreville Dist., 37-2((1))26A, approx. 7.3396 ac., SP 85-C-003.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. A major concern of the staff is the location of the parking lot which is to be moved from the transitional screening area in order to provide a 25 foot transitional strip along the boundaries of the property except along the southern lot line adjoining Kemper Park.

Mr. Claire Stanford, Chairman of the Building Committee, residing at 2705 Snowberry Court in Vienna, represented the church. He indicated that the church has no objections to the development conditions contained in the staff report. Mr. Bob Dane, a member of the congregation, spoke in support of the application and the staff's suggestion to move the parking lot.

Mr. Rick LaFalce, owner of lot 26, did not speak in support or in opposition. However, he was disturbed that all staff and applicant testimony centered on the parking lot rather than the proposed additions to the church for school use. Mr. LaFalce's concern is with regard to the traffic impact to Hunter Mill Road which is a busy area. In addition, Mr. LaFalce felt that the school is a commercial use which is not in harmony with the residential area. He felt that the church grounds should be policed as he has had trash blowing into his yard.

There was no one else to speak in opposition.

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Page 383, April 16, 1985 Board of Zoning Appeals
THE CHURCH OF THE GOOD SHEPHERD

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-C-003 by THE CHURCH OF THE GOOD SHEPHERD 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 2361 Hunter Mill Road, tax map reference 37-2((1))26A, 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 16, 1985; 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 7.3396 acres.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-303 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 maximum number of seats shall be 300, with a corresponding minimum of 75 parking spaces. The maximum number of parking spaces shall be 100.
6. The proposed parking lot shall be redesigned so that it does not encroach into the required transitional screening yards.
7. Transitional screening 1 and barrier requirements shall be provided as follows:
   - The 25 foot transitional yard shall be provided along the entire front lot line of the site; however the planting requirements may be modified to permit shrubs and other low level plantings, as determined by the Director, Department of Environmental Management.
   - A 25 foot transition yard shall be provided along all other lot lines, except along the northern lot line where the existing parking lot is located two (2) feet from the lot line. The planting requirements within the yard may be modified provided the existing vegetation is retained and a single row of evergreen trees and/or shrubs be planted where there is no existing vegetation. The size, location and height of these plantings shall be determined by the Director, Department of Environmental Management.
8. The barrier requirement shall be waived.

RESOLUTION

9. Interior parking lot landscaping shall be provided for all new parking areas as required by Article 13 of the Zoning Ordinance.
10. Parking lot lighting, if provided, 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 projection onto adjacent residential properties.
11. Dedication of right-of-way along Hunter Mill Road may be required at the time of site plan approval as determined by the Director, DEM.
12. The applicant shall submit revised plats within two weeks from the approval date to the staff which indicates the relocation of the proposed parking 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 new 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 construction of the parking lot or church addition 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 to 0 (Mr. DiGiulian being absent).

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Page 384, April 16, 1985, Board Discussion

The Board requested a copy of the proposed changes to the Zoning Ordinance amendment regarding churches and Interpretation No. 52. Staff was unfamiliar with the latest changes but indicated they would contact the individual responsible for the amendment to discuss the changes with the Board.

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Page 384, April 16, 1985, Recess

The Board recessed for lunch at 12:10 P.M. and reconvened at 1:25 P.M. to continue with the scheduled agenda. Mr. Ribble departed the meeting during the lunch break and was not present for the remainder of the cases.

Page 384, April 16, 1985, Scheduled 1:00 P.M. case called at 1:25 P.M. (TAPES 4, 5, & 6)

1:00 A.M. ARNOLD L. & LUCILE M. KURTZ, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow addition to dwelling to remain 8.0 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), located 1903 Joliette Ct., R-4, Hollin Glen Subd., Mt. Vernon Dist., 93-3((24))44, approx. 10,186 sq. ft., SP 85-V-004.

Mr. William Shoup presented the staff report. He indicated that the error occurred when the garage addition was constructed. After the sunroom addition was added, a complaint was filed with Zoning Enforcement and a notice of violation issued which prompted the special permit application.

In response to questions from the Board, Mr. Shoup stated that the sunroom addition was constructed in the summer of 1984. A building permit had been obtained for the construction of the garage and sunroom. It indicated that the garage would be located 10 feet from the lot line but was actually constructed 8 feet from the line. The applicants were unaware of the error and later built the sunroom addition on top of the garage. The Board asked for an explanation as how the error occurred but were informed that the contractor is no longer in business. Mr. Shoup explained that a certified plat is not required with the building permit application but a handdrawn sketch was submitted which indicated the garage to be located 10 feet from the property line. The same sketch may have been used when the sunroom addition was constructed on top of the garage.

Mr. Arnold Kurtz of 1903 Joliette Court informed the Board that he purchased the property in October 1971. In 1972, he began discussions regarding additions such as a garage with a deck above, and a retaining wall. He contracted to have the plans prepared and proceeded to obtain bids for construction. Mr. Rust was selected as the lowest bidder to complete all of the additions but he passed away. Therefore, Mr. Kurtz stated that he decided to proceed with the garage and contracted with Mr. Harris who was to have

completed construction within thirty days. Mr. Harris obtained a building permit but all work performed was a disaster. Mr. Kurtz stated that the brick work had to be knocked down and redone, the siding was incorrectly installed, and the joists were the wrong size.

The work took many months past the thirty day completion date. During all the various County inspections, no one noticed that a corner of the garage was too close to the property line. Mr. Kurtz stated that when he stopped payment to Mr. Harris, litigation was initiated in 1976. The garage finally passed inspection and settlement was made to Mr. Harris. Mr. Kurtz explained that the work was still not satisfactory as the roof to the garage leaked. He contracted to have a new roof installed but it still leaked. Then in 1981, he decided to solve the leaky roof problem by adding the sunroom overtop the garage. A building permit was obtained without any indication that the garage had been incorrectly placed on the property. As the sunroom was being completed, a neighbor filed a complaint. The garage distance was measured by a County Zoning Inspector who indicated there was not any problem. Mr. Kurtz stated that the sunroom was then completed. Later, he received a letter from the County indicating that the neighbor had the property surveyed to determine that the garage and sunroom addition were too close to the property line.

Mr. Kurtz informed the Board that he felt he had been punished for the past eleven years with having to live with a substandard job. He asked that the BZA grant the special permit to allow the structure to remain.

In response to questions from the Board, Mr. Kurtz stated that the contractor who built the garage dissolved his business. He indicated that he had the original plans used by the contractor which showed a 14 foot garage. Mr. Kurtz believed that the contractor built on the wrong side of the line as evidenced by his many other mistakes. The interior and exterior dimensions were never checked by Mr. Kurtz since Mr. Harris was the general contractor.

For clarification purposes, Mr. Shoup stated that when the Zoning Inspector visited the site to check the setbacks, it was too close to base a notice of violation on it. However, the complainant followed up by obtaining his own survey which identified the violation.

In further response to questioning from the Board, Mr. Shoup stated that the zoning office does not make a inspection on routine construction permits. The building inspector checks to determine that construction meets the building code regulations and does not check for setbacks. The Board expressed an opinion that if the building inspector is visiting the site, they should check the setback requirements as they would be more familiar with it than the homeowner. Mr. Shoup explained that the problem is in locating the lot lines which cannot be readily identified in the field. If there is enough of a distance problem, the Zoning Inspector can issue a violation.

New home builders are required to submit a house location survey to the County which readily identifies any setback problems. Mr. Shoup explained that there is no such requirement for additions and the County has no way of knowing if an error occurs.

There was no one else to speak in support; however, the Board was in receipt of letters in support from the following persons: Leland S. and Dorothy W. Kollmorgen, 1902 Joliette Court; George T. and Decima D. Webber, 1938 Shiver Drive; and Robert D. and Janet C. Lynd, 1906 Joliette Court. Mr. Oscar Carl Conway of 1901 Joliette Court submitted a letter of opposition in addition to testifying at the public hearing. He indicated that he and Mr. Kurtz shared the property line in dispute. He informed the Board that he had incurred a number of problems with the building additions, mainly drainage. Mr. Conway was concerned that a bulldozer had cleared a hill on Mr. Kurtz' property which caused more water to run onto his property. He stated that the addition was very attractive from the street. It only affected his property because the yards are pie-shaped with converging back yards affording little privacy. He presented photographs showing his property and the construction process.

In response to questions from the Board, Mr. Conway stated that the solution would be to compensate to make the additions and drainage less objectionable. Mr. Conway requested some screening and asked that the water be diverted back into Mr. Kurtz' property to follow the normal drainage channel.

During rebuttal, Mr. Kurtz stated that the slope was left when the hill was changed. He indicated that he had routed downspouts for the addition in a different fashion such that the water runs across his yard. The land slopes toward the Conway property. Mr. Kurtz stated that the swale had been left by the developer. Mr. Kurtz indicated that he wanted to be a good neighbor and would take steps to resolve the problems.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 85-V-004 by ARNOLD L. & LUCILE M. KURTZ 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 addition to dwelling to remain 8.0 ft. from side lot line (10 ft. min. side yard req. by Sect. 3-407), on property located at 1903 Joliette Court, tax map reference 93-3((24))44, 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 April 16, 1985; 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 garage/sun room addition indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.
2. An amended Building Permit, reflecting the actual location, shall be obtained.
3. The applicant shall provide screening along the common lot line with lot 43 so as to afford privacy to the owners of lot 43 for the use and enjoyment of their back yard and that this screening be approved by the Director, Department of Environmental Management.
4. That the applicants' excess water flow which runs off the surface area of the addition be diverted off the addition from the Conways and/or the bad effects be reduced preferably with piping to no more than it had been if the addition had not been constructed. The proposal to resolve the drainage problem shall be approved by the Director, Department of Environmental Management.

Mrs. Thonen seconded the motion.

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

1:15 A.M. HOWARD & DIANA JENSEN, appl. under Sect. 8-901 of the Ord. for reduction to min. yard requirements based on error in building location to allow 9 ft. high shed to remain 5.1 ft. from rear lot line (9 ft. min. rear yard req. by Sect. 10-104), located 924 Constellation Dr., R-2, Oliver Estates, Dranesville Dist., 13-1((3))27, approx. 44,358 sq. ft., SP 85-D-006.

Mr. William Shoup presented the staff report. Mr. Howard Jensen of 924 Constellation Drive informed the Board that he moved into his small, three bedroom, one bath, brick rambler without a garage in the fall of '83. His neighbor had purchased a shed from Hechinger's which inspired Mr. Jensen to build a more functional shed for his property. He and his wife designed a carriage shed with doors, windows and cedar siding which would be used for storage of their garden tractor and equipment. Mr. Jensen was unaware that the shed was constructed too close to the lot line. He indicated that it is not an eyesore and blends in with the character of Great Falls. Mr. Jensen stated that there is vacant land behind his property. He indicated that he has not figured out how to move the shed as the posts were dug 2 feet dug and the shed would have to be moved 3.9 feet. However, he stated that he would move the shed if he has to and was surprised that there is any objection to it.

In response to questions from the Board, Mr. Jensen stated that the site for the shed was selected because of the location of floodplain and storm water easements on the property in addition to the close proximity of the garden plot. All along the back of the property are 12 to 15 locust trees which the applicant did not want to cut down in order to construct the shed. East of the house is a drainfield. Mr. Jensen stated that it did not seem practical to locate the shed in any other area than the garden area. He indicated that his real concern was keeping the shed off the cul-de-sac. Mr. Jensen stated that his neighbors, Mr. and Mrs. Peters, objected to the shed.

There was no one else to speak in support; however the Board was in receipt of a letter in support from Ray Burt, 916 Constellation Drive. A letter in opposition was received from Michael H. and Peggy S. Peters, 917 Golden Arrow Street who also appeared at the public hearing. They were concerned that the Jensen's garden was encroaching on their property and did not like the compost pile, garden tools, metal stakes, sticks, chicken wire, etc. that were placed up against their fence. In addition, Mr. and Peters indicated that they were visually impacted by the shed as their home overlooked the shed. They were concerned that after they had contacted the Zoning Enforcement Division and the Zoning Inspector visited the site that the Jensens had continued building the shed. Since Mr. Jensen is in real estate, Mrs. Peters believed he should have been aware of the setback requirements and felt that the violation was intentional. Therefore, she wanted the shed moved.

During rebuttal, Mr. Jensen stated that he was notified of the violation when the footings for the shed were poured and the foundation was built. He stated that the roof was constructed to protect the shed and he had painted it to keep the wood from warping. With respect to his occupation, Mr. Jensen stated that he is a commercial real estate broker and is not familiar with the residential aspect of the business. The compost pile was at the present location on the property when they acquired it. The garden has been there for five or six years. Mr. Jensen explained the alleged encroachment because the Peters had moved their fence. Originally, it was situated 2 or 3 feet from the line but was later moved to 6 inches inside the line. Mr. Jensen assured the Board that he was not harassing the neighbors and asked that the shed be allowed to remain.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 85-D-006 by HOWARD & DIANA JENSEN 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 9 ft. high shed to remain 5.1 ft. from rear lot line (9 ft. min. rear yard req. by Sect. 10-104), on property located at 924 Constellation Drive, tax map reference 13-1((3))27, 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 April 16, 1985; 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

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.

3. Mrs. Thonen noted that she had looked at the photographs of the property and with the drainfield and the slope of the property, she could not see any other place where the shed would be in a better location. She indicated that the shed would cause more damage if it was located in the middle of the floodplain. No matter where else you move it on the property, it would be in the line of sight for the driveway. There was no where to hide the shed. She stated that the shed is very attractive.

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 other structures on the same land.

2. This approval shall be subject to approval by the Director, DEM of the location of the shed within a floodplain in accordance with the provisions of Part 9 of Article 2.

3. That the shed must be kept in good maintenance and repair at all times. There is room behind the shed for plantings. The applicant shall remove all tools, equipment, etc. away from the fence and keep it away permanently.

Mrs. Day seconded the motion.

During discussion, Chairman Smith stated that the applicant did not act in good faith in constructing the shed in violation of the Zoning Ordinance. Mr. Hammack indicated that he supported the motion since small sheds do not require building permits and there is no information as to what requirements are imposed. The other reason he supported the motion is because of the size of the lot owned by the Peters next door. The shed is 100 to 200 feet away from their house. Even though Mr. Jensen is not in strict compliance, Mr. Hammack did not see any real impact on any other property. Since Mr. Jensen had cut down some trees towards the rear of his property, Mr. Hammack stated that some screening would negate any impact of the shed and reduce objections. Chairman Smith stated that the screening is too vague as the motion does not indicate whether it is intended for the rear or both sides of the property.

For clarification purposes, Mrs. Thonen stated that the screening is intended for the northwest sides of the shed. Chairman Smith inquired as to the type of screening. Mrs. Thonen stated that 4 foot evergreens planted at the recommended distance apart would be satisfactory.

Mr. Hyland reminded the Board of a similar case involving a horse barn in which the Board had refused to allow the barn to remain on the property. Accordingly, he indicated that he could not support this motion.

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

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1:30 P.M. REBECCA ANN CRUMP, appl. under Sect. 3-103 of the Ord. for a kennel, located Ox Rd., R-1, Springfield Dist., 87-1((1))11, approx. 14.83 ac., SP 84-S-079. (DEFERRED FROM FEBRUARY 19, 1985 FOR DECISION AND DEFERRED FROM MARCH 19, 1985 FOR REVISED PLATS & DECISION OF FULL BOARD).

