The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday June 4, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman (arriving at 10:25 A.M.); Gerald Hyland (arriving at 11:00 A.M.); Ann Day; Paul Hammack (arriving at 11:00 A.M.); John Ribble; and Mary Thonen.

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

The Chairman called the scheduled 10:00 o'clock 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; FROM MARCH 27, JUNE 5, SEPTEMBER 11, NOVEMBER 27, 1984; FEBRUARY 12, AND APRIL 2, 1985 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; FEBRUARY 12, AND APRIL 2, 1985 AT THE REQUEST OF THE APPLICANT).

The Board was in receipt of a letter from Charles L. Shumate, attorney for the applicant, seeking a deferral of the above applications. Ms. Kelsey advised that she had spoken with the applicant and it was suggested that a date in September would be acceptable, however, Staff was not certain that a 90 day deferral would be sufficient time to resolve the existing problems. Mrs. Thonen moved that the Board approve the request of applicant for 90 day deferral. Mrs. Day seconded the motion and it passed by a vote of 4 to 0. It was the consensus of the Board to schedule the deferral for Tuesday, September 24, 1985, at 10:00 A.M.

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MATTERS PRESENTED BY BOARD MEMBERS:

EXECUTIVE SESSION: At 10:15 A.M., Chairman Smith advised that the Board had matters to be discussed in Executive Sessions prior to continuing with the meeting. Mr. Ribble stated that he would move that the Board adjourn into Executive Session but questioned if it would be better to have a full Board. Chairman Smith advised that he felt it would be better to have at least five members present to review the next case. Mr. Ribble moved that the Board adjourn into Executive Session to discuss Board procedural and personnel matters. Mrs. Thonen seconded the motion and the motion passed by a vote of 4 to 0 (Mr. Hammack Mr. DiGiulian and Mr. Hyland being absent). Mrs. Thonen apologized for any inconvenience to the citizens present.

Mr. DiGiulian arrived during Executive Session at 10:25 A.M. and was present for the remaining scheduled agenda.

The BZA reconvened at 10:30 A.M. to continue with the scheduled agenda.

Mr. Hyland and Mr. Hammack arrived at 11:00 A.M. and were present for the remaining scheduled agenda.

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10:15 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. (DEFERRED FROM APRIL 2, 1985 AT REQUEST OF APPLICANT AND FOR NOTICES).

Ms. Cheryl Hamilton presented the staff report. Mr. Donald Yetman read a statement to the Board which is included in the staff report explaining that he felt nothing would be gained by the strict enforcement of the Zoning Ordinance and not only would he lose personally but the aesthetic value of the neighborhood would diminish. The primary reason for the need for the fence was for his child who could climb over a 4 foot fence, but could not climb over a 6 foot fence.

There was no one else to speak in support. Joan Carrico spoke on behalf her sister, Shirley L. Masquith and herself as the owners of property adjacent to Mr. Yetman's, stating that they objected to the granting of this variance as it would be a detriment to their adjacent property. Mrs. Carrico also presented a petition signed by property owners in the area of Mr. Yetman's property.

During rebuttal, Mr. Yetman stated that lines had been strung up indicating placement of the fence for at least 4 months, but did not know of neighbor's objections until after construction. He also stated that he understood, from his research, that it is the responsibility of fence company to construct the fence in accordance with the Zoning Ordinance requirements. When asked why the fence company was not present on his behalf, Mr. Yetman replied that he had just obtained this information and the fence company was not available on such short notice. Mr. Yetman did request that the Board postpone the hearing in order to allow time to have the fence company present, but this request was denied.

The Board questioned whether, during his inquiries to the County, Mr. Yetman had indicated that this was a corner lot, and whether the fence company involved, Clinton Fence Company, had advised Mr. Yetman where the fence could be placed. Mr. Yetman informed the Board that the information he received from the County only concerned the distance from the outside corner of his property, nothing about the front yard, and the fence company would have placed the fence wherever he directed.

Mr. Hammack asked Staff how much of the fence in question was in the front yard and Ms. Hamilton indicated what part of the fence would be in violation. Ms. Hamilton further advised that she spoke with the staff members that Mr. Yetman stated he had contacted. They did not remember his particular case, but did state that they always inquire as to whether the lot is a corner lot before they advise of the zoning requirements.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-A-003 by Donald J. & Lilian A Yetman under Section 18-401 of the Zoning Ordinance to allow 6 ft. high fence to remain in a front yard on a corner lot (4ft. max. hgt. for fence in front yard required by Sect. 10-104) on property located at 9206 Hunting Pines Place, tax map reference 58-4((32))9, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 4, 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 PDH-3.
3. The area of the lot is 7,232 sq. ft.
4. That the lot is not unique in its contour and configuration so as to justify this variance to allow the 6 ft. front yard fence, other properties having 6 ft. fences, but not in front yards.

This application does not meet the all of 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 all 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 unanimous vote of 7 to 0.

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Mr. Hyland recommended that the County Attorney's Office be contacted in order to discuss the possibility of an amendment to the ordinance or code that would place a substantial penalty on the contractor for violation of the height requirement for fences to include loss of the contractor's permit to work in Fairfax County. Following a discussion by the Board, Chairman Smith asked for a motion that the Board request that Staff contact the County Attorney's Office and request that steps be taken to make changes in existing ordinance or Fairfax County Code that would provide enforcement concerning contractors in Fairfax County, and particularly those in the business of constructng fences for home owners, which would include taking the contractor's license to do work in Fairfax County for whatever time period seems appropriate and Mr. Ribble so moved. Mrs. Thonen seconded the motion and it passed by a unanimous vote of 7 to 0.

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Page 3, June 4, 1985 Scheduled case of

10:30 A.M. CALVARY ROAD BAPTIST CHURCH, appl. under Sect. 3-303 of the Ord. to amend SP 84-L-071 for church and related facilities to permit two-story addition to existing and Phase I approved buildings, located 6811 Beulah St., R-1 (proposed R-3), Franconia Subd., Lee Dist., 91-1((1))61, approx. 6.2288 ac., SPA 84-L-071-1.

Ms. Jane Kelsey presented the staff report. Mr. G. T. Ward of Ward/Hall Associates AIA, 12011 Lee Jackson Memorial Highway, Fairfax, Virginia, spoke on behalf of the applicant and stated that they were in agreement with all conditions set forth by Staff as well as the additional planting requirements as recommended by Staff.

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

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 84-L-071-1, by Calvary Road Baptist Church under Section 3-303 of the Zoning Ordinance to amend SP 84-L-071 for church and related facilities to permit a two story addition to existing and Phase I approved buildings 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 June 4, 1985; and

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

1. That the owner of the subject property is the applicant.
or That the applicant is the contract purchaser/lessee.
2. The present zoning is R-3.
3. The area of the lot is 6.2288 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 3-303 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 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 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 evergreen shrubbery, hemlock, and holly trees to the satisfaction of the County Arborist (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 County Arborist (DEM).
   - Along the lot line west of the existing garage there shall be a twenty (20) foot transitional screening yard.
   - Along the frontage of Beulah Street from the southernmost lot line to the corner of the cemetery a minimum ten (10) foot screening yard shall be provided. The size, type, and amount of plantings within this yard shall be determined by the County Arborist (DEM) and approved by the County Arborist (DEM). Additional plantings should also be provided along this frontage within the right-of-way, subject to VDH&T approval.
7. A barrier shall be provided as shown on the plat submitted with this application.
8. Access to Charles Arrington Drive will be provided in accordance with VDH&T standards.
9. The three (3) classroom trailers are approved for a period of two (2) years from January 8, 1985, the approval date of SP 84-L-071.
10. The southernmost entrance on Beulah Street shall be used for exiting traffic only and appropriate signs shall be installed in appropriate locations to advise parishioners of this limitation.
11. A right turn deceleration lane shall be provided for each of the entrances on 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 construction of the proposed two-story

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. Hyland seconded the motion.

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

Page 5, June 4, 1985, Scheduled case of

10:45 A.M. R.J.L. ASSOCIATES, INC., appl. under Sect. 3-C03 of the Ord. for modification to minimum yard requirements for R-C lot to allow construction of dwelling 15 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-C07), located 4307 Pleasant Valley Rd., R-C, Pleasant Valley Subd., Springfield Dist., 33-2((3))4, approx. 10,500 sq. ft., SP 85-S-010.

Ms. Jane Kelsey presented the staff report. Jeff Neim of Paciulli, Simmons & Associates, 10084 Apple Wood Court, Burke Centre, spoke on behalf of the applicant and stated that as noted in the Staff Report, the proposed modification meets the requirements of the Zoning Ordinance and the applicant has no problems with the development conditions as made by Staff and urged the Board's approval.

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

Mr. DiGiulian made the following motion:

WHEREAS, Application No. SP 85-S-010 by R.J.L. Associates, Inc. under Section 3-C03 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, to allow construction of dwelling 15 ft. from side lot line (20 ft. min. side yard required by Sect. 3-C07), located at 4307 Pleasant Valley Road, tax map reference 33-2((3))4, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on June 4, 1985; and

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

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

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

NOW, THEREFORE BE IT RESOLVED that the subject application is GRANTED in accordance with the conditions contained in Appendix 1 of the Staff Report dated May 24, 1985.

1. This special permit is approved for the location and the specific addtion 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 ther 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 occurence 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 dwelling.

Mr. Ribble seconded the motion.

The motion passed by a vote of 7 to 0.

11:00 A.M. CHRIST THE KING LUTHERAN CHURCH, appl. under Sect. 3-E03 of the Ord. to amend SP 83-D-075 for church and related facilities to permit changed configuration of building addition of bell tower and modification of screening requirements, located 10550 Georgetown Pike, R-E, Gouldman Acres, Dranesville Dist., approx. 5 acres, 12-2((1))1B, SPA 83-D-075-1.

Ms. Jane Kelsey presented the staff report. In response to inquiries from the Board, Ms. Kelsey advised that there was an error in the second paragraph of Paragraph 5 of the Development conditions, and it should read "such as willow oak and white or Austrian pine...", which were suggested types of trees, not the only type allowed . Ms. Kelsey also advised the Board that the Bell Tower would be approved by the approval of the plat. and that Paragraph 6 of the Development conditions waived the barrier requirement.

Ms. Cynthia Angelis, attorney with Peterson & Pesner, PC, 8214-B Old Courthouse Road, Vienna, VA, spoke on behalf of the applicant stating that the applicant concurs fully in the recommendations as to the types of trees. Ms. Angelis also advised the Board that two neighbors of the applicant were present to speak in support of the application, if needed: Mrs. May Gouldman and Rev. Smallwood.

Chairman Smith stated that the Board appreciated Mrs. Gouldman and Rev. Smallwood attending, and advised that they were welcome to speak, but the Board had no questions at this point. There was no one to speak in opposition.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 83-D-075-1 by Christ the King Lutheran Church under Section 3-E03 of the Zoning Ordinance to amend SP 83-D-075 for church and related facilities to permit changed configuration of building, addition of bell tower and modification of screening requirements on property located at 10550 Georgetown Pike, tax map reference 12-2((1))1B, 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 4, 1985; and

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

1. That the owner of the subject property is the applicant.
or That the applicant is the contract purchaser/lessee.
2. The present zoning is R-E.
3. The area of the lot is 5 acres.

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

THAT the applicant has 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-E03 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 be modified as follows:
   - o The existing vegetation along the western lot line shall be used to satisfy the planting requirement within the twenty-five (25) foot strip.
   - o Along the eastern lot line provided plantings are provided between the parking lot and the eastern lot line as shown on the landscape plan. In addition, a cluster, five or six in a group, of deciduous and evergreen trees, such as willow oak and white or Austrian pine, shall be planted along the eastern portion of the lot between the parking lot and southern portion of the building.
   - o Along the front of the property to allow the plantings shown on the landscape plan. However, upright yews, mugho pine or dwarf alberta spruce would be preferable instead of American arborvitae.

6. The barrier requirement shall be waived.
7. The seating capacity of the church shall not exceed three hundred (300).
8. Seventy-seven (77) parking spaces shall be provided; three (3) of these parking spaces shall be designated as handicapped parking spaces and shall be constructed in accordance with Article 11.
9. Any sign which is erected shall be in accordance with the provisions of Article 11.
10. A right-turn deceleration lane shall be provided and the applicant shall dedicate thirty (30) feet from centerline of the road with the provision of an additional fifteen (15) foot grading/construction easement.
11. The applicant shall provide a ten (10) foot trail easement along the frontage of the site to connect with trail easements developed on the properties adjacent to the site in the event that the adjoining properties and a trail along the north side of Georgetown Pike are developed in the future.
12. If parking lot lights are installed, they shall be no higher than twelve (12) feet and shall be shielded to prevent any light from projecting off the site.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit sp 83-D-075, approved December 13, 1983, 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 to 0.

Page 7, June 4, 1985, Scheduled case of

11:15 A.M. STRATFORD RECREATION ASSOCIATION, INC., appl. under Sect. 3-303 of the Ord. to amend S-303-76 for community recreation facilities to permit additional lighting of tennis courts, located 8706 Camden Ct., R-3, Stratford Landing, Mt. Vernon Dist., 111-1((1))10, approx. 5.7576 ac., SPA 76-V-303-1.

Ms. Jane Kelsey presented the staff report. Mr. Peter Brinitizer, President of Stratford Recreation Association, Inc., in response to questions by the Board, stated that they have four courts legally in operation, two of which were illuminated by four 30 ft. poles each with a series of five lights and they were proposing to illuminate remaining two courts in order to accommodate members who wish to play tennis. Chairman Smith pointed out Development Condition No. 7 of the Staff Report prepared previously when the courts were originally constructed and asked if it would have been better, with this application, to amend that condition. Ms. Kelsey agreed that that might have been better and could possibly be done now. There was no one else to speak in support. Mr. Peter Chase and his wife, Donna Shea, 2407 Wittington Boulevard, Alexandria, VA advised that they were the property owners probably most directly affected. They objected to the additional lighting because of the additional people that would be behind their property using the courts. Mr. Chase presented a petition signed by other neighbors which was accepted by the Board. In response to questions from the Board, Mr. Chase advised that they had experienced some problems in the past with players using foul language and being very loud. Mr. Chase further advised that the nearest court to their property was approximately 88-92 feet from their bedroom wall and that, with windows closed, noise from the courts was subdued but with windows open it was a definite problem as well as balls hitting their house, and the main concern was the additional people behind their home at this hour.

During rebuttal, Mr. Brinitizer clarified that if the application was granted, it would mean a maximum of eight more adults, no children, using the court behind Mr. Chase and Ms. Shea's property. In order to accommodate the neighbors, Mr. Brinitizer advised the Board that they would be willing to install individual timers to avoid courts being used beyond allowed time or lights being on unused courts; only they would only use courts 3 & 4 if both 1 and 2 were already in use; if necessary, on the new lights for court 3, they would install shields; and that under no circumstances would courts 3 & 4 be used for group lessons.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 76-V-303-1 by Stratford Recreation Association, Inc. under Section 3-303 of the Zoning Ordinance to amend S-303-76 for community recreation facilities to permit additional lighting of tennis courts on property located at 8706 Camden Court, tax map reference 111-1((1))10, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 4, 1985; and

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

1. That the owner of the subject property is the applicant.
or That the applicant is the contract purchaser/lessee.
2. The present zoning is R-3.
3. The area of the lot is 5.7576 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 3-303 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 hours of operation shall be from 9:00 A.M. to 9:00 P.M. for the swimming pool and from 9:00 A.M. to 10:00 A.M. for the tennis courts.
6. After-hour parties for the facilities 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.

7. The existing vegetation shall be retained and shall be deemed to satisfy the transitional screening requirement along all lot lines.
8. The barrier shall remain as shown on the plat submitted with this application.
9. The bicycle parking area shall remain as shown on the plat.
10. There shall be a maximum of 425 family memberships.
11. There shall be 117 parking spaces as shown on the plat.
12. The tennis courts lights shall be be in accordance with the following:
    - The height of light poles on courts 1, 2 and 3 shall remain at 30 ft. and the height of the two light poles on court 4 shall not exceed 20 ft.
    - The lights shall be a low-intensity design which directs the light directly onto the facility.
13. Individual timers shall be installed on each of the four tennis courts.
14. Tennis courts 3 & 4 shall not be utilized between 8:30 P.M. and 10:00 P.M. unless courts 1 & 2 are simultaneously being utilized.
15. If required, in order to meet glare standards, the lights for court 3 shall be shielded so as to avoid any adverse impact on abutting property owners.
16. Courts 3 & 4 will not be utilized for tennis lessons, tournaments, or tennis parties between 8:30 P.M. and 10:00 P.M.
17. Development Condition No. 7 from special permit application S-12-76 shall be amended to allow lighting on courts 3 & 4.

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

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

Mr. Ribble seconded the motion.

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

Page 9, June 4, 1985; After Agenda Items:

CHRISTIAN ASSEMBLY CENTER, SPA 84-P-055-1. The Board was in receipt of a letter requesting an out-of-turn hearing for an amendment to existing special permit for a church and related facilities and a school of general education. After discussion, Mrs. Thonen stated that, out of fairness, the Board should either deny all such requests or schedule an additional hearing just for these hardship cases before the August recess. The Board tentatively agreed on August 1, 1985 as the date of the additional meeting to hear the hardship cases with out-of-turn hearing requests filed. Staff was requested to report back to the Board on Tuesday, June 11, 1985, as to whether the August 1, 1985 date would allow enough time to prepare these cases.

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Page 9, June 4, 1985, After Agenda Items:

FELLOWSHIP BAPTIST CHURCH, SPA 82-V-054-2: The Board was in receipt of a letter requesting an out-of-turn hearing for an amendment to existing special permit for a church and related facilities, school of general education and to allow a child care center. The Board again requested Staff to report back on
Tuesday, June 11, 1985 as to whether this case also could be prepared for an August 1, 1985 hearing.

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Page 10, June 4, 1985, After Agenda Items:

APPROVAL OF MINUTES:

The Board was in receipt of Minutes for May 14, 1985 and May 21,.1985. Mr. Hammack moved that the Minutes of May 14, 1985 be approved as submitted and that the Minutes of May 21, 1985, be approved as amended. Mrs. Day seconded the motion and it passed by a unanimous vote of 7 to 0.

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There being no further business, the Board adjourned at 1:05 P.M.

By Christine McClaugherty
Christine McClaugherty
Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

Submitted to the Board: 7-9-85

APPROVED: 7-9-85
Date

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on June 11, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Ann Day; Paul Hammack, John Ribble, Mary Thonen and Gerald Hyland (arriving at 11:30 A.M.)

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

Page 11, June 11, 1985, 10:15 A.M. (Tape 1)

The Chairman called the scheduled 10:00 o'clock case of:

10:00 A.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. (DEFERRED FROM MARCH 26, 1985 AT REQUEST OF APPLICANT.

Ms. Jane Kelsey presented the staff report. The Board discussed whether this application would come under the provisions of Chapter 57 of the State Code, Article I. Chairman Smith stated that he felt this provision of the State Code pertained to the establishment of cemeteries, not the enlargement of an existing one. Grayson P. Hanes, attorney for the applicant, asked Neil Doherty, President of Calvary Memorial Park, Inc., to speak to the Board regarding this application. Mr. Doherty advised that the application had undergone major surgery since March in an attempt to work out all problems that existed, both with staff and with adjoining property owners. Mr. Ribble stated that this was a good example of an applicant working with staff to work things out.

There was no one else to speak in support. James A. Fleming, Jr., 9811 Ceraline Drive, Fairfax, Virginia questioned whether the County of Fairfax had regulations as to where a mausoleum could be constructed. He was advised that the regulation was 25 ft. from the property line. Mr. Fleming then questioned why, with the amount of property the cemetery had, it had to be built so close to property line. It was explained that the site chosen blended well topographically for the mausoleum and if it were moved over they would take up many burial sites.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 81-A-022-2 by Calvary Memorial Park, Inc. T/A Fairfax Memorial Park under Section 3-103 of the Zoning Ordinance to amend SP 81-A-022 for cemetery to permit addition to existing mausoleum facilities on property located at 4401 Burke Station Road, tax map reference 69-1((1))1 & 12, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 11, 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 128.13856 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 3-103 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 shall be modified along all lot lines provided the plantings as shown on the plat are installed.

6. Buildings A and B shall not be constructed for five (5) years from the approval of this Special Permit and then not until the plantings as shown on the plats have reached a height equal to or greater than the mausoleum buildings. All of the mausoleum structures which are proposed under this Special Permit shall be completed within fifteen (15) years from the approval of this Special Permit.

7. There shall be no chapel within this mausoleum, or use of chimes or bells in conjunction with this use.

8. The number of burial services in the mausoleum shall be limited to one at a time.

9. There shall be a 100 foot setback from Burke Station and Braddock Roads which shall not be used for any burial purpose.

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 of the mausoleum buildings 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. (Hyland absent)

Page 12, June 11, 1985, 10:50 A.M. (Tape 1) Scheduled case of

10:15 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, approx. 191.3 acres, A 84-L-004. (DEFERRED FROM SEPTEMBER 25. 1984 AT THE REQUEST OF THE PLANNING COMMISSION; FROM DECEMBER 18, 1984, FEBRUARY 19, AND APRIL 22, 1985 AT THE APPLICANT'S REQUEST.)

Chairman Smith advised that the applicant was requesting a further deferral. There was no one present to speak on this matter. The Board deferred this case to October 8, 1985 at 10:00 A.M.

Page 12, June 11, 1985, 10:55 A.M. (Tape 61) After Agenda Items:

MARIE-THERESE THOMAS, SP 85-L-032. The Board was in receipt of a request for an out-of-turn hearing to permit a child care center for 45 children on property located at 3507 Rolling Hills Avenue.

ROUSE & ASSOCIATES-FAIR OAKS, SP 85-P-033. The Board was in receipt of a request for an out-of-turn hearing for a child care center in the Pender Business Park at Fair Oaks.

FELLOWSHIP BAPTIST CHURCH, SPA 82-V-054-2. The Board was in receipt of a request for an out-of-turn hearing to permit a child care center on property located at 7716A Midway Place.

CHARLES SCHEIDER, VC 85-M-055. The Board was in receipt of a request for an out-of-turn hearing to permit a subdivision at 3450, 3452 and 3454 Gallows Road.

CHRISTIAN ASSEMBLY CENTER, SPA 84-P-055-1. The Board was in receipt of a request for an out-of-turn hearing for an amendment to the existing special permits for a church and related facilities and a school of general education.

Mrs. Thonen noted that all of these requests seem to have the same hardships, but if they cannot be staffed the Board had no alternative. Mr. DiGiulian agreed that if they could not be staffed, they could not be heard. Chairman Smith stated that it had been agreed that these out-of-turn hearings, if granted, could not be handled at regular meetings and staff was to look into possibility of setting an additional meeting for them. Jane Kelsey advised that normally staff would not make a recommendation to the Board on out-of-turn hearings, but with Mr. Shoup having left and Marilyn Anderson being new and needing some time to break in, it did not seem possible to get these cases staffed sooner.

Mr. Ribble moved to deny all of the above requests for out-of-turn hearings. Mrs. Thonen seconded the motion. The motion carried by a 6-0 vote (Hyland absent).

Page 13, June 11, 1985, 11:05 A.M. (Tapes 1 & 2) Scheduled case of:

11:00 A.M. FLOYD W. HARRIS, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots, proposed lots 11B & 12B each having width of 6 ft. (100 ft. min. lot width req. by Sect. 3-206), located 4010 Millcreek Dr., R-2, Millcreek Park, Mason Dist., 59-4((4))11 & 12, 2.465 ac., VC 85-M-017.

William Shoup presented the staff report. Douglas Adams, attorney for applicant, explained Mr. Harris' proposal and justification stating that if this application were granted, the lots would be approximately the same size as existing lots in the area. Mr. Hammack questioned how many lots there would be if County road requirements were met. Mr. Adams advised that he did not think this was a consideration because of cul de sac and if run through the property, it would probably destroy more trees than current proposal.

There was no one else to speak in support. Lossie Jones Tucker, 4004 Mill Creek Drive, Annandale, VA submitted two petitions signed by 80 residents of Mill Creek Park, one is signed by immediate neighbors, one by other interested citizens. Ms. Tucker also presented a copy of a resolution passed by the Mill Creek Park Citizens Association at their June 4, 1985 meeting. Ms. Tucker went on to review the letter she had submitted in opposition which stated among other things, that when she purchased her property 25 years ago, she expected someday that a house would be erected on the lot next to her, but never thought someone would try to put two houses on a lot designated for one.

Stuart Harbor, 4003 Mill Creek Drive, Annandale, Virginia also spoke in opposition to this application stating that he felt the only reason for granting this would be if the lot could not otherwise be reasonably used. He did not feel this was the case.

In rebuttal, Mr. Adams stated that he understood opposition, but there are probably 260 residents in the area and only 26 attended the June 4 meeting of the Association, therefore he did not feel this was a accurate representation. He further stated that two of the lots would be larger than Ms. Tucker's and Mr. Harbor's and the applicant wants the right to build houses similar to those already in the area.

Chairman Smith clarified that the petitions received by the Board had signatures of 80 to 90 residents, not just the 26 who attended the Association meeting.

Mrs. Thonen stated that she had carefully reviewed this and could not find the hardship as required and did not feel the granting of this application would be in harmony with the area.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-M-017 by Floyd W. Harris under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lots 11B & 12B each having width of 6 feet on property located at 4010 Millcreek Drive, tax map reference 59-4((4))11 & 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 June 11, 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 2.465 acres.
4. That the applicants' property is not exceptionally irregular in shape, including narrow or shallow, does not have exceptional topographic problems, does not have an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application does not meet all of 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 all reasonable use of the land and/or buildings involved.

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

Mrs. Day seconded the motion.

The motion passed by a vote of 4-3 (Hammack, Ribble, & Hyland)

Page 14, June 11, 1985, 11:40 A.M. (Tape 2) Scheduled case of

11:15 A.M. DAVID A. KIDWELL, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots, proposed lot 2 having width of 20 ft. (70 ft. min. lot width req. by Sect. 3-406), located 3819 Candlelight Ct., R-4, Wilton Knoll Subd., Lee Dist., 82-4((1))19 and 82-4((35))A, 90,852 sq. ft., VC 85-L-018.

William Shoup advised the Board that the applicant had been contacted on May 24, 1985 to advise them that one property owner still had to be notified. This was followed up again on May 30, 1985, and Mr. Kephart's office advised that they had sent the receipt to Board of Zoning Appeals, but it was not received as of this hearing

Mr. Kephart confirmed this and advised the Board that he had, in fact, sent the required receipt, but had not retained a copy. Chairman Smith advised Mr. Kephart that unless the applicant could prove that notices were in order, the hearing had to be deferred.

Michael Miller, 3814 Candlelight Court and George Ball, 3804 Candlelight Court, inquired when the hearing would be deferred to as they and other residents had taken off work to attend this hearing.

Mr. Hyland suggested that the matter be deferred to a night meeting to accommodate the citizens attending today. Mrs. Thonen agreed and moved that the matter be deferred to July 23, 1985 at 9:00 P.M. Mr. Hyland seconded the motion. The motion carried by a unanimous vote of 7 to 0.

Page 14, June 11, 1985, 11:50 (Tape 2 & 3) Scheduled case of

11:30 A.M. HAROLD A. & LINDA M. SCHAITBERGER, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots, proposed lot 2B having width of 15 ft. (150 ft. min. lot width req. by Sect. 3-106), located 11331 Vale Rd., R-1, Vale Chapel Estates, Centreville Dist., 36-4((1))37, 87,120 sq. ft., VC 85-C-019.

William Shoup presented the staff report. Harold Miller, attorney for applicant, advised the Board that the applicant's neighbor had no objection to this proposal, that the 1 acre sized lot is predominant in the neighborhood and submitted letters circulated throughout area signed in support. Mr. Miller again pointed out that the immediate next door neighbor, Robert Shoun, did not object to this proposal and Mr. Shoun's lot could not be subdivided so granting this application would not set a trend.

Robert E. Shoun, 11335 Vale Road, advised the Board that he is the immediate next door neighbor of the applicant and stated that he had learned only the day before that the common driveway now shared by himself and the applicant was to be used also for the proposed house. Mr. Shoun further wished to clarify that he had made it clear to applicant that while he had not intended to step forward and take an adverse position, it was not accurate to state that he had no objections

Chairman Smith advised that in order to allow Mr. Shoun to meet with the applicant and his attorney to discuss this further, the Board would recess for lunch and reconvene at 1:25 P.M.

The hearing reconvened at 1:25 P.M. Mr. Miller advised the Board that Mr. Shoun was again present and would address his concerns to the Board. Mr. Miller advised that they had discussed the matter during the luncheon recess, but had agreed on nothing. Mr. Miller further stated that his client would be willing to provide an additional driveway, but had not done so originally, because they thought this was staff's preference.

Mr. Shoun advised the Board that his primary objection was two-fold; one was to correct the misstatement that he was in support of the proposal, and to address the driveway problem. Mr. Shoun further advised that he felt that the attractiveness of these homes was mainly because of the front yards, due to the long narrow shape of lots, and he felt it would be distracting to see houses sitting in the front yards of existing homes. He asked that the members of the Zoning Board of Appeals fairly apply the standards as he had been informed they consistently do.

The Board discussed whether the granting of this application would effectively be rezoning the area and if granting the pipestem would set a precedent. Mr. Hyland stated that he did not feel the granting of one pipestem would amount to rezoning of the area. Mr. Shoup advised the Board that staff would look at the character of an area when making a recommendation of a pipestem. Chairman Smith stated that he did not feel the applicant had justified the hardship requiring this variance.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-C-019 by Harold A. & Linda M. Schaitberger under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 2B having width of 15 feet on property located at 11331 Vale Road, tax map reference 36-4((1))37, 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 11, 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 87,120 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, or has exceptional topographic problems, or has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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 with with one (1) of the lots being a pipestem lot. The pipestem lot shall have a minimum lot width of not less than fifteen (15) feet and the other lot shall satisfy the minimum lot width requirement. This approval is for the subdivision as shown on the plat except that minor lot line adjustments which do not affect the approved variance may be permitted.
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. Access to proposed Lot A shall be via a common driveway, said driveway to be within the pipestem portion of Lot 2B.

Mr. Hyland seconded the motion.

The motion passed by a vote of 4-3 (Smith, Day & Hammack)

Page 16, June 4, 1985 1:45 P.M. (Tape 3) Scheduled case of

1:00 P.M. THOMAS P. & DOROTHEA M. GOGGIN, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 17.2 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 9533 Whitecedar Ct., R-3, Vienna Oaks Subd., Providence Dist., 48-1((9))16, 10,624 sq. ft., VC 85-P-020.

William Shoup presented the staff report. Thomas Goggin, the applicant, presented a document signed by his neighbors supporting his request.

Mrs. Day stated that because the applicant had no one in opposition and had a number of neighbors supporting his application, she would support the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-P-020 by Thomas P. & Dorothea M. Goggin under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17.2 feet from rear lot line on property located at 9533 Whitecedar Court, tax map reference 48-1((9))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 June 11, 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 10,624 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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 6-1. (Smith)

Page 17, June 11, 1985, 2:00 P.M. (Tape 3 & 4) Scheduled case of

1:15 P.M. STEPHEN W. ROTHERT, appl. under Sect. 18-401 of the Ord. to allow enclosure of an existing carport 6.9 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 2616 Bowling Green Dr., R-3, Dunn Loring Woods, Providence Dist., 49-1((9))(N)9, 10,914 sq. ft., VC 85-P-021.

William Shoup presented staff report. Steven W. Rothert advised the Board that he was requesting the variance in order to enclose an existing carport.

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

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-P-021 by Stephen W. Rothert under Section 18-401 of the Zoning Ordinance to allow enclosure of an existing carport 6.9 feet from side lot line on property located at 2616 Bowling Green Drive, tax map reference 49-1((9))(N)9, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 11, 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 10,914 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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 7 to 0.

Page 18, June 11, 1985, 2:05 P.M. (Tape 4 & 5) Scheduled case of

1:30 P.M. CAROLE R. NYSMITH, appl. under Sect. 3-103 of the Ord. for a nursery school, located 12533 Lawyers Rd., R-1, Centreville Dist., 35-2((1))18, 43,560 sq. ft., SP 85-C-012.

Before staff presented the report, Mr. Hyland advised the applicant that this was to be his motion and he was not going to make a motion to support the application. W. McCauley Arnold, 10521 Judicial Drive, Fairfax, VA, attorney for applicant, advised that the applicant had addressed some of the problems raised by staff but they still did not have the support of staff. William Shoup presented the staff report.

Mac Arnold advised that the application is to use an existing dwelling as a school and then presented some background information to the Board stating that he realized he was fighting an up-hill battle. Mr. Arnold discussed some of the problems raised by staff and applicant's proposed solutions.

Sandra Berger, 2100 Kedge Drive, Vienna, VA, and Ronald Hirsch, 2970 Treadwell Lane, Herndon, VA both parents of gifted children, spoke in support of the application advising that this school was very much needed by the community. Charles E. Cox, 13201 Pleasant View Lane, Fairfax, owner of the proposed site also spoke in support, and stated that he has watched the traffic patterns over the years and did not feel this use would cause a problem

The Board questioned whether the problems raised by staff could be corrected. Mr. Arnold stated he and his client would be willing to attempt to work with staff to solve the problems.

Mr. Hyland moved that this matter be deferred until the next meeting, in order to allow the applicant to attempt to work out solutions to the problems raised by staff. The motion was seconded by Mr. Ribble. The motion passed by a unanimous vote of 7 to 0.

Page 19, June 11, 1985, 3:05 P.M. (Tape 5) Scheduled case of

1:45 P.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. (DEFERRED FROM MAY 14, 1985 FOR REPOSTING.)

William Shoup presented the staff report. Cesor A. Armetin, 2914 Douglas Street, Alexandria, VA, agent for the applicant, advised the Board that he felt by granting Dr. Ilano's request, they would allow him to improve the area and utilize this property to its full potential. When questioned by Chairman Smith as to the justification for this application, Mr. Armetin offered into the record a letter from Kenneth W. White of Alexandria Surveys, Inc. Mr. White's letter stated that the justification for the variance is that a hardship exists due to the property being long and narrow. There was no one else to speak in support of this application.

Daniel P. Moon, 8002 Fordson Road, Alexandria, VA; Theresa Beckman, 405 N. Fayette Street, Alexandria, VA; Robert E. Adams, 7921 Caledonia Street, Alexandria, VA, President of the Saunders B. Moon Community Action Association, Inc.; and Calvin L. Furguson, 7805 Fordson Road, Alexandria, VA, all spoke in opposition to this application. Mr. Adams also presented a petition to the Board signed by other concerned citizens. The citizens in opposition stated that they had tried to meet with the builder to determine what type of houses were being proposed and got conflicting information. The citizens felt they could not get any cooperation from the builder. Mr. Adams advised the Board that the Saunders B. Moone Community Action Association, Inc. and the Gum Springs Improvement Committee are involved in the overall improvement of their area and did not feel this proposal would be an asset to the community.

Mr. Hammack stated that he was impressed with the involvement of the community in attempting to come up with a proposed development plan.

In rebuttal, Mr. Armetin stated that the builder was no intentionally trying to misinform the community, they were just not certain at this point what the sale price of the houses would be, it would depend on the market and they did not want to invest in any additional tests until they had this variance approved, so they could not give any more information to the community groups.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-V-013 by Eduardo R. Ilano under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lots 2 and 3 having widths of 12.04 feet and 12.05 feet respectively on property located at 8008 Fordson Road, tax map reference 102-1((1))61, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 11, 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 1.0468 acres.
4. That the applicants' property is not exceptionally irregular in shape, including narrow or shallow, does not have exceptional topographic problems, does not have an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application does not meet all 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 all reasonable use of the land and/or buildings involved.

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

Mr. Hyland seconded the motion.

The motion passed by a vote of 6 to 0.(Thonen absent)

Page 20, June 11, 1985 3:50 P.M., (Tape 5)

Chairman Smith advised that, pursuant to a request from Jane Gwinn, Zoning Administrator, the matter of application for appeal for Olin Corporation would be considered at the July 9, 1985 hearing.

There being no further business, the Board adjourned at 4:05 P.M.

By: Christine McClaugherty
Christine McClaugherty, Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

Submitted to Board: 7-9-85

Approved by Board: 7-9-85

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Buiding on June 13, 1985. The following Board Members were present: Daniel Smith, Chairman, Ann Day, Paul Hammack, John Ribble, and Mary Thonen. John DiGiulian, Vice Chairman; and Gerald Hyland were absent.

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

Page 21, June 13, 1985, 10:15 A.M. (Tape 1)

The Chairman called the scheduled 10:00 o'clock case of:

10:00 A.M. REALITY GOSPEL CHURCH, appl. under Sect. 3-103 & 3-203 of the Ord. to amend S-269-79 for church and related facilities to permit addition of two (2) classroom trailers and land area to existing facilities, located 5937 Franconia Rd., R-2/R-1, Lee Dist., 81-4((3))1, 1A, 1B, 2, 2B & 3, approx. 6.82 ac., SPA 79-L-269-1.

Chairman Smith announced that he had been advised that notices were not in order in this case and therefore this application must be deferred. Mrs. Thonen requested that this matter be deferred to a night meeting for the convenience of citizens present. Nancy Kramer, on behalf of the applicant, requested that the new hearing date be as soon as possible. July 16, 1985 was chosen as the date for the deferred hearing.

Phillip Buhler, 5941 Kathmoor Drive, Alexandria, VA advised that he had not received a certified letter regarding this matter. Staff advised Mr. Buhler that the applicant had provided a receipt showing that one had been mailed. Mr. John Dunnett advised the Board that he did not feel he would have enough time if this was deferred to July 16, and requested that it be set for a later date.

Chairman Smith advised that July 16 would give Mr. Dunnett over one month. Chairman Smith further advised that the Board wanted to dispose of as many cases as possible before the recess.

Mrs. Thonen moved that this matter be deferred to July 16, 1985.

Mr. Ribble seconded the motion. The motion passed by a vote of 5 to 0.

Page 21, 1985, June 13, 1985, 10:20 A.M. (Tape 1), Scheduled case of

10:15 A.M. ROBERT & DIANE STACK, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 1.8 ft. from side lot line (8 ft. min. side yard req. by Sects. 6-106 & 3-407), located 10825 Verde Vista Dr., PDH-4, University Woods, Annandale Dist., 57-3((9))47, 9,268 sq. ft., VC 85-A-022.

The applicant was not present. Mrs. Thonen requested that the case be passed over to allow staff to try to contact the applicant. The Board agreed to come back to this case later in the hearing.

Page 21, 1985, June 13, 1985, 10:25 A.M. (Tape 1) After Agenda Item:

Request for Additional Time, V-90-79, Road Aggregates, Inc. 4412 Upland Drive, Tax Map 82-1((4))31B. The Board was in receipt of a letter requesting additional time in the above case. Mrs. Day stated that she did not feel the delay was the fault of the applicant. Mrs. Day moved that the applicant be granted six months additional time from May 15, 1985.

Mr. Hammack seconded the motion. The motion passed by a vote of 5 to 0.

Page 21, June 13, 1985, 10:35 A.M. (Tape 1), Scheduled case of

10:30 A.M. SYLVIA BLAKE, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing porch 8.7 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 2900 Preston Ave., R-3, Memorial Heights Subd., Mt. Vernon Dist., 93-1((18))(G)228 & 229, approx. 6,500 sq. ft., VC 85-V-023.

Cheryl Hamilton presented the staff report. Sylvia Blake, 2900 Preston Avenue, advised the Board that she was requesting the variance in order to enclose a porch to make a bedroom for one of her daughters.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-V-023 by SYLVIA BLAKE under Section 18-401 of the Zoning Ordinance to allow enclosure of existing porch 8.7 ft. from side lot line (12 ft. min.

side yard required by Sect. 3-307, on property located at 2900 Preston Avenue, tax map reference 93-1((18))(G) 228, 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 13, 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 approx. 6500 ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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.

Page 23, June 13, 1985, 10:45 A.M. (Tape 1) Scheduled case of

10:45 A.M. JOHN V. ARBAN, JR., appl. under Sect. 18-401 of the Ord. to allow construction of greenhouse addition to dwelling to 6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7315 Walnut Knoll Dr., R-3, Walnut Knoll Subd., Springfield Dist., 89-4((9))8, approx. 14,759 sq. ft., VC 85-S-025.

Cheryl Hamilton presented the staff report. Jack McClintock, 9901 Burke Lake Road, Burke, Virginia, representing the applicant, advised the Board that the applicant was requesting this variance in order to construct a greenhouse. Chairman Smith questioned the location of the proposed greenhouse and asked why the entire rear portion of the lot was not being considered. Mr. McClintock advised that, although it did not show on the plat, there was a swimming pool in the rear portion of the lot. Chairman Smith advised Mr. McClintock that the plat must show all structures currently on the property in order for the Board to be able to consider the proposal.

Mr. Ribble moved to defer this case to July 9, 1985, to allow the applicant to submit a revised plat.

Mrs. Day seconded the motion. The motion passed by a vote of 5 to 0.

Page 23, June 13, 1985, 11:00 A.M. (Tape 1 & 2) Scheduled case of

11:00 A.M. W. DAVID POWELL/DEBBIE ARENTS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 9 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6013 Beechtree Dr., Wilton Woods Subd., R-2, Lee Dist., 82-4((12))13, approx. 18,088 sq. ft., VC 85-L-016.

Cheryl Hamilton presented the staff report. W. David Powell advised the Board that since the filing of the application, he and Ms. Arents had married and it was Mr. & Mrs. Powell now. Mr. Powell advised that they needed this addition for storage.

Chairman Smith asked what the size of the proposed addition would be. Mr. Powell advised that the inside measurments would be approximately 24 ft. Mr. Ribble pointed out that the Board could not tell the exterior dimensions from the plat submitted. Chairman Smith advised Mr. & Mrs. Powell that they would need to submit proper plats showing all dimensions of the proposed addition.

Mrs. Thonen moved that this case be deferred to July 9, 1985, to allow the applicant to submit a revised plat.

Mr. Ribble seconded the motion. The motion passed by a vote of 5 to 0.

Page 23, June 13, 1985, 11:35 A.M. (Tape 2) Recall case of

ROBERT & DIANE STACK, VC 85-A-022. Chairman Smith advised that the applicant was not going to be able to be present.

Mrs. Thonen moved that this case be deferred to July 9, 1985.

Mrs. Day seconded the motion. The motion passed by a vote of 5 to 0.

Luncheon recess was called at 11:45 A.M.

The hearing reconvened at 1:20 P.M.

Page 23, June 13, 1985, 1:20 A.M. (Tape 2) Scheduled case of

1:00 P.M. DR. LAWRENCE L. ZIEMIANSKI, appl. under Sect. 3-103 of the Ord. to renew S-80-D-035 for home professional office (dentist) to permit continuation of the use without term, located 1300 Beulah Rd., R-1, Dranesville Dist., 19-3((1))12, 35,247 sq. ft., SPR 80-D-035-1.

Cheryl Hamilton presented the staff report. Mr. Hammack asked Ms. Hamilton if staff was recommending this application without any time limitation. Ms. Hamilton advised that was correct. Dr. Lawrence Ziemianski, 1300 Beulah Road, Vienna, advised that he was requesting this be granted without term to avoid having to come before this Board again with the same request. Dr. Ziemianski advised that he had invested a great deal into this property and had every intention of meeting the requirements set by this Board.

Chairman Smith advised Dr. Ziemianski that the five year period was the longest granted by the Board and this was done to insure that applicants met the requirements of their

special permits in order to protect the residential area.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPR 80-D-035-1 by Dr. Lawrence L. Ziemianski under Section 3-103 of the Zoning Ordinance to renew S-80-D-035 for home professional office (dentist) to permit continuation of the use on property located at 1300 Beulah Road, tax map reference 19-3((1))12, County of Fairfax, Virginia, Ms. 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 13, 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 approx. 35,247 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 8-903 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 8:30 A.M. to 5:30 P.M., Monday through Friday, with occasional emergency hours.

7. There shall be a minimum of 12 and a maximum of 13 parking spaces provided for this use in the existing garage and parking lot.

8. Low evergreen shrubbery, a minimum of three (3) feet in height, shall be planted along the eastern periphery of the parking area, the amount, size and type shall be determined by the Director, Department of Environmental Management (DEM). The shrubbery shall be planted within six months from this date of approval.

9. This permit shall be for the term of five years.

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

Non-Residential Use Permit through established procedures, and this Special Permit shall not be valid until this has been accomplished.

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

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 to 0.

Page 25, June 13, 1985, 1:50 P.M. (Tape 2 & 3) Scheduled case of

1:15 P.M. HUNT VALLEY SWIM CLUB, INC., appl. under Sect. 3-103 of the Ord. to amend S-222-73 for community swim club to permit shed, addition of two (2) pavillions, bleachers and a volleyball court to existing recreational facilities, and to permit change in cond. no. 9 of S-222-73 to permit 30 ft. high tennis court lights to remain, located 7100 Sydenstricker Rd., R-1, Springfield Dist., 89-3((1))4, 5.47 ac., SPA 73-S-222-1.

Cheryl Hamilton presented the staff report. Douglas J. Frazier, Jr., 8717 Whitson Court, Springfield, VA, spoke on behalf of the applicant. He advised that at the present time, all they intend to build is the shed. The other items, the pavillions, bleachers and volleyball courts are future improvements. Mr. Frazier addressed staff recommendations of light shielding and plantings and stated that applicant would cooperate fully in these areas. However, he felt staff's recommendation of an asphalt trail appeared impractical as well as expensive, as the estimate they received was approximately $4,000.

Chairman Smith advised that the recommendation was in keeping with the County's trail program and sounded like good planning. Ms. Hamilton stated that staff had no problem deleting Condition 14 of Appendix 1 of the Staff Report, but advised that the trail would be required under Article 17 of the Zoning Ordinance.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA-73-S-222-1 by Hunt Valley Swim Club, Inc. under Section 3-103 of the Zoning Ordinance to amend S-222-73 for community swim club to permit shed, addition of two (2) pavillions, bleachers and a volleyball court to existing recreational facilities and to permit change in Cond. #9 of S-222-73 to permit 30 ft. high tennis court lights to remain on property located at 7100 Sydenstricker Road, tax map reference 89-3((1)) 4, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 13, 1985; and

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

1. That the owner of the subject property is the applicant.
or That the applicant is the contract purchaser/lessee.
2. The present zoning is R-1
3. The area of the lot is approx. 5.47 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. The maximum number of family memberships shall be 400.

6. There shall be a minimum and maximum of 50 parking spaces for vehicles and a minimum of 100 spaces for bicycles.

7. The hours of operation shall be from 9:00 A.M. to 9:00 P.M.

8. All loudspeakers and noise shall be confined to the site.

9. Transitional screening shall be modified provided the existing vegetation is retained and supplemental plantings, a minimum of six (6) feet in height, are provided along the southern lot line around the tennis courts and parking area and a small portion of the southwestern and northeastern lot line which abuts residential properties. The number, size, and amount of the plantings shall be determined by the County Arborist.

10. The barrier requirement may be modified provided the existing fencing remains.

11. Lighting for the tennis courts shall be in accordance with the following:
- The combined height of the light standards and fixtures shall not exceed thirty (30) 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 any light or glare from projecting beyond the pool area.

12. After-hour parties for the facility shall be governed by the following:
- Limited to six (6) per year for the pool and tennis courts.
- 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.

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

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

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 to 0.

Page 27, June 13, 1985, 2:25 P.M. (Tape 3) Scheduled case of

1:30 P.M. TRUSTEES OF CHESTERBROOK PRESBYTERIAN CHURCH, appl. under Sects. 3-103, 3-203 & 8-901 of the Ord. to amend S-955-68 for a child care center to permit addition of an adult day care center with an increase in enrollment and to permit a modification of the dustless surface requirement, located 2036 Westmoreland Street, R-1 & R-2, Dranesville Dist., 40-2((1))26A, 26B, & 26C, approx. 9.1371 acres, SPA 68-D-955-1.

William Shoup presented the staff report and advised the Board that inadvertently there was no reference to the Comprehensive Plan provision in the staff report, but that had been received and would not conflict with contents of the plan. Mr. Ribble asked if this basically was an application for an adult day care center for victims of Alzheimer's disease and their families. Mr. Shoup advised technically it was, but it must include child care center.

John Cahill, 4084 University Drive, Fairfax, VA, spoke on behalf of the applicant. Mr. Cahill advised that this is a non-profit center and its purpose is to provide a cost-effective alternative to full time institutional care.

Vernon Gardner, 6624 Kirby Court, Falls Church, VA, advised the Board that he was not speaking in opposition of the adult day care center, and he had no objections when they opened the child care center and was concerned about the two uses being compatible..

On rebuttal, Mr. Cahill stated that while he was just an attorney, his personal opinion was that the two uses would be separated adequately and did not feel the two uses were incompatible.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 68-D-955-1 by Trustees of Chesterbrook Presbyterian Church under Section 3-103 and 8-901 of the Zoning Ordinance to amend S-955-68 for a child care center to permit addition of an adult day care center with an increase in enrollment and to permit a modification of the dustless surface requirement on property located at 2046 Westmoreland Street, tax map reference 40-2((1)) 26A, 26B & 26C, 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 13, 1985; and

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

1. That the owner of the subject property is the applicant.
or That the applicant is the contract purchaser/lessee.
2. The present zoning is R-1 and R-2
3. The area of the lot is approx. 9.1371 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 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 except that the applicant shall be permitted to allow other than church related groups to operate the use. This approval is for the location indicated on the application and is not transferable to other land.

2. This approval is granted for the child care center with adult day care and modification to the dustless surface requirement 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. No additional screening plantings shall be required.

6. No additional barrier shall be required except that the applicant may fence the proposed adult exercise area.

7. The existing parking areas shall be used to accommodate the combined use and no additional parking shall be required.

8. The dustless surface requirement shall be modified and a gravel surface shall be permitted for the western-most parking area.

9. All gravel surface areas shall be constructed in accordance with standards approved by the Director, DEM.

10. 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.

11. There shall be an annual inspection to ensure compliance with the conditions of this permit relative the gravel surface, and the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.

12. The approval of the waiver of the dustless surface requirement is for a period of five (5) years.

13. A maximum daily enrollment of sixty (60) children and twenty (20) adults shall be permitted.

14. The hours of operation shall be 7:00 A.M. to 6:00 P.M., Monday through Friday.

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

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

Ms. Day seconded the motion.

The motion passed by a vote of 5 to 0.

Page 28, June 13, 1985 2:40 P.M.(Tape 3)

Chairman Smith stated that it had come to his attention during the luncheon recess that the three cases rescheduled earlier in this hearing were scheduled at times already reserved and therefore must be scheduled later in the July 9, 1985 hearing.

Mrs. Thonen moved that the case of John V. Arban, Jr. VC 85-S-025 be rescheduled to 1:00 P.M. on July 9, 1985. Mr. Ribble seconded the motion. The motion passed by a vote of 5 to 0.

Mr. Ribble moved that the case of W. David Powell/Debbie Arents, VC 85-L-016 be rescheduled to 1:15 P.M. on July 9, 1985. Mrs. Thonen seconded the motion. The motion passed by vote of 5 to 0.

Mr. Ribble moved that the case of Robert & Diane Stack, VC 85-A-022 be rescheduled to 1:30 P.M. on July 9, 1985. Mrs. Thonen seconded the motion. The motion passed by a vote of 5 to 0.

Page 29, June 13, 1985, 2:45 P.M. (Tape 3) Scheduled case of

1:45 P.M. CAROLE R. NYSMITH, appl. under Sect. 3-103 of the Ord. for a nursery school, located 12533 Lawyers Rd., R-1, Centreville Dist., 35-2((1))18, 43,560 sq. ft., SP 85-C-012. (Deferred from June 11, 1985)

William Shoup advised the Board that the applicant had submitted new plats addressing some of the concerns discussed at the June 11, 1985 hearing, and the new plat was an improvement over the plat previously submitted. However, Mr. Shoup advised, staff cannot support the application. W. McCauley Arnold, attorney for applicant, advised the Board that it was his understanding that the applicant had been charged with the responsibility of coordinating with staff to determine if applicant could meet conditions set out. Mr. Arnold further advised that he had reviewed this application with Mr. Thillman and Supervisor Pennino and neither had problems with this use. Mr. Arnold felt they met the development conditions and wanted to go ahead with use.

Mr. Hammack stated that he had heard the testimony and reviewed the revised plat with great interest. Basically, Mr. Hammack felt, this boiled down to the fact that although there was no question that the school is outstanding, and the applicant had done an admirable job, this was too intense of a use for this property. Mr. Arnold asked if the Board's position would be different if they came in with less intense of a use. Mrs. Thonen asked if this was to be denied, could it be done without prejudice? Mr. Hammack stated he had no objection to that, but could not support the application

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-C-012 by Carole R. Nysmith under Section 3-103 of the Zoning Ordinance to permit a nursery school on property located at 12533 Lawyers Road, tax map reference 35-2((1))18, 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 13, 1985; and

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

1. That the owner of the subject property is the applicant.
or That the applicant is the contract purchaser/lessee.
2. The present zoning is R-1.
3. The area of the lot is approx 43,560 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 8-303 and 8-305 of the Zoning Ordinance.

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

Ms. Thonen seconded the motion.

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

Page 29, June 13, 1985 3:00 P.M. (Tape 3) After Agenda Item:

Mrs. Thonen advised the Board that she had an After Agenda Item she would like to have a resolution passed on. The Board is having so many problems with home/professional offices and Mrs. Thonen felt they were an encroachment on single family residences, but if they meet the requirements, the Board must approve them. Mrs. Thonen moved that the Board respectfully request Zoning look into strengthening conditions for home/professional offices in residential areas and make it easier for Board of Zoning Appeals to either approve or deny. Chairman Smith stated that he felt Mrs. Thonen was

talking about transitional area zoning. Mrs. Thonen agreed that this was her intent that home/professional offices go into transitional areas only. Chairman Smith advised that he had tried to do this several times, without success.

Jane Kelsey asked for clarification. She asked how the Board wanted this accomplished, through a memorandum to Board of Supervisors or the rest of Zoning Administration. Mrs. Thonen stated that she thought a memorandum to the Board of Supervisors and then a response back to the Board of Zoning Appeals might accomplish this.

Chairman Smith stated that if all Board members were in agreement, the staff was requested to send a memorandum to the Board of Supervisors recommending requirements that all home/professional offices be in transitional areas only.

Mr. Hammack seconded the motion. The motion passed by a vote of 5 to 0.

There being no further business the Board adjourned at 3:10 P.M.

By: Christine McClaughertty
Christine McClaughertty
Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

Submitted to the Board: 7-9-85

Approved: 7-9-85

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 9, 1985. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble; and Mary Thonen. John Digiulian, Vice Chairman, was absent.

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

The Chairman called for Matters Presented by Staff Members (Tape 1)

10:00 A.M. The Carlin Company, VC 84-P-125: 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 6 to 0 vote on January 29, 1985. Following review of the memorandum, Mr. Hyland moved that the Board grant the waiver request. Mr. Ribble seconded the motion and it passed by a vote of 5-1 (Mr. Smith) (Mr. Digiulian being absent).

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Page 31, July 9, 1985, (Tape 1, Reading 26-235) Scheduled case of:

10:00 A.M. FIRST VIRGINIA BANK, appl. under Sect. 18-401 of the Ord. to allow construction of building additions to existing drive-in bank to 32 ft. from one street line and 37.5 ft. from the other street line of a corner lot and 11.5 ft. from a service drive (40 ft. min. front yard req. by Sect. 4-607; 15 ft. setback from service drive req. by Ord. definition of a "yard".), located 6618 Richmond Hwy., C-6, Groveton Heights Subd., Lee Dist., 93-1((27))1B & 3C, approx. 37,736.1 sq. ft., VC 85-L-009.

Ms. Jane Kelsey presented the staff report. She informed the Board that this property is also subject to a special exception application that is to be heard by the Board of Supervisors on July 22, 1985. Ms. Kelsey explained the Board that this application is to allow the renovation of this building and that the variance would be needed whether or not the Board of Supervisors approved the drive-thru window. The variance is needed because the applicant is extending the roofline about three feet and columns will extend from the roof to the ground.

Ms. Kathy Anderson, 6400 Arlington Blvd. Falls Church, Va., Attorney-At-Law, represented the applicant and indicated that only two variances would be necessary as opposed to the three originally requested. Discussion indicated that the application had been reviewed by the Land Use Committee of Lee District and that they had voted 7 to 6 against the third drive-in window but did support the renovation of the building. Mr. Hyland suggested that the decision of the Board of Supervisors might have an impact on the renovation plans and thus moved that the BZA defer its decision until after the Board of Supervisors decide on the special exception. The motion was seconded by Ms. Thonen and passed by a vote of 6 to 0. This variance application was deferred, for decision only, to July 23, 1985 at 8:00 P.M.

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Page 31, July 9, 1985, (Tape 1, Reading 736-1361)) Scheduled case of

10:15 A.M. JOHN O. & NORMA S. KING, appl. under Sect. 18-401 of the Ord. to allow construction of garage to dwelling to 7.7 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 9119 Continental Dr., R-2, Mt. Vernon Forest Subd., Mt. Vernon Dist., 110-2((11))37, 21,033 sq. ft., VC 85-V-026.

Ms. Kelsey presented the staff report. Mr. John O. King, the applicant, stated that he needed a variance to construct a 24 by 25.4 ft. two car garage addition twelve (12) feet in height. Mr. Smith indicated that the standard size for a two car garage was 20 ft. not 24 ft. as the applicant was proposing. The applicant's proposal; however, was for a two car garage with two doors and he felt that he needed the full 24 feet.
The applicants' statement of justification is in the file for this application.
There was no one to speak in support or opposition.

COUNTY OF FAIRFAX

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-V-026 by John O. and Norma S. King under Section 18-401 of the Zoning Ordinance to allow construction of a garage to dwelling to 7.7 feet from side lot line (15 ft. min. side yard req. by Sect. 3-207) on property located at 9119 Continental Drive, tax map reference 110-2((11))37, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 9, 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 21,033 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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 5-1. (Smith)

Page 33, July 9, 1985 (Tapes 1 & 2, Reading 1-769) Scheduled case of

10:30 A.M. ROBERT L. CURTIS, appl. under Sect. 18-401 of the Ord. to allow subdivision into 3 lots, proposed Lot 1 having a width of 30 ft. (150 ft. min. lot width req. by Sect. 3-106), located 2712 Fox Mill Rd., R-1, Centreville Dist., 26-3((1))14, approx. 4.011 acres, VC 85-C-028.

Ms. Kelsey presented the staff report. Mr. Charles Runyon, 7649 Leesburg Pike, represented the applicant. Mr. Runyon indicated that the applicant proposed to subdivide a 4.001 acre lot into three (3) lots with proposed lot 1 having a width of 30 ft. Dedication was an issue that concerned the applicant. He requested that dedication be limited to 30 ft. because surrounding properties had only dedicated 30 ft. Staff recommended that 45 ft. dedication be provided. Ms. Thonen raised the issue of factors which might generate pollution at the pond. It was Mr. Runyon's opinion that the horses and the stable created more pollution to the pond in one day than the applicant could in a year. There was one letter of opposition from Dr. Ralph Smeda and two speakers in opposition. Ms. Joan Riley, 12210 Lake James Drive indicated her concerns regarding pollution of the pond and the esthetic value of the homes that are intended for these lots. Mr. Harry Bovey also addressed his concerns regarding the traffic and the amount of dedication to be provided.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-C-028 by Robert L. Curtis under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lot 1 having a width of 30 feet (150 feet minimum lot width required by Sect. 3-106) on property located at 2712 Fox Mill Road, tax map reference 26-3((1))14, County of Fairfax, Virginia, Ms. 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 9, 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 4.011 acres.
4. That the applicants' property is not exceptionally irregular in shape, including narrow or shallow, does not have exceptional topographic problems, does not have an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use of the land and/or buildings involved.

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

Mr. Hammack seconded the motion.

The motion passed by a vote of 3 to 3 (Hyland, Ribble, and Day)

Mr. Hyland moved that because the vote was 3 to 3 that the Board grant a waiver of the 12 month limitation on rehearing.

Mr. Ribble seconded the motion and it passed by a vote of 5 to 1 (Smith)

Page 34, July 9, 1985

MATTERS PRESENTED BY BOARD MEMBERS:

EXECUTIVE SESSION: At 11:59 A.M. Ms. Thonen moved that the Board go into Executive Session to discuss a legal matter with Mr. McCormick concerning the First Baptist Church of Springfield.

The Board reconvened at 12.25 P.M.

Page 34 , July 9, 1985 (Tapes 2 & 3, 763 to end) Scheduled case of:

10:45 A.M. HAROLD W. & BERNER V. GUSTAFSON, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 3.9 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-309), located 4713 Eaton Pl., R-3, Sunny Ridge Estates Subd., Lee Dist., 82-3((17))(G)34, approx. 10,882 sq. ft., VC 85-L-029.

Ms. Kelsey presented the staff report. Mr. Gustafson presented his justification for the construction of a 20 ft. wide two-car garage. The applicants' statement of justification is included in the file of this application. There was no one to speak in opposition or support of the proposed garage.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-L-029 by Harold W. and Berner V. Gustafson under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 3.9 feet from side lot line (12 ft. min. side yard req. by Sect. 3-309) on property located at 4713 Eaton Place, tax map reference 82-3((17))(G)34, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 9, 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 10,882 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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. The existing shed to the west of the existing dwelling shall be removed or a variance obtained to allow it to remain.

Ms. Thonen seconded the motion.

The motion passed by a vote of 4-1 (Smith) (Hammack abstained)

Page 35,July 9, 1985 (Tape 3) After Agenda Item #1:

PANACHE BUILDERS: The Board was in receipt of a request for a change in name on S-82-M-012 from Panache Builders, Inc. to Lafayette Village Community Association, Inc. This special permit was obtained under the name of the owner and developer of the property. Upon completion the pool facility was turned over to the Lafayette Village Community Association, Inc. It was staff's opinion that the approval of the requested name change was in keeping with the intent of the name change policy and was consistent with the current BZA practice of routinely allowing such changes. Mr. Hyland moved that the Board approve the requested name change. Ms. Day seconded the motion and it passed by a vote of 4 to 1 (Smith)

Page 36 , July 9, 1985 (Tape 3)

Mr. Hammack moved that the Board recess into Executive Session at 12:40 P.M. to meet with Karen Harwood, Assistant County Attorney, to discuss the filing of the Olin appeal.

Mr. Hyland seconded the motion and it passed by a vote of 6 to 0.

The Board reconvened at 12:55 P.M.

After the Board returned from the Executive Session, they discussed the appeal with the Zoning Administrator, Mr. Art Walsh, the agent for the appellant, and Karen Harwood, Assistant County Attorney.

Page 36, July 9, 1985 AFTER AGENDA ITEM #7

OLIN APPEAL:

The Olin Corporation is the property owner of approximately 111.7 acres of land at the intersection of Routes 28, 29, and 66 in the Springfield Magisterial District of Fairfax County. On January 27, 1975, this property was the subject of a rezoning application which was approved and consequently is currently zoned C-7 and C-3.

Some of the background which was brought out at the hearing is as follows: Mr. Art Walsh, attorney-at-law, representing the applicant met with various County agencies with regard to the future development of this property. He and other representatives of the Olin Corportation met with Jane Gwinn, Zoning Administrator, on February 8, 1985. At this meeting the proposed use of the land located at tax map reference: 54-4((1))6 and 54-3((1))11 was discussed. Ms. Gwinn made a determination that the above referenced property designated "C-7" on the current zoning map is limited to a regional shopping center in accordance with the covenants accepted by the Board of Supervisors at the time this property was rezoned in 1975.

On March 8, 1985, this determination was reaffirmed in a meeting with Mr. Walsh, the County Executive, and other staff. To further represent the position of the County, J. Hamilton Lambert, County Executive, responded by writing a letter to Mr. Walsh, dated May 2, 1985.

In response, Mr. Walsh, not being certain whether or not this actually constituted a decision or determination by "any other administrative officer in the administration or enforcement", filed an appeal application which was received by the Zoning Administration Division on May 31, 1985.

Par. 2 of Sect. 18-305 of the Zoning Ordinance requires the BZA to review an appeal application and make a determination that it is complete and timely filed. It was the determination of Ms. Jane Gwinn, Zoning Administrator, that the appeal application submitted by Olin Corporation was complete; however, not timely filed. It was her position that the Olin Corporation should have filed the appeal within thirty days of the February 8, 1985 meeting where she conveyed her determination, although only verbally. Mr. Walsh, contends that they were not seeking nor did they receive a formal determination from the Zoning Administrator at this meeting.

After much discussion, Mr. Hyland moved that the decision made by the Zoning Administrator not be considered a formal determination that was to be appealed within a 30 day period. Also, the letter to the applicant from J. Hamilton Lambert not be considered a decision of an administrative officer that would have also required the filing of an appeal within 30 days.

Mr. Ribble seconded the motion and it passed by a vote of 5-1 (Smith).

Page 36, July 9, 1985 (Tapes 3 & 4, 1-320) Scheduled case of:

11:00 A.M. MARTIN B. JARVIS, JR. & CHARLES LARRY PHIPPS, appl. under Sect. 18-401 of the Ord. to allow construction of dwelling to 41.81 ft. 46.0 ft. and 49.33 ft. from street lines of a corner lot (50 ft. min. front yard req. by Sect. 3-E07), located 13375 Holly Pl., R-E, Gunston Manor Subd., Mt. Vernon Dist., 119-4((2))(12)1, 2, 3, 4, & 5, approx. 14,418 sq. ft., VC 85-V-030.

Ms. Kelsey presented the staff report. Mr. Martin B. Jarvis, the co-applicant presented the justification for the variance explaining that the hardship was having 50 foot set backs on three (3) sides and the fact that it is an unusually small building lot. A neighboring property owner addressed the Board, not in support or opposition of the application rather just inquiring as to how this would affect her property. The Board assured her that it would not adversely affect her property.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-V-030 by Martin B. Jarvis and Charles Larry Phipps under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 41.81 ft., 46.0 ft., and 49.33 ft. from street lines of a corner lot (50 ft. min. front yard req. by Sect. E-307) on property located at 13375 Holly Place, tax map reference 119-4((2))(12)1, 2, 3, 4, & 5, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 9, 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 14.418 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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 6 to 0.

Page 38, July 9, 1985 (Tape 4, 320-707)) Scheduled case of:

11:15 A.M. PETER A. & CHLOE D. WENTZ & MICHAEL C. EBERHARDT, appl. under Sect. 18-401 of the Ord. to allow subdivision into two (2) lots and a parcel, proposed lot 3A having width of 6.01 ft. (200 ft. min. lot width req. by Sect. 3-E06), located 11120 Stuart Mill Road, R-E, Centreville Dist., Watts subd., 26-4((1))3 & pt. 2, approx. 11.3537 ac., VC 85-C-042

Ms. Kelsey presented the staff report. Mr. Robert Fitzgerald, attorney-at-law, represented the applicants. Mr. Fitzgerald explained that the applicants wanted to combine their two (2) existing lots and resubdivide into three (3) lots. The justification for this resubdivision was the topographic conditions extremely limit the development of the property. The Board was in receipt of a letter from Mr Lawrence, a nearby property owner, requesting that an easement be provided on this property for a trail to the Reston Homeowners Association open space which would make the land more accessible to his property. Staff researched this request and found that a trail was not required and therefore staff could not make this a condition of approval.
There were no speakers in support or opposition to this request.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-C-042 by Peter A. & Chloe D. Wentz, & Michael C. Eberhardt under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots and a parcel, proposed lot 3A having width of 6.01 ft. (200 ft. min. lot width req. by Sect. 3-E06) on property located at 11120 Stuart Mill Road, tax map reference 26-4((1))3 & pt. 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 9, 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 11.3537 acres.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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 (2) lots into three (3) lots to allow one of the lots to have a minimum lot width not less than six (6) feet. This approval is for the subdivision as shown of the plat except that minor lot line adjustments which do not affect the approved variance shall be permitted.
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 driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual.
4. During the initial construction of dwellings, quality vegetation shall be preserved where clearing is not necessary to accommodate construction or the necessary utility or drainage work, as determined by the County Arborist.

Mr. Ribble seconded the motion.

The motion passed by a vote of 6-0.

Page 39, July 9, 1985 (Tapes 4 & 5, 1-1158) Scheduled case of:

11:30 A.M. LEESBURG PIKE COMMUNITY CHURCH, appl. under Sect. 3-103 of the Ord. for a church and related facilities, located 11022 Leesburg Pk., R-1, Dranesville Dist., 12-1((1))35, approx. 33.013 ac., SP 85-D-014.

Ms. Jane Kelsey presented the staff report. Mr. Charles Runyon represented the applicant and explained the proposed development of the church site. He stated the existing house on the property would be used as a construction office and would be removed upon completion of the church. Ms. Thonen indicated that the Office of Transportation would not agree to this unless the entrance on Leesburg Pike be closed.

There were several speakers who addressed the Board with their concerns. Mrs. Stella Holley, Mr. Charles Steinmetz, and Ms. Harriet Kizer all expressed concern about the soil problems that exist, the proposed architectural design for the church, and the exact location of the church. Mr. John Burrows spoke as the representative from the Government Services Administration. Nike Park, contiguous to the church property, as well as the subject property, was originally owned by the United States government. The government still owned easement rights over this property. Mr. Burrows wanted this discussion to be made part of the public record. Mr. Runyon stated that the property owner had purchased these rights and the check for this had been mailed.

Ms. Kelsey in response to the citizens and Board's questions stated that staff had addressed the issue of problem soils and the ultimate location of the church building, parking lot and access. In response to staff's recommendations, the applicant had submitted a revised plat which rearranged the parking lot and access. In addition, the development conditions further addressed these issues to provide that they might be resolved at the time of site plan review.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-D-014 by Leesburg Pike Community Church under Section 3-103 of the Zoning Ordinance to permit a church and related facilities on property located at 11022 Leesburg Pike, tax map reference 12-1((1))35, County of Fairfax, Virginia, Ms. 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 9, 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 33.013 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. A service drive and other road improvements shall be provided in accordance with the provisions of Article 17 of the Zoning Ordinance, as determined by the Director, DEM.
6. Dedication for public street purposes shall be provided to thirty (30) feet from the centerline of Utterback Store Road and to ninety-eight (98) feet from the centerline of Leesburg Pike. A fifteen foot grading easement shall be provided along Utterback Store Road for grading to accommodate road widening. If the service drive requirement is waived, the amount of dedication along Leesburg Pike may be reduced, as determined by the Director, DEM.
7. Transitional Screening shall be provided as follows:
   - A twenty-five (25) foot screening yard shall be provided between the front parking area and the resultant western front lot line after dedication. Plantings shall be provided within this strip generally as shown on the approved plat.
   - Screening and landscape plantings shall be provided between the eastern lot line adjacent to Nike Park and the building and parking lot, in a manner that would effectively reduce the visual impact from the park as determined by the County Arborist.
   - No additional plantings shall be required along the remainder of the eastern and western lot line and the northern and southern lot lines.
   - The Barrier requirement may be waived.
8. Interior parking lot landscaping shall be provided generally as shown on the approved plat and in accordance with Article 13.
9. If required by the Director, Department of Environmental Management, (DEM), a soils study shall be provided.
10. Access to the parking lot shall be provided generally as shown on the plat and under no circumstances shall the northernmost access be located closer than one-hundred

and twenty-five (125) feet from the northern lot line. If shared access with the Park Authority can be arranged, such entrance shall be provided in accordance with the requirements of the Public Facilities Manual and VDH&T.

11. The seating capacity in the main worship area shall not exceed three-hundred and fifty (350).

12. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11, and shall not exceed a maximum of eighty-nine (89) spaces. The parking area may be shifted to the east to accommodate construction.

13. Minor adjustments in the design and location of the building and parking lot shall be permitted because of problem soils, changes in architectural plans, or dedication provided the size and ultimate location of the building is generally consistent with that represented on the approved plat.

14. A trail shall be provided along Leesburg Pike and Utterback Store Road in accordance with the Countywide Trails Plan and Article 17 of the Zoning Ordinance.

15. The driveways and parking areas shall be paved with a dustless surface unless a waiver or modification of the dustless surface requirement is approved by the Director, DEM in accordance with the provisions of Sect. 11-102 of the Zoning Ordinance.

16. The structure shall be acoustically treated as follows:

- o Exterior walls shall have a laboratory sound transmission class (STC) of at least 39, and
- o Doors and windows shall have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they shall have the STC specified for exterior walls.
- o Adequate measures to seal and caulk between surfaces shall be provided.

17. The existing dwelling shall be used for temporary construction office not to exceed two (2) years.

18. All entrances and exits on Leesburg Pike shall be closed.

19. Architecture shall be of brick, masonry, wood, and glass and comparable and in harmony with the existing residential area. The height of the steeple shall not exceed sixty (60) feet.

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 has started and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6-0.

Page 41 , July 9, 1985 (Tape 5) Scheduled case of:

11:45 A.M. THE CHURCH IN DUNN LORING, appl. under Sect. 3-103 of the Ord. for church and related facilities, located 2317 Morgan La. & 7820 Railroad St., R-1, Providence Dist., 39-4((1))161, 162, approx. 2.79 acres, SP 85-P-016

The Board was in receipt of a letter from Mr. Robert Little, representative for The Church in Dunn Loring, requesting a deferral of the BZA hearing. The case was rescheduled for July 30, 1985 at 11:45 A.M.

Page 41 , July 9, 1985 (Tape 5) Scheduled case of:

1:00 P.M. JOHN V. ARBAN, JR., appl. under Sect. 18-401 of the Ord. to allow construction of greenhouse addition to dwelling to 6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 7315 Walnut Knoll Dr., R-3, Walnut Knoll Subd., Springfield Dist., 89-4((9))8, approx. 14,759 sq. ft., VC 85-S-025. (Deferred from 6/13/85 for new plats)

Ms. Kelsey presented the staff report. The applicant is requesting a variance in order to construct a greenhouse 6 feet from the side lot line. The Board was in receipt of new plats as requested at the BZA hearing of June 13, 1985.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-S-025 by John V. Arban under Section 18-401 of the Zoning Ordinance to allow construction of a greenhouse addition to dwelling to 6 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) on property located at 7315 Walnut Knoll Drive, tax map reference 89-4((9))8, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 9, 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 14,759 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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 5-1 (Smith).

1:15 P.M. W. DAVID POWELL/DEBBIE ARENTS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 9 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 6013 Beechtree Dr., Wilton Woods Subd., R-2, Lee Dist., 82-4((12))13, approx. 18,088 sq. ft., VC 85-L-016. (Deferred from 6/13/85 for new plats)

Ms. Kelsey presented the staff report. The applicants had stated their justification for the requested variance at the hearing on July 13, 1985. At that hearing the Board requested that the applicants present them with new plats indicating applicable dimensions. In the process of obtaining new plats, the dimensions on the plats were altered by .5 feet. The applicants had originally presented their addition to be nine (9) feet from the side lot line a distance of nine (9) feet. On the new plats, however, the dimension indicated was 8.5 feet. Because this application had been advertised with the 9.0 foot setback the Board could not approve the new plats as submitted. The Powell's architect, Mr. Craig Stoller, was present and agreed to change the plat to indicate that the proposed addition would indeed be located 9.0 feet from the side lot line as advertised. The architect made the necessary changes and the Board accepted the revised plat.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-L-016 by W. David Powell & Debbie Arents under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 9 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207) on property located at 6013 Beechtree Drive, tax map reference VC 85-L-016, 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 9, 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 18,088 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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.Page , 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.

Ms. Thonen seconded the motion.

The motion passed by a vote of 5-1 (Smith).

Page 44 July 9, 1985 (Tape 6) Scheduled case of:

1:30 P.M. ROBERT & DIANE STACK, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 1.8 ft. from side lot line (8 ft. min. side yard req. by Sects. 6-106 & 3-407), located 10825 Verde Vista Dr., PDH-4, University Woods, Annandale Dist., 57-3((9))47, 9,268 sq. ft., VC 85-A-022. (Deferred from 6/13/85)

Ms. Kelsey presented the staff report. This application had been deferred from June 13, 1985 because the neither applicants nor a representative was present at that hearing. Mr. Robert Stack gave the justification for the variance indicating that the shape of his lot made it difficult to build the desired two car garage. The proposed garage would be 20 by 24 feet and would be located 1.8 feet from the side lot line. He also indicated that the closest neighbor would still be 17 ft. away. There was no one to speak in support or opposition to the request.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-A-022 by Robert & Diane Stack under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 1.8 ft. from side lot line (8 ft. min. side yard req. by Sects. 6-106 & 3-407) on property located at 10825 Verde Vista Drive, tax map reference 57-3((9))47, 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 on July 9, 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 PDH-4.
3. The area of the lot is 9,268 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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 4-2 (Smith & Hammack)

Page 45 , July 9, 1985 After Agenda Items

BARCROFT BIBLE CHURCH, S-82-M-012: The Board was in receipt of a request for additional time for the special permit that was approved on January 31, 1984 for the construction of Barcroft Bible Church. Construction of the church and facilities will not have commenced by the July 31, 1985 expiration date. The applicant cited difficulty in selling the present church property and the construction of the new facility is

financially contingent upon the sale of the present church. Staff determined that the use, as approved, is in conformance with the current provisions of the Zoning Ordinance. Mr. Hammack moved that the Board grant an additional twelve (12) months which would extend the expiration date to July 31, 1986. Ms. Thonen seconded the motion which passed by a vote of 6 to 0. (Mr. Digiulian being absent)

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Page 46 , July 9, 1985 After Agenda Items

JUBE B. SHIVER, SR., V-82-V-054: The Board was in receipt of a request for additional time for the variance that was approved on June 8, 1982 to allow a subdivision of Lots 21 and 21B into five (5) lots with proposed lots 2, 3, and 4 each having a lot width of 10 ft. This variance was to expire in eighteen months if the subdivision had not been recorded in the land records of Fairfax County. By letter dated November 8, 1983, the applicant requested additional time to record the subdivision. The applicant then submitted a follow up letter dated December 17, 1983, setting forth the justification for this request. These letters were inadvertently misplaced and staff was just made aware of this situation when Mr. Shiver inquired as to the status of his variance. Mr. Shiver's justification for this request is that extra time is needed to meet all the requirements of the Department of Environmental Management (DEM) concerning some unresolved site drainage problems. These drainage problems are being caused by an adjacent land owner. The case against this landowner is currently in litigation and is scheduled for hearing this month. Once the drainage issue is resolved, the subdivision could be recorded within six (6) months. Mr. Hyland moved that the Board approve the additional time request extending the expiration date until December 8, 1985. Mr. Ribble seconded the motion which passed by a vote of 6 to 0. (Digiulian absent)

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Page 46 , July 9, 1985, AFTER AGENDA ITEMS

FAIRFAX BAPTIST TEMPLE, SPA 76-A-230-1: The Board was in receipt of a request from Barbara J. Lippa, Deputy Director of the Planning Commission, requesting the Board of Zoning Appeals (BZA) defer the scheduled hearing on this application until after the Planning Commission has heard Special Exception SE 85-A-055. Fairfax Baptist Temple has applied for the special exception to allow a private school of general education for over 100 children. The Planning Commission has this application scheduled on October 16, 1985. The Planning Commission would like this special permit application, which was scheduled for September 17, 1985 to be deferred until after the scheduled Planning Commission hearing on October 16, 1985. Ms. Day made the motion to defer the application until after the scheduled Planning Commission hearing on October 16, 1985. Mr. Hammack seconded the motion and it passed by a vote of 6 to 0. (Digiuilian absent)

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Page 46 , July 9, 1985 AFTER AGENDA ITEMS

IFS VIRGINIA INC. dba MOUNT COMFORT CEMETERY, SP 83-L-100: The Board was in receipt of a request for additional time to commence construction of a crematorium addition to the existing cemetery facilities. Special Permit SP 83-L-100 was approved on March 13, 1984 with an expiration date of September 13, 1985. Staff recommended approval of an additional twelve (12) months to commence construction. Mr. Hammack moved that the Board approve an additional twelve (12) months. Ms. Day seconded the motion which passed by a vote of 5 to 0 (Ms. Thonen and Mr. Digiulian absent).

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Page 46 , July 9, 1985, AFTER AGENDA ITEMS

APPROVAL OF MINUTES FROM JUNE 4, 11, and 13: Ms. 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. (Thonen and Digiulian absent)

There being no further business the Board adjourned at 5:54 P.M.

By: Sherry L. Fields
Sherry Fields
Acting Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

Submitted to the Board: 7-23-85

Approved: 7-30-85

A Special Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, July 11, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Ann Day, Gerald Hyland, Paul Hammack and John Ribble.

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

The Chairman called the scheduled 10:00 o'clock case of: (Tape #1 1-283)

10:00 A.M. CHARLES BLADEN/GARTH D. LOTANE, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 30 ft. from street line of a corner lot (40 ft. min. front yard req. by Sect. 3-C07), located 11427 Park Dr., R-C & WSPOD, Shirley Gate Park, Annandale Dist., 56-4((6))52, approx. 22,914 sq. ft., VC 85-A-032.

Marilyn Anderson presented the Staff Report. Mrs. Anderson advised the Board that the shed referred to in Development Condition No. 4 of the Staff Report had been removed and, therefore, if the Board granted this application, that condition should be removed. Garth Lotane, 11427 Park Drive, Fairfax presented this application and stated that other properties in this area already had 1 or 2 car garages and he wished to maintain the value of his property by keeping it similar with others in his area and there was no other location to place the garage because of septic field and restriction of two front yards. Mr. Smith questioned whether applicant owned the property and was advised by Mr. Lotane that he did not hold title yet, but referred to a sales contract with Mr. Bladen which gave him the right to use this property.

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

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-A-032 by Charles Bladen & Garth D. Lotane under Section 18-401 of the Zoning Ordinance to allow addition to dwelling to thirty (30) feet from street line of a corner lot (forty (40) feet minimum required) on property located at 11427 Park Drive, tax map reference 056-4((6))52, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 11, 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 & WSPOD
3. The area of the lot is 22,914 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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)

Page 48, June 11, 1985, 10:25 A.M. (Tape #1 284-539) Scheduled case of

10:15 A.M. WALTER A. BARROW, appl. under Sect. 18-401 of the Ord. to allow construction of a garage addition to dwelling to 19.1 ft. from side lot line (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107), located 3609 Twilight Ct., R-1, Waples Mill Estates, Centreville Dist., 46-1((13))7, approx. 21,657 sq. ft. VC 85-C-033

Marilyn Anderson presented the Staff Report. Walter Barrow presented this application and the statement of justification is in the file.

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

Page 48, July 11, 1985

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-C-033 by Walter A. Barrow under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 19.1 feet from side lot line such that side yards total 31.9 feet (12 ft. min. 40 ft. total min. side yard required by Section 3-107) on property located at 3609 Twilight Court, tax map reference 46-1((13))7, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 11, 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 is21,657 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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).

Page 49, July 11, 1985, 10:30 A.M. (Tape #1 540-1820) Scheduled case of

10:30 A.M. JOHNNY J. FOLEY, appl. under 18-401 of the Ord. to allow construction of detached garage 4 ft. from side lot line (15 ft. min side yard req. by Sects. 3-207 & 10-104), located 10700 Oak Pl., R-2, Fairfax Acres, Providence Dist., 47-3((7))76, approx. 22,000 sq. ft., VC 85-P-035.

Marilyn Anderson presented the Staff Report. Johnny J. Foley presented this application and advised the Board that the reasons for the proposed location of the garage are because of the septic field, topographic conditions of the property and problems with standing water in yard. The Board discussed the hardship issues raised by Mr. Foley and the connection of the construction of Route 66 and the house adjacent to Mr. Foley's property in the water problem. Chairman Smith questioned if applicant had moved the septic field since he had purchased the property and was advised by applicant that he had not, the septic field shown on plat was the original.

Mr. Hammack commented that the proposed structure was fairly large, and exceeded the 600 sq. ft. limitation which the Zoning Administrator has previously determined to be the maximum size of an accessory structure, and that it appeared to be closer to septic field than applicant had stated. Mrs. Day stated that this has addressed in the Staff

Report and she felt that the 600 sq. ft. was a recommendation, not a strict limitation and Staff reviewed each case on an individual basis.

Jane Kelsey advised that whenever an application for a building permit for an accessory structure which exceeds 600 sq. ft. is presented, it is reviewed by Zoning Administration Staff and the lot size, existing dwelling and other factors are considered in making a decision. Each case has been and will be reviewed on a case by case basis.

Bill Shoup advised that the 600 sq. ft. recommendation had not been abandoned, but is used as a guide line. In past cases where an applicant had requested a similar structure, they had much smaller lots.

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

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-P-035 by Johnny J. Foley under Section 18-401 of the Zoning Ordinance to allow construction of detached garage four (4) ft. from side lot line (fifteen (15) ft. minimum side yard required by Section 3-207 & 10-104) on property located at 10700 Oak Place, tax map reference 47-3((7))76, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 11, 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 22,000 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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 2 (Mr. Smith & Mr. Hammack)

Page 51, July 11, 1985, 11:00 A.M. (Tape #1 1821-2439) Scheduled case of

10:45 A.M. JOHN B. WAUGH, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 3 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8303 Brewster Dr., R-3, Stratford Landing, Mt. Vernon Dist., 102-3((11))(2)20, approx. 12,153 sq. ft., VC 85-V-036.

Marilyn Anderson presented the Staff Report. John Waugh presented the application. Mr. Waugh explained to the Board that the existing garage, which had been a carport and was enclosed with brick, had structural damage. Mr. Hyland questioned if the proposed garage would solve the problems caused by the present structure and was advised by applicant that it would. The applicant's justification for this addition is in the file for this application.

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

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-V-036 by John B. Waugh under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to three (3) feet from side lot line (twelve (12) feet minimum side yard required by Section 3-307) on property located at 8303 Brewster Drive, tax map reference 102-3((11))(2)20, 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 11, 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 12,168 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use of the land and/or buildings involved.

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

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

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

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

Mr. Ribble seconded the motion.

The motion passed by a vote of 4 to 2 (Mr. Smith & Mr. Hammack)

Page 52, July 11, 1985, 11:15 A.M. (Tape #1 2440-end, Tape #2 1-149) Scheduled case of

11:00 A.M. RODNEY BLOUGH, appl. under Sect. 18-401 of the Ord. to allow construction of a detached garage 2.0 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207 & 10-104), located 4009 Sulgrave Dr., R-2, Sulgrave Manor, Mt. Vernon Dist., 110-2((7))108, approx. 21,794 sq. ft., VC 85-V-037.

Marilyn Anderson presented the Staff Report. Rodney Blough presented this application stating that the the proposed location is necessary because the shape of the lot would cause navigation problems and the view from kitchen baywindow would be destroyed which would not allow them to see children playing in yard. Mr. Ribble questioned why the applicant needed this size garage. Applicant stated that he could accept a 20 ft. garage instead of 24 ft.

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

Page 52, July 11, 1985

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-V-037 by Rodney Blough under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage 2 feet from side lot line (15 ft. minimum side yard required by Section 3-207 & 10-104) on property located at 4009 Sulgrave Drive, tax map reference 110-2((7))108, 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 11, 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 21,794 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART in order to limit the width of the structure to twenty (20) feet, so that it would be twenty (20) by thirty (30) feet and six (6) feet from side lot line, with the following limitations:

1. This variance is approved for the location and the specific addition shown on the plat included with this application, as modified above, 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. Revised plats shall be submitted modifying the width of said structure to twenty (20) feet instead of twenty-four (24) feet and providing a six (6) foot side yard instead of a two (2) foot side yard as originally submitted.

Mr. DiGiulian seconded the motion.

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

11:15 A.M. HAROLD J. PARETI, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 9.3 ft. from side lot line such that side yards total 19.7 ft. (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), located 1226 Aldebaran Dr., R-2(C), Lynwood, Dranesville Dist., 31-1((17))22, approx. 15,375 sq. ft., VC 85-D-038.

Marilyn Anderson presented the Staff Report. Harold Pareti presented this application. Mr. Pareti read a written statement of justification into the record which addressed each of the original standards which must be met for the approval of a variance. He further advised the Board that he had contacted neighbors to advise them of his proposal and had no objections from these neighbors. The Board questioned the location of windows in the proposed addition and the physical appearance. Mr. Pareti advised that the facade would be the same as the existing house and the windows would not overlook any living area of his neighbors.

Mr. Hyland complimented Mr. Pareti on his presentation, stating that this was perhaps one of the best he had seen, and also for having the initiative of going to neighbors.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-D-038 by Harold J. Pareti under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 9.3 feet from side lot line such that side yards total 19.7 feet (8 ft. minimum, 24 ft. total minimum side yard required by Section 3-207) on property located at 1226 Aldebaron Drive, tax map reference 31-1((17))22, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 11, 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 15,375 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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)

Page 55, July 11, 1985, 11:35 A.M. (Tape #2 627-971) Scheduled case of

11:30 A.M. CHARLES & ARLENE EGAN, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 14.5 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), located 8801 Glade Hill Rd., R-2(C), Mason Dist., Ridgelea Hills, 58-4((28))49A, approx. 11,976 sq. ft., VC 85-M-039.

Marilyn Anderson presented the Staff Report. Charles Egan presented the application stating that basically, the size, shape, and topographic conditions of the lot make it virtually impossible to do much in terms of an addition without a variance. The slope of the yard makes it impossible to use the land effectively otherwise.

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

Mr. Hyland stated for the record, that despite his temporary absence, he was able to hear the testimony in this matter on the speakers and was prepared to vote.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-M-039 by Charles & Arlene Egan under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 14.5 feet from rear lot line (25 ft. minimum rear yard required by Section 3-207) on property located at 8801 Glade Hill Road, tax map reference 58-4((28))49A, 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 11, 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 11,976 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use of the land and/or buildings involved.

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

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

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

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

Mr. Ribble seconded the motion.

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

Mr. Egan advised the Board that he felt they had a very professional staff who were very willing and able to help citizens. Mr. Smith thanked him and agreed that the County was lucky.

Page 56, July 11, 1985, 11:45 A.M. (Tape #2 972-1850) Scheduled case of

11:45 A.M. DAVID B. & SUSAN H. SCOTT (JR), appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 9 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-C07), located 5713 Jonathan Mitchell Road, R-C, Fairfax Station, Springfield Dist., 77-1((11))5, approx. 24,684 sq. ft., VC 85-S-041

Marilyn Anderson presented the Staff Report. David Scott presented the application and read the statement of justification into the record. Mr. Scott went on to address the problems raised in a letter from his neighbors, Sinclair & Susan Stewart. Mr. Scott felt that the proposed addition would not be too close to the Stewart's property since 56' would remain between the two properties and there would be no windows at that end of Mr. Scott's home.

Sinclair Stewart, 5711 Jonathon Mitchell Road, Fairfax Station, VA, spoke in opposition to this application. Mr. Stewart advised the Board that when Mr. Scott approached him about this proposal, he understood it was a possibility for the distant future. Mr. Sinclair further advised the Board that he felt the addition would deprive him of privacy in his back yard.

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

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-S-041 by David B. & Susan H. Scott under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to nine (9) feet from side lot line (20 ft. minimum side yard required by Section 3-C07) on property located at 5713 Jonathan Mitchell Road, tax map reference 77-1((11))5, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 11, 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 24,684 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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 all reasonable use 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)

The Board recessed for lunch at 12:10 P.M.

The Board reconvened at 1:15 P.M.

Page 58, July 11, 1985, 1:15 P.M., (Tape #2 1851-2592) Scheduled case of

1:00 P.M. ANNE ELIZABETH SUMMERS, ELLEN ASHLEY FISHER, AND FRANCIS S. RATH, appl. under Sect. 18-401 of the Ord. to allow resubdivision of two (2) lots, Lot D-1 having lot width of 158.86 feet (200 ft. min. lot width req. by Sect. 3-E06), located 9332 Ramey Ln. & 1051 Kelso Rd., R-E, Cold Stream Farms Subd., Dranesville Dist., 19-2((2))D & A, approx. 11.04505 ac., VC 85-D-027.

Cheryl Hamilton presented the Staff Report. Mrs. Hamilton also recommended that Development Condition No. 3 of the Staff Report be deleted if the driveways are already constructed and have been in existence for some time and, therefore, may not be in accordance with the Public Facilities Manual. Joe Buonassissi, of the law firm of Pratt, Buonassissi & Henning, P.C., presented the application on behalf of the applicant and attorney Robert Mitchell. Mr. Buonassissi advised the Board that the granting of this variance would have no adverse impact on the surrounding area, would not change the lot width and would not change the visual or aesthetic appearance of the property. Mr. Buonassissi further advised that applicants intended to maintain the horse pasture, thereby preserving open space.

Mr. Hammack stated that he had trouble with this type of application because although there was no reason not to grant the variance, it appeared to be for the convenience of the applicant. Because of this fact and the fact that one lot created by this variance would be very awkwardly arranged, Mr. Hammack stated that he must oppose the application.

There was no one else to speak in support or opposition

Page 58, July 11, 1985

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-D-027 by Anne Elizabeth Summers, Ellen Ashley Fisher and Francis S. Rath under Section 18-401 of the Zoning Ordinance to allow subdivision of two (2) lots, lot D-1 having lot width of 158.86 ft. (200 ft. minimum lot width required by Section 3-E06) on property located at 9332 Ramey Lane and 1051 Kelso Road, tax map reference 19-2((2))D&A, 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 11, 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 11.04505 acres.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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

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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 all reasonable use 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 resubdivision of two (2) lots to allow one of the lots to have a minimum lot width of not less than 158.86 feet. This approval is for the resubdivision as shown on the plat except that minor lot line adjustments which do not affect the approved variance may be permitted.

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. Hyland seconded the motion.

The motion passed by a vote of 4 to 2 (Mr. Smith & Mr. Hammack)

Page 59, July 11, 1985, 1:30 P.M. (Tape #2 2593) Scheduled case of

1:15 P.M. FELLOWSHIP BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. for church and related facilities, located 5936 Rolling Rd., R-1, Springfield Dist., 79-3((6))1, approx. 2.38 ac., SP 85-S-017. (TO BE DEFERRED TO 7/30/85)

Mr. Smith advised that the Board was in receipt of a letter from the applicant requesting that this matter be deferred to the July 30, 1985 hearing date.

Mr Hyland moved that the application of Fellowship Baptist Church be deferred to July 30, 1985, at 11:30 A.M. Mr. Ribble seconded the motion. The motion passed by a unanimous vote of 6-0 (Mrs. Thonen being absent).

There being no further business to come before the Board, the hearing was adjourned at 1:32 P.M.

BY: Christine McClaugherty
Christine McClaugherty
Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith
Chairman
Board of Zoning Appeals

Submitted: 7-23-85

Approved: 7-30-85

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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, July 16, 1985. The following Board Members were present: Daniel Smith, Chairman; Paul Hammack; Mary Thonen; Ann Day; Gerald Hyland; and John Ribble (John DiGiulian, Vice Chairman was absent).

The Chairman opened the meeting at 7:45 P.M. Mr. Ribble moved that the Board go into Executive Session to discuss legal matters concerning the Christian Fellowship case.

Mrs. Day seconded the motion. The Motion passed by a vote of 4 to 0 (Mr. Hyland and Mr. Hammack not present at this time and Mr. DiGiulian absent from the meeting).

Page 60, July 16, 1985, 8:25 P.M. (Tape No. 1 1-end, and No. 2 1-2360) Scheduled case of

8:00 P.M. AMERICAN DRUZE SOCIETY, appl. under Sect. 3-803 of the Ord. for a place of worship and related facilities, located 6514 Braddock Rd., R-8, Mason Dist., 72-1((1))12, approx. 1.179 ac., SP 85-M-015.

Chairman Smith announced that inadvertently the notices sent out in this case stated 8:15 and the legal advertising stated 8:00, and he apologized for any confusion this may have caused.

Cheryl Hamilton presented the Staff Report. Mrs. Hamilton advised the Board that the question was raised as to whether this application was accepted under the proper provisions as a church, and based on a Board of Supervisor's amendment to the Zoning Ordinance, the applicant's statement of justification and discussions with the applicant and applicant's attorney, the Zoning Administrator has confirmed that this is properly before this Board. Mr. Hyland asked if, based on Staff's review of the applicant's By-Laws, Mrs. Hamilton knew if this organization had tax exempt status. Mrs. Hamilton advised that it was not normal procedure to review By-Laws or an applicant's IRS standing. Mr. Hyland questioned the limitation on the hours of worship and stated that it appeared to him, from that limitation and the language in the applicant's statement of justification, that there would be substantial other activities on site not related to worship. Mrs. Hamilton stated that the way the application had been presented to Staff was that the applicant will have other meetings which appear to be comparable to other church meetings of more traditional or common religions. Mr. Hyland questioned the need for 5 employees on site, working from 9AM to 5PM for a church with only 15 members. Mrs. Hamilton responded that it was staff who is recommending a maximum number of five (5) employees which is based on the Office of Transportation's concern about the number of vehicles in and out of the site. The applicant only requested three (3) employees.

The Board continued to discuss the various statements contained in the application, statement of justification and Charter & By Laws of the American Druze Society.

Roger Cornelier, attorney for applicant, Route 1, Box 3555, Gainesville, Virginia presented the application and answered questions from the Board. Mr. Cornelier then presented Ramez Saab who represented the American Druze Society. Mr. Saab explained the practices of this religion.

Frederick S. Lowry, 1579 Inlet Court, Reston, Virginia spoke in support of the application and welcomed the new religion to the area.

James M. Brown, Jr., 4743 Irvin Square, Alexandria, VA; Nancy L. Brown, 5101 Red Wing Drive, Lincolnia, VA and Nancy Cook, 5224 Chippewa Place, Alexandria, VA, all spoke in opposition to this application and expressed concerns regarding additional traffic and adequate screening for adjacent townhouse properties, and stated that they had attended a meeting with the applicant and felt some of what they were told at the meeting was inconsistent with what was being presented at this hearing.

Supervisor Thomas M. Davis, III addressed the Board and questioned whether this should be heard under the provisions for Group 3. Supervisor Davis felt it should be heard under Category 3, Special Exceptions.

In response to questions from Board members, Jane Kelsey advised that fraternal orders, such as Knights of Columbus and Masons, would be Category 3, Special Exceptions and she read the list of applicable uses.

Mr. Hammack moved to deny the application. The motion failed, for lack of a second.

Mrs. Thonen moved to defer action on this. Mrs. Thonen stated that she moved that action be deferred in order to ask the County Attorney if legally the Board of Zoning Appeals can recommend that this be heard under the other code section as a special exception. Mrs. Day seconded the motion. The motion passed by a vote of 6 to 0 (Mr. DiGiulian absent). This case was deferred for decision only to July 23, 1985, at 9:15 A.M.

Page 61, July 16, 1985, 10:30 P.M. (Tape No. 3 2360-2370) Scheduled case of

8:30 P.M. REALITY GOSPEL CHURCH, appl. under Sect. 3-103 & 3-203 of the Ord. to amend S-269-79 for church and related facilities to permit addition of two (2) classroom trailers and land area to existing facilities, located 5937 Franconia Rd., R-2/R-1, Lee Dist., 81-4((3))1, 1A, 1B, 2, 2B & 3, approx. 6.82 ac., SPA 79-L-269-1. (Deferred from 6/13/85 - Notices were not in order)

Mr. Smith stated that he understood there were citizens present who were interested in this case and since it was to be deferred, and the 8:30 P.M. scheduled time has passed for this application, the Board would act on it next. Mr. Hyland moved that this case be deferred to September 17, 1985 at 8:00 P.M. Mrs. Day seconded the motion. The motion passed by a vote of 6 to 0 (Mr. DiGiulian absent).

Page 61, July 16, 1985, 10:35 P.M. (Tape No. 3 2370-end) Scheduled case of

8:15 P.M. BUENA VISTA ASSOCIATES II, appl. under Sect. 4-203 & 3-303 of the Ord. to amend S-7-72 for commercial recreation uses to permit addition of deck to existing building, change of operating hours to 6 A.M. to 12 midnight, removal of the prohibition on food sales, addition of an eating establishment open to members only, amend screening requirement, and change of permittee, located 1472 Chain Bridge Rd., R-3 & C-2, West McLean, Dranesville Dist., 30-2((7))(1)1-6 and 57-61, approx. 2.5868 acres, SPA 72-D-007-2.

Cheryl Hamilton presented the Staff Report and advised that Development Condition No. 7 should read "There shall be a maximum of 1400 club memberships". Mr. Hyland asked if Staff was satisfied that the revised Development Conditions will ensure that this will put applicant in compliance. Mrs. Hamilton stated that they will have to comply with Condition No. 14 before they get a non-residential use permit.

Mike Vanderpool, 3900 University Drive, Fairfax, Virginia presented the application on behalf of applicant. Mr. Vanderpool advised that the restaurant was requested because at the present time only food from vending machines could be sold, which seemed contrary to the purpose of a health club. He advised that this would be limited to members and not open to the general public, and would offer only a light menu.

Regarding the request for a 6AM opening time, Mr. Vanderpool advised that this is becoming standard for the industry to allow working people time to work out in the morning.

Mr. Vanderpool explained that the applicant was also seeking clarification regarding the barrier requirement. He advised that the applicant had no objections to the Development Conditions, except No. 12. He stated that the applicant had met with citizens in the area and the concern is that plantings would have to be pulled to build a brick wall. What the applicant has suggested, and the citizens accepted, is to place a 3 ft. solid wood fence in place of the split rail fence. Mr. Hyland asked why this proposal would be better in terms of keeping the car lights from shining into nearby residences. Mr. Vanderpool stated that the solid wood fence would solve the problem of the lights and leave the present plantings. It was a question of aesthetics and of cost.

Mr. Hyland then asked why staff was recommending a brick wall, rather than a fence. Mrs. Hamilton advised that the brick wall was recommended to buffer the lights as well as noise, and staff did not feel that a fence would provide a sufficient buffer. Mrs. Hamilton further stated that the fence could suffice, but staff was concerned because applicant had not lived up to previous conditions and therefore, staff required what was required by the Zoning Ordinance, a 6 ft. barrier.

Mr. Vanderpool advised that his client is willing to properly maintain a wood fence, and during meetings with citizens, a landscape plan was submitted which was acceptable to applicant and citizens. Mr. Smith asked if staff would be agreeable to such a plan. Jane Kelsey advised the Board that neither she nor Mrs. Hamilton were qualified to state if this would be adequate and further advised that had the applicant submitted this plan earlier, it could have been presented to the County Arborist for review. Mr. Vanderpool stated that he understood staff's position in wanting to enforce the Zoning Ordinance, however, this plan had been submitted to the citizens and it was acceptable to them and to the applicant. Mr. Hyland stated that, in all fairness to staff, this plan should have been presented while the meetings with the citizens were on-going. Mr. Vanderpool agreed that would have been ideal, but they were trying to work things out with citizens and then bring a final plan to the County, time just didn't allow that it be presented before this hearing. Mr. Vanderpool asked that Development Condition No. 12 be modified to allow wood fencing.

Mr. Hammack asked why the facility was operating from 6 AM, contrary to the last special permit issued Mr. Vanderpool acknowledged that this should not have occurred, and due to the turn around in club ownership, there will be full compliance in the future. Mr. Hammack further questioned why the 12.5 ft. transitional screening requirement of the last special permit had not been met. Mr. Vanderpool advised that this was not feasible because of the parking arrangement, and when applicant attempted to look into this matter, there was no specific mention of it in the minute books. Mr. Hammack advised that the Board had approved a plat showing certain requirements. If there were any changes on that plat, it should have come back to this Board. Mr. Vanderpool agreed that it should not have happened, but it did. If denied, Mr. Vanderpool advised that 2.5 ft. of asphalt will have to be torn up.

Steve Hubbard, 1444 Cedar Avenue, McLean, Virginia; and Tom Langan, 1622 Kirby Road, McLean, Virginia, both spoke in support of the application.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 72-D-007-2 by BUENA VISTA ASSOCIATES II under Section 4-203 & 3-303 of the Zoning Ordinance to permit amendment to S-7-72 for commercial recreation uses to permit addition of deck to existing building, change of operating hours to 6 A.M. to 12 Midnight, removal of the prohibition on food sales, addition of an eating establishment open to members only, amend screening requirement, and change of permittee, on property located at 1472 Chain Bridge Road, tax map reference 30-2((7))(1)1-6 and 57-61, 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 16, 1985; and

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

1. That the owner of the subject property is the applicant.
or That the applicant is the contract purchaser/lessee.
2. The present zoning is R-3 & C-2.
3. The area of the lot is 2.5868 acres

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

THAT the applicant has 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 4-203 & 3-303 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 hours of operation shall be from 6:00 A.M. to 12:00 A.M., daily.

6. There shall be 72 parking spaces provided for this use. All parking for this use shall be on site.

7. There shall be a maximum of 1400 club memberships.

8. All noise shall be confined to the site.

9. The use of the facilities and eating establishment shall be restricted to members of the club and their guests and shall not be open to the general public.

10. The travel aisle shall be one way with exiting only to Meadowbrook and entrance and exit signs shall be created.

11. If lights are to be installed in the parking lot, they shall be no higher than eight (8) feet and shall illuminate the parking lot only and shall be screened so as not to illuminate or result in any glare projecting onto the adjacent residential properties.

12. The transitional screening and barrier requirements shall be provided as follows:

o North of the existing entrance on Buena Vista Avenue, a brick barrier, a minimum of six (6) feet in height shall be provided to screen the parking spaces located at the lot line. The height of the barrier may be reduced at the entrance to accommodate sight distance as determined by the Director, DEM. The transitional screening yard may be modified in this location.

o The transitional screening yard may be modified to ten (10) feet along the northwestern and northern lot lines. Landscape plantings and a six (6) foot brick barrier shall be provided in this location.

o A single row of evergreen trees, a maximum of six (6) feet in height, shall be located along the periphery of the deck addition.

13. Dedication of right-of-way to 25 feet from the centerline of Ingleside Avenue and Meadowbrook Avenue and construction of road improvements shall be provided at the time of site plan approval at the discretion of the Director, DEM.

14. The barriers required by Development Condition #12 shall be installed prior to the issuance of any building permit, except a permit for the brick wall, or Non-Residential Use Permits for the requested additions. All required screening shall be planted prior to the issuance of any Non-Residential Use Permits. All required screening shall be planted no later than October 1, 1985.

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 (Mary Thonen absent).

Page 63, July 16, 1985, 11:20 P.M. (Tape No. 3) After Agenda Item

Mr. Smith announced that the Board was in receipt of a letter from the Board's attorney, Brian M. McCormack regarding the First Baptist Church of Springfield case. After discussing Mr. McCormack's letter and accompanying documents, Mr. Hammack moved the following resolution.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION
OF THE BOARD OF ZONING APPEALS

On this 23rd day of July, 1985, Paul W. Hammack, Jr., moved the Board of Zoning

FIRST BAPTIST CHURCH OF SPRINGFIELD

Appeals to adopt the following resolution:

WHEREAS, by a resolution by the Board on December 4, 1984, in Application No. SPA 75-1-215-1 certain findings of fact were recited, including a finding that the present zoning of the property in question is R-3; and

WHEREAS, the Circuit Court of Fairfax County in a certiorari review hearing on July 3, 1985, reversed the Board action that said property is zoned R-3 when in fact, it was zoned R-8 at the time of the Board's resolution; and

WHEREAS, the Circuit Court of Fairfax County remanded the case to the Board of Zoning Appeals for further consideration in this regard; and

WHEREAS, the Board of Zoning Appeals has concluded that the property in question was in fact zoned R-8 at the time of the December 4, 1984, resolution; that its R-8 zoning district status was well known to all members of the Board voting on the resolution at that time; and

WHEREAS, the property was zoned R-3 at the time the special permit application was submitted to the Board and the R-3 designation was inadvertently, through clerical error, transferred from the application to the finding of fact portion of the resolution; and

WHEREAS, the resolution of December 4, 1984, should properly have recited that the present zoning of the property is R-8.

NOW, THEREFORE, be it RESOLVED that the December 4, 1984, resolution of the Board of Zoning Appeals in Application SPA 75-1-215-1 is amended by striking in its entirety item number 2 of the four enumerated findings of fact and substituting in its stead the following:

2. The present zoning is R-8.

John F. Ribble, III seconded the motion.

The motion passed by a vote of six to none (Mary Thonen being absent).

There being no further business to come before the Board, the meeting was adjourned at 11:40 P.M.

Christine McClaugherty
Christine McClaugherty
Deputy Clerk
Board of Zoning Appeals

Submitted: 9-10-85

Daniel Smith
Daniel Smith
Chairman
Board of Zoning Appeals

Approved: 9-10-85

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 23, 1985. The following Board Members were present: Daniel Smith, Chairman, Ann Day, John DiGiulian, Vice Chairman, Paul Hammack, Gerald Hyland and John Ribble (Mary Thonen was absent)

The Chairman opened the meeting at 8:10 P.M. Mrs. Day led the prayer.

Page 65, July 23, 1985, 8:10 P.M. (Tape No. 1, 1-247) Scheduled case of

8:00 P.M. FIRST VIRGINIA BANK, appl. under Sect. 18-401 of the Ord. to allow construction of building additions to existing drive-in bank to 32 ft. from one street line and 37.5 ft. from the other street line of a corner lot and 11.5 ft. from a service drive (40 ft. min. front yard req. by Sect. 4-607; 15 ft. setback from service drive req. by Ord. definition of a "yard".), located 6618 Richmond Hwy., C-6, Groveton Heights Subd., Lee Dist., 93-1((27))1B & 3C, approx. 37,736.1 sq. ft., VC 85-L-009.

Mr. Smith announced that this case had been deferred from July 9, 1985 for decision only. Jane Kelsey advised the Board that the Board of Supervisors had approved the Special Exception for 2 drive-in windows. Ms. Kelsey further advised that the third drive-in window had been removed from the application. Mr. Hyland asked if it was correct that applicant would have required an additional variance if they had left the third drive-in window in the application. Ms. Kelsey advised that that was correct, but since it was removed entirely from the application, that variance was no longer required.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-L-009 by FIRST VIRGINIA BANK under Section 18-401 of the Zoning Ordinance to allow construction of building additions to existing drive-in bank to 32 ft. from one street line and 37.5 ft. from the other street line of a corner lot and 11.5 ft. from a service drive (40 ft. min. front yard req. by Sect. 4-607; 15 ft. setback from service drive req. by Ord. definition of a "yard".), on property located at 6618 Richmond Highway, tax map reference 93-1((27))1B & 3C, 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 23, 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 37,736.1 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance specifically #2, that there is extraordinary situation in condition of subject property in that a good deal of frontage had been taken by previous widening of the road;

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 all reasonable use 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.

4. The applicant shall comply with all development conditions approved with Special Exception SE-85-L-025.

Mr. Ribble seconded the motion.

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

Page 66, July 23, 1985, 8:20 P.M. (Tape No. 1, 234-end & Tape No. 2 1-997) Scheduled case of

8:00 P.M. PROVIDENCE BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. for church and related facilities and child care center, R-1, Woodside Estates, Dranesville Dist., 19-4((1))40 & pt 1A, & 19-4((4))A1, approx. 6.93 ac., SP 85-D-018.

Jane Kelsey presented the Staff Report. Ms. Kelsey advised that Staff's primary concern was traffic and that with the Development Conditions in the Staff Report, it was Staff's opinion that this use could be implemented in such a way that it would be acceptable.

Robert C. Fitzgerald, of Fitzgerald & Smith, 10560 Main Street, Fairfax, Virginia, presented the application on behalf of the applicant. Mr. Fitzgerald explained the background of the Providence Baptist Church and described some of the other activities provided at the Church, such as a Mother's day out program and prayer meetings, as well as the Fairfax County School Board's English class. Mr. Fitzgerald went on to state that the applicant feels the site selected meets the necessary criteria and it is similar to many other churches in Fairfax County, that being near a major highway and on the edge of a residential development. Mr. Fitzgerald advised that they had performed an actual traffic count on a week day and found that at the present time the round trip count was greater by day and week than the proposed use would be at the 460 initial seating capacity requested. Mr. Fitzgerald advised that the applicant had reviewed the

Development Conditions in the Staff Report and #5 and #10 cannot be agreed to, since the State could widen the road at any time without the dedication, and the trails would never be utilized, these conditions seemed unreasonable.

Ernest J. Berger, President of Woodside Citizen Association, 1111 Laurelwood Drive, McLean, VA; John Mullenholz, 8824 Gallant Green, McLean, VA; Ronald E. Jerro, President, Spring Hill Citizens Association 8505 Sparger Street, McLean, VA; Jay Kelly Wright, Director, Spring Hill Citizens Association, 1062 Rector Lane, McLean, VA; Virginia McGavin Rita, 10305 Leesburg Pike, Vienna, VA; W. H. (Ray) Lytle, 8430 Brook Road, McLean, VA; and J. Lilla Richards, 8703 Brook Road, McLean, VA all spoke in opposition to this application stating that they felt the size was improper for the area, property values would be decreased, traffic problems would be increased, children's safety would be decreased and that parking would be inadequate for this size church. Ms. Richards also questioned the Church's use of outside speakers. Mr. Fitzgerald, in response to the question about outside speakers, stated that this occurred only 3 nights per year, during the Christmas holiday for the reading of the Christmas story. Mr. Fitzgerald further stated that other churches in the county have bells and chimes.

Mr. Hammack asked Mr. Fitzgerald to clarify the bulk, dimensions and height of the proposed church. Mr. Fitzgerald advised that the applicant was taking things as they could afford them and, therefore, did not have an architect's rendering prepared yet. Mr. Fitzgerald state that whatever type of building was constructed, no variance would be required. The architect will be instructed to design something that is compatible to the surrounding area

Mr. DiGiulian stated that before he could make a motion to grant this application, he would like to see the architect's drawings. Mr. Fitzgerald stated they would require approximately 4 weeks to obtain the drawings. Mr. DiGiulian moved to defer this matter to September 17, 1985 at 8:00 P.M.to enable the applicant to submit additional information. Mr. Hyland seconded the motion. The citizens questioned whether the residents of the area would be allowed to comment on the new information submitted. After Board discussion, Mr. Smith advised that the public hearing would be continued and the Board members decided that 10 minutes would be given to the applicant to speak; 10 minutes would be given to concerned citizens, which would include all associations; and then 5 minutes for the applicant's rebuttal. The motion passed by a vote of 6 to 0 (Mrs. Thonen being absent).

Page 67, July 23, 1985, 9:40 P.M. (Tape No. 2, 998-1300) Scheduled case of

8:20 P.M. COMMONWEALTH SWIM CLUB, INC., appl. under Sect. 3-203 of the Ord. to amend S-75-79 for community swim & tennis club to permit addition to site plan of existing metal shed, and rearrangement of parking spaces, located 9800 Commonwealth Blvd., R-2, Kings Park West., Annandale Dist., 69-3((5))B, approx. 5.4854 ac., SPA 79-A-075-2.

Jane Kelsey presented the Staff Report and stated that Staff recommended approval of the application and recommended that the basketball goal be relocated to the west end of the parking area. Richard S. Niemczyk presented this application on behalf of applicant and explained that this application is to clear up several incorrect details in the original application. Mr. Hyland asked if Mr. Niemczyk was aware Mr. Mann's opposition to the basketball courts. Mr. Niemczyk stated he was aware of this and if this is a problem, the applicant would have no problem deleting them entirely.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 79-A-075-2 by COMMONWEALTH SWIM CLUB, INC. under Section 3-203 of the Zoning Ordinance to amend S-75-79 for community swim & tennis club to permit addition to site plan of existing metal shed, and rearrangement of parking spaces, on property located at 9800 Commonwealth Boulevard, tax map reference 69-3((5))B, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 23, 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 5.4854 acres.

The existing metal shed has been on site for many years, although not included in special permit plat. It is recommended that the shed remain on site and approval is granted for building uses subject to plat, with notations on Development Conditions 2 & 4 regarding additional buildings and uses; and Development Condition #11 shall be deleted in its entirety.

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, and total agreement with the Development Conditions, excluding No. 11, of the Staff Report.

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

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

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. Since a building permit is not required for any of the uses proposed, this use shall not be subject to the provisions set forth in Article 17, Site Plans. However, a planting plan shall be submitted to Department of Environmental Management, DEM, for approval indicating the planting proposed along the northwest lot line adjacent to the driveway.

5. Family membership shall be limited to 425.

6. Eighty (80) parking spaces shall be provided.

7. The maximum hours of operation shall be as follows:

Swimming Pool - 9 A.M. to 9 P.M.
Tennis Courts - 7 A.M. to 10 P.M.

8. After-hour parties for the swimming pool and tennis courts 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 Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity;
- o Requests shall be approved for only one (1) such party at a time of such requests shall be approved only after the successful conclusion of a previous after-hour party.

9. The transitional screening and barrier requirements shall be modified provided the existing vegetation and barriers remain and provided evergreen trees are planted along the northwestern lot line between the driveway and the adjacent lot 204 to screen the driveway and the proposed parking lot light from the adjacent property. The size,

type and number of plantings shall be approved by the Director, Department of Environmental Management.

10. All lighting shall be directed on site. The light standard shall not exceed twelve (12) feet in height and if necessary shall be shielded to prevent glare from projecting onto adjacent property. The light standard shall be located as close as possible to the edge of pavement of the 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 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 in this special permit amendment has been established and a new Non-Residential Use Permit has been approved, 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 (Mary Thonen absent from meeting, Paul Hammack absent from this public hearing).

Page 69, July 23, 1985, 10:00 P.M. (Tape No. 2, 1301-1513) Scheduled case of

8:40 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 increase in maximum number of children from 25 to 40, located 12604 Lee-Jackson Hwy, R-1, HCOD, & WSPOD, Centreville Dist., 45-2((1))28, approx. 2.49816 ac., SPA 80-C-105-2.

Jane Kelsey presented the Staff Report which recommended approval in accordance with the Development Conditions contained in the report. Eileen Hanley, as the applicant, advised that originally the application was for 25 children and she understands 40 could be allowed which is the reason for this application.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 80-C-105-2 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 increase in maximum number of children from 25 to 40, on property located at 12604 Lee-Jackson Highway, tax map reference 45-2((1))28, 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 23, 1985; and

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

1. That the owner of the subject property is the applicant.
or That the applicant is the contract purchaser/lessee.
2. The present zoning is R-1.
3. The area of the lot is 2.49816 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 3-103 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. Since a building permit is not required for the proposed increase in number of children this use shall not be subject to the provisions set forth in Article 17, Site Plans.
5. The hours of operation shall be 7:00 A.M. to 6:30 P.M., Monday through Friday.
6. The total number of persons on site during the hours that the child care center is in operation shall not exceed 45. The total number of children in the center shall not exceed 40.
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 from the July 10, 1984, approval date of SPA 80-C-105-1.

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. It is noted that these conditions incorporate all applicable conditions of the previous approvals.

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 a new Non-Residential Use Permit has been obtained for the increased number of children 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 (Mary Thonen absent from meeting and Paul Hammack absent from this public hearing).

Page 70, July 23, 1985, 10:05 P.M. (Tape No. 2, 1514 - end & No. 3, 1 -900) Scheduled case of

9:00 P.M. DAVID A. KIDWELL, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots, proposed lot 2 having width of 20 ft. (70 ft. min. lot width req. by Sect. 3-406), located 3819 Candlelight Ct., R-4, Wilton Knoll Subd., Lee Dist., 82-4((1))19 and 82-4((35))A, 90,852 sq. ft., VC 85-L-018. (Deferred from June 11, 1985 for notices.)

William Shoup presented the Staff Report and advised that revised Development Conditions were prepared by Staff to be included if the Board approved this request. John Kephart presented the application on behalf of the applicant. Mr. Ribble asked Mr. Kephart if reducing this application to 3 lots would be a reasonable use of the property. Mr. Kephart stated that of course it would be, and further stated that one lot would be a reasonable use of the property.

George P. Ball, Jr., 3805 Candlelight Court, Alexandria, VA; Michael H. Miller, 3814 Candlelight Court, Alexandria, VA; and Mark L. Ward, Sr., 3807 Candlelight Court, Alexandria, VA all spoke in opposition to this application because of water run off problems that would be caused by the proposed construction of these houses, additional

traffic problems on this small court, the property owners were told at the time of purchasing their property that Lot A would remain open space, and the covenants of the surrounding property owners with Ryan Homes would prevent them from erecting stockade fencing which might screen the property in question.

David A. Kidwell, 6125 Florence Lane, Alexandria, VA, advised the Board that while these property owners may have been given assurances by Ryan Homes regarding Parcel A, the fact was that Ryan Homes did not own that property, and none of the assurances were ever put in writing.

Mr. Ribble stated that the Board has heard testimony that the applicant has some reasonable use of the property even as one lot and moved the following resolution.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-L-018 by DAVID A. KIDWELL under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lot 2 having width of 20 ft. (70 ft. min. lot width required by Section 3-406) on property located at 3619 Candlelight Court, tax map reference 82-4((35))A, 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 23, 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 90,852 sq. ft.

This application does not meet all of 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 all reasonable use of the land and/or buildings involved.

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

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6 to 0 (Mary Thonen absent).

The Board recessed for 5 minutes at 10:45 P.M. and reconvened at 10:50 P.M.

Page 72, July 23, 1985, 10:50 P.M. (Tape #2 & 3) Scheduled case of

9:15 P.M. AMERICAN DRUZE SOCIETY, appl. under Sect. 3-803 of the Ord. for a place of worship and related facilities, located 6514 Braddock Rd., R-8, Mason Dist., 72-1((1))12, approx. 1.179 ac., SP 85-M-015. (Deferred from 7/16/85 for decision only).

Mr. Smith advised that the Board was in receipt of a recent Memorandum from the Zoning Administrator and an Appeal Application from Supervisor Thomas Davis.

Mr. Hyland stated that he believed this matter had been deferred in order to obtain the opinion of the County Attorney's Office as to whether or not this matter was properly before this Board.

Karen Harwood, of the County Attorney's Office, stated that she was present to answer questions of the Board.

The Board discussed the recent memorandum of the Zoning Administrator which altered the original determination and which now said there was a mixed use in this application. Mr. Hyland felt that Supervisor Davis' appeal had been rendered moot by this change in determination. Mr. Smith suggested, that since the Zoning Administrator had not ruled out the house of worship matter, the Board entertain that use only.

Jane Gwinn, Zoning Administrator stated that if the Board agreed with her position on the mixed uses, the Board could take action on that portion of the application and specifically state that they would approve the house of worship, not the national headquarters and then advise the applicant to go to the Board of Supervisors.

The Board was advised that Mr. Davis had not been available and, therefore, had not reviewed the Zoning Administrator's new memo. Karen Harwood stated that if the Board decided that the appeal by Mr. Davis, based on the Zoning Administrator's original determination was moot, then they had the right to grant this application in part if they felt it complied with the requirements.

Mr. Cornelier, agent for applicant, stated that the applicant's position is that the appeal was not timely filed and the applicant was very concerned about the delays involved.

Mr. Hammack stated that he had the motion at the previous meeting and was concerned with the appeal that was filed. He further stated that he had problems moving to grant this application. Mr. Smith stated that it could be granted in part, regarding the religious use only. Mr. Hammack stated that he would not move to grant only 10% of the application.

The Board discussed the matter of the appeal being timely filed. Mr. Hammack stated he felt time should run from the time of publication since this is the first public notice. Mr. Hyland asked if the changed opinion of the Zoning Administrator would render the appeal moot, and Mr. Hammack stated he did not feel it would unless Mr. Davis agrees to withdraw the appeal. Mr. Smith stated that if the Board felt the appeal was timely filed, and not rendered moot, no action should be taken by the Board.

Mr. Hammack moved that the Board take the position that the appeal filed by Supervisor Davis is not timely filed.

Before a second was obtained, Mr. DiGiulian moved that the Board adjourn to Executive Session to discuss legal matters. The motion passed by a vote of 5-1 (Hyland) (Mrs. Thonen being absent). The Board adjourned at 11:45 P.M. and reconvened at 12:05 A.M.

Mr. Hyland moved to defer action in this matter for a period of seven (7) days and in that interim period of time the Zoning Administrator's decision of July 23, 1985, be communicated to the appellant, Mr. Davis, and determine whether he wants to persist in theappeal of Zoning Administrator's, or her representative, initial determination that application was properly submitted as a church or place of worship and that Mr. Davis' position be communicated back to the Board and that the Board then take action on the appeal as to whether it is moot because of Zoning Administrator's recent decision.

Mr. DiGiulian seconded the motion. The motion carried by a vote of 6 to 0.

Page 73, July 23, 1985, 12:05 A.M. Unfinished business, case of SPA-75-1-215-1

Mr. Hammack moved the following resolution:

SPECIAL PERMIT RESOLUTION
OF THE BOARD OF ZONING APPEALS

WHEREAS, by a resolution adopted by the Board on December 4, 1984, in Application SPA 75-1-215-1 certain findings of fact were recited, including a finding that the present zoning of the property in question is R-3; and

WHEREAS, the Circuit Court of Fairfax County in a certiorari review hearing on July 3, 1985, reversed the Board that said property is zoned R-3 when in fact it was zoned R-8 at the time of the Board's resolution; and

WHEREAS, the Circuit Court of Fairfax County remanded the case to the Board of Zoning Appeals for further consideration in this regard; and

WHEREAS, the Board of Zoning Appeals has concluded that the property in question was in fact zoned R-8 at the time of the December 4, 1984, resolution, that its R-8 zoning district status was well known to all members of the Board voting on the resolution at that time; and

WHEREAS, the property was zoned R-3 at the time the special permit application was submitted to the Board and the R-3 designation as inadvertently, through clerical error, transferred from the application to the finding of fact portion of the resolution; and

WHEREAS, the resolution of December 4, 1984, should property have recited that the present zoning of the property is R-8.

NOW, THEREFORE, BE IT RESOLVED, that the December 4, 1984, resolution of the Board of Zoning Appeals in Application SPA 75-1-215-1 is amended by striking in its entirety item No. 2 of the four enumerated findings of fact and substituting in its stead the following:

2. The present zoning is R-8.

John F. Ribble, III seconded the motion. The motion passed by a vote of 6 to 0 (Mary Thonen absent).

There being no further business to come before the Board, Mr. Hyland moved that the meeting be adjourned. Mr. Ribble seconded the motion which carried by a vote of 6 to 0 (Mary Thonen absent).

Christine McClaugherty
Deputy Clerk
Board of Zoning Appeals

Submitted: 9-10-85

Daniel Smith
Chairman
Board of Zoning Appeals

Approved: 9-10-85

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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, July 30, 1985. The following Board members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Paul Hammack; John Ribble; and Mary Thonen. John DiGiulian, Vice Chairman, was absent.

The Chairman opened the meeting at 10:22 A.M. and Mrs. Day led the prayer.

The Chairman called for Matters Presented by Staff Members (Tape 1)

10:00 A.M. William O. Saunders & John F. Ghilardi, VC 85-D-002: Consideration of request for a waiver of the 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 vote of 5 to 1 on April 16, 1985. Following review of this request, Ms. Day moved that the Board deny the waiver request. Mr. Ribble seconded the motion which passed by a vote of 4 to 0. Mr. William Arnold, agent for the applicant, requested that the Board allow him to make a short presentation regarding the request. Mr. Smith agreed to allow Mr. Arnold to make his presentation.

Mr. Arnold explained to the Board that the site plan for the new application had changed and rather than asking for the original three (3) lots, the applicant only wanted to subdivide this property into two (2) lots. The access had been changed and that there would be no need for a pipestem. A variance would still be needed because of the shape of the lot. Mr. Ribble moved to grant the waiver of the twelve (12) month limitation. Ms. Thonen seconded the motion which passed by a vote of 3 to 1. (Smith) (Digiulian, Hammack & Hyland absent)

Page 75 , July 30, 1985 (Tape 1, Reading 1240) AFTER AGENDA ITEM 1

DESIGNS FOR EARLY LEARNING, INC. SPA 79-P-114-1: The Board was in receipt of an Out-Of-Turn Hearing Request for this special permit application which is presently scheduled for October 8, 1985. Ms. Thonen moved that the request be denied. Mr. Ribble seconded the motion which passed by a vote of 4 to 0. (DiGiulian, Hammack & Hyland absent)

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Page 75 , July 30, 1985 AFTER AGENDA ITEM 2

LYSLE J. KOCH, VC 83-S-179: The Board was in receipt of a request for additional time for a variance that was approved on January 24, 1984 to allow a subdivision of Lot 1 into two (2) lots. This variance was to expire on July 24, 1985, eighteen (18) months from approval date unless it was recorded in the Land Records of Fairfax County or the applicant asked for additional time to allow recordation of this land. Ms. Thonen moved that the Board approve the request for additional time. The motion was seconded by Ms. Day and passed by a vote of 4 to 0. (DiGiulian, Hammack & Hyland absent) It was the consensus of the Board to grant an additional six (6) months extending the expiration date to January 24, 1986.

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Page 75, July 30, 1985, AFTER AGENDA ITEM 3

THE NURTUREY, SUSAN PAIGE & DIANE SCHLOEGEL, SP 85-S-041: The Board was in receipt of an Out-Of-Turn Hearing Request for this special permit application which is presently scheduled for October 29, 1985. Ms. Day moved that the Board deny the request. Mr. Ribble seconded the motion which passed by a vote of 4 to 0. (DiGiulian, Hammack & Hyland absent)

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Page 75 , July 30, 1985 AFTER AGENDA ITEM 4

THE ISLAMIC COMMUNITY CENTER OF NORTHERN VIRGINIA, SP 85-L-043: The Board was in receipt of an Out-Of-Turn Hearing Request for this special permit application which is presently scheduled for October 29, 1985. Ms. Thonen moved that the Board deny the request. Ms. Day seconded the motion which passed by a vote of 4 to 0. (DiGiulian, Hammack & Hyland absent)

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Page 76 , July 30, 1985 AFTER AGENDA ITEM 5

PASTORAL COUNSELING & CONSULTATION CENTERS OF GREATER WASHINGTON, INC., SPA 76-P-269-1: The Board was in receipt of an Out-Of-Turn Hearing Request for the amendment of the special permit application for Pastoral Counseling and Consultation Centers of Greater Washington, Inc. The Board felt that because this application is for a building addition for an existing school of special education that it would not require a great deal of extra work for staff. Ms. Thonen moved that the Board approve this request for additional time. Ms. Day seconded the motion which passed by a vote of 4 to 0. (DiGiulian, Hammack, & Hyland absent)

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Page 76 , July 30, 1985 AFTER AGENDA ITEM 6

RODNEY BLOUGH, VC 85-V-037: The Board was in receipt of revised plats for Variance Application VC 85-V-037. The variance was approved on July 11, 1985 with the condition that revised plats be submitted indicating the size of the proposed garage be reduced to 20 by 30 foot and the garage would now be located six (6) feet from the western lot line. Mr. Ribble moved that the Board accept the revised plats as submitted. Ms. Day seconded the motion which passed by a vote of 4 to 0. (DiGiulian, Hammack, & Hyland absent)

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Page 76 , July 30, 1985 AFTER AGENDA ITEM 7

THE ENTERPRISE SCHOOL, SP 85-C-049: The Board was in receipt of an Out-Of-Turn Hearing Request for special permit application for the Enterprise School which is presently scheduled for November 5, 1985. Ms. Thonen moved that the Board deny the request. Ms. Day seconded the motion which passed by a vote of 4 to 0. (Digiulian, Hammack, & Hyland absent)

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Page 76 , July 30, 1985 AFTER AGENDA ITEM 8

APPROVAL OF MINUTES FOR 7/9/85 & 7/11/85: The Board was in receipt of minutes for the BZA Hearings of 7/9 & 7/11/85. Ms. Day moved that the Board approve the minutes as submitted. Ms. Thonen seconded the motion which passed by a vote of 4 to 0. (DiGiulian, Hammack, & Hyland absent)

Page 76 , July 30, 1985 (Tape 1, Reading 373) Scheduled case of:

10:00 A.M. ELBERT C. FORD, appl. under Sect. 8-901 of the Ord. to allow reduction to minimum yard requirements based on error in building location to allow 12 ft. high detached garage to remain 4.3 ft. from side lot line and 3.6 ft. from rear lot line (15 ft. min. side yard, 12 ft. min. rear yard req. by Sects. 3-207 & 10-104), located 4816 Edwards St., R-2, Mason Dist., 72-3((1))1, approx. 20,000 sq. ft., SP 85-M-022.

Mrs. Anderson presented the staff report. She explained that Mr. Ford was requesting a special permit to allow his existing garage to remain 4.3 feet from the side lot line and 3.6 feet from the rear lot line. The County of Fairfax has a pending case in General District Court involving the existing garage and its location.

The applicant, Mr. Elbert C. Ford, spoke to the Board briefly indicating that he did not want to present his case and that he wanted the Board to simply make a decision. Mr. Smith asked the applicant if he wanted to defer the application to another date. Mr. Ford did not want to appear before the Board again because he needed to work and could not afford to take off. Mr. Smith suggested that an attorney could handle the case for Mr. Ford; however, Mr. Ford replied that he could not afford an attorney. Mr. Ford also stated that the plat submitted was incorrect as his garage was located five (5) feet from the rear property line, not 3.6 feet as the plat indicated.

Mr. Ribble suggested that a new plat be submitted with the proper dimensions. Ms. Thonen agreed that in order to hear a case, the plat submitted must be accurate.

The Board was in receipt of a petition signed by the neighboring property owners indicating that they were in support of the special permit to allow the existing garage to remain as is. Mr. Ford indicated that he had circulated the petition.

Because Mr. Ford did not want to be present for another BZA hearing on this application and because of the discrepancy of the plats, Ms. Kelsey suggested that the application be

deferred for decision only until August 6, 1985 in order to allow Mrs. Anderson time to make a site inspection and determine if the plat submitted with the application was correct. There was no one to speak in support or opposition.

Ms. Thonen moved that the Board defer decision to August 6, 1985 to allow Mrs. Anderson to make a site inspection. Mr. Ribble seconded the motion which passed by a vote of 4 to 0. (DiGiulian, Hammack, & Hyland absent)

Page 77, July 30, 1985 (Tapes 1 & 2) Scheduled Case of:

10:15 A.M. BARNETT C. & CHARLINE KEITH, appl. under Sect. 18-401 of the Ord. to allow subdivision into four (4) lots, proposed lots 2, 3, & 4 each having width of 10.01 ft. (70 ft, min. lot width req. by Sect. 3-406), located 3610 North Powhatan Street, R-4, Squirrel Ridge subd., Dranesville Dist., 41-3((1))14, approx. 1 acre, VC 85-D-040

Mrs. Anderson presented the staff report. She indicated that because this property was divided between Fairfax County and Arlington County, the question of jurisdiction had been raised and it was determined that Fairfax County would have jurisdiction over this property. Mrs. Anderson advised the Board of two errors in the staff report, namely that the present zoning is R-4 and not R-1 as the cover of the staff report showed and that the Comprehensive Plan calls for 3 to 4 dwelling units per acre and not 1 to 2 as indicated on page 1 of the staff report. She addressed the issues that concerned staff which included the proposed pipestem and how it would affect the the required yards for Lots 43, 39, & 44.

Ms. Charline Keith presented the statement of justification and submitted aerial photos of the property to the Board. She pointed out the two (2) errors in the staff report that Mrs. Anderson mentioned. In addition, she disputed the statement in the report concerning traffic impact and stated that the traffic impact on Powhatan Street would not be significant. She indicated that only four (4) vehicle trips would be generated per day as a result of this subdivision. She pointed out that all the surrounding lots consist of an average of 10,000 square feet and that she should have the same use of her land that they have. She presented a photo of the proposed building design that would be used to develop these lots.

Mr. Keith also spoke and indicated that their lot was long and narrow and has a topography problem. He stated that they had already obtained the proposed grading plan and it was available for the Board to review if they desired. Mr. Keith assured the Board that if the variance was approved, all neighbors would be protected from any detrimental impacts.

There were eight (8) persons present who spoke in opposition to the requested variance. These persons were Karen Pfordresher, speaking for the Sigmona Park Minor Hill Civic Association; Mr. William T. Holloran; Mr. John Pfordresher; Ms. Betty Gilliland; Mr. Ralph B. Mason; Mr. Robert W. Gilliland; Mr. Adam Urbanick; and Mr. C. B. Gilliland. .

The concerns addressed by these citizens included: the difficulty fire-fighting and other emergency equipment would have accessing a 10 foot wide pipestem; land stability and erosion; excess water from Lots 2, 3 & 4 draining onto Lot 41; sewer capacity; and the impact that excessive clearing would create. These concerns were also addressed in the nine (9) opposition letters submitted to the Board.

During rebuttal, Mr. Keith stated that he had contacted personnel from the Fairfax County Fire and Rescue Service who indicated there would be no difficulty in accessing these lots. He indicated that the sewer line that he would have to install would facilitate the neighboring properties as well and, therefore, would be a benefit instead of a detriment. He again reassured the Board that the neighbors would be protected.

Ms. Day moved that the Board deny this request because of the sanitary sewer easement problem, tree removal and erosion, the steep topography, and because it did not meet the standards for pipestems.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-D-040 by Barnett C. and Charline Keith under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lots 2, 3, and 4 each having a width of 10.01 feet on property located at 3610 North Powhatan Street, tax

map reference 41-3((1))14, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 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-4.
3. The area of the lot is approximately one acre.
4. That the applicants' property is not exceptionally irregular in shape, including narrow or shallow, has no exceptional topographic problems, does not have an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application does not meet all of 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 all reasonable use of the land and/or buildings involved.

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

Ms. Thonen seconded the motion.

The motion passed by a vote of 4 to 0. (Digiulian, Hammack, and Hyland absent)

Page 78, July 30, 1985 (Tape 2, Reading 270) Scheduled Case Of:

10:30 A.M. YWCA, NATIONAL CAPITOL AREA, FAIRFAX COUNTY BRANCH, appl. under Sect. 3-303 of the Ord. to permit a nursery school & modification of the dustless surface requirement, located 7617 Idylwood Road, R-3, Providence Dist., 40-3((1))21B, 22 & 23, approx. 1.3476 ac., SP 85-P-019

Mrs. Anderson presented the staff report which recommended approval in accordance with the Development Conditions contained in that report. The main concern staff had with this application was the driveway entrance on Idlywood Road and recommended that this driveway be closed during the hours of operation. Staff also indicated the need for a six (6) foot high solid wood fence along the northern side of the play area in order to shield the play area from traffic noise.

Ms. Mary Frye represented the YWCA. She stated that it was their intention to provide quality preschool training.

Mr. Albert J. Attermeger, representing the Idylwood Presbyterian Church, spoke and addressed the landscaping issue and the fact that he disagreed that a six (6) foot solid wood fence would be necessary because the playground would be set back a considerable distance from the road and because the area is wooded. He requested that the County make a survey to determine the noise level. Mr. Attermeger also addressed the closing of the Idylwood Road entrance. He indicated that this entrance is primarily used by the church.

Ms. Thonen suggested that the location of the playground seemed to be a safety hazard as the children had to cross the parking lot to get from the building to the play area. Mr. Attermeger responded by saying that there would be no vehicles around when the children would be going to and from the play area. The only time vehicles would be on this lot is when the children were being left at or picked from the school.

Ms. Kelsey explained to the Board that the limitation that staff wanted to place on the entrance to Idylwood Road would only be applicable to this use and not the church use as the church is not under special permit. Ms. Kelsey also commented that if the play area were moved further back from the road a six (6) foot solid wood fence may not be necessary.

Mr. Ribble moved that the application be deferred to enable staff and the applicant to meet and submit revised development conditions if necessary. Ms. Day seconded the motion which passed by a vote of 4 to 0. (DiGiulian, Hammack, & Hyland absent)

The decision on the application was deferred to August 6, 1985.

Mr. Hyland arrived at 1:00 P.M.

Page 79 , July 30, 1985 (Tape 2, Reading 1068) Scheduled Case of:

10:45 A.M. CENTREVILLE PRESCHOOL, INC., appl. under Sects. 3-103 & 8-901 of the Ord. to permit nursery school & child care center, and modification of the dustless surface requirement, located 5635 Newgate Blvd., R-1, WSPOD, & HCOD, Radcliffe's, Springfield Dist., 54-4((6))pt. 40, 41 & pt. 39, approx. 0.79 ac., SP 85-S-020.

Mrs. Anderson presented the staff report.

Ms. Sue Tonkinson represented Centerville Preschool, Inc. She indicated that the preschool would be serving the greater Centreville area. It is a non-profit, tax exempt preschool. They proposed to have two (2) sessions per day, the first from 9:00 A.M. to 12:00 P.M. and the second session from 12:30 to 3:30 P.M., with a maximum of 43 children, three (3) teachers, and three (3) parents at each session.

Mr. Hyland questioned the traffic impact and the fact that there was a discrepancy between staff and the applicant. Staff indicated that the number of vehicle trips generated per day would be 430. The applicant informed the Board that only 112 trips would be generated per day due to carpooling arrangements.

There were two speakers in support of the application: Mr. Joe Roberts, the owner of the property, and Ms. Gail Jasionowski.

Mr. Dale Kyle, the adjacent property owner, spoke in opposition to the request. He was interested in keeping the neighborhood residential. He also pointed out that there was a problem with water in the basement as well as water and oil standing in the back of the house. He believed that the property is not suitable for a preschool.

Ms. Edith Hall and Mr. Carroll T. Jones also spoke in opposition. They stated that the proposed preschool was not in harmony with the surrounding properties. Most of the people living in this neighborhood are elderly and have no desire nor need for a preschool. They felt that a more stable location for this type of operation would be more suitable.

During rebuttal time, the applicant agreed that there had been a water problem in the basement as well as a problem with oil standing in the back yard. He indicated, however, that the water in the basement had been corrected and that they were installing an underground oil tank to correct the problem of the oil in the back yard.

Mr. Hyland moved that to approve this application. Mr. Ribble seconded the motion which FAILED by a vote of 3 to 2.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-S-020 by Centreville Preschool, Inc. under Sections 3-103 and 8-901 of the Zoning Ordinance to permit a child care center and nursery school and to permit waiver of the dustless surface requirement for the parking lot on property located at 5635 Newgate Boulevard, tax map reference 54-4((6))40, 41, & pt. 39, 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 30, 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.
3. The area of the lot is 34,412 square feet.

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.
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 9:00 A.M. to 12:00 Noon, Monday through Friday, until such time as this property is connected to public sewer. Once approval from the Health Department is obtained, the use may operate two (2) sessions per day, Monday through Friday, from 9:00 A.M. to 3:30 P.M. The second session shall not begin before 12:30 P.M.
6. The maximum daily enrollment shall be 43 children. After connecting to public sewer and obtaining Health Department approval, the maximum daily enrollment shall be 86, with a total of 43 children in each of the two daily sessions. At the time the maximum number of children permitted increases from 43 to 86 daily, a revised Non-Residential Use Permit shall be obtained.
7. There shall be a maximum of 3 employees and 3 parent-aides on the site at any one time.

8. A new well shall be drilled or a connection made to the public water supply before a Non-Residential Use Permit is issued. If a new well is drilled, it shall meet the requirements of the Commonwealth of Virginia Non-Community Water Supply and shall be approved by the Health Department.

9. Nine (9) on-site parking spaces shall be provided as approved by the Director, Department of Environmental Management.

10. Transitional Screening requirements shall be provided as follows:

- Along the eastern Lease Line, a twenty-five (25) foot open strip shall be provided between the play area and the Lease Line.
- A twenty-five (25) foot transitional yard shall be provided adjacent to Newgate Boulevard. Plantings shall be modified to include low landscaping shrubbery that do not interfere with the site distance at the two driveway entrances.
- An area 25 feet in width shall be provided along the southern lot line. Existing vegetation shall be deemed to satisfy the planting requirements in this area.
- An area twenty-five feet in width shall be provided along the northern side of the property adjacent to the Johnson Avenue right-of-way. Plantings to screen the driveway area and the play area from the view of Lot 60 should be provided; due to the location of the drainfield, modification may be allowed with the approval of the County Arborist and the Director, Department of Environmental Management.

11. A six (6) foot high solid wood fence shall be constructed along the eastern side of the play area; the remaining three sides of the play area shall be fenced in compliance with Health Department standards.

12. A waiver of the dustless surface requirement for the parking lot and travel lane as shown on the plat shall be permitted and such approval shall be valid for a period of five (5) years.

13. The one-way driveway entrances shall be paved and constructed in accordance with the VDH&T commercial entrance standards with appropriate directional signs placed at the entrance and exit.

14. All gravel surface areas and the paved entrances shall be maintained in good condition in accordance with all applicable standards.

15. This permit shall be for the term of five (5) years from 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, 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 to 2. (Thonen, & Day)(DiGiulian absent, Hammack abstained)

Mr. Hyland moved to grant a waiver of the twelve (12) month limitation on rehearing of the application.

Mr. Ribble seconded the motion which passed by a vote of 4 to 2. (Hammack and Day) (Digiulian absent)

11:00 A.M. BRADLEY FARM LIMITED PARTNERSHIP, SUCCESSORS & ASSIGNS, appl. under Sect. 3-303 of the Ord. to permit community swimming pool, located on West Ox Rd., R-3, Centreville Dist., 25-39(1))pt. 12A, approx. 1.9249 ac., SP 85-C-021.

Mrs. Anderson presented the staff report. The applicant is requesting this special permit to construct and operate a community swimming pool on West Ox Road for the Bradley Acres subdivision. The ownership of the property will be conveyed to the Homeowners Association after the homes are sold.

Mr. Keith Martin represented the applicant. He asked to change the Development Condition of the staff report that limits the number of family memberships to 347 because there may be an additional lot to the subdivision. Staff had no objection to this request and the number of family memberships was changed to 348.

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

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-C-021 by Bradley Farm Limited Partnership, Successors or Assigns under Section 3-303 of the Zoning Ordinance to permit a community swimming pool on property located at the intersection of West Ox Road and the proposed street that leads into the Bradley Acres subdivision, tax map reference 25-3((1))pt. 12A, 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 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-3.
3. The area of the lot is 1.9249 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. However, upon conveyance of the property to the 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.
5. The maximum number of family memberships shall be 348.
6. The number of parking spaces shall be thirty (30).
7. A twenty five foot transitional screening yard shall be provided along all lot lines. Plantings within this area shall be as generally shown on the plat, provided that Transitional Screening 1 plantings shall be required between the parking lot and the northern lot line and between the pool and adjacent lot lines.
8. The barrier shall be modified to require a 3.5 foot wooden open rail fence along the eastern lot line adjacent to West Ox Road and a six (6) foot wooden or chain link fence adjacent to the pool along a portion of the southern and the western lot lines.
9. Interior parking lot plantings shall be provided in accordance with Article 13.
10. The following environmental concerns shall be addressed at time of site plan review:
    - o Erosion and siltation control measures.

- o Appropriate measures to avoid damage to nearby homes if blasting is required.
- o Appropriate engineered drainage shall be provided for the pool and the parking area.

11. Completion of the proffered road improvements on West Ox Road, to include the deceleration lane at the intersection abutting this lot, must be completed in accordance with the VDH&T standards prior to the issuance of a Non-Residential Use Permit.

12. All noise shall be regulated in accordance with the provisions of Chapter 108 of the Fairfax County Code.

13. The Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during draining or clearing operations so that pool waters can be adequately treated.

14. Lighting for the pool 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-intensity design which directs the light directly onto the facility.
    - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the pool area.

15. 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.

16. The hours of operation shall be from 8:00 A.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. Hyland seconded the motion.

The motion passed by a vote of 6 to 0 (Digiulian absent)

11:15 A.M. CHANTILLY BIBLE CHURCH, appl. under Sect. 3-103 for a church and related facilities, R-1, Centreville Dist., 25-1((1))30, approx. 5.00 acres, SP 85-C-023

Mrs. Anderson presented the staff report. The proposed church and related facilities will occupy an existing farmhouse, barn, stable, and accessory structure. The barn will be converted to a 250 seat sanctuary.

Pastor Steve Austin represented the applicant. He indicated that major renovation would be necessary to the interior of the existing barn; however, the outside appearance of the barn will remain in harmony with the surrounding properties.

Mr. Hammack asked the applicant if he was aware of the development condition that required dedication of 45 feet. Mr. Austin replied that he was aware and had no objection because he believed he had no choice.

There was no one to speak in support or opposition.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-C-023 by Chantilly Bible Church under Section 3-103 of the Zoning Ordinance to permit a church and related facilites on property located at 2739 West Ox Road, tax map reference 25-1((1))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 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 5.0 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 8-303 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. Transitional screening shall be provided as follows:
   - Screening between the parking lot and the northwestern lot line adjacent to Frying Pan Park shall be in a planting strip not less than fifteen (15) feet in width. The type and extent of the plantings shall screen the view of the parking lot from the adjacent park. The amount, types and size of such plantings shall be approved by the County Arborist and the Director, DEM.
   - Screening between the parking lot and West Ox Road shall be of a type and extent so as to screen the view of the parking lot from the residential subdivision across West Ox Road from the Church. The amount, types and size of such plantings shall be approved by the County Arborist and the Director, DEM.
6. The barrier requirement shall be waived.
7. A Tree Preservation Plan for safeguarding and preserving the large, mature trees on the property shall be provided to the County Arborist for approval at time of site plan submission.
8. The seating capacity in the main worship area shall be a maximum of two hundred and fifty (250).
9. The number of parking spaces shall satisfy the minimum required for the number of seats and the maximum shall be seventy-nine (79).
10. A trail shall be provided along West Ox Road as determined by the Director, DEM, at the time of site plan approval in accordance with the Countywide Trails Plan and Article 17.

11. Dedication of right-of-way for public street purposes shall be provided to forty-five (45) feet from the centerline of West Ox Road and a grading easement shall be provided as determined by the Director, DEM. Road improvements, to include the construction of a deceleration lane, shall be provided as determined by the Department of Environmental Management at time of site plan approval in accordance with Article 17.

12. Parking lot lighting, if installed, shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.

13. This approval includes the construction of additions to the barn in accordance with the maximum building envelope shown on the approved plat.

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.

Ms. Thonen seconded the motion.

The motion passed by a vote of 6 to 0. (Digiulian absent)

Page 85, July 30, 1985 (Tape 3, Reading 270) Scheduled Case Of:

11:30 A.M. FELLOWSHIP BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. for church and related facilities, located 5936 Rolling Rd., R-1, Springfield Dist., 79-3((6))1, approx. 2.38 ac., SP 85-S-017. (DEFERRED FROM 7/11/85)

Ms. Hamilton presented the staff report. The applicant is the contract purchaser of this property and is requesting approval to construct a church at this location. Staff has a problem with the proposed access to the site from Rolling Road. The applicant tried to alleviate this problem by getting an easement from the Homeowners Association and having the access point located on Hillside Road. The homeowners denied their request for this easement.

Mr. Lawson represented the applicant. He indicated that the applicant had done everything possible to meet the staff concerns even to the point of offering money to the adjacent homeowners association in order to obtain access from Hillside Road. Mr. Lawson explained that they would be willing to do anything to satisfy staff concerns even construct a deceleration lane along the frontage of the property. Letters of support from the community were distributed.

Mr. Larry Berg, staff representative from the Office of Transportation, was present to answer the Board's questions regarding the traffic impact and trip generation issues. It was his position that the traffic volume was too high on Rolling Road to permit a church with access at this location. There are no provisions for left turn access at this location and there would be a problem with illegal U-turns.

Ms. Thonen inquired as to whether the applicant had exhausted all means to obtain access on Hillside Road. Ms. Day asked if a deferral would be beneficial in working out the access problems. Although Mr. Lawson felt that they had exhausted all means he said he would be willing to meet with the community homeowners association to try to obtain the necessary access easement.

Ms. Thonen made a motion to defer the decision on this application.

Ms. Day seconded the motion which passed by a vote of 5 to 0. (Hyland out of the room) (Digiulian absent)

The decision on the application was deferred to September 24, 1985 at 10:15 A.M.

Page 86 , July 30, 1985 (Tape 4, Reading 920) Scheduled Case Of:

11:45 A.M. THE CHURCH IN DUNN LORING, appl. under Sect. 3-103 of the Ord. for church and related facilities, located 2317 Morgan La. & 7820 Railroad St., R-1, Providence Dist., 39-4((1))161, 162, approx. 2.79 acres, SP 85-P-016

Ms. Hamilton presented the staff report. The applicant proposes to construct a church and related facilities with a seating capacity of 300. The major concern staff had was the poor sight distance. The applicant has offered to pay up to $15,000 toward eliminating this problem. The Church had hoped that the County would also contribute to the improvements that would be necessary to correct the sight distance. Ms. Hamilton explained that the only way that the County would contribute to this improvement is if the Board of Supervisors set aside funds strictly allocated for this use.

Mr. Robert Little represented the applicant. The church has been meeting in Washington, D.C. for the past eleven (11) years and desires to relocate into Northern Virginia where the largest percentage of the members live. He wanted to dissolve the rumors that had been circulated that the Church in Dunn Loring was involved with the Sung Young Moon movement. Mr. Little presented the Board with a sketch of the proposed church.

Ms. Day indicated that it looked like a house. The applicant explained that was their intention. Mr. Little stated that there would a minimum amount of grading and that transitional screening would be provided as required.

Mr. Little conveyed that he had met with John Herrington to discuss the sight distance problem. It was his opinion that the problem of sight distance was an existing one and that the Church in Dunn Loring should not be solely responsible for the improvements necessary to correct this problem. They discussed the possibility of reducing the speed limit and placing a stop sign and a warning sign at the intersection of Oak and Morgan.

The applicant again stressed that the church should not have to bear full financial responsiblity for the correction of the sight distance and if necessary the church would contribute up to $25,000 toward this correction. He reassured the Board that it was the church's intent to cooperate with the members of the community.

In response to a question by the Board, Ms. Hamilton recommended that the condition requiring the Church to correct the sight distance problem remain and should they find that they are unable to do so with the $25,000 they have allotted for that use, they could simply allow their special permit to expire.

Mr. Allen T. Dappy spoke in support of this application.

There were four speakers in opposition to this request, Francis M. Naughton, John Carroll, Mary D. Shaughnessy, and Cecilia E. Forbes. Representing the Dunn Loring Improvement Association, Francis Naughton presented the Board with a petition of opposition with 51 signatures. It was their position that the streets in that area are in no condition to handle the traffic that would result from this special permit approval. The other speakers were also concerned about and addressed the traffic impact.

During his rebuttal time, Mr. Little agreed that there was a problem but that it was the church's intention to help remedy the problem. He also specified that the major traffic impact would be on Sundays.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-P-016 by The Church in Dunn Loring under Section 3-103 of the Zoning Ordinance to permit a church and related facilities on property located at 2317 Morgan Lane, tax map reference 39-4((1))161, 162, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 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 2.79 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 350, with a corresponding number of 88 parking spaces.
6. Transitional Screening 1 and barrier requirements shall be provided as follows:
   - The 25 foot transitional screening yard shall be provided along the western, northern and southern lot lines; however, the planting requirements may be modified to permit shrubs and other low level plantings along the western lot line, as determined by the Director, Department of Environmental Management.
   - The transitional screening requirement along the eastern lot line may be modified as determined by the Director, Department of Environmental Management.
   - The barrier requirement shall be waived.
7. Interior parking lot landscaping shall be provided as required by Article 13 of the Zoning Ordinance.
8. Dedication of right-of-way along Morgan Lane and Railroad Street shall be provided as required by the Director, Department of Environmental Management at the time of site plan approval. Construction of street improvements along Morgan Lane shall be provided as determined by the Director, Department of Environmental Management.
9. The entrances shall meet the requirements of VDH&T.
10. Noise mitigation measures shall be taken to achieve a maximum interior noise level of 45 dBA Ldn and maximum exterior noise level of 65 dBA Ldn.
11. Parking lot lighting shall be the low intensity type on standards not exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent residential properties.
12. The applicant shall correct the sight distance problem located at the northwest intersection of Oak Street and Morgan Lane as determined by the Director, Department of Environmental Management (DEM).

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has 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 2. (Hammack, Thonen) (Digiulian absent)

Page 88, July 30, 1985 (Tape 4, Reading #2450) Scheduled case of:

1:00 P.M. AMERICAN DRUZE SOCIETY, appl. under Sect. 3-803 of the Ord. for a place of worship and related facilities, located 6514 Braddock Rd., R-8, Mason Dist., 72-1((1))12, approx. 1.179 ac., SP 85-M-015. (Deferred from 7/16/85 & 7/23/85 for decision only).

Ms. Kelsey informed the Board that there might be a problem with making a decision on this case because Supervisor Tom Davis had just filed a second appeal of the Zoning Administrator's determination.

The Zoning Administrator had since reviewed the testimony of the public hearing for Special Permit SP 85-M-015 for the American Druze Society and further determined that The American Druze Society was a "house of worship"; but would also serve as the "National Headquarters for the Society", and therefore would also necessitate Special Exception approval. It is this second determination that Mr. Tom Davis is appealing.

The Board discussed the procedure of the filing of this appeal. Chairman Smith was concerned with the fact that the Board did not receive a memorandum from the Zoning Administrator indicating that this appeal had been timely filed. Ms. Kelsey informed the Board that Ms. Gwinn had asked her to verbally convey that the appeal application was accepted as timely filed because Mr. Davis' administrative assistant, Mr. Bob Beers, had just delivered the Appeal during the lunch hour in which the Board was recessed and therefore there was not sufficient time to prepare and distribute a written memo.

Mr. Smith asked if the agent for the applicant wanted to address the issue of the appeal. The applicant was concerned with the continual delays because of the appeal process. He asked that if it was determined that this second appeal was complete and timely filed that it be heard as soon as possible so they could get their pending special permit application resolved.

Mr. Hyland informed the Board that the issue of the first appeal had never been resolved and he didn't think that the second appeal should even be considered until the first appeal was taken care of. He indicated that he was prepared to make motion that they not hear the first appeal.

Mr. Smith was bothered by the fact that the Zoning Administrator had changed her determination. Mr. Hyland explained that the Zoning Administrator had simply looked at all the issues involved, listened to additional testimony and realized that the use was not strictly a "house of worship".

Ms. Thonen stated that if Mr. Tom Davis was willing to withdraw his appeal then the decision should be deferred to get that withdrawal in writing.

Ms. Kelsey explained that she had spoke with Tom Davis on the phone and it was his intention to withdrawn the first appeal that he submitted.

Mr. Hyland moved that the Board accept the filing of the appeal of the Zoning Administrator's second determination concerning this application, the appeal to be considered timely and heard by the Board provided that the appellant, Mr. Davis, furnishes to the Clerk to the Board of Zoning Appeals a letter confirming his withdrawal of his first appeal.

Mr. Hammack seconded the motion which passed by a vote of 5 to 1. (Smith) (Digiulian absent).

The appeal application was scheduled for September 10, 1985 at 11:30 A.M. with the original special permit application SP 85-M-015 to be heard immediately following the appeal application at 11:45 A.M.

There being no further business the Board adjourned at 4:04 P.M.

By : Sherry Fields
Sherry Fields
Acting Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

Submitted to the Board: 9-10-85

Approved 9-10-85

The Regular Meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, August 6, 1985. The following Board Members were present: John DiGiulian, Vice Chairman, John Ribble, Gerald Hyland, Ann Day and Mary Thonen. Daniel Smith, Chairman, and Paul Hammack were absent.

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

Page 89, August 6, 1985, 10:15 A.M. (Tape 1, #1-376) Scheduled case of

10:00 A.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 (community life building was deleted by applicant subsequent to advertising), 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. DiGiulian asked if this case had been deferred for decision only. William Shoup advised that there was some additional information to be presented. Mr. Shoup explained that originally the applicant had included a community life building, but has since removed it from the application. Mr. Shoup further explained that the Board of Zoning Appeals had deferred this matter from the May 21, 1985 hearing in order to allow time for the Special Exception to be approved and on August 5, 1985, the Board of Supervisors did approve that application. Mr. Shoup advised that if the Board of Zoning appeals decided to approve this application at this time, it would have to be granted in part, because of the changes.