Mr. William Shoup presented the Board with the revised plats reducing the size of the structure and moving it further back on the property; indicating the type of screening; and indicating the location of the deceleration lane to be provided along the frontage of the property. He informed the Board that after the realignment of Rt. 123, the highway will no longer go past the property. Chairman Smith stated that the curve would be alleviated by virtue of the realignment.

There were no further questions from the Board for staff or the applicant.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 84-S-079 by REBECCA ANN CRUMP under Section 3-103 of the Zoning Ordinance to permit kennel on property located at Ox Road, tax map reference 87-1((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 April 16, 1985; 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 14.83 acres.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-603 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. Existing vegetation shall be retained where removal is not necessary to accommodate construction or related utility and septic work as determined by the County Arborist.
6. Transitional screening shall be provided as follows:
   - o Along both sides and at the front of the property, existing vegetation shall be supplemented with evergreen plantings in a manner that will completely screen the facilities from adjacent property and Ox Road.
   - o Along the rear of the property, existing vegetation shall provide transitional screening.
7. During development, Best Management Practices (BMP's) shall be implemented as required by the Director, Department of Environmental Management (DEM).
8. A right turn deceleration lane shall be provided subject to approval by VDH&T.
9. There shall be a maximum boarding capacity of 180 animals.
10. All animals shall be kept within the building.
11. The building and septic system shall be designed and constructed in such a manner that no noise or odor emanates from the site as determined by the Fairfax County Health Department.
12. A maximum of four (4) employees shall be associated with the use.
13. Ten (10) parking spaces shall be provided.

RESOLUTION

14. The maximum business hours of operation shall be 9:00 A.M. to 6:00 P.M. Employees shall be permitted on site at any time to include occasional overnight stay to provide emergency care for sick animals.
15. A trail shall be provided in accordance with the Countywide Trail Plan and Article 17 of the Zoning Ordinance. Under the provisions of Article 17, construction of the trail may be deferred until such time as it is deemed necessary by the Director, DEM.
16. This approval is for a kennel only and shall not include a veterinary hospital. A veterinarian shall be permitted to operate at the site for the purpose of treating animals that are boarded at the facility.

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.

Mrs. Thonen seconded the motion.

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

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Page 390, April 16, 1985, Scheduled 1:45 P.M. case called at 3:25 P.M. (TAPE 8)

1:45 P.M. COLD STREAM DEVELOPMENT LTD., A VIRGINIA CORPORATION, appl. under Sect. 18-401 of the Ord. to allow subdivision into 2 lots, proposed lot 1 having width of 147.4 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 324 Walker Rd., R-E, Dranesville Dist., 7-2((1))5, approx. 5.0 ac., VC 85-D-001. (DEFERRED FROM MARCH 26, 1985 AT REQUEST OF APPLICANT).

In the absence of Ms. Cheryl Hamilton, Ms. Jane Kelsey presented the staff report. Mr. Henry C.Mackall of 4031 Chain Bridge Road in Fairfax, represented the applicant. For background purposes, Mr. Mackall explained that one year ago Sterling Montaghue and his wife had verbally agreed to purchase the property in hopes of building their home there. However, after renting property nearby, they decided the area was too far away. Accordingly, when they purchased the property, they had conveyed to a corporation which Mr. Montaghue owns.

Mr. Mackall stated that the surrounding property has been developed in one acre subdivision a long time ago. Greenhill Street is dedicated and is part of the state system within 150 feet of the property. To the south of the property are subdivisions of two acre lots. Mr. Mackall stated that the frontage of the property on Walker Road is not wide enough for a lot. However, the frontage on Greenhill Road which is a dedicated street is wide enough for one lot when measured at the building restriction line. Mr. Mackall indicated that it is strange and unusual for the lot to have sufficient frontage but not on Walker Road. Mr. Mackall indicated that the property can be developed under subdivision control by extending Greenhill Street, widening it, and paving it but it would only serve two lots. In addition, it would require the shifting of a drainfield and the cul-de-sac would destroy the configuration of the property.

Reasonable use of the property is 2 1/2 acre lots. Mr. Mackall stated that one lot is presently served by a private drive. There are other lots served with driveway entrances off of Walker Road. In describing the property, Mr. Mackall stated that there is a swale and a pond on the property which does not work because there is not enough water. He indicated that these matters would be addressed during the subdivision process. Since the last public hearing, Mr. Mackall indicated that they have met with the neighbors who are in agreement with the variance. He presented the Board with a letter of support signed by Daniel O'Connell of 320 Greenhill Street.

Mr. Dan O'Connell, 328 Greenhill Street, spoke in support of the variance as he believed it to be the best way to develop the property without impacting the environment. He stated that this proposal would lessen the drainage impact on his property which is downhill. Any paving of Greenhill Street would worsen the runoff situation.

Mr. Jim Rossi of 10112 Walker Drive indicated that he was not actually in opposition to the application and posed questions to the Board. He inquired as to what purpose the pond serves as he was concerned for children's safety. He asked that the pond be eliminated or fenced since it is over 3/4 of an acre when its full of water.

During rebuttal, Mr. Mackall stated that the drainage would be addressed during the subdivision process. Chairman Smith stated that if the pond becomes a hazard, it should be fenced. Mr. Mackall responded that if the County requires fencing for ponds, it would be done. Ms. Hamilton pointed out to the Board that if a turnaround or cul-de-sac is installed, it would require the house to be moved back in order to meet the setback requirements.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-D-001 by COLD STREAM DEVELOPMENT LTD., A VIRGINIA CORPORATION, under Section 18-401 of the Zoning Ordinance to allow subdivision into 2 lots, proposed lot 1 having width of 147.4 ft. (200 ft. min. lot width req. by Sect. 3-E06), on property located at 324 Walker Road, tax map reference 7-2((1))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 April 16, 1985; and

WHEREAS, the 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 5.0 acres.
4. Mr. Hyland stated that it appears that the proposed subdivision is in concert with the area when you look at the surrounding property of one or two acre lots. He indicated that to restrict development to a five acre lot with respect to this lot would not permit the subdivision which is an unreasonable requirement. It would be a hardship to require the extension of the road which would not be in keeping wit the residential neighborhood. In addition, the neighbor feels that the variance would be more beneficial to him.

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.

RESOLUTION

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 (2) lots in the general location shown on the plat submitted with this application. The lot lines between the two lots may be slightly adjusted to accommodate a cul-de-sac or turnaround from Greenhill Street. The location of the dwelling and septic field on proposed lot 2 may also be rearranged if necessary to facilitate this street improvement.
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 and development of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions, of the Fairfax County Code and the Public Facilities Manual.
4. Dedication of right-of-way sufficient for required public street improvement and a trail shall be provided along Walker Road at the time of subdivision review. A construction easement shall be provided along the frontage of Walker Road as required by the Director, Department of Environmental Management.
5. In the event that the pond is retained on the site, the applicant shall take appropriate measures to ensure the safety of young children in the neighborhood who are attracted by the pond; such measures to include fencing or other appropriate measures, to prevent undue harm to the youngsters.

Mrs. Thonen seconded the motion.

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

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Page 392, April 16, 1985, Board Discussion (TAPE 8)

BOARD DISCUSSION: Mr. Larry McDermott, Assistant to the Zoning Administrator, discussed the proposed amendment to the Zoning Ordinance regarding Article 2, Permitted Uses in Churches, Chapels, Temples, Synagogues and Other Places of Worship, and its relation to Interpretation No. 52. The amendment is scheduled for a public hearing before the Board of Supervisors on April 29th.

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Page 392, April 16, 1985

Mrs. Thonen departed the meeting at 4:10 P.M.

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Page 392, April 16, 1985, After Agenda Items (TAPE 8)

APPROVAL OF MINUTES: The Board was in receipt of current Minutes for March 26, and April 2, 1985. Mr. Hyland moved that the Minutes be approved as submitted. Mr. Hammack seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Ribble and Mrs. Thonen being absent).

The Board was in receipt of backlogged Minutes for February 28, March 6, March 13, March 20, March 27, April 3, and April 10, 1984. Mr. Hyland moved that the Minutes be approved as submitted. Mr. Hammack seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Ribble and Mrs. Thonen being absent).

The Board noted that the backlog of Minutes is now caught up and congratulated staff.

// There being no further business, the Board adjourned at 4:35 P.M.

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

Daniel Smith
Daniel Smith, Chairman

APPROVED: April 30, 1985
Date

Submitted to the Board on April 22, 1985

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Monday Evening, April 22, 1985. The following Board Members were present: Daniel Smith, Chairman (arriving at 8:40 P.M.); John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; and Paul Hammack. (Mr. John Ribble and Mrs. Mary Thonen were absent).

Vice-Chairman DiGiulian served as Chairman in Mr. Smith's absence. Chairman DiGiulian opened the meeting at 8:25 P.M. and Mrs. Day led the prayer.

Chairman DiGiulian called the scheduled 8 o'clock case at 8:25 P.M. (TAPE 1)

8:00 P.M. PULTE HOME CORPORATION, CONTRACT PURCHASER, appl. under Sect. 18-301 of the Ord. to appeal decision of the Director of Environmental Management to deny the appellant's preliminary subdivision plat for a cluster subdivision, Edgewood Acres, R-3, Lee Dist., 100-2((1))4, approx. 191.3 acres, A 84-L-004. (DEFERRED FROM SEPTEMBER 25. 1984 AT THE REQUEST OF THE PLANNING COMMISSION; FROM DECEMBER 18, 1984; AND FEBRUARY 19, 1985 AT THE APPLICANT'S REQUEST.)

The Board was in receipt of a request for deferral from Mr. Jerry Emrich, agent for the appellant. It was the consensus of the Board to defer the appeal until June 11, 1985 at 10:15 A.M.

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Page 393, April 22, 1985, Board Discussion

MATTERS PRESENTED BY BOARD MEMBERS: Mr. Hyland questioned staff regarding the final submission of the Zoning Ordinance Amendment with respect to churches which is scheduled for public hearing before the Board of Supervisors on April 29th. Staff was unaware whether there had been any changes to the proposed amendment since the draft presented to the BZA the previous week.

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Page 393, April 22, 1985, Recess

Chairman DiGiulian noted that the Board had contacted Mr. Smith who is on his way to the meeting. Accordingly, the Board recessed at 8:30 P.M. and reconvened at 8:40 P.M. to continue with the scheduled agenda.

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Page 393, April 22, 1985

Mr. Smith arrived at the meeting at 8:40 P.M. and assumed the Chair.

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Page 393, April 22, 1985, Scheduled 8:15 P.M. case called at 8:40 P.M. (TAPES 1 & 2)

8:15 P.M. THE APPLETREE, INC., appl. under Sect. 3-203 & 8-901 of the Ord. to amend S-82-P-089 for a child care center to permit addition of land area & private school of general education and related facilities, and to increase enrollment to 87 students, ages 2 through 8, with modification or waiver of the dustless surface requirement; located 9655 & 9657 Blake Ln., Willow Point Subd., R-2, Providence Dist., 48-3((19))2 & 3, approx. 67,849 sq. ft., SPA 82-P-089-3. (DEFERRED FROM MARCH 19, 1985 AT REQUEST OF APPLICANT'S AGENT).

Mr. William Shoup presented the staff report which recommended approval in part subject to the development conditions contained in Appendix 1 and which further recommended that the requested increase in enrollment be denied. Mr. Shoup explained that the major issue concerned the traffic impact as it relates to site access. VDH&T plans to widen Blake Lane to a four lane divided highway. He stated that there will not be a median break at the site entrance which is why staff recommends that no increase in enrollment be permitted. Mr. Shoup noted a change to development condition no. 6 to change the ages of the children to read 2 through 8 years.

As an alternative to the staff's recommended development conditions, Mr. Shoup indicated that should the BZA decide to grant the special permit as requested, alternate development conditions were contained in Appendix 2.

Mr. Shoup informed the Board that the applicants currently operate a child care center and a school of general education from kindergarten through third grade. He noted that the previous special permit authorized a child care center and not a school of general education. Therefore, with the present application, the applicants are seeking the following:

- o Addition of land area;
- o Addition of a private school of general education and related facilities;
- o Increase in enrollment; and
- o Gravel surface on new proposed driveway and parking spaces.

Mr. Shoup stated that the applicants have proposed a redesign of the parking area and will propose full screening if granted approval of the special permit as requested. Mr. Shoup stated that should the BZA grant the special permit with the development conditions contained in Appendix 1, staff did not feel that full screening as proposed should be imposed on the applicants. Mr. Shoup stated that it is staff's recommendation to deny the additional increase in students and the additional building proposed at the rear of lot 2 and to approve in part the school of general education, the additional land area, and the modification of the dustless surface requirement.

In response to questions from the Board regarding the widening of Blake Lane, Mr. Shoup answered that at the present time, its indefinite as to when the widening will take place because of funding. Construction could begin as early as 18 months. The Board questioned whether the widening would alleviate the traffic impact on Blake Lane as it related to the site. In staff's opinion, it would not since there would not be a median break at the front of the site and parents would be making a significant number of U-turns to access the facility.

The Board questioned the number of additional vehicle trips per day if the increase in enrollment were allowed. According to the Office of Transportation, Mr. Shoup noted there would be 180 additional vehicle trips per day with the proposed increase in enrollment. Mr. Shoup stated that the applicant proposes to use a mini-van but there is not exact count as to the number of students who would be using it to determine whether it will be a positive effect. The Board then questioned staff's opinion as to the "permissable" number of additional vehicle trips per day to be allowed which would not cause an adverse impact. Mr. Shoup responded that staff has been concerned with the previous applications and would have to say no more additional students be permitted.

The Board questioned why staff is recommending approval of the additional land area. Mr. Shoup explained that part of lot 3 is going to be needed for the expansion of the driveway and could also be used for outdoor recreation area moving the existing play area away from the lot line. In further response to questions from the Board regarding the parking, Mr. Shoup explained that in a previous special permit, the Board required 14 parking spaces Stacked parking minus 2 of the required spaces was approved for the site which staff does not feel to be a proper arrangement. The applicant proposes to redesign the parking area and provide the additional 2 spaces but it would not take remove the parking from the front of the building.

Mr. William Donnelly, an attorney with Hunter & Williams, 4011 Chain Bridge Road, in Fairfax represented Mr. and Mrs. Klaassen. He stated that staff is recommending approval of the school of general education for kindergarten through third grade but recommending denial of the request for increase in enrollment. Mr. Donnelly stated that this is a transportation issue and indicated that there are plans to widen Blake Lane to four lanes. He stated that the applicant is willing to commit to an operating schedule. If the additional increase in enrollment is allowed, the dropoffs would be arranged during non-peak hours. In addition, the applicant would use a mini-van service so as not to exacerbate the traffic problem.

Mr. Donnelly stated that the transportation issue has been blown out of proportion. When Blake Lane is widened to four lanes without a median break in front of the site, Mr. Donnelly indicated that it would be harder to make left-turns into the site but the right turns would be much easier. Therefore, the widening would improve the general flow of traffic. Mr. Donnelly asked that the Board approve the special permit as requested in accordance with the development conditions contained in Appendix 2.