Wendell Covert, Pastor, spoke on behalf of the applicant and advised the Board that the applicant is in agreement with Staff's recommendations and is ready to proceed with plans.

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

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 81-A-078-1 by WORD OF LIFE ASSEMBLY OF GOD CHURCH under Section 3-303 of the Zoning Ordinance to permit church and related facilities to permit reduction of land area, addition of parking spaces, and sanctuary, academy and community life buildings to existing facilities (community life building was deleted by applicant subsequent to advertising) on property located at 5225 Backlick Road, tax map reference 71-4((1))40C, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 6, 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 12.6185 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 3-303 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED IN PART, the applicant having removed the Community Life Building from the application, with the following limitations:

1. 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 phased development of the buildings and parking shall be permitted in accordance with these conditions.

6. This approval is to allow the church related use of the additional buildings only. The school of general education and the child care center shall not be accommodated in the additional buildings unless a special exception is approved by the Board of Supervisors to permit such use.

7. A public access easement and trail shall be provided by the applicant from the Park Authority property at the north to Edsal Road in accordance with the proffers associated with Rezoning Application 78-A-100. The alignment of the trail shall be along the western side of the storm drainage easement, generally in conformance with the alignment shown in the original site plan for the Sequoia Park subdivision. Construction of the trail shall be coordinated with the Park Authority. The Non-Residential Use Permit (Non-RUP) for the first building constructed under this approval shall not be issued until the trail requirement has been satisfied.

8. Landscaping and screening shall be provided generally in accordance with the plan submitted to staff on February 5, 1985 with the following additional requirements:

   - Existing vegetation that is to be retained along Backlick Road and Edsal Road shall be supplemented with plantings of a height lower than the existing vegetation;
   - Additional plantings shall be provided to the east of the proposed community life building;
   - Interior and peripheral parking lot landscaping shall be provided for the parking lot south of the ball field. The arrangement of this parking area may be shifted provided it is no closer than twenty (20) feet to the southern lot line;
   - An undisturbed planted strip with a minimum width of twenty-five (25) feet shall be maintained between the lot lines and the parking areas to the north, west, and south of the main building complex, however, such shall not preclude the curb cut, a permitted freestanding sign, or necessary utility work; and
   - Screening along the east side of the property shall be adjusted to allow for the trail alignment. If necessary to provide for adequate screening, the fenced play area and the Community Life building shall be reduced in size or relocated.

9. The barrier requirement shall be waived except that solid wood fencing shall be provided between the parking lot and the dwelling on Lot 38 to the north to prevent vehicle headlights from projecting onto that property.

10. The maximum seating capacity in the main worship area shall be two thousand three hundred and sixty (2,360).

11. The minimum number of parking spaces provided shall be based on the applicable seating capacity in accordance with Article 11 of the Zoning Ordinance. The maximum number of parking spaces shall be five hundred and ninety-two (592).

12. A right turn deceleration lane shall be provided at the entrance on Edsal Road subject to VDH&T approval. The applicant shall coordinate with the Office of Transportation and the Department of Public Works for the provision of a left turn deceleration lane at the Edsal Road entrance in conjunction with the County Bond Project for the improvement of the Edsal Road intersection. 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. Additional dedication along Edsal Road shall be provided to accommodate these improvements as determined by the Director, DEM and the Department of Public Works.

13. A right turn deceleration lane shall be provided at the entrance on Backlick Road. However, if the curb cut on Backlick Road is to be used for exit only, then it should be reconfigured and channelized in such a manner that would prevent vehicles from entering the site as approved by the Director, DEM and VDH&T. If this "exit only" method is implemented, then no right turn deceleration lane shall be required on Backlick Road.

14. All new parking lot lighting shall not exceed a height of twelve (12) feet. All lighting shall be provided in such a manner that would prevent light from projecting onto adjacent property.

15. Signs shall be permitted in accordance with Article 12 of the Zoning Ordinance.

16. The hours of operation shall be those of normal church activities.

17. The existing sanctuary may be utilized as a gymnasium when the new sanctuary is completed.

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 Amendment 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 Amendment. 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 to 0 (Mr. Smith & Mr. Hammack absent) Mr. Hyland not present for this public hearing.

Page 91, August 6, 1985, 10:30 A.M. (Tape 1 (#377-894) Scheduled case of

10:15 A.M. BHP ASSOCIATES LIMITED PARTNERSHIP, appl. under Sect. 5-503 of the Ord. to amend S-298-79 for a veterinary hospital to permit deletion of land area (24,620 sq. ft.) from the site, Burke Centre Subd., I-5, Springfield Dist., 77-1((3))pt 64, approx. 0.97636 acres, SPA 79-S-298-1. (OTH GRANTED BY BZA ON 5/21/85).

Jane Kelsey presented the Staff Report and stated that Staff recommended approval of this application subject to the Development Conditions contained in the report.

Ms. Kelsey further advised that Parkway Veterinary Clinic was deleted from the application to allow BHP to lease to anyone in the future. Francis A. McDermott of Hazel, Beckhorn & Hanes, spoke on behalf of applicant, and explained that the vet clinic was never meant to be included in this application.

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

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 79-S-298-1 by BHP ASSOCIATES LIMITED PARTNERSHIP under Section 5-503 of the Zoning Ordinance to amend S-298-79 for a veterinary hospital to permit deletion of land area (24,620 sq. ft.) from the site on property located at 5749 Burke Center Parkway, tax map reference 77-1((3))pt 64, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 6, 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 I-5.
3. The area of the lot is 0.97636.

A landscaping plan was presented at this public hearing and no change will be made in the use of the property or the parking provisions.

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 5-503 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 who may allow the operation of this use by a lessee. This special permit may not be transfered to another owner 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 employees shall be three (3) to six (6) with a maximum of three (3) employees at any one time.

August 6, 1985
BHP ASSOCIATES LIMITED PARTNERSHIP (continued)

6. The hours of operation shall be 8:00 A.M. to 9:00 P.M., Monday through Saturday.

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

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 a new Non-Residential Use Permit is obtained showing the decreased land area, 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.

Ms. Thonen seconded the motion.

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

Page 93, August 6, 1985, 10:45 A.M. (Tape 1 (#895-1300) Scheduled case of

10:30 A.M. JAMES D. GREMBI, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 11 ft. from side lot line (15 ft. min side yard req. by Sect. 3-207), located 4740 Springbrook Drive, R-2, Springbrook Forest subdivision, Annandale Dist., 69-4((7))22, approx 15,246 sq. ft., VC 85-A-043.

Cheryl Hamilton presented the Staff Report. James D. Grembi presented the application and as justification stated that this lot was topographically unusual. Mr. Hyland questioned why the width of the proposed addition couldn't be 22 feet instead of 26 feet, which would eliminate the necessity for a variance. Mr. Grembi advised that he tried to carefully figure what he would need and still keep the addition in harmony with the original structure.

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

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-A-043 by JAMES D. GREMBI under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 11 ft. from side lot line (15 ft. min. side yard required by Sect. 3-207) on property located at 4740 Springbrook Drive, tax map reference 69-4(97))22, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 6, 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 15,246 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically 2D & 2E,:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:

August 6, 1985
JAMES D. GREMBI (continued)

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 all reasonable use 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 (Mr. Smith and Mr. Hammack being absent).

Page 94, August 6, 1985, 11:00 A.M., (Tape No. 1, 1500-2019) Scheduled case of

10:45 A.M. WILLIAM & ALMA EBLEN, appl. under Sect. 18-401 of the Ord. to allow existing house to remain 6.8 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107), located 3217 Barbara Lane, R-1, Fairfax Forest subdivision, Providence Dist., 58-2((6))8, approx. 26,195 sq. ft., VC 85-P-044.

Cheryl Hamilton presented the Staff Report. Mr. Ribble questioned if Lots 8 & 9 were one building lot and Ms. Hamilton advised that this was correct. They became one lot in 1951 because the owner wanted to construct garage and needed to include

second lot in order to meet minimum side yard requirements. William L. Eblan, 3217 Barbara Lane, presented the application. Mr. Eblan explained that he purchased the property in 1959 and was not aware that Lots 8 & 9 were considered one lot.

Thomas G. Dodd, 3216 Chichester Lane, Fairfax, VA, advised the Board that he was a neighboring property owner and had no objections to this application. Bruce C. Buckheit, 1731 N. Adams Street, Arlington, VA, also had no objections. There was no one else to speak in support or opposition of this application.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-P-044 by WILLIAM & ALMA EBLEN under Section 18-401 of the Zoning Ordinance to allow existing house to remain 6.8 ft. from side lot line (20 ft. min. side yard required by Sect. 3-107) on property located at 3217 Barbara Lane, tax map reference 58-2((6))8, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 6, 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 26,195 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance specifically 2F:

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 all reasonable use 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 to allow a dwelling to remain 6.8 feet from the eastern side lot line as shown on the plat included with this application and is not transferable to other land.

Mr. Hyland seconded the motion.

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

Page 96, August 6, 1985, 11:10 A.M. (Tape 1 2020-end, Tape 2 1-889) Scheduled case of

11:00 A.M. THOMAS D. & ELSA ANGELL, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 12 ft. from side lot line (20 ft. min. side yard required by Sect. 3-107), located 6420 Ichabod Place, R-1, Sleepy Hollow subd., Mason Dist., 51-3((6))44, approx. 23,280 sq. ft., VC 85-M-045.

Cheryl P. Hamilton presented the Staff Report. Howard McGinnis spoke on behalf of the applicant and advised that the existing breezeway and garage had deteriorated and the applicant proposed to widen the garage and enclose breezeway.

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

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-M-045 by THOMAS D. & ELSA ANGELL under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12 ft. from side lot line (20 ft. min. side yard required by Sect. 3-107) on property located at 6420 Ichabod Place, tax map reference 51-3((6))44, County of Fairfax, Virginia, Ms. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 6, 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 23,280 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 (Mr. Smith and Mr. Hammack being absent).

Page 97, August 6, 1985, 11:15 A.M. (Tape 2-890) AFTER AGENDA ITEM 1:

GOOD SHEPHERD LUTHERAN CHURCH, SP 85-C-040: The Board was in receipt of a request for an out-of-turn hearing. Mrs Day stated that the applicant had only filed in July and therefore moved to deny the out-of-turn hearing request. Mr. Hyland seconded the motion. The motion passed by a vote of 5 to 0 (Mr. Smith and Mr. Hammack being absent).

Page 97, August 6, 1985, 11:20 A.M. (Tape 2) AFTER AGENDA ITEM 2:

INTERNATIONAL COUNTRY CLUB: The Board was in receipt of a request for an out-of-turn hearing for this application. Mrs. Day questioned if staff would be able to handle this. Jane Kelsey advised that since the application had not yet been reviewed and this was not one that had been worked on before, it would have to

be fully researched. Mr. Ribble moved to deny the out-of-turn hearing request. Mrs. Day seconded the motion which carried by a vote of 5 to 0 (Mr. Smith and Mr. Hammack being absent).

Page 98, August 6, 1985, (Tape 2) AFTER AGENDA ITEM 3:

CENTREVILLE PRESCHOOL, INC., SP 85-S-051. The Board was in receipt of a request for an out-of-turn hearing. Jane Kelsey advised that the Board had approved a waiver of the 12 month limitation and the applicant had reapplied. Mr. Hyland recalled that the applicant's previous proposal had been denied because of the failure to obtain an affirmative vote of 4 members. Mr. Hyland further stated that this was a very unusual situation and pointed out that the future of the this organization was seriously in jeopardy. Mrs. Thonen advised that another hearing would not change her mind unless the applicant could work with the citizens and work things out. Mr. Hyland moved to grant this request. Mrs. Thonen seconded the motion. The motion carried by a vote of 3 to 2, Mr. Ribble and Mrs. Day voting no (Mr. Smith and Mr. Hammack being absent).

Page 98, August 6, 1985, (Tape 2) AFTER AGENDA ITEM 4:

FORT HUNT COOPERATIVE PRESCHOOL, SP 85-V-037. The Board was in receipt of a request for an out of turn hearing. Jane Kelsey advised that Mr. Hyland had requested that this item be added to this agenda. Mr. Hyland advised that the applicant was proposing to increase the number of children allowed in order to provide infant care. The number of infants would be approximately 10 and there would be 48 other children, although they are requesting 99 children in the application. Mr. Hyland advised that the request of 99 children was staff's recommendation. Mr. Smith asked if an out-of-turn hearing in this application would over-burden staff. Jane Kelsey advised that this application is currently scheduled for 9/5/85 and, therefore, would have to be moved up. Mr. Hyland moved to grant this request. Mr. Ribble seconded the motion. The motion failed by a vote of 2 to 3 Mr. DiGiulian, Mrs. Day and Mrs. Thonen voting no. (Mr. Smith and Mr. Hammack being absent).

Page 98, August 6, 1985, 11:40 A.M. (Tape 2 #890) Scheduled case of

11:30 A.M. RIDGEMONT MONTESSORI SCHOOL, INC., appl. under Sect. 3-103 of the Ord. to permit nursery school and school of general education, located 6519 Georgetown Pk., R-1, Dranesville Dist., 22-3((1))4, approx. 2.387 ac., SP 85-D-024.

Cheryl Hamilton presented the Staff Report which recommended approval subject to the Development Conditions as revised. John F. Cahill of Hazel, Beckhorn and Hanes, presented the application on behalf of the applicant. Mr. Cahill supplied the Board with a background of the school. Mr. Cahill explained that the applicant had objections with Development Conditions 8 & 9 because the applicant is not the owner of this property and, therefore, is not in a position to make such a dedication and also because the applicant feels the Department of Transportation does not have the authority to require this dedication. Mr. Cahill stated that he was aware that Staff felt the alternative development conditions submitted by the applicant were unenforceable, but he disagreed because this is a small, private school with a long history in the area. Mrs. Day asked for an opinion from the Department of Transportion the on applicant's proposals. Larry Berg, Department of Transportation, advised that while he believed the applicant's proposals were well intended, he did not feel they were enforceable and would create an enforcement issue, this is the reason for Staff's conditions, to avoid these types of problems. Mary Beth Humen, the applicant, advised the Board that the school was not the owner and the owner was not willing to dedicate the land. Ms. Humen advised that if this matter had to be deferred, the students of this school would have no where to go.
Mr. Cahill asked that all parents present in the Board Room indicate their willingness to go along with the school's proposal by standing. Mr. DiGiulian acknowledged the citizens who stood in support.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-D-024 by RIDGEMONT MONTESSORI SCHOOL, INC. under Section 3-103 of the Zoning Ordinance to permit nursery school and school of general

August 6, 1985
RIDGEMONT MONTESSORI SCHOOL, INC. (continued)

eduction on property located at 6519 Georgetown Pike, tax map reference 22-3((1))4, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 6, 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
3. The area of the lot is 2.387 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 3-103 of the Zoning Ordinance and a great number of members acknowledged they would abide by the requirements set on entering and exiting the property, and the legal ramifications of dedication of right of ways and left turn lanes were discussed.

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

If it is the intent of the Board of Zoning Appeals (BZA) to approve this application, the BZA should condition its approval by requiring conformance with the following development conditions:

1. 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 63 children.

6. The maximum hours of operation shall be 9:00 A.M. to 2:30 P.M., Monday through Friday.

7. The transitional screening requirement shall be modified provided the existing vegetation is retained and a single row of evergreen trees is planted along the northern boundary of the play area. The size, type and amount of these plantings shall be approved by the County Arborist. The barrier requirement shall be modified provided the required fencing is located around the outdoor play area.

The following conditions are submitted by applicant and shall be included in these Development Conditions and considered a part of this resolution:

8. The applicant will implement car pool and/or van pool arrangements sufficient to ensure that trips to and from the site will not exceed 150 trips per day.

9. The school will start its operations at 9:15 A.M. to avoid conflicting with peak traffic on Route 193.

10 The permit will be issued for a period of one (1) year.

11. The Development Conditions identified in paragraphs 8 & 9 of the Staff Report to SP 85-D-024 are deleted.

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.

Ms. Thonen seconded the motion.

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

The Board recessed for lunch at 12:10 P.M. and the hearing resumed at 1:10 P.M.

Page 100, August 6, 1985, 1:10 P.M. (Tape 2 #2365 to end & Tape 3 #1 - 1447)
Scheduled case of

11:45 A.M. MCLEAN CHILDREN'S ACADEMY INC., appl. under Sect. 3-E03 & 8-901 of the Ord. for a nursery school and child care center with waiver of the dustless surface requirement, located 8110 Georgetown Pike, R-E, Dranesville Dist., 20-2((1))4, approx. 3.62 acres, SP 85-D-027.

(Mr. Hammack arrived at 1:25 P.M.)

Cheryl Hamilton presented the Staff Report which recommended approval in part subject to the Development Conditions therein. Barbara Shumway, the applicant, presented the application. Ms. Shumway advised the Board that she had made a long search to find an appropriate site for this activity and found that this is the best location. Elizabeth Hall, 213 S. Lee Street, Falls Church, VA, spoke in support of application stating that quality day care is needed in McLean area.

Barbara Edgerton, 8406 Martingale Drive, McLean, VA, representing Dennis Bradshaw, who is President of Greenway Heights Civic Association); John Chomeau, 8558 Georgetown Pike, McLean, VA; Tom Lovejoy, 8526 Georgetown Pike, McLean, VA; Marion Hall 8020 Georgetown Pike, McLean, VA; Manning Gash, 8501 Georgetown Pike, McLean, VA; Gail Gurman, 408 Potomac Knolls Drive, McLean, VA; Barbara Methvin, 8111 Georgetown Pike, McLean, VA; Frances Patterson Knight, 8605 Tebbs Lane, McLean, VA; Marge Gersic, Vice President of Great Falls Civic Association, 11120 Corobon Lane, Great Falls, VA; Richard Mattingly, 844 Merriewood Lane, McLean, VA; Kathleen Macmanna, 704 Potomac Knolls Drive, McLean, VA; June Williams, 715 Potomac Knolls Drive, McLean, VA; Forrest W. Powers, 857 Merriewood Lane, McLean, VA; Townsend Vogel, 8626 Georgetown Pike, McLean, VA; Barbara B. Adams, 8546 Georgetown Pike, McLean, VA; Daniel F. Creeden, 849 Merriewood Lane, McLean, VA; John J. Adams, President of Georgetown Pike & Potomac River Association, 8546 Georgetown Pike, McLean, VA; Judy Mueller, Boyle Lane Association; Wendy Fields, 716 Potomac Knolls Drive, McLean, VA; Nina Vogel, (identified herself, but relinquished her speaking time to John Adams) Ronald E. Smith, Lawrence & Smith Attorneys, 8930 University Drive, Suite 300, Fairfax, VA; Susan McClure, 623 Bulls Neck Road, McLean, VA; and Kathleen Timblin, 626 Boyle Lane, McLean, VA all spoke in opposition to this application. These speakers stated their opposition was because of traffic problems which would be caused by the number of children being dropped off and picked up; because of the historic designation of Georgetown Pike; and because of the detrimental impact this use which they believed to be commercial, would have on the residential area.

August 6, 1985
McLEAN CHILDREN'S ACADEMY, INC. (continued)

Charles Runyon, with the engineering firm of Runyon, Dudley Associates, Inc., stated that he did not feel the facility would add to the traffic problems on Georgetown Pike since the people bringing children to the facility would already be in that traffic, and he felt the site was adequate to handle the facility without a detrimental impact on the surrounding properties.

Mrs. Day stated that the Board had received testimony from about 20 citizens in addition to the applicant and the applicant's engineer, who discussed traffic problems and the children's safety. Mrs. Day further stated that she believed 15 parking spaces would change the character of the property and moving the entrance to the east would not eliminate the danger.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. Sp 85-D-027 by McLEAN CHILDREN'S ACADEMY, INC. under Section 3-E03 and 8-901 of the Zoning Ordinance to permit nursery school and child care center with waiver of the dustless surface requirement on property located at 8110 Georgetown Pike, tax map reference 20-2((1))4, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 6, 1985; and

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

1. That the owner of the subject property is the applicant.
or That the applicant is the contract purchaser/lessee.
2. The present zoning is R-E.
3. The area of the lot is 3.62 acres

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

THAT the traffic on Georgetown Pike is already over burdened, there is a 10 ft. rise at the hill at Georgetown Pike and Springhill Road; residents of the immediate area have stated the time and danger involved in exiting their properties; even by moving the entrance of the property to the east, it would not eliminate the danger to this use; 15 parking spaces will change the character of the area; it was stated that police records indicate over 600 accidents on the 9 mile stretch of Georgetown Pike, with 15 nearby; while Ms. Shumway and her school have high marks, this subject property does not seem to be proper and safe for a nursery school and child care center which would operate from 7:30 A.M. to 6:00 P.M. Monday through Friday; and approximately 20 neighbors of the site have objected to the operation of a school; and Barbara Methvin writes that Georgetown Pike is so dangerous that the school bus refuses to stop in front of her home to pick up her children.

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 3-E03 and 8-901 of the Zoning Ordinance.

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

Ms. Thonen seconded the motion.

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

Page 101, August 6, 1985, 2:50 P.M. (Tape 3 #1447-2100) Scheduled case of

1:00 P.M. ELBERT C. FORD, appl. under Sect. 8-901 of the Ord. to allow reduction to minimum yard requirements based on error in building location to allow 12 ft. high detached garage to remain 4.3 ft. from side lot line and 3.6 ft. from rear lot line (15 ft. min. side yard, 12 ft. min. rear yard req. by Sects. 3-207 & 10-104), located 4816 Edwards St.,

R-2, Mason Dist., 72-3((1))1, approx. 20,000 sq. ft., SP 85-M-022. (Deferred from 7/30 for a site inspection to determine the distance garage is from rear lot line, (Deferred for decision only to allow staff to view property and determine accuracy of plat).

Marilyn Anderson advised the Board that staff had met with Mr. Ford after he had questioned the accuracy of the plats submitted, and it was agreed that his plat is correct. Mrs. Thonen stated that since Mr. Ford did not want any further discussions but just wanted to be told to remove the structure or not to remove it, she moved the following resolution.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-M-022 by ELBERT C. FORD under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to allow 12 ft. high detached garage to remain 4.3 ft. from side lot line and 3.6 ft. from rear lot line (15 ft. min. side yard, 12 ft. min. rear yard required by Sects. 3-207 & 10-104) on property located at 4816 Edwards Street, tax map reference 72-3((1))1, County of Fairfax, Virginia, Ms. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 6, 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 20,000 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 8-901 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 1 (Mr. Hyland voted no) (Mr. Smith being absent).

Page 102, August 6, 1985, 3:00 P.M. (Tape 3, #2100-end) Scheduled case of

1:15 P.M. YWCA, NATIONAL CAPITOL AREA, FAIRFAX COUNTY BRANCH, appl. under Sect. 3-303 of the Ord. to permit a nursery school & modification of the dustless surface requirement, located 7617 Idylwood Road, R-3, Providence Dist., 40-3((1))21B, 22 & 23, approx. 3.476 ac., SP 85-P-019. (Deferred to allow applicant to meet with staff regarding staff's required conditions).

Marilyn Anderson advised the Board that at the public hearing on this matter, the applicant questioned three development conditions and the Board deferred the matter in order to enable the applicant to meet with staff to discuss these conditions.

Mary Fryer asked the Board to allow a representative of the church speak in regard to the questions raised. Mr. Althmyer stated that the church members objected to the dedication because at the present time there were no plans for improvements to Idylwood Lane. Ralph Westfall, also on behalf of the church, advised that the objection was also based on the fact that there was guarantee that the severe curve would be corrected through this dedication.

August 6, 1985
YWCA, NATIONAL CAPITAL AREA, FAIRFAX COUNTY BRANCH (continued)

Mr. Hyland questioned the dedication procedure and whether the Board had the authority not to require it. Jane Kelsey advised that the Board does not have the authority to waive the dedication. If it is not included in the Board's resolution, it may be required at the site plan level.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-P-019 by YWCA, NATIONAL CAPITOL AREA, FAIRFAX COUNTY BRANCH under Section 3-303 of the Zoning Ordinance to permit a nursery school and modification of the dustless surface requirement on property located at 7617 Idylwood Road, tax map reference 40-3((1))21B, 22, & 23, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 6, 1985; and

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

1. That the owner of the subject property is the applicant.
or That the applicant is the contract purchaser/lessee.
2. The present zoning is R-3.
3. The area of the lot is 1.3476 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, 3-303 and 8-915 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 9:00 A.M. to 5:00 P.M., Monday through Friday, divided into two (2) sessions each day. These sessions shall not overlap.

6. The total maximum daily enrollment shall be forty-eight (48) children. The maximum number of children in each of the two (2) sessions shall not exceed twenty-four (24).

7. The structures other than the church on the property shall not be used for any purpose associated with the nursery school use.

8. To protect the children from excessive highway noise from Idylwood Road while using the outdoor play area, the following remedy shall be made:

   - Construct a six (6) foot high solid wood fence along the north side of the play area. The remaining three sides of the play area shall be fenced in compliance with the Health Department standards. The play area shall be moved so as not to have the six (6) foot noise Barrier fence located within the front yard of the property.

9. Transitional Screening shall be required as follows:

   - Along the eastern lot line, a twenty-five (25) foot strip shall be provided between the play area and the lot line. Plantings as required by Transitional Screening 1 shall be provided within this area.

   - Evergreen landscaping plantings, the size, type and location to be determined by the County Arborist, shall be provided between the play area and the northern frontage of the site to reduce the visual impact of both the use and the noise barrier from the residences across Idylwood Road. If the play area is relocated a minimum of 150 feet from the centerline of Idylwood Road, this condition shall not apply.

   - No additional transitional screening or plantings shall be required along the Rudyard Street frontage nor along the southern lot line. The mature trees on the property should be saved as determined by the County Arborist.

10. Dedication of right-of-way for public street purposes shall be provided up to forty-five (45) feet from the centerline of Idylwood Road and up to twenty-five (25) feet from the centerline of Rudyard Street at such time as improvements are made to Idylwood Road and Rudyard Street, respectively. Grading easements shall be provided for both roads. Road improvements shall be provided as determined by the Department of Environmental Management, (DEM), at time of site plan approval in accordance with Article 17.

11. A trail shall be provided along Idylwood Road as determined by DEM at time of site plan approval in accordance with the Countywide Trails Plan and Article 17.

12. A waiver of the dustless surface requirement for the parking lot and travel lane as shown on the approved plat shall be permitted and such approval shall be valid for a period of five (5) years. This waiver does not apply to any handicapped parking spaces required by DEM.

13. Access to the site shall be limited to Rudyard Street. The driveway entrance shall be paved and constructed in accordance with the VDH&T commercial entrance standards. The access from the parking lot area to Idylwood Road shall be closed from 8:00 A.M. to 6:00 P.M. on the days that the nursery school operates. Adequate backing out provisions shall be made within the parking lot in the area adjacent to Idylwood Road.

14. All gravel surface areas and the paved entrances to the property shall be maintained in good condition at all times in accordance with all applicable 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.

August 6, 1985
YWCA, NATIONAL CAPITOL AREA, FAIRFAX COUNTY BRANCH (continued)

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless a Non-Residential Use Permit has been obtained for the nursery school 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. Smith being absent).

There being no further business to come before the Board, the meeting was adjourned at 3:30 P.M.

Christine McClaugherty
Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Chairman
Board of Zoning Appeals

Submitted: 9-24-85

Approved: 9-24-85

Pages
106 + 107
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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, September 10, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Gerald Hyland; John Ribble; Ann Day; Mary Thonen; and Paul Hammack.

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

Ms. Kelsey announced a presentation by the Office of Transportation and introduced Bob Moore.

Mr. Moore explained the issues that the Office of Transportation takes into consideration when reviewing and evaluating applications. There are five (5) general types of issues that are researched for each application. They are: traffic generation, provisions for future road improvements, improvements needed to relieve congestion, site access, and internal circulation. Another aspect that is taken into consideration is whether or not the proposed use is compatible with the County Plan.

Mr. Hyland asked what type of consideration was given to an applicant that indicates that the traffic generation would be much less than Staff figures indicate due to carpooling. Mr. Moore replied that if the numbers were not too high that they could condition the special permit by putting specific time limits on the hours of operation so that there would be no additional traffic generation during peak hours or they could require the applicant to make necessary road improvements.

Page 109, September 10, 1985 (Tape 1) Scheduled case of:

10:00 A.M. CHARLES S. & RENATE U. GAMMON, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 4.2 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 5527 Yorkshire Street, R-3, Kings Park subd., Annandale Dist., 79-1((6))569, approx. 10,709 sq.ft. VC 85-A-047.

Ms. Kelsey presented the staff report. She indicated that the applicant was proposing to construct a two car garage by enlarging his existing one car garage. The proposed garage would be 24.66 by 20 feet.

Mr. Gammon presented his justification and indicated that because of the topographic conditions on his property that the proposed location was the only practical solution. It would be two stories in the front and one story in the back because of the topographic features.

Mrs. Day asked what was located to the left of Mr. Gammon's property line that would be closest to the proposed garage and whether or not Mr. Gammon had talked this over with his neighbor. Mr. Gammon indicated that his neighbor's garage would be the closest structure and that he had discussed his proposal with his neighbor and he had voiced no opposition.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-A-047 by Charles S. & Renate U. Gammon under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 4.2 feet from side lot line on property located at 5527 Yorkshire Street, tax map reference 79-1((6))569, 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 10, 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 10,709 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 (Smith) (Thonen & Hammack absent)

Page 110 , September 10, 1985 (Tape 1) Scheduled Case Of:

10:15 A.M. BRIAN J. MAAS, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 23.1 feet from front lot line (35 ft. min. front yard req. by Sect. 3-207), located 1921 Virginia Ave, Franklin Park Subd., R-2, Dranesville Dist., 41-1((13))(4)31, 32 & 33 approx. 12,500 square feet, VC 85-D-048

Ms. Kelsey presented the staff report. The applicant was requesting a variance to the minimum front yard requirement to construct a 16 by 24 foot addition to the western side of the existing dwelling.

Mr. Brian J. Maas presented his justification stating that there were soil problems to the rear of the lot. He indicated that staff could confirm that there were soil problems and that there was a stream running to the back of the property. Because the house was built prior to the adoption of Zoning Ordinance regulations it does not meet the current minimum yard requirements. Mr. Maas indicated that he purchased the property in good faith with the intention of constructing an addition on it. Construction to any other part of the house would require elaborate building techniques because of the topography of the lot.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-D-048 by Brian J. Maas under Section 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 23.1 feet from front lot line on property located at 1921 Virginia Avenue, tax map reference 41-1((13))(4)31, 32, & 33, County of Fairfax, Virginia, Ms. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 10, 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 12,500 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically 2A, 2C, 2E, 2G, 6, and 8:

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 all reasonable use 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 (Thonen & Hammack absent).

Page 112 September 10, 1985 (Tape 1) Scheduled case of:

10:30 A.M. LOUIS & SUZAN R. BLAZY, appl. under Sects. 3-103 & 8-901 of the Ord. for a private school of special education (ballet) with waiver of the dustless surface requirement, located 4005 Iva Lane, R-1, Ashton C. Jones subdivision, Annandale Dist., 59-3((9))2B, approx. 0.500 acres, SP 85-A-025.

Ms. Kelsey presented the staff report. She indicated that the applicants were requesting a special permit to operate a private school of general education, a ballet school, and a modification to the dustless surface requirement in order to have gravel parking and driveway. Staff had some concerns with this application, primarily transportation issues and the use is not in conformance with the recommendations of the Comprehensive Plan. The trip generation for the proposed use exceeded the expected trips for the existing zoned and planned uses. There would be approximately 128 trips a day generated by the proposed use and thus would adversely impact the neighborhood traffic. Staff was also concerned about a sight distance problem at both of the proposed entrances. The applicants had originally proposed to have ten (10) students per class for a total of 40 per day but had amended their statement of justification to reduce the number of students to eight (8) per class with a total of 32 per day. They also changed their proposed hours of operation to attempt to get the trips out of the peak hour. The site is extremely narrow, the parking would be in the front yard. Staff indicated that the parking spaces should be relocated to the rear yard and thus alleviate the possible appearance of a commercial use. Staff recommended denial of the proposed use.

Mr. Mike Smith represented the applicants. He pointed out that the amount of trip generation expected by staff did not take into consideration the carpooling that might occur with this proposed use. He also indicated that there was no sight distance problem at all. He informed the Board that the there are other special permit uses in the area and he felt that his applicants were entitled to a special permit as well. He explained that the traffic generated by the activities of the Department of Recreation at Wakefield Intermediate School is greater than that which would be generated at the ballet school located in the applicant's home.

Mr. Hammack explained that there was a big difference in operating a ballet school at a public school and operating a ballet school at home. He pointed out that a school provided adequate parking whereas additional parking spaces would need to be constructed at a residence. Mr. Hyland indicated that trip generation would not be any greater whether the school was operated from the applicants' home or from a school.

There were four (4) speakers in support of this application: Judy Turner, Carolyn Olson Blevins, Wanda J. Webb, & Mr. James C. Rike. Ms. Turner indicated that Ms. Blazy was highly qualified as a ballet instructor, one of the few really qualified instructors in this area. Ms. Blevins spoke in favor of the application indicating that approval of this special permit would be in keeping with the other home professional offices in the area. Mr. Rike was concerned about the 180 vehicle trip generation anticipated by Staff. He felt that there would be a lot of carpooling and that the trip generation would not be a major factor at all. Ms. Webb informed the Board that she was also there to show her support. She indicated that the community would be getting a quality facility.

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

Mr. Hammack made the motion to deny stating that the proposed use was too extensive to meet the general guidelines of the Comprehensive Plan. He also indicated that the parking lot would give a commercial appearance instead of a residential appearance.

Mr. DiGiulian disagreed with Mr. Hammack indicating that the use and the request were reasonable and that there wouldn't necessarily be a lot of additional parking for this use.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-A-025 by Louis and Suzan R. Blazy under Sections 3-103 and 8-901 of the Zoning Ordinance to permit a private school of special education (ballet) with waiver of the dustless surface requirement on property located at 4005 Iva Lane, tax map reference 59-3((9))2B, 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 10, 1985; and

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

1. That the owner of the subject property is the applicant.
or That the applicant is the contract purchaser/lessee.
2. The present zoning is R-1.
3. The area of the lot is .5 acres.

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

THAT the applicant has 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, 8-303, and 8-307 of the Zoning Ordinance.

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

Ms. Day seconded the motion.

The vote on the motion was 3 to 3 (Hyland, Ribble, & DiGiulian) (Thonen absent). The application was denied for lack of a motion to approve.

Page 113, September 10, 1985 (Tape 2) Scheduled case of:

10:45 A.M. PLEASANT VALLEY ASSOCIATES, appl. under Sect. 8-901 of the Ord. to allow modification to minimum yard requirements for 87 R-C lots, located Pleasant Valley subd., (see plat for locations and lot areas), R-C & ANOID, Springfield Dist., 33-4((2))409-423, 428-479, & 523-542, SP 85-S-026.

Ms. Kelsey presented the staff report. The application was requesting modification to the yard requirements for 87 R-C lots in the Pleasant Valley subdivision. Ms. Jane Gwinn, Zoning Administrator, had met with the applicant and had agreed that only one application would be required for all 87 lots listed in the staff report. Ms. Kelsey explained that final plat approval had taken place prior to July 26, 1982 as the subdivision was recorded in November 1978. She indicated that the requested modification in the yard requirements would result in a yard not less than the minimum front and side yard requirements of the R-2 District developed under the cluster provisions of the Zoning Ordinance that was applicable to the lot on July 25, 1982.

Mr. Mark Truso represented the applicant. He also explained that the property was recorded as R-2(C) zoning prior to the down-zoning. He stated that it would be harmonious with the existing lots.

There were no speakers in support or opposition.

COUNTY OF FAIRFAX

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hyland made the following motion:

WHEREAS, Application No. SP 85-S-026 by Pleasant Valley Associates under Section 3-C07 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, to allow modification to the minimum front and/or side yard requirements for 87 R-C lots, located in Pleasant Valley subdivision, tax map reference 33-4((2))409-423, 428-479, & 523-542, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 10, 1985; and

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

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

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

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

1. This approval is for the locations indicated in the application and on the plat and is not transferable to other land.
2. All development or these lots shall be in accordance with the Airport Noise Impact Overlay District.

Mr. Hammack seconded the motion.

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

11:00 A.M. DAVID B. MAXWELL, appl. under Sect. 8-901 of the Ord. for a reduction to min. yard requirements based on error in building location to allow detached garage to remain 33.8 feet from front lot line (50 ft. min. front yard req. by Sect. 3-E07 and 10-104), located 957 Bellview Road, R-E, Prospect Hill subd., Dranesville Dist., 20-1((1))23, approx. 2.985 acres, SP 85-D-028.

Ms. Kelsey presented the staff report. The applicant was requesting a special permit to allow a detached garage that was constructed too close to the front lot line to remain in its existing location. Ms. Kelsey explained that the applicant had obtained a building permit, however, the location and the dimensions of the garage did not coincide with the location and dimensions approved by the building permit.

Mr. David Maxwell presented his justification. He explained that he had hired two (2) carpenters and they advised him to get a building permit. When Mr. Maxwell was attempting to obtain the building permit for the construction of this garage, he spoke with Mr. Larry McDermott of the the Zoning Administration Division. Mr. McDermott informed him that there were too many structures on his property and that in order to approve his building permit, one of the structures would have to be removed. Mr. Maxwell indicated in a letter to Mr. Phil Yates that the cottage was to be removed within one year and the existing garage would be converted to a pool house. At that time a building permit was issued to Mr. Maxwell's wife.

Mr. Maxwell stated that when he first contacted the County, he was informed that his property was zoned R-1 and the minimum front yard required for that zoning district was forty feet. He then submitted a building permit with this information. Upon receiving the application for the building permit, staff realized that his property was actually zoned R-E and that the minimum front yard requirement was 50 feet. Staff noted the building permit and the plat to reflect this, however, Mr. Maxwell stated that he did not examine the building permit closely and thus did not realize the actual setback requirements for his property. To make matters a little worse, his architect indicated to Mr. Maxwell that he wanted to make the garage a little longer and a little narrower to which Mr. Maxwell agreed. Thus, the structure is now even closer to the front lot line than he thought it was.

Mr. Smith reviewed the building permit that was included as Appendix 4 of the Staff Report. He questioned Mr. Maxwell as to why the garage that he was constructing was two stories high when the building permit indicated that the proposed structure was to be just one story. Mr. Maxwell stated that he never intended the garage to be just one story, it was always his intention to have a two story garage.

Mr. Hyland asked the applicant how much it would cost to move the structure to another location on his property. Mr. Maxwell indicated that it would cost $10,000.00. Mr. Hyland stated that it only cost $6,000.00 to build and questioned why it would cost $10,000.00 to move. Mr. Maxwell replied that it would cost $3000.00 for excavation and another $3000.00 to actually move it and the rest was a fudge factor thrown in.

There were several speakers in opposition to the request. Mr. James Harrell, a neighbor that lives directly across the street from Mr. Maxwell, spoke indicating that he had lived at 956 Bellview Road for 30 years and this was the first confrontation that he has had. He said that the structure in Mr. Maxwell's yard wasn't a garage at all, it was a ghastly thing. He didn't want to have to look at it and the only way he could avoid seeing it was to walk down his driveway backwards. Mr. Harrell indicated that he had contacted his supervisor's office and made a complaint concerning this garage. They in turn contacted the Zoning Enforcement Branch and asked that an inspector be sent out to investigate.

Mr. Harrell indicated that Mary Burton, the Zoning Inspector, came out to the Maxwell's property the same day. Although he was surprised to see a woman zoning inspector, and a pretty little chick at that, he assured the Board that she went straight to work and informed Mr. Maxwell that the garage that was being constructed was in violation and that all construction must halt immediately. At that time construction was ceased.

Mr. Angelo Mele also spoke in opposition. He stated that he too was a neighbor of Mr. Maxwells and that the garage was an eyesore and that it was entirely too large, he said it looked as large as the main house. He indicated that even the workmen that had been coming to his house had commented on the structure and its appearance.

During rebuttal Mr. Maxwell indicated that he had tried to work with Mr. Harrell but to no avail. Although he did not like to cause trouble or get nasty he stated that Mr. Harrell's one-story house was not harmonious with the other houses in that neighborhood. It looked out-of-place in McLean. He also pointed out that the reason his garage was such an eyesore was because it was covered with tar paper.

Ms. Day made a motion to deny this application. Ms. Thonen seconded the motion which passed by a vote of 5 to 0. Mr. Smith commented that he would have been more inclined to support this application if the structure had been comparable to the proposed structure described on the building permit.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

(MISTAKE SECTION)

Ms. Day made the following motion:

WHEREAS, Application No. SP 85-D-028 by David B. Maxwell 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 detached garage to remain 33.8 feet from front lot line, on property located at 957 Bellview Road, tax map reference 20-1((1))23, 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 10, 1985; and,

WHEREAS, the Board made the following conclusions of law:

The Board has determined that this application does not meet the provisions of Sect. 8-914 of the Zoning Ordinance.

Mrs. Day indicated that some of the reasons for her motion to deny were that the applicant had made a series of errors and although they may have been made in good faith the applicant had brought about the hardship himself. She also stated that the structure was too large and therefore did have a detrimental impact on the adjacent property owners.

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

Ms. Thonen seconded the motion.

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

Page 115 , September 10, 1985 (Tape 3) Scheduled case of:

11:15 A.M. CHRISTIAN ASSEMBLY CENTER, appl. under Sect. 3-203 of the Ord. to amend S-80-P-110 and SP 84-P-055 for church and related facilities & private school of general education to permit renewal and relocation of 1 classroom trailer and addition of 1 classroom trailer, change of school operating hours to 9:00 A.M. to 3:30 P.M., and to modify previous condition regarding screening, located 8200 Bell Lane, R-2, Bell subdivision, Providence Dist., 39-4((1))2 and 39-4((2))2, 3 & 4, approx. 7.00 acres, SPA 84-P-055-1

Ms. Kelsey presented the staff report. She explained that the applicant was proposing to add one classroom trailer, relocate the existing trailer, and increase the hours of operation by 30 minutes. Ms. Kelsey indicated that this use would not cause an adverse impact and that staff recommended a condition that the plantings within the transitional yard along the southern lot line could be deferred for a period not to exceed six (6) months to permit vacation of Bell Lane, relocation of the gas line, and an increase in land area.

Mr. Daniel Duis represented the applicant. He agreed with the presentation made by Ms. Kelsey and offered to answer any questions that the Board might have.

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

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 84-P-055-1 by Christian Assembly Center under Section 3-203 of the Zoning Ordinance for an amendment to the existing special permit for church and school of general education to permit additions and changes on property located at 8200 Bell Lane, tax map reference 39-4((1))2 & ((2))2, 3, & 4, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 10, 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 7.00 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, 8-303, 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. There shall be a maximum daily enrollment of 99 students in the school of general education.

6. There shall be a maximum of 179 parking spaces and the total number of seats in the main worship area shall be 400 which can be expanded to 600 seats. 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. The plantings within the transitional yard may be modified to permit a single row of evergreens and deciduous trees along the western lot line. The plantings within the transition yard along the southern lot line adjacent to the playing field may be deferred for a period not to exceed six months to permit vacation of Bell Lane, relocation of the gas line and an amendment to this special permit to increase the land area obtained from the vacation. 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 3:30 P.M., Monday through Friday.

9. Dedication shall be provided on Bell Lane to 26 feet from centerline.

10. The two (2) classroom trailers are approved for a period of five (5) years.

The above conditions incorporate all applicable conditions of the previous approvals.

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, 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.

Ms. Thonen seconded the motion.

The motion passed by a vote of 5 to 0 (Ribble & DiGiulian absent)

Page 117 , September 10, 1985 (Tape 3-4) Scheduled case of:

11:30 A.M. TOM DAVIS, appl. under 18-301 of the Ord. to appeal the Zoning Administrator's Determination that the uses proposed by the American Druze Society in Special Permit Application SP 85-M-015 would require both the approval of a special permit for a "house of worship" and a Special Exception for a public benefit association. A 85-W-001

Mr. Robert Beers represented the applicant, Mr. Tom Davis, who was appealing the Zoning Administrator's determination that the proposed use by the American Druze Society would require the approval of both a special permit for a "house of worship", and a special exception for "administrative functions for the National Headquarters of the Society".

Mr. Beers began his presentation by stating that the use proposed by the American Druze Society should not be considered a house of worship just because one small room in the basement of the house was designated as a prayer room. He stated that the American Druze Society claimed to have 60 members in the Society's local chapter and 150 Druze families in the Washington area. He was concerned that the American Druze Society would willingly limit the occupancy of the building to no more than 15 persons at any time. He felt that because they were willing to limit their occupancy to such a small percentage that the intent of the use was not religious and therefore a "house of worship" would not be the principal use of the building. He indicated that a proper test would be to consider the amount of square feet provided for each use and the greater percentage would be the principal use.

Mr. Hyland asked Mr. Beers where in the Zoning Ordinance does it state any reference to a quantitative standard for the amount of space that should be devoted to worship. Mr. Beers replied that he did not know what other standard could be used but square footage to determine the principal use.

Mr. Hyland stated that he felt that the application was properly filed and properly accepted as a "house of worship".

Mrs. Thonen asked Ms. Jane Gwinn, the Zoning Administrator, if the special permit is issued to the primary use of the building. Ms. Gwinn explained that she did not think that the Zoning Ordinance required a special permit to be issued for a primary use. Mr. Hyland inquired if you could have more than one (1) primary use. Ms. Gwinn replied that you could.

There was a lot of discussion concerning which was the predominate use and which was the subordinate use.

Mrs. Day stated the application should be considered by the Board of Supervisors as a National Headquarters, not by the Board of Zoning Appeals as a special permit.

There were several speakers supporting the appellant. They were: Mr. Glen Kerr; Ms. Nancy Brown; Paula Lassiter; and Roger Cornelier. Mr. Glen Kerr spoke indicating that the proposed use was a National Society. He made reference to the proposed number of persons that would occupy this building at any one time and stated that he had previously observed 13 cars parked in the yard and several parked across the street.

Ms. Nancy Brown indicated that the structure in question was a very small structure. She also wanted to clarify which was the predominate use and suggested this be done by measuring the amount of space provided for each use. She was also concerned about the existing parking problem and how it would be multiplied by this use. She indicated that this location was not stable for office use and the proposed house of worship was not a community serving church.

Ms. Paula Lassiter, president of the PTA for Weyanoke School, indicated that the PTA had a meeting on 9/3/85 and formally adopted a motion in favor of Mr. Davis' appeal. Their primary concerns were the safety of the children and the recognition of the traffic impact this use would have.

Ms. Jane Gwinn indicated that a church is not just a structure it was a principal use. When she reviewed the Special Permit Application filed by the American Druze Society and the testimony at the BZA hearing on July 16, 1985, she took into consideration the worship activities as well as the administrative activities they were proposing. She indicated that she could not accept the administrative duties for the National Headquarters as part of the church related activity.

Mr. Smith indicated that he thought Zoning Ordinance Amendment 52 allowed the church some flexibility. He also explained that the American Druze had been asked to supply the Board with a copy of their by-laws and other church organizations had not been asked to do so.

Mr. Hammack explained the purpose of requesting the by-laws for this particular organization was to verify exactly what their religious activity entailed and to determine whether or not it was actually a religious organization. He indicated that, in his opinion, the American Druze Society was a benevolent organization, not a house of worship. Obtaining the by-laws of the American Druze Society would help determine what Section of the Zoning Ordinance this group should apply under.

Mr. Roger Cornelier, agent for the American Druze Society, indicated that he was responsible for the filing of the original special permit application under the provisions of a "house of worship". He stated that the administrative activity that was involved with this use only involved one small computer. It was not an extensive administrative use at all.

Mr. Hyland asked the applicant if he was in agreement that the administrative use was not adequately covered by the special permit. Mr. Cornelier responded that the administrative function should be included in the special permit application.

Mr. Hammack moved to uphold the Zoning Administrator's Determination that the special permit application filed by the American Druze Society was properly filed under the provisions for a "house of worship" and reversed the Zoning Administrator's determination that a portion of the proposed use is a public benefit association which would require a special exception.

Mr. Hammack discussed his position and reasoning for his motion stating that perhaps it was incorrect to indicate that there were two principal uses, or a predominate use and a subordinate use. He felt that too much emphasis had been placed on the computer that was to be used by the secretary. Mr. Hammack further stated that the attorney for the applicant had made emphatic statements that the applicant intends to use this property as a house of worship. The size of the organization is small in terms of numbers and the proposed use. He indicated that this was an important factor and that this decision should not be binding on the Zoning Administrator in future applications.

Mrs. Thonen seconded the motion for discussion purposes. She stated that, in her opinion, the predominant use proposed was a National Headquarters and therefore, could not support the motion.

The motion passed by a vote of 4 to 1. (Thonen) (Mr. DiGiulian and Mr. Ribble were not present for this hearing)

11:45 P.M. AMERICAN DRUZE SOCIETY, appl. under Sect. 3-803 of the Ord. for a place of worship and related facilities, located 6514 Braddock Rd., R-8, Mason Dist., 72-1((1))12, approx. 1.179 ac., SP 85-M-015. (Deferred from 7/16/85 & 7/23/85 for decision only).

The Board members discussed whether it could hear the Special Permit Application since there is a 30 day appeal time to the Circuit Court on an action of the BZA. Ms. Karen Harwood, Assistant County Attorney, advised the Board that it did not need to wait the 30 day appeal time, that they could hear and decide on the special permit application as that decision would also be subject to a 30 day appeal period to the Circuit Court.

Subsequent to the public hearing being closed at the conclusion of the BZA hearing on July 23, 1985 the applicant had amended his statement to request that 50 persons be allowed to attend services at one time and had submitted a revised plat which showed an increase in the number of parking spaces. Therefore, a decision could not be rendered on this revised application. The BZA, therefore, scheduled a new public hearing on the amended application to be held on October 29, 1985 at 10:00 A.M.

Page 118 , September 10, 1985 (Tape 4) AFTER AGENDA ITEM 1

VIRGINIA KOREAN BAPTIST CHURCH, SP 85-C-052: The Board was in receipt of an Out-of-Turn Hearing Request for this special permit application which is presently scheduled for December 3, 1985. Mr. Hyland moved that the request be denied. Mrs. Thonen seconded the motion which passed by a vote of 5 to 0. (DiGiulian and Ribble absent)

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Page 118, September 10, 1985 (Tape 4) AFTER AGENDA ITEM 2

CHARLES M. & VIRGINIA P. CANON, VC 85-S-076: The Board was in receipt of an Out-of-Turn Hearing Request for this variance application which is presently scheduled for November 26, 1985. Mr. Hyland moved that the request be denied. Mrs. Day seconded the motion which passed by a vote of 5 to 0. (Ribble and DiGiulian absent)

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Page 119, September 10, 1985 AFTER AGENDA ITEM 3

ST. JOHN'S EPISCOPAL CHURCH, SP 85-S-053: The Board was in receipt of an Out-of-Turn Hearing Request for this special permit application. Mrs. Thonen moved that the request be denied. Mrs. Day seconded the motion which passed by a vote of 5 to 0.

Page 119, September 10, 1985 AFTER AGENDA ITEM 4

SIKH FOUNDATION OF VIRGINIA, SP 83-S-098: The Board was in receipt of a request for additional time for this special permit which was approved on March 20, 1984 to permit a church and related facilities on the subject property. Additional time is needed to obtain site plan approval by the Department of Environmental Management. An additional three to six months was requested. Mr. Hammack moved that the additional six (6) months be granted. Mr. Hyland seconded the motion which passed by a vote of 5 to 0. (DiGiulian and Ribble absent)

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Page 119, September 10, 1985 AFTER AGENDA ITEM 5

CHURCH OF THE VIETNAMESE MARTYRS, SP 83-P-086 & VC 83-P-173: The Board was in receipt of a request for additional time for this special permit and variance that was approved on July 17, 1984 to allow the addition of land area, building and parking lot to the existing church facility. The applicants need more time to obtain site plan approval by the Department of Environmental Management. Mr. Hyland moved that the Board approved an additional six months. Mrs. Day seconded the motion which passed by a vote of 5 to 0. (Ribble and DiGiulian absent)

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Page 119, September 10, 1985 AFTER AGENDA ITEM 6

HARVESTER PRESBYTERIAN CHURCH, SP 83-S-102: The Board was in receipt of a request for additional time for this special permit that was approved on February 14, 1984 to permit a church and related facilities. The applicants are requesting the additional time to obtain site plan approval. It was the consensus of Staff that an additional twelve months would be sufficient to obtain site plan approval and commence construction. Mr. Hyland moved that an additional twelve months be granted. Mrs. Day seconded the motion which passed by a vote of 5 to 0. (DiGiulian and Ribble absent)

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Page 119, September 10, 1985 AFTER AGENDA ITEM

NORTHERN VIRGINIA GOLF CENTER, INC., SP 85-S-059: The Board was in receipt of a request for an Out-Of-Turn Hearing for this special permit application for a golf driving range. The golf driving range was included in the rezoning of properties in the Occoquan Basin Study Area. Although golf courses are allowed by special permit in the R-C District, golf driving ranges were not included as a permitted use or special permit use in the R-C District. On August 5, 1985, the Board of Supervisors approved a Zoning Ordinance Amendment to allow golf driving ranges as a special permit use in the R-C District. At that time the Board of Supervisors made a motion requesting the Board of Zoning Appeals to expedite the public hearing. Mr. Hyland moved that an Out-of-Turn Hearing be granted for this application. Mr. Hammack seconded the motion which passed by a vote of 5 to 0. (DiGiulian and Ribble absent)

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Page 119, September 10, 1985 AFTER AGENDA ITEM 8

APPROVAL OF MINUTES: July 16, July 23, and July 30, 1985. Mr. Hyland moved to approve minutes as submitted. Mr. Hammack seconded the motion which passed by a vote of 5 to 0. (DiGiulian and Ribble absent)

There being no further business the Board adjourned at 5:16 P.M.

BY: Sherry Fields
Sherry Fields
Acting Clerk
Board of Zoning Appeals

Daniel Smith
Chairman
Board of Zoning Appeals

Submitted: 10-22-85

Approved: 10-22-85

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 17, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Gerald Hyland; John Ribble; Ann Day; Mary Thonen; and Paul Hammack.

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

Page 120, September 17, 1985, 8:05 P.M. (Tape #1) Scheduled case of

8:00 P.M. PROVIDENCE BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. for church and related facilities and child care center, R-1, Woodside Estates, Dranesville Dist., 19-4((1))40 & pt 1A, & 19-4((4))A1, approx. 6.93 ac., SP 85-D-018. (Deferred from 7/23/85)

June Kelsey presented background information on this case which had been deferred over one month ago. Mr. Ribble stated that the Board had set time limits when this case was deferred, giving the applicant 10 minutes, interested citizens 10 minutes and 5 minutes rebuttal for the applicant.

Robert Fitzgerald, 10560 Main Street, Fairfax, spoke on behalf of the applicant and advised that applicant's figures on traffic indicate that the impact from the church would be less than the existing school. Mr. Fitzgerald also advised that the size of the building has been reduced slightly. Mr. Fitzgerald and Mr. Lipp, the applicant's architect, presented diagrams and a model of the proposed structure.

Ernest J. Berger, President of the Woodside Estates Citizens Assoc., Inc., 1111 Laurelwood Drive, McLean, VA 22102, presented slides to the Board which he felt supported the community's position that the application should be denied.

John Mullenholz, 8824 Gallant Green, McLean, VA 22102, advised the Board that what the applicant has described tonight, confirms the neighbor's worst fears. He stated that the citizens felt this was massive based on only the photos and model displayed by applicant. Mr. Mullenholz compared the proposed structure's size to a small shopping mall. Mr. Mullenholz also stated that there was some concern as to the accuracy of the pictures shown by applicant. Mr. Mullenholz stated that he had been informed that the drawings were not to scale nor were they accurate as to perspective.

Jay K. Wright, 1062 Rector Lane, McLean, Virginia 22102, member of the Springhill Citizens' Association, advised the Board that he was concerned with the size as well. He felt the parking lot alone would be 1 to 2 1/2 times the size of the structure and therefore almost all of the property would either be built on or blacktopped. Mr. Wright was also concerned with the traffic problems that would be caused when the cars were leaving the parking lot.

Mrs. Thonen asked all citizens present who were in support to stand up. Mrs. Day then asked those who were living in immediate neighborhood of the proposed church to remain standing. Mrs. Day pointed out that only approximately 3 people remained standing indicating they lived in the neighborhood.

In rebuttal, Mr. Fitzgerald stated that he felt the problems concerning the citizens had been addressed by the applicant and staff.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-D-018 by PROVIDENCE BAPTIST CHURCH under Section #3-103 of the Zoning Ordinance to permit church and related facilities and child care center on property located at 9102 Leesburg Pike, tax map reference 19-4((4))A1, 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 17, 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.
3. The area of the lot is approx. 6.93 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 3-103 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, grading easements, and construction of road improvements shall be as follows:

   o On Leesburg Pike, dedication shall be provided 98 feet from centerline unless the service drive requirement along the frontage of the site is waived. If the requirement for a service drive is waived as recommended by the Office of Transportation, dedication shall be provided for one-half of a six (6) lane road section in accordance with the Department of Environmental Management (DEM) requirements; Grading easements shall also be provided, if necessary, as determined by DEM.

   o On Lewinsville Road, dedication shall be provided to 45 feet from centerline; Grading easements shall also be provided, is necessary, as determined by DEM.

   o On Brook Road, dedication and construction shall be provided for an additional lane on the Brook Road approach to Lewinsville Road in the location shown on the plat. This dedication and construction shall be in accordance with DEM requirements. Grading easements shall also be provided, if necessary, as determined by DEM.

   o On Old Tolson Mill Road, dedication shall be provided 25 feet from centerline at such time as Old Tolson Mill Road is to be improved by others. Grading easements shall also be provided, if necessary, as determined by DEM.

If additional dedication is required along Leesburg Pike, the building shall be shifted in order to provide a minimum 40 foot front yard.

If additional dedication is required along Brook Road, the parking area shall be rearranged or reduced in order to provided the required transitional screening in accordance with Condition No. 6.

6. Transitional Screening shall be provided as follows:

   o In order to screen the parking area from Brook Road Transitional Screening 2, thirty-five (35) foot, shall be provided along Brook Street. The size and location of the plantings near the entrances shall be determined by the Director, Department of Environmental

Management (DEM) and the County Arborist in order to provide the required sight distance.

- o Transitional Screening shall be provided in all other areas as shown on the plat. In the quadrant of land at the intersection of Leesburg Pike and Brook Road landscape plantings shall be provided. Building foundation plantings shall also be provided in this area which will provide a visual reduction to the size of the building. The size, amount, and type of these plantings shall be approved by the County Arborist.

- o The existing vegetation along the northern lot line of lot 1A may be substituted for the transitional screening yard. If the existing wooden estate fence is removed supplemental plantings may be necessary as determined by the County Arborist in order to adequately screen the parking area.

- o The Barrier may be waived except around the play area and the existing fence noted as an estate fence on the plat which may be shifted toward the north if necessary, or removed.

7. Interior parking lot landscaping shall be provided generally as shown on the approved plat and in accordance with Article 13.

8. The seating capacity in the main worship area shall not exceed six hundred (600).

9. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11, and shall not exceed a maximum of 171 spaces. All parking shall be on site.

10. A trail along Brook Road and Leesburg Pike shall be provided in accordance with the Countywide Trails Plan and Article 17 of the Zoning Ordinance as determined by the Director, DEM.

11. The structure shall be acoustically treated as follows:

- o Exterior walls shall have a laboratory sound transmission class (STC) of at least 39, and

- o Doors and windows shall have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they shall have the STC specified for exterior walls.

- o Adequate measures to seal and caulk between surfaces shall be provided.

- o The fence around the side of the play area closest to Leesburg Pike shall be a solid wood or other acoustical type of fence.

13. The maximum enrollment for the child care center shall not exceed 99.

14. The hours of operation of the child care center shall be from 9:00 A.M. to 1:30 P.M., with no one arriving prior to 8:30 A.M.

15. This facility may be used by Fairfax County for classes provided no one connected with the classes arrives before 8:30 A.M. and the maximum enrollment at any one time does not exceed twenty (20).

16. The maximum height of the activity building shall be 25 feet, the maximum height of the sanctuary shall be 45 feet, and the maximum height of the building between the activity building and sanctuary shall be 22 feet.

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

September 17, 1985
Providence Baptist Church (continued)

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 to carry by a vote of 3 to 3; 4 affirmative votes being necessary to approve a special permit application (Mr. Hammack not present for public hearing). (Mr. Hyland, Mrs. Day and Mrs. Thonen voting no)

Mr. Fitzgerald inquired as to the status of the application at this point. Mr. Smith advised that the applicant had the right to petition the Board to waive the 12 month hearing requirement and come back with a new application. Mr. Fitzgerald questioned if there had actually been any action taken since it was a 3 to 3 vote. Mr. Smith advised that 4 affirmative votes were required to grant a special permit and since this did not receive 4 affirmative votes, it was denied. Mr. Fitzgerald stated that it was his opinion that no action had been taken, he asked the Board to grant the waiver of the 12 month requirement.

Mr. DiGiulian moved that a waiver of the 12 month requirement be granted. Mr. Hyland seconded the motion, explaining that although he voted against the applicant, he had the same opinion as Mr. Fitzgerald regarding the 3 to 3 vote and therefore seconded this motion.

The motion carried by a vote of 5 to 1 (Mr. Smith voting no and Mr. Hammack not present for public hearing).

Page 123, September 17, 1985, 9:15 P.M. (Tape 2) Schedule case of

8:15 P.M. REALITY GOSPEL CHURCH, appl. under Sect. 3-103 & 3-203 of the Ord. to amend S-269-79 for church and related facilities to permit additional land area, new sanctuary and parking spaces to existing facilities, located 5937 Franconia Rd., R-2/R-1, Lee Dist., 81-4((3))1, 1A, 1B, 2, 2B & 3, approx. 6.82 ac., SPA 79-L-269-1. (Deferred from 6/13/85 & 7/16/85)

Mr. Smith asked if anyone was present for this case. There was no response. Mr. Smith advised that the Board was in receipt of a letter from the applicant requesting that this matter be deferred.

The Board agreed to defer this application until November 19, 1985 at 8:00 P.M.

Page 123, September 17, 1985, 9:20 P.M. (Tape 2) Scheduled case of

8:30 P.M. LEMUEL M. & ELSIE L. NORTHERN & WAGNER, ENTERPRISES, INC., appl. under Sect. 18-401 of the Ord. to allow subdivision into five (5) lots, proposed Lot 2 having width of twelve (12) feet. (80 foot min. lot width req. by Sect.3-306), located 1638 Davidson Road, R-3, Dranesville Dist., 30-3((1))26, approx. 2.1675 acres, VC 85-D-050.

Marilyn Anderson presented the Staff Report. Keith Martin, 950 No. Glebe Road, Arlington, Virginia, attorney for the applicant, presented the application. Mr. Martin advised that the applicant and staff have worked together and eliminated alot of the concerns. One of these concerns was the pipestem from Lot 2 which has been alleviated by Int. 38 of the Zoning Administrator.

Margaret Strand, Old Chesterbrook Road, McLean, Virginia advised that she was a member of the Board of Directors of the McLean Swim & Tennis Association, an adjoining land owner. The Association wanted to be certain that the Board was aware of the 50' easement from Cecil Street to the McLean Swim & Tennis Association which was conveyed in 1960. Mr. Smith advised that if there was a recorded easement, it would remain. Mrs. Anderson advised that the County Zoning records did not show any recorded easement and Mr. Martin advised that he was unaware of the easement, but if it has been recorded he was sure something could be worked out.

Mr. Smith advised Mr. Martin that new, updated plats would be required. The Board agreed to defer this matter for decision only until September 24, 1985 at 1:15 P.M. and asked Mr. Martin to have the plats delivered to staff by September 20, 1985 for their review.

Page 123, September 17, 1985, 9:40 P.M. (Tape 2) Scheduled case of

8:45 P.M. PARLIAMENT POOL ASSOCIATION, appl. under Sect. 3-303 of the Ord. to amend #21087 for community swimming pool to permit construction of a new enlarged bathhouse, located 8510 Parliament Drive, Kings Park

September 17, 1985
Parliament Pool Association (continued)

subd., R-3, Annandale Dist., 70-3((4))A1, 294, & 295, apprx. 99,739 sq. ft., SP 85-A-029.

Marilyn Anderson presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein. Mrs. Day questioned where the screening mentioned by Mrs. Anderson would be placed. Mrs. Anderson advised that it would be low shrubbery on the side property line, along the front of Parliament Drive.

Louis Skesovitz, President of Parliament Pool Association, presented the application and advised that the applicant was willing to comply with Development Conditions.

Maffa King, 8504 Parliament Drive, questioned the 6' screening to be placed along property line between her property and the pool's. Mrs. Anderson advised that the 6' height could be modified to 3' or 3 1/2' near the front in order to provide adequate sight distance and this could be addressed by DEM at the time of site plan review.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-A-029 by PARLIAMENT POOL ASSOCIATION under Section 3-303 of the Zoning Ordinance to amend SP 21087 for community swimming pool to permit construction of a new enlarged bathhouse on property located at 8510 Parliament Drive, tax map reference 70-3((4))A1, 294 & 295, 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 17, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-3.
3. The area of the lot is 99,739 sq. ft.

The proposed enlarged bathhouse will be in the center of the site and will include bathhouse and related facilities and a multi purpose room. This proposed site improvement should have no significant impact on the natural environment, nor result in an increased trip generation.

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 3-103 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 73 parking spaces.

6. There shall be a maximum of 475 family memberships.

7. The hours of operation shall be from 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. The transitional screening requirement shall be modified provided that the existing vegetation along all lot lines is retained and that 3 1/2 foot evergreen plantings are provided for a maximum distance of twenty-five (25) feet along the front lot line between the driveway and the eastern lot line.

10. The barrier requirement shall be modified provided that the existing fencing as indicated on the plat is retained and that the six (6) foot solid wood fence along the eastern lot line is extended to the front lot line. The height of the barrier extension along the eastern lot line may need to be reduced from six (6) feet to three and one-half (3 1/2) feet near the street so as to allow for sufficient site distance for vehicles exiting from Lot 296. The height of the solid wood fence may be reduced as determined by the Director, Department of Environmental Management in order to provide adequate sight distance.

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.

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 a new Non-Residential Use Permit has been issued for the decrease in the parking spaces and 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 unanimous vote of 7 to 0.

Page 125, September 17, 1985, 9:55 P.M. (Tape 2) Scheduled case of

9:00 P.M. DAVID C. BUCKIS, appl. under Sects. 3-103 & 8-901 of the Ord. to amend SP 83-C-041 to permit deletion of 17.744 acres (all but 2.199 acres) from the land area of the Special Permit for home professional office, additional dentist and employee, change in office hours to 7:30 A.M. to 6:30 P.M. and reconfiguration of parking lot, located 3238 West Ox Road, R-1, Centreville Dist., 35-4((1))35, approx. 2.199 acres, SPA 83-C-041-1.

September 17, 1985
David C. Buckis (continued)

Marilyn Anderson presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein. Mrs. Anderson further advised that the additional dentist and employee had been withdrawn as part of the application.

David C. Buckis, the applicant, presented the application. Dr. Buckis advised the Board that the 17.744 acres had mistakenly been included in original application and now that he had built a house, and this property being included in the special permit was causing problems with the title of the property.

Heldie Harvey, 12003 St. Helena Street, Oakton, Virginia advised the Board that she had intended to ask the Board to provide turn lanes with this application when she understood there was another dentist being proposed. But since Dr. Buckis had withdrawn that portion of the application, she had no further objection.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 83-C-041-1 by DAVID C. BUCKIS under Section 3-103 of the Zoning Ordinance to permit amendment of SP 83-C-041 for home professional office (dentist) to permit deletion of 17.744 acres (all but 2.199 acres) from the land area of the special permit for a home professional office, change in office hours to 7:30 A.M. to 6:30 P.M. and reconfiguration of the parking lot on property located at 3238 West Ox Road, tax map reference 35-4((1))35, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 17, 1985; and

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

1. That the applicant is the owner of the property or
2. The present zoning is R-1.
3. The area of the lot is 2.199 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 3-103 of the Zoning Ordinance.

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

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

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. The area of the lot shall be approximately 2.19992 acres.

5. The maximum number of parking spaces provided for this use shall be ten (10). One handicapped parking space shall be provided, that

September 17, 1985
David C. Buckis (continued)

space being the closest to the structure.

6. Existing vegetation shall remain and additional plantings shall be provided where necessary to ensure that the parking area is screened from adjacent properties and West Ox Road at the determination of the Director, Department of Environmental Management (DEM).

7. Dedication of right-of-way to 45 feet from the centerline of West Ox Road shall be provided along the site frontage to the satisfaction of the Director, DEM. A deceleration lane may also be required if determined necessary by the Director, DEM. Vegetation shall be cleared and other measures taken to provide adequate sight distance for the driveway entrance.

8. The maximum number of employees shall be three (3) including the applicant, but excluding any other dentist.

9. The normal hours of operation shall be established from 7:30 A.M. to 6:30 P.M., Monday through Friday. Occasional emergency visits outside normal business hours be permitted.

10. The Environmental Quality Corridor (EQC), as defined by the limits of 1A + soil, shall be preserved in an undisturbed natural state.

11. A ten (10) foot wide dedication for trail purposes shall be provided along West Ox Road, pursuant to the Countywide Trails Plan.

12. One sign shall be permitted on the subject property in accordance with Article 12, Signs.

13. This special permit is approved for a period of ten (10) years from July 26, 1983, which is the date of approval of SP 83-C-041.

14. The operation of the dental office shall not commence until the Non-Residential Use Permit is approved for this use.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, six (6) months after the approval date of the Special Permit unless A Non-Residential Use Permit has been approved, 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 unanimous vote of 7 to 0.

Jane Kelsey introduced Marcia Silberfarb to the Board and advised that she had been hired as the new planner. The Board members welcomed Ms. Silberfarb.

There being no further business to come before the Board, the meeting was adjourned at 10:15 P.M.

Christine McClaugherty
Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Chairman
Board of Zoning Appeals

Submitted: 10-22-85

Approved: 10-22-85

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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, September 24, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Gerald Hyland; John Ribble; Ann Day; Mary Thonen; and Paul Hammack.

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

Jane C. Kelsey advised the Board that Yasmin Anderson would present a briefing on the County Trails program. Yasmin Anderson stated that she would focus on 3 basic topics: background of the trails program and its objectives, the trail planning and implementation, and finally dedication. Ms. Anderson advised that the program began around 1970 when concerns grew over dependence on motorized transportation and the hazards caused to pedestrians. Ms. Anderson advised that there was approximately 1,100 miles of planned trails and they are typically along roadways, stream valleys and utility corridors. Ms. Anderson further advised that the County first tries to obtain easements and failing that eminent domain would be used. Ms. Anderson described the types of trails that would be used for different uses and explained that construction of some trails could be waived, but that dedication would not be waived.

The Board members thanked Ms. Anderson for the presentation.

Page 129, September 24, 1985, 10:45 A.M., (Tape 1 1-1056) 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; FROM MARCH 27, JUNE 5, SEPTEMBER 11, NOVEMBER 27, 1984; FEBRUARY 12; APRIL 2, AND JUNE 4, 1985 AT THE REQUEST OF THE APPLICANT).

Jane C. Kelsey advised that the applicant was requesting a deferral as they have another site. Mr. Hyland asked if this would be last deferral since this case had been around for a very long time. Mrs. Thonen stated that she was pleased they were looking at another site.

Mrs. Thonen moved to defer this case to February 4, 1986, at 10:00 A.M. Mr. Hyland seconded the motion. The motion passed by a vote of 5 to 0 (Mr. DiGiulian and Mr. Ribble not present for this public hearing).

Page 129, September 24, 1985, 10:50 A.M. (Tape 1 1056-end, Tape 2 1-187) Scheduled case of

10:15 A.M. FELLOWSHIP BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. for church and related facilities, located 5936 Rolling Rd., R-1, Springfield Dist., 79-3((6))1, approx. 2.38 ac., SP 85-S-017. (DEFERRED FROM 7/30/85)

Cheryl P. Hamilton advised that this case had been deferred in order to explore an alternate entrance. Barnes Lawson, Jr. spoke on behalf of the applicant and advised that a proposal has been made which both staff and applicant are satisfied with. Mr. Lawson advised that a third lane would be provided which would accommodate cars making the U-Turn in the property.

The Board questioned why staff had changed its position. Larry Berg, Transportation Department, advised that the original position was based on site access. Mr. Berg advised that VDH&T was contacted regarding the U-Turns suggested by applicant and VDH&T concurred with the applicant that the number and time of the trips generated would not pose a threat.

Mr. Hammack moved that this application be denied. Mrs. Thonen seconded the motion. The motion for denial failed by a vote of 2 to 5 (Mr. Smith, Mr. DiGiulian, Mrs. Day, Mr. Hyland and Mr. Ribble voting no), and Mrs. Day moved the following resolution.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-S-017 by FELLOWSHIP BAPTIST CHURCH under Section 3-103 of the Zoning Ordinance to permit a church and related facilities on property located at 5936 Rolling Road, Springfield District, tax map reference 79-3((6))1, 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 24, 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.
3. The area of the lot is 2.38 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 3-103 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 270, with a corresponding minimum of 68 parking spaces. There shall be a maximum of 114 parking spaces.

6. Transitional Screening 1 and barrier requirements shall be provided as follows:

   - The 25 foot transitional screening yard shall be provided along the southern, western, and eastern lot lines; however, the planting requirements may be modified to permit shrubs and other low level evergreen plantings along the eastern lot line, as determined by the Director, Department of Environmental Management.

   - The transitional screening requirement along the northern lot line may be modified to provide a six (6) foot transitional screening yard along the northeastern lot line and four (4) foot along the northwestern lot line. A single row of evergreens, a minimum of six (6) feet in height shall be planted in this location.

   - The barrier requirement may be waived.

7. Quality vegetation shall be preserved as determined by the County Arborist who shall also be consulted to determine the limits of clearing and grading. The three (3) westernmost trees shown on the plat shall not be saved.

8. Interior parking lot landscaping shall be provided as required by Article 13 of the Zoning Ordinance.

9. Parking lot lighting shall be the low intensity type on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent residential properties.

10. A deceleration lane shall be provided along the entire Rolling Road frontage. Curb and gutter shall be constructed along the Rolling Road frontage to connect with existing curb and gutter on Hillside Road.

11. Construction for future interparcel access to Lot 2 to the south shall be provided in the southeastern portion of the site. The applicant shall agree to provide a public right-of-way access easement across the interparcel travel lane at such time as the adjacent property to the south is developed.

12. All signs shall meet the provisions of Article 12 of the Zoning Ordinance and shall be located so as not to interfere with sight distance.

13. A trail shall be provided along the frontage of the site on Rolling Road. The construction of the trail may be deferred until such time that adjacent properties are required to construct trails if deemed appropriate by the Director, DEM.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has 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.

Page 131, September 24, 1985, 11:25 A.M.(Tape 2 196-2197) Scheduled case of

10:30 A.M. CENTREVILLE PRESCHOOL, INC., appl. under Sect. 3-103 & 8-901 of the Ord to allow a nursery school and child care center and modification of the dustless surface requirement, located at 5635 Newgate Blvd., Radcliffe's subd., Springfield Dist., R-1, 54-4((6))41, 40 & pt. 39, approx. .79 acres, SP 85-S-051.

Marilyn M. Anderson presented the Staff Report which recommended approval in accordance with the Revised Development Conditions contained therein. Susan K. Tonkinson spoke on behalf of the applicant and thanked the Board for granting the Out-of-Turn Hearing and also thanked the staff, especially Marilyn Anderson, for all the assistance they received. Ms. Tonkinson stated that the applicant felt this use was not out of line since this area was planned for medium intensity use.

John S. Etcher, Pastor of the Centreville Baptist Church, 5806 Berrymore Road, Centreville, VA 22020, stated that he supported this application and believed we need to be creative in finding ways to educate our children. Karl Teepe, 15050 Greymont, Centreville, VA 22020, presented letters to the Board from Andy Lawless, Chairman of the West Fairfax County Citizens Association and from Supervisor Elaine McConnell, both stating support for the applicant. Joseph Roberts, 10403 Cleveland Street, Fairfax, Virginia 22030, advised that he was the owner of the application property and felt this would be an improvement to the neighborhood. Kathleen H. Allan, 611 Ottawa Road, Centreville, VA 22020 presented 70 letters of support.

Brenda Diane King, 13720 Shreve Street, Centreville, VA 22020; C. T. Jones, 5634 Newgate Boulevard, Centreville, Va 22020; Kelly Kyle, 5630 newgate Boulevard, Centreville, VA 22020; Veda Petrovich, 5623 Newgate Boulevard, Centreville, VA 22020 and Mary Ayres 5621 Newgate Boulevard, Centreville, Va 22020 all spoke in opposition to this application stating that they felt it was not in character with the neighborhood, was not needed in this neighborhood and would cause traffic problems as well as unwanted noise. Dale Kyle, 5631 Newgate Boulevard, Centreville, VA 22020 presented a statement of opposition signed by 66 residents of the neighborhood; and Ann C. Hall, 5622 Newgate Boulevard, Centreville, VA 22020 re-read a statement of opposition which she had presented at the previous hearing on this matter.

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COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-S-051 by CENTREVILLE PRESCHOOL, INC. under Section 3-103 of the Zoning Ordinance to permit a nursery school and child care center and modification of the dustless surface requirement on property located at 5635 Newgate Boulevard, Springfield District, tax map reference 54-4((6))41, 40 and part of 39, 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 24, 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.
3. The area of the lot is approximately .79 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 3-103 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 9:00 A.M. to 12:00 Noon, Monday through Friday, until such time as this property is connected to public sewer. Once approval from the Health Department is obtained, the use may operate two (2) sessions per day, Monday through Friday, from 9:00 A.M. to 3:30 P.M. The second session shall not begin before 12:30 P.M.

6. The maximum daily enrollment shall be 43 children. After connecting to public sewer and obtaining Health Department approval, the maximum daily enrollment shall be 86, with a total of 43 children in each of the two daily sessions. At the time the maximum number of children permitted increases from 43 to 86 daily, a revised Non-Residential Use Permit shall be obtained.

7. There shall be a maximum of 3 employees and 3 parent-aides on the site at any one time.

8. A new well shall be drilled or a connection made to the public water supply before a Non-Residential Use Permit is issued. If a new well is drilled, it shall meet the requirements of the Commonwealth of Virginia Non-Community Water Supply and shall be approved by the Health Department.

9. Nine (9) on-site parking spaces shall be provided as approved by the Director, Department of Environmental Management.

10. Transitional Screening requirements shall be provided as follows:

    - Along the eastern Lease Line, a twenty-five (25) foot open strip shall be provided between the play area and the Lease Line.

    - A twenty-five (25) foot transitional yard shall be provided adjacent to Newgate Boulevard. Plantings shall be modified to include low landscaping shrubbery that do not interfere with the site distance at the two driveway entrances.

    - An area 25 feet in width shall be provided along the southern lot line. Existing vegetation shall be deemed to satisfy the planting requirements in this area.

    - An area twenty-five feet in width shall be provided along the northern side of the property adjacent to the Johnson Avenue right-of-way. Plantings to screen the driveway area and the play area from the view of Lot 60 should be provided; due to the location of the drainfield, modification may be allowed with the approval of the County Arborist and the Director, Department of Environmental Management.

11. A six (6) foot high solid wood fence shall be constructed along the southern side of the play area; the remaining three sides of the play area shall be fenced in compliance with Health Department standards.

12. A waiver of the dustless surface requirement for the parking lot and travel lane as shown on the plat shall be permitted and such approval shall be valid for a period of five (5) years.

13. The one-way driveway entrances shall be paved and constructed in accordance with the VDH&T commercial entrance standards with appropriate directional signs placed at the entrance and exit.