The following persons spoke in support of the application. Ms. Sue Stone, 9744 Water Oak Drive; and Mr. Robert A. Deitchmon, 10019 Calvary Drive. The support indicated that the majority of the residents in the Water Oak subdivision are in favor of the application. They do not feel traffic would be impacted by the additional enrollment since the arrival and departure times would be staggered.

The Board was in receipt of a letter in opposition from Peter & Concetta L. Morano of 9720 Water Oak Drive. In addition, Mr. Roger L. Kosak of 3025 Mission Square Drive, representing the Blakeview Homeowners Association, spoke in opposition. The opposition concerned the expansion of a commercial facility in a residential neighborhood; traffic hazards at the site which resulted in two accidents; and the impact of traffic on Blake Lane during rush hour.

During rebuttal, Mr. Donnelly stated that the two accidents which occurred in front of the property were not school related incidents. For the record, Mr. Donnelly presented the Board with a viewgraph of the area surrounding the applicants' property on which dots represented all the residents contacted who were in support of the special permit application request. He indicated that there is substantial support from the persons most affected by the request.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-P-089-3 by THE APPLETREE, INC. under Section 3-203 & 8-901 of the Zoning Ordinance to amend S-82-P-089 for a child care center to permit addition of land area & private school of general education and related facilities, and to increase enrollment to 87 students, ages 2 through 8, with modification or waiver of the dustless surface requirement, on property located at 9655 & 9657 Blake Lane, tax map reference 48-3((19))2 & 3, 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 22, 1985; 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 67,849 sq. ft.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006, 8-305, and 8-307 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 as 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:
   - Along the side and rear lot lines a twenty-five (25) foot 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.
   - 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.
   - The existing stockade fencing shall be retained. The play areas shall be fenced as shown on the approved plat.
6. Nineteen (19) parking spaces shall be provided as shown on the approved plat.

RESOLUTION

7. The ten (10) parking spaces and the entire driveway portions at the front of the property shall be paved with a dustless surface as shown on the approved plat. A gravel surface shall be permitted for the driveway and the nine (9) parking spaces to the rear of the property as shown on the approved plat.

8. All gravel surface areas shall be constructed in accordance with standards approved by the Director, DEM.

~~9. All gravel surface areas shall be constructed in accordance with standards approved by the Director, DEM.~~ duplicate of cond. #8 deleted — sch

10. There shall be an annual inspection to ensure compliance with the conditions of this permit relative to the gravel surface, and the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.

11. The approval of the waiver of the dustless surface requirement is for a period of five (5) years.

12. Dedication to forty-five (45) feet from the centerline of Blake Lane for public street purposes shall be provided along the full frontage of Lot 3 to be consistent with previous dedication on Lot. 2.

13. The deceleration lane shall be retained and the site entrance shall be improved subject to VDH&T approval. One-way vehicular movement shall be provided in the driveway area on Lot 2 as shown on the approved plat.

14. The total maximum enrollment shall be eighty-seven (87) 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 8:15 A.M. and 4:15 P.M. to 6:00 P.M. shall not exceed fifty-one (51).

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

16. The applicant shall use at least one (1) van/mini-bus vehicle to provide bus service for students and shall provide assistance to patrons in establishing carpools.

17. The use of the buildings shall be limited to daytime school use.

18. The dwelling at the front of Lot 3 shall be used as a single family residence only and shall not be used for any purpose associated with the child care center/school use.

19. The 12 by 10 foot shed, located near the northwestern lot line shall be removed or relocated in compliance with the applicable location regulations set forth in the Zoning Ordinance.

20. The above conditions incorporate all applicable conditions of previous special permit approval and shall supercede all other previous conditions.

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 Amendment 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 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 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).

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// There being no further business, the Board adjourned at 9:30 P.M.

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

Daniel Smith
Daniel Smith, Chairman

APPROVED: April 30, 1985
Date

Submitted to the Board on April 24, 1985

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 30, 1985. All Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (departing at 1:40 P.M.); Gerald Hyland; Ann Day; Paul Hammack (arriving at 11:25 A.M. and departing at 2:20 P.M.); John Ribble; and Mary Thonen (arriving at 11:10 P.M.

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

Chairman Smith Called for Matters Presented by Staff Members (TAPE 1)

MATTERS PRESENTED BY STAFF MEMBERS

RICHARD & JUDITH A. WELLS AND ALLEN JOHN R. & MARTHA E. OLMSTEAD, VC 84-P-143: Consideration of request for waiver of the twelve month limitation on refiling of applications.

Chairman Smith inquired as to the status of the litigation involving the subject variance. Mr. Thomas Lawson, attorney for Mr. and Mrs. Wells, responded that there has not been a date established by the court for the return of the record file. Because there was not a full Board present, Mr. Lawson asked the Board to defer discussion on the waiver until later in the meeting. Mr. DiGiulian moved that the Board allow deferral as requested. Mr. Hyland offered a substitute motion that the Board grant the waiver of the twelve month limitation on refiling. Mr. Ribble seconded the substitute motion and it passed by a vote of 4 to 1 (Mr. Smith)(Mr. Hammack and Mrs. Thonen being absent).

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Page 397, April 30, 1985, Scheduled 10 o'clock case called at 10:15 A.M. (TAPE 1)

10:00 A.M. HAROLD E. DOSS/ROGER A. YOUNG, appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, each having width of 16.67 ft. (150 ft. min. lot width req. by Sect. 3-106), located Oxon Rd., R-1, Centreville Dist., 35-4((1))33, approx. 6.3613 ac., VC 85-C-008.

Ms. Cheryl Hamilton presented the staff report. She informed the Board that the property was accessed by a 50 foot wide gravel ingress/easement from Oxon Road which should be paved. The easement was shared by adjoining property owners who are concerned about the variance because only lot 27 has a legally recorded easement. The other lots have a verbal agreement. Accordingly, in development condition no. 9, staff recommends that the ingress/egress easement be dedicated for use by lots 26, 27, 28, and 29 and that the easement be recorded in the land records.

The Board questioned whether any of the structures would come closer to the pipestem easement than the required 25 feet. Ms. Hamilton noted that she was not able to locate plats for all of the adjoining properties along the private drive but it appeared one structure would come within the 25 foot required setback. The Board inquired as to the amount of lot area involved for the adjoining lots. Ms. Hamilton estimated that lot 29 contains 2 acres, lot 27 consisting of approximately 8 acres and the other lots consisting of 1 acre or less. For clarification purposes, Mr. Shoup informed the Board that with regard to the front yard for lot 29, the parcel was land locked. Accordingly, the front yard would depend on the orientation of the dwelling since the lot did not front on a street.

The Board was concerned about requiring the applicant to record a legal access easement for the adjoining properties without those properties sharing in the maintenance of the easement. In addition, there was concern about whether any future property owner of the lots could be held to the maintenance agreement. Ms. Hamilton stated that the recorded agreement for lot 27 runs with the land and would apply to all future owners.

Mrs. Donna Lee Young of 6713 Briarcroft Street in Clifton read the written statement. The applicant proposes to subdivide the property into three lots, each having 16.67 feet lot width. Originally, the applicant proposed to subdivide the property into six lots which would have required a public road to be constructed along the 50 foot wide strip connecting the parcel to Oxon Road. No variance would have been required with this subdivision by right. However, due to the adverse circumstances such as inavailability of suitable soils for septic systems and the abrupt topography of the site, it was deemed impossible to obtain more than three lots. Accordingly, the applicant determined that no useful purpose would be served by a 700 foot public road serving only three new lots in addition to the existing three lots served by the existing driveway. The applicant proposes to bring the existing driveway up to minimum standards which is not only more than adequate to serve the proposed development but would be privately owned and maintained. In addition, a private driveway would preserve the character of the area and cause a minimum of impact on the adjoining properties.

In summary, Mrs. Young informed the Board that the applicant has no problem in granting the legal easement for the adjoining lots and in asphalting the road. She indicated that they would work out a maintenance agreement, perhaps according to the amount of frontage on the private road. In response to questions from the Board, Mrs. Young stated that the applicant owns asphalt equipment and could maintain it at a nominal cost.

There was no one else to speak in support or in opposition. Mr. Gary DiVito of 12815 Oxon Road asked the Board for clarification as to whether the surrounding property owners would be required to contribute to the cost of constructing the road or just maintaining it. He was informed that he would be responsible for maintenance only.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-C-008 by HAROLD E. DOSS/ROGER A. YOUNG under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, each having width of 16.67 (150 ft. min. lot width req. by Sect. 3-106), on property located at Oxon Road, tax map reference 35-4((1))33, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 30, 1985; and

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

1. That the owner of the property is Harold E. Doss and the contract purchaser is Roger A. Young.
2. The present zoning is R-1.
3. The area of the lot is 6.3613 acres.

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 subject property due to the lack of area for a septic field.
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 (1) lot into three (3) lots as shown on the plat submitted with this application.

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 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 Provision, of the Fairfax County Code.
4. Adequate sight distance shall be provided in accordance with applicable standards as determined by the Director, DEM.
5. The disrupted area which was subjected to prior mining of sand shall be restored.
6. A trial shall be constructed along the frontage of the property.
7. Development of this site shall be subject to provisions of the Water Supply Protection Overlay District.
8. The ingress-egress easement shall have a minimum paved width of twenty (20) feet.
9. That the applicant shall record an agreement in the County Land Records to convey the legal right to use the fifty (50) foot ingress/egress easement to the owners of parcels 26, 27, 28 and 29, subject to the owners of these lots agreeing to contribute to the maintenance of the driveway and easement after construction is completed.

Mr. Ribble seconded the motion.

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

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Page 399, April 30, 1985, Scheduled 10:15 A.M. case called at 10:55 A.M. (TAPE 1)

10:15 A.M. J. C. DENNIS, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 10 ft. from each side lot line (15 ft. min. side yard req. by Sect. 3-207), located 3313 Collard St., R-2, Valley View Subd., Lee Dist., 92-2((19))48, approx. 10,800 sq. ft., VC 85-L-011.

Ms. Cheryl Hamilton presented the staff report. She informed the Board that Mr. Dennis also owned the adjoining lot 47 where a variance had been granted to locate a dwelling 10 feet from each lot line. The present lot was undeveloped.

Mr. J. C. Dennis of 2390 Beacon Hill Road in Alexandria informed the Board that he wanted to develop lot 48 similar to the variance which had been granted on lot 47. He explained that this is an old subdivision and is currently zoned R-2. It is an exceptionally narrow lot and does not conform with the present Ordinance requirements. Mr. Dennis stated that the development would be in keeping with the other dwellings in the neighborhood.

Mrs. Dorothea Morris spoke in support. She informed the Board that she had no problem with Mr. Dennis building 10 ft. from each side lot line as it was impossible to build it in compliance. There was no one to speak in support and no one to speak in opposition.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-L-011 by J. C. DENNIS under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 10 ft. from each side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 3313 Collard Street, tax map reference 92-2((19))48, 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 30, 1985; and

WHEREAS, the 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 10,800 sq. ft.
4. That there is a 15 ft. min. side yard required and the lot is only 60 ft. in width. The proposed development is similar to others in the neighborhood and would not be adverse to the area. It is a difficult property to develop. The next door neighbor has no problem with the setback being decreased to 10 ft.

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.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Hammack and Mrs. Thonen being absent).

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Page 400, April 30, 1985, Scheduled 10:30 A.M. case called at 11:00 A.M. (TAPES 1 & 2)

10:30 A.M. KINDER-CARE LEARNING CENTERS, INC./RAVENSWORTH ROAD VENTURE, A VIRGINIA GENERAL PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow construction of building to 13.17 ft. from street line of a corner lot (25 ft. min. front yard req. by Sect. 4-207), and to permit outdoor recreation area of child care center to be located in the front yard (Sect. 8-305 requires that it be outside the req. front yard), located Ravensworth Rd., Mason Dist., C-2, 71-1((9))4A, approx. 33,140 sq. ft., VC 84-M-146.

Ms. Cheryl Hamilton presented the staff report. In addition, she presented revised plats from the applicant which addressed staff's concern regarding a connecting travel lane to the north. Ms. Hamilton informed the Board that the use is permitted by right and the applicant is requesting 112 children. This matter is before the Board because of the need for a variance to locate the structure closer to the front lot line than allowed and to locate the play area in the front yard.

In response to questions from the Board, Ms. Hamilton stated that because this is a variance, staff's concerns were to the setback of the building and the play area located in the front yard. She indicated that the dedication has been addressed in the revised plats. Because the entrance could cause a traffic conflict, the applicant has connected with the travel lane so the problem has been resolved. Ms. Hamilton noted that the redesign of the parking lot would eliminate some of the parking spaces. She informed the Board that staff could not limit the number of children as the use was allowed by right in the C-2 zone.

Mr. Frederick Taylor of 8134 Old Keene Mill Road in Springfield represented Kinder-Care Learning Centers, Inc. He indicated that they had met with Supervisors Moore and Davis to discuss the site. It is a good location for a day care center despite its irregular shape. Mr. Taylor stated that the topography dictates the location of the building. He indicated that staff raised some valid concerns regarding the play area and the size of the building. However, Kinder-Care Learning Centers, Inc. has experience in these matters and applies a different set of standards.

The Board challenged the need for a variance as being self-imposed due to the size of the structure. Mr. Taylor responded that the building can't be moved due to the location of a 60 inch pipe and culvert. The building has been designed specifically in accordance with Kinder-Care standards. The square footage allotted for the play area will allow toddlers to be separated from the other children. There will be an 8 foot masonry barrier separating the play area from the roadway. John Marr Drive is not constructed for this portion of the property. Mr. Taylor informed the Board that this property has been the subject of other proposed uses which have been denied. It is the only property in the immediate area left to be developed. Mr. Taylor informed the Board that the floor area ratio of the proposed building is one-fourth to one-third of the maximum allowed in the C-2 zone. He indicated that the child care center would take up less space than an office building.

In response to questions from the Board concerning a reduction in the size of the building, Mr. Taylor indicated that it would reduce enrollment by approximately 20 percent. He indicated that the size of the building is necessary to accommodate the classrooms, hallways and walls. Kinder-Care does not use an open-classroom concept. In further response to questions from the Board, Mr. Taylor indicated that a previously approved Kinder-Care Learning Center for 80 children has the same size building as what is presently proposed in this application. The building can accommodate 120 children.

(Mr. Hammack arrived at the meeting at 11:25 A.M.)

In summary, Mr. Taylor informed the Board that if the project could not be a viable operation, Kinder-Care Learning Centers, Inc. would have to walk away from it. He stated that Kinder-Care believes this to be a good location. They have built and operated over 1,000 day care centers.

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

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Page 401, April 30, 1985 Board of Zoning Appeals
KINDER-CARE LEARNING CENTERS, INC.

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-M-146 by KINDER-CARE LEARNING CENTERS, INC./RAVENSWORTH ROAD VENTURE, A VIRGINIA GENERAL PARTNERSHIP, under Section 18-401 of the Zoning Ordinance to allow construction of building to 13.17 ft. from street line of a corner lot (25 ft. min. front yard req. by Sect. 4-207), and to permit outdoor recreation area of child care center to be located in the front yard (Sect. 8-305 requires that it be outside the req. front yard), on property located at Ravensworth Road, tax map reference 71-1((9))4A, 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 30, 1985; 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 C-2.
3. The area of the lot is 33, 140 sq. ft.
4. That the applicants' property has an unusual configuration and shape. The Board has received testimony that there are substantial topographic conditions which preclude the construction of the building in any location other than the one proposed by the applicant. The applicant has indicated testimony concerning the size of the structure and the number of children who would be accommodated. The applicant has the right to develop the property with a child care center because of the nature of the existing zoning. In addition, the applicant should be commended on the subject of the playground to the extent that it exceeds that what is required by the State

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.
4. Transitional Screening 1 and barrier requirements shall be provided as follows:
   - A 25 foot transition yard shall be provided along the southern front lot line, except in the locations where the proposed building encroaches into the required transitional screening yard.
   - The planting requirements within the transition yard may be modified; the amount, location, and size of the plantings shall be determined by the Director, DEM.
   - Barrier D, E, or F shall be provided to enclose the outdoor recreation area.

R E S O L U T I O N

5. The proposed outdoor recreation area shall be redesigned so that it does not encroach into the required transitional screening yard.

Mr. DiGiulian seconded the motion.

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

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Page 403, April 30, 1985, Scheduled 10:45 A.M. cases called at 11:35 A.M. (TAPES 2 & 3)

10:45 A.M. HOLY SPIRIT CATHOLIC CHURCH, appl. under Sect. 3-103 of the Ord. for addition of rectory and administration building to existing church and related facilities, located 8800 Braddock Rd., R-1, Canterbury Woods, Annandale Dist., 69-4((4))1, 2, 3, 4 and 70-3((1))5, approx. 15.32008 ac., SP 85-A-007.

10:45 A.M. HOLY SPIRIT CATHOLIC CHURCH/JOHN R. KEATING, BISHOP, appl. under Sect. 18-401 of the Ord. to allow construction of building additions to church facilities to 30 ft. from front lot line (40 ft. min. front yard req. by Sect. 3-107), located 8800 Braddock Rd., R-1, Canterbury Woods, Annandale Dist., 69-4((4))1, 2, 3, 4 and 70-3((1))5, approx. 15.32008 ac., VC 85-A-010.

Ms. Cheryl Hamilton presented the staff report which recommended denial of the special permit application unless an additional 75 parking spaces could be provided in accordance with the general standards under Sect. 8-006 of the Zoning Ordinance. Specifically, paragraph 7 requires that parking be in accordance with the provisions of Article 11.

For background purposes and in response to questions from the Board, Ms. Hamilton noted that the church was constructed in 1966 and was not subject to special permit approval. At that time, the requirements were such that one parking space was required for every five seats. Therefore, only 300 parking spaces were required as the sanctuary contained 1500 seats.

Ms. Hamilton informed the Board that in considering the present special permit application, the Zoning Ordinance has changed and the parking requirements are more stringent. As this church is not under special permit approval, Ms. Hamilton cited the BZA's policy of having the present special permit request for an addition comply with the current Zoning Ordinance requirements. Under the current regulations, the church is short 75 parking spaces of the required 375. In addition, staff is concerned about the tandem parking used by the church.

After discussion of the problem with the applicant, Ms. Hamilton informed the Board of the church's desire to reduce the number of seats in the sanctuary by recalculating the formula used to arrive at the number of seating. In 1966, the measurement of 18 inches per seat was used to determine the maximum seating capacity. The church suggested a new measurement of 22 inches per seat as being more realistic. However, after researching the Architecture Graphic standard handbook, Ms. Hamilton determined that a measurement of 18 to 20 inches is the standard size of a church seat.

Ms. Hamilton informed the Board that after recalculating the seating capacity using 20 inches versus 18 inches, the church is still short 38 parking spaces. The 1966 site plan showed right angle parking for a total of 300 parking spaces. The present plat indicates 388 tandem parking spaces which is not permitted in Fairfax County. Ms. Hamilton stated that the church could reduce the amount of area per parking space by providing some compact spaces. However, this alternative would require the applicant to provide additional landscaping.

The Board questioned staff regarding the need for additional parking since the proposed additions would not increase parking needs. She indicated that staff cannot overrule the Zoning Ordinance which requires one parking space for every four seats. The special permit has to meet the general standards. Since it cannot meet the requirements of paragraph 7 with respect to parking, staff cannot look favorably upon the application. Ms. Hamilton noted that staff has worked diligently with the applicant. If the seating capacity is recalculated using the 20 inch measurement, it would decrease the additional parking required from 75 to 38 spaces. If the church were permitted to recalculate seating capacity based on 22 inches per seat, the church would still need to provide an additional 7 parking spaces and Ms. Hamilton was uncertain whether they were willing to do so. The Board questioned why the church is not grandfathered. Ms. Hamilton responded that anytime a change is requested, the use has to comply with the current Zoning Ordinance. Ms. Hamilton noted that the other portions of the special permit dealt with construction of a three car garage and a rectory to accommodate three parish priests.

Mr. William Enderle, Supervisor of Property Management for the Catholic Diocese of Arlington, introduced Rev. Msgr. James W. McMurtrie who informed the Board that the present residences for the priests adjoined the church site. In bad weather, the priests have to drive or walk the one block to the site. Holy Spirit parish serves over 9,000 members. It is the church's desire to construct a rectory to accommodate the priests on site as well as provide a private counseling area lacking in the existing residences.

Msgr. McMurtrie described the proposed building as two-pronged with the first floor facing Woodlawn Way. He indicated that the church would not be adding more staff but just relocating its present staff. The third floor of the building would be comprised of four private suites with a sitting room and study for each priest. Msgr. McMurtrie stated that the church is seeking a variance to locate the building 30 feet from the street line. It would not impact the neighborhood as no other houses would be built along Woodland Way.

With respect to the parking situation, Msgr. McMurtrie stated that the present tandem arrangement accommodates 388 vehicles. The parking could be reduced to 375 spaces by reevaluating the parking. Msgr. McMurtrie jokingly stated that the church could claim a fatter parish and reduce the seating. In addition, the church could construct compact parking and landscaping aisles, but the children would trample any landscaping. The church holds six masses every weekend which last approximately one hour . The masses are scheduled 1 1/2 hours apart. With the tandem parking, the lot can be emptied in 15 minutes. The church does not want to provide additional parking as it would eliminate the grassy areas. Msgr. McMurtrie stated that additional 75 parking spaces would do nothing to enhance the parking. The parking is used only for several hours on Sunday. Msgr. McMurtrie assured the Board that the church has more parking than what is needed.

Mr. John F. Herrity, Chairman of the Fairfax County Board of Supervisors, and Mrs. Audrey Moore, Supervisor of the Annandale District, spoke in support of both the variance and special permit applications. Both speakers supported the present tandem parking arrangement as there has not been any problems with overflow parking during the past years.

Mrs. Moore noted that staff addressed significant traffic problems along Braddock Road and Burke Lake Road. Braddock Road is being widened to eight lanes which poses a problem for the children attending Holy Spirit School. Mrs. Moore noted that the widening of Braddock Road would also cause problems in left hand turns for the traffic attending Parkwood Baptist Church next door. Staff recommends that an interparcel access be constructed. However, Holy Spirit church is concerned about its liability with such an arrangement. After checking with VDH&T, Mrs. Moore determined that a traffic light would not be installed which would function at all times. Mrs. Moore informed the Board that Msgr. McMurtrie has agreed to work with her regarding the situation. Accordingly, she requested the Board to leave the interparcel access issue to be worked out between her office and the church.

There was no one else to speak in support or in opposition to the applications. For clarification purposes regarding the interparcel access, Ms. Hamilton noted that the Office of Transportation recommended interparcel coordination. Staff proposes another development condition to be entitled no. 7 to read as follows:

> "Coordination of the access with adjacent lot 6 shall be provided as mutually agreed to by the applicant and the owner of lot 6 (which is Parkwood Baptist Church). Coordination of the access shall be subject to the approval of the Director of DEM after coordination with the Office of Transportation."

Ms. Hamilton explained that the reason for requiring the interparcel connection is because Braddock Road is currently under a road bond project. There will be a raised median along Braddock Road and there will not be an opportunity for traffic to make a left turn at this location.

During rebuttal, Msgr. McMurtrie assured the Board that he and Mrs. Moore have discussed the traffic problems. He disagreed with staff's analysis regarding the left turn situation because curbing has already been constructed and a left turn is available. With regard to the interparcel access for Parkwood Baptist Church, Msgr. McMurtrie expressed concern about Holy Spirit's liability for accidents occurring on its property. Because he is also concerned about the safety of his neighbor, Msgr. McMurtrie indicated that perhaps Parkwood Baptist Church could sign a waiver. In closing, Msgr. McMurtrie expressed dissatisfaction about receiving the staff report on Friday as he was under the impression that they were mailed ten days ahead of the hearing.

The Board questioned staff as to whether the BZA has the legal authority to require interparcel access. Ms. Hamilton responded that it is a requirement of the Site Plan Ordinance. Msgr. McMurtrie indicated that he believed that requirement was for a service road. Mrs. Moore asked that the Board not make the interparcel access a condition of the special permit as it would come up at the time of site plan. She promised to work with Msgr. McMurtrie and was convinced that he would cooperate.

HOLY SPIRIT CATHOLIC CHURCH

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-A-007 by HOLY SPIRIT CATHOLIC CHURCH under Section 3-103 of the Zoning Ordinance to permit addition of rectory and administration building to existing church and related facilities, on property located at 8800 Braddock Road, tax map reference 69-4((4))1, 2, 3, 4 and 70-3((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 April 30, 1985; 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 15.32008 acres.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-303 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 maximum number of seats shall be 1500, with a corresponding minimum of 300 parking spaces, with an option for the church to provide such parking in a configuration of 388 tandem parking spaces until there is a further expansion in the use of the church, school, or in the uses associated with the property.
6. Transitional screening and barrier requirements shall be provided as follows:
   - A 25 foot transition yard shall be provided along all lot lines except the eastern lot line, however, the planting requirement within the yard may be modified provided the existing vegetation is retained and a single row of evergreen trees and/or shrubs are planted where there is not existing vegetation. The size, location and height of these plantings shall be determined by the Director, Department of Environmental Management.
   - The barrier requirement shall 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 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. Hyland seconded the motion.

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

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-A-010 by HOLY SPIRIT CATHOLIC CHURCH/JOHN R. KEATING, BISHOP, under Section 18-401 of the Zoning Ordinance to allow construction of building additions to church facilities to 30 ft. from front lot line (40 ft. min. front yard req. by Sect. 3-107), on property located at 8800 Braddock Road, tax map reference 69-4((4))1, 2, 3, 4 and 70-3((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 April 30, 1985; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 15.32008 acres.
4. That the applicant's property has an extraordinary situation or condition in the use of the property in so far as it is a 15 acre site developed for institutional purposes and is unique in a topographical situation due to the location of the buildings, sidewalks, roadways and landscaping.

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.

Mr. DiGiulian seconded the motion.

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

Page 407, April 30, 1985, Recess

The Board recessed for lunch at 12:30 P.M. and returned at 1:40 P.M. to continue with the scheduled agenda. Mr. DiGiulian did not return to the meeting.

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Page 407, April 30, 1985, Scheduled 11:15 A.M. case called at 1:40 P.M. (TAPE 3)

11:15 A.M. RUSSELL A. AND MARY B. FINK, appl. under Sect. 3-103 & 8-901 of the Ord. for a home professional office (art dealer) with modification of the dustless surface requirement, located 9845 Gunston Rd., R-1, Lee Dist., 113-2((1))14, approx. 2.0 acres, SP 85-L-008.

Ms. Cheryl Hamilton presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. She amended development conditions 5 and 7 to include part of the garage as office use and to limit the minimum number of parking to six spaces which would accommodate the applicant's two vehicles as well as the employees' four vehicles. If clients visit the site, Ms. Hamilton indicated that there might be a need for additional parking.

Mr. Frank Sterns, an attorney located at 4020 University Drive in Fairfax, represented the applicant who is a professional art dealer with a mail order business. Ms. Sterns presented the Board with catalogs of the artwork for sale. Clients rarely visit the site and seen by appointment only. There are three part-time employees and one fulltime employee. Mr. Sterns explained the need for Mr. Fink's business being located in his home. The artwork is very valuable. Mr. Fink's home has been designed to provide 24 hour security as well as temperature and humidity control which cannot be provided in a normal office building. Mr. Sterns indicated that Mr. Fink's business has been in operation without any problems. The need for a special permit of the business was called to their attention by the Zoning Administrator. Mr. Sterns informed the Board that Mr. Fink accepted the development conditions including the amendments. With regard to the modification to the dustless surface requirement, there is a gravel parking area next to Mr. Fink's residence. This would not affect drainage or erosion. Mr. Sterns urged the Board to approve the special permit request.

There was no one else to speak in support. The Board was in receipt of support letters from Mr. and Mrs. James Smith of 9915 Gunston Road and William H. Taft, IV of 9829 Gunston Road. There was no to speak in opposition.

Page 407, April 30, 1985 Board of Zoning Appeals
RUSSELL A. AND MARY B. FINK
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-L-008 by RUSSELL A. AND MARY B. FINK under Section 3-103 and 8-901 of the Zoning Ordinance to permit home professional office (art dealer) on property located at 9845 Gunston Road, tax map reference 113-2((1))14, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 30, 1985; 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.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-907 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

RESOLUTION

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. This shall not preclude any additions or accessory uses or structures which are for the residential use of the property.

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 use shall be limited to the existing office in the part of the dwelling adjacent to and including the garage, which is approximately 1,651 square feet.

6. The hours of operation shall be from 9:00 A.M. to 5:00 P.M., Monday through Friday.

7. There shall be a maximum of five (5) employees on site at any one time and a corresponding minimum of six (6) and a maximum of eight (8) parking spaces shall be provided.

8. All gravel surface areas shall be constructed in accordance with standards approved by the Director, Department of Environmental Management (DEM). This condition shall be satisfied within six (6) months.

9. This approval for modification to the dustless surface requirement shall be for a period of five (5) years.

10. There shall be no more than one (1) client vehicle on site at any one time.

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 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 to 0 (Mr. DiGiulian being absent).

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Page 408, April 30, 1985, Scheduled 11:30 A.M. case called at 1:55 P.M. (TAPE 3)

11:30 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; 5/1/84; 6/5/85; 6/14/84; and 6/19/84 TO ALLOW STAFF TIME TO SUBPOENA THE CONTRACTOR RESPONSIBLE FOR THE WORK THAT HAD BEEN DONE IN ERROR.)

Chairman Smith called for Mr. Powers, the contractor in the above-described variance, but he failed to respond to the call. Mr. William Shoup assured the Board that the sheriff of Westmoreland County had served a subpoena on Mr. Powers indicating the time and date for his appearance before the Board of Zoning Appeals. It was the consensus of the Board to have staff follow up on this matter by having the County Attorney's Office take whatever steps were necessary to ensure Mr. Powers' appearance on the deferred date of May 14, 1985 at 9:55 A.M.