14. All gravel surface areas and the paved entrances shall be maintained in good condition with all applicable standards.

15. The driveway shall be twelve (12) feet wide.

16. This permit shall be for the term of five (5) years from date of approval.

17. A car pooling plan shall be implemented as approved by the Office of Transportation.

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 unanimous vote of 7 to 0.

The Board recessed for lunch at 12:15 P.M. The Board reconvened at 1:30 P.M. (Mr. Ribble did not return to the hearing).

Page 133, September 24, 1985, 1:30 P.M. (Tape 3) Scheduled case of

10:45 A.M. JOHN & MARJORIE MASSEY, appl. under 18-401 of the Ord. to allow construction of a garage addition to dwelling to 4.9 feet from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 4200 Selkirk

Drive, Rutherford subd., R-2, Annandale Dist., 69-2((6))189, approx. 15,069 sq. ft., VC 85-A-051.

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Cheryl P. Hamilton presented the Staff Report. Walter Stevens, the attorney representing Mr. & Mrs. Massey, spoke on behalf of the applicants. There was no one else to speak in support or opposition of this application.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-A-051 by JOHN & MARJORIE MASSEY under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 4.9 feet from side lot line (15 ft. minimum side yard required by Sect. 3-207) on property located at 4200 Selkirk Drive, Annandale District, tax map reference 69-2((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 September 24, 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 15,069 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 1 (Mr. Smith voting no).

Page 135, September 24, 1985,

11:00 A.M. RICHARD & JUDITH A. WELLS & ALLEN J. & 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. & proposed lots 2 & 3 each having width of 6 ft. (150 ft. min. lot width req. by Sect. 3-106), located 2740 Hunter Mill Road & 10398 Marbury Road, Bonnet subd., R-1, Providence Dist., 37-4((1))17C & pt. 17, approx. 3.699 acres, VC 85-P-052.

Thomas O. Lawson, attorney for the applicants requested that this case be deferred to another date when the entire Board might be present. Mr. Smith advised that there was no guarantee that deferral would mean a full Board and Mr. Lawson stated that he understood this and would still like the deferral.

Mr. Hyland moved to defer this case to October 29, 1985 at 1:15 P.M. Mrs. Thonen seconded the motion which carried by a unanimous vote of 6 to 0 (Mr. Ribble not being present for this public hearing).

Page , September 24, 1985, 1:50 P.M. (Tape 3) Scheduled case of

11:15 A.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 addition of second floor to previously approved storage area, and gazebo, located 8301 Old Keene Mill Rd., R-3 & C-5, Springfield Dist., 89-1((1))9, approx. 157.637 ac., SPA 76-S-182-1.

Mr. Smith advised that he understood the applicant had been present before the lunch recess and would return at 2:00 P.M., which was the time suggested by staff. Therefore, the Board would hear the next case and return to this matter when the applicant returned.

Page 135, September 24, 1985, 1:50 P.M. (Tape 3) Scheduled case of

11:30 A.M. KNOLLWOOD BAPTIST CHURCH, appl. under Sect. 6-303 of the Ord. to amend S-82-S-028 for church and related facilities to permit additional parking, a fence, and a driveway entrance onto Burke Center Parkway, located 10000 Coffer Woods Road, Knollwood subd., PRC, Springfield Dist., 78-3((1))40, approx. 5.00162 ac., SPA 82-S-028-2.

Staff advised the Board that the notices in this matter were not in order. Mrs. Thonen moved to defer this case to November 12, 1985 at 10:00 A.M. Mr. Hyland seconded the motion which carried unanimously by a vote of 6 to 0 (Mr. Ribble not being present for this public hearing).

Page 135, September 24, 1985, 1:55 P.M. (Tape 3) Scheduled case of

11:45 A.M. FELLOWSHIP BAPTIST CHURCH, appl. under Sect. 3-103 of the Ord. to amend S-82-V-054 for church and related facilities and a private school of general education to include a child care center, Wildwood Subd., R-1, Mt. Vernon Dist., 107-2((1))23, approx. 5.47 ac., SPA 82-V-054-2. 5/22/85 (WITHDRAWN BY APPLICANT)

Staff advised the Board that this application had been withdrawn.

Page 136, September 24, 1985, 1:55 P.M. (Tape 3) Scheduled case of

1:00 P.M. DANA C. & DORRIE D. ANGELILLI, appl. under Sect. 8-901 of the Ord. to allow modification to min. yard requirements for an R-C lot to allow construction of garage addition to dwelling to 11.9 feet from side lot line (20 ft. min. side yard req. by Sect. 3-C07), located 4509 Cub Run Road, Pleasant Valley subd., R-C, Springfield Dist., 33-4((2))336, approx. 10,560 sq. ft., SP 85-S-030.

Cheryl P. Hamilton presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein. Mrs. Angelilli presented the application and advised that the house had originally been sited for a garage, but at the time of construction of the house, the cost was too much so they had put it off. Mr. Hammack questioned the size of the garage and Mrs. Angelilli advised that 24 feet was for the garage and 8 feet was for storage space.

COUNTY OF FAIRFAX
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hyland made the following motion:

WHEREAS, Application No. SO 85-S-030 by DANA C. & DORRIE ANGELILLI 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 garage addition to dwelling to 11.9 ft. from side lot line (20 ft. minimum side yard required by Sect. 3-C07), located at 4509 Cub Run Road, Centreville District, tax map reference 33-4((2))336, County of Fairfax, Virginia, has been properly filed in accordance with all applicable requirements; and

WHEREAS, following proper notice to the public and a public hearing by the Board of Zoning Appeals held on September 24, 1985; and

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

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

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

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

1. This approval is for the location indicated in the application and on the plat and is not transferable to other land.

2. All construction shall be in conformance with the Airport Noise Impact Overlay District.

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 not present at the public hearing).

Page 136, September 24, 1985, 2:00 P.M., (Tape 3)

Mr. Smith advised that he understood the applicant for SPRINGFIELD GOLF AND COUNTRY CLUB, INC. was present and ready to be heard.

Cheryl P. Hamilton presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein. James Prangle, Vice President of the Springfield Golf and Country Club, Inc. spoke on behalf of the applicant and stated they were in agreement with the report and he would be happy to answer any questions.

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COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 76-S-182-3 by SPRINGFIELD GOLF & COUNTRY CLUB, INC. under Section 3-303 & 4-503 of the Zoning Ordinance to permit addition of second floor to previously approved storage addition and gazebo on property located at 8301 Old Keene Mill Road, Springfield District, 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 24, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-3 & C-5.
3. The area of the lot is 157.637 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 3-103 of the Zoning Ordinance.

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

1. This approval is granted for 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 plan approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to the Board of such 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 Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and 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 transitional screening and barriers as required by SPA 76-S-181-2 shall be retained.

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.
- 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.

11. The hours of operation for the tennis courts shall be 8:00 A.M. to 10:00 P.M. except for 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.

The above conditions incorporate all applicable conditions of the previous approvals.

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

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

Mr. Hammack seconded the motion. The motion passed by a vote of 6 to 0 (Mr. Ribble not present for this public hearing).

Page 138, September 24, 1985, 2:10 P.M.(Tape 3) Scheduled case of

1:15 P.M. LEMUEL M. & ELSIE L. NORTHERN & WAGNER, ENTERPRISES, INC., appl. under Sect. 18-401 of the Ord. to allow subdivision into five (5) lots, proposed Lot 2 having width of twelve (12) feet. (80 foot min. lot width req. by Sect.3-306), located 1638 Davidson Road, R-3, Dranesville Dist., 30-3((1))26, approx. 2.1675 acres, VC 85-D-050.

Marilyn M. Anderson advised that Staff had received the new plats as required and advised the Board that the County Attorney's Office had submitted verbiage to be included as Development Condition #5.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-D-050 by LEMUEL M. & ELSIE L. NORTHERN AND WAGNER ENTERPRISES, INC. under Section 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, proposed Lot 2 having width of twelve (12) feet, on property located at 1638 Davidson Road, Dranesville District, tax map reference 30-3((1))26, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 24, 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 2.1675 acres.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically xxx:

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 all reasonable use 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 five (5) lots to allow one of the lots to have a minimum lot width of not less that twelve (12) feet.

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. The subdivision of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code.

4. Sewer and water shall be provided before this subdivision is recorded.

5. Access for ingress and egress shall be given to the McLean Swimming and Tennis Association by an apron or other such design as approved by VDH&T. This ingress and egress shall comply with that which is recorded in Deed Book 1876, at Page 37 among the Fairfax County land records.

Mr. Hammack seconded the motion.

The motion passed by a vote of 6 to 0 (Mr. Ribble not present for this public hearing).

Mr. Smith asked if there were any After Agenda Items and was advised that there were not. Mr. Smith advised the Board members that there was a legal issue to be discussed and suggested the Board move into Executive Session. Jane C. Kelsey advised that Pat Taves of the County Attorney's Office was available to discuss the matter and preferred that it be handled in Executive Session. Mr. Hammack and Mr. Hyland stated that they would prefer the matter be discussed at the public hearing. Mrs. Thonen moved to go into Executive Session to discuss a legal matter. Mr. DiGiulian seconded the motion. The Board went into Executive Session at 2:20 P.M.

The Public Hearing reconvened at 3:50 P.M.

Mr. Smith advised that the Board was in receipt of a request from PROVIDENCE BAPTIST CHURCH to reconsider its decision of the September 17, 1985 hearing.

Mrs. Thonen moved to grant a reconsideration hearing in this matter on 11-19-85 at 9:15 P.M. Mr. Ribble seconded the motion. The Board agreed that new plats would be required as well as re-advertising and re-notification of nearby property owners. Mr. Smith also specified that 20 minutes would be allowed for the applicant to present the case; 20 minutes would be allowed for all opposition and 5 minutes for rebuttal. The motion passed by a vote of 6 to 0 (Mr. Smith abstained).

There being no further business to come before the Board, the hearing was adjourned at 4:00 P.M.

Christine McClaugherty
Deputy Clerk
Board of Zoning Appeals

Submitted: 10-22-85

Daniel Smith
Chairman
Board of Zoning Appeals

Accepted: 10-29-85

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 1, 1985. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; John Ribble; and Paul Hammack.

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

The Chairman called the scheduled 10:00 case of:

10:00 A.M. DALE E. & ROBERTA K. UHRIG, appl. under Sect. 18-401 to allow construction of addition to dwelling to 17 feet from front lot line (30 ft. minimum front yard required by Sect. 3-302), located 3500 Charleston Street, Annandale, R-3, Mason, 60-1-((29))214, approx. 13,507 sq. ft. ,VC 85-M-054.

Mrs. Anderson presented the staff report. The applicants were requesting a variance to the minimum front yard requirement to allow construction of a two car carport attached to the dwelling. The proposed carport would be located 17 feet from the front lot line. The Zoning Ordinance requires a minimum front yard of 30 feet, therefore, the applicants were requesting a variance of thirteen (13) feet.

Mr. Dale Uhrig presented his justification for the variance. Mr. Uhrig indicated that he had purchased the property in good faith in 1965. He explained the property had limited off street parking which was not shared by other neighboring property owners as they had garages. He indicated that the use would not be detrimental to other properties and in fact would enhance it.

Mr. Hammack asked the applicant why he didn't put the garage on the other side of the house. Mr. Uhrig explained that the walkout ground level entrance to the house was on the side that he was proposing to construct the carport. He also indicated that there was an underground gas line on the other side of the house which would be have to be relocated if he constructed the proposed carport there. Mr. Uhrig described the proposed carport indicating that it would be no more than eleven (11) feet in height. He explained that he wanted to have a storage area in the carport area as well.

Mrs. Anderson informed the Board that the applicant could not have a storage area or shed in that area because storage in a front yard is not allowed and if it's connected to the carport, it becomes a closed structure and must meet the yard requirements.

There was no one to speak in support or opposition to the request; however, there were two (2) letters of opposition.

Before making a motion Mr. Hammack explained that he realized that the applicant had a problem locating the carport on the other side of the property because of the gas line; however, there were two (2) letters of opposition. He indicated that he still thought the carport should be located on the other side of the house.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-M-054 by Dale E. & Roberta Uhrig under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17 feet from front line on property located at 3500 Charleston Street, tax map reference 60-1((29))214, 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 1, 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 13,507 square feet.
4. That the applicants' property is not exceptionally irregular in shape, including narrow or shallow, does not have exceptional topographic problems, does not have an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

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This application does not meet all of 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 all reasonable use of the land and/or buildings involved.

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

Mr. Hyland seconded the motion.

The motion passed by a vote of 4 to 0. (DiGiulian, Ribble, and Thonen absent)

Page 142, October 1, 1985 (Tape 1) Scheduled case of:

10:15 A.M. CHARLES F. SCHEIDER, III, appl. under Sect. 18-401 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. minimum lot width required by Sect. 3-206); and to allow existing dwelling on proposed lot 1 to be 14 ft. from a contiguous pipestem (25 ft. front yard required by Sect. 2-416). Located 3450, 3452 and 3454 Gallows Road, R-2; Mason; 59-2((1))49 and 59-2((10)) 1; approx. 3.22 acres. VC 85-M-055.

Mr. Runyon addressed the Board explaining that this Board had previously heard and denied this application. It was his position that because there were only four (4) Board members present that it would be beneficial to the applicant to defer the hearing until another date when all board members might be present.

Mr. Hammack moved that the application be deferred. The motion was seconded by Mr. Hammack and passed by a vote of 4 to 0. The application was rescheduled for October 29, 1985 at 1:30 P.M.

Page 142, October 1, 1985 (Tape 1) Scheduled Case Of:

10:30 A.M. BILLY W. ROSE/P. H. KINGSBROOKE, Inc., appl. under Sect. 18-401 to allow subdivision into three (3) lots, proposed lot 2 having width of 10 ft. (80 ft. min. lot width req. by Sect. 3-306), located 3857 Lantern Place, South Kings Forest subd., R-3, Lee Dist., 92-1((11))A & 92-1((1))18, approx. 53,513 sq. ft., VC 85-L-056.

Mrs. Anderson informed the Board that the notices for this application were not in order and therefore requested deferral of the hearing to allow the applicants time to correct the problem. Mrs. Anderson also explained that staff was requesting revised plats. Mr. Rose indicated that he had obtained the revised plats and would submit them to Mrs. Anderson.

The Board deferred the application until November ~~11~~ 7, 1985 at 10:00 A.M.

Page 143, October 1, 1985 (Tape 1) AFTER AGENDA ITEM 1

AFTER AGENDA ITEM 1:

The Board was in receipt of the minutes from the August 6, 1985 hearing. Mrs. Day moved that the Board approve the minutes as submitted. Mr. Hyland seconded the motion which passed by a vote of 4 to 0.

Page 143, October 1, 1985 (Tape 1) Scheduled Case Of:

10:45 A.M. EDWARD C. & CYNTHIA A. TRICE, appl. under Sect. 18-401 to allow construction of detached garage 7 ft. from side lot line (15 ft. min. side yard req. by Sects. 3-207 & 10-104), located 7202 Bertram Lane, Calvert Park subd., R-2, Mt. Vernon Dist., 93-3((8))(3)12, approx. 13,742 sq. ft., VC 85-V-057.

Mrs. Anderson presented the staff report. She explained that the applicants were proposing to construct a 24 by 24 foot detached garage which would be 14 feet in height. The applicants were requesting a variance of eight (8) feet from the side lot line.

Mrs. Cynthia Trice presented the justification for this variance. She explained that the proposed location of the detached garage would alleviate the need to destroy the existing trees located to the rear of the property. Their property was narrow and the entire rear yard consisted of trees and grass which they were trying to preserve.

Mrs. Day indicated that the trees were nice and it would protect the view of the neighboring property owners. She also explained that this was an unusual situation and could not see how this would have any detrimental impacts on the area.

Mr. Hammack asked the applicant how close their garage would come to their neighbor's shed. Mrs. Trice replied that the neighbor's shed was right on the property line.

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

Mrs. Day made a motion to approve stating that she felt that the proposed plan would have the least affect on the property owners. She also made a slight change to the conditions of the variance. She moved that the garage would be 22 foot wide and ten feet from the side lot line.

The Board inquired whether the applicants were willing to settle for a 22 foot wide garage. Mr. Trice replied that 22 feet did not allow him any room for storage. He indicated that he could move the proposed garage over 10 feet from the lot line but that would be defeating the purpose.

Mrs. Day indicated that a 24 foot wide garage would be perfectly alright if the applicants agreed to construct it ten (10) feet from the side lot line. Mr. Hammack seconded the motion.

Mr. Hyland indicated that he would have been inclined to support the variance application as originally presented because of the narrowness of the lot and the topographic condition.

The motion to approve FAILED by a vote of 3 to 1 (Smith).

At this time Mr. Trice stated that they were willing to accept a garage 22 feet in width if the Board could accommodate them.

Mr. Hammack made a motion to reconsider the decision because the applicant was willing to settle for a 22 foot garage. Mr. Hyland seconded the motion to reconsider which passed by a vote of 3 to 1.

Mr. Hammack then moved that the variance be granted-in-part allowing the construction of the proposed garage to be 22 feet in width and ten (10) feet from the side lot line. Mr. Hyland seconded the motion which again FAILED for lack of a fourth affirmative vote.

Mr. Hyland moved that the Board grant a waiver of the 12 month limitation on rehearing. Mrs. Day seconded the vote which passed unanimously.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-V-057 by Edward C. and Cynthia A. Trice under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 7 ft. from side lot on property located at 7202 Bertram Lane, tax map reference 93-3((8))(3)12, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 1, 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 13,742 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 *FAILED by a vote of 3 to 1 (Smith).

Page 145, October 1, 1985 (Tape 2) Scheduled case of:

11:00 A.M. MARIE-THERESE THOMAS appl. under Sect. 3-303 to allow child care center located 3507 Rolling Hills Avenue, R-3, Lee, 101-2((5))(2)11, approx. 19,400 sq. ft., SP 85-L-032.

Mr. Smith indicated that the Board was in receipt of a letter from the applicant requesting withdrawal. Mr. Hyland moved that the application be withdrawn. Mr. Hammack seconded the motion which passed by a vote of 4 to 0.

Page 145, October 1, 1985 (Tape 2) Scheduled case of:

11:15 A.M. ROUSE AND ASSOCIATES-FAIR OAKS & FAIR OAKS PAL CHILDREN'S CENTER, appl. under Sect. 4-603 to allow child care center for 76 children within office park, located 11208 Waples Mill Road, Fairfax, C-6, Providence, 56 2 (1) 74A, approx. 13.05793 acres. SP 85-P-033.

Mrs. Anderson presented the staff report which recommende approval with conditions. The application was for the operation of a child care center for 72 children between the ages of 2 months and 5 years. The applicants were the property owners and managers of the proposed child care center. She explained that Lots 73A and 73B are being developed as part of the office building. The only problem staff has with this application was the need for transitional screening. Staff was, however, recommending that the transitional screening and barrier requirement be waived because the applicant was providing a lattice brick wall six (6) feet in height which would provide adequate screening.

Mr. Smith asked whether or not there would be any problem in the maintenance of the lattice brick wall and whether the bricks could be knocked out. The applicant explained that the bricks could not be knocked out and there would be no problem with the maintenance.

Sherry Sheridan represented the applicant. She indicated that she was responsible for setting up and managing the program. She explained that the proposed child care center in the office park would benefit the employees, employers, parents, and the children.

Mr. Hammack asked how the applicant proposed to get the children from the child care center to the play area. Ms. Sheridan replied that the children would be leaving the child care center and entering the play area by way of a gate. This area would not be accessible by the general public.

There were no speakers in support or opposition to the request.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-P-033 by Rouse and Associates-Fair Oaks Pal Children's Center under Section 4-603 of the Zoning Ordinance to permit a child care center for 76 children within the office park, on property located at 11208 Waples Mill Road, tax map reference 56-2((1))74A, 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 1, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is C-6.
3. The area of the lot is 13.05793 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, 8-303, 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 hours of operation shall be 7:30 A.M. to 6:00 P.M., Monday through Friday.
6. The maximum daily enrollment shall be 72 children.
7. Thirteen (13) on-site parking spaces shall be provided.
8. The outdoor recreation area shall be approximately 2415 square feet and fenced with a six (6) foot high brick wall of lattice design.
9. The transitional screening and barrier requirements 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.

Page 146, October 1, 1985 (Tape 2) Scheduled Case of :

11:30 A.M. SMC-GREENCASTLE, INC., appl. under Sect. 8-901 for reduction to minimum yard requirements based on error in building location to allow dwelling to remain 17.4 ft. from front lot line (20 ft. min. front yard required by Sect. 3-507)., located at 3612 Elderberry Place, Franklin Glen, Centreville District, R-5, 35-3((5))91, approx. 7,434 sq. ft. SP 85-C-036.

Mr. Smith indicated that staff had informed him that notices for this application were not in order. Mrs. Anderson explained that the white receipts for this application were not returned to the clerk. Mr. Smith asked for a new date. The application was rescheduled for November 12, 1985 at 10:15 A.M.

Page 146, October 1, 1985 (Tape 2) Scheduled case of:

11:45 A.M. PASTORAL COUNSELING & CONSULTATION CENTERS OF GREATER WASHINGTON, INC., appl. under Sect. 3-203 of the Ord. to amend S-269-76 for school of special education to permit a new one-story addition to the building, located at 3017 Chain Bridge Road, Providence Dist., 47-2((1))81, approx. 42,750 sq. ft., SPA 76-P-269-1.

Mrs. Anderson presented the staff report which recommended approval with conditions. The applicant was requesting an amendment to a special permit for a school of special education. The applicant was proposing to demolish an existing addition and replace it

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with a new addition. Originally the application also requested a waiver of the dustless surface requirement, this portion of the application had been withdrawn. Staff requested that the screening be modified because the existing vegetation in the front and rear yard was adequate. Staff also requested that the barrier requirement be waived. Staff recommended approval of the application in accordance with the Development Conditions.

Mr. Alan Gilmore represented the applicant. He first thanked the Board for granting an out-of-turn hearing for this application. He explained that there would be no changes in the use. He stated that they were in total agreement with staff recommendation and the development conditions.

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

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 76-P-269-1 by Pastoral Counseling and Consultation Centers of Greater Washington, Inc. under Section 3-203 of the Zoning Ordinance to amend S-269-76 for school of special education to permit a new one-story addition to the building, on property located at 3017 Chain Bridge Road, tax map reference 47-2((1))81, 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 1, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-2.
3. The area of the lot is 42,750 square feet.

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, 8-303, 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. The maximum number of students shall be 20.
5. The hours of operation shall be from 8:00 A.M. to 10:00 P.M.
6. The minimum number of parking spaces provided for this use shall be ten (10).
7. Transitional screening shall be provided and modified as follows:
   - along the front lot line, the plantings which screen the parking lot shall be retained and shall satisfy the transitional screening requirements.
   - along the rear lot line, existing vegetation shall satisfy the transitional screening requirment.
   - along the northern side lot line, there shall be a twenty-five (25) foot transitional screening yard except that the area adjacent to the garage may be reduced. The existing plantings shall satisfy the transitional screening requirement except between the front of the parking lot and the garage where supplemental plantings shall be provided.

- o along the southern side lot line, there shall be a twenty-five (25) foot transitional screening yard except in the area of the new addition in which the yard shall be modified. Existing vegetagion shall satisfy the planting requirments within this yard.

8. One sign shall be permitted on the subject property in accordance with Article 12, Signs.

9. A service drive or travel lane shall be provided at such time as adjacent properties provide either a service drive or travel lane.

These conditions incorporate all applicable conditions of the previous 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, 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.

There being no further business the Board adjourned at 11:55 A.M.

BY: Sherry Fields (CM) — Daniel Smith

Sherry Fields
Acting Clerk
Board of Zoning Appeals

Daniel Smith
Chairman
Board of Zoning Appeals

Submitted: 10-22-85 Approved: 10-29-85

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 8, 1985. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; John Ribble; Mary Thonen; and Paul Hammack.

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

The Chairman called the scheduled 10:00 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, approx. 191.3 acres, A 84-L-004. (DEFERRED FROM SEPTEMBER 25, 1984 AT THE REQUEST OF THE PLANNING COMMISSION; FROM DECEMBER 18, 1984, FEBRUARY 19, AND APRIL 22, AND JUNE 11, 1985 AT THE APPLICANT'S REQUEST.)

Mr. Smith advised that the Board was in receipt of a memorandum from the Planning Commission requesting that this matter be deferred to allow the Planning Commission to proceed with a separate appeal hearing prior to this case being heard. Jerry Emrich, on behalf of the applicant, advised that the applicant had no objection. Charlie Buddenhagen, an adjacent homeowner, asked the Board to consider the burden placed on the nearby homeowners who made special arrangements to be present at this hearing. Mr. Hyland stated that he felt the Planning Commission had plenty of time to have handled this matter prior to this date, but if this matter is to be deferred, it should be to a night meeting so as not to inconvenience the citizens any further.

Mrs. Thonen moved to defer the matter to January 21, 1986, at 8:00 P.M. Mrs. Day seconded the motion. The motion passed by a vote of 5 to 0 (Mr. DiGiulian and Mr. Hammack absent).

Page 149, October 8, 1985, 10:20 A.M. (Tape #1, 427-1299) Scheduled case of

10:15 A.M. WILLIAM E. WATKINS, appl. under Sect. 18-401 of the Ord. to allow construction of detached garage to 6.45 ft. from side lot line (10 ft. min. side yard req. by Sects. 3-407 & 10-104), located 6912 Kingwood Dr., R-4, Annalee Heights, Mason Dist., 60-2((2))(N)7, approx. 16,247 sq. ft., VC 85-M-031.
4/12/85

Marcia Silberfarb presented the Staff Report and stated that the proposed garage will be farther from the side lot line that then existing carport is currently located. William E. Watkins presented his application to the Board advising that the application states he is requesting a 3.55 ft. variance, but he would like to request 4 ft. Mr. Watkins explained that the error appeared on the plats submitted and not his written application.

Mr. Hyland questioned why the application was changed without applicant's knowledge. Jane Kelsey advised that about 99% of the applications filed are not completely correct and require some changes. Mr. Watkins advised that he would accept the 3.55 ft. In this application, the request and the certified plat submitted with the application must be in consonance; the plat showed 3.55 feet, thus the application was advertised in accordance with the plat. The same wording is used for the notification letters which are sent to the applicant approximately 40 days prior to the hearing. The applicant should have requested an amendment at that time, if he so desired.

Mrs. Thonen made a motion to grant this application, which was seconded by Mrs. Day. The motion failed by a vote of 2 to 3 (Mr. Smith, Mr. Ribble and Mr. Hyland voting no).

Page 149, October 8, 1985, 10:40 A.M., (Tape #1, 1300-2237) Scheduled case of

10:30 A.M. LAWRENCE B. & ARLENE L. PRIPETON, appl. under Sect. 18-401 to allow construction of addition to dwelling to 6.8 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-207), located at 3811 Moss Brooke Court, Ridglea Hills, Mason, R-2, 58-4((28))0065A, approx. 10,865 sq. ft. VC 85-M-058.

Marcia Silberfarb presented the Staff Report. Lawrence Pripeton presented the application and advised the Board that the basis for the application was a very unusual topographic condition in that there is a large area of undevelopable land to the rear of his property. In addition, there is a large buffer created by a treed area that is designated for 100 year flood control which cannot be built upon.

10,865 sq. ft. VC 85-M-058.

Marcia Silberfarb presented the Staff Report. Lawrence Pripeton presented the application and advised the Board that the basis for the application was a very unusual topographic condition in that there is a large area of undevelopable land to the rear of his property. In addition, there is a large buffer created by a treed area that is designated for 100 year flood control which cannot be built upon.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-M-058 by LAWRENCE B. & ARLENE L. PRIPETON under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 6.8 feet from rear lot line (25 ft. minimum rear yard required by Sect. 3-207) on property located at 3811 Moss Brooke Court, tax map reference 58-4((28))0065A, 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 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-2
3. The area of the lot is 10,865 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

That the side yard is in excess of zoning requirement; the lot to the rear of subject property is undeveloped, a steep hill in the rear makes subject property otherwise unusable, the house on subject property is sited 39.7 ft. from rear lot line and the addition will not be visable to all but one neighbor. In addition to the foregoing, this application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, and:

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 all reasonable use 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 voting no, Mr. Hammack and Mr. DiGiulian being absent).

Page 151 , October 8, 1985, 11:05 A.M. (Tape #1, 2238-end, Tape #2, 1-275) Scheduled case of

10:45 A.M. PIERRE L. SALES, appl. under Sect. 18-401 to allow construction of addition to dwelling to 17.0 ft. from rear lot line and 10.8 ft. from side lot line (25 ft. min. rear yard and 20 ft. min. side yard required by Sect. 3-107), located at 6349 Linway Terrace, Dranesville, R-1, 31-3((1))37, approx. 19,086 sq. ft. VC 85-D-060.

Jane Kelsey presented the Staff Report. Pierre L. Sales presented the application and explained to the Board that he is requesting the variance in order to renovate an old structure. Mrs. William Lockwood, 6341 Linway Terrace, stated that she was a neighbor of Mr. Sales and thought the improvements he has made in the past, as well as the proposed improvement, only added to the property.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-D-060 by PIERRE L. SALES under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17.0 feet from rear lot line, and 10.8 feet from side lot line (25 ft. minimum rear yard and 20 ft. minimum side yard required by Sect. 3-107) on property located at 6349 Linway Terrace, tax map reference 31-3((1))37, 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 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
3. The area of the lot is 19,086 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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;

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 all reasonable use 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 voting no, Mr. Hammack and Mr. DiGiulian being absent).

Mr. Hammack arrived at 11:15 A.M.

Page 152, October 8, 1985, 11:20 A.M. (Tape #2, 276-630) Scheduled case of

11:00 A.M. SURENDER M. YEPURI, appl. under Sect. 18-401 of the Ord. to allow enclosure of existing patio 6.6 ft. from side lot line such that side yards total 18.6 ft. (8 ft. min., 24 ft. total min. side yards req. by Sect. 3-207, located 10018 Whitefield St., Kings Park West subd., Annandale Dist., R-2(C), 68-4((6))369, approx. 11,498 sq. ft. VC 85-A-065.

Marcia Silberfarb presented the Staff Report. Surender Yepuri presented the application stating that the application was based on unusual topographic conditions.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-A-065 by SURENDER M. YEPURI under Section 18-401 of the Zoning

Ordinance to allow enclosure of existing patio 6.6 feet from side lot line such that side yards total 18.6 feet (8ft. minimum, 24ft. total minimum side yards required by Sect. 3-207) on property located at 10018 Whitefield Street, tax map reference 68-4((6))369, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 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-2(C).
3. The area of the lot is 11,498 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 voting no, Mr. DiGiulian being absent).

Page 154, October 8, 1985, 11:30 A.M. (Tape #2, 631-1200) Scheduled case of

11:15 A.M. MR. & MRS. JAMES V. SMITH, appl. under Sect. 8-901 for reduction to minimum yard requirements based on error in building loction to allow a detatched garage 10.3 feet in height to remain 4.6 feet from side and rear lot lines (10 foot minimum side yard and 10.3 foot minimum rear yard required by Sect. 3-407 and 10-104), located 7045 Lee Park Court, Broyhill Park, R-4, Mason Dist., 60-1((10))9b, approx. 10,958 sq. ft. , SP 85-M-031.

Jane Kelsey presented the Staff Report and advised the Board that Joseph A. Bakos, who had been the Zoning Inspector on this case, was present to answer any questions the Board might have. James V. Smith presented the application and advised the Board that he believed he had received bad advice from his contractor when this project was started and that the damage is done and he will abide by the Board's decision. In response to questions from the Board, Mr. Smith stated that the contractor was supposed to have obtained the necessary permits and know where the garage could be built. The contractor has since moved to North Carolina.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS
(MISTAKE SECTION)

Mr. Hammack made the following motion:

WHEREAS, Application No. SP 85-M-031 by JAMES V. & OLIVE SMITH 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 17.0 ft. high detached garage to remain 4.6 feet from side and rear lot lines (10 ft. minimum side yard and 10.3 ft. minimum rear yard required by Sect. 3-407 & 10-104), on property located at 7045 Lee Park Court, tax map reference 60-1((10))96, 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 8, 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 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, six (6) months after the approval date of the special permit unless an amended building permit has been approved 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 shall be obtained.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 5 to 1 (Mr. Smith voting no and Mr. DiGiulian being absent).

Page 155, October 8, 1985, 11:50 A.M. (Tape #2, 1201-1623) Scheduled case of

11:30 A.M. DESIGNS FOR EARLY LEARNING, INC., under Sect. 3-303 of the Ord to amend S-114-79 for school of general education to permit change in name of permittee, increase in number of students to 75 and renewal to permit continuation of the use without term, located at 3527 Gallows Road, Providence Dist., R-3, 60-1((1))25, approx. 2.8385 acres, SPA 79-P-114-1.(OTH DENIED)

Jane Kelsey presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein. Judith Webster Clarke presented the application and advised that the reason for the application was because the school was doing very well and would like to be bigger.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 79-P-114-1 by DESIGNS FOR EARLY LEARNING, INC. under Section 3-303 of the Zoning Ordinance to amend S-114-79 for school of general education to permit change in name of permittee, increase number of students to 75 and renewal to permit continuation of the use without term on property located at 3527 Gallows Road, tax map reference 60-1((1))25, 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 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-3.
3. The area of the lot is 2.8385 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 3-303 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. This shall not preclude any additions to the church facility unless the school facilities are affected.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. The maximum daily enrollment for the nursery school and school of general education shall not exceed 75.

5. The hours of operation shall be from 9:00 A.M. to 2:30 P.M., Monday through Friday.

6. The existing vegetation shall remain and shall satisfy the transitional screening requirement.

7. The barrier shall be waived provided the existing fence remains around the play 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 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 a new Non-Residential Use Permit has been obtained, 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).

Page 156, October 8, 1985, 12:00 P.M. (Tape #2) After Agenda Item:

PAUL C. HUTTEN, III & EVELYN B. HUTTEN, VC 85-A-092, request for Out of Turn Hearing. The Board was advised that this case is currently scheduled for public hearing on January 14, 1986.

Mrs. Thonen moved that the request for an Out of Turn Hearing be denied. Mr. Hyland seconded the motion. The motion passed by a vote of 6 to 0 (Mr. DiGiulian absent).

Page 156, October 8, 1985, 12:05 P.M. (Tape #2) After Agenda Item:

CONGREGATION ADAT REYIM, SP 85-S-057, request for an Out of Turn Hearing. The Board was advised that this case is currently scheduled for public hearing on December 10, 1985. He stated that December would be the earliest time for an out-of-turn hearing anyway.

Mr. Hyland moved to deny the request for an Out of Turn Hearing. Mr. Ribble seconded

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

Page 157, October 8, 1985, 12:10 P.M. (Tape #2) After Agenda Item:

UNITED ARTISTS COMMUNICATIONS, INC. vs. BOARD OF SUPERVISORS OF FAIRFAX COUNTY. Mr. Smith advised that the Board was in receipt of a letter from Brian McCormack requesting a decision from the Board of Zoning Appeals as to whether the Board of Zoning Appeals will join in the appeal to the Supreme Court of the decision of the 19th Judicial Circuit Court ruling against the Board of Zoning Appeals .

Mrs. Thonen moved that the Board of Zoning Appeals not join in the appeal. Mrs. Day seconded the motion. The motion passed by a vote of 5 to 1 (Mr. Ribble voting no).

Mr. Smith asked the Board to support a motion which would require all concerned citizens speaking before the Board to submit written testimony 10 to 14 days prior to he hearing. Mr. Ribble questioned the length of time required since staff's reports would not even be available that far in advance. Mr. Smith advised that he was just trying to devise a system to eliminate all of the non-relevant material that is presented at public hearings. No motion was made on this matter.

There being no further business to come before the Board, the meeting was adjourned at 12:15 P.M.

Christine McClaugherty
Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Chairman
Board of Zoning Appeals

Submitted: 10-29-85

Approved: 10-29-85

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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 22, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian; Gerald Hyland; Ann Day; Mary Thonen; and Paul Hammack.

The Chairman opened the meeting at 8:20 P.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 8:00 P.M. case of:

8:00 P.M. CHONG BUM LEE (YI), appl. under Sect. 18-401 of the Ord. to allow construction of building to 1.0 ft. from street line of a corner lot (40 ft. min front yard req. by Sect. 4-807) and to allow 6 ft. high fence to remain in front yard (4 ft. max. hgt. for fence in front yard as limited by Sect. 10-104), located 2715 Huntington Ave., C-8, Mt. Vernon Dist., 83-1((1))36, approx. 27,221 sq. ft., VC 85-V-049. (To be scheduled concurrent with SEA 81-V-011-2).

Bill Shoup advised the Board that the applicant had not sent notices as required. Jane Kelsey advised that the Board of Supervisors had deferred their hearing on the special exception for this application indefinitely.

Mr. DiGiulian moved to defer this matter to November 26, 1985, at 1:15 P.M.

Mr. Hyland questioned if this was appropriate since the special exception had been deferred indefinitely. Mr. Smith stated that all this Board was to hear concerned the construction, not the use and therefore, could be heard. Mr. Smith further stated that since the fence was an existing violation, he felt this Board should act as soon as possible.

Mr. Hyland requested that staff contact the County Attorney's Office to find out if the BZA can hear and decide on the variance in view of the pending special exception which has been indefinitely deferred by the Board of Supervisors.

Mrs. Thonen seconded the motion to defer this matter to November 26, 1985, at 1:15 P.M.

The motion passed by a vote of 5 to 0 (Mr. Ribble and Mr. Hammack absent from this public hearing). Mr. Smith stated that there would be no further deferrals unless the applicant was present to justify the request and the zoning violation which exists on the property.

Page 158, October 22, 1985, 8:35 P.M. (Tape #1) Scheduled case of

8:15 P.M. GOOD SHEPHERD LUTHERAN SCHOOL, appl. under Sect. 6-303 of the Ord. for a nursery school, located 1516 Moorings Dr., PRC, Centreville Dist., 17-2((23))1, approx. 2.1804 acres, SP 85-C-040.

Bill Shoup advised the Board that this applicant had mailed notices, but had mailed them too late.

Mrs. Thonen moved to defer this hearing to November 26, 1985, at 1:30 P.M.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Ribble and Mr. Hammack being absent from this public hearing).

Page 158, October 22, 1985, 8:40 P.M. (Tape #1) After Agenda Item

OPTICAL AND ELECTRIC RESEARCH, INC., VC 85-C-100, Request for Out of Turn Hearing. Mrs. Day moved to grant an Out of Turn Hearing on December 3, 1985, at 10:00 A.M. Mr. Hyland seconded the motion only because of the unknown right-of-way which caused the applicant to need the variance.

The motion passed by a vote of 5 to 0 (Mr. Ribble and Mr. Hammack not being present for this matter).

Page 159, October 22, 1985, 8:40 P.M. (Tape #1) Scheduled case of

8:30 P.M. McLEAN PRESBYTERIAN CHURCH, app. under Sect. 3-103 & 3-203 to allow construction of church and related facilities, located at 1018 Balls Hill Road, Sturbridge subd., R-1 & R-2, Dranesville Dist., 21-3((1))50 & 51 and 21-3((15))18, approx. 6.67 acres, SP 85-D-034.

Mr. Smith advised that the Board was in receipt of a request from concerned citizens requesting a deferral in this matter and asked if anyone was present to speak on that request. Terry Gernstein advised that on behalf of the citizens who signed that request, he would waive the request for deferral.

Bill Shoup presented the Staff Report which recommended approval in part, in accordance with the Development Conditions contained therein. Mr. Shoup advised that the reason for recommending granting in part is because of the suggestion that Lot 18 be deleted from the application. By including Lot 18 in this application, a resubdivision of Sturbridge would be required; however, such could not be approved because within this portion of Lot 18, the remaining subdivision would not meet the density requirement for the District.

Thomas P. Dugan, of Hall, Surovell, Jackson & Colten, PC, 4010 University Drive, Fairfax, Virginia 22030, attorney for the applicant, presented the application before the Board. Mr. Dugan advised the Board that the applicant felt this was a good application and the best possible use of this tract of land. Mr. Dugan also stated that the applicant was in agreement with the Development Conditions, except the deletion of Lot 18 from the application. Mr. Dugan explained that this property became available during the course of negotiations and the church was under contract to purchase. The church felt that it would provide additional screening as well as possible additional parking in the future.

Mrs. Day questioned if this applicant planned at some time in the future to provide child care. Mr. Dugan advised that there was no intention of providing such a service, and that this church has never had such services in the past.

Benjamin P. Elliott, President of Duane, Elliott, Cahill, Mullineaux & Mullineaux, PA, 100 Park Avenue, Rockville, Maryland, the architect for applicant explained the design of the structure. Mr. Elliott stated that it would be conservative, not contemporary and would be located 80 feet further back than the structure presently on the property. The church was very explicit about not wanting to impose a massive building on the community. In response to Mr. Hyland's question regarding the height of the building, Mr. Elliott responded that it would be approximately 40 feet about ground level with the front entrance being 6 feet below. Mr. Elliott could not give a height for the steeple, but advised that it would not exceed 90 feet, and if necessary could be scaled down.

Robert P. Guberman, 7207 Heather Hill Lane, McLean, Virginia 22101, spoke in opposition and advised that he had 3 or 4 major issues to base a denial on: the first is traffic, the second is parking, the third is aesthetics and the fourth is noise. Mr. Guberman stated that the citizens in this area feel this situation is not safe and the roadways in this area are not adequate. Mr. Guberman further stated that the parking required would not be adequate and would force street parking which would add to the unsafe condition. The citizens also felt that the grade of the site would not be steep enough and head lights would shine into their homes. As for the noise factor, Mr. Guberman stated that he felt the clearing of existing vegetation would add to the noise problems caused by Rt. 495.

T. M. Gernstein, 1015 Salt Meadow Lane, McLean, Virginia 22101, advised that the citizens who originally signed the petition requesting deferral, had a problem understanding what was meant by "normal church activities". Mr. Gernstein stated that without knowing what types of things would be allowed, the citizens did not feel they could support this application and therefore requested denial.

Mr. Hyland stated that he felt Mr. Gernstein had a valid point, but there was no definite answer.

Menji Bashwa, 1107 Heather Hill Lane, McLean, Virginia 22101, spoke in opposition and agreed that there would be a traffic problem and pointed out that there was already a Masonic Temple in this area, and this church would add to the traffic already generated by that temple.

Sara E. Bjorg, 1300 Alps Drive, McLean, Virginia 22102, spoke as a concerned citizen as well as a member of the Planning Board of the McLean Citizens's Association. Ms. Bjorg advised that she understood the concerns of the citizens and respected their position as well as staff's. She further stated that she was concerned how tax dollars were being spent, explaining that when the Board makes a decision, they should make that decision and the reasons for it, very clear so that it could be legally defended, if necessary.

Mr. Dugan, in rebuttal, asked David Bell to speak TO THE Board to explain the trip generation report he prepared. Mr. Dugan advised that they felt this was an accurate reflection of the number of trips generated.

Board of Zoning Appeals October 22, 1985

David Bell, 9904 Minburn Street, Great Falls, Virginia 22066 advised that he had been requested to conduct a survey of the traffic flow at Balls Hill junction with Heather Hill. He advised that his survey covered actual vehicle passage on Friday, Saturday and Sunday. Mr. Bell further advised that the 600 church members stated in this application includes both regular and non-regular attendees. He stated that 450 would be the number of regular attendees. He further advised that the number of trips could be reducted by the members who now come down Balls Hill Road to present location of church, they would not be additional vehicles.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-D-034 by McLEAN PRESBYTERIAN CHURCH under Section 3-103 and 3-203 of the Zoning Ordinance to permit church and related facilities on property located at 1018 Balls Hill Road, tax map reference 21-3((1))50 & 51 and 21-3((15))pt. 18, 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 22, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-1 & R-2.
3. The area of the lot is approx. 6.67 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 3-103 and 3-203 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 except that this approval shall not include the portion of Lot 18 that is represented in the application. This approval is not transferable to other land.

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This use shall be subject to the provisions set forth in Article 17, Site

Plans.

5. The seating capacity in the main worship area shall not exceed six-hundred (600).

6. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11, and shall not exceed a maximum of 226 spaces.

7. Transitional Screening 1 shall be provided along the north, west, and south sides of the property without modification. A limit of clearing shall be provided generally as shown on the approved plat however minor alterations shall be permitted to accommodate engineering or other code required changes and to allow removal of undergrowth. The applicant shall work with the County Arborist who shall determine which mature trees shall be saved. These trees shall be used to satisfy the plantings required for Transitional Screening 1 and if necessary shall be supplemented with additional plantings, the size, type and number to be determined by the County Arborist.

   The full twenty-five (25) foot Transitional Screening area shall be provided along the frontage of the site except that driveways, necessary utility work, and a free standing sign may be located in this area. Transitional Screening 1 shall be modified to allow landscape type plantings to be substituted for the required plantings provided that the landscaping is substantial and is implemented in a manner that will reduce the visual impact of the use. In addition, the plantings shall be provided in a manner that will screen the view of the front parking area and prevent vehicle headlights from projecting onto residential properties across Balls Hill Road. The size, type and number of plantings shall be approved by the County Arborist.

8. The barrier requirement may be waived or modified in accordance with the provisions of Article 13, as determined by the Director, DEM.

9. Interior parking lot landscaping shall be provided in accordance with the provisions of Sect. 13-106 of the Zoning Ordinance.

10. One-way vehicular movements shall be provided via two separate curb cuts generally as shown on the approved plat, EXCEPT that a single entrance/exit may instead be provided at the applicant's option. If the single entrance/exit method is implemented, such entrance/exit shall be aligned with Heather Hill Lane on the opposite side of Balls Hill Road.

11. A right turn deceleration lane shall be provided in conjunction with either option presented in Condition Number 10 above. The right turn deceleration lane shall be subject to approval by VDH&T and the Director, DEM.

12. Dedication for public street purposes shall be provided in accordance with Article 17 as determined by the Director, DEM.

13. Erosion and sedimentation control shall be implemented both during and after construction as determined by the Director, DEM.

14. The structure shall be acoustically treated as follows:

    - Exterior walls shall have a laboratory sound transmission class (STC) of at least 45, and

    - 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.

    - Adequate measures to seal and caulk between surfaces shall be provided.

15. That portion of the building located in the R-1 District shall satisfy the FAR requirement for the R-1 District and that portion located in the R-2 District shall satisfy the FAR requirement for the R-2 District.

16. 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.

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17. Signs shall be permitted provided they are erected in accordance with the provisions of Article 12.

18. The height of the steeple, including the spire shall not exceed eighty (80) feet.

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 carried by a vote of 5 to 1 (Mrs Thonen voting no and Mr. Ribble absent).

Page 162, October 22, 1985, 9:50 P.M. (Tape #2) After Agenda Item

CONGREGATION BETH EMETH, SP 84-L-008, Request for Additional Time. Mrs. Day moved to deny this request as she felt the change of architect and obtaining financial aid were not valid reasons. Mr. Hyland stated that he felt other requests for additional time have been granted and, therefore, opposed denial of this request. Mr. Hyland moved to grant the request for additional time.

The motion to grant the request for additional time was seconded by Mr. DiGiulian.

The motion passed by a vote of 6 to 0 (Mr. Ribble being absent), making the expiration date October 10, 1986.

Page 162, October 22, 1985, 10:00 P.M. (Tape #2) After Agenda Item

APPROVAL OF MINUTES. Mr. Hammack moved to approve the Minutes of September 10, 1985 and September 17, 1985, as submitted. Mrs. Thonen seconded the motion. The motion passed by a vote of 6 to 0 (Mr. Ribble being absent).

Page 162, October 22, 1985, 10:10 P.M. (Tape #2) After Agenda Item

SEQUOYAH COUNCIL OF CO-OWNERS Appeal. Mrs. Thonen moved to scheduled this matter for February 18, 1986 at 8:00 P.M. Mr. Hammack seconded the motion. The motion passed by a vote of 6 to 0 (Mr. Ribble being absent).

Mr. Hyland requested staff to investigate possibility of obtaining service to clip any newspaper articles pertaining to the Board of Zoning Appeals. Mrs. Kelsey advised she would look into it.

There being no further business to come before the Board, Mr. Hammack moved to adjourn. Mrs. Thonen seconded the motion. The meeting adjourned at 10:20 P.M.

Christine McClaugherty
Deputy Clerk
Board of Zoning Appeals

Submitted: 10-29-85

Daniel Smith
Chairman
Board of Zoning Appeals

Approved: 10-29-85

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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 29, 1985. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; Ann Day; Mary Thonen; and Paul Hammack and .

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

The Chairman called the scheduled 10:00 A.M. case of:

10:00 A.M. AMERICAN DRUZE SOCIETY, appl. under Sect. 3-803 of the Ord. to amend the original application for a place of worship and related facilities, located 6514 Braddock Rd., R-8, Mason Dist., 72-1((1))12, approx. 1.179 ac., SP 85-M-015. (Deferred from 7/16/85, 7/23/85, & 9/10/85)

Jane Kelsey presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein. After reviewing the Staff Report, Mr. Hyland questioned why staff was able to recommend approval now that application had been increased to 49 members, when originally staff had problems with only 15 members. Ms. Kelsey advised that when application was changed, Office of Transportation was again contacted and it was their opinion that 49 members would not generate more trips than if the property were developed at its present zoning of R-8. The Board further questioned if applicant would be entitled to use the "related facilities" in this application as national headquarters. Ms. Kelsey advised that it appeared this would have to be house of worship and only related facilities to the house of worship could be conducted, otherwise it would be public benefit association. Mrs. Thonen questioned if staff had considered the additional traffic hazard which might be caused since this was changed from 15 members to 49 members. Ms. Kelsey advised that it was staff's belief, that this would not cause an unsafe condition provided that they operated during the recommended hours of operation. When asked by Mr. Hammack how this would be enforced, Ms. Kelsey advised that it would be enforced as other violations are, by a zoning inspector investigating a complaint.

Roger Cornelier, attorney for the applicant advised that he felt this application had been fully heard at previous meetings and that staff had done a very good job in developing conditions that would protect the neighbors and working with the applicant. Mr. Cornelier further advised that applicant did have some concern over the condition limiting the Saturday hours. Mr. Hammack asked if the Druze were a branch of the Moslem faith. Mr. Cornelier stated that he was not qualified to answer that. Mr. Hammack advised that the reason he asked was because of another pending application for Moslems asking for morning, noon, and night prayers. Mr. Hammack was concerned that Druze would not be able to accept the limitations set by development conditions. Mr. Cornelier advised that except for the Saturday restriction, they were acceptable.

Mrs. Thonen questioned Mr. Cornelier about the National Headquarter use of this property to which he responded that the intended use of this property is for worship. Mr. Smith asked Mr. Cornelier to have the President of the association answer the question. Ramiz Saab, Chairman of the Board of Trustees and Executive Director of the American Druze Society, was asked if the applicant still intended to have the National Headquarters at this site. Mr. Saab replied not in the sense you would think of a national headquarters, but they would conduct board meetings there, the country-wide business is handled by the President out of his home office and that location would change each year when a new president is selected.

The following citizens spoke in opposition to this application based on concern that this would, in fact, be national headquarters and wouldn't be strictly a place of worship; that this is not suitable for a residential neighborhood; that transitional screening would not be adequate to screen residences from this use; that parking facilities would not be adequate and would, therefore, mean over-flow in neighborhood; that the safety of children at nearby school would be lessened: Nancy Brown, President of the Lincolnia Park Civic Association, 5101 Redwing Drive, Alexandria, VA; James Brown, 4743 Irvin Square, Alexandria, VA; Penny Gross; Sara O. Mullins; Robert Beers, Legal Assistant to Supervisor Thomas Davis.Board of Zoning Appeals

In rebuttal, Mr. Cornelier advised that he felt limitations were placed because of traffic problems and he understood that, however, the concerns over the national headquarters were not necessary since this site will never be used for that purpose. Mr. Cornelier further stated that this would be for worship and library research and since it was the only site in this area, that may be the reason for the neighbors considering this a national location.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-M-015 by AMERICAN DRUZE SOCIETY under Section 3-803 of the Zoning Ordinance to permit a place of worship and related facilities on property located at 6514 Braddock Road, tax map reference 71-1((1))12, County of Fairfax, Virginia, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 29, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-8.
3. The area of the lot is approximately 1.179 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 the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 3-803 of the Zoning Ordinance.

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

Mrs. Thonen seconded the motion.

The motion to DENY passed by a vote of 5 to 1 (Mr. Smith voting no).

Page 165, October 29, 1985, 1:30 P.M., (Tape #2 & #3) Scheduled case of

10:15 A.M. NVGC, Inc., appl. under Sects. 3-C03 & 8-901 of the Ord. for a Golf Driving Range and modification to the dustless surface requirement, located 5801 Clifton Rd., Twin Lakes subd., R-C & WSPOD, Springfield Dist., 66-1((1))13B, approx. 59.73 acres, SP 85-S-059

Jane Kelsey presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein. Henry Seymour presented the application. William Cohn, 4506 Buffalo Trace, Annandale, VA; James Case, 909 Patrick Henry Drive, Arlington, VA; John Fitzgerald, Kingsley Road, Vienna; Robert Baker, 1336 N. Lynnbrook Drive, Arlington, VA; and Rita Apter, 9713 Coronado Terrace, Fairfax, VA all spoke in support of this application complimenting Mr. Seymour on providing a much needed facility for residents of the area and for providing lessons to young people.

W. McCauley Arnold, 12641 School Street, Clifton, VA spoke as a concerned citizen. Mr. Arnold advised the Board that he drove by the site every day, but one day he noticed a 16' high, 80' long building which had been constructed almost overnight for covered "T's". Mr. Smith asked the applicant if a building permit had been obtained and Mr. Seymour advised that they had attempted to do that, but found that everything was held up until obtaining this special permit and he was already committed to the construction. Mr. Arnold advised the Board that he just felt the County has to control this type of situation. Mrs. Thonen agreed, stating that she is annoyed with people who come before this Board after they have already built their projects without permits. She further stated that she would not want this special permit to be renewed in the future if they build anything not included in this present application, or in any way do not abide with the provisions of this application.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-S-059 by NVGC, INC. under Section 3-C03 and 8-901 of the Zoning Ordinance to permit a Golf Driving Range and modification to the dustless surface requirement on property located at 5801 Clifton Road, tax map reference 66-1((1))13B, 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

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requirements of all applicable State and County Codes and with the by-laws of 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 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 R-C and WSPOD.
3. The area of the lot is approximately 59.73 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, 3-103 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED with the following limitations and shall not be renewed if the applicant builds anything not included in this application or in anyway does not abide by this special permit:

1. 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 supplemented to provide Transitional Screening 2 along all lot lines. The amount, size, and location of these plantings shall be approved by the County Arborist and the barrier requirement shall be waived.

6. There shall be a total of 76 parking spaces.

7. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance.

8. The hours of operation shall be from 7:30 A.M. to 9:30 P.M. daily.

9. All development shall be subject to the provisions of the Water Supply Protection Overlay District.

10. The existing lights, and any proposed lights, illuminating the driving range shall be no higher than thirty (30) feet and shall be connected to an automatic cut-off device which will turn the lights off at 10:00 P.M. daily. These lights shall be shielded in a manner that would prevent the projection of light or glare onto adjacent properties and roadways. 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 as described above.

11. The applicant shall consult the Department of Extension and Continuing Education to determine the proper fertilizers and pesticide usage procedures and such procedures shall be implemented.

12. Ninety-five (95) percent of the lot shall be vegetated open space, which is defined as follows:

    VEGETATED OPEN SPACE: That open space within the boundaries of a lot that is intended to provide light and air, and is designed for either scenic, recreational or environmental purposes. Vegetated open space may include, but need not be limited to undisturbed natural areas, wooded areas, decorative plantings, flowerbeds, lawns, water bodies except swimming pools and the like, and transitional screening required by Article 13. Vegetated open space shall not include any parking or paved areas.

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. Day seconded the motion.

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

Page 167, October 29, 1985, 2:20 P.M. (Tape No. 3), Scheduled case of

10:30 A.M. YVES FEDRIGAULT, appl. under Sect. 18-401 of the Ord. to allow construction of garage addition to dwelling to 2.1 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located 8917 Mangum Place, Stratford Landing subd., Mt. Vernon Dist., R-3, 111-1((3))(3)28, approx. 14,152 sq. ft. VC 85-V-062.

Marcia Silberfarb presented the Staff Report. Yves Fedrigault advised the Board that he was the applicant and owner of the subject property. Mr. Fedrigault explained that he would like to extend the existing carport and enclose it. He further explained that he had an antique car which he would like to store in the garage for protection. Before further presentation of the application, Mr. Fedrigault advised the Board that he had made an error in the requested length of the carport. Since the antique car is 21 feet long, the length of the garage would have to be more than the 22 feet requested. Mr. Fedrigault, therefore, requested that he be allowed to amend his application.

Mr. Smith advised that the application could not be amended at the public hearing. Mr. Hyland suggested that the hearing be deferred to allow Mr. Fedrigault to submit new plats which was agreeable to the applicant.

Mrs. Thonen moved that the public hearing in this matter be deferred to November 26, 1985, at 1:45 P.M. Mr. Hyland seconded the motion. The motion passed by a vote of 6 to 0 (Mr. DiGiulian being absent).

Mr. Smith advised Mr. Fedrigault that he would have to submit the new plats within 5 days in order to allow time for re-advertising and new notification letters to be sent to nearby property owners.

Page 167, October 29, 1985, 2:30 P.M. (Tape #3) Scheduled case of

10:45 A.M. ADRIAN G. GUPTON/CHARLES C. TAYLOR, appl. under Sect. 18-401 of the Ord. to allow construction of addition to dwelling to 20.9 ft. from rear lot

line (25 ft. min. rear yard req. by Sect. 3-207), located at 2012 Westwood Terrace, Westwood Forest subd., R-2(C), Providence Dist., 39-1((19))8, approx. 10,535 sq. ft., VC 85-P-063.

Marcia Silberfarb presented the Staff Report. Charles Taylor presented the application and advised the reason for requesting the variance is because the only direction they could build in is to the rear because of the way house was originally sited.

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

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-P-063 by ADRIAN G. GUPTON/CHARLES C. TAYLOR under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 20.9 feet from rear lot line (25 ft. minimum rear yard required by Section 3-207) on property located at 2012 Westwood Terrace, tax map reference 39-1((19))8, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 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 R-2(C).
3. The area of the lot is approximately 10,535 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, and the addition will not be visible to other residences, the property to the rear is an out lot, and this variance will cause no adverse effect:

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 all reasonable use 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 6 to 0 (Mr. DiGiulian being absent).

Page 169, October 29, 1985, 2:40 P.M. (Tape #3) Scheduled case of

11:00 A.M. SCOTT R. BOYCE, appl. under Sect. 8-901 for modification to minimum yard requirements to an R-C lot to permit screened deck addition to dwelling 16 ft. from side lot line (20 ft. min. side yard required by Sect. 3-C07) located at 6236 Hidden Canyon Rd., R-C, Pleasant Hill subd., Springfield Dist., 53-4((5))36, approx. 10,680 sq. ft., SP 85-S-047.

Marcia Silberfarb presented the Staff Report. Scott Boyce presented the application and advised the Board that this proposal would not have required a variance except that the property was down-zoned.

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

COUNTY OF FAIRFAX
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hyland made the following motion:

WHEREAS, Application No. SP 85-S-047 by SCOTT R. BOYCE under Section 3-C07 of the Fairfax County Zoning Ordinance for modification of minimum yard requirements for an R-C lot, to allow screened deck addition to dwelling 16 feet from side lot line (20 ft. minimum side yard required by Sect. 3-C07), located at 6236 Hidden Canyon Road, tax map reference 53-4((5))36, 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 29, 1985; and

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

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

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

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

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

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

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

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

Mr. Ribble seconded the motion.

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

Page 170, October 29, 1985, 2:45 P.M. (Tape #3) Scheduled case of

11:15 A.M. THE NURTEREY/SUSAN PAIGE AND DIANE M. SCHLOEGEL, appl. under Sect. 3-103 of the Ord. for a child care center, located at 8200 Rolling Rd., R-1, Springfield Dist., 98-4((1))23, approx. 41,659 sq. ft., SP 85-S-041.(OTH)

Mr. Smith announced that the Board was in receipt of a letter from the applicant requesting that this application be withdrawn. Mrs. Thonen moved to withdraw this application. Mr. Hyland seconded the motion. The motion to withdraw the application was granted by a vote of 6 - 0 (Mr. DiGiulian being absent).

Page 170, October 29, 1985, 2:50 P.M. (Tape #4) Scheduled case of

11:30 A.M. ISLAMIC COMMUNITY CENTER OR NORTHERN VIRGINIA (ICCNOV), appl. under Sect. 3-103 for Mosque and related facilities, located at 7711 E. - 7713 Beulah Street, Lee Dist., R-1, 99-2((1))46, 48 & 49, approx. 1.6981 acres, SP 85-L-043.

Jane Kelsey presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein. Larry Becker presented application on behalf of the applicant and explained that the applicant had been before the Board 3 times and has now taken their advice and acquired land which they feel is appropriate for this use.

Sarwar Mahmud, 5713 Ampthill Drive, Alexandria, VA spoke in support of this application and felt there was adequate site distance and this would be used only for religious purposes only.

John M. Braswell, attorney for Franconia Moose Lodge, Mains & Nichols, 1199 N. Fairfax Street, #800, Alexandria, VA spoke in opposition to this application based on the additional traffic hazards that the members of the Moose Lodge felt would be created by additional another institution to this location. Mr. Braswell also presented a signed statement of opposition from the Board of Directors for the Moose Lodge and advised the Board that the Lodge was not connected to the letter and petition submitted by property owners and residents of Beulah Street, nor did they want to be connected with such a statement. Mr. Braswell stated that the Moose Lodge members opposition was based solely on the traffic problems they believed would occur, not because of the type of use proposed.

Donald W. Kockel, 8812 Badger Drive, Alexandria, VA, spoke on behalf of members of the Moose Lodge agreed with Mr. Braswell that the Lodge did not oppose this particular use, just wanted to point out that it is already difficult for Lodge members to access Beulah Street. A second use would make it almost impossible.

Marjorie Thorp, 7625 Beulah Street, Alexandria, VA, questioned why the Springfield Mosque could not be used by this congregation and also agreed that traffic hazards would be greatly increased.

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Judy Hutchinson, 7621 Beulah Street, Alexandria, VA, pointed that the traffic study used was done in 1983 and many changes have taken place since then which all contribute to the traffic problems.

In rebuttal, Mr. Becker pointed out that portion of land was being dedicated for road widening to alleviate traffic problems. Also Mr. Becker pointed out that use would be limited to times that the Moose Lodge would probably not be using their facility.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-L-043 by ISLAMIC COMMUNITY CENTER OF NORTHERN VIRGINIA (ICCNOV) under Section 3-103 of the Zoning Ordinance to permit a mosque and related facilities on property located at 7711 - 7713 E. Beulah Street, tax map reference 99-2((1))46, 48 & 49, County of Fairfax, Virginia, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 29, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-1.
3. The area of the lot is approximately 1.6981 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 3-103 of the Zoning Ordinance.

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

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

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. The seating capacity of the main worship area shall be a maximum of 250.

6. Adequate sight distance at the site entrance shall be provided and approved by VDH&T prior to site plan approval by the Director, Department of Environmental Management (DEM). Provisions for maintaining adequate sight distance shall be made, as approved by the Director, DEM. If necessary, the entrance can be relocated so as to attain adequate site distance.

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7. Dedication of right-of-way to provide for future widening and relocation of Beulah Street shall be provided as shown on the approved plat accompanying this special permit. A fifteen (15) foot grading easement across the frontage of the site shall be provided at such time and at such location as determined by the Director, DEM. Road improvements, to include the construction of a right-turn deceleration lane shall be provided as approved by the Department of Environmental Management at time of site plan approval in accordance with Article 17. Construction of an interparcel public access road shall be provided for at such time as Beulah Street is widened.

8. Transitional Screening shall be provided as follows. The size, type and location of the plantings shall be approved by the County Arborist.

   - Transitional Screening 1 shall be provided along the southern and western lot lines abutting lots 42, 43, 44, 45, and 47. Existing deciduous trees and vegetation shall be supplemented where appropriate in this area so as to be equivalent to Transitional Screening 1.

   - Plantings shall be provided along the northern and eastern lot lines abutting Lot 50 in an area ten (10) feet in width. The type and extent of the plantings should be such that the parking area and driveway are sufficiently screened.

   - Between the building and the proposed travel aisle, low and medium height landscape plantings shall be provided.

9. The barrier requirement shall be waived.

10. No part of any structure on the property shall exceed sixty (60) feet in height, except for the spire portions of the minarets which may exceed sixty (60) feet in height.

11. The number of parking spaces shall be sixty-three (63).

12. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance. A Tree Preservation Plan for safeguarding and preserving the large monarch oak tree in the vicinity of the parking lot at the north end of Lot 46 shall be provided to the County Arborist for approval at time of site plan submission.

13. 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 them projecting onto adjacent properties.

14. Signs shall be permitted in accordance with the provisions of Article 12, Signs.

15. If a bike trail is listed on the Bicycle Plan, applicant shall construct said bike trail.

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 to grant failed by a vote of 3 to 3 (Mr. Smith, Mrs. Day and Mrs. Thonen

voting no).

This application was *DENIED*.

Mr. Becker requested that the Board grant a waiver of the 12 month limitation on refiling. Mr. Hyland moved to grant the waiver. Mr. Ribble seconded the motion. The motion passed by a vote of 5 to 1 (Mrs. Day voting no).

Page 173, October 29, 1985, (Tape 4) Scheduled case of

11:45 A.M. MARIA P. P. SANCHEZ, T/A INTERNATIONAL CHILD CARE CENTER, appl. under Sect. 3-203 for child care center, located at 3321 Jermantown Road, FAIRFAX ACRES, R-2, Providence Dist., 47-3((7))193, approx. 22,000 sq. ft. SP 85-P-042.

Mr. Smith advised that the Board was in receipt of a letter from the applicant's attorney requesting that this application be withdrawn. Mr. Hyland moved to withdraw this application. Mr. Hammack seconded the motion. The motion passed by a vote of 6 to 0.

At 4:10 P.M., the Board recessed briefly and reconvened at 4:20 P.M. with all Members being present with the exception of John DiGiulian, Vice-Chairman.

Page 173, October 29, 1985, 4:20 P.M. (Tape #5) Scheduled case of:

1:00 P.M. CARLIN CO., INC. - VC 85-P-034, application under Section 18-401 of the Zoning Ordinance to permit subdivision into four lots, proposed Lots 2 & 3 each having lot width of 6 feet (80 foot minimum lot width required by Section 3-306), located at 7600 Shreve Road on approximately 1.815 acres of land, zoned R-3, Providence District, Tax Map 49-2((1))162-A.

Jane Kelsey, presented the Staff Report. Ken Thompson, representing the Carlin Company, Incorporated, stated the proposal was for a variance of seventy-four feet for two pipestem lots, Lots 2 and 3. His justification was based on the the unusual configuration of the property, as well as the location of the existing fifty (50) foot right-of-way providing access to the property, subdividing the property under the R-3 criteria would pose a hardship; that extending the access right-of-way and providing the required cul-de-sac would cut the property in such a way that subdivision into lots conforming to the R-3 criteria would be impractical; that the proposed lots had an average lot area of 18,500 square feet, 8,000 above the minimum required; and that access to the lot to the north would be provided by a paved driveway which was currently being provided with a gravel road.

Mr. Hammack questioned whether the property could be developed without the request of a variance and discussed the possibility of developing the property into four lots without the use of pipestems if the cul-de-sac was extended. Mr. Thompson responded that based on the design prepared by Greenhorne & O'Mara, Inc., it would not be possible to develop four lots and provide the fifty foot right-of-way and cul-de-sac.

Chairman Smith pointed out the possibility of developing into four lots since the proposed lot size was 18,500 square feet and the minimum lot size requirement for that zoning district was 10,500 square feet with the average lot size being 11,500 square feet; however, the applicant stated that it was desired to keep the lots as large as possible while preserving existing vegetation and providing the required cul-de-sac would eliminate the large trees on Lot 1.

There was no one to speak in support or opposition to this application. Before stating his motion, Mr. Hammack commented that he had not been satisfied that the property could not be developed into four lots with the extension of the road and cul-de-sac, thereby not requiring the variance. Further, that justification had not been given by the applicant which supported the need for a variance or would deprive him of the reasonable use or development of the land. Mr. Hammack stated that by looking at the plat, it was his feeling that the applicant, by cutting down on the lot size, could extend the fifty foot right-of-way and put a cul-de-sac in, thus developing the property along a dedicated road and eliminating the two pipestem lots. In conclusion, Mr. Hammack noted that the applicant, in his written testimony, indicated that "Extending the access right-of-way and providing the required cul-de-sac would cut the property in such a way that subdivision into lots conforming to the R-3 criteria would be impractical;" however, it had not been stated that it would be impossible."

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-P-034 by CARLIN CO., INC. under Section 18-401 of the Zoning Ordinance to allow subdivision into four lots, proposed Lots 2 and 3 each having lot width of 6 feet located at 7600 Shreve Road, tax map reference 49-2((1))162-A, 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 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 R-3.
3. The area of the lot is 1.815 acres.
4. That the applicant's property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application does not meet all of 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 all 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 to deny passed by a vote of 5-1, Mr. Hyland voting Nay, Mr. DiGiulian being absent.

Mr. Thompson's requested that the Board waive the 12 month limitation on refiling. Mr. Hyland moved that the Board of Zoning Appeals waive the twelve month time limitation. This motion was seconded by Mr. Ribble. The motion failed by a vote of 3-3 (Mr. Hammack, Mrs. Thonen, and Chairman Smith voting no, Mr. DiGiulian being absent).

To Mr. Thompson's query if not granting the waiver meant that he would have to wait twelve months before submitting subdivision plans for this property, Ms. Kelsey clarified that the applicant could submit subdivision plans to the Department of Environmental Management provided that the Zoning Ordinance requirements could be met for lot width on all of the proposed lots and the other requirements of the Zoning Ordinance were met. It would not be necessary to come before the Board of Zoning Appeals unless a variance was needed.

Page 175, October 29, 1985, (Tapes #5-6) Scheduled case of:

1:15 P.M. RICHARD & JUDITH A. WELLS & ALLEN J. & MARTHA E. OLMSTEAD - VC 85-P-052, application under Section 18-401 of the Zoning Ordinance to permit subdivision into three lots, proposed Lot 1 having width of 12 feet and proposed Lots 2 & 3 each having width of 6 feet (150 foot minimum lot width required by Section 3-106), located at 2740 Hunter Mill Road and 10398 Marbury Road on approximately 3.602 acres of land, zoned R-1, Providence District, Tax Map 37-4((1))17C & part 17.

It was noted that this case had been deferred from September 24, 1985 by applicant's request because there had not been full Board at that time.

Jane Kelsey presented the Staff Report. Thomas O. Lawson, Lawson and Hood, attorney for the applicant, presented the application to the Board outlining that the applicants own a total of approximately nine and a half acres of land and have lived on this property as their home for many years. Mr. Lawson noted that Mr. Wells is a school teacher, not a developer nor was he experienced in the field of developing property in Fairfax County.

Mr. Lawson stated that the front part of Lot 17 is currently a tree farm which has been there for a number of years and which the applicant desired to maintain. The immediate area surrounding the property has been developed in a semi-rural type of atmosphere. The applicants have tried to maintain the semi-rural atmosphere in this application and that was one of the reasons that this particular plan had been decided upon. When the variance request for a pipestem lot was approved in October of 1982, the purpose had been to create larger lots whereas if the applicant had chosen to subdivide the property and place a street through the middle, the result would have been much smaller and many more lots.

Mr. Lawson pointed out that if the variance request was granted the result would be in larger lots which: would result in less run-off in terms of impervious ground, would help to maintain the more natural state, and would be keeping with the semi-rural atmosphere.

Further, when the variance request was granted in 1982, a paved road/driveway being twenty-four feet in width was constructed on the site to serve the three proposed lots and was done with the approval of Fairfax County. The access onto Marbury Road had been approved by the Virginia Department of Highways and Transportation. Mr. Lawson submitted for the record, a copy of a letter from the Highway Department stating that the permit and the access point on Marbury Road had been approved. Also submitted for the record was a copy of a letter from the Chairman of the Board of Trustees of the Oakton United Methodist Church which own the property at 10400 Marbury Road, immediately adjacent to the subject property. The letter states no objection to the approval of this variance request.

Mr. Lawson concluded by saying that it was unfortunate that the applicants, due to the their inexperience in the field of development, had allowed the eighteen month period of time of approval for the original variance to lapse; however, the applicants, on reliance to the original variance, had constructed the paved road/driveway, subdivided and sold the one lot, all of which had been approved by the Virginia Department of Highways and Transportation and Fairfax County. It was requested that the variance request be granted to allow the applicants to continue with the representations which were made in good faith to their neighbor and that the applicants be allowed to subdivide the remaining two lots.

Allen Olmstead, 10398 Marbury Road, Oakton, Virginia 22124 one of the applicants, stated that he had purchased his property from Mr. Wells two years ago, and at that time it had been indicated that Mr. Wells had obtained zoning approval and had planned to build two other houses on the adjoining lots. The land sale agreement between the two parties indicates that Mr. Olmstead will maintain and own one-third of the paved road which is essentially his driveway and that the driveway or road would become part of the other two parcels in question.

Barry Holoman, 10396 Adel Road, Oakton, Virginia 22124 stated his opposition for the application saying that his home is situated immediately adjacent and would face directly to the house that would be built on Lot 2 of the proposed subdivision. Further, Mr. Holoman said that the windows of his home would face directly into the back of the house that would be built. Mr. Holoman referred to the motion made previously on this application when the request had been denied, that it was stated at that time that the buildable area is small in relation to the drainage and the terrain and, furthermore, that the buildable area would be a detriment to his property. In conclusion, Mr. Holoman stated that he had no opposition to the construction of a subdivision for Lot 3.

In rebuttal, Mr. Lawson stated that he, the applicant, and the engineer had met with Mr. Holoman to show him the proposed location of the house on Lot 2. It had been pointed out that the house would not be located adjacent to the rear property line, that it would be located in the furtherest point away from the rear property line. It was noted that Mr. Holoman's lot was a half acre in size and that the proposed lot was 42,440 square feet, almost an acre, and in his opinion as far as terms of impact, there would be virtually no impact at all whereas if the nine and a half acres tract of land were to be subdivided under one-half acre zoning it would allow in excess of fifteen houses on smaller lots. Mr. Lawson stated that in terms of impact, the configuration as being proposed by Mr. Wells would have less of impact on Mr. Holoman's property than if the property were to be developed in a subdivision under the current Zoning Ordinance.

To Mrs. Thonen's question on whether the application met the requirements for wells and septic tanks, Nancy Jo Cranmer, Paciulli, Simmons and Associates, Ltd., responded that public water was available at the entrance of Marbury Drive; however, the property was far enough away and the three lots were large enough to permit wells. Ms. Cranmer noted that septic fields had been approved by the Health Department with the original preliminary plan submitted.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-P-052 by RICHARD AND JUDITH A. WELLS AND ALLEN J. AND MARTHA E. OLMSTEAD under Section 18-401 of the Zoning Ordinance to allow subdivision into three lots, proposed Lot 1 having width of 12 feet and proposed Lots 2 and 3 each having width of 6 feet located at 2740 Hunter Mill Road and 10398 Marbury Road, tax map reference 37-4((1))17C and part 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 October 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 R-1.
3. The area of the lot is 3.602 acres.
4. That the applicants' property is exceptionally irregular in shape, including

narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 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.

Mr. Hyland seconded the motion.

The motion FAILED by a vote of 3-3, (Mrs. Day, Mrs. Thonen, and Chairman Smith voting no, Mr. DiGiulian being absent).

Mr. Lawson requested that the Board waive the twelve month time limitation for refiling. This motion was seconded by Mr. Hammack. The motion failed by a vote of 3-3 (Mrs. Day, Mrs. Thonen, and Chairman Smith voting no, Mr. DiGiulian being absent).

Page 177, October 29, 1985, (Tape #6) Scheduled case of:

1:30 P.M. CHARLES F. SCHEIDER, III - VC 85-M-055, application under Section 18-401 of

the Zoning Ordinance to permit subdivision into six lots, proposed Lots 3, 4, 5 and 6 each having width of 4.5 feet and proposed Lot 1 having width of 80.2 feet (100 ft. minimum lot width required by Sect. 3.206); and to allow existing dwelling on proposed Lot 1 to be 14 feet from a contiguous pipestem (25 ft. front yard required by Sect. 2-416), located at 3450, 3452 and 3454 Gallows Road on approximately 3.22 acres of land, zoned R-2, Mason District, Tax Map 59-2((1))49 and 59-2((10))1.

Jane Kelsey, presented the Staff Report and submitted a memorandum from Art Rose, Department of Environmental Management, which indicated that five lots could be obtained using a public street.

Charles Runyon, representing Charles F. Scheider, III, presented the application to the Board and outlined that at the previous hearing it had been stated that there was enough land to accommodate a cul-de-sac which would be required for a regular subdivision and at that time it was questioned what difference it would make between an eighteen or twenty-four foot right-of-way. Mr. Runyon stated that it was not a twenty-four foot but a fifty foot right-of-way that was required as minimum size under the standard street requirements. Further, if a public street was placed on the site, two houses would have to be removed; one occupied by Mr. Scheider and the other by his son. Placing a public street on the property would only damage what the applicant was trying to accomplish: retention of the original home, retention of the son's home, and not to have the expense of removing those homes and rebuilding. Mr. Runyon pointed out that the applicant had subdivided the rear portion of the property over the years and it was known as Shamrock Heights, this application would be a continuation of the same on-going subdivision work that has been done.

Mr. Runyon noted that there was no opposition to this application from the surrounding area; basically it was only the question of not wanting to give easements to widen Gallows Road, it is desired to leave that portion of Gallows Road as it presently is. The applicant can accommodate the right-turn lane onto the property; however, nowhere on Gallows Road where infill has occurred has there been a left-turn lane except in the new portion near Tysons where Gallows Road has been widened to accommodate a turning lane without a median and that the applicant has made a reasonable proposal from that standpoint. The applicant was requesting less than two units per acre, Shamrock Heights would have a total of thirty-five lots and with the five proposed pipestem lots it mean fifteen percent of the subdivision being pipestem lots, and when the applicant purchased the property in 1946 the existing houses were already placed on the property.

In closing, Mr. Runyon stated that he felt that applicant had adhered to the requirements under Section 18-404. At the previous hearing the main issue had been that a public street could be placed on the property and Mr. Runyon clarified that a public street could be placed on the property; however, five lots could not be developed and the applicant would lose at least two of the houses.

Mr. Hammack questioned how this application varied from the one previously presented to the Board and Mr. Runyon responded that it was the same application and did not vary at all.

Ms. Kelsey noted that the applicant contended that the approval of this variance request would alleviate a nonconforming situation; however, after researching the records it had not been ruled by the Zoning Administrator that having two houses on that lot is a legal nonconforming situation. In addition, if the pipestem is developed it causes the three houses that are already existing, even if we assume for the sake of argument that they are legal, to become nonconforming with regard to the yards since they become front yards and any structure must set back twenty-five feet from the pipestem. Further, under the code, that neither a nonconforming or illegal condition constitutes a justification for approval of a variance.

In response to Ms. Kelsey comments, Mr. Runyon stated that the two houses were already existing in 1940 and part of the request was to let one of the houses be less than twenty-five feet and the other two were conforming. Lots 1, 2, and 6 would be the same configuration, the driveway would be in the same location, the lots would have the same front, back, and side yards that exists presently. The property that comprises Lots 3, 4, and 5 is wooded and is not being utilized and the applicant has another son and daughter who wish to build on these lots.