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Page 408, April 30, 1985, Scheduled 1:00 P.M. case called at 2:05 P.M. (TAPES 3 & 4)

1:00 P.M. COLVIN RUN PARTNERSHIP, appl. under Sect. 18-401 of the Ord. to allow subdivision into *seven (7) lots, proposed lots 3, 4 and 5 having widths of 113.98 ft., 6.34 ft. & 6.40 ft. respectively, and proposed corner lots 1 and 7 having widths of 145 ft. and 154.64 ft. respectively (150 ft. min. interior lot width, 175 ft. min. corner lot width req. by Sect. 3-106), *applicant amended application subsequent to advertising of public hearing to request subdivision into six (6) lots, with proposed lot 1 having width of 130.29 ft. (175 ft. min. corner lot width req. by Sect. 3-106), located 10216 Colvin Run Rd., R-1, Dranesville Dist., 12-4((1))35, approx. 8.6827 ac., VC 84-D-137. (DEFERRED FROM MARCH 12, 1985 FOR ALTERNATE DEVELOPMENT PLAN WITH FEWER VARIANCES REQUESTED).

Ms. Cheryl Hamilton presented the staff report and informed the Board that the applicant has provided revised plats as requested which requests a subdivision into six lots with only one lot requiring a variance.

Mr. Michael Giguere, an attorney with the firm of Boothe, Prichard and Dudley in Fairfax, represented Colvin Run Partnership. He indicated that they were requesting only one variance for the property currently zoned R-1. Mr. Giguere indicated that the variance would not have any adverse environment impacts. The applicant has worked with the citizens. Floodplain is located towards the rear of the narrow lot. Adequate perc sites have been approved by the Health Department.

Originally, the applicant was requesting subdivision into seven lots with five variances. Mr. Giguere stated that the current proposal is a much better plan as the applicant has worked hard to reduce the five requested variances to one. The proposed subdivision has been reduced from 7 lots to 6 lots and the odd-shaped lot has been eliminated. Mr. Giguere informed the Board that a variance would be required no matter how the property is developed because the road has to remain in the center of the property for sight distance. The owner of the adjacent property supports the present proposal. Mr. Giguere indicated that the proposal is in keeping with the rest of the neighborhood.

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

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Page 409, April 30, 1985 Board of Zoning Appeals
COLVIN RUN PARTNERSHIP

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-D-137 by COLVIN RUN PARTNERSHIP under Section 18-401 of the Zoning Ordinance to allow subdivision into *seven (7) lots, proposed lots 3, 4 and 5 having widths of 113.98 ft., 6.34 ft. & 6.40 ft. respectively, and proposed corner lots 1 and 7 having widths of 145 ft. and 154.64 ft. respectively (150 ft. min. interior lot width, 175 ft. min. corner lot width req. by Sect. 3-106), *applicant amended application subsequent to advertising of public hearing to request subdivision into six (6) lots, with proposed lot 1 having width of 130.29 ft. (175 ft. min. corner lot width req. by Sect. 3-106), on property located at 10216 Colvin Run Road, tax map reference 12-4((1))35, 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 12, 1985 and deferred until April 30, 1985 for alternate development plan with fewer variances requested; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 8.6827 acres.

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 and an extraordinary situation or condition of 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:

R E S O L U T I O N

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

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

1. This variance is approved for the subdivision of one lot into six (6) lots as shown on the revised plat received by the Office of Comprehensive Planning BZA Support Branch on April 24, 1985.
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 Provision, of the Fairfax County Code.
4. Access to all proposed lots shall be via one public street which is constructed in accordance with all applicable standards.
5. Dedication of right-of-way for public street purposes shall be provided along Colvin Run Road to 45 feet of the centerline.
6. A right turn deceleration lane along Colvin Run Road shall be dedicated and constructed.
7. Any development in the floodplain shall be subject to the provisions of Part 9 of Article 2.

Mrs. Thonen seconded the motion.

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

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Page 410, April 30, 1985

Mr. Hammack departed from the meeting at 2:20 P.M. and was not present for the after agenda items.

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Page 410, April 30, 1985, After Agenda Items

PROCTOR HATSELL PRIVATE SCHOOL, INC., S-100-76: The Board was in receipt of a memorandum from staff regarding the request of Mr. Claude A. Wheeler for an administrative name change of Special Permit S-100-76 issued to Proctor Hatsell Private School, Inc. at 7136 Telegraph Road, tax map reference 91-4((3))12. Mr. Wheeler requested that the name be changed to Heritage Academy & Child Care Center at Proctor Hatsell, Inc.

Mrs. Thonen moved that the Board approve the change in name as recommended by staff. Mrs. Day seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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Page 410, April 30, 1985, After Agenda Items

BURKE CENTER ACADEMY & DAY CARE CENTER, S-82-S-006: The Board was in receipt of a memorandum from staff regarding the request of Mr. Claude A. Wheeler for an administrative name change of Special Permit S-82-S-006 issued to Burke Center Academy & Day Care Center at 6215 Poburn Road, tax map reference 77-4((1))10. Mr. Wheeler requested that the name be changed to Heritage Academy & Child Care Center at Burke Centre, Inc.

Mrs. Thonen moved that the Board approve the change in name as recommended by staff. Mrs. Day seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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Page 411, April 30, 1985, After Agenda Items

HERNDON CHURCH OF CHRIST PRESCHOOL, S-214-74: The Board was in receipt of a memorandum from staff regarding the request of Mr. Jerris Bullard, Minister of the Church of Christ, for an administrative name change of Special Permit S-214-74 issued to Herndon Church of Christ Preschool located at 11309 Georgetown Pike, tax map reference 11-2((1))25. Mr. Bullard requested that the name be changed to Children's School of Great Falls.

Mrs. Thonen moved that the Board approve the change in name as recommended by staff. Mrs. Day seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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Page 411, April 30, 1985, After Agenda Items

THE CHURCH IN DUNN LORING, SP 85-P-016: The Board was in receipt of a request for an out-of-turn hearing regarding the special permit application of the Church in Dunn Loring located at 2317 Morgan Lane and 7820 Railroad Street, tax map reference 39-4((1))161 & 162. The application is presently scheduled for an evening meeting of July 16, 1985.

Mr. Hyland moved that the out-of-turn hearing be approved and that the special permit be scheduled for July 9, 1985. Mr. Ribble seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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Page 411, April 30, 1985, After Agenda Items

THE SWIM & TENNIS CLUB AT FAIRFAX STATION, INC., SPA 83-S-012-1: The Board was in receipt of a memorandum from staff regarding submission of revised plats for BZA approval concerning The Swim & Tennis Club at Fairfax Station, Inc. located at 6203 Arrington Drive, tax map reference 77-3((6))438A, 540 & 541. The revised plats involved certain changes and additions to the club facility as a result of the Board's approval of the development conditions at the public hearing on November 8, 1984.

It was the consensus of the Board to approve the revised plats and Ms. Kelsey was directed to sign the Chairman's name on the revised plats.

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Page 411, April 30, 1985, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for April 16, and April 22, 1985. Mr. Hyland moved that the Minutes be approved as submitted. Mrs. Thonen seconded the motion and it passed by a vote of 5 to 0 (Messrs. DiGiulian and Hammack being absent).

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Page 411, April 30, 1985, Board Discussion

DISCUSSION OF BZA HEARING FOR MAY 7, 1985: Ms. Jane Gwinn, Zoning Administrator, informed the BZA that on April 29, 1980, the Board of Supervisors adopted a Zoning Ordinance amendment with respect to churches and other places of worship. By virtue of the Board's action, the Zoning Administrator's Interpretation No. 52 is superceded making it null and void. Ms. Gwinn indicated that it is the position of the County Attorney's Office that the appeals presently scheduled for May 7, 1985 regarding the Zoning Administrator's Interpretation No. 52 are now moot.

Further discussion followed among the Board and Ms. Gwinn regarding whether the appeals have to be formally withdrawn by the BZA. At the conclusion of the discussion, it was decided that the BZA does not need to meet on May 7th to take any action with respect to the appeals. As there are not any other scheduled applications on the agenda, the Clerk was directed to cancel the meeting and notify any interested citizens by posting a cancellation notice on the meeting door.

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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

Daniel Smith
Daniel Smith, Chairman

APPROVED: May 14, 1985
Date

Submitted to the Board on May 9, 1985.

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 14, 1985. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack (arriving at 10:45 A.M. and departing at 4:15 P.M.); 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 for Matters Presented by Staff Members (TAPE 1)

10:00 A.M. CHARLES F. SCHEIDER, III, VC 84-M-101: Consideration of request for waiver of twelve month limitation on rehearing of application.

The Board was in receipt of a memorandum from staff setting forth the background of the variance application which had been denied by a 3 to 3 vote in 1984. Following review of the memorandum and the statements from the applicant, Mr. Hyland moved that the Board grant the waiver request. Mr. Ribble seconded the motion and it passed by a vote of 3 to 1 (Mr. Smith)(Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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Page 412, May 14, 1985, Scheduled 9:55 A.M. case called at 10:15 A.M. (TAPE 1)

9:55 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; 5/1/84; 6/5/84; 6/14/84; 6/19/84 AND 4/30/85 TO ALLOW STAFF TIME TO SUBPOENA THE CONTRACTOR RESPONSIBLE FOR THE WORK THAT HAD BEEN DONE IN ERROR.)

Mr. Carlos A. Reyes of 3208 Spring Drive gave the Board a brief background of his variance request. He indicated that he was seeking permission for his garage to remain within the minimum side yard requirements. He assured the Board that non-compliance was done in good faith and would not create an unsafe condition. Mr. Reyes informed the Board that he was unaware of any permits involved. However, since attending the BZA hearings for the past year and a half, Mr. Reyes stated he has learned a lot and will never make the mistake again.

In response to questions from the Board, Mr. Reyes stated that he did not have a written contract with the building contractor who built the retaining wall and garage. Mr. Reyes stated that no discussion took place with the contractor concerning the need for a building permit or where the structure could be located. He further stated that he was unaware that a building permit was necessary. The cost of construction of the garage and retaining wall was $5,000 and Mr. Reyes' boat valued at $2,000.

Mr. Harold Powers, the contractor, of 15 Seahorse Drive in Colonial Beach, VA. informed the Board that he had advised Mr. Reyes that a building permit was necessary. Mr. Powers indicated that he had left the footings open for a day so they could be inspected. He stated that he was informed by Mr. Reyes that the footings had been inspected by the County building inspector.

The Board questioned whether Mr. Powers had asked to see the inspection sticker before proceeding with the job. He replied that most people do not post them and he had not asked for it. In response to further questions from the Board, Mr. Powers stated that he had performed other jobs in the area but they did not require a building permit. He stated that he did not have a written contract in this job because he was doing some trading with Mr. Reyes. Mr. Powers stated that he figured the cost of materials and built the structure at his convenience.

During rebuttal, Mr. Reyes stated that Mr. Powers had fixed the driveway and the retaining wall. When he was finished, they talked about other construction. Because he did not have much money, Mr. Reyes agreed to trade his boat for some of the work. Mr. Reyes stated that no discussion took place regarding a building permit.

Mrs. Day moved that the special permit application to allow the building to remain 5.2 feet from the side lot line be denied as the Board cannot tell whose fault it is that the requirements were not met. Mr. Ribble seconded the motion for purposes of discussion. Mr. Hyland stated that he could not support the motion. He indicated that he did not believe there ever was any conversation regarding the need for a building permit since this was an informal arrangement. Mr. Hyland did not believe that the builder concerned himself with the need for a building permit. Therefore, he was going to give the homeowner the benefit of the doubt.

Mr. Hammack arrived at the meeting at 10:45 A.M. and listened to the remaining discussion on the case.

The motion to deny failed by a vote of 2 to 2 (Messrs. Hyland and Ribble)(Mr. Hammack abstaining)(Mr. DiGiulian and Mrs. Thonen being absent).

Mr. Hyland made a motion to grant the special permit application in accordance with the development conditions contained in Appendix 1 of the staff report. Mr. Ribble seconded the motion.

During discussion, Mrs. Day indicated that she would reluctantly change her mind and support the motion as she hated to see the structure torn down. She further indicated that it is only in violation at one corner of the structure. Mr. Ribble stated that the supported the motion because he could not determine what happened or what had been said two or three years ago. Chairman Smith stated that he did not support the motion because it was the homeowner's responsibility to comply with the setback requirements. He stated that the contractor performed the work only after being informed that a permit had been obtained. In addition, Chairman Smith stated that the structure has not been properly inspected.

Mr. Hammack stated that he had abstained from the vote on the first motion. However, he indicated that he would like to participate in the vote but only after having an opportunity to hear the testimony of the contractor. Mr. Hammack requested that the Board defer decision to allow him an opportunity to review the transcript. Chairman Smith stated that it is the policy of the Board that only those members hearing a case are allowed to vote on the case. Mr. Hammack replied that he has heard part of the testimony.

Mr. Hammack moved that the Board defer decision for one week. Mr. Ribble seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith)(Mr. DiGiulian and Mrs. Thonen being absent). Decision was deferred until May 21, 1985 at 8:00 P.M.

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Page 413, May 14, 1985, Scheduled 10:00 A.M. case called at 11:05 A.M. (TAPES 1 & 2)

10:00 A.M. MARCIA LYNN CHASE, appl. under Sect. 18-401 of the Ord. to allow a 6 ft. high fence to remain in front yard (4 ft. max. height for fence in front yard req. by Sect. 10-104), located 3315 Holly Ct., R-3, Holmes Run Acres, Providence Dist., 59-2((8))(4)39, approx. 11,523 sq. ft., VC 84-P-139. (DEFERRED FROM MARCH 5, 1985 TO SUBPOENA FENCE CONTRACTOR & FOR DECISION AND FROM APRIL 16, 1985 AT REQUEST OF AGENT).

Mr. Robert Adams, an attorney in Fairfax, represented the applicant. He thanked the Board for deferring the application for a month to accommodate his schedule. Mr. Adams stated that the 6 foot fence where located is in violation as it is not considered a rear yard but a front yard. He asked that the fence be allowed to remain as the sight lines are excellent.

Mr. Adams stated a representative of Long Fence Company was present although it was not the person who sold the fence to Ms. Chase. There was no disclosure from Long Fence Company that the fence was in violation. Ms. Chase confirmed that she was not aware of the Ordinance requirements until she received a letter from the County. She stated that her neighbors and civic association supported her application for the fence to remain.

Mr. Jim McQuarry, Rt. 2, Box 71, Leesburg, VA., represented Long Fence Company. He stated that Mr. Michael King, the salesperson involved, was no longer employed with the company. Mr. McQuarry assured the Board that all the salespeople were aware of all County and State requirements. Mr. McQuarry stated that he did not know what discussions took place between Ms. Chase and Mr. King regarding the fence.

Chairman Smith inquired as to why the fence was installed in violation of the Code. Mr. McQuarry replied that the fence is attractive. He indicated that the contract called for a 4 ft. and a 5 ft. fence which still would have been in violation. In response to questions from the Board regarding the company's responsibility, Mr. McQuarry indicated that Long Fence installs 4,000 to 5,000 fences a year which all conformed to the Code requirements for the most part. He indicated that there have been a few exceptions. Mr. Hyland stated that this is not the first time Long Fence Company has been involved in variance applications before the BZA, some of which have been denied.

Mr. Adams presented support from Ms. Chase's neighbors (approximately ten people stood up). The Board noted written support received from the homeowners. Mrs. Kathleen West of 3318 Holly Court spoke in support and assured the Board that the fence did not interfere with the sight distance at the intersection. She further stated that the fence is necessary in order to keep Ms. Chase's two dogs on the property.