Before stating her motion, Mrs. Thonen said that she thought that the applicant could develop the property without a variance and therefore had reasonable use of the land. If approved, Lots 1, 2, and 6 would become front yards and therefore cause one of those lots not to meet the twenty-five foot minimum front yard requirements (it was noted that the one lot that did not meet the front yard requirement had been included as part of

the variance request). Further, the application was not in conformance with the Public Facilities Manual because the percentage of pipestem lots exceeds the recommended twenty percent and, finally, that she did not feel the applicant had justified his hardship case.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-M-055 by CHARLES P. SCHEIDER, III under Section 18-401 of the Zoning Ordinance to allow subdivision into six lots, proposed Lots 3, 4, 5 and 6 each having width of 4.5 feet and proposed Lot 1 having width of 80.2 feet and to allow existing dwelling on proposed Lot 1 to be 14 feet from a contiguous pipestem 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, 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 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 R-2.
3. The area of the lot is 3.22 acres.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application does not meet all of 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 all reasonable use of the land and/or buildings involved.

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

Mrs. Day seconded the motion.

The motion passed by a vote of 4-2 (Mr. Hyland and Mr. Ribble voting no, Mr. DiGiulian being absent).

Mr. Runyon questioned if it would make a difference if the applicant reduced his variance request to five lots and Chairman Smith responded that it probably would not since the applicant could develop the property without a variance.

Mr. Runyon requested that the Board waive the twelve month time limitation for refiling. The motion was seconded by Mrs. Day. The motion failed by a vote of 3-3 (Mr. Hammack, Mrs. Thonen, and Chairman Smith voting no, Mr. DiGiulian being absent).

Page 180 , October 29, 1985, Tape #6 After Agenda Item 1

DONNA R. BARNAKO - SP 85-D-074: The Board was in receipt of an Out-of-Turn Hearing request for this Special Permit Application which was presently scheduled for February 25, 1986.

Mrs. Thonen moved that the Board grant the Out-of-Turn Hearing on January 14, 1986 at 10:00 A.M. This motion was seconded by Mrs. Day.

The motion passed by a vote of 4-2 (Mr. Ribble and Chairman Smith voting no, Mr. DiGiulian being absent).

Page 180 , October 29, 1985, Tape #6 After Agenda Item 2

APPROVAL OF MINUTES: Mr. Hammack moved that the Board approve the Minutes of September 24 and October 1, 1985, as presented. This motion was seconded by Mrs. Thonen and carried by a vote of 6 (Mr. DiGiulian being absent).

There being no further business to come before the Board, Mrs. Thonen moved that the meeting be adjourned. This motion was seconded by Mrs. Day and carried by a vote of 6 (Mr. DiGiulian being absent).

Christine McClaugherty, Deputy Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

Viki L. Lester, Clerk
Board of Zoning Appeals

SUBMITTED: December 3, 1985

APPROVED: December 3, 1985

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, November 7, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice Chairman; Gerald Hyland; Ann Day; Mary Thonen; and Paul Hammack.

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

The Chairman called the scheduled 10:00 A.M. case of:

10:00 A.M. BILLY W. ROSE/P. H. KINGSBROOKE, INC., appl. under Section 18-401 to allow subdivision into three (3) lots, proposed Lot 2 having a lot width of 10 feet (80 ft. min.lot width required by Sect. 3-306), located 4525 Lantern Place, South Kings Forest subd., R-3, Lee Dist., Tax Map 92-1((11))A & 92-1((1))18, approximately 53,488 sq.ft. VC 85-L-056. (DEFERRED FROM 10-1-85.)

Marilyn M. Anderson presented the Staff Report. Mr. Hyland commented that he hoped some day staff would make recommendations on variances as well. Billy W. Rose presented the application and explained to the Board that the reason for requiring the variance was because of a "spite" strip that was dedicated when townhouses went in. Mr. Rose further explained that it were not for that "spite" strip, he could develop without a variance

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COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-L-056 by BILLY W. ROSE/P.H. KINGSBROOK, INC. under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lot 2 having width of 10 ft. (80 ft. minimum lot width required by Section 3-306) on property located at 3857 Lantern Place, tax map reference 92-1((11))A and 92-1((1))18, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 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 53,513 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, and because the owner is handicapped by legal bindings that went along with the property and because the property was down-zoned:

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 all reasonable use 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 0 (Mr. Ribble and Mr. Hammack aving not yet arrived .

Page 182, November 7, 1985, 10:25 A.M. (Tape #1, 481-890) Scheduled case of

10:15 A.M. PATRICE P. & MADELEINE MARIE GUILMARD, appl. under Sect. 18-401 to allow construction of a detached garage 5.0 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307 & 10-104), located at 1426 Colleen Lane, McLean, Potomac Hills, Dranesville, R-3, 51-1((9))208, approx. 20,701 sq. ft. VC 85-D-061.

Jane C. Kelsey presented the Staff Report. Patrice P. Guilmard presented the application and explained that the variance is required because of the many easements on his property which make it impossible to locate the garage in another place.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-D-061 by PATRICE P. AND MADELEINE MARIE GUILMARD under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage 5.0 ft. from side lot line (12 ft. minimum side yard required by Section 3-307 & 10-104) on property located at 1426 Colleen Lane, tax map reference 31-1((9))208, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 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 20,701 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties, limited building area and numerous easements.

This application meets all of 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 all reasonable use 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. Byland seconded the motion.

The motion passed by a vote of 4 to 1 (Mr. Hammack & Mr. Ribble having not yet arrived and Mr. Smith voting no).

Page 183, November 7, 1985, 10:40 A.M. (Tape #1, 891-1250) Scheduled case of

10:30 A.M. JOHN A. TRANCUCCI, appl. under Sect. 18-401 to allow enclosure of existing carport to an attached garage 8.3 ft. from side lot line such that side yard totals 16.6 ft. (8 ft. min., 20 ft. total min. side yard required by Sect. 3-307), located at 10719 Rippon Lodge Drive, Middleridge, R-3(c), Annandale Dist., 68-3((11)03, approx. 9,577 sq. ft., VC 85-A-067.

Jane C. Kelsey presented the Staff Report. John Trancucci presented the application and explained that at present there is no access from basement to outside and no facility to store lawnmower, bikes, etc. Mr. Trancucci explained that they have had several thefts and require the variance in order to construct the garage for security as well as for an automobile.

Mrs. Day stated that she would move to grant this application to enclose an existing carport to provide storage and safety of personal property because she felt the application met all of the requirement of the Ordinance. Mrs. Day further stated that because of the location of applicant's house, there is no other suitable location for a garage. Due to the conditions presented by the applicant, Mrs. Day felt he was within his rights to enclose the carport and it will have no adverse effect on his neighbors.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-A-067 by JOHN A. TRANCUCCI under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport to an attached garage 8.3 feet from side lot line such that side yard totals 16.6 feet (8 ft. minimum, 20 ft. total minimum side yard required by Sect. 3-307) on property located at 10719 Rippon Lodge Drive, tax map reference 68-3((11))3, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 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 approximately 9,577 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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. Hammack & Mr. Ribble having not yet arrived and Mr. Smith voting no).

Mr. Hyland questioned Staff as to a request from the Board regarding an amendment to the Zoning Ordinance that would permit persons to enclose an existing carport whether or not it would be closer to lot line than allowed.

Jane C. Kelsey advised that it was her understanding that Staff had, in fact, considered that amendment, but she was not aware of the reasons for their decision. Ms. Kelsey further advised that she believed Lu Wright would be in a better position to explain this to the Board and advised that she would set up a meeting to discuss this.

Page 185, November 7, 1985, 10:50 A.M. (Tape #1, 1410-end #2, 1-300) Scheduled case of

10:45 A.M. MR. & MRS. GEORGE E. MONROE, appl. under Sect. 18-401 to allow construction of addition to dwelling to 3 ft. from side lot line (20 ft. min. side yard required by Sect. 3-E07), located at 11801 River Drive, Mt. Vernon Dist., R-E, 122-2((2))8, approx. 31,665 sq. ft., VC 85-V-068.

Jane C. Kelsey presented the Staff Report. Nancy Monroe presented the application and presented the Board with photographs and diagrams to better explain the proposal. Mrs. Monroe explained that the topography is unusual and other homes are situated quite far from her property, therefore she did not feel this would have an adverse impact on neighbors.

Robert Lawrence, with Hazel , Beckhorn & Hanes, 4084 University Drive, Fairfax, Virginia, attorney for the applicant, pointed out that the Home Owners Association had approved this proposal. Mr. Lawrence further explained the topographic problems and advised that the land to the rear of the applicant's property was marsh land. Mr. Lawrence advised that the Homeowners Association did require that the addition be 5 feet from the property line instead of the 3 feet indicated in the application and that applicant had agreed to this.

Henry D. Meinecke, 5705 River Drive, Lorton, Virginia spoke in opposition to the application. Mr. Meinecke confirmed that his house was 250 feet away. Mr. Meinecke explained that the reason for his objection was that the proposed addition would block his limited view of the river

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-V-068 by MR. & MRS. GEORGE E. MONROE under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to three (3) feet from side lot line (20 ft. minimum side yard required by Section 3-E07) on property located at 11801 River Drive, tax map reference 122-2((2))8, County of Fairfax, Virginia, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 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 31,665 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is GRANTED-IN-PART requiring that the Applicant submit new plats indicating dwelling five (5) feet from side lot line rather than three (3) feet and 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. Ribble and Mr. Hammack having not yet arrived and Mr. Smith voting no).

Mr. Hyland pointed out that the applicant would have to submit revised plats show an addition 5 feet from property line.

Page 187, November 7, 1985, 11:15 A.M. (Tape #2, 301) Scheduled case of

11:00 A.M. MEADOW ASSOCIATES, T/A REGENCY RACQUET CLUB, JOHN H. ARIAIL, JR., AND W. FORBES RAMSEY, TRUSTEES - appl. under Sect. 18-401 of the Ord. to allow new parking lot for commercial recreation facilities to abut the northernproperty line (4 ft. side landscaping strip between parking lot and property line req. by Sect. 13-107), located at 1800 Old Meadow Road, Providence Dist., R-30, Tax Map 29-4((8))C, approx. 6.6617 acres, VC 85-P-070 7/15/85

Jane C. Kelsey presented the Staff Report. Ed Prichard of Booth, Prichard & Dudley, presented the application on behalf of applicant. Mr. Prichard questioned the limitation of 235 occupants. He stated that 321 would be more appropriate which would include "turn around time", meaning those individuals who had finished playing and were having lunch or just changing, but not actually using recreational facilities. Mr. Prichard pointed that the 321 number is less than allowed by Fire and Health Departments but the club could live with this number rather than 235. Other than this condition, Mr. Prichard agreed with the remainder of the Development Conditions. Mr. Prichard also presented the justification for the variance application as set forth in the statement of justification submitted with the application. Mr. Prichard stated that primarily the land area is insufficient for additional parking. Mr. Prichard further stated that he felt the application met all of the requirements. Mr. Prichard felt that the adjacent property would not be adversly effected since that property was a heavily vegetated storm drainage ditch which actually screens the view of the parking from the industrial property.

Art Reinhardt, 414 Walker Road, Great Falls, Virginia, spoke in support of the application stating that he felt the more the facility expanded, the more residents it would attract, which would lead to less traffic on Old Meadow.

Francis J. Readdy, 1800 Old Meadow Road, McLean, Virginia, President of the Unit Members Association, spoke in support of the application and advised the Board that all unit owners were advised that regardless of the Association's position, they were free to voice their own opinions.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-P-070 by Meadow Associates, T/A Regency Racquet Club under Section 18-401 of the Zoning Ordinance to allow new parking lot for commercial recreation facilities to abut the northern propety line on property located at 1800 Old Meadow Road, tax map reference 29-4((8))C, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 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
3. The area of the lot is
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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.

Mr. Hyland seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Ribble & Mr. Hammack being absent).

Page 188, November 7, 1985 (Tape #2, 301) Scheduled case of

11:15 A.M. MEADOW ASSOCIATES T/A REGENCY RACQUET CLUB, JOHN H. ARIAIL, JR., AND W. FORBES RAMSEY, TRUSTEES - appl. under Sect. 3-3003 of the Ord. to amend S-80-D-048 for commercial swimming pools, tennis courts and similar courts, to permit addition of new indoor and outdoor pools, a building enclosing 5 existing tennis courts, 4 new racquetball courts, practice court, jogging track, fitness room, multi-purpose room, and 75 additional parking spaces to existing facilities, located at 1800 Old Meadow Rd., Providence Dist., R-30, 29-4((8))C, approx. 6.6617 acres, SPA 80-P-048-1. 7/15/85

Mr. Smith advised that the applicant had presented the case for this application together with the variance application. There was no one else to be heard.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 80-P-048-1 by Meadow Associates, T/A Regency Racquet Club under Section 3-303 of the Zoning Ordinance to permit amendment to S 80-D-048 for commercial swimming pools, tennis courts and similar courts to permit addition of new indoor and outdoor pools, a building enclosing five (5) existing tennis courts, four (4) new racquet ball courts, basketball court, jogging track, fitness room, multi-purpose room and 75 additional parking spaces to existing facilities on property located at 1800 Old Meadow Road, tax map reference 29-4((8))C, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board

on November 7, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-30.
3. The area of the lot is approximately 6.6617 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 3-303 and 13-107 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. Maximum use of the facility shall not exceed 321 persons at any one time with a maximum of 40 employees.

6. There shall be a minimum of 186 parking spaces and a maximum of 190 parking spaces.

7. The maximum hours of operation shall be from 6:00 A.M. to 12:00 Midnight, seven (7) days a week.

These conditions incorporate all applicable conditions of the previous 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, 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. Hyland seconded the motion.

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

The Board recessed for lunch at 12:00 and reconvened at 1:15 P.M.

Page 189, November 7, 1985, 1:15 P.M. (Tape 2) Scheduled case of:

11:30 A.M. NANCY E. BOWEN - VC 85-A-071, application under Section 18-401 of the Zoning Ordinance to allow construction of garage and screened porch additions to dwelling to 2.8 feet from side lot line (10 ft. minimum side

yard required by Section 3-407), located at 4423 Medford Drive on approximately 8,400 square feet, zoned R-4, Annandale District, Tax Map 71-1((15))181.

Jane Kelsey, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Nancy E. Bowen, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application.

Chairman Smith asked if there were any persons to speak either for or against this application's request and hearing no reply, closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-A-071 by NANCY E. BOWEN under Section 18-401 of the Zoning Ordinance to allow construction of a garage and screened porch additions to dwelling to 2.8 feet from side lot line on property located at 4423 Medford Drive, tax map reference 71-1((15))181, 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 7, 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 8,400 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 4-1, Chairman Smith voting Nay, Mr. Hammack and Mr. Ribble being absent for this hearing.

Page 191, November 7, 1985, 1:25 P.M. (Tape 2) Scheduled case of:

11:45 A.M. JOHN A. & HARRIET M. GROFF - VC 85-A-072, application under Section 18-401 of the Zoning Ordinance to allow construction of screened porch addition to dwelling to 18.1 feet from rear lot line (25 ft. minimum rear yard required by Sect. 3-207), located at 4407 Holborn Avenue on approximately 11,357 square feet, zoned R-2, Annandale District, Tax Map 70-1((7))141.

Jane Kelsey, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

John A. Groff, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application.

Chairman Smith asked if there were any persons to speak either for or against this application's request and hearing no reply, closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-A-072 by JOHN A. AND HARRIET M. GROFF under Section 18-401 of the Zoning Ordinance to allow construction of a screened porch addition to dwelling to 18.1 feet from rear lot line on property located at 4407 Holborn Avenue, tax map reference 70-1((7))141, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 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 11,357 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 5-0, Mr. Hammack and Mr. Ribble being absent for this hearing.

Page 192 , November 7, 1985, (Tapes 2-3) Matters Presented By Board Members

Mr. Hyland moved that the Board of Zoning Appeals request the Staff to draft an amendment to the Zoning Ordinance which would permit the enclosure of carports to be used solely for garage purposes without the necessity of applying for a variance where such carports are located within the normal set backs as a matter of right.

This motion was seconded by Mrs. Thonen and carried by a vote of 5-0, Mr. Hammack and Mr. Ribble being absent for this item.

Page 192, November 7, 1985, 1:35 P.M. (Tape 3) Scheduled case of:

1:00 P.M. THE ENTERPRISE SCHOOL - SP 85-C-049, application under Section 3-103 of the Zoning Ordinance to permit a private school of general education, and Section 8-901 to allow modification of dustless surface requirement to permit gravel driveway and parking lot, located at 1629 Beulah Road on approximately 4.5038 acres, zoned R-1, Centreville District, Tax Map 28-1((1))13.

Jane Kelsey, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Michele E. Surwit, Executive Director, The Enterprise School, represented the applicant and explained the nature of the use as contained in the statement of justification submitted with the application: that there would be twenty-five (25) students of high school age, and a maximum of seven (7) employees.

John F. Callow, Traffic Consultant and President, Callow Associates, outlined how the applicant proposed to address staff's transportation concerns and stated that they would agree to the Development Conditions and believed they could be met.

Chairman Smith asked if there were any persons to speak either for or against this application's request and the following speakers came forward to speak in opposition: Mr. Mariano Echevarria, 1625 Beulah Road, owner and resident of the contiguous Lot 13B; Mrs. Caroline Ware Means, 1600 Beulah Road; Mr. Don Miller, 1659 Beulah Road, owner and resident of Lots 14, 15 and 18A. Opposition expressed was based on transportation problems, concerns for the adequacy of the septic fields, and the concerns for potential problems from the students attending the school, such as trespassing or vandalism.

In rebuttal, Mr. Callow explained that there alternative options to resolving the sight distance problems. Ms. Surwit addressed the question of the septic field by stating that the site had been approved by the Health Department. Further, that the school had been in operation for twelve years in six different locations and that there had never been any complaints regarding the operation or the students that attend the school.

Chairman Smith asked if there were any persons to speak either for or against this application's request and hearing no reply, closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-C-049 by THE ENTERPRISE SCHOOL under Section 3-103 of the Zoning Ordinance to permit a private school of general education and Section 8-901 to allow modification of the dustless surface requirement to permit a gravel driveway and parking lot on property located at 1629 Beulah Road, tax map reference 28-1((1))13, 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 7, 1985; and

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

1. That the applicant is the owner of the property or
   That the applicant is the contract purchaser/lessee.
2. The present zoning is R-1.
3. The area of the lot is 4.5038 acres of land.

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, 8-903, and 8-915 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 twenty-five (25).

6. The maximum hours of operation shall be from 8:30 A.M. to 3:30 P.M., Monday through Friday.

7. There shall be nineteen (19) parking spaces, including the four existing spaces, and all parking shall be on site. The parking area near Beulah Road shall be located at least ten (10) feet from the front lot line and pheripheral parking lot landscaping shall be provided in this area. This parking area may be shifted, if necessary, provided it is no closer than twenty-five (25) ft. from the side lot line.

8. Adequate sight distance shall be provided to the satisfaction of the Virginia Department of Highways and Transportation (VDH&T).

9. The entrance to the site may be relocated in order to provide adequate sight distance but shall be located at least 12.5 feet from the lot line and at least thirty (30) feet wide. A deceleration lane shall be provided in a location to be determined by the Director, Department of Environmental Management (DEM).

10. Dedication of sixty (60) feet shall be provided from center line of Beulah Road, but may be deferred for a period of five (5) years.

11. Transitional Screening 1 shall be provided along all lot lines except as follows: The existing vegetation shall be used to satisfy the transitional screening requirements; however, supplemental plantings of evergreen trees at least six (6) feet in height shall be planted along the eastern lot line between the existing parking area and the dwelling on the adjacent lot where there is insufficient planting to satisfy Transitional Screening 1 and the size, number and location of these plantings shall be approved by the County Arborist to screen the parking lot from the view of the adjacent property.

12. There shall be a maximum of seven (7) employees.

13. All gravel surface areas shall be constructed in accordance with standards approved by the Director, Department of Environmental Management (DEM).

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

15. This special permit is approved for a period of five (5) years from this date.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has 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 5-1, Mr. Hammack abstaining since he was not present for the entire hearing, Mr. Ribble being absent from this hearing.

Page 195, November 7, 1985, 2:15 P.M. (Tape 3) Scheduled case of:

1:15 P.M. INTERNATIONAL TOWN AND COUNTRY CLUB, INCORPORATED - SPA 82-C-037-1, application under Section 3-103 of the Zoning Ordinance to amend S-82-C-037 for country club to permit the addition of patio with canopy cover and the addition of a kitchen area to clubhouse, located at 13200 Lee Jackson Highway on approximately 240.87 acres of land, zoned R-1, Centreville District, Tax Map 45-1((1))11.

Jane Kelsey, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

H. John Schell, architect/agent representing the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions.

Chairman Smith asked if there were any persons to speak either for or against this application's request and hearing no reply, closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-C-037-1 by INTERNATIONAL TOWN AND COUNTRY CLUB, INCORPORATED under Section 3-103 of the Zoning Ordinance to amend S-82-C-037 for a country club to permit an addition of patio with canopy cover and an addition of kitchen area to clubhouse on property located at 13200 Lee Jackson Highway, tax map reference 45-1((1))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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 7, 1985; and

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

1. That the applicant is the owner of the property or
   That the applicant is the contract purchaser/lessee.
2. The present zoning is R-1.
3. The area of the lot is 240.87 acres of land.

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 1 shall be modified to allow the existing vegetation to satisfy this requirement.

6. The existing chain link fence shall remain as it is currently located and the remaining barrier requirement along all other lot lines shall be waived.

7. There shall be two hundred (200) parking spaces.

8. All lighting for this use shall be directed on-site and shielded, if necessary, to prevent light or glare from projecting off of the application property. An application for tennis court lights must be submitted and approved by the Board of Zoning Appeals prior to the use of the tennis court lights.

9. All noise shall be in accordance with Chapter 108 of the Fairfax County Code.

10. The hours of operation for the tennis pro shop shall be 9:00 A.M. to 7:00 P.M., May through September.

11. The applicant shall make available the needed land, should service road construction become necessary in the future.

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 6-0, Mr. Ribble being absent from this hearing.

Page 196, November 7, 1985, (Tape 3) After Agenda Item 1

APPROVAL OF MINUTES: Mr. Hyland moved that the Board approve the Minutes of October 8 and October 22, 1985, as presented. This motion was seconded by Mr. Hammack and carried by a vote of 6, Mr. Ribble being absent.

Page , November 7, 1985, (Tape 3) After Agenda Item 2

GREAT FALLS SWIM AND TENNIS CLUB - SPA 82-D-019-1 and SPA 82-D-019-2, 761 Walker Road: The Board was in receipt of a request for an administrative correction to change the hours of operation.

Mr. Hyland moved that the Board amend the Special Permit Resolution to be consistent with the application, correcting the hours of operation concerning the swimming pool to read from 9:00 A.M. to 9:00 P.M. This motion was seconded by Mr. Hammack and carried by a vote of 6, Mr. Ribble being absent.

Page 196, November 7, 1985, (Tape 3) After Agenda Item 3

LEE SAMMIS ASSOCIATES, INCORPORATED - A 85-C-003, Application for Appeal.
The Board was in receipt of a request to schedule a date and time for public hearing on this appeal.

Mrs. Thonen moved that the Board direct the staff to schedule the public hearing for this appeal on January 28, 1986 at 10:00 A.M. This motion was seconded by Mr. DiGiulian and carried by a vote of 6, Mr. Ribble being absent.

Page 197, November 7, 1985, (Tape 3) After Agenda Item 4

PAUL KELLY - A 85-P-004, Application for Appeal.
The Board was in receipt of a request to schedule a date and time for public hearing on this appeal.

Mr. Hammack moved that the Board direct the staff to schedule the public hearing for this appeal on March 18, 1986 at 8:00 P.M. This motion was seconded by Mr. DiGiulian and carried by a vote of 6, Mr. Ribble being absent.

Page 197 , November 7, 1985, (Tape 3) Matters Presented By Board Members

Mr. Hyland referenced a from Supervisor Martha Pennino, Centreville District, in support of an Out-of-Turn hearing request for Optical and Electronic Research, Incorporated - VC 85-C-100.

Jane Kelsey, Staff Coordinator, clarified that the Board had granted this request on October 22, 1985; however, this letter had been received late and was submitted as a matter of information.

Page 197 , November 7, 1985, (Tape 3) Information Items

Jane Kelsey, Staff Coordinator, called to the Board's attention, Information Item 3, a memorandum from the Zoning Administrator regarding fence zoning violations. Further, a response was attached from John R. Spring, Assistant County Attorney, regarding the violation of the height limitations of the Zoning Ordinance by fence contractors.

There being no further business to come before the Board, Mrs. Day moved adjournment at 2:25 P.M. This motion was seconded by Mr. Hyland and carried by a vote of 6, Mr. Ribble being absent.

Christine McClaughery, Deputy Clerk
Board of Zoning Appeals

Viki L. Lester, Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 12-10-85 APPROVED: 12-10-85

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 12, 1985. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; John Ribble; Ann Day; Mary Thonen; and Paul Hammack (John DiGiulian was absent).

The Chairman opened the meeting at 10:00 A.M. and Mrs. Day led the prayer.

The Chairman called the scheduled 10:00 A.M. case of:

Page 198, November 12, 1985, (Tape 1)

10:00 A.M KNOLLWOOD BAPTIST CHURCH - SPA 82-S-028-2, application under Section 6-303 of the Zoning Ordinance to amend S-82-S-028 for church and related facilities to permit additional parking, a fence, and a driveway entrance onto Burke Center Parkway, located at 10000 Coffer Woods Road on approximately 5.00162 acres of land, zoned PRC, Springfield District, Tax Map 78-3((1))40. (DEFERRED FROM 9/24/85)

Mr. Smith advised that the Board was in receipt of a request from the applicant for an additional deferral. Mrs. Thonen moved that this matter be deferred to January 28, 1986, at 10:15 A.M. Mrs. Day seconded the motion. The motion carried by a unanimous vote of the Board members present (Mr. DiGiulian and Mr. Ribble being absent from this public hearing).

Page 198, November 12, 1985, 10:10 A.M. (Tape 1) After Agenda Item:

Additional Time Request for Vietnamese Buddhist Association, SP 83-M-099. Mr. Hammack moved that one year additional time be granted making the new expiration date October 3, 1986. Mrs. Thonen seconded the motion. The motion carried by a vote of 4 to 1 (Mr. Hyland voting no, Mr. Ribble absent from this public hearing and Mr. DiGiulian being absent from the meeting).

Page 198, November 12, 1985, 10:15 A.M. (Tape 1) After Agenda Item:

Additional Time Request for Arthur W. Krop, Jr. and Bernice Krop to allow recordation of subdivision pursuant to the provisions of Sect. 18-407 of the Zoning Ordinance. Mr. Hammack moved that six months additional time be granted making the new expiration date May 3, 1986. Mrs. Thonen seconded the motion. The motion carried by a vote of 5 to 0 (Mr. DiGiulian being absent absent from the meeting and Mr. Ribble absent from this public hearing.

Page 198, November 12, 1985, 10:20 A.M. (Tape 1) Scheduled case of

10:15 A.M. RAJ SINGH - VC 85-M-059, application under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 11 feet from both side lot lines (15 ft. min. side yard required by Section 3-207), located at 6424 Columbia Pike on approximately 11,963 square feet, zoned R-2, Mason District, Tax Map 61-3((12))17.

Marcia Silberfarb presented the Staff Report. Ms. Raj Singh presented the justification for the variance explaining that this was a narrow lot and without variance she would be forced to build a townhouse which would not be in accordance with the single family buildings in this neighborhood.

Mr. Hammack moved the following resolution stating that he felt the applicant had met all of the required standards for a variance and specified that the building would be 4 feet from both side lot lines.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-M-059 by RAJ SINGH under Section 18-401 of the Zoning Ordinance to allow construction of dwelling eleven (11) feet from both side lot lines (15 ft. minimum side yard required by Section 3-207) on property located at 6424 Columbia Pike, tax map reference 61-3((12))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 November 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 11,963 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 6 to 0 (Mr. DiGiulian being absent).

200

Page 200, November 12, 1985, 10:30 A.M. (Tape 1) Scheduled case of

10:15 A.M. SMC-GREENCASTLE, INC. - SP 85-C-036, application under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to allow dwelling to remain 17.4 feet from front lot line (20 ft. min. front yard required by Sect. 3-507), located at 3612 Elderberry Place on approximately 7,434 square feet, zoned R-5, Centreville District, Tax Map 35-3((5))91. (DEFERRED FROM 10/8/85)

Marilyn M. Anderson presented the Staff Report which recommended approval in accordance with the Development Conditions. William Everly, 238 No. Cottage Road, Sterling, Virginia presented the application explaining that 15 or 16 houses were staked out at the same time and the engineer did not know that a few were of a different elevation which would allow a porch. Mr. Buckholtz, property owner, questioned why the builder was allowed to pour concrete and commence this project without a representative from the County verifying the location. Mr. Smith advised that it is the builder's responsibility to comply with all requirements.

Mrs. Thonen moved the following resolution stating that she felt this error was done in good faith and she could see how this could easily happen.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS
(MISTAKE SECTION)

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 85-C-036 by SMC-GREENCASTLE, INC. under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 17.4 feet from front lot line (20 ft. minimum front yard required by Section 3-507), on property located at 3612 Elderberry Place, tax map reference 35-3((5))91, 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 November 12, 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. An amended Building Permit reflecting the location of the existing dwelling shall be submitted and approved.

Mr. Hammack seconded the motion.

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

Page 201, November 12, 1985, 10:45 A.M. (Tape 1) Scheduled case of

10:30 A.M. JEFFREY D. REETZ - VC 85-D-066, application under Section 18-401 of the Zoning Ordinance to permit construction of a 13.3 ft. high detached garage 5.3 feet from side lot line and 7.3 feet from rear lot line (15 ft. min. side yard and 13.3 ft. min. rear yard req. by Sects. 3-307 and 10-104), located at 6848 McFall Place on approximately 13,114 square feet, zoned R-3, Dranesville District, Tax Map 40-2((26))17.

Marcia Silberfarb presented the Staff Report. Jeffrey D. Reetz presented the justification for the variance stating that the proposed location was the only realistic one because of the angle of the driveway.

Mrs. Day made the following motion and stated the dwelling on adjacent lot 18 would be 40' from proposed garage and she felt applicant did not have an alternate choice as to the location of the proposed garage.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-D-066 by JEFFREY D. REETZ under Section 18-401 of the Zoning Ordinance to allow construction of 13.3 feet high detached garage 5.3 feet from side lot line and 7.3 feet from rear lot line (15 ft. minimum side yard and 13.3 ft. minimum rear yard required by Sections 3-307 and 10-104) on property located at 6848 McFall Place, tax map reference 40-2((26))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 November 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-3.
3. The area of the lot is 13,114 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, especially Paragraphs 6 & 8:

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 all reasonable use 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 2 (Mr. Smith and Mr. Hammack voting no, Mr. DiGiulian being absent).

10:45 A.M. MARY L. KRAUSS - VC 85-A-073, application under Section 18-401 of the Zoning Ordinance to permit construction of a storage room addition to dwelling to 7.4 feet from side lot line such that side yards total 15.9 feet (8 ft. min., 20 ft. total min. side yards required by Sect. 3-307), located at 9019 Windflower Lane on approximately 8,604 square feet, zoned R-3C, Annandale District, Tax Map 69-4((12))96.

Marcia Silberfarb presented the Staff Report. Mary Krauss presented the justification for the variance and explained that the variance is required because of the angle of the rear lot line and the steep hill in the rear.

Mr. Hyland made the following motion stating that from the applicant's testimony the topography of the property would dictate where the proposed storage shed could be constructed.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-A-073 by MARY L. KRAUSS under Section 18-401 of the Zoning Ordinance to allow construction of storage room addition to dwelling to 7.4 feet from side lot line such that side yards total 15.9 feet (8 ft. minimum, 20 ft. total minimum side yards required by Section 3-307) on property located at 9019 Windflower Lane, tax map reference 69-4((12))96, 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 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-3C.
3. The area of the lot is 8,604 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, especially under Paragraph 2, bullets D and E:

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 all reasonable use 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 voting no and Mr. DiGiulian being absent).

Page 204, November 12, 1985, 11:05 A.M. (Tape 2) Scheduled case of

11:00 A.M. JAMES B. & JANE C. MATTHEWS - VC 85-C-075, application under Section 18-401 of the Zoning Ordinance to permit construction of a 12 ft. high detached guest house 5.0 feet from rear lot line (12 ft. min. rear yard required by Sect. 3-E07 & 10-104), located at 10502 Wickens Road on approximately 2.858 acres of land, zoned R-E, Centreville District, Tax Map 37-2((16))1.

Marcia Silberfarb presented the Staff Report and explained that the applicant had gas tanks on the property. James Mattews presented the justification explaining that there was exceptional topographic conditions to be considered. The Board questioned the gas tanks and Mr. Matthews explained that he is self-employed, working from his home, and had these tanks installed during the gas crisis so that he would have gas available. Mrs. Thonen asked if the applicant had obtained the proper permits for installing these gas tanks. Mr. Matthews advised that when the house was constructed, he had the builder install the gas tanks at the same time, so he did not know if builder obtained the permits. Jane Kelsey advised that Staff had reviewed the County's records and found no record of a permit being issued. Mrs. Day questioned if Mr. Matthews had obtained a home occupation permit and Mr. Matthews advised that he did not know.

Mrs. Thonen made the following motion stating that she could not, in all good conscience, vote to put something else on this site since the gas tanks are present without the required permit and asked Mr. Matthews if he would like the matter deferred to give him some time to work out these problems. Mr. Matthews advised that he would prefer to proceed and if approved, okay; if not, okay too.

COUNTY OF FAIRFAX, VIRGINIA
VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-C-075 by JAMES E. & JANE C. MATTHEWS under Section 18-401 of the Zoning Ordinance to allow construction of 12 feet high detached guest house five (5) feet from rear lot line (12 ft. minimum rear yard required by Section 3-E07 and 10-104) on property located at 10501 Wickens Road, tax map reference 37-2((16))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 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-E.
3. The area of the lot is approximately 2.858 acres.

This application does not meet <u>all</u> of 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 all 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 4 to 2 (Mr. Ribble and Mr. Hyland voting no and Mr. DiGiulian being absent).

Page 206, November 12, 1985, 11:40 A.M. (Tape 3) Scheduled case of

11:15 A.M. GLAD TIDINGS BAPTIST CHURCH - SP 85-L-035, application under Sections 3-103 and 3-203 to permit church and related facilities, located at 6323 Franconia Road on approximately 1.746 acres of land, zoned R-1 and R-2, Lee District, Tax Map 81-3((1))27.

Marcia Silberfarb presented the Staff Report which recommended denial. Wayne Lee, 6067 Tammy Drive, Alexandria, Virginia presented the statement of justification advising that this was just a small group of families that gathered each week. Mr. Lee further advised that this group first gathered in 1979 and had 22 members. At present time they still have 22 members and only 7 cars would be involved each week.

Hilliard Higgins, 6600 Hackberry Street, Springfield, VA; and Jean Hunt, 6709 Forsythia Street, Springfield, VA both spoke in opposition to this application stating that the additional traffic would over-burden the area.

The Board discussed with Staff and the applicant concerns regarding the transportation issues and Staff's position that the application should be denied since there was no median break on Franconia Road across from the entrance to this property. Staff had further concerns about a lack of adequate maneuvering on site.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-L-035 by GLAD TIDINGS BAPTIST CHURCH under Section 3-103 and 3-203 of the Zoning Ordinance to permit church and related facilities on property located at 6323 Franconia Road, tax map reference 81-3((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 November 12, 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 & R-2.
3. The area of the lot is approximately 1.746 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 the general standards for Special Permit Uses and the additional standards for this use as contained in Sections 8-006 and 3-103 and 3-203 of the Zoning Ordinance.

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

Mrs. Thonen seconded the motion.

The motion passed by a vote of 3 to 3 (Mr. Hammack, Mr. Smith and Mrs. Day voting no and Mr. DiGiulian being absent).

Mr. Hyland asked if the applicant was interested in requesting a 12 month waiver and Mr. Lee stated they were. Mr. Hyland moved that the 12 month requirement for refiling be waived. Mr. Ribble seconded the motion. The motion passed by a vote of 5 to 1 (Mrs. Thonen voting no and Mr. DiGiulian being absent).

Page 207, November 12, 1985, 12:00 P.M. (Tape 3) Scheduled case of

11:30 A.M. FORT HUNT COOPERATIVE PRESCHOOL - SP 85-V-037, application under Section 3-302 of the Zoning Ordinance to permit a nursery school, located at 1909 Windmill Lane on approximately 7.9456 acres of land, zoned R-2, Mount Vernon District, Tax Map 93-3-((1))-10B.

Mr. Smith announced that this application had been withdrawn by the applicant.

Page 207, November 12, 1985, 12:35 P.M. (Tape 3) Scheduled case of

11:45 A.M. ST. JOHN'S LUTHERAN CHURCH - SP 85-L-050, application under Section 3-303 of the Zoning Ordinance to permit an addition of a parish center and parking lot to existing church and facilities, located at 5952 Franconia Road on approximately 3.6192 acres of land, zoned R-3, Lee District, Tax Map 81-4((1))15.

Marcia Silberfarb presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein. John Ferson, 7404 Charlotte Drive, Springfield, VA presented the statement of justification stating that the church was attempting to anticipate the needs of the area in view of the recent development.

Jean Hunt, Jeanette Bottomly and Ron Adolfi all spoke in favor of the application stating that the church has generously supplied meeting places for many community activities.

Mr. Hammack made the following motion to permit the addition of a 2-story building.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-L-050 by St. John's Lutheran Church under Section 3-303 of the Zoning Ordinance to permit addition of parish center addition and parking lot to existing church and facilities on property located at 5952 Franconia Road, tax map reference 81-4((1))15, County of Fairfax, Virginia, Mr. 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 12, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-3.
3. The area of the lot is approximately 3.6192 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 3-303 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. There shall be a maximum of 400 seats in the main worship area with a corresponding minimum of 100 parking spaces and a maximum of 106 parking spaces.

6. Along St. John Drive from its intersection with Franconia Road to Goldenrod Drive there shall be a dedication of 30 feet for public street purposes from the centerline of St. John Drive.

7. The parking lot shall be redesigned to provide efficient and safe travel aisle circulation between the existing and proposed resurfaced parking areas in accordance with the Public Facilities Manual. This redesign shall be as approved by the Director, Department of Environmental Management (DEM). All directional traffic flow arrows shall be clearly marked and maintained so as to reduce the possibility of on site vehicular congestion. All patrons and employees of the child care center and church shall be notified that adherence to the directional arrows is required.

8. The proposed entrance shall be in accordance with VDH&T standards.

9. Transitional Screening shall be provided generally in accordance with the plat which is attached and made part of these Development Conditions. The size, type, number and location of these plantings shall be approved by the County Arborist to achieve the following:

   - Along the western lot line, the existing vegetation shall be supplemented with dense evergreen trees and shrubs provided to screen the view of the addition and the play area from the view of the neighboring residential properties.

   - Along the eastern lot line low evergreen screening plantings shall be provided to soften the visual impact of the parking lot from the view of the neighboring residential properties.

   - Along Franconia Road, supplemental landscape plantings shall be provided to soften the visual impact.

   - Along all other lot lines, existing vegetation shall remain and shall satisfy Transitional Screening 1.

10. The barrier requirement shall be waived.

11. Interior parking lot landscaping shall be provided in the resurfaced parking lot in accordance with Article 13 of the Zoning Ordinance.

12. If parking lot lights are installed, they shall be no higher than twelve (12) feet and shall be shielded if necessary to prevent any glare from projecting to other properties or street.

13. The maximum daily enrollment for the child care center shall be fifty (50) children.

14 The maximum number of employees of the child care center shall be fifteen (15).

15. The maximum hours of operations of the child care center shall be from 7:00 A.M. to 6:00 P.M., Monday through Friday.

These conditions incorporate all applicable conditions of SP 83-L-072 for the child care center.

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 (Mr. Hyland not present for this public hearing and Mr. DiGiulian absent.

There being no further business to come before the Board, the hearing was adjourned at 1:00 P.M.

C. McClaugherty By Deputy Clerk
Christine McClaugherty
Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith
Chairman
Board of Zoning Appeals

December 17, 1985
Date Submitted

December 17, 1985
Date Approved

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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, November 19, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Gerald Hyland; Ann Day; Mary Thonen; and Paul Hammack. (John F. Ribble, III, arrived at 9:25 p.m.)

The Chairman opened the meeting at 8:10 P.M. and Mrs. Day led the prayer.

Page 210, November 19, 1985, (Tapes 1-2) Scheduled case of:

8:00 P.M. REALITY GOSPEL CHURCH - SPA 79-L-269-1, application under Sections 3-103 and 3-203 of the Zoning Ordinance to amend S-269-79 for church and related facilities to permit additional land area, new sanctuary and additional parking spaces to existing facilities, located at 5937 Franconia Road on approximately 7.32 acres of land, zoned R-2/R-1, Lee District, Tax Map 81-4((3))1, 1A, 1B, 2, 2A, 2B & 3. (DEFERRED FROM 6/13/85, 7/16/85 & 9/17/85)

Marilyn Anderson, Staff Coordinator, noted that this application had been deferred on several occasions since June 1985. Due to the many deferrals, the applicant had been able to acquire additional land and in staff's opinion, had brought forward a better application than what was originally proposed. Mrs. Anderson stated that the applicant presently was requesting approval of an additional one-half acre of land area, a new sanctuary, and additional parking spaces. In lieu of the two classroom trailers previously proposed, the applicant was now requesting to construct the one-story sanctuary building which would total 30,600 square feet. The existing sanctuary would be used for Sunday school classrooms and the present sanctuary has 450 seats, whereas the proposed sanctuary will have 1400 seats. Staff's major concerns were stated as transitional screening and transportation.

Mrs. Anderson brought to the Board's attention Condition #8 and stated that the Office of Transportation had responded that there was a possibility that the access from the property to Kathmoor Street may be needed at some future time depending on the final design of the Van Dorn Interchange and that was why staff was not requesting that this be vacated. Consequently, staff was recommending approval of the application in accordance with the Development Conditions contained therein.

Richard W. Hausler of Hazel, Beckhorn and Hanes, attorney for the applicant, explained the nature of the use as contained in the statement of justification submitted with the application. Mr. Hausler noted that not only did the application comply with all of the staff's recommended conditions but also some additional conditions. The applicant had met with the citizens located on all sides of the proposed church site and had accommodated all of their requests except one. Mr. Hausler submitted into the record a copy of the applicant's proposed revised development conditions which incorporated the citizens requests.

Mr. Hyland questioned if staff had any problems with the revised development conditions submitted by the applicant and Mrs. Anderson responded that staff had not yet reviewed these conditions. Mr. Hausler briefly outlined the differences in the development conditions.

Chairman Smith asked if there were any persons to speak either for or against this application and the following speakers came forward to speak in opposition: Mr. Tom Slope, 6213 Em Street, owner and resident of Lot 44 and owner of Parcels 6A and 4; Ms. Diane Burgess, 5955 Kathmoor Drive, owner and resident; Ms. Seija Parker, 6219 Villa Street, owner and resident of Lot 8; Mr. Bruce E. Lambert, 3061 West Ox Road, previous owner of property on Villa Street; Mr. James Wilson, 6212 Em Street, resident; and Mr. Harold Royall, 6308 Villa Street, co-owner of Lot B.

Following Mr. Royall's testimony, Mr. Hyland questioned why there was nothing in the transportation report which referenced the future Van Dorn Interchange and it was responded that it was staff's understanding that the design had not been completed for the interchange.

Following discussion between Board Members and staff on the future interchange, Chairman Smith asked if there were other persons to speak against this application and the following speakers came forward to speak in opposition: Mr. Carl Massey, 6309 Villa Street, owner and resident of Lot G; and Charleen Wilson, 6212 Em Street, resident.

Opposition was based on access and limited road improvements to Villa Street, future access from the site to Kathmoor Street which would result in an overflow of traffic, and the possibility of the median break at Villa Street on Franconia Road being removed at the completion of the Van Dorn Interchange.

Mr. Hausler asked that all persons from the Reality Gospel Church to stand and be recognized.

Chairman Smith asked that all persons in opposition to this application stand and be recognized.

In rebuttal, Mr. Hausler addressed the transportation concerns concerning Villa Street and Kathmoor Drive.

For purposes of clarification, Chairman Smith asked if the applicant would voluntarily improve the full length of Villa Street if the permit for the expansion was granted. Mr. Hausler stated that if it was a condition stipulated by the Board, that this was correct.

Chairman Smith closed the public hearing and asked if Board Members or staff had any additional comments or questions.

Following further discussion regarding the transportation impacts, Mr. Hammack moved that the Board of Zoning Appeals defer the decision on Special Permit Application SPA 79-L-269-1, Reality Gospel Church, until December 3, 1985 at 1:45 p.m. for the purpose of requesting the Office of Transportation to provide a report on:

1) the impact of the Van Dorn interchange,
2) the Villa Street improvements, and
3) the possibility of the closure of Kathmoor Street.

Further, it was requested that the Office of Transportation Staff be present at the hearing on this application.

This motion was seconded by Mr. DiGiulian and carried by a vote of 6-0, Mr. Ribble being absent for this hearing.

Page 211, November 19, 1985, (Tape 2) Scheduled case of:

8:30 P.M. IRVIN & BETTY SORENSON - VC 85-M-053, application under Section 18-401 of the Zoning Ordinance to permit a building addition to a vehicle major service establishment to 1 ft. from the rear lot line and 24+ ft. from the front lot line (20 ft. minimum rear yard and 40 ft. minimum front yard required by Sect. 4-807) and to permit a 6 ft. high fence in the front yard (4 ft. maximum height as limited by Sect. 10-104), located at 6301 Arlington Boulevard on approximately 40,964 square feet, zoned C-8, Mason District, Tax Map Reference 51-3((1))4 & 8.

Marilyn Anderson, Staff Coordinator, presented the Staff Report and discussed the background of the application as outlined in the Staff Report. It was noted that this property was currently in violation for building an addition without a building permit. In order to obtain a building permit, the applicant must obtain a variance for its location and a special exception for its use. On November 18, 1985, the Board of Supervisors approved Special Exception Application SE 85-M-061 and a copy of the approved conditions were submitted to the Board.

Mr. Hammack questioned staff as to why it had taken twenty years to issue a violation on this site and staff responded that the two additions constructed in 1953 and 1959 had been with County approval. The third addition was constructed recently without a building permit and that was what had brought the notice of violation.

Steven Chen, NOVA Associates, agent for the applicant, explained the nature of the use as contained in the statement of justification submitted with the application.

Following Mr. Chen's statement, Mr. Hammack asked for clarification as to how removing the addition in violation would produce undue hardship on the applicant and Mr. Chen responded that the applicant had been cited in violation for debris on the site and the addition was presently being utilized for storage which eliminated the debris.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Before stating the motion, Mr. Hammack stated that he did not feel that adequate testimony had been presented to justify that the applicant was subjected to a hardship or that the application had met the standards set forth in the Zoning Ordinance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-M-053 by IRVIN AND BETTY SORENSON, under Section 18-401 of the Zoning Ordinance to permit a building addition to a vehicle major service establishment to 1 foot from the rear lot line and 24+ feet from the front lot line and to permit a 6 foot high fence in the front yard on property located at 6301 Arlington Boulevard, tax map reference 51-3((1))4 and 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 November 19, 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-8.
3. The area of the lot is 40,964 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application does not meet all of 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 all reasonable use of the land and/or buildings involved.

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

This motion was seconded by Mrs. Thonen and carried by a vote of 5-2, Mr. Hyland and Mr. Ribble voting Nay.

Page 213, November 19, 1985, (Tape 2) Scheduled case of:

8:45 P.M. SAINT LUKE'S ROMAN CATHOLIC CHURCH - SPA 80-D-010-1, application under Section 3-203 of the Zoning Ordinance to amend S 80-D-010 for church and related facilities to permit a library addition to a school of general education on church property, located at 7005 Georgetown Pike on approximately 20.15 acres of land, zoned R-2, Dranesville District, Tax Map Reference 21-4((1))6.

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Marilyn Anderson, Staff Coordinator, presented the Staff Report and said that on November 18, 1985, the Board of Supervisors approved Special Exception Application SE 85-D-062 and a copy of the approved conditions were submitted to the Board. Staff stated that the Board of Supervisors had revised their Condition #6 to prohibit use of the westernmost entrance Monday through Friday. A copy of staff's revised Development Conditions were submitted incorporating this revision under Condition #7 and staff recommended approval in accordance with these revised Development Conditions.

William F. Enderle, Supervisor of Property Management for the Catholic Diocese of Arlington, agent for the applicant, stated that the applicant had worked out an agreement with regard to the traffic patterns as requested by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and Mr. Stephen J. Hubbard, Chairman of the McLean Citizens Association Planning and Zoning Committee came forward. Mr. Hubbard stated that the MCA Planning and Zoning Committee was in support of the application and that the MCA Board of Directors had concurred in this recommendation.

Chairman Smith asked if there were other persons to speak either for or against this application and hearing no reply, closed the public hearing.

Mrs. Thonen stated that since the applicant had complied with the staff's recommendations and there had not been any opposition, she would move approval of this application subject to the revised Development Conditions submitted by staff.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 80-D-010-1 by SAINT LUKE'S ROMAN CATHOLIC CHURCH under Section 3-203 of the Zoning Ordinance to amend S-80-D-010 for church and related facilities to permit a library addition to a school of general education on church property located at 7005 Georgetown Pike, tax map reference 21-4((1))6, County of Fairfax, Virginia, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 19, 1985; and

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

1. That the applicant is the owner of the property or
   That the applicant is the contract purchaser/lessee.
2. The present zoning is R-2.
3. The area of the lot is 20.15 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.

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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 total student enrollment and hours of operation for the private school of general education shall be those approved by SE 85-D-062.

6. The existing vegetation on-site shall be supplemented in a manner which will screen the adjacent residences from the proposed addition. This landscaping shall be subject to the approval of the County Arborist.

7. The applicant shall prohibit movements into the site at the westernmost entrance Monday through Friday. A "Do Not Enter Monday Through Friday" sign shall be placed at the westernmost entrance prior to the occupancy of the library/classroom addition.

8. The maximum number of seats in the sanctuary shall be 800 and a corresponding minimum of 200 parking spaces and a maximum of 218 parking spaces.

9. The hours of operation for the church shall be the normal hours of operation.

10. These conditions incorporate all applicable conditions of the previously approved special permit S-80-D-010.

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.

This motion was seconded by Mr. Ribble and carried unanimously by a vote of 7-0.

Page 214, November 19, 1985, (Tape 2) Scheduled case of:

9:00 P.M. WINDING BROOK JOINT VENTURE - SP 85-S-045, application under Section 3-2003 of the Zoning Ordinance to permit a community swimming pool and tennis courts, located at 13779 Chantilly Road on approximately 1.25717 acres of land, zoned R-20, Springfield District, Tax Map Reference 44-2((1))19.

Marilyn Anderson, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein. It was noted that on May 20, 1980, the Board of Zoning Appeals had approved Special Permit Application SP 80-S-031 to allow the construction of a swimming pool; however, this permit had expired on May 20, 1981, for failure to begin construction within one year of approval.

Allan H. Gasner, Managing Partner, Winding Brook Joint Venture and Builders of Winding Brook Condominium, representing the applicant, stated that this application would fulfill a contractual obligation which was made when the condominium units were purchased by Winding Brook. It was stipulated at the time of purchase that a swimming pool would be constructed provided two hundred pool memberships were sold to the Winding Brook residents. The Winding Brook Pool Association, a non-profit community association, presently has reached the needed number of memberships and if approved, the swimming pool would be owned by this association.

Chairman Smith asked if there were any persons to speak either for or against this application and Ms. Susan E. Artt, 4115 Placid Lake Court, owner and resident of the contiguous lot, and President of the Winding Brook Pool Association came forward. Ms. Artt stated that this application was supported by the Winding Brook residents and, if approved, would greatly increase the property values and make the area a nicer place in which to live.

Chairman Smith asked if there were other persons to speak either for or against this application and hearing no reply, closed the public hearing.

Mr. DiGiulian stated that the applicant had presented testimony indicating compliance with the general standards for special permits uses and the additional standards for this use as contained in Section 8-006 of the Zoning Ordinance.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-S-045 by WINDING BROOK JOINT VENTURE/WINDING BROOK HOMEOWNERS ASSOCIATION under Section 3-2003 of the Zoning Ordinance to permit a community swimming pool and tennis courts on property located at 13779 Chantilly Road, tax map reference 44-2((1))19, County of Fairfax, Virginia, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 19, 1985; and

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

1. That the applicant is the owner of the property or
   That the applicant is the contract purchaser/lessee.
2. The present zoning is R-20.
3. The area of the lot is 1.25717 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. However, upon conveyance of the parcels to the Winding Brook Homeowners Association, this approval will transfer to the association who may lease the pool to the non-profit Winding Brook Pool Association. The tennis courts may be conveyed to the Winding Brook Homeowners Association and will be available for use by all residents of the Winding Brook subdivision. 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.

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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 no earlier than 9:00 A.M. and no later than 9:00 P.M.

   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.

6. The maximum number of family memberships shall be 492.

7. There shall be twenty-five (25) parking spaces.

8. The tennis courts shall have no artificial lighting. Lighting for the pool and parking lot 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-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 and parking lot areas.

9. Transitional Screening 1 and the barrier requirements shall be modified provided that the following is provided:

   - 3 1/2 foot evergreen plantings are provided along the northern lot line to screen the view of the parking lot from the neighboring residential properties.

   - Along the western lot line on the hill adjacent to the townhouses, there shall be a 10 foot planting strip between the storm sewer pipe and the lot line. Plantings shall be of sufficient size at the time of planting to provide the residents protection from the visual and noise impacts associated with the pool and parking lot operation. A hold harmless agreement shall be executed by the applicant to hold the County harmless for the removal of these plantings should it become necessary and the applicant will replant these plantings at no expense to the County.

   - Transitional Screening 1 shall be provided along the eastern lot line as shown on the plat.

   - Transitional Screening shall be waived along the southern lot line.

   - The barrier requirement may be modified provided the fencing as shown on the plat is provided.

10. The use of loudspeakers shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code.

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.

This motion was seconded by Mr. Ribble and carried unanimously by a vote of 7-0.

Page 217, November 19, 1985, (Tapes 2-3) Scheduled case of:

9:15 P.M. PROVIDENCE BAPTIST CHURCH - SP 85-D-018, application under Section 3-103 of the Zoning Ordinance to permit church and related facilities and child care center, located at 9012 Leesburg Pike on approximately 6.93 acres of land, zoned R-1, Dranesville District, Tax Map 19-4((1))40 & pt 1A, & Tax Map 19-4((4))A1. (DEFERRED FROM 7/23/85, RECONSIDERATION FROM 9/17/85)

Chairman Smith stated that Supervisor Nancy Falck, Dranesville District, requested that the Board of Zoning Appeals defer the public hearing on this application since she had been unavoidably detained and would not be able to be present for the hearing.

Since Supervisor Falck represented the district for this application, Mrs. Day moved that the Board of Zoning Appeals defer the public hearing on Special Permit Application SP 85-D-018; however, this motion died for a lack of a second.

Chairman Smith noted that the Board would proceed with the public hearing; however in view of the request, asked that action on the application be deferred to allow testimony from Supervisor Falck on this application prior to the final decision.

Bill Shoup, Staff Coordinator, located the property and discussed the background of the application as outlined in the Staff Report. Staff reviewed the revisions made by the applicant in this application and recommended approval in accordance with the revised Development Conditions set forth in Attachment 1 of the Staff Report.

It was noted that at the previous hearing on this application, twenty minutes had been allotted for the applicant and Chairman Smith requested that the applicant stay within this time frame.

Grayson Hanes, Attorney for the applicant, explained that Robert Fitzgerald had been detained in an out-of-town trial and had requested that Mr. Hanes represent the applicant in his absence.

Mr. Hanes submitted several exhibits and asked that they be made part of the record: Amended Affidavit listing the firm of Hazel, Beckhorn and Hanes as Co-Counsel for this application; Appraisal Report indicating that there would be no adverse impact financially upon any of the surrounding properties; Traffic Consultants Report; Planning Experts Report showing how this application relates to the criteria set forth in the Zoning Ordinance; Soil Consultants Report showing the soils percolation on the property; copies of the Comprehensive Plan discussing whether or not the Staff had selected out the appropriate section of the text; aerial photograph of the site; perspective of the building shown from a ground view; and resumés from the various experts attached to the exhibits submitted to the Board. In summation, Mr. Hanes briefly described the revisions made to the present application.

On behalf of the applicant, Michael R. Martin, P.E., Director of Transportation Engineering for Patton, Harris, Rust and Associates, outlined the traffic study submitted as part of the record.

As noted previously, twenty minutes had been allotted for speakers and Chairman Smith requested that this time be divided equally and requested that they stay within this time frame.

Chairman Smith asked if there were any persons to speak either for or against this application and the following speakers came forward to speak in opposition: Ernest J. Berger, Representing the Woodside Citizens Association, Incorporated, Springhill Citizens Association and Dogwoods Citizens Association. Mr. Berger requested that all written materials submitted for the previous hearings be entered and made part of the record.

Mrs. Day moved that all written materials, documentary evidence and testimony submitted for the previous hearings on this application be made part of the record for this reconsideration hearing. This motion was seconded by Mr. Hyland and carried unanimously.

Mr. Berger presented a slide presentation outlining the opposition from the three citizens associations he represented. It was shown by petitions obtained from going door-to-door, that there were 349 opposed and 16 in favor of the application which represented 95% of the petitioners signing and a visit to at least 90% of the households. Opposition was based on: the size of the structure (even the scaled-down version submitted by the applicant); the size of the proposed parking lot; the applicant had declined to give the citizens associations a covenant that they would not seek to expand on adjacent property; severe waste disposal problem; and transportation problems on Brook Road, Lewinsville Road and Route 7.

Following the slide presentation, the following speakers came forward to speak in opposition: Jay K. Wright, resident of 1062 Rector Lane; Stephen Hubbard, resident of 1444 Cedar Avenue, Chairperson for the McLean Citizens Association Planning and Zoning Committee; Ann Reedy, resident of 107 West Nelson Avenue, parent of child attending the Montessori School; and Brenda Frank, resident of 1645 Kurpiers Court, representative of the parents of children of the Early Learning Montessori School.

In summary, Mr. Berger asked that all persons from the immediate neighborhoods surrounding the site to stand.

Mr. Hanes asked that all persons in favor of the application to stand. In rebuttal, Mr. Hanes addressed the concerns raised by the citizens and reviewed the revisions made by the applicant.

Chairman Smith asked if Board Members had any questions or if Staff had additional comments and hearing no reply, closed the public hearing.

Chairman Smith reminded the Board of the request to leave the record open for comments from Supervisor Falck.

Mrs. Thonen questioned if the applicant had been meeting with the citizens and asked if the applicant would be willing to meet with the citizens to work out the concerns. Mr. Hanes stated that it was his understanding that both sides had been very cordial and willing to meet and that there had been approximately 7 or 8 meetings conducted. Mr. Berger stated that there had been several meetings with the Woodside, Springhill and Dogwood Citizens Associations: one meeting at his request, one meeting at the request of the Board of Zoning Appeals, and one meeting at the request of the applicant to present the scaled-down version of the application. At all three meetings, the citizens had asked to appear before the Business Session of the Church and were denied this request.

Mrs. Day moved that the Board of Zoning Appeals defer the decision on Special Permit Application SP 85-D-018 to allow an opportunity for Supervisor Falck to comment. This motion was seconded by Mrs. Thonen.

Mr. Hyland asked that the motion be amended to include that an additional study be conducted by the Health Department regarding whether or not, in their opinion, this application, if granted, could be properly served by that site as far as the availability to place adequate septic fields on the location. Mrs. Day accepted this amendment as part of her motion.

Mr. Hammack asked that the motion be amended to include that additional information be provided by the Office of Transportation regarding the capacity of the intersection at Brook and Lewinsville Roads to handle the traffic even with the addition of the third lane that was being proposed. Mrs. Day accepted this amendment as part of her motion.

Chairman Smith restated the motion for clarity purposes: that the public hearing would be recessed until December 17, 1985, at 8:45 P.M. to allow testimony by Supervisor Falck, further that the applicant also be provided with equal time to respond to the comments made - the time not to exceed more than 10 minutes each. It was noted that these would be the only two parties permitted to be heard at that time. Also, additional input from the Health Department and the Office of Transportation as requested by the Board Members.

The question was then called on the motion which carried unanimously.

Mr. Berger questioned if only the applicant would be permitted to speak at the December 17, 1985 hearing and that the citizens associations would not be permitted to speak. Chairman Smith responded that Supervisor Falck would be permitted to comment and the applicant would be permitted to respond to the comments made; further, that the purpose of the deferral was to accommodate Supervisor Falck who was the representative for the citizens of that district.

Page 219, Providence Baptist Church (continued from Page 218)

Chairman Smith asked unanimous consent that the Board of Zoning Appeals would receive for the record any additional written information prior to the date the Board makes its final decision. Without objection, it was so ordered.

Mr. Hyland requested that the Health Department and Office of Transportation reports be made available in written form at the BZA Support Office on December 10, 1985 to any interested parties.

Following Board discussion regarding additional materials which would be forthcoming, Mr. Hyland moved that the citizens also be allotted ten minutes for comments, making the final action: 10-minutes for Supervisor Falck, 10-minutes for the citizens; and 10-minutes for the the applicant. This motion was seconded by Mr. Thonen and carried unanimously.

There being no further business to come before the Board, Mrs. Day moved adjournment at 11:10 P.M. This motion was seconded by Mr. Hyland and carried unanimously.

Viki L. Lester
Viki L. Lester, Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

January 14, 1986
Date Submitted

January 14, 1986
Date Approved

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 26, 1985. The following Board Members were present: Daniel Smith, Chairman; Gerald Hyland; John Ribble; Ann Day; Mary Thonen; and Paul Hammack. (Vice-Chairman DiGiulian was absent for the entire meeting.)

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

PAGE 220, November 26, 1985 (Tape 1) Scheduled case of:

10:00 A.M. DONALD CRAIG MYERS - VC 85-A-069, application under Section 18-401 of the Zoning Ordinance to permit the construction of an open deck 2.3 feet from the side lot line (5 ft. minimum side yard with a total of 19 ft. minimum side yard required by Sections 3-207 & 2-412) and to permit a roofed deck 2.0 ft. from the side lot line, such that the side yard totals 14 ft. (8 ft. minimum, 24 ft. total minimum side yards required by Sections 3-207 & 2-412), located at 9502 Braddock Road on approximately 10,500 square feet, zoned R-2(c), Annandale District, Tax Map Reference 69-3((4))8.

Jane C. Kelsey, Staff Coordinator, presented the Staff Report. Mr. Hammack questioned why this was referred to as a roofed deck when it was actually covered only by a trelis. Ms. Kelsey advised that under the Zoning Ordinance it would not be considered an open structure, therefore, it would be roofed. Craig Myers, the applicant, presented the justification stating that the application met all of the requirements; especially in the fact that it was extremely narrow.

Mr. Hammack made the following motion stating that this application is for what is called a roofed deck under the Zoning Ordinance and that the applicant has satisfied the nine requirements, and especially that the property is extremely narrow.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-A-069 by DONALD CRAIG MYERS under Section 18-401 of the Zoning Ordinance to allow construction of an open deck 2.3 feet from side lot line (5 ft. min. side yard with total 19 ft. min. side yard req. by Sects. 3-207 & 2-412) and a roofed deck 2.0 from side lot line, such that side yards total 14 ft. (8 ft. min., 24 ft. total min. side yards required by Sect. 3-207 & 2-412) on property located at 9502 Braddock Road, tax map reference 69-3((4))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 November 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(C).
3. The area of the lot is approximately 10,500 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically No. 2 that the subject property is exceptionally narrow::

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 all reasonable use 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 (Chairman Smith voting no and Vice-Chairman DiGiulian being absent).

PAGE 221, November 26, 1985 Tape 1 Scheduled case of

10:15 A.M. CHARLES M. & VIRGINIA P. CANON - VC 85-S-076, application under Section 18-401 of the Zoning Ordinance to permit the construction of a deck addition to a dwelling to .02 feet from the rear lot line (5 ft. minimum rear yard required by Section 2-412), located at 10023 Park Woods Lane on approximately 2,883 square feet, zoned PRC, Springfield District, Tax Map Reference 77-4((17))35.

William E. Shoup, Staff Coordinator, presented the Staff Report. Charles & Virginia Canon presented the justification stating that they met all of the requirements for a variance. Mr. Shoup explained that in a PRC District, the structure location is determined at development plan approval stage and at that point the developer would indicate the structure to be approved, which would include decks, garages, etc. In the case of this property an 8x12 ft. deck was approved but the applicant is requesting a larger deck than originally approved.

Lawrence Hagle, 10020 Park Woods Lane, Burke, VA and Joan Carol, 10017 Parks Woods Lane, Burke, VA both advised they were nearby residents and had no objections to the proposed deck and confirmed that many other homes in the subdivision have decks.

PAGE 222, CANON (Continued from Page 221)

Mrs. Thonen made the following motion stating that in her opinion the applicant had satisfied all nine requirements for a variance.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-S-076 by CHARLES M. & VIRGINIA P. CANON under Section 18-401 of the Zoning Ordinance to allow construction of a deck addition to dwelling to .02 ft. from rear lot line (5 ft. min. rear yard req. by Sect. 2-412), on property located at 10023 Park Woods Lane, tax map reference 77-4((17))35, 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 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 PRC.
3. The area of the lot is approximately 2,883 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 (Chairman Smith voting no; Vice-Chairman DiGiulian being absent).

PAGE 223, November 26, 1985 (Tapes 1-2) Scheduled case of

10:30 A.M. JAMES J. & KAREN I. GUDINAS - VC 85-A-078, application under Section 18-401 of the zoning Ordinance to permit the enclosure of a screened porch 11.7 feet from the side lot line (12 ft. minimum side yard required by Sect. 3-307), located at 8629 Blackpool Drive on approximately 11,636 square feet, zoned R-3, Annandale District, Tax Map Reference 70-3((6))80.

Jane C. Kelsey, Staff Coordinator, presented the Staff Report. James Gudinas presented the justification advising that he felt they met all of the nine requirements for a variance, especially 6A.

Mrs. Day made the following motion stating that the porch has existed since 1978 and applicant is only proposing to enclose the existing structure. The adjacent house is over 35 feet away and the applicant is only requesting a .3 ft. variance.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC-85-A-078 by JAMES J. & KAREN I. GUDINAS under Section 18-401 of the Zoning Ordinance to allow enclosure of a screened porch 11.7 feet from side lot line (12 ft. minimum side yard required by Sect. 3-307)
on property located at 8629 Blackpool Drive, tax map reference 70-3((6))80, 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 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-3.
3. The area of the lot is 11,636 sq. ft.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.

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PAGE 224, GUDINAS (Continued from Page 223)

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 all reasonable use 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 0 (Vice-Chairman DiGiulian being absent from the meeting and Mr. Hyland being absent from the public hearing).

PAGE 224, November 26, 1985 (Tape 2) Scheduled case of

10:45 A.M. SOONNAM KELLEY - VC 85-M-079, application under Section 18-401 of the Zoning Ordinance to permit construction of an addition to a dwelling to 10 feet from the side lot line (15 ft. minimum side yard required by Sect. 3-207), located at 6398 Lakeview Drive on approximately 16,300 square feet, zoned R-2, Mason District, Tax Map Reference 61-3((14))141.

Jane C. Kelsey, Staff Coordinator, advised the Board that it was staff's position that the notice requirements had not been met by this applicant. Mrs. Thonen moved to defer the matter until January 14, 1986, at 10:30 A.M. Mr. Ribble seconded the motion. The motion passed by a vote of 5 to 0 (Mr. Hyland and Vice-Chairman DiGiulian being absent from the public hearing.

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11:00 A.M. MR. AND MRS. JOHN NEVES - VC 85-L-101, application under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 6.2 feet from the side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 5735 Buckhaven Court on approximately 8,977 square feet, zoned R-3, Lee District, Tax Map Reference 100-2((2))472.

Jane C. Kelsey presented the Staff Report. John Neves presented the justification stating that he believed he met all of the nine requirements and because of storm sewer easement he had no alternative location.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-L-101 by MR. & MRS. JOHN NEVES under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 6.2 feet from side lot line (12 ft. minimum side yard required by Sect. 3-307) on property located at 5735 Buckhaven Court, tax map reference 100-3((2))472, 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 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-3.
3. The area of the lot is 8,977 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance, specifically 2 D & F; 6 & 8:

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.

PAGE 226, NEVES (Continued from Page 225)

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use 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 (Chairman Smith voting no; Mr. Hyland being absent from this public hearing and Vice-Chairman DiGiulian being absent from the meeting).

PAGE 226, November 26, 1985 (Tape 2) Scheduled case of

11:15 A.M. PETER L. & LINDA M. SUTO - SP 85-D-044, application under Section 8-901 of the Zoning Ordinance to permit modification to the limits on keeping of animals (2 acre minimum area for keeping livestock required by Sect. 2-512), located at 11012 Beach Mill Road on approximately 1.849 acres of land, zoned R-E, Dranesville District, Tax Map 3-3((9))19.

Lu Wright, Assistant to the Zoning Administrator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein. Peter Suto presented the application and explained to the Board that the horses' main feed would be grain, supplemented with hay, not solely grazing. Mr. Suto further explained that he understood some of the concerns of the neighbors and fully intended to correct any violations that existed as well as implement more effective maintenance techniques for pasture rotation, etc.

The Board questioned the appearance of the applicant's property as shown in photographs and Mr. Suto advised that up until now he was financially unable to implement the improvements necessary, but he was now ready and able to do so.

Edmond Dolan, Great Falls Pony Club spoke in support of the application.

Edward Younger, attorney representing the Siersema family with regard to their complaint against the Suto's, spoke in opposition to the application because of run-off (caused by the unusual topography which even causes negotiation problems for the horses), serious fly conditions, and objections to the electric fence.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-D-044 by PETER L. & LINDA M. SUTO under Section 8-901 of the Zoning Ordinance to permit modification to limits on keeping of animals on 1.849 acres (2 acre minimum area for keeping livestock required by Sect. 2-512) on property located at 11012 Beach Mill Road, tax map reference 3-3((9))19, 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 26, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-E.
3. The area of the lot is 1.849 acres approximately.

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 8-901 of the Zoning Ordinance.

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

Mr. Hammack seconded the motion.

The motion passed by a vote of 5 to 0 (Mr. Hyland being absent for this public hearing and Vice-Chairman DiGiulian being absent for the meeting).

The Board recessed for lunch at 12:20 P.M. and reconvened at 1:20 P.M. with all Members being present with the exception of Mr. Hyland and Vice-Chairman DiGiulian.

PAGE 227, November 26, 1985, (Tapes 2-3) Scheduled case of:

11:30 A.M. SECOND HOLLY KNOLL H.O.A. - SP 85-D-046, application under Section 3-103 of the Zoning Ordinance to permit community tennis courts, located at 939 Rolling Holly Drive on approximately 387,778 square feet, zoned R-1(c), Dranesville District and Dranesville Tavern Historic Overlay District, Tax Map Reference 6-3((4))I.

Jane C. Kelsey, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Donald W. Boone, representative for the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and stated that the applicant would agree to all of the Development Conditions; however, had a reservation regarding Condition #9. Mr. Boone discussed that although all of the property was shown as Holly Knoll, the developer had elected to change a portion of the development to the east and that portion was now known as Amber Woods having a separate homeowners association. Since the Second Holly Knoll Homeowners Association had no community interest with Amber Woods, Mr. Boone stated that he did not see any future need for a connector street between Rolling Holly Drive and Redberry Court.

Following discussion regarding the policy of the Board to provide interparcel connections, Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-D-046 by SECOND HOLLY KNOLL HOMEOWNERS ASSOCIATION under Section 3-103 of the Zoning Ordinance to permit community tennis courts on property located at 939 Rolling Holly Drive, tax map reference 6-3((4))I, 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 26, 1985; and

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

1. That the applicant is the owner of the property or
   That the applicant is the contract purchaser/lessee.
2. The present zoning is R-1(C).
3. The area of the lot is 387,778 square feet.

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 1 shall be provided as required by Article 13 of the Zoning Ordinance. A limit of clearing generally as shown on the approved plat shall be provided except that minor deviations shall be permitted where engineering considerations warrant. Existing vegetation shall be used to satisfy the screening requirement and shall be supplemented with additional plantings as determined by the County Arborist at the time of site plan review, to ensure that the planting requirement is satisfied.

6. The Barrier requirement shall be waived.

7. Eight (8) parking spaces shall be provided.

8. Lights for the tennis courts shall not be provided and the courts shall be restricted to daylight use only.

9. The area across the full width of the lot between the northern lot line and the parking lot and tennis courts shall remain undisturbed to accommodate possible future dedication for a connector street between Rolling Holly Drive and Redberry Court.

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 5-0, Vice-Chairman DiGiulian and Mr. Hyland being absent for this hearing.

PAGE 229, November 26, 1985 (Tape 3) Scheduled case of

11:45 A.M. SHILOH BAPTIST CHURCH - SP 85-D-048, application under Section 3-103 of the Zoning Ordinance permit an addition of a sanctuary, social hall and parking facilities to existing church and related facilities, located at 1331 Spring Hill Road on approximately 2.2489 acres of land, zoned R-1, Dranesville District, Tax Map Reference 29-1((1))58 & 58A.

Mr. Hammack moved, at the request of the applicant, that the Board of Zoning Appeals defer the public hearing on Shiloh Baptist Church to a date and time certain of January 14, 1986 at 10:15 a.m. This motion was seconded by Mrs. Thonen and carried by a vote of 5-0, Vice-Chairman DiGiulian and Mr. Hyland being absent for this hearing.

PAGE 229, November 26, 1985 (Tape 3) Scheduled case of

1:00 P.M. KOREAN UNITED METHODIST CHURCH - SPA 82-D-090-1, application under Section 3-203 of the Zoning Ordinance to amend S-82-D-090 for church and related facilities to permit additions to parking lot, located at 1219 Swinks Mill Road on approximately 4.7735 acres of land, zoned R-2, Dranesville District, Tax Map Reference 29-2((1))15.

Jane C. Kelsey, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein with the following amendments:

> Add a third bullet to Condition #6 to read: "supplemental plantings shall be provided to screen the parking lot from the adjacent residences to the east as approved by the County Arborist."
>
> Amend Condition #9 to read: "Dedication of right-of-way to 45 feet from the centerline of Lewinsville Road and 40 feet from the centerline of Swinks Mill Road or the amount necessary to match the widening on the subdivision to the north shall be provided for the entire frontage of the property...."

Yung W. Park, Chairman, Church Building Committee, Representative for the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and stated that the applicant would agree to all of the Development Conditions as amended. He stated that the parking spaces are necessary to try to keep the vehicles off the public street.

Chairman Smith asked if there were any persons to speak either for or against this application and the following speaker came forward: Sandra Gherardi, 7739 Bridle Path Lane, who expressed concern regarding additional screening along the northern portion of the property.

In order to assure that the parking lot would be well-screened, staff recommended that the third bullet of Condition #6 be amended to read: "supplemental plantings shall be provided to screen the parking lot from the adjacent residences to the east and north as approved by the County Arborist." The applicant accepted the amendment.

Chairman Smith asked if there were any further persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to making the motion, Mrs. Day stated that since there is a necessity for the additional fifty-four parking spaces she would move approval of this application subject to the Development Conditions as amended by staff.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 82-D-090-1 by KOREAN UNITED METHODIST CHURCH under Section 3-203 of the Zoning Ordinance to amend S-82-D-090 for church and related facilities to permit additions to the parking lot on church property located at 1219 Swinks Mill Road, tax map reference 29-2((1))15, County of Fairfax, Virginia, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 26, 1985; and

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

1. That the applicant is the owner of the property or
   That the applicant is the contract purchaser/lessee.
2. The present zoning is R-2.
3. The area of the lot is 4.7735 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 180, with a corresponding minimum of 53 parking spaces. The maximum number of parking spaces shall be 107.

6. The Transitional Screening 1 requirement shall be modified along all lot lines provided that the existing vegetation is retained and that the following be provided:

   - evergreen trees shall be planted between the existing parking lot and Lewinsville Road and

   - the proposed parking lot shall be shifted from Lewinsville Road so as to provide Transitional Screening 1.

   - supplemental plantings shall be provided to screen the parking lot from the adjacent residences to the east and north as approved by the County Arborist.

7. The parking lot shall be built and delineated in conformance with the Public Facilities Manual to the satisfaction of the Director, Department of Environmental Management (DEM). Interior parking lot landscaping shall be provided and maintained as shown on the plat and in accordance with 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. Dedication of right-of-way to 45 feet from the centerline of Lewinsville Road and 40 feet from the centerline of Swinks Mill Road or the amount necessary to match the widening on the subdivision to the north shall be provided for the entire frontage of the property. Temporary grading and construction easements for possible future widening of Lewinsville and Swinks Mill Roads shall be provided to the satisfaction of the Director, DEM.

10. The right turn lane into the site's entrance on Swinks Mill Road shall be striped in accordance with VDH&T standards. Sight distance shall be provided and maintained to the north of the site's entrance on Swinks Mill Road.

11. The barn on the site shall be used for storage only.

12. In accordance with Article 17 and the Countywide Trails Plan, a trail shall be provided along Swinks Mill Road.

13. Signs shall be permitted in accordance with the provisions of 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.

Mr. Hammack seconded the motion.

The motion passed by a vote of 5-0, Vice-Chairman DiGiulian and Mr. Hyland being absent for this hearing.

PAGE 231, November 26, 1985 (Tape 3) Scheduled case of

1:15 P.M. CHONG BUM LEE (YI) - VC 85-V-049, application under Section 18-401 of the Zoning Ordinance to permit construction of building to 1.0 ft. from street line of a corner lot (40 ft. min. front yard required by Sect. 4-807) and to permit 6 ft. high fence to remain in front yard (4 ft. max hgt. for fence in front yard as limited by Sect. 10-104), located at 2715 Huntington Ave. on approximately 27,221 sq. ft., zoned C-8, Mt. Vernon District, Tax Map Reference 83-1((1))36. (To be scheduled concurrent with SEA 81-V-001-2) (DEFERRED FROM 10/22/85)

Jane C. Kelsey, Staff Coordinator, stated that staff has been working with the applicant to resolve the issues regarding the application. When the Board deferred the public hearing on October 22, 1985 it was with the provision that a decision would be made on today's date regarding the six foot fence currently in violation. Staff had advised the applicant of this provision; however, had neglected to send out the proper notifications. The applicant has further requested a deferral and has submitted an amended application with new plats and statements for a smaller building to be eighteen feet from the lot line versus the one foot in the original application. In addition, the applicant had withdrawn the fence portion of the application. Staff stated that with regard to the fence issue, the Zoning Enforcement Branch would be notified to ensure that the fence would either be removed or brought down to four feet.

Mrs. Thonen moved that the Board of Zoning Appeals defer the public hearing on Chong Bum Lee (Yi) to a date and time certain of February 11, 1986 at 10:00 a.m. This motion was seconded by Mr. Hammack and carried by a vote of 5-0, Vice-Chairman DiGiulian and Mr. Hyland being absent for this hearing.

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PAGE 232, November 26, 1985 (Tape 3) Scheduled case of

1:30 P.M. GOOD SHEPHERD LUTHERAN SCHOOL - SP 85-C-040, application under Section 6-303 of the Zoning Ordinance to permit a nursery school, located at 1516 Moorings Dr. on approximately 2.1804 acres, zoned PRC, Centreville District, Tax Map 17-2((23))1. (DEFERRED FROM 10/22/85)

Jane C. Kelsey, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Arthur Shipe, Trustee for the Good Shepherd Lutheran School, introduced Joy Mallonee, Director of the School, who stated that the Staff Report adequately covered the applicants request and agreed with all of the staff's recommended conditions.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-C-040 by GOOD SHEPHERD LUTHERAN SCHOOL under Section 6-303 of the Zoning Ordinance to permit a nursery school on property located at 1516 Moorings Drive, tax map reference 17-2((23))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 November 26, 1985; and

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

1. That the applicant is the owner of the property or
   That the applicant is the contract purchaser/lessee.
2. The present zoning is PRC.
3. The area of the lot is 2.1804 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, 8-303 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. There shall be a maximum daily enrollment of ninety (90) children.