Mr. Robert N. Bodine of 6210 Greeley Boulevard in Springfield spoke in opposition to the variance. He indicated that the fence should be cut back to 4 feet. Mr. Bodine stated that the dogs have nothing to do with the variance under the Ordinance requirements. There was no one else to speak in support or in opposition.

During rebuttal, Mr. Adams stated that the applicant complies with the variance standards. He stated that the applicant acquired the property in good faith. The property has a lot of side yard and very little back yard. It would be a $2200 loss to the applicant if the fence is removed. The fence does not cause a hardship or impact on the community and authorization of the variance would not cause a substantial detriment.

Mr. Hyland stated that he was concerned about further instances of fences in front yards, particularly involving Long Fence Company. He stated that perhaps there need to be severe penalties imposed on the companies.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 84-P-139 by MARCIA LYNN CHASE under Section 18-401 of the Zoning Ordinance to allow a 6 ft. fence to remain in front yard (4 ft. max. height for fence in front yard req. by Sect. 10-104), on property located at 3315 Holly Court, tax map reference 59-2((8))(4)39, 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 5, 1985; deferred until April 16, 1985 in order to subpoena fence contractor; and deferred until May 14, 1985 at the request of the applicant's attorney; and

WHEREAS, the 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 11,523 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. Ribble seconded the motion.

During discussion, Mr. Hammack noted that his motion to deny the variance was made without enthusiasm. However, he informed the applicant that the BZA has had worse cases where it required a fence to be reduced in height. He stated that he was familiar with this neighborhood. Mr. Hammack felt that the lot is not that unusual and does not meet the criteria that would allow the 6 foot fence to remain. The double front yard is a requirement of the Zoning Ordinance. He stated that perhaps the Ordinance needs to have some relief to allow a fence in one of the front yards. Mr. Hammack cited previous zoning variances which had been denied by the BZA involving much larger dogs and another front yard fence situation having reverse frontage which was located off of Rt. 236 on Prince William Street.

Mr. Hyland stated that he had inquired of the Clerk and determined that the BZA has granted a few variance cases involving fences where the headlights of traffic shone into the home. Another variance involved a chain link fence on Gallows Road where trash from a commercial establishment was blowing over onto the adjacent residential property. Mr. Hyland cited another example of where the BZA allowed a fence to remain near Wolftrap because of road widening.

Mr. Ribble stated that the Wolftrap case was only a partial granting as the Board had allowed a 6 foot fence on one side of the property but required a 4 foot fence on the other side.

Chairman Smith stated that Mr. Hammack had presented a good history of the Board's position on variances to allow 6 foot fences.

Mr. Hyland stated that this is an unusual case. He indicated that he was going to oppose the motion as there was not any sight distance problem with the fence. Further, the height of the fence is determined by the Ordinance but there are guidelines and protection to ensure that there is not a negative impact with the erection of a certain size fence. Mr. Hyland stated that the fence is not offensive and there is support from the neighborhood for it to remain. He indicated that the neighborhood support was very persuasive. The abutting property owners do not have problem with it. The applicant relied upon the fence contractor. Mr. Hyland stated that he did not know whether the fence contractor had made it known to the applicant that there was a problem with the 6 foot fence in the front yard. Mr. Hyland felt that the BZA has to bend if there is not a negative impact on the community.

Mr. Hammack countered that most of the fence variances do not have sight distance problems connected with them. There was not any sight distance problem with the Orchard variance request. He was unsure whether the variance request for Gallows might have had a sight distance problem. Mr. Hammack indicated that Ms. Chase's property was very typical of the development in the area. He further stated that he did not enjoy making the motion to deny the variance.

Chairman Smith stated that he was going to support the motion because the application did not meet the standards set forth for the granting of a variance.

Mr. Hammack added that the applicant's request for an additional 2 feet in the height of the fence in order to retain the dogs on her property was contrary to the standards for the granting of a variance as it was a privilege or convenience sought by the applicant. Mr. Hammack stated that if you grant a 6 foot fence to one person, you would have to grant it to anybody else.

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

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Page 415, May 14, 1985,

Chairman Smith announced that the Board would hear the next case and then recess for lunch.

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Page 416, May 14, 1985, Scheduled 10:15 A.M. case heard at 11:50 A.M. (TAPE 2)

10:15 A.M. EDUARDO R. ILANO, appl. under Sect. 18-401 of the Ord. to allow subdivision into three (3) lots, proposed lots 2 and 3 having widths of 12.04 ft. and 12.05 ft. respectively (80 ft. min. lot width req. by Sect. 3-306), located 8008 Fordson Rd., R-3, Mt. Vernon Dist., 102-1((1))61, approx. 1.0468 ac., VC 85-V-013.

Mr. Hyland moved that the variance application of Eduardo R. Ilano be deferred because the subject property is located in an area designated as a conservation district. He indicated that it is his understanding that in connection with any development in the Gum Springs area that the developer first meet with representatives of the community to discuss the plans. Mr. Hyland informed the Board that this has not occurred in this instance and the community does want the opportunity to meet with the developer.

Mr. Hyland noted that his second reason for requesting deferral concerns the issue of whether the property was properly posted with the time and date of the hearing. Accordingly, he moved that the variance application be deferred for a reasonable period of time to allow representatives of the community to meet with the developer.

Mrs. Beckman of 405 N. Fayette Street in Alexandria represented Saunders B. Moon Community Action Group. She indicated that she supported the request for deferral since this property is in a conservation district. She stated that Mr. Ilano has a responsibility to come before the community and discuss his plans. In addition, Mrs. Beckman stated that the posting of the sign was grossly inadequate as it did not contain a case number or time and date of the hearing. In addition, Mrs. Beckman stated that the phone number listed on the sign was incorrect.

Following further discussion with Mrs. Beckman, it was the consensus of the Board to defer the variance application until June 11, 1985 at 1:45 P.M. for reposting and to allow the applicant to meet with the community representatives.

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Page 416, May 14, 1985, Recess

The Board recessed for lunch at 12:05 P.M. and reconvened at 1:05 P.M. to continue with the agenda.

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Page 416, May 14, 1985, Executive Session

At 1:05 P.M., Mr. Hammack moved that the Board adjourn into Executive Session to discuss legal matters involving the Wells Olmstead variance. Mr. Ribble seconded the motion and it passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

The Board reconvened at 2:10 P.M. to continue with the scheduled agenda.

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Page 416, May 14, 1985, Scheduled 10:30 A.M. case called at 2:10 P.M. (TAPE 3)

10:30 A.M. HALIM Y. KORZYBSKI, appl. under Sect. 8-901 of the Ord. for reduction to minimum yard requirements based on error in building location to allow dwelling to remain 30.9 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), located 321 Springvale Rd., R-E, G.L. Sekel Subd., Dranesville Dist., 3-4((3))6, approx. 82,201 sq. ft., SP 85-D-011. (OUT-OF-TURN HEARING GRANTED)

Mr. William Shoup presented the staff report. Mr. Halim Korzybski of 6810 Little River Turnpike in Annandale informed the Board that he was a small builder and only builds one house a year. He stated that he has built eight custom homes in the past, all of which were located the proper distance from the property line. In this instance, he stated that he obtained all the proper permits and requested inspections of the property. The mistake was discovered after the inspection and he was advised to apply for a special permit to remedy the situation. Mr. Korzybski stated that he has never made mistakes in building before. This is the first home he has built in the Great Falls area.

Mr. Korzybski informed the Board that he is an architect. The subject property is a very difficult lot having many angles. Mr. Korzybksi stated that he apparently miscalculated the distance of the house by measuring from the centerline of the road rather than from the front lot line. He stated that the house is located in the woods and he has tried to build the home while still preserving the trees. The house has to face south because of the passive solar system. Mr. Korzybski apologized for the error. He stated that the home is located off of a gravel road that does not have much traffic.

In response to questions from the Board, Mr. Korzybski stated that there was plenty of room to properly locate the home. He indicated that he had erred in the measurement. Mr. Korzybski stated that he could not afford to make mistakes as he builds houses for sale.

The Board questioned whether the County double-checked the measurements during the inspection. Mr. Korzybski replied that he had caught the mistake himself after he had invested $90,000 in the home. He stated that the County checks the footings but it is the builder's responsibility to check the measurements. Mr. Korzybski stated that the error was his fault. It was discovered after the roof and siding were completed. Mr. Korzybski assured the Board that he would hire an engineer the next time he builds a home in Fairfax County.

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

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Page 417, May 14, 1985 Board of Zoning Appeals
HALIM Y. KORZYBSKI

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Ribble made the following motion:

WHEREAS, Application No. SP 85-D-011 by HALIM Y. KORZYBSKI 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 30.9 ft. from front lot line (50 ft. min. front yard req. by Sect. 3-E07), on property located at 321 Springvale Road, tax map reference 3-4((3))6, County of Fairfax, Virginia has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on May 14, 1985; 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 special permit 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 special permit 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 or other structures on the same land.

2. The Building Permit application shall be amended to reflect the actual location of the dwelling.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

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Page 418, May 14, 1985, Scheduled 10:45 A.M. case called at 2:25 P.M. (TAPE 3)

10:45 A.M. JAY FERNANDEZ, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 17 ft. from street line of a corner lot (20 ft. min. front yard req. by Sect. 3-307), located 10353 Commonwealth Blvd., Kings Park West, R-3(C), Annandale Dist., 68-4((9))1184, approx. 13,801 sq. ft., VC 85-A-014.

Mr. William Shoup presented the staff report. He stated that the applicant was previously before the Board requesting a variance 10.5 feet from the side lot line which was denied on November 8, 1984. A waiver of the twelve month limitation on rehearing was granted by the Board on January 15, 1985.

Mr. Jay Fernandez of 10353 Commonwealth Boulevard informed the Board that his property was surrounded by three streets requiring a 20 foot setback from all three streets. Mr. Fernandez stated that at the original hearing, the Board had suggested other alternatives which he had taken into consideration with the present application. Mr. Fernandez stated that he had moved the proposed garage further back on the property and relocated the driveway entrance so as not to interfere with the intersection. With respect to the removal of the concrete pad, Mr. Fernandez stated that the majority of the pad would be used. However, he indicated he would remove any unnecessary portion. With the relocation of the garage, there would now be 17 feet from the edge of the property to the garage in which to park a vehicle.

In closing, Mr. Fernandez stated that the amount of parking around his area was limited. He stated that his car has been vandalized. Mr. Fernandez assured the Board that it was not possible to build the garage at the back of his property without a variance. He stated that he chose the front so he could maintain the front wall. The garage doors would face Commonwealth Court.

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

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Page 418, May 14, 1985 Board of Zoning Appeals
JAY FERNANDEZ

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-A-014 by JAY FERNANDEZ under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 17 feet from street line of a corner lot (20 ft. min. front yard req. by Sect. 3-307), on property located at 10353 Commonwealth Boulevard, tax map reference 68-4((9))1184, 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 14, 1985; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-3(C).
3. The area of the lot is 13,801 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 an extraordinary situation or condition of the subject property in so far as it has three front yards and is like a lot at the end of a peninsula.
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 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.

During discussion, Mr. Hammack noted that Mr. Fernandez has come a long way in satisfying all the faults or concerns noted in the initial variance application. Accordingly, he now satisfies the criteria set forth in the Zoning Ordinance.

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

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Page 419, May 14, 1985, Scheduled 11:00 A.M. case called at 2:40 P.M. (TAPES 3 & 4)

11:00 A.M. TEMPLE BAPTIST CHURCH, appl. under Sect. 3-303 of the Ord. for a private school of general education and child care center within existing church, located 1545 Dranesville Rd., R-3, Dranesville Dist., 10-2((1))7 & 7A, approx. 6.2 ac., SP 85-D-009.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the revised development conditions contained in Appendix 1 of the staff report. Mr. Shoup stated that the development conditions imposed a three year time limit on the child care aspect of the special permit because of the need for a left-hand turn deceleration lane.

The Board inquired why it would take three years to determine the need for the left-hand deceleration lane. Mr. Shoup replied that the applicant would not be at full capacity at first. The applicant would have a combined use of a school and child care center although the staff was not as concerned with the school portion of the application. Mr. Shoup stated that staff would reevaluate the need for the deceleration lane at the end of the three years.

Rev. David Barton of Sterling, VA informed the Board that the church fronts on Dranesville Road and is located in front of Herndon High School. The applicant is seeking a Christian Day School as well as a Christian Day Care Program. Rev. Barton stated that they were seeking 99 students. Traffic would be minimal. The school operates five days a week with a half day program from 9 A.M. to Noon and a full day program from 9 A.M. to 3 P.M. The church wishes to serve working mothers. Most of the nearby facilities have waiting lists and there is a pressing need for child care. Rev. Barton assured the Board that the church would work with the Office of Transportation and were thankful that the requirement for the deceleration lane was removed at this time. He stated that they were a non-profit organization and could not generate enough funds to make such improvements for the school program.

Rev. Barton stated that it would be a hardship on the church to have to come back in three years. In addition, the amount of traffic would be increased which would put the church at a disadvantage. Rev. Barton informed the Board that none of the builders of the housing developments in the immediate area were required to provide a deceleration lane.

Accordingly, Rev. Barton requested the BZA to remove the requirement for the left hand turn deceleration lane; particularly since the church has already dedicated 3/10 of its property for widening of Dranesville Road. In addition, he asked that the Board not require the church to limit the number of children to 35. He further requested that the beginning operating hour be amended to 8:30 A.M. rather than 9:00 A.M.

There was no one else to speak in support and no one to speak in opposition. Mr. John Harrington of the Office of Transportation spoke in regard to the church's request for a half hour earlier start up time. He indicated that it was not a problem since the peak hours would probably end at 8 o'clock or earlier.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-D-009 by TEMPLE BAPTIST CHURCH under Section 3-303 of the Zoning Ordinance to permit private school of general education and child care center within existing church, on property located at 1545 Dranesville Road, tax map reference 10-2((1))7 & 7A, 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 14, 1985; 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 6.2 acres.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006, 8-305, and 8-307 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. Existing plantings and landscaping shall be retained. No additional plantings shall be required.
6. Dedication and/or construction easements for public street purposes shall be required as determined by the Director, DEM at the time of site plan review.
7. The existing parking area shall be used to accommodate this use and no additional parking shall be required.
8. An outdoor recreation area shall be provided and used in accordance with Sect. 8-305 and Sect. 8-307 of the Zoning Ordinance. Such area shall be fenced as determined by the Health Department.
9. The maximum combined daily enrollment for the child care center/school of general education shall not exceed ninety-five (95) children providing that the total number of children enrolled in programs which operate prior to 8:30 A.M. or after 4:00 P.M. shall not exceed thirty-five (35).
10. The maximum hours of operation for the entire facility shall be 6:30 A.M. to 6:00 P.M., Monday through Friday.
11. The approval of the child care center portion of this application shall be for a period of three (3) years to allow time for the assessment of the need for a left turn deceleration lane. The continued use of the child care center shall then be subject to renewal in accordance with the provisions of Sect. 8-013 of the Zoning Ordinance.