6. The maximum hours of operation shall be from 9:00 A.M. to 3:30 P.M.

7. Transitional Screening and barrier shall be as shown on the approved site plan for the church except that the play area shall be allowed as shown on the plat submitted with this application.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining 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, Vice-Chairman DiGiulian and Mr. Hyland being absent for this hearing.

PAGE 233, November 26, 1985 (Tapes 3-4) Scheduled case of

1:45 P.M. YVES FEDRIGAULT - VC 85-V-062, application under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 2.1 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 8917 Mangum Place on approximately 14,152 square feet, zoned R-3, Mount Vernon District, Tax Map 111-1((3))(3)28. (DEFERRED FROM 10/29/85)

Jane C. Kelsey, Staff Coordinator, presented the Staff Report and outlined that this application had been deferred for readvertising because the applicant wished to enlarge the carport addition to 22 feet by 25 feet in order to accommodate his automobile.

Yves Fedrigault, the applicant, stated that the garage addition would be an improvement to the area and submitted letters in support of this application from the surrounding properties.

Mr. Hammack questioned what type of automobiles were maintained and if the applicant could reduce the width of the addition to 20 feet. Mr. Fedrigault responded that he owned a sportscar and a Zimmer which was an extremely long car.

Mrs. Thonen asked the applicant to clarify his hardship case and Mr. Fedrigault responded that the Zimmer was approximately 20 feet, 9 inches in length and the only automobile that could be housed in the carport presently was the sportscar and felt that his application met all of the standards under Section 18-404 of the Zoning Ordinance.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to making the motion, Mrs. Thonen stated that she felt the applicant had met all of the required standards for variances, in particular, Conditions #1, 2B, 3, 4, 5, 6, 7, 8 and 9, and that she would move approval, in part, of the application to permit the construction of a 21 ft. X 25 ft. garage addition making the variance 3.1 feet from the side lot line.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-V-062 by YVES FEDRIGAULT under Section 18-401 of the Zoning Ordinance to permit construction of a garage addition to dwelling to *2.1 feet* from side lot line on property located at 8917 Mangum Place, tax map reference 111-1((3))(3)28, 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 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-3.
3. The area of the lot is 14,152 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use of the land and/or buildings involved.

PAGE 235, FEDRIGAULT (Continued from Page 234)

NOW, THEREFORE, BE IT RESOLVED that the subject application is ***GRANTED IN PART*** (to allow the construction of a 21 ft. X 25 ft. garage addition (3.1 feet from side lot line) with the following limitations:

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

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time 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 4-1, Chairman Smith voting Nay, Vice-Chairman DiGiulian and Mr. Hyland being absent for this hearing.

PAGE 235, November 26, 1985 (Tape 4) After Agenda Item 1.

Additional Time Request, Variance Application V-70-79, Road Aggregates, Incorporated, 4412 Upland Drive, Tax Map Reference 82-1((4))31B.

Mrs. Day moved that the Board of Zoning Appeals grant the additional time request for Variance Application V-70-79, Road Aggregates, Incorporated, to allow recordation of a subdivision until November 15, 1986. This motion was seconded by Mr. Hammack and carried by a vote of 5-0, Vice-Chairman DiGiulian and Mr. Hyland being absent for this hearing.

PAGE 235, November 26, 1985 (Tape 4) After Agenda Item 2.

Out-of-Turn Hearing Request, Variance Application VC 85-A-113, Evelyn Davis Burgay.

Mr. Hammack moved that the Board of Zoning Appeals grant the Out-of-Turn Hearing Request for Variance Application VC 85-A-113, Evelyn Davis Burgay, to February 11, 1986. This motion was seconded by Mrs. Thonen and carried by a vote of 4-1, Chairman Smith voting Nay, Vice-Chairman DiGiulian and Mr. Hyland being absent for this hearing.

There being no further business to come before the Board, Mrs. Thonen moved adjournment at 2:40 P.M. This motion was seconded by Mr. Hammack and carried by a vote of 5-0, Vice-Chairman DiGiulian and Mr. Hyland being absent for this hearing.

Viki L. Lester
Viki L. Lester, Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

C McClaugherty (Lester)
Christine McClaugherty, Deputy Clerk
Board of Zoning Appeals

January 14, 1986
Date Submitted

January 14, 1986
Date Approved

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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, December 3, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John F. Ribble, III; Ann Day; Mary Thonen; and Paul Hammack. (Gerald Hyland arrived at 11:35 p.m.)

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

Page 236, December 3, 1985, (Tape 1) Scheduled case of:

10:00 A.M. OPTICAL & ELECTRONIC RESEARCH, INC. - VC 85-C-100, application under Section 18-401 of the Zoning Ordinance to permit construction of a building to 25 feet from one front lot line and to 10 feet from the other front lot line on this corner lot (40 ft. minimum front yard required by Sect. 5-407), located at 11501 Sunset Hills Road on approximately 73,206 square feet, zoned I-4, Centreville District, Tax Map 17-4((13))1. (OUT-OF-TURN HEARING GRANTED 10-22-85.)

At the request of the applicant, Mr. Hammack moved that the Board of Zoning Appeals defer the public hearing on Optical and Electronic Research, Incorporated, to a date and time certain of December 10, 1985 at 1:15 p.m. This motion was seconded by Mrs. Thonen and carried by a vote of 6-0, Mr. Hyland being absent for this hearing.

Page 236, December 3, 1985, (Tape 1) Scheduled case of:

10:15 A.M. JOHN J. RYAN, JR. - VC 85-M-074, application under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12 feet from side lot line (15 ft. minimum side yard required by Sect. 3-207), located at 6528 Oakwood Drive on approximately 13,400 square feet, zoned R-2, Mason District, Tax Map 60-4((12))291.

Marcia Silverfarb, Staff Coordinator, presented the Staff Report.

John J. Ryan, Jr., the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Mr. Hammack questioned if the addition would be constructed from the same material as the present dwelling and Mr. Ryan responded that the same brick would be used.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mr. Hammack stated that he felt the applicant had met all of the required standards for variances, in particular, Paragraph #2A, Exceptional narrowness at the time of the effective date of the Ordinance, and that he would move approval of the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-M-074 by JOHN J. RYAN, JR., under Section 18-401 of the Zoning Ordinance to permit construction of an addition to dwelling to 12 feet from side lot line on property located at 6528 Oakwood Drive, Tax Map Reference 60-4((12))291, 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 3, 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 13,400 square feet.

4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 carried by a vote of 6-0, Mr. Hyland being absent for this hearing.

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Page 238, December 3, 1985, (Tape 1) Scheduled case of:

10:30 A.M. FRANCIS X. & WALTRAUT D. NELSON - VC 85-M-080, application under Section 18-401 of the Zoning Ordinance to permit construction of car shelter and tool shed addition to dwelling to 5.2 feet from side lot line (15 ft. minimum side yard required by Sect. 3-207), located at 6315 Beachway Drive on approximately 17,800 square feet, zoned R-2, Mason District, Tax Map 61-1((11))1025-A1.

Marcia Silverfarb, Staff Coordinator, presented the Staff Report.

Waltraut D. Nelson, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff. Ms. Nelson submitted a letter from the adjacent property owner in support of this application.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mrs. Thonen stated that she felt that the applicant had justified all of the required standards for variances, in particular, Paragraphs #2A, 2B, 3, 4, 8, and 9, and that she would move approval of this application subject to the Development Conditions as amended by staff.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-M-080 by FRANCIS X. AND WALTRAUT D. NELSON, under Section 18-401 of the Zoning Ordinance to permit construction of a car shelter and tool shed addition to dwelling to 5.2 feet from side lot line on property located at 6315 Beachway Drive, Tax Map Reference 61-1((11))1025-A1, 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 3, 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 17,800 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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.

Vice-Chairman DiGiulian seconded the motion.

The motion carried by a vote of 5-1, Chairman Smith voting Nay and Mr. Hyland being absent for this hearing.

Page 239, December 3, 1985, (Tape 1) Scheduled case of:

10:45 A.M. CHARLES C. WHALEN - VC 85-D-081, application under Section 18-401 of the Zoning Ordinance to permit the construction of garage addition to dwelling to 6.1 feet from side lot line (15 ft. minimum side yard required by Sect. 3-207), located at 1805 Franklin Avenue on approximately 10,179 square feet, zoned R-2, Dranesville District, Tax Map 41-1((11))17.

Marcia Silverfarb, Staff Coordinator, presented the Staff Report.

Charles C. Whalen, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Vice-Chairman DiGiulian stated that he felt the applicant had met all of the required standards for variances, in particular, Paragraphs #2A, 2D, and 2F, and that he would move approval of the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-D-081 by CHARLES C. WHALEN, under Section 18-401 of the Zoning Ordinance to permit construction of a garage addition to dwelling to 6.1 feet from side

Page 240, December 3, 1985, Whalen (Continued from Page 239)

lot line on property located at 1805 Franklin Avenue, Tax Map Reference 41-1((11))17, Vice-Chairman 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 3, 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 10,179 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 carried by a vote of 6-0, Mr. Hyland being absent for this hearing.

Page 241, December 3, 1985, (Tapes 1-2) Scheduled case of:

11:00 A.M. MICHAEL K. & DEBORAH S. HUGHES - VC 85-A-083, application under Section 18-401 of the Zoning Ordinance to permit subdivision into two lots, one of which would have a width of 10.37 feet and the other a width of 107.95 feet (150 ft. minimum lot width required by Sect. 3-106), located at 10304 Zion Drive on approximately 2.0 acres of land/87,121 square feet, zoned R-1, Annandale District, Tax Map 68-4((1))30.

Marcia Silverfarb, Staff Coordinator, presented the Staff Report.

Michael K. and Deborah Spence Hughes, the applicants, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Following discussion with the applicant regarding the Transportation Analysis, i.e., potential sight distance problems and access on the site, Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Vice-Chairman DiGiulian stated that he felt the applicant had met all of the required standards for variances, in particular, Paragraph #2A, Exceptional narrowness at the time of the effective date of the Ordinance, and that he would move approval of the application with the deletion of Condition Number Four.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-A-083 by MICHAEL K. AND DEBORAH S. HUGHES, under Section 18-401 of the Zoning Ordinance to permit the subdivision into two lots, one of which would have a width of 10.37 feet and the other a width of 107.95 on property located at 10304 Zion Drive, Tax Map Reference 68-4((1))30, Vice-Chairman 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 3, 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 87,121 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

Page 242, December 3, 1985, Hughes (Continued from Page 241)

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 all reasonable use 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.

Mrs. Day seconded the motion.

The motion carried by a vote of 5-1, Chairman Smith voting Nay and Mr. Hyland being absent for this hearing.

Page 242, December 3, 1985, (Tape 2) Scheduled case of:

11:15 A.M. WALTER H. PETRIE - VC 85-P-085, application under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 9.8 feet from side lot line (20 ft. minimum side yard required by Sect. 3-107), located at 2837 Hill Road on approximately 24,623 square feet, zoned R-1, Providence District, Tax Map 47-2((3))500.

Marcia Silverfarb, Staff Coordinator, presented the Staff Report.

Walter H. Petrie, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mr. Ribble stated that he felt the applicant had met all of the required standards for variances, in particular, Paragraph #2F, Extraordinary situation or condition of the subject property.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-P-085 by WALTER H. PETRIE, under Section 18-401 of the Zoning Ordinance to permit construction of a garage addition to dwelling to 9.8 feet from side lot line on property located at 2837 Hill Road, Tax Map Reference 47-2((3))500, 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 3, 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 24,623 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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.

Page 244, December 3, 1985, Petrie (Continued from Page 243)

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

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

Vice-Chairman DiGiulian seconded the motion.

The motion carried by a vote of 6-1, Chairman Smith voting Nay.

Page 244, December 3, 1985, (Tape 2) Scheduled case of:

11:30 A.M. PAUL H. KUTSCHENREUTER - VC 85-D-086, application under Section 18-401 of the Zoning Ordinance to permit construction of garage and unroofed deck addition to dwelling to 5.83 feet from side lot line (10 ft. minimum side yard required by Sect. 3-407), located at 2028 Dexter Drive on approximately 8,625 square feet, zoned R-4, Dranesville District, Tax Map Reference 40-1((20))41.

Marcia Silverfarb, Staff Coordinator, presented the Staff Report.

Paul D. Kutschenreuter, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mr. Ryland stated that he felt the applicant had met all of the required standards for variances, in particular, Paragraph #2E, Exceptional topographical conditions.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. VC 85-D-086 by PAUL D. KUTSCHENREUTER, under Section 18-401 of the Zoning Ordinance to permit construction of a garage and unroofed deck addition to dwelling to 5.83 feet from side lot line on property located at 2028 Dexter Drive, Tax Map Reference 40-1((20))41, Mr. Ryland moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 3, 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 8,625 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 carried by a vote of 6-1, Chairman Smith voting Nay.

11:45 A.M. ALBERT G. VAN METRE d/b/a MT. VERNON HEALTH AND RACQUET CLUB, INC. - SPA 80-L-085-1, application under Section 4-803 of the Zoning Ordinance to amend S-80-L-080 for commercial tennis courts and similar courts to add health club facilities and change the name of permittee, located at 7952 Audubon Avenue on approximately 128,066 square feet, zoned C-8, Lee District, Tax Map 101-2((1))14.

Bill Shoup, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Carson Lee Fifer, Jr., Boothe, Prichard and Dudley, attorney representing the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mrs. Day stated that would move approval of the application since the modifications being made to the application were all interior changes with no exterior changes to the property, and that she felt the applicant had presented testimony indicating compliance with the general standards for special permit uses and any additional standards for this use as contained in Sections 8-006 and 8-503.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SPA 80-L-085-1 by ALBERT VAN METRE d/b/a MOUNT VERNON HEALTH AND RACQUET CLUB under Section 4-803 of the Zoning Ordinance to amend S-80-L-080 for commercial tennis courts and similar courts to add health club facilities and change the name of the permittee on property located at 7952 Audubon Avenue, Tax Map 101-2((1))14, 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 3, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is C-8.
3. The area of the lot is 128,066 square feet.

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 8-503 of the Zoning Ordinance.

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

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

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. A total of 61 parking spaces shall be provided in accordance with Public Facilities Manual standards, generally as shown on the approved plat. Handicapped spaces shall be provided as determined by the Director, Department of Environmental Management (DEM).

6. The maximum number of employees on site at any one time shall not exceed eight (8).

7. Transitional screening shall be modified where no new site alterations are proposed to allow existing vegetation and fencing to be used to satisfy the requirement.

8. The new parking area north of the building shall be located at least twenty-five feet from the eastern lot line. The transitional screening planting requirement may be modified provided solid wood fencing is installed to screen the view of the parking area and mature trees are retained where possible as determined by the County Arborist.

9. The hours of operation shall be 6:00 A.M. to 12:00 midnight, seven (7) days a week.

10. If parking lot lights are provided, 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-intensity design which directs the light directly onto the facility.
    - Shields shall be installed, if necessary, to prevent the light from projecting beyond the parking lot area.

11. On site trash collection shall be provided in such a manner that will allow proper turnaround capability so trash trucks do not have to back onto Audubon Avenue.

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.

Vice-Chairman DiGiulian seconded the motion.

The motion carried unanimously by a vote of 7-0.

At 12:05 p.m., the Board of Zoning Appeals recessed for lunch and reconvened at 1:25 p.m. with all Members being present, and with Chairman Smith presiding.

Page 248, December 3, 1985, (Tapes 2-3) Scheduled case of:

1:00 P.M. THE MILTON COMPANY - SP 85-P-039, application under Section 3-2003 of the Zoning Ordinance to permit a community swimming pool, located at 4030 Townwood Drive on approximately .39473 acres of land, zoned R-20, Providence District, Tax Map 45-2((5))B.

AND

1:15 P.M. THE MILTON COMPANY - VC 85-P-064, application under Section 18-401 of the Zoning Ordinance to permit a community swimming pool with bathhouse 13 feet from front lot line (20 ft. minimum front yard required by Sect. 3-2007); and 6 foot high fence partially in front yard (4 ft. max. height for fence in front yard as limited by Sect. 10-104.), located at 4030 Townwood Drive on approximately .39473 acres of land, zoned R-20, Providence District, Tax Map 45-2((5))B.

At the request of the applicant, Vice-Chairman DiGiulian moved that the Board of Zoning Appeals defer the public hearing on The Milton Company, SP 85-P-039 and VC 85-P-064, to a date and time certain of February 11, 1986 at 10:15 a.m. This motion was seconded by Mr. Hyland and carried by a vote of 6-0, Mr. Ribble being out of the room.

Page 248, December 3, 1985, (Tape 3) Scheduled case of:

1:30 P.M. VIRGINIA KOREAN BAPTIST CHURCH - SP 85-C-052, application under Sections 3-103 & 8-901 of the Zoning Ordinance to permit a church and related facilities and modification of the dustless surface requirement, located 2965 West Ox Road on approximately 9.9136 acres of land, zoned R-1, Centreville District, Tax Map Reference 35-2((1))5.

Marcia Silverfarb, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Mr. Hyland questioned if the request for a trail was a requirement and not optional, and staff responded that this was correct.

John F. Schiller, Site Engineer, Schiller and Associates, representing the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Following discussion regarding the right turn deceleration lane and obtaining the necessary easements for same, Chairman Smith asked if there were any persons to speak either for or against this application and the following speaker came forward.

Damon M. Torregrossa, 12814 Awbrey Court, owner and resident of Lot 41, questioned if the proposed parking area would be lighted since Condition Number Thirteen stated "if installed". Mr. Schiller clarified that parking lot lighting would be installed.

Chairman Smith asked if there were any other persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mr. Hammack stated that he felt the applicant had presented testimony indicating compliance with the general standards for special permit uses and any additional standards for this use, and that he would move approval with the following modifications:

Condition #10:

The right turn deceleration lane to enter site shall be extended to provide sufficient length in conformance with VDH&T standards provided further if the applicant is unable to obtain the necessary easement from the adjacent property owner that the deceleration lane shall extend from the entrance to the proposed facility as shown on the site plan to the property line.

Condition #13:

Parking lot lights shall not exceed ten feet in height and shall be shielded to prevent glare to adjacent properties.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Application No. SP 85-C-052 by VIRGINIA KOREAN BAPTIST CHURCH under Sections 3-103 and 8-901 of the Zoning Ordinance to permit a church and related facilities and modification of the dustless surface requirement on property located at 2965 West Ox Road, tax map reference 35-2((1))5, 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 3, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-1.
3. The area of the lot is 9.9136 acres of land.

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, 8-303, 8-903 and 8-915 of the Zoning Ordinance.

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

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

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. A trail shall be provided on West Ox Road in conformance with Article 17 and the County Trail Plan.

6. A waiver of the dustless surface requirement for the parking lot shall be permitted where indicated on the approved plat, and such approval shall be valid for a period of five (5) years.

7. The entrance, circular driveway, and handicapped parking spaces shall be paved with a dustless surface as indicated on the approved plat.

8. All gravel surface areas and the required paved areas shall be maintained in good condition at all times in accordance with standards approved by the Director, Department of Environmental Management.

9. The maximum seating capacity shall be 200 and there shall be a minimum of 50 parking spaces and a maximum of 152 spaces provided.

10. The right turn deceleration lane to enter site shall be extended to provide sufficient length in conformance with VDH&T standards provided further if the applicant is unable to obtain the necessary easement from the adjacent property owner that the deceleration lane shall extend from the entrance to the proposed facility as shown on the site plan to the property line.

11. The acceleration lane from the site to enter traffic flow on West Ox Road shall be provided in conformance with VDH&T standards.

12. Transitional Screening 1 shall be provided along all lot lines with an additional 10 foot screening strip on the southeast at the lot line adjacent to the developed subdivision. The barrier requirement may be waived.

13. Parking lot lights shall not exceed ten feet in height and shall be shielded to prevent glare to adjacent properties.

14. This approval shall not be considered to be an approval of the "future addition" that is represented on the approved plat.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has 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.

Vice-Chairman DiGiulian seconded the motion.

The motion carried unanimously by a vote of 7-0.

Page 250, December 3, 1985, (Tape 3) Scheduled case of:

1:45 P.M. REALITY GOSPEL CHURCH - SPA 79-L-269-1, application under Sections 3-103 and 3-203 of the Zoning Ordinance to amend S-269-79 for a church and related facilities to permit additional land area, new sanctuary and additional parking spaces to existing facilities, located 5937 Franconia Road on approximately 7.32 acres of land, zoned R-1 and R-2, Lee District, Tax Map Reference 81-4((3))1, 1A, 1B, 2, 2A, 2B & 3 (DEFERRED FROM 6/13/85, 7/16/85, 9/17/85 & 11/19/85)

Chairman Smith questioned if the applicant had time to review the additional information that would be presented by staff.

Richard W. Hausler, Hazel, Beckhorn and Hanes, attorney for the applicant, responded that the applicant had not yet reviewed the additional information; however, if the staff needed a short deferral in order to make a definitive recommendation, that the applicant would agree to this.

Marilyn Anderson, Staff Coordinator, stated that the Office of Transportation had just been forwarded the approved functional plans from VDH&T; therefore, based on this, staff was requesting a deferral until January 21, 1986, to allow time for review of these plans.

Mrs. Thonen moved that the Board of Zoning Appeals defer the public hearing on Reality Gospel Church, SPA 79-L-269-1, to a date and time certain of January 21, 1986 at 8:30 p.m; further, that a time limit be set at thirty minutes (10-opposition, 10-support, and 10-Rebuttal) for this application. This motion was seconded by Mr. Hammack.

Mr. Hammack asked that the motion include that the report submitted by the Office of Transportation, regarding the intersection of Van Dorn Street and Franconia Road, be made available in written form for interested persons on Monday, January 13, 1986 in Board of Zoning Appeals Support Branch. This was accepted by the Maker of the motion.

Page 251, December 3, 1985, Reality Gospel Church (Continued from Page 250)

Reverend Peyton responded to questions by Board Members regarding the entrance at Kathmore Street and violations concerning the screening requirements.

Mrs. Thonen further asked that ten copies of the report also be made available at the Franconia Governmental Center on Tuesday, January 14, 1986.

The question was called on the motion, as amended, which carried unanimously by a vote of 7-0.

Page 251, December 3, 1985, (Tape 3) After Agenda Item, Action #1:

CONGREGATION BETH EMETH - SPA 84-C-008-1.

Vice-Chairman DiGiulian moved that the Board of Zoning Appeals deny the out-of-turn hearing request for Congregation Beth Emeth, Special Permit Amendment Application SPA 84-C-008-1. This motion was seconded by Mr. Hammack and carried by a vote of 5-0, Mr. Ribble and Mrs. Thonen being absent for this Board item.

Page 251, December 3, 1985, (Tape 3) After Agenda Item, Action #2:

FIRST VIRGINIA BANK - VC 84-A-077.

Vice-Chairman DiGiulian moved that the Board of Zoning Appeals grant the request for additional time for the First Virginia Bank, Variance Application VC 84-A-077, located at 5336 Sideburn Road, until July 31, 1986. This motion was seconded by Mr. Hammack and carried by a vote of 5-0, Mr. Ribble and Mrs. Thonen being absent for this Board item.

Page 251, December 3, 1985, (Tape 3) After Agenda Item, Action #3:

APPROVAL OF BZA MINUTES, 10/29/85.

Mrs. Day moved that the Board of Zoning Appeals approve the Minutes of October 29, 1985, as presented. This motion was seconded by Vice-Chairman DiGiulian and carried by a vote of 5-0, Mr. Ribble and Mrs. Thonen being absent for this Board item.

There being no further business, the Board adjourned at 2:30 p.m.

Viki L. Lester, Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

March 4, 1986
Date Submitted

3/4/86
Date Approved

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 10, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Gerald Hyland; and Mary Thonen. (John F. Ribble, III, arrived at 10:40 a.m. and Paul Hammack arrived at 2:40 p.m.)

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

Page 252, December 10, 1985, (Tape 1) Scheduled case of:

10:00 A.M. CLYDE L. & ELAINE B. MORRIS - VC 85-A-077, application under Section 18-401 of the Zoning Ordinance to permit an addition to existing attached garage to 5.2 feet from side lot line (15 ft. minimum side yard required by Sect. 3-207), located at 9120 Saranac Court on approximately 15,091 square feet, zoned R-2, Annandale District, Tax Map 69-2((6))15.

Jane Kelsey, Staff Coordinator, presented the Staff Report.

Clyde L. Morris, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mrs. Thonen stated that she felt the applicant had met all of the required standards for variances, in particular, Paragraphs #1, 2B, 2E, 3, 4, 5, 6A, 6B, 7, 8 and 9, and that she would move approval of the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-A-077 by ELAINE B. AND CLYDE L. MORRIS, under Section 18-401 of the Zoning Ordinance to permit an addition to an existing attached garage to 5.2 feet from the side lot line on property located at 9120 Saranac Court, Tax Map Reference 69-2((6))15, 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 10, 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 15,091 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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.

Vice-Chairman DiGiulian seconded the motion.

The motion carried by a vote of 4-1, Chairman Smith voting Nay, Mr. Hammack and Mr. Ribble being absent from this hearing.

Page 253, December 10, 1985, (Tape 1) Scheduled case of:

10:15 A.M. PETER G. NORDLIE AND NORMA MAE NORDLIE - VC 85-C-082, application under Section 18-401 of the Zoning Ordinance to permit subdivision into five lots, proposed Lot 4 having width of 12 feet (150 ft. minimum lot width required by Sect. 3-106), located at 1870 Hunter Mill Road on approximately 6.740 acres of land, zoned R-1, Centreville District, Tax Map 27-2((1))15.

Jane Kelsey, Staff Coordinator, presented the Staff Report.

Peter G. Nordlie, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and stated that this application was essentially the same application which the Board approved on September 13, 1983, with the exception that there was more land dedicated as right-of-way on Hunter Mill Road and a larger cul-de-sac than was in the original application.

Mrs. Day stated that she felt that the design on Lot 4 was unnecessary and a bad use of the site, that it would be more desirable to incorporate this lot with Lot 3 to avoid an extension off of the cul-de-sac and Mr. Nordlie responded that an inspection of the site would prove that Lot 4 was the most desirable lot on the property; further, that the costs of developing those lots was already too high and to allocate for only three lots would make the project impossible.

Vice-Chairman DiGiulian asked the applicant to comment on Conditions Four and Five as listed in the Staff Report and Mr. Nordlie responded that he could not agree to Condition Four if it would mean that he would have to bear the expense of modifying the intersection of Silk Oak Road and Hunter Mill Road.

Mrs. Thonen questioned placing this type of burden for off-site improvements on an applicant developing only five lots versus a larger development and staff responded that after an evaluation of the site, it had been determined that the safety considerations were paramount.

Discussion followed between the Board Members and the applicant regarding the application approval in 1983 and whether or not it would be unreasonable for the Board to place conditions on the current application requiring those road improvements in view of the type of subdivision proposed. Since the applicant was requesting an additional lot, staff stated that it was the Office of Transportation's position that it would not be fair to the motoring public and to the residents who would use those roads not to impose conditions to ensure safe access.

Vice-Chairman DiGiulian asked for clarification of Condition Five and staff responded that since two of the lots have not yet been developed, the Office of Transportation felt the need for a provision that would allow joint access between those lots to Silk Wood Drive instead of providing access to Hunter Mill Road.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Vice-Chairman DiGiulian stated that he felt the applicant had met all of the required standards for variances, in particular, Paragraph #2A, Exceptional Narrowness, and that he would move approval of the application with the deletion of Conditions Four and Five.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-C-082 by PETER G. AND NORMA MAE NORDLIE, under Section 18-401 of the Zoning Ordinance to permit subdivision into five lots, proposed Lot 4 having the width of 12 feet on property located at 1870 Hunter Mill Road, Tax Map Reference 27-2((1))15, Vice-Chairman 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 10, 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 6.74 acres of land.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 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 the property shall be in accordance with the proffered conditions approved in conjunction with RZ 82-C-020.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-2, Chairman Smith and Mrs. Day voting Nay, and Mr. Hammack being absent from this hearing.

Page 255, December 10, 1985, (Tapes 1-2) Scheduled case of:

10:30 A.M. LEO J. & TINA G. ROSENTHAL - VC 85-D-084, application under Section 18-401 of the Zoning Ordinance to permit construction of family room and screened porch additions to dwelling to 15.7 feet from side lot line (20 ft. minimum side yard required by Sect. 3-107), located at 7008 Arbor Lane on approximately 30,890 square feet, zoned R-1, Dranesville District, Tax Map 21-4((11))45.

Jane Kelsey, Staff Coordinator, presented the Staff Report and stated that the applicants had requested a variance of the minimum side yard requirements in order to construct a screened porch and family room addition. It was noted that although the language "and family room addition" had been omitted it had been correctly advertised since "screened porch" meets the definition of an enclosed structure. Today however, staff stated that the applicants were requesting a modification of the original request to reduce the size of the addition for a total of thirty-two feet (32') and further instead of requesting a family room addition and screened porch, were now requesting only an addition leaving the screened porch area opened. This modification was done to satisfy the concerns of an adjacent property owner.

Tina G. Rosenthal, the applicant, along with the help of Richard Crist, friend of the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and the following speaker came forward: Diane M. Hutson-Wiley, contiguous property owner of 7004 Arbor Lane, McLean, who explained that she would be most affected property owner by the proposed variance application. Ms. Hutson-Wiley expressed concerns that no windows be placed on the addition that would directly face her home, the removal of shrubs and trees from the immediate adjacent property line, and noise abatement.

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Following discussion between Board Members and staff on the concerns of Ms. Hutson-Wiley, Chairman Smith asked if there were further persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mrs. Day stated that she felt the applicant had justified the variance request in accordance with the required standards for variances, in particular, that additional living space was needed where the total family could be together at one time, that the property had a drainage easement on the left side and a storm easement on the rear of the property making it so that the addition could not be constructed in either of those two places, and for those reasons stated, she would move approval of the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-D-084 by TINA G. AND LEO J. ROSENTHAL, under Section 18-401 of the Zoning Ordinance to permit the construction of a family room to dwelling to 15.7 feet from side lot line on property located at 7008 Arbor Lane, Tax Map Reference 21-4((11))45, 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 10, 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 30,890 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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.

Vice-Chairman DiGiulian seconded the motion.

The motion carried by a vote of 5-1, Chairman Smith voting Nay, Mr. Hammack and Mr. Ribble being absent from this hearing.

Chairman Smith stated that the applicant must submit a new plat showing the modifications of the application as proposed at the hearing for his signature.

Page 257, December 10, 1985, (Tapes 2-3) Scheduled case of:

10:45 A.M. IFS VIRGINIA, INC. D/B/A: MT. COMFORT CEMETERY - SPA 83-L-100-1, application under Section 3-403 of the Zoning Ordinance to amend SP 83-L-100 for a cemetery and crematory to permit addition of a mausoleum to existing and approved facilities, located at 6600 South Kings Highway on approximately 51.21 acres of land, zoned R-4, Lee District, Tax Map 92-2((1))23.

Marilyn Anderson, Staff Coordinator, presented the Staff Report and noted that on March 13, 1984, the Board of Zoning Appeals had approved a special permit to allow an addition of a crematorium which had been constructed; however, a recent site visit indicated that this crematorium was operating in violation of this special permit in that it was operating without a Non-Residential Use Permit and that no grading plan had been approved which is in violation of Condition Five of the special permit. Staff concluded by addressing the transportation concerns and recommending approval in accordance with the Development Conditions contained therein.

Mr. Hyland questioned if this use was in further violation of a previous special permit since several grave sites were located in close proximity to the property lines and if the required improvements were imposed, would it require court action to relocate these grave sites. Staff responded that in the previous special permit, the applicant had stated that court action would be necessary to relocate grave sites; however, for the present special permit, staff had determined that this use would be an expansion and road improvements were required for safe access. The County Attorney researched this issue and determined that a court action would not be necessary since the State Code states that only an agreement between the owner of the cemetery and the Virginia Department of Highways and Transportation (VDH&T) would be necessary.

Discussion followed regarding this issue and on the issue of the legality of condemnation for the purpose of required improvements if they are needed at some future time.

Bernard M. Fagelson, Fagelson, Schonberger, Payne and Arthur, attorney for the applicant, opened by stating that he felt that Mrs. Anderson had been fair in her review of this application. With respect to the zoning violations, Mr. Fagelson stated that this morning these violations had been brought to his attention and assured the Board that these will immediately be corrected and that he will further advise his client to cease operation until this has been done.

Mr. Fagelson continued by outlining the nature of the use as contained in the statement of justification submitted with the application and stated that, in his opinion, this use was not an extension but an alternative, since many people over the years have selected a mausoleum as opposed to interment in the ground. He submitted photographs showing the location of the existing interred graves.

Mr. Fagelson summed-up by stating that the applicant was in agreement with the Development Conditions as recommended by staff with the exception of Conditions 8, 9, and 10, and a discussion followed regarding joggers utilizing a trail may be an intrusion during burial services.

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Kenneth Brent, Sales Manager for Mount Comfort Cemetery, presented a model of the proposed mausoleum and gave a complete description of the structure. Chairman Smith asked if the entire structure would be built as reflected by the model and Mr. Brant responded that the construction of the south wing would be completed by approximately July 1, 1986. The construction of the second wing was anticipated to be completed by July 1, 1987, at which time the roof and the chapel would also be completed.

Chairman Smith asked if there were any persons to speak either for or against this application and the following persons came forward in opposition: Mr. John R. Barker of 3508 Memorial Street and Mr. Rick Polhamus of 6630 South Kings Highway, owners and residents of the contiguous lots, who stated their opposition to the existing grave sites being located as close as fifty feet to adjacent property lines, the above-ground sculptures that were creating a visual nuisance and located close to adjacent property lines, and the height of the proposed mausoleum.

Chairman Smith asked if there were further persons to speak against this application and hearing no reply, called for questions by Board Members.

Following discussion between Board Members, the applicant and staff regarding the concerns expressed by the speakers and the question of deferring the decision on this application until an opinion could be obtained from the County Attorney, Chairman Smith closed the public hearing.

Vice-Chairman DiGiulian moved that the Board of Zoning Appeals adopt the following Resolution, amended as follows: Delete Conditions 8, 9 and 10 and add a new Condition 8 to read, "The height of the flat roof shall not exceed seventeen (17) feet and the height of the pitched roof shall not exceed twenty-four (24) feet."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 83-L-100-1 by IFS VIRGINIA, INCORPORATED D/B/A MOUNT COMFORT CEMETERY under Section 3-403 of the Zoning Ordinance to amend SP 83-L-100 for a cemetery and crematory to permit the addition of a mausoleum to existing and approved facilities on property located at 6600 South Kings Highway, Tax Map 92-2((1))23, Vice-Chairman 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 10, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-4.
3. The area of the lot is 51.21 acres of land.

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 8-203 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. Evergreen plantings, at least six (6) feet in height, shall be provided around portions of the crematorium and the mausoleum to screen these uses from the view of neighboring residences. The exact type and location of the plantings shall be determined by the Director, DEM.

6. The maintenance yard area and road leading to the crematorium shall be paved.

7. Any signs on the property shall be located in accordance with Article 12, Signs.

8. The height of the flat roof shall not exceed seventeen (17) feet and the height of the pitched roof shall not exceed twenty-four (24) feet.

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 carried by a vote of 5-1, Chairman Smith voting Nay and Mr. Hammack being absent from this hearing.

At 12:45 p.m., the Board of Zoning Appeals recessed for lunch and reconvened at 2:00 p.m. with all Members being present, with the exception of Vice-Chairman DiGiulian, Mr. Hammack, and Mr. Ribble; and with Chairman Smith presiding.

Page 259, December 10, 1985, (Tape 3) Scheduled case of:

11:00 A.M. EDWARDS DEVELOPMENT COMPANY - SP 85-S-054, application under Section 8-901 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on error in building location to allow dwelling to remain 6.8 feet from side lot line (8 ft. minimum side yard required by Sect. 3-507), located at 7264 Linden Tree Lane on approximately 7,342 square feet, zoned R-5, Springfield District, Tax Map Reference 89-3((24))10B.

AND

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11:15 A.M. EDWARDS DEVELOPMENT COMPANY - SP 85-S-056, application under Section 8-901 of the Zoning Ordinance to permit a reduction to minimum yard requirement based on error in building location to allow dwelling to remain 6.8 feet from side lot line, (8 ft. minimum side yard required by Sect. 3-507), located 7258 Linden Tree Lane on approximately 7,258 square feet, zoned R-5, Springfield District, Tax Map 89-3((24))13B.

Since neither the applicant nor a representative were present in the Board Room at this time, Mr. Hyland asked unanimous consent that the Board defer these public hearings until the end of the day's agenda. Without objection, it was so ordered.

(NOTE: The public hearings for these applications were heard later in the meeting. See Pages 268-269).

Page 260, December 10, 1985, (Tape 3) Scheduled case of:

11:30 A.M. EMANUEL BAPTIST CHURCH - SP 85-L-055, application under Section 3-203 of the Zoning Ordinance to permit a building addition to sanctuary of an existing church and related facilities, located at 3801 Buckman Road on approximately 4.56 acres of land, zoned R-2, Lee District, Tax Map Reference 101-2((1))6.

Marilyn Anderson, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein with one modification: Add an additional condition to read, "All parking shall be on site."

Aubrey D. Whitten, Pastor, Emanuel Baptist Church, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and the following person came forward in support: Dina Hanback, 7620 Little River Turnpike, Annandale, representative of represented Builders and Developers, Incorporated, who are presently constructing eighty-two townhouses adjacent to the subject property. Ms. Hanback stated that the Company planned to provide sewer along the frontage of Buckman Road and a service road in front of the property.

Chairman Smith asked if there were further persons to speak either for or against this application and hearing no reply, closed the public hearing.

Mr. Hyland moved that the Board of Zoning Appeals adopt the following Resolution, amended as follows: Add a new Condition 12 to read, "All parking shall be on site."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-L-055 by EMANUEL BAPTIST CHURCH under Section 3-203 of the Zoning Ordinance to permit a building addition to sanctuary of an existing church and related facilities on property located at 3801 Buckman Road, Tax Map 101-2((1))6, 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 10, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-2.
3. The area of the lot is 4.56 acres of land.

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 213, with a maximum of 69 parking spaces. The handicapped parking spaces shall be relocated closer to the entrance of the building. The exact location shall be determined by the Director, Department of Environmental Management and these spaces shall comply with the provisions of the Public Facilities Manual.

6. Transitional Screening 1 shall be provided along the rear and both side lot lines. Existing trees and vegetation may be supplemented to satisfy this requirement where appropriate so as to be equivalent to Transitional Screening 1. Transitional Screening 1 shall be modified along the front lot line to provide landscaping of the new addition from the view of residential properties across Buckman Road. Where sufficient area is available, landscaping shall be provided between the parking lot and the residential uses across Buckman Road. This landscaping shall provide adequate sight distance. Interior parking lot landscaping shall be provided in the existing parking lot islands in accordance with Article 13.

7. The barrier requirement shall be waived.

8. Parking lot lighting, if provided, 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-intensity design which directs the light directly onto the facility.
   - Shields shall be installed, if necessary, to prevent the light from projecting beyond the parking lot area.

9. Dedication of right-of-way along Buckman Road shall be provided for the entire frontage of the property as required by the Director, DEM at the time of site plan approval to be consistent with previous development in the area. Temporary grading and construction easements for possible future widening of Buckman Road shall be provided to the satisfaction of the Director, DEM.

10. The right turn lane into the site on Buckman Road shall be upgraded so as to comply with current VDH&T standards. Sight distance shall be provided and maintained at the entrance to the site.

11. Signs shall be permitted in accordance with the provisions of Article 12.

12. All parking shall be on-site.

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

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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 carried by a vote of 4-0, Vice-Chairman DiGiulian, Mr. Hammack and Mr. Ribble being absent from this hearing.

Page 262, December 10, 1985, (Tape 3) Scheduled case of:

11:45 A.M. CONGREGATION ADAT REYIM - SP 85-S-057, application under Section 3-503 of the Zoning Ordinance to permit a synagogue and related facilities, located at Old Keene Mill Road & Keene Drive on approximately 4.136 acres of land, zoned R-5, Springfield District, Tax Map 88-2((13))6B, B & B-1.

Marilyn Anderson, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein with one modification: Add an additional condition to read, "All parking shall be on site."

Fred Taylor, attorney for the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Michael F. LeMay, Donald, LeMay & Page, architect for the applicant, gave a brief presentation outlining the design of the structure.

Chairman Smith asked if there were any persons to speak either for or against this application and the following persons came forward in opposition: Mary Pat Hamer, 9212 Cutting Horse Court, Springfield, representative of the contract purchasers of Westbury Oaks Subdivision, immediately adjacent to the property, who stated their opposition to the additional traffic generated by this use. Further, the contract purchasers had selected this particular location because of the financing offered, the fact that there would be only thirty-eight units constructed, and were told that nothing would be built in the surrounding area. When placing contracts on the units, twenty-three purchasers were told that the subject property was owned by the Virginia Power and Electric Company (VEPCO) and would remain an open area.

MATTERS PRESENTED BY BOARD MEMBERS - 1.

Mr. Hyland questioned why the developer did not disclose the information and Ms. Hamer stated that when she had asked that question she was told it was because the townhouses had not yet been occupied. Further, in her opinion, the contract purchasers had been victimized.

Mr. Hyland asked staff if notices were required to be sent to the persons in the subdivision and Mrs. Anderson responded that the owner of record for the property received notification and, in this case, it was the developer.

Since this type of problem has been recurring in various land-use cases, Mr. Hyland moved that the Board of Zoning Appeals request the staff to draft an amendment to the Zoning Ordinance which would require that when an application is before the Board of Zoning Appeals and the contiguous property owner proves to be a developer, that in order to meet the notification requirements, that the applicant request the developer to give notice, by certified return receipts, to any persons who have either bought or are under contract within that development. This motion was seconded by Mrs. Thonen.

Chairman Smith reminded the Board Members that this action may require more than an amendment to the Zoning Ordinance, that it may also require legislative action. He suggested that the motion be made more specific since in larger subdivisions the developer may have to notify over a hundred persons. Chairman Smith stated, in his opinion, it would not be practical to require a developer to notify all persons within a subdivision since most of those persons would be located blocks away from the subject property and he further reminded the Board of posting requirements and the advertisements within local newspapers. Chairman Smith said that he could support the motion if it was amended to incorporate that the developer only be required to notify ten persons as it relates to the number of notice requirements that are required presently.

Mr. Hyland responded that he would agree to amend his motion with additional language so long as the amendment would require an effective way of notifying persons who would be occupying those houses as to what would be occurring across the street from them; however, the motion as presently stated, would require that the developer notify those persons who have bought in his subdivision or who are under contract, which he did not feel was unreasonable.

Chairman Smith stated that the present motion still would require the developer to exceed the State and County requirements for notifications. Mr. Hyland clarified that the motion only suggested that the State and County reexamine the notice requirements in connection with developers who are receiving notification of proposed applications and not notifying contract owners or purchasers.

The question was then called on the motion which carried by a vote of 4-1, Chairman Smith voting Nay, Vice-Chairman DiGiulian and Mr. Hammack being absent from this discussion. Chairman Smith noted for the record that he did not support the motion since the intent was still unclear.

CONTINUATION OF THE PUBLIC HEARING ON CONGREGATION ADAT REYIM - SP 85-S-057

Ms. Hamer closed by stating that the contract purchasers opposed the traffic that would be generated by this use and the safety of the children in the area; further, since the contract purchasers had just recently been informed of the application's use, that the Board reschedule this public hearing.

Chairman Smith asked if there were further persons to speak in opposition and the following persons came forward: Todd W. Givens, 7106 Game Lord Drive, Springfield; Buzz Roggenbuch, 7280 Linden Tree Lane, Springfield; and, Pirjo Blosser, 6429 Fenestia Court, Burke.

Chairman Smith asked if there were other persons to speak in opposition and hearing no reply, called for the applicant's rebuttal. Following Mr. Taylor's rebuttal, Eileen Kugler, President of the Congregation Adat Reyim, came forward to respond to questions by Board Members regarding the hours of use.

Chairman Smith asked if there were further questions and hearing no reply, closed the public hearing.

Mrs. Thonen asked if the applicant would object to the deferral of the Board's decision and be willing to meet with the residents to further explain the proposed application and Mr. Taylor responded that the applicant would be willing to work with the citizens; however, with regard to the deferral, the applicant was under a contractual constraint.

Mrs. Thonen moved that the Board of Zoning Appeals adopt the following Resolution, amended as follows: Add a new Condition 16 to read, "All parking shall be on site."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-S-057 by CONGREGATION ADAT REYIM under Section 3-503 of the Zoning Ordinance to permit a synagogue and related facilities, located at Old Keene Mill Road and Keene Drive, Tax Map Reference 88-2((13))6B, B, and B-1, 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 10, 1985; and

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

1. That the applicant is the contract purchaser of the property.
2. The present zoning is R-5.
3. The area of the lot is 4.335 acres of land.

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 seating capacity in the main worship area shall be a maximum of 250 seats with a corresponding minimum of 63 parking spaces, the maximum number shall be 72.

6. Parking lot lighting if installed will 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-intensity design which directs the light directly onto the facility.

   - Shields shall be installed, if necessary, to prevent the light from projecting beyond the parking lot area.

7. A trail shall be provided along Keene Mill Road in accordance with the Countywide Trails Plan and Article 17.

8. Transitional Screening 1 shall be modified along all lot lines to permit existing vegetation to fulfill the Transitional Screening 1 requirement except along the southern lot line adjacent to residential dwellings, where existing vegetation shall be supplemented so as to provide Transitional Screening 1. This modification shall be approved by the County Arborist. The driveway shall be shifted toward the north if necessary in order to provide Transitional Screening 1.

9. A Tree Preservation Plan to include limits of clearing and a Landscape plan shall be provided. No clearing shall be permitted prior to approval of these plans by the County Arborist.

10. The barrier requirement shall be waived.

11. Dedication of right-of-way, a grading easement and road improvements on Westbury Oaks Court shall be provided as determined necessary by the Director, DEM so as to provide safe site access.

12. The following acoustical treatment shall be provided in the building in order to achieve a maximum interior noise level of 45 dBA Ldn:

    - Exterior walls should have a laboratory sound transmission class (STC) of at least 39, and

    - Doors and windows should have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they should have the STC specified for exterior walls.

    - Adequate measures to seal and caulk between surfaces should be provided.

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13. In the recreation and contemplation areas, acoustical fencing shall be provided in order to achieve a maximum exterior noise level of 65dBA Ldn. The height and location of fencing shall be approved by the Director, DEM.

14. Signs shall be permitted in accordance with the provisions of Article 12, Signs.

15. This approval shall not be considered to be an approval of any Phase other than Phase 1 as represented on the approved plat.

16. All parking shall be on-site.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has 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 carried by a vote of 5-1, Mrs. Day voting Nay and Vice-Chairman DiGiulian being absent from this hearing.

Page 265, December 10, 1985, (Tapes 4-5) Scheduled case of:

1:00 P.M. SAINT CLARE MISSION - SP 85-S-058, application under Section 3-C03 of the Zoning Ordinance to permit a church and related facilities, located 12409 Henderson Road on approximately 15 acres of land, zoned R-C & WSPOD, Springfield District, Tax Map 85-2((1))7.

Marilyn Anderson, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

William Enderly, Catholic Diocese of Arlington, representative of the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions, as recommended by staff, with the exception of Condition 14 which requires interparcel access to Lot 8 and Condition 9 which requires a standard shoulder along the frontage of Henderson Road.

Father Cornelius O'Brian, Pastor of Saint Timothy's Parish, Parent Church to Saint Clare's Mission, discussed the proposed uses of the application.

Chairman Smith asked if there were any persons to speak either for or against this application and the following person came forward in opposition: Carl F. Pfeifer, 12415 Henderson Road, owner and resident of the contiguous Lot 5, who read into the record letters of opposition from the following residents: James B. Moore, Jr., 12413 Henderson Road, owner and resident of the contiguous Lot 6; and Bill and Sarah Williams, 12417 Henderson Road, owner and resident of the contiguous Lot 4. In opposition, Mr. Pfeifer submitted an accident report regarding the number of accidents in the subject area from November 1981 through October 1985.

Chairman Smith asked if there were further persons to speak in opposition and hearing no reply, called for the applicant's rebuttal. Following Mr. Enderly's rebuttal which addressed the transportation concerns, Mr. Hammack questioned why staff felt it was necessary to address interparcel access to Lot 8 and Mrs. Anderson responded that staff had been informed that the best location for developing Lot 8 was in the northern portion of the property. If Lot 8 is developed in this location, the most feasible access to and from the property would be across the central or northern portion of Lot 7.

Following discussion between Board Members and staff on the issue of interparcel access, Mr. Hammack asked unanimous consent that the Board continue the public hearing on this application to a time and date certain of December 17, 1985 at 7:55 p.m. to allow additional time to resolve this issue. Without objection, it was so ordered.

Page 266, December 10, 1985, (Tape 5) Scheduled case of:

1:15 P.M. OPTICAL & ELECTRONIC RESEARCH, INC. - VC 85-C-100, application under Section 18-401 of the Zoning Ordinance to permit construction of a building to 25 feet from one front lot line and to 10 feet from the other front lot line on this corner lot (40 ft. minimum front yard required by Sect. 5-407), located at 11501 Sunset Hills Road on approximately 73,206 square feet, zoned I-4, Centreville District, Tax Map 17-4((13))1. (OUT-OF-TURN HEARING GRANTED 10-22-85, DEFERRED FROM 12/3/85.)

Chairman Smith noted that it required four affirmative votes in order to grant an application and since there were only four Members present for this public hearing asked if the applicant would like to defer this application until a full Board could be present. Frederick O. Bley, President, Optical and Electronic Research, Incorporated, responded that due to funding by Industrial Revenue Bonds, it was necessary that this case be heard and acted on today.

Since time was of the essence in this matter, Chairman Smith questioned why the case had been deferred on December 3, 1985, and William E. Shoup, Staff Coordinator, responded that a staff error had caused the deferral.

A tentative deferral date of January 14, 1986 at 1:45 p.m. was suggested and while Mr. Bley conferred with Julie Treadeau, Central Fidelity Bank, staff outlined the background concerning the application. Staff further noted an error in the Staff Report on Page 1, Paragraph 1, Sentence 3: "....structure having a gross floor area of 52,670 feet."; however, since this was the total square footage for the development, staff corrected it to state: "....structure having a gross floor area of 10,670+ feet." which reflected the applicant's structure.

Following further discussion between Board Members and Mr. Bley on a possible deferral, Ms. Treadeau came forward and explained that the bank did not have any control over the deadline date, that the State has directed that Mr. Bley settle by December 12, 1985 or lose the allocation of funds for Industrial Revenue Bond financing.

At 4:40 p.m., the Board of Zoning Appeals recessed briefly and reconvened at 4:55 p.m. with all Members being present with the exception of Vice-Chairman DiGiulian, Mr. Hyland, and Mrs. Thonen, and with Chairman Smith presiding.

Following the recess, Chairman Smith announced that the Board had decided to go forward with the public hearing and reminded Mr. Bley that in order to obtain a variance, he must prove a hardship.

Mr. Shoup located that property and presented the Staff Report.

Mr. Bley, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mr. Ribble stated that he felt the applicant had met all of the required standards for variances, in particular, he felt that the applicant had an extraordinary situation due to the two easements on his property which restrict relocating the building in another location on the site. Further, due to the design of the development, the subject site has two front lot lines and other buildings in the development share this similar hardship.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-C-100 by OPTICAL AND ELECTRONIC RESEARCH, INCORPORATED, under Section 18-401 of the Zoning Ordinance to permit construction of a building to 25 feet from one front lot line and to 10 feet from the other front lot line on this corner lot on property located at 11501 Sunset Hills Road, Tax Map Reference 17-4((13))1, 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 10, 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 I-4.
3. The area of the lot is 73,206 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 carried by a vote of 4-0, Vice-Chairman DiGiulian, Mr. Hyland and Mrs. Thonen being absent for this hearing.

11:00 A.M. EDWARDS DEVELOPMENT COMPANY - SP 85-S-054, application under Section 8-901 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on error in building location to allow dwelling to remain 6.8 feet from side lot line (8 ft. minimum side yard required by Sect. 3-507), located at 7264 Linden Tree Lane on approximately 7,342 square feet, zoned R-5, Springfield District, Tax Map Reference 89-3((24))10B.

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Marilyn Anderson, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions with the following modification: Add a new Condition 1, "This approval is granted for the location indicated on the application and is not transferable to other land."

Mark Edwards, President, Edwards Development Company, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Mr. Hammack moved that the Board of Zoning Appeals adopt the following Resolution, amended as follows: Add a new Condition 1, "This approval is granted for the location indicated on the application and is not transferable to other land."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-S-054 by EDWARDS DEVELOPMENT COMPANY under Section 8-901 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in building location to allow dwelling to remain 6.8 feet from the side lot line on property located at 7264 Linden Tree Lane, Tax Map Reference 89-3((24))10B, 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 10, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-5.
3. The area of the lot is 7,342 square feet.

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 Section 3-507 of the Zoning Ordinance.

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

1. This approval is granted for the location indicated on the application and is not transferable to other land.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0, Vice-Chairman DiGiulian, Mr. Hyland and Mrs. Thonen being absent for this hearing.

Page 269, December 10, 1985, (Tape 6) Scheduled case of:

11:15 A.M. EDWARDS DEVELOPMENT COMPANY - SP 85-S-056, application under Section 8-901 of the Zoning Ordinance to permit a reduction to minimum yard requirement based on error in building location to allow dwelling to remain 6.8 feet from side lot line, (8 ft. minimum side yard required by Sect. 3-507), located 7258 Linden Tree Lane on approximately 7,258 square feet, zoned R-5, Springfield District, Tax Map 89-3((24))13B.

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Marilyn Anderson, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions with the following modification: Add a new Condition 1, "This approval is granted for the location indicated on the application and is not transferable to other land."

Mark Edwards, President, Edwards Development Company, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Mr. Hammack moved that the Board of Zoning Appeals adopt the following Resolution, amended as follows: Add a new Condition 1, "This approval is granted for the location indicated on the application and is not transferable to other land."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-S-056 by EDWARDS DEVELOPMENT COMPANY under Section 8-901 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in building location to allow dwelling to remain 6.8 feet from the side lot line on property located at 7258 Linden Tree Lane, Tax Map Reference 89-3((24))13B, 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 10, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-5.
3. The area of the lot is 7,258 square feet.

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 Section 3-507 of the Zoning Ordinance.

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

1. This approval is granted for the location indicated on the application and is not transferable to other land.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0, Vice-Chairman DiGiulian, Mr. Hyland and Mrs. Thonen being absent for this hearing.

Page 269, December 10, 1985, (Tape 6) After Agenda Item, Action #1:

CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS - SP 84-D-059-1.

Mr. Hammack stated that before taking any action on this request, he would like to compare the revised landscape plan with the original plan; therefore, he moved that the Board of Zoning Appeals defer the decision on the request of the Church of Jesus Christ of Latter Day Saints, Special Permit Application SP 84-D-059-1 until December 17, 1985. This motion was seconded by Mr. Ribble and carried by a vote of 4-0, Vice-Chairman DiGiulian, Mr. Hyland, and Mrs. Thonen being absent for this Board item.

Page 270, December 10, 1985, (Tape 6) After Agenda Item, Action #2:

APPROVAL OF BZA MINUTES, 11/7/85.

Mrs. Day moved that the Board of Zoning Appeals approve the Minutes of November 7, 1985, as presented. This motion was seconded by Mr. Ribble and carried by a vote of 4-0, Vice-Chairman DiGiulian, Mr. Hyland, and Mrs. Thonen being absent for this Board item.

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There being no further business, the Board adjourned at 5:20 p.m.

Viki L. Lester, Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

March 18, 1986
Date Submitted

3/18/86
Date Approved

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Evening, December 17, 1985. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; John F. Ribble, III; and Mary Thonen.

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

Page 271, December 17, 1985, (Tape 1) Scheduled case of:

7:55 P.M. SAINT CLARE MISSION - SP 85-S-058, application under Section 3-C03 of the Zoning Ordinance to permit a church and related facilities, located 12409 Henderson Road on approximately 15 acres of land, zoned R-C & WSPOD, Springfield District, Tax Map 85-2((1))7. (CONTINUED FROM 12/10/85)

Jane Kelsey, Chief, BZA Support Branch, stated for the record that the public hearing was held on this application on December 10, 1985; and was continued until today for decision only. Additional time was requested to obtain background information on a contiguous landlocked lot for which a condition in the Staff Report allowed for interparcel access. Staff advised the Board that a trustee owner of Lot 8 had been contacted and was unable to provide any background on this lot; therefore, in order to obtain this information, staff stated that a title search would be necessary.

Mrs. Day asked whether the trustee owner had known that this lot was landlocked and staff responded that the owner was aware of the lot being landlocked but did not know the background on how the situation was created.

Chairman Smith asked if the trustee owner was present in the Board Room and hearing no response, asked if the applicant had any further information to provide.

William Enderly, Catholic Diocese of Arlington, representative of the applicant, came forward and stated that sincere efforts had been made to contact the owners of Lot 8; however, none could be reached. In summary, Mr. Enderly stated that all possible efforts had been made by the applicant to resolve this issue.

Chairman Smith asked if there were any questions by Board Members and hearing no reply, closed the public hearing.

Mr. Hammack moved that the Board of Zoning Appeals adopt the following Resolution, amended as follows: Delete Condition 14, "Provision for interparcel access to Lot 8 shall be addressed at the time of site plan review.", and add a new condition to read, "All parking shall be on site."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-S-058 by SAINT CLARE'S MISSION under Section 3-C03 of the Zoning Ordinance to permit a church and related facilities on property located at 12409 Henderson Road, Tax Map Reference 85-2((1))7, 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 17, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-C and WSPOD.
3. The area of the lot is 14.25 acres of land.

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. Transitional Screening 1 shall be provided along all lot lines. Along the southern lot line, the drain field and turnaround area shall be relocated in order to meet this requirement. There shall be a minimum of thirty-five (35) feet between Henderson Road and the parking lot and landscape plantings shall be installed in this area to soften the visual impact of the building and parking lot.

   The existing vegetation shall be used, to the extent possible, to meet the planting requirements of Transitional Screening 1; provided, however, that this shall not preclude the clearing of undergrowth or clearing necessary to accommodate utilities. The amount, size, and location of plantings and the limits of clearing shall be approved by the County Arborist.

6. Interior parking lot landscaping shall be provided generally in conformance with the approved plat, subject to the approval of the Director, DEM.

7. The barrier requirement shall be waived.

8. This approval shall not be considered to be an approval of the "Phase 2" rectory and hall shown on the plat.

9. A right-turn/deceleration lane shall be constructed and a standard shoulder shall be constructed across the entire frontage of the site on Henderson Road.

10. All development shall be subject to the provisions of the Water Supply Protection Overlay District.

11. The seating capacity in the main worship area shall not exceed 340 seats with a corresponding minimum of 85 parking spaces and maximum of 91 parking spaces. All parking shall be on site.

12. Signs shall be permitted in accordance with the provisions of Article 12, Signs.

13. Parking lot lighting, if installed, shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.

14. Dedication of 45 feet of right-of-way along Henderson Road shall be provided for the entire frontage of the property as required by the Director, DEM at the time of site plan approval to be consistent with previous development in the area. Temporary grading and construction easements for possible future widening of Henderson Road shall be provided to the satisfaction of the Director, DEM.

15. All parking shall be on site.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has 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 carried unanimously by a vote of 7-0.

Page 273, December 17, 1985, (Tape 1) MATTERS PRESENTED BY BOARD MEMBERS:

Before calling the next public hearing, Mr. Hyland asked unanimous consent for a moment of personal privilege and hearing no objection, it was so ordered.

Mr. Hyland brought the recent article in the The Fairfax Journal on the closing of the Farmer's Market in Reston, Virginia, to the Board's attention and commented that he did not believe that there were any "pecksniffian martinets" in the Fairfax County Zoning Office. The article suggested that the Fairfax County Zoning Department was not only being unfair and unreasonable, but also that because the owner of the Market had expanded the use at the location that he was going to, in effect, be put out of business. In addition to the comments directed toward the Zoning Staff, the article had further mentioned the Board of Zoning Appeals in connection with this matter which had never been an issue before the BZA.

Mr. Hyland stated that what had failed to be shown in the article was the fact that the owner of the Market, on at least three occasions, had expanded the operation and had built without permits. This matter was in fact one where a business was being allowed to operate in a residential district and had changed the nature of its use. The use permitted initially for this application was limited to the selling of products which were grown on-site and it had been expanded to include products grown in the immediate vicinity. For example, Mr. Hyland said, it did not include the sale of wild rice or artichokes. The character of the original use of the Farmer's Market had been changed into something that it was not and was becoming a more sophisticated market than what the use permitted.

For the record, Mr. Hyland stated that the Zoning Staff did not deserve the comments directed towards them in the article and that the Staff was proper to raise the issue. It was clear that if the owner would resume the use originally permitted, he would be allowed to continue the Farmer's Market.

Therefore, Mr. Hyland moved that:

- the Board of Zoning Appeals go on record as supporting the Fairfax County Zoning Department and the action that was taken to ensure that a business, legally permitted to operate in a residential district, was not permitted to expand beyond the confines of a very reasonable regulation and ordinance; and,

- the appropriate facts be disseminated from the Zoning Administrator to the press indicating that the article had been incorrect.

This motion was seconded by Mr. Ribble and carried unanimously by a vote of 7-0."

Page 273, December 17, 1985, (Tape 1) Scheduled case of:

8:00 P.M. LAKEVIEW SWIM CLUB, INC. - SPA 80-A-025-2, application under Section 3-203 of the Zoning Ordinance to amend SP 80-A-025 for community swimming pool to permit addition of extension to existing deck, located at 5352 Gainsborough Drive on approximately 2.41213 acres of land, zoned R-2, Annandale District, Tax Map 69-3((5))M.

William E. Shoup, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Brent W. Taylor, President, Lakeview Swim Club, Incorporated, stated that it was desired to amend the application to include a small area recessed three feet under the deck extension for storage purposes.

In order to ensure that this amendment would be permissible under the notification requirements, Mrs. Day asked for a detailed description of the storage area. Since the storage area would not extend any further than was shown on the plat, this use would still be considered an extension of the deck. As for legal requirements for advertising, it was staff's position that this amendment could be included with the application.

Chairman Smith stated that the Board would accept the amendment to the application with a modification to include a condition that the storage area will not extend any further than the deck extension shown on the plat.

Mr. Taylor agreed to the Development Conditions as recommended by staff with the modification regarding the storage area.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Mrs. Thonen moved that the Board of Zoning Appeals adopt the following Resolution, amended as follows: Add a new Condition 14 to read, "The storage area shall not extend beyond the limits of the deck addition."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 80-A-025-2 by LAKEVIEW SWIM CLUB, INCORPORATED under Section 3-203 of the Zoning Ordinance for a community swim club to permit **the extension of an existing deck** on property located at 5352 Gainsborough Drive, Tax Map Reference 69-3((5))M, 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 17, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-2.
3. The area of the lot is 2.41 acres of land.

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. 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.

** 14. The storage area shall not extend beyond the limits of the deck addition.

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.

Vice-Chairman DiGiulian seconded the motion.

The motion carried unanimously by a vote of 7-0.

Page 275, December 17, 1985, (Tape 1) Scheduled case of:

8:15 P.M. RAVENSWORTH FARM SWIM & RACQUET CLUB, INC. - SPA 65-A-111-1, application under Section 3-303 of the Zoning Ordinance to amend S-111-65 for tennis club, to permit demolition of existing clubhouse and construction of a new, enlarged clubhouse, located at 5210 Inverchapel Road on approximately 3.6969 acres of land, zoned R-3, Annandale District, Tax Map 70-3((1))2A.

William E. Shoup, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein with the following correction to Condition 13, change "clearing" to "cleaning" so that the condition reads, "....during draining or cleaning operations...."

Joseph Guglielmello, President, Ravensworth Farm Swim and Racquet Club, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff with the exception of Condition 10 and stated that the Transportation Report presented an inaccurate analysis in concluding that traffic generation, site access and internal circulation are unsatisfactory.

Following discussion on the issue of transportation, Chairman Smith asked if there were any persons to speak either for or against this application and the following persons came forward: Natalie Switt of 5212 Inverchapel Road, owner and resident of the contiguous lot, who expressed concerned regarding Condition 5, transitional screening. Ms. Switt asked for clarification of this condition since screening may obstruct her sight when backing out of her driveway and staff responded that the intent of this condition was not to impact on residents but to provide additional screening at the southernmost entrance to screen the view of the clubhouse from Inverchapel Road.

Vice-Chairman DiGiulian questioned Ms. Switt if she was satisfied with the amount of screening presently provided adjacent to her property and she responded affirmatively.

Chairman Smith asked if there were any questions by Board Members and hearing no reply, closed the public hearing.

Vice-Chairman DiGiulian moved that the Board of Zoning Appeals adopt the following Resolution, amended as follows: Modify Condition 5 to read, "Transitional Screening shall be modified provided existing vegetation is retained south of the southernmost entrance to reduce the visual impact of the clubhouse facilities."; Delete Condition 10; and, Modify Condition 13 as recommended by staff to read, "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."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 65-A-111-1 by RAVENSWORTH FARM SWIM AND RACQUET CLUB, INCORPORATED under Section 3-303 of the Zoning Ordinance to amend S-111-65 for a tennis club to permit demolition of an existing clubhouse and construction of a new, enlarged clubhouse on property located at 5210 Inverchapel Road, Tax Map Reference 70-3((1))24A, Vice-Chairman 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 17, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-3.
3. The area of the lot is 3.69 acres of land.

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 be modified provided existing vegetation is retained south of the southernmost entrance to reduce the visual impact of the clubhouse facilities.

6. The barrier requirement shall be modified provided existing fencing is retained.

7. Membership shall not exceed four-hundred and fifty (450) families.

8. Seventy-three (73) parking spaces shall be provided.

9. Swimming pool lighting should be provided in such a manner that no light projects beyond the property line and if necessary shields shall be installed. The tennis courts shall not be lighted.

10. The maximum hours of operation shall be 10:30 A.M. to 9:00 P.M., except that weekday swim team practice shall begin no earlier than 7:30 A.M. and weekend and holiday swim team practice or swim meets shall begin no earlier than 8:00 A.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 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.

13. This approval shall permit the use of the existing storage shed. A building permit for the structure shall be obtained unless the Inspection Services Division of the Department of Environmental Management determines that such is not necessary.

14. The sign located along Braddock Road shall be removed from the right-of-way and no more than one freestanding sign shall be displayed in accordance with the provisions of Article 12, Signs, of the Zoning Ordinance.

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

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 carried unanimously by a vote of 7-0.

Page 278, December 17, 1985, (Tapes 1-2) Scheduled case of:

8:30 P.M. ST. JOHNS EPISCOPAL CHURCH - SP 85-S-053, application under Sections 3-103 & 8-901 of the Zoning Ordinance to permit an addition of trailer classroom to existing church and related facilities and modification of the dustless surface requirement, located at 5649 Mount Gilead Road on approximately 3.2978 acres of land, zoned R-1, WSPOD, & HC, Springfield District, Tax Map 54-4((1))24A & 25.

William E. Shoup, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein with the following modification to Condition 9: Add the language "and extension" after the word "widening" in the first sentence.

Richard Hausler, Hazel, Beckhorn and Hanes, attorney for the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff with the exception of Condition 9. Mr. Hausler recommended that Condition 9 be revised to read, "At such time as construction plans for the widening of Mount Gilead Road are approved, applicant will dedicate from the subject property up to thirty feet from the existing centerline of Mount Gilead Road for the widening, provided, that relocation of existing fences and historic monuments or markers, and other frontage features, shall not be at the applicant's expense. If such dedication results in the elimination of required parking spaces, those spaces may be relocated on site generally between Wharton Lane, Mount Gilead Road and the existing cemetery."

Following discussion, staff concurred with the applicant's proposed language, provided the wording is removed, "....provided, that relocation of existing fences and historic monuments or markers, and other frontage features, shall not be at the applicant's expense...." since the Board has no jurisdiction in this matter.

Chairman Smith asked if there were any questions by Board Members and hearing no reply, closed the public hearing.

Mrs. Day moved that the Board of Zoning Appeals adopt the following Resolution, amended as follows: Modify Condition 9 to read, "At such time as construction plans for the widening of Mount Gilead Road are approved, applicant will dedicate from the subject property up to thirty feet from the existing centerline of Mount Gilead Road for the widening. If such dedication results in the elimination of required parking spaces, those spaces may be relocated on site generally between Wharton Lane, Mount Gilead Road and the existing cemetery." and Add a new Condition 11 to read, "There will be a five year limit on the use of the trailer and the trailer shall be skirted."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-S-053 by SAINT JOHNS EPISCOPAL CHURCH under Sections 3-103 and 8-901 of the Zoning Ordinance to permit an addition of a classroom trailer to the existing church and related facilities, and modification of the dustless surface requirement on property located at 5649 Mount Gilead Road, Tax Map Reference 54-4((1))24A & 25, 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

Page 279, Saint Johns (Continued from Page 278)

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 17, 1985; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-1, WSPOD and HC.
3. The area of the lot is 3.2978 acres of land.

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, 8-303, 8-903 and 8-915 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 modified to allow existing vegetation to satisfy the requirement and no additional screening plantings shall be required. However, landscape plantings shall be provided around the trailer in a manner that will reduce the visual impact as determined by the County Arborist.

6. The seating capacity in the main worship area shall not exceed one hundred and ten (110).

7. There shall be twenty-nine (29) parking spaces provided.

8. All gravel surface areas shall be maintained in good condition at all times in accordance with standards approved by the Director, Department of Environmental Management.

9. At such time as construction plans for the widening of Mount Gilead Road are approved, applicant will dedicate from the subject property up to thirty feet from the existing centerline of Mount Gilead Road for the widening. If such dedication results in the elimination of required parking spaces, those spaces may be relocated on site generally between Wharton Lane, Mount Gilead Road and the existing cemetery.

10. The approval of the waiver of the dustless surface requirement and the use of the trailer shall be valid for a period of five (5) years.

11. There will be a five year limit on the use of the trailer and the trailer shall be skirted.

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

Page 280, Saint Johns (Continued from Page 279)

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 carried unanimously by a vote of 7-0.

At 9:30 p.m., the Board of Zoning Appeals recessed briefly to allow time for the Board Room to clear before calling the next case and reconvened at 9:45 p.m. with all Members being present and with Chairman Smith presiding.

Page 280, December 17, 1985, (Tapes 2-3) Scheduled case of:

8:45 P.M. PROVIDENCE BAPTIST CHURCH - SP 85-D-018, application under Section 3-103 of the Zoning Ordinance for church and related facilities and child care center located at 9012 Leesburg Pike on approximately 6.93 acres of land, zoned R-1, Dranesville District, Tax Map 19-4((1))40 & pt. 1A, & 19-4((4))A1. (DEFERRED FROM 7/23/85, RECONSIDERATION FROM 9/17/85, DEFERRED FROM 11/19/85)

Chairman Smith stated for the record that consideration had been deferred from November 19, 1985 to allow for comments by Supervisor Nancy K. Falck, Dranesville District and additional information from the Office of Transportation with the following time allotment: Ten minutes-Supervisor Falck; Ten minutes-Citizens; and Ten-minutes for the applicant.

Supervisor Falck presented her statement opposing the size of the proposed structure. A copy of this statement was entered into the record.

John Mullenhozz, Representative of Woodside Estates Citizens Association, spoke in opposition to the application during the ten-minutes set aside for citizen comment. Opposition to this application related to: the traffic impact and in particular, the congestion at the intersection of Brook Road, Lewinsville Road and Route 7; the visual impact of the large-scaled structure; and the concern that there would be off-street parking by church members on the residential streets.

Following the rebuttal by Grayson P. Hanes, Hazel, Beckhorn and Hanes, attorney for the applicant, Michael R. Martin, Director of Transportation Engineering, Patton, Harris, Rust, and Associates, outlined the transportation aspects of this application.

Persons present in the Board Room opposing the application were requested to stand, and then persons present in support were requested to stand.

Jane Kelsey, Chief, BZA Support Branch, stated for the record that the revised plats were not submitted until 3:00 p.m. today; therefore, staff did not have ample time for review. However, staff does not support the new access point as shown on the revised plat because it is the opinion of the Office of Transportation that it would encourage U-Turns and cut-through traffic.

Following discussion between the Board Members and Mr. Hanes, Ms. Kelsey stated that if it was the intention of the Board to grant this application, staff would recommend that it be done in accordance with the revised plats submitted today with the following modification: Additional access be provided onto Leesburg Pike with the condition that it be a temporary access until such time as Lewinsville Road is relocated.

Chairman Smith asked if there were any additional questions and hearing no reply, closed the public hearing.

Following discussion regarding the possibility of reducing the size of the structure, the Board recessed briefly at 10:55 p.m. to allow additional time for Mr. Hanes to discuss this option with the applicant and reconvened at 11:05 p.m. with all Members present and with Chairman Smith presiding.

Mr. Hanes stated that although the applicant has reduced the size of the structure since the original application was filed, the applicant would like the opportunity to take another look at reducing the structure but that they could not commit to a reduction to 30,000 square feet.

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Page 281, Providence Baptist (Continued from Page 280)

Mr. Ribble moved that the Board defer the decision on this application to a date and time certain of January 21, 1986 at 9:30 p.m. with a time limit of ten minutes allowed for discussion between Board Members. This motion was seconded by Mr. Hammack and carried unanimously by a vote of 7-0.

Page 281, December 17, 1985, (Tape 3) After Agenda Item, Action #3:

CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS - SP 84-D-059-1.

In response to Mr. Hammack's request at the December 10, 1985 meeting, James Taylor, Land Surveyor, representing the applicant, outlined the revisions on the landscape plan as compared to the original plan submitted.

Following discussion, Mr. Hammack moved that the Board of Zoning Appeals accept the revised landscape plan for Special Permit Application SP 84-D-059-1 in the name of the Church of Jesus Christ of Latter Day Saints and endorse a recommendation to allow the applicant to seek a waiver of the barrier requirement from the Director of the Department of Environmental Management (DEM) along the interior of the property. This motion was seconded by Mr. Ribble and carried unanimously by a vote of 7-0.

Page 281, December 17, 1985, (Tape 3) After Agenda Item, Action #1:

CHRISTIAN COMMUNITY FELLOWSHIP CHURCH - SP 84-C-045.

Mrs. Day moved that the Board of Zoning Appeals grant the request for additional time of six months for Special Permit Application SP 84-C-045 in the name of Christian Community Fellowship Church, making the new expiration date July 24, 1986. This motion was seconded by Mr. Hammack and carried unanimously by a vote of 7-0.

Page 281, December 17, 1985, (Tape 3) After Agenda Item, Action #2:

CARE-A-LOT LEARNING CENTER, INCORPORATED, AND MICHAEL J. AND KAREN L. REID - SPECIAL PERMIT APPLICATION SP 85-C-078.

Mrs. Day moved that the Board of Zoning Appeals deny the request for an Out-of-Turn Hearing for Special Permit Application SP 85-C-078 in the name of Care-A-Lot Learning Center, Incorporated, and Michael J. and Karen L. Reid. This motion was seconded by Vice-Chairman DiGiulian and carried unanimously by a vote of 7-0.

Page 281, December 17, 1985, (Tapes 3-4) After Agenda Item, Action #4:

SEQUOYAH COUNCIL OF CO-OWNERS, APPEAL APPLICATION A 85-L-002.

Vice-Chairman DiGiulian moved that the Board of Zoning Appeals reschedule the public hearing for Appeal Application A 85-L-002 in the name of Sequoyah Council of Co-Owners to a date and time certain of February 11, 1986 at 1:00 p.m. This motion was seconded by Mr. Hammack and carried unanimously by a vote of 7-0.

Page 281, December 17, 1985, (Tape 3) After Agenda Item, Action #5:

APPROVAL OF BZA MINUTES, 11/12/85.

Mrs. Day moved that the Board of Zoning Appeals approve the Minutes of November 12, 1985, as presented. This motion was seconded by Mr. Ribble and carried unanimously by a vote of 7-0.

Page 282, December 17, 1985, (Tape 4) After Agenda Item, Action #6:

THREE-E DEVELOPMENT CORPORATION (HARBOR VIEW) - VARIANCE APPLICATIONS VC 83-V-147 THROUGH VC 83-V-158

Following a statement by Joe Polocastro, representing the Harbor View Association, opposing the additional time extension, Mrs. Thonen moved that Board of Zoning Appeals grant the request for additional time of six months for Variance Applications VC 83-V-147 through VC 83-V-158 in the name of Three-E Development Corporation (Harbor View), making the new expiration date June 6, 1986. This motion was seconded by Vice-Chairman DiGiulian and carried by a vote of 6-1, Mr. Hyland voting Nay.

Page 282, December 17, 1985, (Tape 4) After Agenda Item, Action #7:

THE ENTERPRISE SCHOOL - SPECIAL PERMIT AMENDMENT APPLICATION SPA 85-C-049-1.

Mr. Hyland moved that the Board of Zoning Appeals grant the request for an Out-of-Turn Hearing for Special Permit Amendment Application SPA 85-C-049-1 in the name of The Enterprise School to a date and time certain of January 14, 1986 at 1:45 p.m. This motion was seconded by Mr. Hammack and carried unanimously by a vote of 7-0.

Page 282, December 17, 1985, (Tape 4) After Agenda Item, Information #1:

MEMORANDUM FROM J. HAMILTON LAMBERT, COUNTY EXECUTIVE REGARDING COMPENSATION FOR THE BOARD OF ZONING APPEALS.

For the record, Chairman Smith thanked Mr. Hammack for his efforts in the increased compensation for the Board of Zoning Appeals.

There being no further business, the Board adjourned at 11:50 p.m.

Viki L. Lester, Clerk
Board of Zoning Appeals

4/8/86
Date Submitted

Daniel Smith, Chairman
Board of Zoning Appeals

4/8/86
Date Approved

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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, January 14, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; John F. Ribble, III; and Mary Thonen.

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

Page 283, January 14, 1986, (Tape 1) Matters Presented by Board Members - 1:

In connection with the organization of the Board of Zoning Appeals, which is required on annual basis, Mr. Hyland moved that the following nominations be accepted:

Daniel Smith	-	Chairman
John DiGiulian	-	Vice-Chairman
Viki Lester	-	Clerk

This motion was seconded by Mrs. Day.

Mr. Hammack moved that the Board close the nominations. This motion was seconded by Mrs. Day.

The question was called on the motion was carried unanimously by a vote of 7-0.

Page 283, January 14, 1986, (Tape 1) Matters Presented by Board Members - 2:

Mr. Hammack moved that the Board of Zoning Appeals adopt a resolution, to be sent to the Chief Judge of the Circuit Court, requesting the reappointment of Gerald Hyland for another term on the Board of Zoning Appeals in view of his outstanding contributions. This motion was seconded by Mr. Ribble and carried unanimously by a vote of 7-0.

Page 283, January 14, 1986, (Tape 1) Personnel Matters - 1:

Jane Kelsey, Chief, BZA Support Branch, introduced the following new staff members of the Board of Zoning Appeals Support Branch to the Board:

Lori Greenlief	-	Staff Coordinator
Kevin Guinaw	-	Staff Coordinator

Ms. Kelsey announced that the Branch was now fully staffed, with three Staff Coordinators and one Branch Chief; further, that the Deputy Clerk's position had also been filled.

Mrs. Day requested that an updated employee list be included in the next Board Package.