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 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 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

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Page 421, May 14, 1985, Executive Session

At 3:00 P.M., Mr. Hammack moved that the Board adjourn into Executive Session to discuss legal matters involving the Wells/Olmstead variance. Mr. Ribble seconded the motion and it passed by a vote of 5 to 0 (Mr. DiGiulian and Mrs. Thonen being absent).

The Board reconvened at 3:10 P.M. to continue the scheduled agenda.

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Page 421, May 14, 1985, Board Discussion

RICHARD & JUDITH A. WELLS AND ALLEN JOHN R. & MARTHA E. OLMSTEAD, VC 84-P-143: Mr. Hyland informed Mr. Thomas Lawson, attorney and agent for the applicants, that a matter has come to the BZA's attention since its last meeting at which it had granted a waiver of the twelve month limitation on rehearing involving the Wells and Olmstead variance. Mr. Hyland indicated that there had been some discussion at the last meeting regarding the pending litigation in which the Chairman had raised a question about the lawsuit. At that time, it had been the Board's understanding that the lawsuit would not proceed if the applicant was given an opportunity to be reheard on the matter. Mr. Hyland stated that to permit the two matters to proceed would be a conflict and puts the Board in a difficult situation.

For that reason, Mr. Hyland moved that the Board reconsider its motion made at the last hearing granting the waiver request in the Wells/Olmstead variance. Mr. Hammack seconded the motion.

During discussion,, Mr. Hammack stated that he understood the applicant has indicated that he does not intend to drop the appeal of the Board's previous decision. For that reason, Mr. Hammack stated that he has to agree with Mr. Hyland that it is inconsistent and an awkward procedural situation.

Mr. Ribble stated that he supported the motion but felt strange about it. He indicated that the Board would not have known it was a court case if the attorney had not brought it up. Mr. Hyland stated that staff had provided the Board with copies of the litigation papers at the time the request for waiver was considered. Mr. Hyland stated that his initial feeling was to let the case be decided by the courts. He stated that he voted for the waiver because he felt that the litigation would not proceed. Mr. Hyland stated that there is language in the record that the Board was going to urge the court not to take action until the Board took action.

Chairman Smith questioned Mr. Lawson as to whether he intended to dismiss the court case. Mr. Lawson responded that he recalled that he had indicated that he would not pursue the case until he received response on the Writ of Certiorari. Mr. Lawson stated that the new variance application has been filed and is pending.

The Board indicated that it should not have considered the waiver request in view of the fact that there is a pending appeal on the case. Mr. Lawson responded that technically they are two separate cases. He stated that he could non-suit the matter. Mr. Hyland stated that it would not preclude the applicant from refiling. Mr. Lawson stated that he wanted to protect his client's interests and only had 30 days to file.

Mrs. Robin Harmon from the County Attorney's Office inquired whether Mr. Lawson would agree to non-suit the case with prejudice. Mr. Lawson stated that he would give up the right to appeal; however he could not agree to the non-suit with prejudice as it would not allow him to raise issues from the previous case.

Mr. Hyland stated that it was not fair to put the applicant in that position. He stated that if the applicant were to be denied in the next variance application, he would not be allowed to talk about the second case at all. Mr. Hyland inquired as to whether the BZA has the right to grant a waiver of the twelve months requirement when an appeal has been filed. Mrs. Harmon stated that it is a sticky situation. She indicated that it is safer from the Board's perspective not to have to proceed with something when its not clear. Mr. Lawson informed the Board that he would not appeal the second variance but he did not want the word 'prejudice' in the non-suit.

The motion to reconsider passed by a vote of 4 to 1 (Mrs. Day)(Mr. DiGiulian and Mrs. Thonen being absent).

Mr. Hyland inquired as to what action the Board should take. Mr. Hammack indicated that he was satisfied that Mr. Lawson would non-suit the legal action and he stated that the Board should go ahead with the rehearing of the variance. Mr. Hyland inquired as to when the non-suit would be filed. Mr. Lawson responded that it would be filed as soon as he could get the order drafted.

Mr. Hammack suggested that the Board defer action on the reconsideration for a week to allow the attorneys to work out a proper order non-suiting the case. Chairman Smith stated that the Board could recess the discussion for a period of a week and take further action the next week. Mr. Hyland stated that the Board could not condition its motion on the applicant filing a non-suit.

Mr. Hammack moved that the Board grant a waiver of the twelve month limitation on rehearing. Mr. Ribble seconded the motion and it passed by a vote of 4 to 1 (Mr. Smith)(Mr. DiGiulian and Mrs. Thonen being absent).

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Page 422, May 22, 1985

Mr. Hammack left the meeting at 4:15 P.M. and was not present for the remaining agenda.

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Page 422, May 14, 1985, Scheduled 11:15 A.M. case called at 4:15 P.M. (TAPE 4)

11:15 A.M. DUNN LORING SWIM CLUB, INC., appl. under Sect. 3-303 of the Ord. to amend S-180-69 for community swimming pools to permit addition of new snack bar building to existing facilities and to permit the use of the existing basketball court, located 8328 Cottage St., R-3, Dunn Loring Woods Subd., Providence Dist., 49-1((9))(1)A, 12 & 13, approx. 4.7276 acres, SPA 69-P-180-1.

Mr. William Shoup presented the staff report which recommended approval of the special permit subject to the development conditions contained in Appendix 1. In response to questions from the Board, Mr. Shoup stated that the applicant has been using the existing basketball court, but staff has no problem with it.

Mr. Patrick Gallagher, an attorney in Vienna, represented the applicant. He stated that they were amending the existing special permit to replace the present snack bar with a new facility and to allow the continued use of the basketball court which was installed in 1983. The basketball court consists of twenty square feet with a basket on a pole. The old 8'x20' snack bar would be replaced with a new 18'x18' structure. Mr. Gallagher stated that there was not any citizen opposition. The applicant did not have a problem with any of the development conditions.

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

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Page 422, May 14, 1985 Board of Zoning Appeals
DUNN LORING SWIM CLUB, INC.

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 69-P-180-1 by DUNN LORING SWIM CLUB, INC. under Section 3-303 of the Zoning Ordinance to amend S-180-69 for community swimming pools to permit addition of new snack bar building to existing facilities and to permit the use of the existing basketball court, on property located at 8328 Cottage Street, tax map reference 49-1((9))(1)A, 12 & 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 May 14, 1985; 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 4.7276 acres.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-403 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 shall consist of the existing row of evergreen plantings along the frontage of Cottage Street and a portion of Drexel Street and the existing hedge and other plantings along Cottage Street and Drexel Street. Such existing vegetation shall be retained and no additional plantings shall be required.
6. No additional barriers shall be required provided that the existing fencing is retained around the pool complex and along the western and northern sides of the parking lot.
7. One-hundred and fifty (150) parking spaces shall be provided and all parking associated with this use shall occur on site. Bicycle racks may be provided at the discretion of the applicant.
8. Membership shall be limited to six-hundred and twenty-five (625) family memberships.
9. The area between the parking lot and the stream shall be maintained in sod.
10. The maximum hours of operation shall be 10:00 A.M. to 9:00 P.M.
11. 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.
    - A written 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.
12. The existing parking lot and pool lighting shall be permitted to remain. Such lighting shall be provided in a manner that does not adversely impact adjacent properties. Any new lighting for the pool or parking area shall be in accordance with the following:
    - The combined height of the light standards and fixtures shall not exceed twenty (20) feet.
    - The lights shall be a low-intensity design which directs the light directly onto the facility.
    - Shields shall be installed, if necessary, to prevent the light from projecting beyond the property.
13. The use of loudspeakers shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code.
14. The Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during draining or cleaning operations so that pool waters can be adequately treated.

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 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. Hyland seconded the motion.

The motion passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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Page 424, May 14, 1985, After Agenda Items

CENTREVILLE PRESCHOOL, INC., SP 85-S-020: The Board was in receipt of a letter requesting an out-of-turn hearing on the special permit application of Centreville Preschool, Inc. tentatively scheduled for July 30, 1985. Mr. Hyland moved that the Board deny the out-of-turn hearing request. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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Page 424, May 14, 1985, After Agenda Items

YWCA, SP 85-P-019: The Board was in receipt of a letter requesting an out-of-turn hearing on the special permit application of the YWCA tentatively scheduled for July 30, 1985. Mr. Hyland moved that the Board deny the out-of-turn hearing request. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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Page 424, May 14, 1985, After Agenda Items

RIDGEMONT MONTESSORI SCHOOL, INC., SP 85-D-024: The Board was in receipt of a letter requesting an out-of-turn hearing on the special permit application of Ridgemont Montessori School, Inc. tentatively scheduled for August 6, 1985. Mr. Hyland moved that the Board deny the out-of-turn hearing request. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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Page 424, May 14, 1985, After Agenda Items

3HO FOUNDATION OF WASHINGTON, D.C., SPA 79-D-136-1: The Board was in receipt of a letter for an out-of-turn hearing on the special permit application of 3HO Foundation of Washington, D.C. which had not been scheduled yet. Mr. Hyland moved that the Board deny the out-of-turn hearing request. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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Page 424, May 14, 1985, After Agenda Items

TRUSTEES OF CHESTERBROOK PRESBYTERIAN CHURCH, SPA 68-D-955-1: The Board was in receipt of a letter requesting an out-of-turn hearing on the special permit application of the Trustees of Chesterbrook Presbyterian Church regarding the Family Respite Center. Mr. Hyland moved that the Board grant the out-of-turn hearing request. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent). It was the consensus of the Board to schedule the special permit application for June 13, 1985.

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Page 424, May 14, 1985, After Agenda Items

CHURCH OF THE GOOD SHEPHERD, SP 85-C-003: The Board was in receipt of revised plats submitted in accordance with its approval of the Special Permit application of the Church of the Good Shepherd. Mr. Hyland moved that the revised plats be approved. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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Page 425, May 14, 1985, After Agenda Items

APPROVAL OF MINUTES: The Board was in receipt of Minutes for April 30, 1985. Mr. Hyland moved that the Minutes be approved as submitted. Mr. Ribble seconded the motion and it passed by a vote of 4 to 0 (Messrs. DiGiulian, Hammack and Mrs. Thonen being absent).

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There being no further business, the Board adjourned at 4:30 P.M.

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

Submitted to the Board on May 29, 1985

Daniel Smith
Daniel Smith, Chairman

APPROVED: 6-4-85
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Evening, May 21, 1985. 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).

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

Chairman Smith called for the continuation of a case recessed from a previous meeting (TAPE 1)

8:00 P.M. CONTINUATION OF RECESSED HEARING 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; 5/1/84; 6/5/84; 6/14/84; 6/19/84 AND 4/30/85 TO ALLOW STAFF TIME TO SUBPOENA THE CONTRACTOR RESPONSIBLE FOR THE WORK THAT HAD BEEN DONE IN ERROR; AND FROM 5/14/85 TO ALLOW ADDITIONAL TIME TO REVIEW TESTIMONY PRESENTED & FOR DECISION.)

Mr. Hammack stated that at the last meeting he had requested a deferral of the case in order to review the transcript of the proceedings. For the record, Mr. Hammack stated that he had gone to the Clerk's Office and listened to the tape of the testimony given by the builder. He indicated that the testimony is a little inconclusive and each member can draw its own conclusion as to the credibility of the witnesses. Mr. Hammack stated that he was not convinced that the builder should not have obtained a building permit. Accordingly, he was going to give the benefit of the doubt to Mr. Reyes.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 83-L-096 by CARLOS A. REYES 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 garage addition to dwelling to remain 5.2 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), on property located at 3208 Spring Drive, tax map reference 92-2((19))78, 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 28, 1984 and deferred to May 1, 1984; June 5, 1984; June 19, 1984; April 30, 1985; and May 21, 1985; 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 special permit 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 special permit 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.

R E S O L U T I O N

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

1. This special permit 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. A building permit shall be obtained to assure that this construction is structurally sound.

Mrs. Day seconded the motion.

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

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Page 427, May 21, 1985, Board Matters (TAPE 1)

BZA TESTIMONIAL: For the record, Mr. Hyland noted that Sandra L. Hicks, Clerk to the Board of Zoning Appeals, was leaving to accept a position as Zoning Inspector for Fairfax County. Accordingly, on behalf of the Board, Mr. Hyland commended Mrs. Hicks for her many years of dedication, loyalty, professional performance and contributions in service to the Board of Zoning Appeals. Further, Mr. Hyland moved that a resolution be drafted for the Board's consideration and acceptance, with said resolution to be framed and presented to Mrs. Hicks and for inclusion in her personnel file. Mr. DiGiulian seconded the motion and it passed by a vote of 6 to 0 (Mrs. Thonen being absent).

For the record, Mr. Hyland noted another loss to the Board of Zoning Appeals. Mr. William E. Shoup, Staff Coordinator, has been selected to assist the Zoning Administrator. Mr. Hyland praised Mr. Shoup for his professional manner in dealing with applicants and the Board, particularly in rather sticky issues, and in his staffing work. Mr. Hyland expressed the Board's best wishes to Bill in his new position and stated that the Zoning Administrator was very fortunate to have someone of his caliber. Mr. Hyland stated that Mr. Shoup has made some outstanding contributions to the Board in terms of the staffing.

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Page 427, May 21, 1985, Scheduled case of 8:00 P.M. called at 8:30 P.M. (TAPE 1)

8:00 P.M. WORD OF LIFE ASSEMBLY OF GOD CHURCH, appl. under Sect. 3-303 of the Ord. to amend S-81-A-078 for church and related facilities to permit reduction of land area, addition of parking spaces, and sanctuary, academy and community life buildings to existing facilities, located 5225 Backlick Rd., R-3, Lee Dist. (formerly Annandale Dist.) Braddock Oaks Subd., 71-4((1))40C, approx. 12.6185 acres, SPA 81-A-078-1. (DEFERRED FROM FEBRUARY 19, 1985 FOR DECISION AND REVISED PLATS).

Mr. William Shoup presented the revised plats which addressed all of the issues raised by the Board of Zoning Appeals at its meeting of February 19, 1985. Mr. Shoup informed the Board that another reason for deferral at the last meeting was to allow the applicant to obtain approval of a Special Exception application. The Special Exception application has been filed but not heard by the Board of Supervisors. Mr. Shoup stated that it is scheduled for the first meeting in September and may be moved up to the first week in August. Mr. Shoup explained that approval of a school for 300 students and the right to use any of the new buildings would now require approval from the Board of Supervisors since they hear all applications where the number exceeds 100 students.

In response to questions from the Board, Mr. Shoup stated that the proposed Community Life Building has been eliminated from the plans. In addition, the trail and transitional screening required by the County are now shown on the plat. Mr. Shoup noted that if it is the Board's intent to proceed with the special permit hearing, staff is recommending approval in part subject to the revised development conditions contained in Appendix 1 of the addendum to the staff report. This addendum addresses some of the issues relating to screening, access to the site, and the requirement for road improvements.

Mr. Shoup advised the Board that a representative from the Office of Transportation was present to answer any questions relating to the road bond project and its impact on this application.

Mr. DiGiulian moved that the Board defer the special permit application until the special exception has been heard by the Board of Supervisors. Mr. Ribble 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 the hearing until August 6, 1985 at 10:00 A.M.
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Page 428, May 21, 1985, Scheduled 8:15 P.M. case called at 8:35 P.M. (TAPE 1)

8:15 P.M. GEORGE W. RING III, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots, proposed lot 30A having width of 20 ft. (150 ft. min. lot width req. by Sect. 3-106), located 11400 Valley Rd., R-1, Fairfax Farms Subd., Providence Dist., 46-4((2))30, approx. 2.72569 ac., VC 85-P-015.

Ms. Cheryl Hamilton presented the staff report. In response to questions from the Board, Ms. Hamilton stated that several outlots are scattered throughout the vicinity of the subject property. She stated that lot 30 is on septic at the present time. She was unaware whether the applicant had a percolation test performed on the proposed lot 30A.

Mr. George W. Ring, III, of 11400 Valley Road, informed the Board that his sons live on the property at the present time. He stated that he acquired the property in good faith and the lot is an exceptional size consisting of R-1 zoning. Mr. Ring stated that many of the lots in the Fairfax Farms area are the exception rather than the rule. He stated that the granting of a variance can be considered under the grandfather clause. Strict application of the Zoning Ordinance would produce undue financial hardship on Mr. Ring. He informed the Board that lots 19, 24, 43, 45, 48, 59 and 70 in Fairfax Farms have previously been subdivided. Mr. Ring stated that since the original development of Fairfax Farms in 1945, the County has had much growth and many of these lots are underutilized. Adjoining properties consist of one or more acres. Mr. Ring stated that lot 30 does not affect access to any lot. The woodsy character of the lot would remain. Both lots would have areas of one acre or greater.

One of the purposes in subdividing the parcel is because Mr. Ring has a second mortgage on the house which is held by his former wife. He stated that this creates a financial hardship for him. Mr. Ring stated that he does not intend to build another house on the other lot. He stated that for the past nineteen years he has been using the parcel for growing approximately 1,000 rhododendrons. He indicated that it is his intent to sell the house and its parcel but retain the adjacent lot for a period of five years in order to evaluate the worth of distributing the rhododendrons to the public. He stated that he could not do this if he had to sell the entire parcel.

In response to questions from the Board regarding his written statement, Mr. Ring stated that lot 19 in Fairfax Farms has two dwellings on it. One dwelling is occupied and the other is not fit for habitation. Lots 43A and 43B have two dwellings on them. Lots 58A and 59A have one dwelling and provisions for another. Lot 45A has two dwellings.

Mr. Hyland expressed an interest in Mr. Ring's testimony regarding the prospective use of the second lot which would not be developed for a period of five years. Mr. Hyland inquired as to what would happen to the lot at the end of the five years. Mr. Ring responded that he would not sell the plants to the general public. At the end of the five years, he would have the option to sell the property or continue holding onto it and growing more rhododendrons. Mr. Ring advised the Board that he would be living one block away from the property.

During discussion, the Board expressed concern about the affects of the subdivision on adjacent properties and whether or not the Board could impose a proffer condition on a variance. The Board indicated that it could not consider financial hardship as a factor in the granting of a variance. In addition, some members viewed the application to be a matter of convenience rather than a hardship.

There was no one else to speak in support or in opposition to the application. The Board was in receipt of opposition letters from Judith M. and W. L. Mega of 3911 Fairfax Farms Road; and John H. Walbridge of 11410 Valley Road in Fairfax Farms.

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VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-P-015 by GEORGE W. RING, III under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 30A having width of 20 ft. (150 ft. min. lot width req. by Sect. 3-106), on property located at 11400 Valley Road, tax map reference 46-4((2))30, 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 21, 1985; and

WHEREAS, the 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 2.72569 acres.

RESOLUTION

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.

Mr. Hammack seconded the motion.

The motion FAILED by a tie vote of 3 to 3 (Messrs. DiGiulian, Hyland and Ribble)(Mrs. Thonen being absent) resulting in a denial of the application.

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Page 429, May 21, 1985, Scheduled 8:30 P.M. case called at 9:00 P.M. (TAPES 1 & 2)

8:30 P.M. ISLAMIC CENTER, NORTHERN VIRGINIA, INC., appl. under Sect. 3-103 & 3-C03 of the Ord. for a mosque and related facilities, located Shirley Gate Rd., R-1/R-C, Springfield Dist., 56-4((1))12B & 12C, 7.572 ac., SP 85-S-005.

Ms. Cheryl Hamilton 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 applicants were seeking approval of a two plus acre graveyard; an office and prayer room; an administrative building; a cafeteria and library; a meeting room caretaker area; and a sunday school. Ms. Hamilton informed the Board that a graveyard is permitted by right for churches under the Virginia Code but could not be established within 250 yards of a residence without the consent of the property owner.

Ms. Hamilton revised development condition no. 8 to read as follows: "Dedication shall be provided along the entire frontage of the site. A right turn lane shall be provided at the site entrance. The amount of dedication and the length of the right turn lane shall be determined by the Director, DEM at the time of site plan approval.

In response to questions from the Board with respect to condition no. 6, Ms. Hamilton stated that if the applicant was unable to meet the 250 yard setback or obtain permission for the property owner, the graveyard would have to be reduced in size in order to maintain the required distance. The Board expressed concern about approving a plat in which a large area is designated for a graveyard which might not meet the required setback distance. If the applicant is not able to use this area for a graveyard and sells off the land it would increase the floor area ratio. Ms. Hamilton stated that the applicant could not reduce the land area from the special permit without a public hearing and could not violate the floor area ratio limitation for the zoning district.

Mr. Tariq Mustafa of 8805 Bellwood Road in Bethesda, MD. represented the applicant. Mr. Mustafa informed the Board that the proposed mosque is to serve members of the Islamic faith who reside in the Washington, D.C. and Northern Virginia area. The congregation was formed three years ago and currently holds religious services at Jefferson High School off of Glebe Road in Arlington. The principal structure on the property will be the mosque.

In response to questions from the Board concerning the size of the proposed cafeteria, Mr. Mustafa indicated that the large eating area is necessary to accommodate large groups during high holy functions, prayers and social gatherings where food is served. The proposed administration building will be in keeping with the mosque and general administration and the prayer room will be used for special prayers for the deceased and last rites.

In further response to questions from the Board, Mr. Mustafa indicated that marriages could take place in or outside the mosque. The Board questioned the height of the minaret. Mr. Mustafa stated that the minaret has to be 60 feet high in order to seen because the building itself is 50 feet high. The minaret is a symbolic symbol only. The Board indicated that in a previous special permit application, a minaret had been reduced to 45 feet in height because it was in a residential area.

Mr. Bilal M. Raschid of 307 Yoakum Parkway, No. 1726, in Alexandria, informed the Board that he is the architect for the mosque. He indicated that everything was designed to scale with the dome on the mosque being 40 feet high, the mosque being 50 feet high, and the minaret being 60 feet. He indicated that the minaret has to be higher than the dome and does not exceed the maximum building height for the zoning district. Another reason for its height is because it is located deep within the property and needs to be visible from the road.

The Board questioned Mr. Mustafa regarding the corporation, ICNV, Inc., and asked that he provide the Articles of Incorporation. In response to questions, Mr. Mustafa stated that the ICNV, Inc. is a non-profit organization and is independent of any other Islamic group. Mr. Mustafa agreed to provide the requested information.

Mr. Mustafa testified that the mosque would have regular employees such as the Iman, the caretaker, and sunday school teachers. Only the Iman and one other person would reside on the site. Mr. Mustafa stated that adequate parking would be available on the site even when there were large gatherings. With an estimated 500 persons, only 125 parking spaces are required but the mosque has increased the parking to 175 spaces.

There was no one else to speak in support of the application. The following persons spoke in opposition: Mr. Lee Kanagy of 11519 Warren Lane and Mr. Don Phillips of 11308 Nancyann Way. Mr. Kanagy stated that he was not against the application but had some concerns regarding terrorist groups. In addition, Mr. Kanagy questioned whether the minaret would be used to call its members to prayer. He was assured that the minaret was symbolic and would not have any bells.

Mr. Phillips expressed concern that prior to the purchase of his property, he had reviewed the master plan and felt secure in the knowledge that the area would remain residential. He stated that since he did not border on the cemetery, it was not one of his concerns. However, with 500 people traveling to the site twice a year for religious events, he was concerned about the traffic impact on Shirley Gate Road. The traffic count listed in the staff report was based on 1983 figures. In response to questions from the Board, Mr. Phillips stated that he would prefer residential homes on the subject property rather than any other use as that is what is called for in the master plan.

Ms. Hamilton stated that the Transportation Report used 1982 figures. However the figure in the application used a rate of two vehicles per day per person which was provided by the applicant. The Board indicated that Shirley Gate Road is a bypass for the City of Fairfax and is scheduled to be widened. The Board questioned the applicant as to whether there would be any monuments in connection with the cemetery. Mr. Mustafa stated that the graveyard would contain the normal tombstones.

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SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-S-005 by ISLAMIC CENTER, NORTHERN VIRGINIA, INC., under Section 3-103 & 3-C03 of the Zoning Ordinance to permit a mosque and related facilities on property located at Shirley Gate Road, tax map reference 56-4((1))12B & 12C, 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

RESOLUTION

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 21, 1985; 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-C.
3. The area of the lot is 7.572 acres.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 8-303 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 maximum number of seats shall be 500, with a corresponding minimum of 125 parking spaces. There shall be a maximum of 175 parking spaces and the parking area may be modified within the confines of the existing parking area so that sufficient maneuvering room is provided as required by the Public Facilities Manual.
6. The graveyard shall meet all applicable provisions of Chapter 57 of the Code of Virginia.
7. The entrance to the site shall meet VDH&T standards and the entrance shall be aligned directly opposite Park Drive.
8. Dedication shall be provided along the entire frontage of the site. A right turn lane shall be provided at the site entrance. The amount of dedication and the length of the right turn lane shall be determined by the Director, DEM at the time of site plan approval.
9. Adequate sight distance shall be provided as required by the Director, DEM.
10. This use shall be subject to the provisions of the Water Supply Protection Overlay District(WSPOD). In addition, if any portion of the site located in the R-1 District drains into the Occoquan Basin, The BMP requirements of the WSPOD shall also be applicable.
11. A soil survey shall be provided as required by the Director, DEM.
12. Transitional Screening 1 shall be provided along all property lines. Existing quality vegetation shall be preserved and a limit of clearing and grading shall be established as determined by the Arborist, DEM. The barrier requirement shall be waived. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance.
13. The standards for the parking lot lights shall not exceed 12 feet and the lights shall be directed onto the parking area in such a a manner to 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 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.

R E S O L U T I O N

Mr. DiGiulian seconded the motion.

During discussion of the motion, Mr. Hammack made a substitute motion that Mr. Hyland's motion be approved with following two additional development conditions. No. 14: That the ICNV be permitted to have only two employees; and no. 15: That only one person designated as a caretaker or Iman be permitted to reside at the facility on the site. Mrs. Day seconded the substitute motion.

Mr. Hyland objected to the substitute motion and indicated that staff looks at every application on its own merit and includes development conditions to guide the Board. Mr. Hyland stated that he had a problem with adding development conditions when comparing this application with previous mosque applications. He indicated that in order to be consistent, the Board would have to look at every application for a church. He was concerned that once the Board starts such a practice, it would have to be consistent. If the Board models this application after the Rt. 7 mosque, it was not being fair or equal in terms of any application of any faith. Mr. Hyland stated that the Board is anything but consistent. Staff has never advised the Board to examine applications against another. Mr. Hyland stated that this application is completely different from the Rt. 7 application. He further stated that every church application is completely different in the way the building looks, the access to the site, etc. He was concerned that the Board should feel constrained by a prior application which is the reason he was opposed to the substitute motion.

Chairman Smith stated that most church applications do not have more than one employee living on the site except for catholic churches. He stated that the living quarters are considered as part of the application or come in under separate application once the church has been constructed. Chairman Smith stated that the Board needs to be concerned about the number of people living on the site.

Mr. Hammack indicated that consistency is a virtue. He stated that in dealing with institutional uses, many of them have become active in recent years which raises a question as to whether they still remain compatible with the community. Mr. Hammack stated that he was not restricting the development conditions differently from any other other application. In this instance, the applicant has indicated that a certain number of persons would reside on the site. Mr. Hammack felt it was a proper restriction and there was not anything inappropriate about it.

The substitute motion failed by a vote of 3 to 3 (Messrs. DiGiulian, Hyland and Ribble)(Mrs. Thonen being absent).

The principal motion passed by a vote of 6 to 0 (Mrs. Thonen being absent).

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Page 432, May 21, 1985, After Agenda Items

BHP ASSOCIATES LIMITED PARTNERSHIP, SPA 79-S-298-1: The Board was in receipt of an out-of-turn hearing request for the special permit application of BHP Associates Limited Partnership which is tentatively scheduled for September 1985. Mr. Hammack moved that the Board grant the request. Mr. DiGiulian 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 schedule the hearing for August 6, 1985 at 10:15 A.M.

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Page 432, May 21, 1985, After Agenda Items

CHARLES S. AND RENATE U. GAMMON, VC 85-A-047: The Board was in receipt of an out-of-turn hearing request for the variance application of Charles S. and Renate U. Gammon presently scheduled for September 1985. Mr. Hammack moved that the request be denied. Mr. DiGiulian seconded the motion and it passed by a vote of 6 to 0 (Mrs. Thonen being absent).

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Page 432, May 21, 1985, After Agenda Items

GORDON L. ERNEST, V-82-C-134: The Board was in receipt of a request for additional time of the variance approved on September 21, 1982 for Gordon L. Ernest to allow subdivision of one lot into two lots with proposed lot 1 having a lot width of 25 feet. Staff was recommending an additional six months because the applicant has submitted the record plat and only needs to record the subdivision. Mr. DiGiulian moved that the Board approve an additional period of six months which would extend the expiration date until September 21, 1985. Mr. Ribble seconded the motion and it passed by a vote of 6 to 0 (Mrs. Thonen being absent). Since the Board was reluctant to approve this third request for additional time, it noted that this is the last additional time request it will consider for this application.

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CHANTILLY RECREATION CENTER, SPA 82-S-024-1: The Board was in receipt of a Noise Analysis provided in accordance with condition no. 15 of the special permit approved on June 19, 1984. This condition required that: "Within ninety (90) days the applicant will provide a noise level reading of eight (8) go-carts on site, taken at the lot line of the trailer park between the hours of 6:00 P.M. to 9:00 P.M." The survey was performed by Polysonics on October 3, 1984 between the hours of 5:30 to 6:00 P.M. The results were based on an analysis of five (5) go-carts rather than the eight (8) required by condition no. 15. in addition, the survey was not performed at the required times. The applicant indicated that the survey was performed on five go-carts because that is the maximum number of go-carts that can safely operate on the track at one time.

In as much as the noise level produced by the maximum of five go-carts met the requirements of the Fairfax County Noise Code, staff recommended that the non-residential use permit be noted to limit the maximum number of go-carts to five until such time as the noise analysis is completed for the eight go-carts. Alternatively, the Board of Zoning Appeals can require the applicant to fulfill condition no. 15, or amend the special permit and reduce the maximum number of go-carts to five (5).

It was the consensus of the Board not to take any action at this time and to have staff further review the matter to determine if there have been any complaints about the noise.

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There being no further business, the Board adjourned at 10:35 P.M.

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

Submitted to the Board on 5/30/85

Daniel Smith
Daniel Smith, Chairman

Approved: 6-4-85
Date