Page 283, January 14, 1986, (Tape 1) Matters Presented by Board Members - 3:

Mr. Ribble moved that the meetings of the Board of Zoning Appeals commence at 9:00 A.M. rather than 10:00 A.M. This motion was seconded by Vice-Chairman DiGiulian.

Following discussion, Mr. Hyland amended the motion that the new time start with the February 25, 1986 meeting.

The question was called on the motion, as amended, which carried unanimously by a vote of 7-0.

Page 283, January 14, 1986, (Tape 1) Matters Presented by Board Members - 4:

Mr. Hammack expressed his appreciation to the Board of Supervisors for the recent pay increase for the Board of Zoning Appeals.

Chairman Smith commended Mr. Hammack, stating that it was due to his hard work and outstanding efforts that made the increase possible.

10:00 A.M. DONNA R. BARNAKO - SP 85-D-074, application under Section 3-403 of the Zoning Ordinance to permit an antique shop in older structure as permitted by S-62-79, expired, located at 6728 Lowell Avenue on approximately 16,441 square feet, zoned R-4, Dranesville District, Tax Map Reference 30-2((9))58 and part of 57. (OUT-OF-TURN HEARING GRANTED 10/29/85)

Jane Kelsey, Chief, BZA Support Branch, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Elizabeth Payne, representing the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-D-074 by DONNA R. BARNAKO under Section 3-403 of the Zoning Ordinance to permit an antique shop in an older structure as permitted by S-62-79, expired, on property located at 6728 Lowell Avenue, Tax Map Reference 30-2((9))58 and part of 57, 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 14, 1986; and

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

1. That the applicant is the lessee.
2. The present zoning is R-4.
3. The area of the lot is 16,441 square feet.

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, 8-703, and 8-704 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 requirements shall be waived provided the existing fencing and trees remain. The dogwood tree to the rear of the site shall be maintained.

Page 285, Barnako (Continued from Page 284)

6. The hours of operation shall be Monday through Saturday from 10:00 A.M. to 5:00 P.M.

7. There shall be a maximum of three (3) employees at any one time, including the applicant.

8. Ten (10) parking spaces shall be provided. The parking lot shall be striped and one way entrance and exit signs and arrows shall be provided. All loading and parking shall be on-site.

9. The undergrowth and vegetation in the State right-of-way along the entrance and exit shall be cleared in order to provide adequate sight distance.

10. This permit is approved for a period of two (2) years from the 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, 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 carried unanimously by a vote of 7-0.

Page 285, January 14, 1986, (Tapes 1-3) Scheduled case of:

10:15 A.M. SHILOH BAPTIST CHURCH - SP 85-D-048, application under Section 3-103 of the Zoning Ordinance to permit an addition of a sanctuary, social hall and parking facilities to existing church and related facilities, located at 1331 Spring Hill Road on approximately 2.2489 acres of land, zoned R-1, Dranesville District, Tax Map 29-1((1))58 & 58A. (DEFERRED FROM 11/26/85)

Jane Kelsey, Chief, BZA Support Branch, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Rayford L. Bourn, Chairman, Shiloh Baptist Church Building Committee, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff with the following modifications: Condition 6 - request that the applicant work with the Office of Transportation to resolve the issue since only a limited number of cars turn left at the southern entrance and Condition 10 - request that the removal of the existing accessory structure be waived.

Following discussion with the applicant regarding the accessory structure and adequate site distance to the site, Chairman Smith asked if there were any persons to speak either for or against this application and the following speakers came forward in support: Leon Gamble, owner and resident of 1336 Spring Hill Road; Dolores Evans, owner and resident of 1617 Kirby Road; Lilla Richards, owner and resident of 8703 Brook Road, former resident of Spring Hill Road.

Chairman Smith asked if there were other persons to speak against this application and hearing no reply, called for questions by Board Members.

Mrs. Thonen questioned if the applicant would agree to a deferral of one week to allow additional time for Board Members to visit the site to resolve the question of adequate site distance on the site and this was agreeable.

Mr. Hammack moved that the Board of Zoning Appeals continue the public hearing on the referenced application, to a date and time certain of January 21, 1986 at 8:00 P.M., to receive additional information from the Office of Transportation; to allow the applicant to discuss with the Office of Transportation and staff the concerns expressed by the applicant and speakers on Condition 6 regarding the northern entrance; and, to allow additional time for Board Members to individually visit the site. This motion was seconded by Mrs. Thonen and carried by a vote of 6-0, Mr. Ribble being absent.

10:30 A.M. SOONNAM KELLEY - VC 85-M-079, application under Section 18-401 of the Zoning Ordinance to permit construction of addition to dwelling to 10 ft. from side lot line (15 ft. min. side yard required by Sect. 3-207), located at 6398 Lakeview Drive on approximately 16,300 square feet, zoned R-2, Mason District, Tax Map 61-3((14))141. (Deferred from 11/26/85)

Jane Kelsey, Chief, BZA Support Branch, located the property and presented the Staff Report.

Soonnam Kelley, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Vice-Chairman DiGiulian stated that he felt the applicant had met all of the required standards for variances, in particular, Paragraph 2A, Exceptional Narrowness, and that he would move approval of the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-M-079 by SOONNAM KELLEY, under Section 18-401 of the Zoning Ordinance to permit the construction of an addition to the dwelling to 10 feet from the side lot line on property located at 6398 Lakeview Drive, Tax Map Reference 61-3((14))141, Vice-Chairman 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 14, 1986; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 16,300 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 carried by a vote of 5-2, Chairman Smith and Mr. Hyland voting Nay.

Page 287, January 14, 1986, (Tapes 3-4) Scheduled case of:

10:45 A.M. GEORGE Z. & HELEN KONTZIAS - VC 85-D-089, application under Section 18-401 to permit construction of building on the rear lot line and 16.5 feet from the front lot line (20 ft. minimum rear and 40 ft. minimum front yard required by Sect. 4-607), located at 1443 Chain Bridge Road on approximately 11,662 square feet, zoned C-6, Dranesville District, Tax Map 30-2((8))54.

Jane Kelsey, Chief, BZA Support Branch, located the property and presented the Staff Report.

Charles Runyon, Runyon Dudley Associates, Incorporated, representing the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak in support of the application and the following person came forward: Lilla Richards, President, McLean Planning Committee, who recommended that a new Condition 4 be added to read, "Provision shall be made for future interparcel access with the Gourmet Giant site."

Chairman Smith asked if there were any persons to speak in opposition of the application and the following persons came forward: Charles Sickles, attorney representing the trustees of S.D. Moses, owners of the parcel of land surrounding the subject application and James Jones, Trustee, who expressed opposition to the request based on its impact on the surrounding properties and opposition to the request for interparcel access.

Following discussion with Mr. Runyon regarding the concerns expressed by the speakers and on the issue of a self-created hardship, Chairman Smith asked if there were further speakers and hearing no reply, closed the public hearing.

Prior to stating the motion, Mrs. Day stated that it was her opinion that this was not a self-created hardship. Further, in view of the support from the community and the fact that the applicant had met all of the required standards for variances, in particular, Paragraphs 1, 2C, 2D, 2F, 3, 4, 5, 6A, 6B, 7, 8, and 9, she would move approval of the application, with the following modification: Add a new Condition 4 to read, "Interparcel access shall be constructed to the southerly property line."

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-D-089 by GEORGE Z. AND HELEN KONTZIAS, under Section 18-401 of the Zoning Ordinance to permit the construction of a building on the rear lot line and 16.5 feet from the front lot line on property located at 1443 Chain Bridge Road, Tax Map Reference 30-2((8))54, 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 14, 1986; and

WHEREAS, 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 11,662 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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. Interparcel access shall be constructed to the southerly property line.

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-2, Chairman Smith and Mr. Ribble voting Nay.

At 12:45 p.m., the Board of Zoning Appeals recessed for lunch and reconvened at 1:50 p.m. with all Members being present, and with Chairman Smith presiding.

Page 289, January 14, 1986, (Tape 4) Scheduled case of:

11:00 A.M. JAMES E. & ELAINE H. MURPHY - VC 85-P-090, application under Section 18-401 of the Zoning Ordinance to permit enclosure of existing porch 5.5 feet from side lot line (10 ft. minimum side yard required by Sect. 3-407), located at 2631 Woodley Place on approximately 10,011 square feet, zoned R-4, Providence District, Tax Map 50-1((7))34.

Jane Kelsey, Chief, BZA Support Branch, located the property and presented the Staff Report.

Elaine H. Murphy, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mr. Hyland stated that he felt that the property was extremely narrow in shape, that the applicant had met all of the required standards for variances, and that he would move approval of the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-P-090 by JAMES E. AND ELAINE H. MURPHY, under Section 18-401 of the Zoning Ordinance to permit the enclosure of an existing porch to 5.5 feet from the side lot line on property located at 2631 Woodley Place, Tax Map Reference 50-1((7))34, 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 14, 1986; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-4.
3. The area of the lot is 10,011 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 carried unanimously by a vote of 7-0.

Page 290, January 14, 1986, (Tape 4) Scheduled case of:

11:15 A.M. PAUL C. & EVELYN B. HUTTON - VC 85-A-092, application under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 4.1 feet from side lot line (15 ft. minimum side yard required by Sect. 3-207), located at 4216 Holborn Avenue on approximately 11,418 square feet, zoned R-2, Annandale District, Tax Map Reference 70-1((7))224.

Jane Kelsey, Chief, BZA Support Branch, located the property and presented the Staff Report.

Colonel Paul C. Hutton, III, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mr. Ribble stated that he felt the applicant had met all of the required standards for variances, in particular, Paragraph 2D, Exceptional Shape, and that he would move approval of the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-A-092 by PAUL C. AND EVELYN B. HUTTON, under Section 18-401 of the Zoning Ordinance to permit the construction of a garage addition to the dwelling to 4.1 feet from the side lot line on property located at 4216 Holborn Avenue, Tax Map Reference 70-1((7))224, 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 14, 1986; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-2.
3. The area of the lot is 11,418 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 carried unanimously by a vote of 7-0.

Page 292, January 14, 1986, (Tapes 4-5) Scheduled case of:

11:30 A.M. JAMES B. BYERS - VC 85-V-094, application under Section 18-401 of the Zoning Ordinance to permit construction of garage addition to dwelling to 4 feet from side lot line (12 ft. minimum side yard required by Sect. 3-307), located at 7813 Evening Lane on approximately 10,541 square feet, zoned R-3, Mount Vernon District, Tax Map 102-1((13))7.

Jane Kelsey, Chief, BZA Support Branch, located the property and presented the Staff Report.

James B. Byers, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and the following person came forward: Cindy Harrington, owner and resident of the contiguous lot, 7811 Evening Lane, who requested that the agreement made between Mr. Byers and herself, resolving her concerns, be incorporated into the approval of the application.

Chairman Smith asked if there were further persons to speak to this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mr. Hammack stated that he felt that the applicant had met all of the required standards for variances, in particular, Paragraphs 2A, 2C, and 2G, and that he would move approval of the application, with the following modification, add a new Condition 4 with the following bullets:

a) The only window to be located on the forty foot (40') garage wall paralleling the adjacent property line will be in a door providing entrance to the garage portion addition;

b) The roofline of the addition will be architecturally similar to the existing roofline, sloping downward with no gable on the roofline; and,

c) Shrubbery will be planted in the side yard area directly behind the new addition and as close as possible to it so that it will grow above the present fence, which is five feet (5') in height, to in some way break up the straight architectural line of that side of the house and roof.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-V-094 by JAMES B. BYERS, under Section 18-401 of the Zoning Ordinance to permit the construction of a garage addition to a dwelling to 4 feet from the side lot line on property located at 7813 Evening Lane, Tax Map Reference 102-1((13))7, 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 14, 1986; and

WHEREAS, the 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 10,541 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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. a) The only window to be located on the forty foot (40') garage wall paralleling the adjacent property line will be in a door providing entrance to the garage portion addition.

   b) The roofline of the addition will be architecturally similar to the existing roofline, sloping downward with no gable on the roofline.

   c) Shrubbery will be planted in the side yard area directly behind the new addition and as close as possible to it so that it will grow above the present fence, which is five feet (5') in height, to in some way break up the straight architectural line of that side of the house and roof.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 6-1, Chairman Smith voting Nay.

Page 294, January 14, 1986, (Tape 5) Scheduled case of:

11:45 A.M. THE COURTS HOMEOWNERS ASSOCIATION - SP 85-D-060, application under Section 3-E03 of the Zoning Ordinance to permit community tennis courts and gazebo, located at 1299 Alps Drive on approximately 38.0084 acres of land, zoned R-E, Dranesville District, Tax Map 19-4((1))38 & 39.

Jane Kelsey, Chief, BZA Support Branch, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

J. Curtis Bradley, representative of the applicant, entered photographs into the record showing the location of the proposed tennis courts closest to the adjacent properties and explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff. When the Board of Supervisors approved the special exception for this use, it was conditioned that the precise location of the courts would be determined by the Department of Environmental Management during its site plan approval process and Mr. Bradley asked that this condition be made a part of the special permit.

Chairman Smith asked if there were any persons to speak either for or against this application, and the following person came forward in opposition: Ernest J. Berger, President, Woodside Estates Citizens Association, Incorporated, who expressed concerns as outlined in the letter submitted into the record signed by the residents of Woodside Estates.

Following discussion between Board Members, Mr. Berger and Mr. Bradley, Chairman Smith asked if there were other persons to speak in opposition to this application, and hearing no reply, called for the applicant's rebuttal.

Following Mr. Bradley's rebuttal, Chairman Smith asked if there were further questions and hearing no reply, closed the public hearing.

Prior to stating the motion, Mrs. Thonen stated that she felt that it would be more of an impact on the neighborhood if the homeowners were to construct individual tennis courts and that she would move approval of the application with the following modifications: Amend Condition 5 to read, "The hours of operation shall be no earlier than 7:00 A.M. and no later than 9:00 P.M." Delete Condition 7. Add a new Condition 11 to read, "Landscaping shall be provided around the tennis courts."

Mr. Hyland asked that the motion include the following amendment: Add a new Condition 12 to read, "In no event shall the tennis courts be located any closer than sixty-five (65) feet from any side lot line (adjacent to Woodside Estates)." This amendment was accepted by Mrs. Thonen.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-D-060 by THE COURTS HOMEOWNERS ASSOCIATION, under Section 3-E03 of the Zoning Ordinance to permit community tennis courts and gazebo on property located at 1299 Alps Drive, Tax Map Reference 19-4((1))38 and 39, 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 14, 1986; and

WHEREAS, the 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 38.0084 acres of land.

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. The hours of operation shall be no earlier than 7:00 A.M. and no later than 9:00 P.M.

6. Six paved parking spaces shall be provided.

7. Due to the potential soil instability problems, the final location of the gazebo and tennis courts shall be determined by the Director, Department of Environmental Management (DEM) at the time of site plan approval.

8. Limits of clearing shall be shown and committed to at the time of site plan approval. Transitional Screening 1 shall be provided by leaving natural vegetation undisturbed and by supplementing with evergreen plantings if the Director, DEM determines additional screening is necessary. The barrier requirement shall be waived.

9. A natural surface trail network shall be provided as required by Special Exception SE 84-D-126.

10. An approved building permit shall be obtained for the gazebo.

11. Landscaping shall be provided around the tennis courts.

12. In no event shall the tennis courts be located any closer than sixty-five (65) feet from any side lot line (adjacent to Woodside Estates).

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.

Vice-Chairman DiGiulian seconded the motion.

The motion, as amended, carried unanimously by a vote of 7-0.

Page 296, January 14, 1986, (Tape 5) Scheduled case of:

1:00 P.M. JACK H. & DOLORES MERRITT, SR. and JACK H. MERRITT, JR. - SP 85-P-061, application under Section 3-103 to permit a child care center for 98 children, located at 1806 Dawson Street on approximately 21,779 square feet, zoned R-1, Centreville District, Tax Map 29-3((3))12.

Jane Kelsey, Chief, BZA Support Branch, stated that the applicant failed to meet the notification requirements and, therefore, the case could not be heard.

Mrs. Thonen moved that the Board of Zoning Appeals defer the public hearing on Special Permit Application SP 85-P-061 in the name of Jack H. & Dolores Merritt, Sr., and Jack H. Merritt, Jr., to a date and time certain of February 18, 1986 at 8:00 P.M. This motion was seconded by Mr. Hyland and carried by a vote of 5-0, Vice-Chairman DiGiulian and Mr. Ribble being absent for this hearing.

Page 296, January 14, 1986, (Tapes 5-6) Scheduled case of:

1:15 P.M. MR. & MRS. ROBERT C. ARLEDGE/PLASEIED & ASSOCIATES - SP 85-D-062, application under Section 8-901 to permit reduction to minimum yard requirements based on error in building location to allow 17 feet high detached garage to remain 9'8" from rear lot line (17 ft. minimum rear yard required by Sect. 10-104) located at 6022 Orris Street on approximately 46,063 square feet, zoned R-1, Dranesville District, Tax Map 31-2((22))2A.

(NOTE: The following verbatim transcript, prepared for a pending legal proceeding, is submitted in lieu of the minutes for this application.)

JANE KELSEY, STAFF COORDINATOR: The property is located on the cul-de-sac of Orris Street. The surrounding properties are zoned R-1 and are developed with single family dwellings. The applicant is applying for a special permit to allow a modification of the minimum yard requirements based on an error in the location to permit an existing garage 17 feet in height to remain 9.8 feet from the rear lot line. I'll put the viewgraph up so you can see which structure I'm talking about. The structure is the red in the back, it is 9.8 feet from the rear lot line. The requirement is that it be set back the height of the structure and the structure is 17 feet high. This is determined by Paragraph 10D of Section 10-104 of the Zoning Ordinance. In addition, in 1979 the Zoning Administrator interpreted that the measurement would be made from the lowest to the highest point of an accessory structure. So, therefore, the applicants are requesting a 7.2 foot modification of the rear yard requirements. There is some background concerning this case, Mr. Chairman. On April 25, 1985 a building permit was approved for a 25 by 24 foot garage, and a copy of that building permit is in Appendix 4 of your Staff Report. You will notice on that building permit application that the rear yard was noted as being 12 feet. The house location plat which was attached to the building permit showed a 12 foot rear yard. In

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Appendix 2 of your Staff Report is the applicant's justification and the applicant has also submitted some drawings. It indicates that the structure was constructed in good faith, in accordance with the drawings approved by Fairfax County and it appears that the building permit application requested a 900 square foot garage and gazebo, I believe that . . . since the Staff Report went out I believe that that 900 square feet was the combination of garage and gazebo, and the height was indicated as 12 feet, but this was reduced at the bottom of the building permit application by Staff to a 600 foot building - 8 feet in height, and that was noted on that application prior to the approval of the building permit by the Staff from Permit Plan Review Branch that is responsible for reviewing all building permit applications, and the accompanying plat showed a 12 foot rear yard.

MR. HYLAND: And the height of the existing structure is what?

MS. KELSEY: Seventeen feet.

MR. HAMMACK: Question, Mr. Chairman?

MS. KELSEY: It is Staff's judgment that a determination of what constitutes good faith should only be made after evaluating all pertinent facts that may come out at this public hearing, in addition to that which you have in your Staff Report. Consequently, Staff makes no recommendation on this application.

CHAIRMAN SMITH: Mr. Hammack.

MR. HAMMACK: Why would staff change the height of a building on an application from 17 feet to eight feet?

MS. KELSEY: When the . . .

MR. HAMMACK: Do you know who on Staff did it?

MS. KELSEY: Well, Mr. Hammack, when an application comes before the counter, at the Permit, Plan Review Branch, the application is reviewed. If the Zoning Office cannot sign off on it the way it is or if there's any problems with it, then the personnel from Zoning says, "Okay - the only thing we can approve is", and they tell them what they can approve and then they sign off on it based on the conditions which they place on the building permit application. You will notice, though, on the plat with the building permit it does say that the garage will be 12 feet from the rear lot line and on the building permit application it shows that the garage will be 12 feet in height, that was put on there by the applicant. Now, that much is in order, I cannot tell you why the Staff from the Permit Plan Review Branch reduced it further to 8 feet because the applicant had 12 feet showing on his plat.

MR. HAMMACK: Well, I mean . . . to me it's . . . I'm curious because whoever heard of a garage 8 feet tall and 8 feet high, you'll want to put up just a flat roof on it.

MS. KELSEY: Yes, as I said, I could not get a response as to why it was reduced from 12 feet to 8 feet. So, I do not know the answer to that.

MR. HAMMACK: I mean, I don't understand how this sort of thing can happen because I've looked at Appendix 4, I know it shows 12 feet from the rear lot line, but I don't even see why they would even accept this application if it didn't meet the Ordinance.

MRS. DAY: Are there pictures?

MR. HAMMACK: I mean, I just don't . . .

MS. KELSEY: Yes, there were pictures with this application, unfortunately they have been misplaced . . .

MR. HAMMACK: Well, there was . . .

MS. KELSEY: . . . so, we do not have pictures.

MR. HAMMACK: Now, you all . . . there isn't any question that this elevation of what was proposed was attached to the building permit that shows eight feet just at the bottom of it . . .

MS. KELSEY: I cannot say whether the elevation was attached to the building permit or not. It is not a required portion of the building permit application as approved by Zoning and Zoning, as I understand from the Zoning Office, is not supposed to consider the drawings that may be submitted with that application. The review that Zoning makes is in accordance with the house location plat and the information which is on the building permit application.

MR. HAMMACK: Well, the same person that wrote "detached garage" seemed to have written "plats attached."

MS. KELSEY: The plat being the house location plat.

MR. HAMMACK: Well, does the file show that?

MR. HYLAND: Where's the height of the building shown on the building permit?

MR. HAMMACK: This letter to Mr. Covington was filed at the same time?

MS. KELSEY: Yes, as I understand it, that was requested because he already had a garage on the property and because of the Zoning Administrator's ruling concerning accessory structures and they should not be more than 600 square feet, I think he submitted this letter as justification for why he needed another garage on the property.

MR. HYLAND: Jane, on the building permit itself when it was submitted, is the height of the structure shown?

MS. KELSEY: Yes, on Appendix 4 on the front page, on the right-hand side under building characteristics, you will note that it says building height - 12 feet.

MR. HYLAND: I see it.

MS. KELSEY: In addition, you will notice that it was okayed by WSC, who is Wallace S. Covington, and he sets forth the required yards which are: front - he says no change, left side - 20 feet, right side - 20 feet, rear - 12 feet.

MR. HYLAND: Consistent with the height of the building, the 12 foot setback from the rear would have been equal the height of the building.

MS. KELSEY: That would have allowed a 12 foot high structure.

MR. RIBBLE: Right.

MR. HYLAND: Yes, I know, and he's got 8 foot and we don't know why it was changed.

MS. KELSEY: But, a 12 foot high structure would have been permitted with a 12 foot rear yard.

MR. HYLAND: And the reason for the change in the total number of square feet on the building permit was what?

MS. KELSEY: I think that was my mistake, I see they have got detached garage 25 by 24 and underneath 600 square feet, perhaps that was to make it clear. Up at the top where . . . on the left . . . not on the top sorry, about in the middle, under building dimensions there's the little block that says number of stories, width, depth and square feet?

MR. HYLAND: Yes.

MS. KELSEY: And number of stories - 1, width - 25 by depth 24 equals 625 square feet. Since the Zoning Administrator's ruling is that an accessory structure can't be any larger than 600 square feet, I think they were then reducing it to 600. But I inadvertently picked that 905 and that's why it is incorrect in the Staff Report, which was the combination of the gazebo and the garage.

CHAIRMAN SMITH: Further questions of Staff? May we have the applicant, please. Your name and address for the record.

DOUGLAS J. SANDERSON (BETTIUS, FOX AND SHUMATE): Good afternoon, I'm Douglas Sanderson, I'm the attorney for the applicant or applicants. I was retained by Plaseied and Associates, which was the engineer who processed the plans and prepared the plans pursuant to which the garage and the gazebo were prepared, constructed I should say.

CHAIRMAN SMITH: Under contract from the owner?

MR. SANDERSON: From the owner, Mr. Arledge, yes.

CHAIRMAN SMITH: And the owner had no part, then, in either the application or the construction of this.

MR. SANDERSON: He was aware of them, had requested them - in general, was not involved in the specific measurements of anything that went through the County or was submitted to the County. I would like to . . . I had planned to address this later, I'd like to start right out by addressing some of those comments that Ms. Kelsey addressed, and it's unfortunate I didn't have the opportunity to meet with her, that I'd only picked the Staff Report up when it became available last Friday. And I've just not had the time to speak with her about what I'm going to address you on. But in any event, on the building permit application, as one of you mentioned, it does say "plats attached" and not plat; that is not the house location survey, that is the two plats that were submitted. My client has a photocopy of what was given to him when he had the building permit approved and what you see on his particular copy is the house location survey and then you see the bottom, underneath that on an 8-1/2 by 14 copy, you see the bottom of what has been reduced in the Staff Report which shows the elevations. So clearly, there's no question that originally the staff had both plats and as I think Mr. Hammack pointed out, it clearly shows that there is a roof on this elevation. The front elevation, and I'm looking at what's attached as, I guess, exhibit or Appendix 2 in the Staff Report, one of the latter pages on it that's indicated with the elevations, it shows that there is an 8 foot height. But that's the building itself and you can clearly see that on top of that there is a roof; to look on the lower left elevation, you see what the height of that roof is. It shows that it goes at a slope of 8 feet up for 12, feet over a 25 foot building - you have 16 and some inch height including both the roof and the 8 feet. So there wasn't any question that it was clearly disclosed on the submittal that this roof was going to be between 16 and 17 feet high. With that in mind, we come back to the application and you see the 12 foot height that was indicated for the building. That was understood by the engineer as being the average height which he thought was what applied. The Staff apparently compounded the problem by instead of correcting from average height to reflect the maximum height, as required by the Zoning Administrator's ruling to which he had not been aware, they use the height at the corner of the building and that's where the eight feet came from. There wasn't a reduction in the approval process, there was merely a correction of what was reflected in the plans that were submitted and the correction was incorrect.

CHAIRMAN SMITH: May I ask you, why was it not set back 12 feet from the rear property line?

MR. SANDERSON: Ultimately it was not set back 12 feet from the rear property line because the approval that was granted, had written on it, as I have attached to my statement and you'll see in handwriting, 8 foot minimum. At the time that the building permit application was changed from 12 foot height to reflect 8 foot, meaning the corner of the building, it was written on here that all you need on the back is an eight foot minimum. And so my client at the counter wrote on there, 8 foot minimum and therefore he had the space to move it from 12 to 9 foot 8 inches, which is where it is at present. Of course, if he'd left it at 12 we'd still be here with a similar problem, it would just be the reduction from 16.8 or 17 feet to 12 feet.

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CHAIRMAN SMITH: But I would feel better about it if he'd built it in accordance to the building permit. In other words, if he had set it back to 12 feet that Mr. Covington originally okayed, I would not have the problem that I have with it at the present time, simply because it doesn't even conform to the building permit that your client signed.

MR. SANDERSON: Well, I think that that particular issue is of degree, when you look at some of the other facts that pertain to adjoining properties, and when you look at what was actually constructed here, I think is very, very minimal in effect. And as I said . . .

CHAIRMAN SMITH: What right did other properties that constructed on any other lot have to do with this particular error?

MR. SANDERSON: Well we have an eight foot minimum right on our approval plan and we built it at 9.8.

CHAIRMAN SMITH: That's . . . that's not what I meant . . .

MR. SANDERSON: They put that on there to restrict us.

CHAIRMAN SMITH: That's not what Mr. Covington okayed on here, it very clearly points out that the rear property rear . . . set back from 12 feet, and . . .

MR. SANDERSON: Well in any event, if it were 12 feet we'd still be here.

VICE-CHAIRMAN DIGIULIAN: Mr. Chairman, who wrote the eight foot dimension on the plat?

MR. SANDERSON: At the direction of Staff, my client did. At the direction and in the presence of Staff. There were a number of plats that were submitted, as you probably know, and he physically sat there and handwrote on them, 8 foot minimum, and then initialed it.

VICE-CHAIRMAN DIGIULIAN: And that's the owner that did that?

MR. SANDERSON: No, that's the engineer.

VICE-CHAIRMAN DIGIULIAN: Okay.

MR. SANDERSON: The agent of the owner. And as you can see, that 8 foot minimum is consistent with the so-called correction that's on the face sheet of the building permit application.

MR. RIBBLE: And obviously someone should have realized that the total building was quote, "not 8 foot high" because that would not have included the roof.

MR. SANDERSON: That's right, there would have been no roof. Obviously, no one thought this was going to be an eight foot building. It would have been impossible.

MR. RIBBLE: That's ridiculous for anyone to assume that. I mean, unless you have an eight foot building with a very funny looking roof.

MR. SANDERSON: That's right, now . . .

MR. RIBBLE: It would be all roof and no building.

MR. SANDERSON: The next point is . . .

MR. RIBBLE: . . . be a nice A-frame.

MR. SANDERSON: . . . where did that 12 foot average come from, okay? And I imagine you may well have that question. The understanding that the engineer has used before and which he thought applied here was that no part of the garage can be closer to the rear lot line than it is tall. In other words, if you have a 17 foot roof that's 20 feet away from the rear lot line at the point where it's 17 feet, you're within the angle, the plane angle in effect, of the rear lot line. Now, Ms. Kelsey indicated that there was a Zoning Administrator's opinion on that, obviously that's because there was some ambiguity. Unfortunately, my client was not aware of that ruling at the time that he took out the building permit. Ignorance of the law is no excuse, and I acknowledge that, but I'm trying to explain to you the fact of how this occurred. The measurements of the garage, as built, meet his understanding of that and there is no part of the garage which is closer to the rear lot line than it is high. So, that's the factual . . .

MR. HYLAND: But that's not technically correct because obviously the side of the garage is located closer to the rear lot line than the total height of the building which is 17.9. The side of garage is located closer to the side lot line than 17.9 feet, isn't it?

MR. SANDERSON: What I'm saying is that no part of the building, in other words, if you look at it as successive vertical planes going up to the top, no part . . . no height of the building, okay, it closer to the rear lot line than it is tall. Where it's 8 feet high it's 10 feet from the lot line. When you get to the roof where it's almost 17 feet, it's something like 20 feet away. That's what I'm trying to express.

MR. HYLAND: Okay.

MR. SANDERSON: And when I reread my own justification letter I don't think I expressed it too clearly, but that's what I was trying to say. Again that's erroneous. And there's a Zoning Administrator's ruling on it, but my client didn't know that at the time. And obviously the building permit was granted pursuant to the plans that were submitted.

MR. HYLAND: How would the applicant or how would the engineer have known of the Zoning Administrator's interpretation, assuming that it had an impact on this case?

MS. KELSEY: It's in the printed Zoning Ordinance.

MR. HYLAND: Okay.

MS. KELSEY: In the back of it, under Interpretations. And the engineers might, there was a mail-out at the time this was done to a lot of the engineers, builders and so forth. I'm not exactly sure to whom it went, though, exactly.

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MR. SANDERSON: It is accessible, we're not saying that anybody hid it from them. It was available and presumably he should have known of it, but he didn't and the building permit as submitted was approved, back in April. In any event, we acknowledge that that's the owner's risk, I mean if you don't meet the code and you get a building permit, it's your problem.

CHAIRMAN SMITH: He didn't . . . the owner didn't get the building permit, your client got the building permit.

MR. SANDERSON: Well . . .

CHAIRMAN SMITH: The owner didn't get the building permit.

MR. SANDERSON: That doesn't help the owner any as you know, sir.

CHAIRMAN SMITH: No, it doesn't help the owner any . . . the responsibility is to the person who he has contracted with in charging for his services to abide by the Code, in which he didn't do. That's why the homeowner hired this gentlemen.

MR. SANDERSON: Well as you can see on the Staff Report, the applicant . . .

CHAIRMAN SMITH: So that . . . because he was supposed to know what he was doing, and so that he would do it properly, and he didn't.

MR. SANDERSON: Perhaps there was fault on both sides, sir.

CHAIRMAN SMITH: I don't think there's any fault on the homeowner, I don't see where the homeowner did anything wrong.

MR. SANDERSON: I don't mean the homeowner. The homeowner is is working with my client and, in fact, I met with both of them very recently on this case just to to discuss where it was. There's no adversity between the two of them.

CHAIRMAN SMITH: Oh, I didn't indicate there was, but if he was paying for this man's service . . . he should have properly executed his contract.

MR. SANDERSON: Well, my concern is that the Staff Report, in effect, raises a question as to whether there was really good faith without denying that there was. All that I'm trying to do is to explain the procedure that my client has followed in the past, which has been approved, and to explain that he was acting in accordance with his understanding of what occurred and that he indeed made an error but the review process also failed to come up with the proper correction as to what that relationship between the height and the rear lot line should be. And I don't think that there's any question, there shouldn't be any question of good faith on the part of my client, whether it's the engineer or the owner. Obviously, the owner's responsible for what the engineer did, but when I say my client, I almost use that interchangeably for the purposes of the special permit application.

CHAIRMAN SMITH: But this building permit very clearly states 12 feet setback. If he had met that 12 foot, I wouldn't have had as much problem with the explanation . . . as far as the height is concerned. But you didn't meet the 12 foot requirement, and of course you're talking about the 8 feet and all. This man is an architect. He certainly should be better versed in the Code or maybe he didn't take a look at the Code.

MR. SANDERSON: Sir, he was told that he had . . .

CHAIRMAN SMITH: He was trying to get somebody else to do his work for him.

MR. SANDERSON: He was told that it was important that he observe an 8 foot minimum. If there had not been any significance to that, why would the Staff have written that on his plan?

CHAIRMAN SMITH: That's not what the building permit says.

MR. SANDERSON: Why would the Staff have written an 8 foot minimum on his plan if it was irrelevant and he was to understand that he must build to 12.

MRS. THONEN: I can't understand who wrote that 8 foot minimum.

CHAIRMAN SMITH: He did.

VICE-CHAIRMAN DIGIULIAN: Mr. Chairman?

CHAIRMAN SMITH: The architect did.

VICE-CHAIRMAN DIGIULIAN: I thought I asked that question before. Who wrote the eight feet on the plat?

CHAIRMAN SMITH: The architect.

MR. SANDERSON: In the presence of Staff, at the direction of Staff, the physical writing was done by the engineer.

MRS. THONEN: Well, Jane, you were the Staff person on this, what do you know about it?

MS. KELSEY: No, I . . . I think we're Staff - yes, we're all part of County Staff on it. So, if one makes an error we all make an error. But this only came to the Board as a result of a complaint concerning this garage and the Zoning Inspector issued a violation notice and then the applicant filed this application. And that's where I came in because we started researching to try to determine how this error occurred. And so the Staff Report is the result of what we tried to find out. The Permit Plan Review Branch of Zoning Administration Division is assigned the responsibility of reviewing all applications for a building permit. They do not review, they're not charged with the responsibility of reviewing building plans, whether or not those building plans may come up with the application or not, they are not charged with the responsibility of reviewing the building plans. That's the responsibility of the Building Plans Department that has a different code to deal with. The Code and the plat that the Zoning Administration Division is responsible for is the house location plat that locates the structure on the property and that is what they look at and that's what they have to be concerned with. The unfortunate part concerning this application is that there are two plats - two approved plats. The one that was included in the applicant's

statement, which has the eight foot minimum "pp" initials on it; and the plat which is an Attachment 4 that I found in our building permit file as the approved plat. I took those plats to the Permit Plan Review Branch to try to get an explanation, but I think this occurred several months ago and they were not able to give me detailed information as to exactly who said what to whom at the time all this came in.

VICE-CHAIRMAN DIGIULIAN: Okay, but of the plats that you found in the file, were there any plats that had the eight foot setback in the rear marked on them?

MS. KELSEY: No.

VICE-CHAIRMAN DIGIULIAN: So they came from the applicant?

MS. KELSEY: Yes.

VICE-CHAIRMAN DIGIULIAN: Those plats, the ones you found, showed the 12 foot setback from the rear.

MS. KELSEY: Right.

VICE-CHAIRMAN DIGIULIAN: Okay.

MR. SANDERSON: When I said Staff, I meant the original review Staff, not the recent Staff in its review of this case. And I have the red building permit, the original, and with it I have the two documents that my client gave me with the red approval stamp and on it is written 8 foot minimum.

VICE-CHAIRMAN DIGIULIAN: I'd like to see that.

MRS. THONEN: I would like to make a suggestion that maybe we stop changing these plats and let them come to us with whatever's on them and maybe then we'll know who shot who, this is getting very confusing.

MR. SANDERSON: Well, if you would like, Mr. Plaseied is here and he . . . Perhaps you would like to hear from Mr. Plaseied as to the actual review process at that moment.

BEDREDDIN PLASEIED: Mr. Chairman, my name is Plaseied and as long as you're talking about me, I'm the architect, I might as well answer for myself.

CHAIRMAN SMITH: All right, but could we have your full name and address.

MR. PLASEIED: Yes, my name is Bedreddin Plaseied, I have my own office in Vienna and it's at 380 Maple Avenue West, Vienna. One, I do not have any agreement or contract with Mr. Arledge. I do have an agreement with him on his office building and since we are close friends and he asked me to give him some plans on this garage, I provided him with one and I sent it to the County. And my interpretation on the roof elevation and the distance of the property line has always been any location of the roof, any height of it cannot be greater than the distance to the property line. We have followed this for years in the County, in here, in Arlington and Alexandria, any place and nobody has stopped us. But maybe they send us some interpretation of it, I really, I have not seen that interpretation of Mr. Yates . . . since 1979. And when I went to . . . Mr. Covington called me to his office in April, discussing this matter with me, I went over it with him, they had both elevation of the building and the plan. We discussed it, the side elevation, we went over it and we discussed it that the 12 feet is the average height from 8 to the peak of the building. And I said, since it was average I could not put a variable, I just put down 12 feet average. And on the back of it I had written 12 feet from the fence which makes any point of the building to be no closer than this 12 feet or from the height of the building. Then, Mr . . . Ms. Brown was present, she's of Staff of Mr. Covington, he said, well you know as long as you stay any part as you stay from the height of the building away from the property, I will be happy with it. I said, fine. Then right there, we look at elevation, the first elevation come to mind is eight feet which is just the wall itself the beginning of the roof, and Ms. Brown put down here, said well do you understand that long as you are not closer than 8. I said, well I have shown 12 feet. She said, well make sure there are seven copies I signed. We made sure one was wrong because on the side it said 10 feet because the existing garage was 10 feet and Mr. Covington said you cannot have a 10 feet side yard, you have to have 20 feet minimum. So, we changed that 10 feet to 20 feet and I initialed it, and she asked me to change the 12 feet to minimum 8 feet, initial it. I did them all. Probably I missed one copy, I really don't know. Now, when I was away and they started constructing the site, the site is a very wooded area, has beautiful Dogwood trees and some huge Oaks and Maples, and Pines, sorry, then they got the nursery to come in. Mr. Arledge got a nursery to come in to remove some of the Dogwoods. They said, well try to live without moving them because any one of them are as good looking . . . and you liked them, if you moved them, there's no chance of surviving. So, on themselves, they had rotated the garage in such a way not to be closer than 8 feet from the property line and that's what happened. You see, on one side it says 9.8 and the other side is almost 14 feet. They just rotated the garage to get away from the trees. They had no intention of 10 or 12 feet or anything any closer than that. And this was the entire discussion I had with Mr. Covington and Miss Brown was present at the meeting.

CHAIRMAN SMITH: What . . . Are you saying now that in rotating the building that they made an error and got one corner of it closer than 12 feet?

MR. PLASEIED: Well, that's what exactly what happened. The whole thing, they could have moved it another 10 feet this way towards the front and have 20 feet in backyard and it wouldn't bother anybody. They have plenty of . . .

CHAIRMAN SMITH: Who's doing the measurements?

MR. PLASEIED: Mr. Dick Calvert is the one who did it. They have a different subcontractor doing the work for them. I just, you know, supervised for them . . . getting a general contractor . . .

CHAIRMAN SMITH: Well, you were supervising, did you lay out the building location for them . . .

MR. PLASEIED: The engineer came in . . .

CHAIRMAN SMITH: . . . set the corners for them?

MR. PLASEIED: The engineer came in and staked it at 12 feet from there. Then they call me. They said if they do that one, they're going to lose two huge trees and as a matter of fact I can get two witnesses in here from nursery who came in here. They said, trying to knock these trees down is tougher to damage the properties because they are huge, you have to look at them. And when I came in I said as long as you stay away 8 feet minimum, why don't you try to rotate the building? Forward, backward, sideward, keep these two, this as the minimum 20 feet and the minimum 8 feet, you should be okay and move them around from the trees. That's the whole thing happened. There was no intention of trying to get a smart on anybody or trying to make a mistake on it.

CHAIRMAN SMITH: Well, but the building permit still states 12 feet. You were going to build it 12 feet from the property line and the building permit, as far as I'm concerned, is the fact and this is what you have agreed to.

MR. PLASEIED: Well, that is the building permit, Mr. Smith, excuse me Mr. Chairman, this is a . . . that is a building permit that . . .

CHAIRMAN SMITH: Any conversation that went on or changes that took place other than on this building permit, as far as I'm concerned, isn't relevant.

MR. PLASEIED: Well, Mr . . .

CHAIRMAN SMITH: That's why we have a building permit and set forth the setback requirements on it and it's initialed by someone, in order that . . .

MR. PLASEIED: I initialed it myself in front of Mr. Covington, and the permit I have in hand, it is what initialed. He has a copy of it. And this was . . . our true intention was, has always been, and I can bring you quite a few of our jobs for other people that this has always been, nobody has really stopped us, any part of the roof as long as it is a slope, any part of the roof has to be lowered . . . no . . . the height of it, it should be less than the distance of the property line.

CHAIRMAN SMITH: How much building have you done in Fairfax County, sir?

MR. PLASEIED: I have been in the building industry since 1964.

CHAIRMAN SMITH: In Fairfax County?

MR. PLASEIED: You see, I have my own office in Fairfax County . . .

CHAIRMAN SMITH: Wait a minute, in Fairfax County?

MR. PLASEIED: Yes, it is. I am a licensed architect, I have . . .

CHAIRMAN SMITH: I'm sure you are, I saw it stamped on here, I'm not questioning that.

MR. PLASEIED: In Fairfax, I have been since 1969 . . . since 1959.

CHAIRMAN SMITH: Well . . .

MR. PLASEIED: And I'll be happy to bring you a little more commercial I'll bring you, you know, our records are truly clear, that's the first time anybody questioned me on the zoning. But I'll be more than happy to bring . . .

CHAIRMAN SMITH: I'm not questioning you on the zoning, I'm questioning you on your accuracy as far as locating the building is concerned in accordance with the building permit.

MR. PLASEIED: If that . . . you don't want to know, you know very well that if that 8 wouldn't have come up, you wouldn't have no reason to rotate to move the building . . . move the building at least 12 feet from the building, from the property, but you have to get away from the trees too.

CHAIRMAN SMITH: Thank you.

MR. PLASEIED: Thank you.

MRS. DAY: Let's move on.

MRS. THONEN: Yes.

MR. SANDERSON: What I wanted to just point out in addition was, I think one of my client's points was that had he been asked or been told that this was closer to the property line than permitted, he could have moved it within the property line because the space is there as you can see to do that. It was desirable to put it in that corner as close as it would fit within the available and legal minimums, and that was what he attempted to do and had he been advised or had he known of the interpretation or had the Review Staff picked it up when they had the plan in front of them, he would have been able to move it. At this point we have a completed building. What I'd like to do is to look at some of the other factors and look at the building itself and it's unfortunate that the photographs were lost. I do have, I think, a few more but they're not . . . pardon?

MRS. DAY: Is it really relative to this?

MR. SANDERSON: What?

MRS. DAY: Well, we're really running really late.

CHAIRMAN SMITH: What Mrs. Day is asking you is what you are now presenting or about to present to us, relevant to the error.

MR. SANDERSON: Well I think that the only real issue that you are going to face other than the one that you've already identified and that we've discussed in terms of technical compliance, is whether there's been any detriment to anybody. And in that . . . in that vein I think it's important to address the building materials and the

style of the building and the scale of the building. And unfortunately the best way to do that was with the photographs that I submitted and I don't have additional ones of those.

MR. RIBBLE: Can we see the ones you have please, sir?

MR. SANDERSON: They don't really show it very well. They really show more of the view from adjoining properties. I really only have, I think, two photographs which were both taken from the other side of the fence from the viewpoint of the adjoining properties owners. This is a . . . it's a brick garage with a dark brown roof on it and what you see there is . . . the roof from the property line on the adjoining property. But it's the same construction as the other buildings that are already on the site. As you can also see from those photographs, there is substantial screening and there is a six foot high fence; you can't see that's it's six feet high from the photographs, but it is a six foot high fence. So, you can see an additional two feet of masonry above that and then you can see the roof. My point on that is very simple, if the roof were seven feet shorter you would still see the building and you would still see the roof and it would still be equally screened as it is now. Of the neighbors who received notices, obviously the requisite neighbors, we are aware of one complaint and that is from the owner from whose property those photographs were taken. We have spoken with the neighbor; we have asked for appraisals to be done of the property. We got an appraisal from a man named Donnelly which we have available and he said that he saw no adverse affect on the property as a result of the construction of that garage. We also got a letter from John G. Georgelas, who is the developer of the subdivision in which the Arledge's property is located. He also indicated that there was no adverse impact and that this was extremely in accordance with . . . was precisely in accordance with the tone of the neighborhood. I have those documents . . .

CHAIRMAN SMITH: Do you have those letters with you?

MR. SANDERSON: I do indeed.

CHAIRMAN SMITH: All right, could we have those for the record then since you have mentioned it.

MRS. THONEN: Mr. Chairman . . .

MR. SANDERSON: This is very thick but the letters are on the first two pages.

CHAIRMAN SMITH: What?

MRS. THONEN: Can we have him sum up, he's taken . . .

CHAIRMAN SMITH: Yes, I will.

MR. SANDERSON: The rest of what's attached here is the less of the equation, but the cover sheets . . .

CHAIRMAN SMITH: I'll give you two minutes to sum up your testimony, sir.

MR. SANDERSON: We believe that there's no adverse impact. We believe that we have offered . . . well - forget the we believe, we have offered to the adjoining property owner to raise the fence, put additional evergreens in there. You'll notice in the Staff Report that it indicates that if you all see fit to grant this special permit it should be done subject to screening. That's exactly what we've offered. That's been unacceptable, we've been told that we should either take the building down altogether or pay a substantial amount of money as damages to the adjoining property owner. We don't believe that that's appropriate, but even aside from that issue, the merits of the request I believe show that there was good faith. If it had been built precisely in accordance with Code, there would still be a garage at that location that would be visible from the adjoining properties. I simply request that the special permit be approved to conform with the review process inadvertently permitted since there is no detriment to any adjoining property owner. Thank you for your time.

CHAIRMAN SMITH: Questions? Thank you. Anyone else to speak in support of the application, has something new to add? Anyone to speak in opposition to the request? Okay, would you step forward ma'am and give us your name and address and state your position.

SARA REFSNEIDER (BLANKINSHIP AND KEITH): I'm Sara Refsneider from the law firm of Blankinship and Keith. I am here representing the owner of Parcel 20. Jane, can we show the tax map with parcel 20 on it. This property right here, the garage is approximately right there. It is unfortunate that the pictures were misplaced . . . show a detrimental affect on my client's property.

MRS. DAY: Lot 21?

CHAIRMAN SMITH: Are these all the same, now?

MRS. DAY: 20?

MS. REFSNEIDER: 20. We're here today because back in May my client called the County when it became obvious that the garage was too close to his property: it was still in the process of being built. He didn't get out a shotgun, he didn't harass the property owner, he didn't harass the architect, he did what he was supposed to do, he picked up the phone and called the County. He said, should I get an injunction, what should I do. The County said, no - you report it to us, you've done right, we'll take it from here, don't worry. It's essential to remember this is not a variance application. You all have heard a lot of variance applications today, but this isn't one of them. We're not talking about a porch that's being fixed up, things like that. This is an application for a very special type of special permit. Section 8-914 sets out the standards which must be met and states that none of these standards must be waived, it's and-and-and-and right down the line. These are necessarily tough standards; if they weren't, people would go around putting up structures without any regard to the Zoning Ordinance and then ask that the structures be approved just because

they're there. There are at least three reasons why this application most decidedly does not meet the Section 8-914 standards for a special permit based on an error in building location. The first is that non-compliance was not done in good faith. As Chairman Smith has recognized, they said it was a 12 foot yard, it wasn't a 12 foot yard. They said that Tammy Brown is the one that wrote down the 8 foot building height, she told me she asked the man how tall is the building really going to be, he said 8 feet, she writes down 8 feet. They said the yard is going to be 12 feet, fine - it complies. In fact, the building is not 8 feet. I think the point was well made by Chairman Smith too that even if the building had been 12 feet high, we wouldn't have compliance because . . . I mean, even if the yard had been 12 feet we wouldn't have compliance because it's a seventeen foot high building. The Zoning Administrator's opinion has been there since 1979, it's on the books, it is part of the County Ordinance. You all know the Zoning Ordinance better than I do, there is a section here, right at the back, Interpretations. If you are a subscriber to the Zoning Ordinance, you get all the amendments and you get the interpretations of the Zoning Administrator as they come out. I think the architect and the engineer was charged with knowledge of those interpretations, he does a lot of commercial work; he was doing this as a favor, it strikes me that it was a "Loosey-Goosey" sort of operation. He wasn't paying a lot of attention to it; I don't think that the fact that he was an agent for the owner excuses that. It's a good faith issue here, he was charged with knowledge of the Zoning Ordinance of Fairfax County. The second reason, and the most compelling one if the application doesn't meet the Section 8-914 standards, is that the garage is detrimental to the use and enjoyment of other properties in the immediate vicinity. I've given you the pictures that show the affect of this garage on the Johnston property. I have a plat of the Johnston property and I have shown approximately where the garage is, I think it's important. The Johnston's house orients towards the rear, towards the backyard for all entertaining purposes. The front is a steep slope that can't be used. The dining room has sliding glass doors that open onto a patio that Ms. Johnston laid by hand. At the end of the house which is closest to the garage, there's a screen porch. Immediately behind the house is a Williamsburg Rose garden which Mrs. Johnston planted. The entire backyard has been carefully and extensively landscaped and lovingly maintained. The backyard is the center of all the Johnston's entertaining, they have cocktail parties in the backyard, they have dinner parties on the patio and in the screened porch. I've visited the property, you walk out the dining room through the sliding glass doors and there's this garage, it just looms up. The roof is incredible, it's visible, it's heavy, it's brick. The two Pine trees that are between the Johnston property and the garage are so high that the only thing that's between the garage and the Johnston property is their trunks. The trees are up high, they're even above the seventeen foot roof line. The roof has an overhanging eve of about a foot too, from the property line to this eve is about 8 feet 8 inches, rather than the 17 feet it should be. When Admiral and Mrs. Johnston bought the property in 1961 . . . the Arledge property was woods. They didn't expect it would always be woods but they did expect that any structure built on the adjoining property would conform to the Zoning Ordinance. They had a right to expect this, this is what having Zoning Ordinances is all about. The detriment of the use and enjoyment of the property translates into a financial loss. Alfred Brassell, an IFA Appraiser, has looked at the property and garage, and concluded that as a result of the garage's location, the Johnston's property has decreased in value 20,000 dollars. A report by James Keith, Realtor of Town and Country, attests to the fact that the Arledge garage would make the Johnston property considerably more difficult to market. With regard to the Georgelas report that has been furnished to you all, I would like to note that Mr. Georgelas built the Arledge house. I have a copy of Mr. Keith's report and the appraisal. The third reason that the application shouldn't be granted is the compliance with the minimum yard requirements would not cause an unreasonable hardship on Mr. Arledge. The pitch roof is unnecessary to the purpose of the garage. The garage built to house antique Cadillacs, it's the third garage on the property. The roof could be removed and restructured so that the height of the building was within the 9 feet, 8 inch minimum. Then there wouldn't be any violation of the Zoning Ordinance at all. Certainly antique Cadillacs could fit into a structure 9 feet, 8 inches high with room to spare; people could fit into it with 9 feet, 8 inches with room to spare. It seems to me that there are three options that are open regarding the garage, two of them are rather extreme, one's fairly reasonable middle ground. The two extremes are: leave the garage where it is and unchanged for the addition of trees, this just won't work. First of all, it would require the waiving of three of the unwaivable parts of 8-914. The second reason is, I don't think you could get enough trees of the type you would need in the space between the fence and the garage, you just can't cover up a structure like that, it is massive. The second, is to tear down the garage and move it back seventeen feet from the property line. It's very clear to me that if Mr. Arledge had come in here and asked for a variance, prior to building the garage, he would have been laughed off the floor. I mean he has this huge lot, he's obviously trying to get it as far away from his house and his pool as he can. The fact that it's there now doesn't really make that any difference at all. Admiral and Mrs. Johnston aren't asking that he tear it down, though. They're simply saying - fix the roof, fix the roof so we don't see that looming over our property line. Make it comply with the Zoning Ordinance, I think that's ultimately reasonable, I think it's the only reasonable way out. Thank you.

CHAIRMAN SMITH: Does the Board have any questions? Thank you.

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BERYL WALL: My name is Beryl Wall, and I live at 1122 Linton Lane, which is excuse me, pointing the lot on the left-hand side as you look at the . . . Admiral and Mrs. Johnston live on the one on the right and I live next to them, on the left. Yes - that's it, thank you. We both moved in . . . well, I was built ahead Admiral Johnston in 1960 and they moved in in 1961, and as you know when you work Virginia clay for 25 years it becomes very dear to you and she has a beautiful backyard and I also enjoy gardening very much, and when you see these buildings go up that have no rhyme or reason as Mr. Arledge already has a two-car garage and another garage, there goes this garage and a thirty foot gazebo; Now, I mean, which is out of all proportion to the house. I really feel that's he's being an unreasonable neighbor. But I won't keep you any longer because I known this has gone on and you are trying to tie this thing up. Thank you.

CHAIRMAN SMITH: Thank you. Thank you. Questions? Any questions? Anyone else to speak in opposition?

JOHN OWENS: My name is John Owens, I live at 1135 Linton Lane which is approximately across the street from Admiral Johnston's house. We've been there since '62 and my wife, who is also interested in gardening, and I have watched the improvements gone on the Johnston property. The backyard, as was mentioned, is enclosed on all sides, the house is more or less a triangle, the corner . . . the property, the back property lines forming a right angle and the house itself cuts across the triangle and, therefore, encloses this triangle that's thoroughly enclosed. On either edge of the house are hemlock hedges, tall hemlock hedges, which complete the enclosure of this area. About . . . oh, some time in the fall, I hadn't been over to the house for some time, sometime in the fall I walked across the street and up the driveway and through one of these hemlock hedges, which has an iron gate, and it's the hemlock hedge that separates the turn-around, the garage turn-around from the garden area. I went through the gate, and I will try to express my reaction; I did not know this building was there, it was the first I'd saw it and I stopped in my tracks, startled at this overbearing monstrosity, and my question to myself is, "what in the hell is that thing?" The Johnston's were not home at the time, so I peered over the fence and became more inexplicable; I knew that there were already two garages in the place and I thought, well - it can't be a garden tool shed, it's too big for that, and then of course, I noticed it was very close to the the fence line. And I then took a position on the patio to look at it and it was even more obtrusive and then I took a position on the enclosed screened porch where people sit and entertain in inclement weather and the appearance in there was equally offensive. So I said to myself, of course now this is a pretty pickle, it seems to be either delivered or inadvertent work of a thoughtless neighbor, not considering a next door neighbor. Well, that's the end of my dissertation, I just wanted to express to you the alarming impression that this building makes upon you when you're in that beautifully gardened area, which has been described before. Thank you.

CHAIRMAN SMITH: Thank you very much. Questions?

ADMIRAL MEANS JOHNSTON, JR.: Ladies and gentleman my name is Johnston, Means Johnston, Jr., and my wife couldn't be here today due to a death in the family; otherwise, she would be here speaking to you also. I'd just like to put up the slide that was up before showing the buildings. Now, Mr. Plaseied told me that, you see that structure coming this way it's ten feet, he said that . . . I asked him about why in the world they made him write in minimum of 20 feet and so on, he said, well because that one was illegal. So, that one was already done incorrectly before, it's not 20 feet from the neighbors line. So this time they said, and this is what brought it up, they recognized it at the time they were discussing it, so that you write in there minimum of 20 and minimum of 8 and initial it, now that's what he told me. He came to see me a couple of days ago and said what would it take to make you happy and I said, well let's have it go away, and he said, well of course we can't do that. I said, will this comply with the law, and he said, well is there any other way we could make you happy? I said, well look you know about Mr. Brassel's appraisal which he said the property had been decreased in value 20,000 dollars, I never offered to settle with him in any way whatsoever, and the bad part is, if you grant this permission that will run with the land and that structure really is tenement, an easement over my property forever and if I ever try to sell my house that right of his to have that garage there is going to run with this property forever. Now he said . . . the lawyer said a minute ago for Mr. Plaseied, that they put it down there in the corner because that was a desirable place, I say desirable for whom. It's very desirable for Mr. Arledge to have it there away from his pool, and so forth. And Mr. Arledge himself told me that he could have put it anywhere back there without any problem. The main thing, though, is this permit. There's no way to get around the permit. It says right here 12 feet and I brought this up to Mr. Plaseied just a couple of days ago. He said, well that doesn't mean anything - that 12 feet up there, you fill that out and it doesn't mean anything. Well, I said, the lady wrote down here 8 feet. Eight feet, well that didn't mean anything. He just brushes that off. Now he's a registered architect, he's been in this County since 1969 he said. This interpretation, which is sort of implied that it was a recent one, was 1979, so this has been on the books since 1979. Now, if he's a registered architect I don't know how you can operate in this County without knowing the Code. I think I will stop there, I believe my attorney's already made all the other points. Thank you.

CHAIRMAN SMITH: Thank you. Questions? Anyone else to speak in opposition? All right you may have two minutes to rebut.

MR. SANDERSON: Thank you. I'd like to just briefly go over the three reasons that Ms. Refsneider mentioned. The first thing she said was that the Staff honestly believed it was to be an eight foot building. All I can say in response to that is if the plats were there, how could they honestly have had them and believed that the building was going to be eight feet up in the air and then have no roof or a flat roof. There was nothing before them that indicated such a thing. Second of all, I think this is very important, her language and I wrote it down in quotes was, "a garage is detrimental." And that's what she said the appraiser said. Well, ladies and gentleman we are entitled to a garage, right at that location, by law, expect it's got to be shorter. And look at those photographs, it's still visible, it's still unshielded to the extent that that's unshielded or it's got those trees in front of it to the extent that you see the trees, we're entitled to a garage. If his property is injured because there's a garage there, there's going to be a garage there anyway. And finally, Ms. Refsneider in effect, mocked the idea that you would want to build a garage for antique Cadillacs. Well, let me give her more to mock; that's a heated garage and it's finished. This is not a neighborhood of inexpensive homes as I'm sure you know. And Mr. Arledge had some very fine automobiles that he wants to be able to heat and take care of. And he doesn't want to build a "shanty" on his property and cover it just so that he can put his cars in there. He wanted something that would be compatible with his house; that can't be a flat roof building. So that was the purpose for its construction and that's the reason for its location is because Mr. Arledge felt that would be the best location, to get it within legal limits in the corner of his property, and a mistake was made in good faith. And I think that under the circumstances, we're simply asking for equity to be permitted to maintain what we have. The only alternative that we can end up with is a building that's jarringly inappropriate for the neighborhood with a flat roof that goes about four feet up and then over like a . . . what is it . . . a Pizza Hut building without the thing on top, and that's the only other logical answer for it which I submit would look even worse. Clearly he is not going to move a 35,000 dollar garage; clearly he's not going to demolish it because that would contradict the whole point of having one constructed to protect his automobiles. There's nothing in the Code that says a man's only entitled to two cars. I think that the reasoning behind building it was logical. We went through the review process; mistakes were made. I don't see that there's a substantial impact and I think it's interesting the man across the street who appears in effect as a witness rather than as a neighbor, because he doesn't say there's any impact on his property, and Mrs. Wall appears, and neither of them ever said a word to Mr. Arledge indicating that they had any problem with it or that they'd like to see some screening. We offered to screen that property and were told that that was inadequate. I really submit that it's fair and it's equitable for a special permit to be granted and I don't think that the alternative is going to be anymore desirable to Admiral Johnston. Thank you for your attention.

CHAIRMAN SMITH: Thank you.

MR. SANDERSON: Incidently, if it would aid the Board at all, I have asked Mr. Plaseied and he has the negatives from the photographs that were submitted before . . . and I think it's interesting to note that there's . . .

CHAIRMAN SMITH: Well, I think you've had sufficient time, sir. You've gone over your two minutes in rebuttal, you've exceeded your time originally, and thank you. You don't have any more time if you have question, I'll try to get an answer for you.

MS. REFSNEIDER: I'd like to point out, my client . . . that something would be more desirable to my client . . .

CHAIRMAN SMITH: No, we're not going to debate that. We have for the record, appraisals from both Mr. Johnston's appraisal, Admiral Johnston's appraisals and the other . . . the applicant's appraisals. And then, of course, the Board has to evaluate the testimony and the information that it has before it, and also, the testimony of the appellant as to whether or not he meets the requirements for the SP. The public hearing is closed.

VICE-CHAIRMAN DIGIULIAN: Mr. Chairman?

CHAIRMAN SMITH: Mr. DiGiulian.

VICE-CHAIRMAN DIGIULIAN: In Special Permit Application SP 85-D-062, Mr. Chairman, I don't believe that the application meets all of the requirements for granting of a variance in this case. Specifically under 1, B and D, and I believe that the owner has some alternatives by which he wouldn't have to tear the structure down, he can modify the structure to then be in compliance with the Zoning Ordinance. And; therefore, I move that the application be denied.

MRS. DAY: I'll second it.

CHAIRMAN SMITH: It's been moved and seconded, the application of Mr. and Mrs. Robert C. Arledge and Plaseied Associates be denied for reasons stated in the resolution by Mr. DiGiulian. Discussion? If not, those in favor of the resolution to deny will indicate by saying aye.

"AYE."

CHAIRMAN SMITH: Those opposed, no. No. The vote is unanimous of the Board Members present to deny the request.

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The Chairman called for the case scheduled for 1:30 P.M.

Page 307, Arledge/Plaseied & Associates (Continued from Page 306)

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-D-062 by MR. AND MRS. ROBERT C. ARLEDGE; PLASEIED & ASSOCIATES, under Section 8-901 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in building location to allow a 17 ft. high detached garage to remain 9'8" from the rear lot line on property located at 6022 Orris Street, Tax Map Reference 31-2((22))2A, Vice-Chairman 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 14, 1986; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-1.
3. The area of the lot is 46,063 square feet of land.

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, 8-903, and 8-914 of the Zoning Ordinance.

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

Mrs. Day seconded the motion.

The motion carried by a vote of 5-0, Mr. Hammack and Mrs. Thonen not being present for this hearing.

Page 307, January 14, 1986, (Tape 6) Scheduled case of:

1:30 P.M. MITCHELL E. MOTAFCHES, JR. - SP 85-S-063, application under Section 8-901 of the Zoning Ordinance to permit modification to minimum yard requirements for an R-C lot to allow construction of deck addition to dwelling to 12.4 feet from side lot line and 19.4 feet from the rear lot line (20 ft. minimum side and rear yard required by Sect. 3-C07), located at 4401 Pleasant Valley Road on approximately 10,500 square feet, zoned R-C, WSPOD, & ANOID, Springfield District, Tax Map 33-4((2))49-A.

Jane Kelsey, Chief, BZA Support Branch, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Mitchell E. Motafches, Jr., the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-S-063 by MITCHELL E. MOTAFCHES, JR., under Section 3-C07 of the Zoning Ordinance to permit a modification to the minimum yard requirements for an R-C lot to allow the construction of a deck addition to dwelling to 12.4 feet from the side lot line and 19.4 feet from the rear lot line on property located at 4401 Pleasant Valley Road, Tax Map Reference 33-4((2))49-A, 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 14, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-C, ANOID and WSPOD.
3. The area of the lot is 10,500 square feet.

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, 8-903, and 8-913 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 the specific structure indicated on the plat included with this application prepared by Paciulli, Simmons, & Associates, Ltd., and is not transferable to other land or to other structures on the same land.

2. A building permit shall be obtained prior to the start of construction.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special permit shall automatically expire, without notice, eighteen (18) months after the effective date of the Special Permit unless construction has commenced, or unless an extension is granted 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 extension should be justified in writing, and should be filed with the Zoning Administrator not less than thirty (30) days prior to the expiration date.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0, Mr. Hammack and Mrs. Thonen being absent from this public hearing.

Page 309, January 14, 1986, (Tape 6) Scheduled case of:

1:45 P.M. THE ENTERPRISE SCHOOL - SPA 85-C-049-1, application under Section 3-103 of the Zoning Ordinance to amend SP 85-C-049 for a private school of general education by deleting the condition requiring the provision of a deceleration lane, located at 1629 Beulah Road on approximately 4.5 acres of land, zoned R-1, Centreville District, Tax Map 28-1((1))13. (OUT-OF-TURN HEARING GRANTED 12/17/85)

Jane Kelsey, Chief, BZA Support Branch, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Michele E. Surwit, Executive Director, The Enterprise School, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and the following persons came forward in opposition: Colonel Leon B. Nurrey, 3500 Everest Drive, Marlow Heights, Maryland, speaking on behalf of Don Miller 1659 Beulah Road and Mariano Echevarria, 1625 Beulah Road, and Fred Strebb, 1010 Country Club Drive, owner of the contiguous Lot 13A, who expressed concerns regarding the amendment of the current special permit condition dealing with the deceleration lane.

Chairman Smith asked if there were other persons to speak against this application and hearing no reply, called for the applicant's rebuttal.

Following the rebuttal by John F. Callow, Traffic Consultant and President, Callow Associates, who addressed the citizens' transportation concerns, Chairman Smith closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 85-C-049-1 by THE ENTERPRISE SCHOOL under Section 3-103 of the Zoning Ordinance to amend SP 85-C-049 for a private school of general education by deleting the condition requiring the provision of a deceleration lane on property located at 1629 Beulah Road, Tax Map Reference 28-1((1))13, 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 14, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 4.5038 acres of land.

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, 8-303, 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. There shall be a maximum daily enrollment of twenty-five (25) students.

6. The maximum hours of operation shall be from 8:30 A.M. to 3:30 P.M., Monday through Friday.

7. There shall be nineteen (19) parking spaces, including the four existing spaces, and all parking shall be on site. The parking area near Beulah Road shall be located at least ten (10) feet from the front lot line and peripheral parking lot landscaping shall be provided in this area. This parking area may be shifted, if necessary, provided it is no closer than twenty-five (25) feet from the side lot line.

8. Adequate sight distance shall be provided to the satisfaction of the Virginia Department of Highways and Transportation (VDH&T).

9. The entrance to the site may be relocated in order to provide adequate sight distance but shall be located and constructed to meet the minimum acceptable State and County standards. The requirement for a deceleration lane shall be determined by the Director, Department of Environmental Management (DEM) and the Virginia Department of Highways and Transportation (VDH&T).

10. Dedication of sixty (60) feet shall be provided from center line of Beulah Road, but may be deferred for a period of five (5) years.

11. Transitional Screening 1 shall be provided along all lot lines except as follows: The existing vegetation shall be used to satisfy the transitional screening requirements; however, supplemental plantings of evergreen trees at least six (6) feet in height shall be planted along the western lot line between the existing parking area and the dwelling on the adjacent lot where there is insufficient planting to satisfy Transitional Screening 1 and the size, number and location of these plantings shall be approved by the County Arborist to screen the parking lot from the view of the adjacent property. The barrier requirement shall be waived provided the existing fencing is retained.

12. There shall be a maximum of seven (7) employees.

13. All gravel surface areas shall be constructed in accordance with standards approved by the Director, Department of Environmental Management (DEM).

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

15. This special permit is approved for a period of five (5) years from November 7, 1985.

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 carried by a vote of 5-0, Mr. Hammack and Mrs. Thonen being absent from this public hearing.

Page 310, January 14, 1986, (Tape 6) After Agenda Item, Action #1:

HANNIBAL S. AND MARTHA M. DESCHMERTZING, VARIANCE APPLICATION VC 84-D-080.

Mr. Hyland moved that Board of Zoning Appeals grant the request for additional time of six months for Variance Application VC 84-D-080 in the name of Hannibal S. and Martha M. DeSchmertzing, making the new expiration date July 24, 1986. This motion was seconded by Mr. Ribble and carried by a vote of 5-0, Mr. Hammack and Mrs. Thonen being absent for this hearing.

Page 310, January 14, 1986, (Tape 6) After Agenda Item, Action #2:

CARE-A-LOT LEARNING CENTER, INCORPORATED, AND MICHAEL J. AND KAREN L. REID, SPECIAL PERMIT APPLICATION SP 85-C-078.

Vice-Chairman DiGiulian moved that the Board of Zoning Appeals grant the request for an Out-of-Turn Hearing for Special Permit Application SP 85-C-078 in the name of Care-A-Lot Learning Center, Incorporated, and Michael J. and Karen L. Reid to a date and time certain of February 25, 1986 at 9:00 a.m. This motion was seconded by Mr. Hyland and carried by a vote of 5-0, Mr. Hammack and Mrs. Thonen being absent from this hearing.

Page 311, January 14, 1986, (Tape 6) After Agenda Item, Action #4:

LEE SAMMIS ASSOCIATES, APPEAL APPLICATION A 85-C-003

Mr. Ribble moved that the Board of Zoning Appeals grant the request to reschedule the public hearing for Appeal Application A 85-C-003 in the name of Lee Sammis Associates to a date and time certain of February 18, 1986 at 8:15 P.M. This motion was seconded by Mr. Hyland and carried by a vote of 5-0, Mr. Hammack and Mrs. Thonen being absent for this hearing.

Page 311, January 14, 1986, (Tape 6) After Agenda Item, Action #3:

APPROVAL OF BZA MINUTES, 11/19/85 AND 11/26/85.

Mrs. Day moved that the Board of Zoning Appeals approve the Minutes of November 19 and November 26, 1985, as presented. This motion was seconded by Vice-Chairman DiGiulian and carried by a vote of 5-0, Mr. Hammack and Mrs. Thonen being absent from this hearing.

There being no further business, the Board adjourned at 4:50 p.m.

Viki L. Lester, Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

4/8/86
Date Submitted

4/8/86
Date Approved

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday Evening, January 21, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; John F. Ribble, III; and Mary Thonen.

The Chairman opened the meeting at 8:35 P.M. and Mrs. Day led the prayer.

Page 312, January 21, 1986, (Tape 1) Scheduled case of:

8:00 P.M. PULTE HOME CORPORATION, CONTRACT PURCHASER - A 84-L-004, application under Section 18-301 of the Zoning Ordinance to appeal decision of the Director of Environmental Management to deny the appellant's preliminary subdivision plat for a cluster subdivision, Edgewood Acres on approximately 191.3 acres of land, zoned R-3, Lee District, Tax Map 100-2((1))4. (DEFERRED FROM SEPTEMBER 25, 1984 AT THE REQUEST OF THE PLANNING COMMISSION; FROM DECEMBER 18, 1984, FEBRUARY 19, APRIL 22, AND JUNE 11, 1985 AT THE APPLICANT'S REQUEST, OCTOBER 8, 1985 AT THE PLANNING COMMISSION'S REQUEST.)

Mrs. Day moved that the Board of Zoning Appeals grant the request of withdrawal for Appeal Application A 84-L-004 in the name of Pulte Home Corporation. This motion was seconded by Vice-Chairman DiGiulian and carried by a vote of 6-0, Mr. Ribble being absent for this hearing.

Page 312, January 21, 1986, (Tape 1) Scheduled case of:

8:00 P.M. SHILOH BAPTIST CHURCH - SP 85-D-048, application under Section 3-103 of the Zoning Ordinance to permit an addition of a sanctuary, social hall and parking facilities to existing church and related facilities, located at 1331 Spring Hill Road on approximately 2.2489 acres of land, zoned R-1, Dranesville District, Tax Map 29-1((1))58 & 58A. (DEFERRED FROM 11/26/85 AND 1/14/86)

Chairman Smith noted that this application had been deferred from January 14, 1986 to obtain additional comments from the Office of Transportation since testimony from that hearing had indicated a concern regarding the proposed Condition 6, adequate site distance at the northern entrance, and to allow time for Board Members to visit the site.

Jane Kelsey, Chief, BZA Support Branch, stated that staff had conducted another site inspection and determined that the proposed northern entrance versus the existing northern entrance had caused the confusion at the last public hearing. Staff clarified that the testimony was correct insofar as there was not adequate site distance at the existing entrance. However, there is adequate site distance at the proposed northern entrance. In light of that clarification, staff's position was that the southern entrance only be used for right turns until such time as Spring Hill Road is improved and recommended approval of the application in accordance with the Development Conditions contained in the Staff Report.

A discussion with John Herrington, Office of Transportation, confirmed that adequate sight distance can be obtained at the proposed northern entrance, but cannot be obtained for vehicles exiting to the south at the southern entrance. Chairman Smith asked if there were any persons to speak either for or against this application and the following persons came forward: Leon Gamble, owner and resident of 1336 Spring Hill Road and Dolores Evans, owner and resident of 1617 Kirby Road, who expressed opposition to the staff's recommended Development Condition 6 concerning the northern entrance.

Chairman Smith asked if there were any other persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mr. Hammack stated that he did not concur with the recommendation of the Office of Transportation for reasons stated in the discussion in that the southern entrance has been used for both ingress and egress since this church was established and there has been testimony that this has not created any traffic problems. He moved approval of the application with the following modification: Delete Condition 6 in its entirety and renumber accordingly. Add a new Condition 14 to read, "The applicant must present a new site plan which shows the entrance at the southern entrance only."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-D-048 by SHILOH BAPTIST CHURCH, under Section 3-103 of the Zoning Ordinance to permit an addition of a sanctuary, social hall and parking facilities to an existing church and related facilities, on property located at 1331 Spring Hill Road, Tax Map Reference 29-1((1))58 & 58A, 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 21, 1986; and

WHEREAS, the 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 2.2489 acres of land.

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 244 with a corresponding minimum and maximum of 61 parking spaces.

6. A right turn deceleration lane shall be provided in a location to be determined by the Department of Environmental Management (DEM) and Virginia Department of Highways and Transportation (VDH&T).

7. Dedication and grading easements along Spring Hill Road shall be provided along the full frontage of the site as determined by DEM.

8. A trail along the frontage of the site shall be provided in conformance with Article 17 and the County Trails Plan.

9. The existing accessory structure to the rear of the lot shall be removed or the size of the proposed addition reduced accordingly so that the total amount of gross floor area on the site does not exceed an FAR of .15.

10. Transitional Screening 1 shall be provided along the northern, eastern, and southern lot lines except a modification shall be allowed where the existing church is located 20 feet from the northern lot line.

    Along the front lot line, landscape plantings shall be provided in that area as approved by the County Arborist.

11. The barrier requirement shall be waived.

12. Interior parking lot landscaping shall be provided as required by Article 13 of the Zoning Ordinance.

13. Parking lot lights, if installed, shall not exceed ten (10) feet in height and shall be shielded, if necessary, to prevent glare to adjacent properties.

14. The applicant must present a new site plan which shows the entrance at the southern entrance only.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has 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 carried by a vote of 6-0, Mr. Ribble being absent from this hearing.

Page 314, January 21, 1986, (Tapes 1-2) Scheduled case of:

8:30 P.M. REALITY GOSPEL CHURCH - SPA 79-L-269-1, application under Sections 3-103 & 3-203 of the Zoning Ordinance to amend S-269-79 for church and related facilities to permit additional land area, new sanctuary and additional parking spaces to existing facilities, located at 5937 Franconia Road on approximately 7.32 acres of land, zoned R-2/R-1, Lee District, Tax Map 81-4((3))1, 1A, 1B, 2, 2A, 2B & 3, approx. (DEFERRED FROM 6/13/85, 7/16/85, 9/17/85, 11/19/85 & 12/3/85)

(NOTE: A verbatim transcript is being prepared for a pending legal proceeding, when completed, this document can be found filed with the permanent records for this application.)

Chairman Smith noted that this application had been deferred from December 3, 1985 to obtain additional comments fro the Office of Transportation regarding the intersection of Van Dorn Street and Franconia Road, and the following time allotment had been set for this evening's consideration: Ten minutes-Support; Ten minutes-Opposition; and Ten-minutes for Rebuttal.

Following discussion of the transportation report with John Herrington, Office of Transportation, Richard W. Hausler, Hazel, Beckhorn and Hanes, attorney for the applicant, came forward and outlined the proposed revised development conditions which were entered into the record.

Following discussion with Mr. Hausler, Chairman Smith asked if there were any persons to speak against this application and the following persons came forward: Diane Burgess, 5955 Kathmoor Street; Tom Sklpon, 6213 Em Street; and Harold Royal, 6308 Villa Street Opposition to this application related to the traffic impact and the concern that there would be off-street parking by church members on the residential streets.

Following rebuttal by Mr. Hausler, Wesley Peyton, Pastor, came forward in support of the applications.

Chairman Smith asked if there were further questions of the applicant or staff and hearing no reply, closed the public hearing.

At 9:50 p.m., the Board of Zoning Appeals recessed briefly and reconvened at 10:10 p.m. with all Members being present, and with Chairman Smith presiding.

Prior to stating her motion, Mrs. Thonen thanked the applicant for the hard work they had done in revising the application to make it more acceptable to all parties involved and stated that she would move approval, in part, of the application with the following modifications:

Amend Condition 5 to read, "There shall be a maximum of 900 seats with a corresponding minimum and maximum of 350 parking spaces."

Amend Condition 7 to read, "Dedication of right-of-way and construction of street improvements to VDH&T standards for acceptance into the State system along the 460 feet frontage of the site on Villa Street shall be provided with curb and gutter on the Church side. A right turn lane on Villa Street onto Franconia Road will be provided subject to availability of right-of-way and necessary easements between the Church entrance and Franconia Road."

Amend Condition 8 to read, "The access from the property to Kathmoor Street shall be closed."

Add a new Condition 16 to read, "The six-foot barrier provided, as shown on the plat, will be finished consistent with Attachment A and will be constructed along the western boundary of the property abutting the Kathmoor Subdivision. The masonry wall will be constructed at the time of commencement of construction of other site improvements shown on the plat."

Add a new Condition 17 to read, "Representatives of the applicant will consult and cooperate with Franconia Baptist Church and St. John's Church in scheduling of Sunday services or otherwise minimize traffic during peak Sunday service hours."

Add a new Condition 18 to read, "The granting of this special permit shall not include day care, school or other ancillary facilities or services not specified in this statement of use. Future use of the site shall be limited to the structures, facilities, and improvements shown on the special permit plat, and shall not be expanded beyond those shown."

Add a new Condition 19 to read, "Floor Area Ratio (F.A.R.) on-site shall not exceed the maximum F.A.R. allowable under the R-1 District for the 7.32 acres of land."

Add a new Condition 20 to read, "The removal of dead trees or debris as specified in the conditions will be accomplished within sixty (60) days of the granting of the special permit."

Add a new Condition 21 to read, "All parking for this special permit use shall be on-site. The Church shall enforce no parking by their members on Villa Street."

Add a new Condition 22 to read, "In the event that the median break at Villa Street is closed in the future, alternate left turn access from the site will be provided via a relocated median break to the west in general alignment shown on Attachment B. Design of the median break will be subject to the approval of VDH&T, and right of way improvements for the new entrance and crossover will be at the expense of the applicant."

Add a new Condition 23 to read, "In the event that the Villa Street median break is closed and the median break is relocated as described in the preceding paragraph, the applicant will provide travel lanes and ingress/egress easements through its site to provide interim left turn access for residents of Villa Street, generally as shown in Attachment B."

Add a new Condition 24 to read, "In the event that the median break at Villa Street is closed and VDH&T does not approve design for a relocated median break as described above, the applicant will upon the closing of the median break implement the following measures to reduce peak traffic to acceptable levels from the existing facility until alternate access is available: A. Divide Sunday services to reduce peak attendance; B. Implement a ride-sharing program with a designated director; and C. Provide traffic direction assistance for entering and departing traffic during peak services."

Add a new Condition 25 to read, "Within five years of the approval of the special permit, the applicant shall submit to the Board of Zoning Appeals an application for amendment of the transportation elements of its special permit, together with a study reflecting adequate peak circulation to and from the subject site consistent with the ultimate improvements to the Van Dorn Street interchange. If the study is reasonably satisfactory to the Office of Transportation and to the Board of Zoning Appeals, then this condition will be deleted. If additional transportation conditions are needed, then the BZA shall impose such additional conditions as the BZA feels are required to address future transportation requirements consistent with ultimate improvements to the Van Dorn Street interchange."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 79-L-269-1 by REALITY GOSPEL CHURCH, under Sections 3-103 and 3-203 of the Zoning Ordinance to amend S-269-79 for church and related facilities to permit additional land area, new sanctuary and additional parking spaces to the existing facilities, on property located at 5937 Franconia Road, Tax Map Reference 81-4((3))1, 1A, 1B, 2, 2A, 2B and 3, 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 21, 1986; and

WHEREAS, the 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 and R-2.
3. The area of the lot is 7.32 acres of land.

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-IN-PART* with the following limitations:

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

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. There shall be a maximum of *900* seats with a corresponding minimum and maximum of 350 parking spaces.

6. The entrances onto Franconia Road and Villa Street shall be constructed in accordance with the VDH&T commercial entrance standards. The entrances on Franconia Road which are to be closed shall be removed and replaced by standard curb and sidewalk.

7. Dedication of right-of-way and construction of street improvements to VDH&T standards for acceptance into the State system along the 460 feet frontage of the site on Villa Street shall be provided with curb and gutter on the Church side. A right turn lane on Villa Street onto Franconia Road will be provided subject to availability of right-of-way and necessary easements between the Church entrance and Franconia Road.

8. The access from the property to Kathmoor Street shall be closed.

9. Handicapped parking spaces shall be provided in accordance with Sect. 11-102 of the Zoning Ordinance.

10. The internal traffic circulation shall be designed so as to reduce vehicle conflicts and to be consistent with the standards set forth in the Public Facilities Manual. All one-way travel aisles shall have appropriate markings and signage. The on-site traffic design shall be approved by the Director, DEM, at time of site plan review.

11. Transitional screening and barriers shall be provided as follows:

    - Dead trees and debris shall be kept cleared.
    - Along the western property line, Transitional Screening 1 shall be provided. Where the lower branches of the existing evergreen trees have been cut, low evergreen shrubbery shall be planted to provide an unbroken strip of screening. A modification shall be allowed where the existing building juts into this 25 foot strip.
    - The northern frontage of the site along Franconia Road and the eastern frontage along Villa Street shall be landscaped within a 25 foot strip. The size, amount, and type shall be determined by the County Arborist.
    - Along the southern lot line, Transitional Screening 1 shall be provided.
    - Transitional Screening 1 shall be provided along the eastern lot line adjacent to the residential properties.
    - A 6 foot barrier shall be provided as shown on the plat.

12. Parking lot lighting, if installed, shall be the low intensity type, on standards not to exceed twelve (12) feet in height and shielded in a manner that would prevent light or glare from projecting onto adjacent properties.

13. Appropriately engineered drainage shall be provided as determined by the Director, Department of Environmental Management (DEM) for the parking area on the southern portion of the property in order to correct any existing drainage problems that may exist.

14. The sanctuary shall be constructed to have the following acoustical attributes:

    A. Exterior walls should have a laboratory sound transmission class (STC) of at least 39, and

    B. Doors and windows should have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they should have the STC specified for exterior walls.

    C. Adequate measures to seal and caulk between the surfaces should be provided.

15. Signs shall be permitted in accordance with the provisions of Article 12, Signs.

16. The six-foot barrier provided, as shown on the plat, will be finished consistent with Attachment A (attached) and will be constructed along the western boundary of the property abutting the Kathmoor Subdivision. The masonry wall will be constructed at the time of commencement of construction of other site improvements shown on the plat.

17. Representatives of the applicant will consult and cooperate with Franconia Baptist Church and St. John's Church in scheduling of Sunday services or otherwise minimize traffic during peak Sunday service hours.

Page 318, Reality Gospel Church (Continued from Page 317)

18. The granting of this special permit shall not include day care, school or other ancillary facilities or services not specified in this statement of use. Future use of the site shall be limited to the structures, facilities, and improvements shown on the special permit plat, and shall not be expanded beyond those shown.

19. Floor Area Ratio (F.A.R.) on-site shall not exceed the maximum F.A.R. allowable under the R-1 District for the 7.32 acres of land.

20. The removal of dead trees or debris as specified in the conditions will be accomplished within sixty (60) days of the granting of the special permit.

21. All parking for this special permit use shall be on-site. The Church shall enforce no parking by their members on Villa Street.

22. In the event that the median break at Villa Street is closed in the future, alternate left turn access from the site will be provided via a relocated median break to the west in general alignment shown on Attachment B (attached). Design of the median break will be subject to the approval of VDH&T, and right of way improvements for the new entrance and crossover will be at the expense of the applicant.

23. In the event that the Villa Street median break is closed and the median break is relocated as described in the preceding paragraph, the applicant will provide travel lanes and ingress/egress easements through its site to provide interim left turn access for residents of Villa Street, generally as shown in Attachment B (attached).

24. In the event that the median break at Villa Street is closed and VDH&T does not approve design for a relocated median break as described above, the applicant will upon the closing of the median break implement the following measures to reduce peak traffic to acceptable levels from the existing facility until alternate access is available:

    A. Divide Sunday services to reduce peak attendance;

    B. Implement a ride-sharing program with a designated director; and

    C. Provide traffic direction assistance for entering and departing traffic during peak services.

25. Within five years of the approval of the special permit, the applicant shall submit to the Board of Zoning Appeals an application for amendment of the transportation elements of its special permit, together with a study reflecting adequate peak circulation to and from the subject site consistent with the ultimate improvements to the Van Dorn Street interchange. If the study is reasonably satisfactory to the Office of Transportation and to the Board of Zoning Appeals, then this condition will be deleted. If additional transportation conditions are needed, then the BZA shall impose such additional conditions as the BZA feels are required to address future transportation requirements consistent with ultimate improvements to the Van Dorn Street interchange.

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.

Vice-Chairman DiGiulian seconded the motion.

The motion carried by a vote of 5-0, Mr. Hammack abstaining and Mr. Ribble being absent from this hearing.

At 10:25 p.m., the Board of Zoning Appeals recessed briefly and reconvened at 10:30 p.m. with all Members being present, and with Chairman Smith presiding.

Page 319, January 21, 1986, (Tape 2) Scheduled case of:

9:00 P.M. PETER M. LINDQUIST AND PATRICIA KAUFFMAN - VC 85-D-088, application under Section 18-401 of the Zoning Ordinance to permit a subdivision into two lots proposed Lot 1A having width of 135.45 feet (150 ft. minimum lot width required by Sect. 3-106), located at 1051 Swinks Mill Road on approximately 2.0029 acres of land, zoned R-1, Dranesville District, Tax Map 21-3((1))30A & part of 31A.

Marilyn Anderson, Staff Coordinator, presented the Staff Report.

Robert A. Lawrence, Hazel, Beckhorn and Hanes, attorney for the applicant, explained the nature of the use and outlined a proposal for two additional development conditions which would affect Lots 1A and 1B, and this proposal was entered into the record. Mr. Lawrence stated that Condition 5, as contained in the Staff Report, was unreasonable since it related to dedication and road improvements on Swinks Mill Road and did not relate to the access of the proposed site.

Chairman Smith asked if there were any persons to speak in support of the application and the following persons came forward: Glen T. Urquhart, 1026 Gelston Circle and Dr. F. E. Rodriquez, 7600 Old Dominion Drive, who expressed support to the request since the proposed use would provide better quality homes, permanent residents, and would clean up the property.

Chairman Smith asked if there were any persons to speak in opposition of the application and the following persons came forward: Bruce Berlage, representing Scotts Run Association; Mark Friedlander, attorney representing Joe and Judy Knotts, Lot 30; James Snyder, 7608 Old Dominion Drive; and Joan Doyle, representing Swinks Mill Estates Civic Association, who expressed opposition to the request based on its impact on the surrounding rural area, increased traffic and because denial of the application would not produce undue hardship to the applicant.

Chairman Smith asked if there other persons to speak either for or against this application and hearing no reply, called for the applicant's rebuttal.

Following the rebuttal by Mr. Lawrence, Chairman Smith closed the public hearing.

Prior to stating her motion, Mrs. Day stated that she felt that the applicant had reasonable use of the property and to develop into two lots would require large variances which could set a precedent for future variance requests for smaller lots. Further, that this application was not in keeping with the Comprehensive Plan or the area and she would move denial of the requests.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-D-088 by PETER M. LINDQUIST AND PATRICIA KAUFFMAN, under Section 18-401 of the Zoning Ordinance to permit a subdivision into two lots, proposed Lot 1A having the width of 135.45 feet, on property located at 1051 Swinks Mill Road, Tax Map Reference 21-3((1))30A and Part 31A (Currently 31C), 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 21, 1986; and

WHEREAS, the 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 2.0029 acres of land.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application does not meet all of 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 all 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 vote of 3-3, Vice-Chairman DiGiulian, Mr. Hyland, and Mrs. Thonen voting Nay, Mr. Ribble being absent from this hearing. Therefore, this application was DENIED for a lack of four affirmative votes.

Page 320, January 21, 1986, (Tape 2) Scheduled case of:

9:30 P.M. PROVIDENCE BAPTIST CHURCH - SP 85-D-018, application under Section 3-103 of the Zoning Ordinance for church and related facilities and child care center located at 9012 Leesburg Pike on approximately 6.93 acres of land, zoned R-1, Dranesville District, Tax Map 19-4((1))40 & pt. 1A, & 19-4((4))A1. (DEFERRED FROM 7/23/85, RECONSIDERATION FROM 9/17/85, DEFERRED FROM 11/19/85 AND 12/17/85)

Mr. Hyland distributed a statement from Supervisor Nancy K. Falck, Dranesville District, which was entered into the record.

Chairman Smith noted that this application had been deferred from December 17, 1985 to allow additional time for the applicant to review the possibility of reducing the size of the structure and a time limit of ten minutes had been set for Board discussion.

Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, stated that a second addendum to the Staff Report had been prepared and distributed, and continued to recommend approval in accordance with the Development Conditions contained in the addendum.

Following discussion between Board Members and staff regarding the revised Development Conditions, Grayson P. Hanes, Hazel, Beckhorn and Hanes, attorney for the applicant, agreed to the revised Development Conditions as recommended by staff; however, asked that Condition 15 be deleted since that applicant had agreed not to hold classes in the facility.

Following discussion with Mr. Hanes, Mr. Hyland moved that the Board of Zoning Appeals allow an additional time of ten minutes for citizen opposition. This motion was seconded by Mr. Hammack and carried by a vote of 6-0, Mr. Ribble being absent from this hearing.

John Mullenhozz, representing Woodside Estates Citizens Association, and Thomas Blackburn, representing the parents of the children enrolled at the Montessori School, spoke in opposition to the application during the ten-minutes set aside for citizen comment. Opposition to this application related to: the traffic impact and in particular, the congestion at the intersection of Brook Road, Lewinsville Road and Route 7; the visual impact of the large-scaled structure; and the concern that there would be off-street parking by church members on the residential streets.

In rebuttal, Mr. Hanes addressed the concerns expressed by the opposition.

Mrs. Thonen thanked the applicant for the hard work they had done in revising the application to make it more acceptable to all parties involved.

Vice-Chairman DiGiulian stated that he would move approval of the application with the following modifications:

Modify the Second Bullet in Condition 6 to read:

"o Transitional Screening 1 shall be provided along the rest of the Brook Road lot line and along Leesburg Pike except that the plantings shall be modified to permit the type, size, and location as determined by the County Arborist to screen the parking areas from the adjacent streets."

Modify the Third Bullet in Condition 6 to read:

"o Transitional Screening 1 shall be provided along all other lot lines except the triangular portion of land at the northernmost portion of the site which shall remain undeveloped."

Delete Condition 15.

Renumber remaining conditions accordingly.

Mrs. Day stated that in deference to the residents in the surrounding area she would not support this application.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-D-018 by PROVIDENCE BAPTIST CHURCH, under Section 3-103 of the Zoning Ordinance for church and related facilities and child care center, on property located at 9012 Leesburg Pike, Tax Map Reference 19-4((1))40 & Part 1A, and 19-4((4))A1, Vice-Chairman 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 21, 1986; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-1.
3. The area of the lot is 6.93 acres of land.

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, 8-303 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. Dedication, grading easements, and construction of road improvements shall be as follows:

   - On Leesburg Pike, dedication shall be provided 98 feet from centerline unless the service drive requirement along the frontage of the site is waived. If the requirement for a service drive is waived, as recommended by the Office of Transportation, dedication shall be provided for one-half of a six (6) lane road section in accordance with the Department of Environmental Management (DEM) requirements. Grading easements shall also be provided, if necessary, as determined by DEM.

   - On Lewinsville Road, dedication shall be provided to 45 feet from centerline. Grading easements shall also be provided, if necessary, as determined by DEM.

   - On Brook Road, dedication and construction shall be provided for an additional lane on the Brook Road approach to Lewinsville Road. This dedication and construction shall be in accordance with DEM requirements. Grading easements shall also be provided, if necessary, as determined by DEM.

   - On Old Tolson Mill Road, dedication shall be provided 25 feet from centerline at such time as Old Tolson Mill Road is to be improved by others. Grading easements shall also be provided, if necessary, as determined by DEM.

   If additional dedication is required along Leesburg Pike, the parking area shall be shifted in order to provide a minimum 25 foot transitional screening area in accordance with Condition No. 6.

   If additional dedication is required along Brook Road, the building and the parking area shall be rearranged or reduced in order to provided the required transitional screening in accordance with Condition No. 6.

6. Transitional Screening shall be provided as follows:

   - In order to screen the parking area from Brook Road, a berm and Transitional Screening 2 shall be provided along Brook Road across the street from the residentially used property. The size and location of the plantings near the entrances shall be determined by the Director, Department of Environmental Management (DEM) and the County Arborist in order to provide the required sight distance.

   - Transitional Screening 1 shall be provided along the rest of the Brook Road lot line and along Leesburg Pike except that the plantings shall be modified to permit the type, size, and location as determined by the County Arborist to screen the parking areas from the adjacent streets.

   - Transitional Screening 1 shall be provided along all other lot lines except the triangular portion of land at the northernmost portion of the site which shall remain undeveloped.

   - The barrier shall be waived except around the play area and the existing 6 foot stockade fence. The existing estate fence may be removed.

Page 323, Providence Baptist Church (Continued from Page 322)

7. Interior parking lot landscaping shall be provided in accordance with Article 13.

8. The seating capacity in the main worship area shall not exceed four hundred and sixty (460).

9. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11, and shall not exceed a maximum of 171 spaces. All parking for the use shall be on site.

10. A trail along Brook Road and Leesburg Pike shall be provided in accordance with the Countywide Trails Plan and Article 17 of the Zoning Ordinance.

11. The structure shall be acoustically treated as follows:

    - Exterior walls shall have a laboratory sound transmission class (STC) of at least 39, and
    - Doors and windows shall have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they shall have the STC specified for exterior walls.
    - Adequate measures to seal and caulk between surfaces shall be provided.
    - The fence around the side of the play area closest to Leesburg Pike shall be a solid wood or other acoustical type of fence.

13. The maximum daily enrollment for the child care center shall not exceed 75.

14. The hours of operation of the child care center shall be from 9:00 A.M. to 1:30 P.M., with no one arriving prior to 8:30 A.M.

15. There will be no sound amplification connected with any outdoor activities, as agreed to by the applicant.

16. There shall be no direct entrance onto Leesburg Pike. The proposed entrance and driveway along the southeastern portion of the property shall be deleted.

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 carried by a vote of 5-1, Mrs. Day voting Nay and Mr. Ribble being absent from this hearing.

There being no further business, the Board adjourned at 11:50 p.m.

Viki L. Lester, Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

4/29/86
Date Submitted

4/29/86
Date Approved

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 28, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; John F. Ribble, III; and Mary Thonen.

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

Page 324, January 28, 1986, (Tape 1) Matters Presented by Board Members - 1:

Sherry Fields, Secretary, Board of Zoning Appeals Support Branch, was asked to come forward and the Board presented her with the following resolution:

WHEREAS, it is with sincere regret that the Fairfax County Board of Zoning Appeals has learned that Sherry Fields has terminated her employment with Fairfax County; and

WHEREAS, as an employee of the Board of Zoning Appeals Support Branch, Miss Fields has acted in the capacity of Deputy Clerk and Acting Clerk on numerous occasions and will be sorely missed for her present and future achievements;

NOW, THEREFORE BE IT RESOLVED that the Board of Zoning Appeals does hereby express its appreciation to Miss Fields for her exemplary performance and support during her tenure and wishes her much success in her future endeavors; and

BE IT FURTHER RESOLVED that the Board of Zoning Appeals does hereby extend its best wishes to Miss Fields on her forthcoming marriage and relocation to Florida.

Page 324, January 28, 1986, (Tape 1) Matters Presented by Board Members - 2:

VARIANCE APPLICATION VC 85-D-088, PETER M. LINDQUIST AND PATRICIA KAUFFMAN

Mr. Hyland moved that the Board of Zoning Appeals take action on the letter received from Robert A. Lawrence, Hazel, Beckhorn and Hanes, requesting reconsideration of the Board's decision of January 21, 1986 denying Variance Application VC 85-D-088 in the name of Peter M. Lindquist and Patricia Kauffman. This motion was seconded by Vice-Chairman DiGiulian and carried unanimously by a vote of 7-0.

Robert A. Lawrence, attorney representing the applicant, came forward and outlined his request which was entered into the record. Mr. Lawrence stated that he felt the decision made on January 21, 1986 had been unfair to the applicant since a full Board had not been present and the variance was denied by a vote of 3-3.

Following discussion, it was suggested that the applicant request a waiver of the twelve month limitation on rehearing this application and the Clerk was directed to prepare the necessary documents for this procedure.

Page 324, January 28, 1986, (Tape 1) Scheduled case of:

10:15 A.M KNOLLWOOD BAPTIST CHURCH - SPA 82-S-028-2, application under Section 6-303 of the Zoning Ordinance to amend S-82-S-028 for church and related facilities to permit additional parking, a fence, and a driveway entrance onto Burke Center Parkway, located at 10000 Coffer Woods Road on approximately 5.00162 acres of land, zoned PRC, Springfield District, Tax Map 78-3((1))40. (DEFERRED FROM 9/24/85, DEFERRED FROM NOVEMBER 12, 1985.)

Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Floyd W. Harris, representing the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and the following persons came forward in opposition: Betty Overson, Administrator, Burke Centre Architectural Review Board; and Becky Livingston, owner and resident of the contiguous Lot 13, 10115 Schoolhouse Woods, who expressed concerns regarding the six-foot chain link fence and adequate landscaping to serve as screening between the application and adjacent subdivisions.

Chairman Smith asked if there were other persons to speak against this application and hearing no reply, called for the applicant's rebuttal.

Following the rebuttal by Mr. Harris, Chairman Smith closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 82-S-028-2 by KNOLLWOOD BAPTIST CHURCH under Section 6-303 of the Zoning Ordinance to amend SP 82-S-028 for a church and related facilities to permit additional parking, a fence and a driveway entrance onto Coffer Woods Road on property located at 10000 Coffer Woods Road, Tax Map 78-3((1))40, 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 28, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is PRC.
3. The area of the lot is 5.0 acres of land.

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 seating capacity shall not exceed 168, with a corresponding minimum of 48 parking spaces. There shall be a maximum of 103 parking spaces.

6. The limits of clearing and grading shall be retained as shown on the plat.

7. Transitional Screening 1 and the barrier shall be provided as follows:

   - The full 25 foot transitional screening yard shall be provided along all lot lines except along the northern lot line where the existing parking lot and driveway are located two (2) feet from the side lot line.

   - The planting requirement shall be modified to supplement the existing vegetation where necessary as determined by the County Arborist.

- o The barrier requirement shall be waived except that a fence may be provided along the western lot line.

8. Interior parking lot landscaping shall be provided as required by Article 13 for the new parking area.

9. Dedication and construction of an asphalt trail shall be provided if required at the time of site plan review by the Director, Department of Environmental Management.

10. If parking lot lights are installed, they shall not exceed ten (10) feet in height and shall be shielded, if necessary, to prevent glare on 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.

Mr. Ribble seconded the motion.

The motion carried by unanimously by a vote of 7-0.

Page 326, January 28, 1986, (Tape 1) Scheduled case of:

10:30 A.M. HAROLD A. LOGAN - VC 85-P-098, application under Section 18-401 of the Zoning Ordinance to permit subdivision into three lots such that an existing house remaining on proposed Lot 1 would be 22.5 feet from a street line of a corner lot (30 ft. minimum front yard required by Sect. 3-307), located at 7436 Masonville Drive on approximately 46,749 square feet, zoned R-3, Providence District, Tax Map 60-1((1))30.

Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, presented the Staff Report.

Harold Logan, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mrs. Thonen stated that she felt the applicant had met all of the required standards for variances, and would move approval of the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-P-098 by HAROLD A. LOGAN, under Section 18-401 of the Zoning Ordinance to permit the subdivision into three lots such that an existing house remaining on proposed Lot 1 would be 22.5 feet from a street line of a corner lot on property located at 7436 Masonville Drive, Tax Map Reference 60-1((1))30, 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 28, 1986; and

WHEREAS, the 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 46,749 square feet.
4. That the applicants' property is exceptionally irregular in shape, including narrow or shallow, has exceptional topographic problems, has an unusual condition in the location of the existing buildings on the subject property, or the adjacent properties.

This application meets all of 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 all reasonable use 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 of the dwelling on proposed Lot 1 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, and the applicable requirements of the Public Facilities Manual.

Vice-Chairman DiGiulian seconded the motion.

The motion carried by unanimously by a vote of 7-0.

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10:45 A.M. ROBERT DONOVAN - SP 85-D-064, application under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to allow a shed 8.2 feet in height to remain 1.9 feet from side lot line (10 ft. minimum side yard required. by Sects. 3-407 & 10-104), located at 6521 N. 33rd Street on approximately 10,500 square feet, zoned R-4, Dranesville District, Tax Map 40-4((11))58.

Lori Greenlief, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein. Staff noted that the applicant was requesting a modification of 8.1 feet of the minimum side yard requirement not 8.9 feet as was stated in the Staff Report.

William Donovan, representing the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Following discussion between Board Members and staff, Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

(MISTAKE SECTION)

Vice-Chairman DiGiulian made the following motion:

WHEREAS, in Special Permit Application SP 85-D-064 by ROBERT DONOVAN under Section 8-901 of the Zoning Ordinance to allow a reduction to the minimum yard requirements based on an error in building location to permit a shed 8.2 feet in height to remain 1.9 feet from the side lot line on property located at 6521 North 33rd Street, Tax Map Reference 40-4((11))58, 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 28, 1986; 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.

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 special permit is approved for the location and the specific addition shown on the plat submitted with this application and is not transferable to any other land.

Mr. Ribble seconded the motion.

The motion carried by a vote of 6-1, Chairman Smith voting Nay.

Page 329, January 28, 1986, (Tape 2) Scheduled case of:

11:00 A.M. LINDA SELIGMAN - SP 85-L-065, application under Section 3-303 of the Zoning Ordinance to permit a Home Professional Office (Counseling), located at 6114 Lynley Terrace on approximately 11,153 square feet, zoned R-3 & HC, Lee District, Tax Map 81-4((23))18.

(NOTE: The following verbatim transcript, prepared for a pending legal proceeding, is submitted in lieu of the minutes for this application.)

VERBATIM TRANSCRIPT OF A PORTION OF THE BOARD OF ZONING APPEALS MEETING HELD ON JANUARY 28, 1986 REGARDING SPECIAL PERMIT APPLICATION SP 85-L-065, LINDA SELIGMAN

(Tape 2)

CHAIRMAN SMITH: Scheduled for 11:00. Linda Seligman, SP 85-L-065, an application under Section 3-303 of the Zoning Ordinance to permit a Home Professional Office, Counseling, located at 6114 Lynley Terrace on approximately 11,153 square feet, zoned R-3 and H-C, Lee District, Tax Map 81-4((23))18. Is the applicant ready to be heard in this case?

LINDA SELIGMAN: Yes.

CHAIRMAN SMITH: May we have the location and Staff Report, please.

JANE KELSEY (CHIEF, BZA SUPPORT BRANCH): The property is located on the west side of Lynley Terrace, approximately 200 feet from its intersection with Marilyn Drive. Surrounding properties as you will note from the viewgraph are zoned residential and developed with single-family detached dwellings. The application requests approval of a special permit to have a home professional counseling office. The applicant indicates in the statement that she will have no full-time or regular employees, but however, one or two persons may be employed as a consultant on an hourly basis. An estimated number of clients per week will be 10 for one-hour sessions. Consultation with other counselors may require additional time. The applicant expects only one client at a time. Staff had two problems with this application. One was with parking and the other was with screening. As indicated in the Transportation Analysis of the Staff Report, parking was not adequate for additional employees; therefore, staff is recommending that the applicant be the only employee, and that . . . the other problem was the number of clients that she might have overlapping. So, therefore, conversations with the applicant indicated that she would have lapse period of time of thirty minutes between appointments in order to assure that only one parking space would be needed for her one client at a time. She does have a garage where she parks her personal vehicle and staff is recommending that that be retained for parking. The other issue was screening, however on the plat you will notice that there are evergreen plantings along this side of the property which could screen the parking lot or any activity going in and out of the site, and that it appears that that screening is sufficient to satisfy the screening requirements. Therefore, staff recommends approval of the application in accordance with the development conditions as contained in your Staff Report.

CHAIRMAN SMITH: Questions of staff? Now, may we have your name and address for the record, please?

LINDA SELIGMAN: Linda Seligman, 6114 Lynley Terrace, Alexandria.

CHAIRMAN SMITH: Would you briefly tell the Board what you plan to do here, please.

MS. SELIGMAN: Yes, I'm glad to have the opportunity to do this. I'm submitting a request for a special permit so that I can have a home professional office in counseling, I am a counselor, licensed to practice by the State of Virginia and I have ten years experience as a counselor. My specialties include career counseling and marital counseling. I have a full-time position teaching at George Mason University and so the practice I have in mind would be part-time and would supplement the teaching I do at George Mason. As the staff mentioned, I anticipate a maximum of ten clients per week, if my business is successful, probably it will average only five to seven clients which would mean only one additional trip per day on the street. I believe the services I provide will not have an adverse impact on the community and will, in fact, be a

Page 330, Seligman (Continued from Page 317)

public service. I've talked with the staff about the need to space clients so that there is only one client car there at a time, they would be instructed to park in the driveway, my own car would be parked in the garage so there would be no intrusion in the neighborhood. As was mentioned, there are tall, dense evergreens along the border between the driveway and the adjacent house and that completely screens from view any activity between the two houses. In light of that, I request a special permit.

CHAIRMAN SMITH: Any questions?

MR. HAMMACK: Mr. Chairman?

CHAIRMAN SMITH: Mr. Hammack.

MR. HAMMACK: Yes, Mrs. Seligman, do you intend to see any of these people in the evenings or on weekends?

MS. SELIGMAN: It is possible, most of them would be seen during the daytime because I teach evening classes at George Mason. So daytime would be most common, but the other is possible.

MR. HAMMACK: Would you agree to limitations that if you wouldn't see them in the evening, on weekends . . .

MS. SELIGMAN: That would be a great hardship because many people work during the daytime and do need to schedule evening and weekend hours.

MRS. THONEN: I would like to know with all the commercial space along Franconia Road, why don't you professionals rent your space and not bring it in to the neighborhood?

MS. SELIGMAN: Well, my practice is intended to be a small part-time one. I train counselors and because of that I feel it's important for me to be doing counseling while I'm teaching. But I don't have the time or the interest in a full-time practice that would pay me enough to rent office space.

MR. HYLAND: Mr. Chairman?

CHAIRMAN SMITH: Mr. Hyland.

MR. HYLAND: Could we pause just for a minute. I just got some very disconcerting news from Jane. It's my understanding that the Space Shuttle blew-up on take-off, and apparently there are persons who are killed, and if that's the case, I'd like to pause for a couple of minutes, if we can. That's terribly disconcerting, I . . . could we recess, Mr. Chairman, for about five minutes?

CHAIRMAN SMITH: Fine, the Board will recess for ten minutes and come back and complete this application. There was a teacher on that also, as you know.

THE BOARD RECONVENED AFTER ITS RECESS AND CONTINUED WITH THE PUBLIC HEARING ON SPECIAL PERMIT APPLICATION SP 85-L-065, LINDA SELIGMAN

CHAIRMAN SMITH: May we continue, the meeting will be in order. Does the Board have any further questions of the applicant? Anyone to speak in support of the application? Anyone to speak in opposition to the request. If not, does staff have any further comments? The public hearing is closed.

MRS. DAY: Mr. Chairman?

CHAIRMAN SMITH: Mrs. Day.

MRS. DAY: In application SP 85-L-065, by Linda Seligman for home professional office for counseling, the applicant has stated that she is presently employed at the George Mason University. She wants to have part-time counseling at home, she's indicated that at some time there might be an evening or a week-end patient. There are no other home professional offices in the neighborhood and I'm not going to support this. In the beginning when we had home professional offices, they were due to the sprawling area and the lack of office spaces, there are many, many offices for rent along . . . very close to this applicant's home. 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 additional standards for this use that contains Sections 8-006 and 3-303 of Zoning Ordinance. Now, therefore be it resolved that subject application is denied.

MRS. THONEN: Second the motion.

CHAIRMAN SMITH: It's been moved and seconded, the application of Linda Seligman, be denied for reasons stated in the resolution by Mrs. Day.

MRS. THONEN: Mr. Chairman, I'd like to say that the reason I'm opposing this is I have thought a long time, and we've really asked for this to be looked at by Zoning, I feel that professional offices should only be allowed in transitional areas where there is some transition going on and certainly not into a subdivision area, and I feel very strongly that that's impacting on the neighborhood and should not be done.

MR. HYLAND: Mr. Chairman?

CHAIRMAN SMITH: Further discussion?

MR. HYLAND: Yes.

CHAIRMAN SMITH: Mr. Hyland.

MR. HYLAND: Well, I guess I can't imagine a more unobtrusive application than the one that we have before the Board. And I guess I'm a little bit "non-plus," of course, when I look around in my own neighborhood and many others in terms of looking at home professional offices that developed incredible traffic and number of clients and individuals who come on-site, including employees. The application that we have here is basically asking that an individual be permitted to use the home on a part-time basis, not a full-time occupation, that she would conduct from her home. If we look at the application, she's obviously employed full-time as a teacher at George Mason. We've had

no opposition whatsoever indicated on the part of anyone in the neighborhood. The application is a limited one, there will be no employees, one person, there's a very small number of clients that would come over a period of a week, I think she's estimated about seven in number. Again, I can't think of any application that is more unobtrusive than the one that we have before us and I would certainly move that we grant as opposed to deny.

MRS. DAY: On the third sentence, it says - "However, one or more persons may be employed as a consultant on an hourly basis." And we've had these home professional applications before, when people say . . . pretty soon they say, "Well I really had an emergency and they had to come at 9:00 on Saturday night or on Sunday because they work," and so they . . . it always mushrooms.

MR. HYLAND: Well Condition 6 covers that. Condition 6 says, "The applicant shall be the only employee," which to me means that notwithstanding, and I think that this was discussed with staff, notwithstanding what you find in paragraph D, I think it's very clear the applicant intends to have no employees including the option to employ one or more individuals as a consultant on an individual hourly basis. There will only be one person operating from that site and that's the applicant, that's my understanding.

MRS. DAY: It's very difficult to monitor.

MS. SELIGMAN: May I say something?

CHAIRMAN SMITH: No, ma'am. If the Board has questions they may ask it.

VICE-CHAIRMAN DIGIULIAN: Yes, Mr. Chairman, I'd like to ask a question or two could you step up, please? The part-time consultants, they would be on an individual case basis and would . . .

MS. SELIGMAN: That was what I had anticipated; however, when I had discussed this with staff, they were concerned about the additional car and asked me to agree not to use any additional employees and I did agree to that, that's not a problem.

VICE-CHAIRMAN DIGIULIAN: So, it would just be you and the one client, then?

MS. SELIGMAN: That's correct, yes.

VICE-CHAIRMAN DIGIULIAN: Okay, thank you.

MR. HYLAND: Also I might add, staff has recommended approval of this application, and I for one concur in that recommendation and our staff is certainly sensitive, Mrs. Thonen, to the concerns that you've raised. But again, of all the applications that I have seen for a special permit to permit one to conduct his or her business in its residence, this is without a doubt, it sits at the bottom of the ladder, in terms of the amount of activity being requested. I mean . . . and that's after five years.

CHAIRMAN SMITH: Further discussion or questions?

MR. HAMMACK: Yes.

CHAIRMAN SMITH: Mr. Hammack.

MR. HAMMACK: One thing that concerns me about the application, and we recessed just when I was getting into this, is that the applicant would like to use her home in the evenings and on weekends for these professional services. And that . . . and I frankly, while the amount of activity applied for is fairly minimal, I still feel that home professional offices in residential neighborhoods should protect the residential neighborhoods. So on week-ends, if the applicant wanted to have three or four or five people come over and spread them out every hour you could have the kids playing in the street while somebody is looking for her home to come in and seek counseling. And I think that does change the character of the neighborhood a little bit when you allow the evening and weekend services to be provided, because it is at alternative times. And I can't support it for that reason, because I think the neighborhoods ought to be residential on the weekends and the professional services ought to be performed during normal work hours as opposed to when the kids will be home from school and playing in the street and that sort of thing.

VICE-CHAIRMAN DIGIULIAN: Well, as a person with four teenagers in the house I can tell you she's going to have less people driving up and down that street on the weekends than I have every day, and probably every hour.

MR. HYLAND: I might add, Mr. Chairman, I'd be embarrassed to go back and look at some of the special permits that this Board has granted, in which we have permitted not only a person to do it in the evenings, but on weekends in a very substantial sense much more than this woman has asked for, really I'd be embarrassed to look at some of those applications because we have permitted it and we have done it and if went back and we pull those we would find that we would be doubling the amount of people that we have allowed to come to personal residences in the evenings and even to include on Saturdays, doctors, lawyers - no indian chiefs - but we've done it and . . .

MRS. THONEN: Mr. Hyland, I might point out to you, I have been very consistent.

MR. HYLAND: Oh you have been, Mary, and I do share some of your views, but in this case, again I think that we reach a point where we've got to be reasonable in our approach and I don't think the request that the applicant has made is unreasonable. It is not an extensive use, that's basically what I'm saying.

MRS. THONEN: Maybe the applicant would agree to alter her hours and not impact on the weekends.

MR. HYLAND: Well, she said yes, why we don't we ask her that question.

CHAIRMAN SMITH: Well, wait a minute, wait a minute. If we've want to talk about this, let's do it as an amendment to the resolution and not get involved in it. If she doesn't want it . . . if the Board wants to amend the resolution to prohibit that, then let's do it and not get into discussions of whether she wants to do it or not.

MRS. THONEN: Mr. Chairman, voting on the resolution might depend on whether the applicant agrees to this or not.

CHAIRMAN SMITH: I don't think it has anything . . . she has to agree to anything.

MRS. THONEN: Oh, yes I do, it's impacting on the neighborhood and if she's going to have evening and weekend clients . . .

CHAIRMAN SMITH: All right, do you have a question of the applicant, then?

MRS. THONEN: Yes, would you alter your hours to . . .

MS. SELIGMAN: Yes, what I would be happy to do is to say that I will not see clients on the weekend at all and I will try to keep the bulk of my hours during the daytime. Occasionally there is an emergency or a client I may have been working with regularly during the daytime who will need to come in the evenings . . .

MRS. THONEN: That's the same thing . . .

MS. SELIGMAN: . . . but I will certainly keep those hours extremely limited, you know, if you want to say one hour per week maximum in evening or weekend, that's fine, and put the bulk of the hours during the daytime.

MRS. THONEN: That's what they say before, "Occasionally there's an emergency," so you don't want to turn down an emergency.

MR. HYLAND: But that's life! We just had an emergency, talk about emergencies.

MRS. DAY: That's not the same thing.

CHAIRMAN SMITH: There is a motion on the floor. Further discussion? If not, those in favor of the resolution to deny will indicate by saying Aye.

MR. HAMMACK: Aye.

MRS. THONEN: Aye.

CHAIRMAN SMITH: Aye.

MRS. DAY: Aye.

CHAIRMAN SMITH: Those opposed, no.

VICE-CHAIRMAN DIGIULIAN: Nay.

MR. HYLAND: Nay.

MR. RIBBLE: Nay.

CHAIRMAN SMITH: The Aye's have it and the resolution is carried.

MRS. DAY: Denied.

///

The Chairman called the next scheduled case.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-L-064 by LINDA SELIGMAN under Section 3-303 of the Zoning Ordinance to permit a Home Professional Office (Counseling) on property located at 6114 Lynley Terrace, Tax Map Reference 81-4((23))18, 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 28, 1986; and

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

1. That the applicant is the owner of the property.
2. The present zoning is R-3.
3. The area of the lot is 11,153 square feet of land.

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, 8-903 and 8-907 of the Zoning Ordinance.

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

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-3; Vice-Chairman DiGiulian, Mr. Hyland, and Mr. Ribble voting Nay.

Page 333, January 28, 1986, (Tape 2) Scheduled case of:

11:15 A.M. HUNTLEY, NYCE, & ASSOCIATES, P.C. - SP 85-S-067, application under Section 8-901 of the Zoning Ordinance to permit a reduction to minimum yard requirements based on error in building location to allow house to remain 18 feet from edge of pavement of pipestem driveway (25 ft. minimum front yard required by Sect. 2-416), located at 8821 Shadowlake Way on approximately 8,743 square feet, zoned R-3, Springfield District, Tax Map Reference 89-3((23))31.

Kevin Guinaw, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Charles Caridi, attorney for the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak either for or against this application and the following persons came forward in opposition: Jesse Broadway, owner and resident of the contiguous Lot 29, 8825 Shadowlake Way, who expressed concerns regarding the length of the driveway and the accuracy of his house location survey plat.

Charles Huntley, the applicant, responded by stating that the property lines had not altered, the only change made to the site had been to shift the ingress-egress easement to allow for the reconstruction of the pipestem driveway to be equal distance from the adjacent lots.

Mr. Ribble questioned if the easement had been changed or shifted on Lots 28, 29 or 30, and Mr. Huntley responded that those lots had already been already constructed and the driveways had been completed as planned, the relocation of the driveway had been done within the existing easements and only Lots 27 and 31 had been affected.

Following further discussion between the Board Members and the applicant, Mr. Caridi stated that the applicant would review the survey plats of adjacent property owners and if needed would provide them with revised survey plats free of cost.

Chairman Smith asked if there were other persons to speak against this application and the following person came forward: Mark Hammer, owner and resident of the contiguous Lot 28, 8827 Shadowlake Way, who stated his concerns being the same as the previous speaker.

Chairman Smith asked if there were other persons to speak against this application and hearing no reply, called for the applicant's rebuttal.

Following Mr. Caridi's rebuttal, Chairman Smith closed the public hearing.

Following discussion between the Board Members, Mr. Hyland moved that the Board defer the application until February 4, 1986 at 11:45 a.m. to allow additional time for the applicant to work with adjacent property owners to resolve the concerns stated during the public hearing. This motion was seconded by Mr. Hammack and carried unanimously by a vote of 7-0.

Page 333, January 28, 1986, (Tape 2) Scheduled case of:

11:30 A.M. HUNTLEY, NYCE, & ASSOCIATES, P.C. - SP 85-S-068, application under Section 8-901 of the Zoning Ordinance to permit a reduction to minimum yard requirements based on error in building location to allow house to remain 18 feet from edge of pavement of pipestem driveway (25 ft. minimum front yard required by Sect. 2-416), located at 8829 Shadowlake Way on approximately 8,555 square feet, zoned R-3, Springfield District, Tax Map 89-3((23))27.

In view of the motion made on the previous application, Charles Caridi, attorney for the applicant, stated that he had no objections to the Board deferring this application until February 4, 1986.

Mr. Hyland moved that the Board defer the public hearing on this application until February 4, 1986 at 12:00 noon. This motion was seconded by Mr. Ribble and carried unanimously by a vote of 7-0.

Page 334, January 28, 1986, (Tapes 2-3) Scheduled case of:

11:45 A.M. FAITH FELLOWSHIP ASSEMBLY OF GOD CHURCH - SP 85-L-069, application under Section 3-103 of the Zoning Ordinance to permit a church and related facilities, located at 7800 Old Telegraph Road on approximately 4.75 acres of land, zoned R-1, Lee District, Tax Map 100-1((8))2 & B, 100-1((5))1, 100-1((8))B and 100-1((7))A.

Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

A. Andrew Giangreco, attorney for the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff with the following modifications: Condition 7 - request that transitional screening requirement be modified to address the concerns of the adjacent property owners. Mr. Giangreco stated that the applicant had agreed to relocate the building further back and provide screening of the parking lot to resolve the concerns expressed by adjacent property owners to the south.

Chairman Smith stated that prior to taking final action on this application, the applicant would have to provide the Board with updated plats showing the revisions to the parking lot, driveway, building location and all recorded easements.

Chairman Smith asked if there were any persons to speak in support of the application and the following persons came forward: B.J. Wright, Pastor, Faith Fellowship Assembly of God Church, the applicant, who stated for the record that new plats would be provided and presented in proper order. Harvey Martin, 7816 Telegraph Road, owner and resident of the contiguous lot, who expressed support of modifying the transitional screening requirement.

Chairman Smith asked if there were any persons to speak in opposition to the application and hearing no reply, closed the public hearing.

Ms. Kelsey stated that in order to be consistent with previous staff positions concerning churches that are adjacent to residential uses, that staff could not support a waiver of the transitional screening requirement. Staff continues to recommend a twenty-five foot transitional screening yard; however, would support a modification to the requirement for other specific plantings.

Following discussion, the application was deferred until February 25, 1986 at 10:30 a.m. to allow additional time for the applicant to present revised plats to the Board and to meet with the adjacent property owners and the staff to resolve concerns regarding transitional screening.

Page 334, January 28, 1986, (Tape 3) After Agenda Item, Information #1:

SENATE BILL 218.

Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, provided the Board Members with an information item dealing with Senate Bill 218. Ms. Kelsey stated that, if passed, Senate Bill 218 would have a significant impact upon not only the Board of Zoning Appeals but on the staff of its Support Branch. The Bill proposed that all special permit, variance and appeal applications would have to be heard within sixty days from the date they are accepted.

Chairman Smith asked that all Members review the information and be prepared to discuss the issue at the next Board meeting.

There being no further business, the Board adjourned at 1:45 p.m.

Viki L. Lester
Viki L. Lester, Clerk
Board of Zoning Appeals

5-6-86
Date Submitted

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

5-13-86
Date Approved

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 4, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; John F. Ribble, III; and Mary Thonen.

The Chairman opened the meeting at 10:30 A.M. and Mrs. Day led the prayer.

Page 335, February 4, 1986, (Tape 1) Scheduled case of:

10:00 A.M. KING OF KINGS LUTHERAN CHURCH - SPA 77-C-128-1, application under Section 3-103 of the Zoning Ordinance for removal of existing structure and construction of new church and related facilities, located at 12604 Lee Jackson Memorial Highway on approximately 2.49816 acres of land, zoned R-1, Centreville District, Tax Map 45-2((1))28. (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; FEBRUARY 12; APRIL 2, AND JUNE 4, & SEPTEMBER 24, 1985 AT THE REQUEST OF THE APPLICANT).

At the request of the applicant, Vice-Chairman DiGiulian moved that the Board defer the subject application until April 8, 1986 at 10:00 a.m. for reasons stated in the letter of request provided by the applicant. This motion was seconded by Mr. Ribble and carried by a vote of six, Mr. Hammack being absent for this item.

Page 335, February 4, 1986, (Tape 1) Scheduled case of:

10:15 A.M. EDGAR L. BURLESON - VC 85-L-095, application under Section 18-401 of the Zoning Ordinance to permit a 6 foot high fence to remain in front yards of a corner lot (4 ft. maximum height for fence in front yard as limited by Sect. 10-104), located at 8076 Central Park Drive on approximately 7,929 square feet, zoned R-8, Lee District, Tax Map 101-1((6))255.

Jane Kelsey, Branch Chief, Board of Zoning Appeals Support Branch, presented the Staff Report.

Edgar L. Burleson, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Chairman Smith asked if there were any persons to speak in support of this application and the following person came forward: Nancy R. O'Connell, 8111 Oaklake Court, who stated that she did not feel that the fence obstructed the view of vehicles turning in either direction onto adjacent streets and supported the application.

Chairman Smith asked if there were any further persons to speak either for or against this application and hearing no reply, closed the public hearing.

Ms. Kelsey stated that Appendix One had not been included in the Staff Report and if the application was approved, staff recommends that it be subject to the following condition:

"This variance is approved for the height and the location of the fence in the front yard as shown on the plat included with this application and is not transferable to other land."

Prior to stating the motion, Vice-Chairman DiGiulian stated that he felt the application was requesting too much extension into a front yard and did not feel that the applicant had met all of the required standards for variances and would move denial of the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-L-095 by EDGAR L. BURLESON, under Section 18-401 of the Zoning Ordinance to permit a six foot (6') high fence to remain in the front yards of a corner lot, on property located at 8076 Central Park Drive, Tax Map 101-1((6))255, Vice-Chairman DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 4, 1986; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-8.
3. The area of the lot is 7,929 square feet of land.

This application does not meet all of 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 all 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 carried by a vote of 6-0, Mr. Hammack being absent from this public hearing.

Page 336, February 4, 1986, (Tape 1) Scheduled case of:

10:30 A.M. DANIEL W. NOFZIGER - VC 85-L-096, application under Section 18-401 of the Zoning Ordinance to permit a 7 foot high fence to remain in front yards of corner lot (4 ft. maximum height for fence in a front yard as limited by Sect. 10-104), located at 8100 Oaklake Court on approximately 5,384 square feet, zoned R-8, Lee District, Tax Map 101-1((6))59.

Jane Kelsey, Branch Chief, Board of Zoning Appeals Support Branch, presented the Staff Report.

Daniel W. Nofziger, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff.

Following discussion between the Board Members and applicant, Chairman Smith placed a letter of opposition into the record from Albert H. Gardner.

Page 337, Nofziger (continued from page 336)

Chairman Smith asked if there were any persons to speak either for or against this application and the following persons came forward in opposition: Frank McGann and Edward B. Hickman, Representatives, Architectural Control Committee of the Homeowners Association, who expressed concerns regarding the height of the fence.

Following discussion regarding the issuance of violation notices, Chairman Smith asked if there were other persons to speak in opposition to this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mrs. Day stated that despite the applicant's statement that the seven foot fence did not interfere with sight distance, it was still in violation of Section 10-104 of the Zoning Ordinance and she felt that it could open ways for similar applications for variances; further, that she felt that the applicant did not meet all of the required standards for variances and she would move denial of the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-L-096 by DANIEL W. NOFZIGER, under Section 18-401 of the Zoning Ordinance to permit a seven foot (7') high fence to remain in the front yards of a corner lot, on property located at 8100 Oakdale Court, Tax Map Reference 101-1((6))59, 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 4, 1986; and

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

1. That the owner of the property is the applicant.
2. The present zoning is R-8.
3. The area of the lot is 5,384 square feet of land.

This application does not meet all of 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 all reasonable use of the land and/or buildings involved.

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

Vice-Chairman DiGiulian seconded the motion.

The motion carried unanimously by a vote of 7-0.

Page 338, February 4, 1986, (Tape 1) Scheduled case of:

10:45 A.M. YORK, HOWARD L. & LYNN R. - VC 85-V-099, application under Section 18-401 of the Zoning Ordinance to permit construction of 12 ft. high detached garage in front yard and minimum required side yard 12.0 feet from the side lot line (No accessory structure permitted in front yard or min. side yard by Sect. 10-104; 20 ft. min. side yard req. by Sect. 3-E07), located at 6124 River Drive on approximately 26,408 square feet, zoned R-E, Mount Vernon District, Tax Map 122-1((4))13.

Chairman Smith stated that this application had been rescheduled until March 11, 1986 at 10:30 a.m.

Page 338, February 4, 1986, (Tapes 1-2) Scheduled case of:

11:00 A.M. RICHARD A. AND LU ANN L. BENNETT, JR. - VC 85-D-097, application under Section 18-401 of the Zoning Ordinance to permit subdivision into two lots, proposed Lot 1 having the width of 127 feet and Lot 2 having the width of 25 feet (150 ft. minimum lot width required by Sect. 3-106), located at 6336 Georgetown Pike on approximately 5.01 acres of land, zoned R-1, Dranesville District, Tax Map 22-3((1))46.

Kevin Guinaw, Staff Coordinator, presented the Staff Report.

Charles E. Runyon, representing the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff; he stated that Roberto Basilio, the adjacent property owner, contacted him by telephone and expressed his support for the application.

Chairman Smith asked if there were any persons to speak either for or against this application and the following persons came forward in opposition: Ann Scoville, 6400 Georgetown Pike, who expressed concerns regarding limited access and the traffic impact.

Following Ms. Scoville's statement, the Board recessed briefly at 12:00 noon to allow additional time for the applicant to show the adjacent property owners that were present the proposed house location sites on the plans; the Board reconvened at 12:10 p.m.

Chairman Smith asked if there were any further persons to speak to this application and the following persons came forward in opposition: Susan Pettey, 6324 Georgetown Pike, owner and resident of Lot 43, and Kay Liebhaber, 1100 Chain Bridge Road, owner and resident of Lot 61, who expressed concerns regarding limited access and the traffic impact.

Chairman Smith asked if there were other persons to speak to this application and hearing no reply, called for the applicant's rebuttal.

Following Mr. Runyon's rebuttal, Jane Kelsey, Branch Chief, BZA Support Branch, recommended that if it was the intent of the Board to approve the application, that the applicant be requested to submit new plats showing the pipestem in conformance with the driveway, and this was agreeable with Mr. Runyon.

Chairman Smith closed the public hearing.

Prior to stating the motion, Mr. Hammack stated that he felt the applicant had met all of the required standards for variances, in particular, Paragraph 2(d), Exceptional shape at the time of the effective date of the Ordinance and that he would move approval of the application with the following modifications: Add a new Condition 12 to read, "The applicant shall submit revised plats which show the relocation of the driveway being in conformance with the requirements of the Code and the pipestem."

Page 339, (Bennett continued from page 338)

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-D-097 by RICHARD A. JR., AND LU ANN BENNETT, under Section 18-401 of the Zoning Ordinance to permit the subdivision into two lots, proposed Lot 1 having the width of 127 feet and Lot 2 having the width of 25 feet, on property located at 6336 Georgetown Pike, Tax Map Reference 22-3((1))46, 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 4, 1986; and

WHEREAS, the 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/Langley Fork Historic Overlay District.
3. The area of the lot is 5.01 acres of land.

This application meets all of 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 all reasonable use 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 of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code, and the applicable requirements of the Public Facilities Manual.

4. Access to both of the lots from Georgetown Pike shall be via one (1) shared driveway entrance constructed in accordance with the Public Facilities Manual. The driveway easements shall be recorded with the deeds to both lots to ensure future access to these lots with a common driveway.

5. Dedication of right-of-way for public street purposes shall be forty-five (45) feet from centerline of Georgetown Pike.

6. The shoulder shall be improved along the site frontage and a right turn lane shall be provided.

7. Grading and construction easements for future possible improvements to Georgetown Pike shall be provided.

8. Environmental studies as determined by the Director, Department of Environmental Management, shall be completed prior to application for a building permit or the undertaking of any site clearance or construction activity.

9. The applicant shall work with the County Arborist to determine the boundaries for tree clearance before approval of a building permit or undertaking any site clearance or construction activity. Existing trees shall be preserved except where removal is necessary to accommodate construction.

10. A trails easement shall be provided and a sidewalk shall be constructed in accordance with the provisions of the Public Facilities Manual.

11. All plans for development of the property shall be reviewed and approved by the County Architectural Review Board.

12. The applicant shall submit revised plats which show the relocation of the driveway being in conformance with the requirements of the Code and the pipestem.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 6-1, Chairman Smith voting Nay.

Page 340, February 4, 1986, (Tape 2) Recess:

At 12:25 p.m., the Board recessed for lunch and reconvened at 1:30 p.m. with all Members being present and with Chairman Smith presiding.

Page 340, February 4, 1986, (Tape 2) Scheduled case of:

11:15 A.M. BIBLEWAY CHURCH OF FAIRFAX - SPA 79-A-023-1, application under Section 3-103 of the Zoning Ordinance to amend S-23-79 for a church and related facilities to permit additions to existing building, located at 4340 Ox Road on approximately 19,061 square feet, zoned R-1, Annandale District, Tax Map 57-4((1))2.

Lori Greenlief, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Page 341, (Bibleway Church of Fairfax continued from page 340)

Reverend John L. Allen, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff with the following modification to the twenty-five foot transitional screening requirement along the north and south at the rear of the building, that a six foot fence be placed along this portion and that the transitional screening be modified from twenty-five feet to seven feet. Staff stated that they were agreeable to the extension of the six foot fence along that portion; however, felt the twenty-five foot transitional screening was needed.

Chairman Smith asked if there were any persons to speak in support of this application and the following person came forward: Tyrone Allan, 1029 Kings Court, member of the Church, who expressed support regarding the modification of the transitional screening requirement.

Chairman Smith asked if there were any persons to speak in opposition to this application and the following person came forward: Benjamin Tillery, 4336 Ox Road, who expressed concerns regarding the drainage problems and the barrier which would be placed on the north side of the property.

Chairman Smith asked if there were any further persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Ms. Thonen stated that she felt the applicant had met all of the required standards and that she would move approval of the application with the following modifications:

Modify Condition 9, Bullets 1 and 2 as follows:

"1) Transitional Screening 1 shall be modified to fifteen feet (15') along the western lot line and a portion of the southern and northern lot lines as shown on the plat, and a barrier shall be provided on the southern and northern lot lines" and

"2) A reduction in the full transitional 1 screening to fifteen feet (15') width shall be permitted in the area north of the existing building to permit an existing sidewalk to remain".

Add a new Condition 13 to read:

"13) The Church shall provide for drainage from the parking lot to the rear of its property so that the drainage will not flow across the adjacent residential property to the north."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 79-A-023-1 by BIBLEWAY CHURCH OF FAIRFAX under Section 3-103 of the Zoning Ordinance to amend S-23-79 for a church and related facilities to permit additions to an existing building, on property located at 4340 Ox Road, Tax Map Reference 57-4((1))12, 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 4, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1 and WSPOD.
3. The area of the lot is 19,061 square feet of land.

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:

Page 342, (Bibleway Church of Fairfax continued from page 341)

1. 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 right turn lane on southbound Ox Road shall be lengthened, the degree to which shall be determined by the Director, DEM.

6. At the time of site plan approval, provision shall be made for future dedication of additional right-of-way to a total of 45 feet from the centerline of Ox Road. Also temporary grading easements should be provided to facilitate future construction.

7. Interparcel access shall be provided at such time Ox Road is improved.

8. The existing parking lot shall be restriped and the resultant aisles and spaces shall conform with the standards set forth in the Public Facilities Manual. Wheel stops shall be provided in those spaces abutting the fence on the northern lot line. The entrance shall be widened to meet VDH&T entrance standards.

9. Transitional screening shall be provided as follows:

   - Transitional Screening 1 shall be modified to fifteen feet (15') along the western lot line and a portion of the southern and northern lot lines as shown on the plat, and a barrier shall be provided on the southern and northern lot lines.

   - A reduction in the full transitional 1 screening to fifteen feet (15') width shall be permitted in the area north of the existing building to permit an existing sidewalk to remain.

   - The landscaping on the remaining portions of the northern and southern lot lines shall be retained and a six (6) foot solid fence shall be erected between the parking area and the plantings.

   - Transitional Screening requirements shall be waived along the eastern lot line.

10. A trail and corresponding easement shall be provided along Ox Road in conformance with Article 17 of the Zoning Ordinance and the Countywide Trails Plan.

11. The seating capacity shall not exceed 56 with a corresponding minimum and maximum of 14 parking spaces. Handicapped parking spaces shall be provided in accordance with Article 11 of the Zoning Ordinance. All parking shall be on site.

12. All development shall be subject to the provisions of the Water Supply Protection Overlay District.

13. The Church shall provide for drainage from the parking lot to the rear of its property so that the drainage will not flow across the adjacent residential property to the north.

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

Page 343, (Bibleway Church of Fairfax continued from page 342)

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.

Vice-Chairman DiGiulian seconded the motion.

The motion carried by unanimously by a vote of 7-0.

Page 343, February 4, 1986, (Tapes 2-3) Scheduled case of:

11:30 A.M. SCANLIN FARMS, INCORPORATED - SPR 79-V-234-1, application under Sections 3-103 & 8-901 of the Zoning Ordinance to renew S-234-79 for riding and boarding stables to permit continuation of the use without term & modification of the dustless surface requirement, located at 8907 Richmond Highway on approximately 54+ acres of land, zoned R-1, Mount Vernon District, Tax Map 109-2((1))2.

Kevin Guinaw, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

Discussion followed between Board Members and staff regarding the period of time allowable for renewal of applications for this use and Kathy Ichter, Planner, Office of Transportation, responded to questions regarding transportation concerns.

Thomas D. Scanlin, the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and expressed opposition to the recommendation of the Office of Transportation that the existing south entrance be closed and that the northern entrance redesigned (Condition 5); he stated further objection to the recommendation of staff that the applicant shall have a management plan approved for the site by the Northern Virginia Soil and Water Conservation District (Condition 6); Mr. Scanlin stated that in 1983, he had worked with the Fairfax County Extension and Continuing Education Office and the United States Department of Agriculture had reviewed the site and considered it prime farmland and gave the applicant a grant for fertilizer and seed to maintain the grass.

Following discussion between Board Members and the applicant, Mr. Scanlin submitted a chart showing the proposed traffic impact and two estimates on the cost of the redesign and construction of the entranceway recommended by the Office of Transportation.

Chairman Smith asked if there were any persons to speak either for or against this application and the following persons came forward in support: Stefan Nagel, National Trust for Historic Preservation.

Chairman Smith asked if there were any further persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mr. Hyland stated that he felt the applicant had met all of the required standards and that he would move approval of the application with the following modifications:

Delete Conditions 5 and 6, renumbering Conditions 7 through 13 accordingly.

Modify Condition 11 to read:

"The modification of the dustless surface requirement is approved for a period of five (5) years provided; however, that such modification of the dustless surface requirement may be renewed in accordance with the provisions of Sect. 8-013 for additional five year periods."

Add a New Condition 12 and 13 to read:

"12) This special permit is granted without term."

"13) The southern entrance to the property shall be changed to only permit entrance to the property and it shall be one-way so as to prohibit any vehicles exiting the southernmost entrance."

Modify the second paragraph following the conditions striking the language:

"unless the new entrance has been constructed and approved and" to read as follows:

"Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire.... authorized has been established or a new Non-Residential Use Permit has been obtained...."

Page 344 (Scanlin Farms, Inc., Continued from Page 343)

Mr. Hammack moved a substitute motion that Condition 12 be modified as follows, "This special permit is granted for a period of five years," and that all other conditions remain the same; however, died for the lack of a majority vote.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Renewal Application SPR 79-V-234-1 by SCANLIN FARMS, INCORPORATED under Sections 3-103 and 8-901 of the Zoning Ordinance to renew S-234-79 for riding and boarding stables, to permit the continuation of the use without term and to permit a modification of the dustless surface requirement, on property located at 8907 Richmond Highway, Tax Map Reference 109-2((1))2, 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 4, 1986; 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/Woodlawn Historic Overlay District.
3. The area of the lot is 54+ acres of land.

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, 8-603, and 8-609 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. Handicapped parking spaces shall be provided in accordance with Sect. 11-102 of the Zoning Ordinance.

6. Existing vegetation and fences shall remain to satisfy the transitional screening and barrier requirements.

7. The maximum number of horses shall be 120.

8. The hours of operation shall be from 7:00 A.M. to 10:00 P.M., seven (7) days a week.

9. The number of parking spaces shall be 30 as shown on the plat.

10. The gravel parking area shall be maintained in accordance with standard practices approved by the Director, Department of Environmental Management.

11. The modification of the dustless surface requirement is approved for a period of five (5) years provided; however, that such modification of the dustless surface requirement may be renewed in accordance with the provisions of Sect. 8-013 for additional five year periods.

12. This special permit is granted without term.

13. The southern entrance to the property shall be changed to only permit entrance to the property and it shall be one-way so as to prohibit any vehicles exiting the southernmost 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 shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established or a new Non-Residential Use Permit has been obtained, 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.

Vice-Chairman DiGiulian seconded the motion.

The motion carried by a vote of 5-2, Mrs. Day and Chairman Smith voting Nay.

Page 345, February 4, 1986, (Tapes 3-4) Scheduled case of:

11:45 A.M. HUNTLEY, NYCE, & ASSOCIATES, P.C. - SP 85-S-067, application under Section 8-901 of the Zoning Ordinance to permit a reduction to minimum yard requirements based on error in building location to allow house to remain 18 feet from edge of pavement of pipestem driveway (25 ft. minimum front yard required by Sect. 2-416), located at 8821 Shadowlake Way on approximately 8,743 square feet, zoned R-3, Springfield District, Tax Map Reference 89-3((23))31 (DEFERRED FROM 1/28/86).

AND

12:00 NOON HUNTLEY, NYCE, & ASSOCIATES, P.C. - SP 85-S-068, application under Section 8-901 of the Zoning Ordinance to permit a reduction to minimum yard requirements based on error in building location to allow house to remain 18 feet from edge of pavement of pipestem driveway (25 ft. minimum front yard required by Sect. 2-416), located at 8829 Shadowlake Way on approximately 8,555 square feet, zoned R-3, Springfield District, Tax Map 89-3((23))27 (DEFERRED FROM 1/28/86).

Chairman Smith announced that the above referenced special permit applications had been deferred to allow the applicant more time to provide additional information.

Kevin Guinaw, Staff Coordinator, reminded the Board that the application had been deferred due to problems regarding site distance and whether or not a car could be parked in the driveway due to an easement running across it. He added that the developer was going to provide a reconfiguration of the site.

A lengthy discussion ensued between the Board, the applicant, staff and the citizens to try and resolve the issues to everyone's satisfaction. The Board then determined that more time was needed to try and resolve the issues and moved to defer the above referenced applications to February 11, 1986.

There being no other business, the Board moved to adjourn the meeting at 5:10 P.M.

Viki Lester

Viki Lester, Clerk
Board of Zoning Appeals

July 8, 1986
Date Submitted

Daniel Smith

Daniel Smith, Chairman
Board of Zoning Appeals

July 8, 1986
Date Approved

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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, February 11, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; John F. Ribble, III; and Mary Thonen.

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

Page 347, February 11, 1986, (Tape 1) Scheduled case of:

10:00 A.M. CHONG BUM LEE (YI), VC 85-V-049, application under Section 18-401 of the Zoning Ordinance to permit construction of building to 1.0 ft. from street line of a corner lot (40 ft. min. front yard required by Sect. 4-807) and to permit 6 ft. high fence to remain in front yard (4 ft. max hgt. for fence in front yard as limited by Sect. 10-104), located at 2715 Huntington Ave. on approximately 27,221 sq. ft., zoned C-8, Mt. Vernon District, Tax Map 83-1((1))36. (To be scheduled concurrent with SEA 81-V-001-2) (DEFERRED FROM 10/22/85, 11/26/85)

Chairman Smith asked what the status was on Special Exception Amendment Application SEA 81-V-001-2 that had been filed concurrently with Variance Application VC 85-V-049. Marilyn Anderson, Staff Coordinator, responded that the Board of Supervisors had indefinitely deferred SEA 81-V-001-2; however, the applicant had planned to withdraw the application.

At the written request of the applicant, Mrs. Day moved that the Board withdraw Variance Application VC 85-V-049. This motion was seconded by Mr. Hyland and carried by a vote of four, Vice-Chairman DiGiulian, Mr. Hammack, and Mrs. Thonen being absent.

Page 347, February 11, 1986, (Tape 1) Board Matter 1.

Marilyn Anderson, Staff Coordinator, advised the Board that numerous telephone calls were being received in the office; due to today's weather, many persons were requesting to give their statements by phone. Chairman Smith ruled that citizens must either appear in person or supply the Clerk with a written statement; however, if desired and requested by Board Members, the record could be held open to allow additional time for citizens to submit written testimony.

Page 347, February 11, 1986, (Tape 1) Board Matter 1.

10:15 A.M. THE MILTON COMPANY - SP 85-P-039, application under Sect 3-2003 of the Zoning Ordinance to permit a community swimming pool, located at 4030 Townwood Drive on approximately .4215 acres of land, zoned R-20, Providence District, Tax Map Reference 45-2((5))B and 45-2((1))pt 38. (DEFERRED FROM 12/3/85).

Marilyn Anderson, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Development Conditions contained therein.

John Ferrell, attorney representing the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff, with the exception of Condition 8, bullet three, seven foot high openwork masonry wall around the swimming pool area.

Chairman Smith asked if there were any persons to speak in support of this application and the following persons came forward: Margaret Ann Lane, contract resident, Gray's Pointe Condominium, who submitted a letter of support from Stephen J. McClure, resident and owner, Gray Pointe Condominium; and Richard Greenstreet, President, Townes of Greenbriar Homeowners Association.

Chairman Smith asked if there were additional persons to speak either for or against this application and hearing no reply, closed the public hearing.

Mr. Hammack stated that he would move approval of application in accordance with the development conditions contained in Appendix One of the Staff Report dated November 22, 1985, with the following modification: Amend Condition 8, third bullet to read:

"o The barrier shall be modified to require a <u>six (6) foot</u> high openwork masonry wall around the swimming pool area as shown on the plat."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-P-039 by THE MILTON COMPANY under Section 3-2003 of the Zoning Ordinance to permit a community swimming pool, on property located at 4030 Townwood Drive, Tax Map Reference 45-2((5))B and 45-2((1))pt. 38, 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 11, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-20.
3. The area of the lot is .4215 acres of land.

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. However, upon conveyance of the parcels to the "Gray's Pointe, a Condominium, Unit Owners Association" this approval will transfer to the association who will enter into a legal agreement to permit the residents of the Townes of Greenbriar usage of the pool and facilities. 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.

5. The maximum number of family memberships shall be 259.

6. The hours of operation shall be from 9:00 A.M. to 9:00 P.M.

7. There shall be four (4) parking spaces.

8. Transitional Screening 1 and the barrier requirements shall be modified provided that the following is provided:

   - An 8.3 foot transitional screening yard shall be provided along the northern, southern and eastern lot lines. Plantings within this area shall be reduced by two-thirds (2/3) of the Transitional Screening 1 requirements, as generally shown on the landscaping plan, with the approval of the County Arborist as to the size, types and numbers of plantings. Efforts shall be made to save the 48-inch Pin Oak located at the southeast quadrant of the property.

   - The 20 foot front yard adjacent to Townwood Drive shall be landscaped so as to provide adequate site distance as approved by the County Arborist.

- The barrier shall be modified to require a six (6) foot high openwork masonry wall around the swimming pool area as shown on the plat.

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.
- 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.

10. All noise shall be regulated in accordance with the provisions of Chapter 108 of the Fairfax County Code.

11. Any signs on the property shall comply with Section 12 of the Zoning Ordinance.

12. Lighting for the pool 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-intensity design which directs the light directly on the facility.
- Shields shall be installed, if necessary, to prevent the light from projecting beyond the pool area.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the activity authorized has been established, or unless construction has 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 carried by a vote of 6-0, Mrs. Thonen being absent for this hearing.

Page 349, February 11, 1986, (Tape 1) Scheduled case of:

10:15 P.M. THE MILTON COMPANY - VC 85-P-064, application under Section 18-401 of the Zoning Ordinance to permit a community swimming pool with bathhouse 13 feet from front lot line (20 ft. minimum front yard required by Sect. 3-2007); and 6 foot high fence partially in front yard (4 ft. maximum height for fence in front yard as limited by Sect. 10-104.), located at 4030 Townwood Drive on approximately .39473 acres of land, zoned R-20, Providence District, Tax Map 45-2((5))B. (DEFERRED FROM 12/3/85)

At the written request of the applicant, Mr. Hyland moved that the Board withdraw Variance Application VC 85-P-064. This motion was seconded by Mr. Ribble and carried by a vote of six, Mrs. Thonen being absent.

Page 349 February 11, 1986, (Tape 1) Scheduled case of:

10:30 A.M. CHARLES SLOANE, JR./PLASKIED & ASSOCIATES - VC 85-D-091, application under Sect 18-401 of the Zoning Ordinance to permit subdivision into three lots, proposed Lot 2 having width of width of 10 feet (150 ft. min. lot width req. by Sect. 3-106), located at 931 Seneca Road on approximately 3.23 acres of land, zoned R-1, Dranesville District, Tax Map Reference 6-4((1))31.

Marilyn Anderson, Staff Coordinator, presented the Staff Report.

Andres I. Domeyko, representing the applicant, explained the nature of the use as contained in the statement of justification submitted with the application and agreed to the Development Conditions as recommended by staff, with the exception of Condition 6 regarding the right turn deceleration lane.

Following Board discussion regarding site distance and the Virginia Department of Highways and Transportation (VDH&T) requirements for a deceleration lane, Chairman Smith asked if there were any persons to speak in support to this application and the following persons came forward: Bedreddin Plaseied, Plaseied and Associates.

Chairman Smith noted that two letters in opposition to the application had been submitted as part of the record: Shawn L. Kaupish, 920 Seneca Road, and Marge Gersic, Great Falls Citizens Association, Planning and Zoning Board.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Mrs. Thonen stated that she would move approval of application in accordance with the development conditions contained in Appendix One of the Staff Report dated November 22, 1985, with the following modification: Amend Condition 6, to read:

- "Construction of <u>the entrance must meet the Virginia Department of Highways and Transportation (VDH&T) sight distance requirements.</u>"

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-D-091 by CHARLES SLOANE, JR., AND PLASEIED AND ASSOCIATES, under Section 18-401 of the Zoning Ordinance to permit the subdivision into three lots, proposed Lot 2 having a width of 10 feet, on property located at 931 Seneca Road, Tax Map Reference 6-4((1))31, 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 11, 1986; and

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

1. That the applicant is the owner of the land and the co-applicant is the contract purchaser.
2. The present zoning is R-1.
3. The area of the lot is 3.23 acres of land.

This application meets all of 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 all reasonable use 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 three (3) lots, with a minimum lot width of not less than ten (10) feet for Lot 2. This approval is for the subdivision as shown on the plat except that minor lot line adjustments which do not affect the approved variance shall be permitted.

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, and other applicable requirements of the Public Facilities Manual.

4. Access to all three (3) lots shall be via the pipestem driveway from Seneca Road and adequate sight distance must be demonstrated and approved by VDH&T at this location. The driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway. The driveway shall be constructed in accordance with the Public Facilities Manual.

5. Dedication of right-of-way for public street purposes shall be provided to accommodate the realignment of Seneca Road. The amount of dedication and alignment shall be determined by the Director, Department of Environmental Management at the time of subdivision plat review. In addition, the applicant shall provide temporary grading easements for future road improvements.

6. Construction of the entrance must meet the Virginia Department of Highways and Transportation (VDH&T) sight distance requirements.

7. A trail shall be provided along Seneca Road as determined by DEM at the time of subdivision plat approval in accordance with the Countywide Trails Plan.

Vice-Chairman DiGiulian seconded the motion.

The motion carried by a vote of 5-2, Mrs. Day and Chairman Smith voting Nay.

Page 351, February 11, 1986, (Tape 1) Scheduled case of:

10:45 A.M. EVELYN DAVIS BURGAY - VC 85-A-113, application under Section 18-401 of the Zoning Ordinance to permit enclosure of existing carport to an attached garage 9.8 feet from side lot line (12 ft. min. side yard required by Sect. 3-307), located at 5514 Ferndale Street on approximately 12,413 square feet, zoned R-3, Annandale District, Tax Map 80-1((2))(9)16. (OUT-TURN HEARING RQST GRANTED 11/26/85)

At the written request of the applicant, Mr. Hyland moved that the Board withdraw Variance Application VC 85-A-113. This motion was seconded by Vice-Chairman DiGiulian and carried by a vote of five, Mr. Hammack and Mr. Ribble being absent.

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10:45 A.M. HUNTLEY, WYCE, & ASSOCIATES, P.C. - SP 85-S-067, application under Section 8-901 of the Zoning Ordinance to permit a reduction to minimum yard requirements based on error in building location to allow house to remain 18 feet from edge of pavement of pipestem driveway (25 ft. minimum front yard required by Sect. 2-416), located at 8821 Shadowlake Way on approximately 8,743 square feet, zoned R-3, Springfield District, Tax Map Reference 89-3((23))31 (DEFERRED FROM 1/28/86 & 2/4/86).

Charles Caridi of 4201 Annandale Road, represented the applicant and stated that the applicant had made the revisions requested by the Board at the February 4, 1986 public hearing.

Chairman Smith called for speakers to speak in support or in opposition to this application and Ron Rice of 8823 Shadowlake Way, spoke in opposition to the proposed driveway which would be in between his house and his neighbors and stated that there was not enough room for the garage. Mr. Rice suggested that the garage be torn off the side of the house and moved back 10 feet or that the driveway be cut from Shadowlake Way, come in through the back of the house, change the basement area and make that the garage.

Kevin Guinaw, Staff Coordinator, clarified that the pipestem as shown on the plat submitted to the Board this date was not the pipestem approved on the building permit but is the same as the pipestem submitted as the special permit application.

Following questions from the Board, Mr. Caridi responded that the garage on this particular house backed up to a family room with a fireplace and to make the garage flush with the house would take room from the garage which in turn would have to be taken from the family room.

The next speaker was Greg Cox with Foster Brothers of 3975 University Drive, who responded to questions from the Board by stating that the model had been changed strictly from a marketing standpoint. He stated that the garage had been placed in this location rather than in the basement area for safety reasons.

Mr. Guinaw, Staff Coordinator, noted for the record that the garage could not be positioned in back of the house and still provide sufficient setbacks and turning radius.

Jessie Broadway of 8825 Shadowlake Way, questioned whether there was sufficient room to park two cars in the proposed garage.

As there were no additional speakers or further discussion, Chairman Smith closed the public hearing.

Before making his motion, Mr. DiGiulian stated he felt this was not the most desirable situation but that the error had been made in good faith and that the application was in compliance with the general standards.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

(MISTAKE SECTION)

Vice-Chairman DiGiulian made the following motion:

WHEREAS, Special Permit Application SP 85-S-067 by HUNTLEY, WYCE AND ASSOCIATES, under Section 8-901 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in building location to allow a house to remain 18 feet from the edge of the pavement of a pipestem driveway, on property located at 8821 Shadowlake Way, Tax Map Reference 89-3((23))31, 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 11, 1986; 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.

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 (revised plat submitted to the BZA on 2/11/86) and is not transferable to other land or other structures on the same land.

2. An amended Building Permit reflecting the location of the existing dwelling shall be submitted and approved.

3. The applicant is to coordinate and work with the County Arborist to provide a visual screen along the property line adjacent to Lot 30, said screen shall include at least six (6) Evergreen trees to be a minimum of six (6) feet in height at the time of planting, and these trees to be supplemented by additional shrubbery as determined by the County Arborist as shown on the revised plat submitted by the applicant to the BZA on 2/11/86.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-2, Mrs. Day and Mr. Hyland voting Nay.

Page 353 February 11, 1986, (Tape 2), Scheduled case of:

11:00 A.M. HUNTLEY, NYCE, & ASSOCIATES, P.C. - SP 85-S-068, application under Section 8-901 of the Zoning Ordinance to permit a reduction to minimum yard requirements based on error in building location to allow house to remain 18 feet from edge of pavement of pipestem driveway (25 ft. minimum front yard required by Sect. 2-416), located at 8829 Shadowlake Way on approximately 8,555 square feet, zoned R-3, Springfield District, Tax Map 89-3((23))27 (DEFERRED FROM 1/28/86 & 2/4/86).

Kevin Guinaw, Staff Coordinator, presented the Staff Report.

Charles Caridi of 4201 Annandale Road, represented the applicant and stated that a contract was pending on lot 27 but the contract owner has approved the position of this lot in writing.

Chairman Smith called for speakers in support or in opposition to this application and hearing no reply, closed the public hearing.

Mr. DiGiulian stated that the application met the conditions set forth in the general standards and moved to approve the application.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

(MISTAKE SECTION)

Vice-Chairman DiGiulian made the following motion:

WHEREAS, Special Permit Application SP 85-S-068 by HUNTLEY, NYCE AND ASSOCIATES, under Section 8-901 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in building location to allow a house to remain 18 feet from the edge of the pavement of a pipestem driveway, on property located at 8829 Shadowlake Way, Tax Map Reference 89-3((23))27, 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 11, 1986; 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.

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. An amended Building Permit reflecting the location of the existing dwelling shall be submitted and approved.

Mr. Ribble seconded the motion.

Mr. Hammack noted for the record that he felt this was the best solution after reviewing as the applicant could have paved the side of the lot by right and he felt there was sufficient turning radius.

The motion carried unanimously by a vote of 7-0.
The Board recessed at 12:00 Noon for lunch and reconvened at 1:00 P.M.

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Page 355, February 11, 1986, (Tape 2) Scheduled case of:

11:00 A.M. BEACON DAY CARE, INC., SP 85-V-066, application under Sect 3-403 of the Zoning Ordinance to permit a child care center, located at 6510 Fort Hunt Road on approximately located at 6510 Fort Hunt Road on approximately 69,049 square feet, zoned R-4, Mount Vernon District, Tax Map 93-1((25))(1)1 2, 3, 4, 10 & 11.

Chairman Smith pointed out that a letter had been submitted by the applicant to withdraw this application.

Mr. DiGiulian moved that the withdrawal be accepted and Mrs. Day seconded the motion. The motion passed unanimously by a vote of 7-0.

Page 355, February 11, 1986, (Tape 2), Scheduled case of:

11:15 A.M. MCLEAN BIBLE CHURCH - SPA 73-D-151-1, application under Section 3-103 of the Zoning Ordinance to amend S-151-73 for church and related facilities to permit construction of additional parking facilities, located at 840 Balls Hill Road on approximately 5.493 acres of land, zoned R-1, Dranesville District, Tax Map 21-3((1))56A.

Marilyn Anderson, Staff Coordinator, presented the Staff Report and pointed out that Condition #6 should be changed to read "the two new entrances to the site from Balls Hill Road should be constructed in accordance with VDH&T design standards and the southern most of these entrances shall be aligned so as to be directly across Balls Hill Road from Country Meadow Court."

William Hansbarger with the law firm of Hansbarger and Testerman of 1200 Mottrom Drive, represented the applicant and agreed with the modification by staff with regard to the entrances and asked for approval based on these conditions. He asked that the following language be added to Condition #7, "provided the applicant is given credit for the floor ratio area for the area so dedicated without monetary consideration."

Mrs. Anderson explained that if what Mr. Hansbarger was referring to was Section 2-308 of the Ordinance where it refers to "advance density credit", that could only be granted by the Board of Supervisors.

In response to Mrs. Anderson's comments, Mr. Hansbarger replied that he wanted credit for what was being dedicated at this time so that it could be applied at some future date if the church wished to enlarge its present building.

Chairman Smith suggested the following language "provided further the applicant shall not be prohibited from applying to the County Board of Supervisors in the future for advance density credits" and Mr. Hansbarger agreed.

Ms. Kelsey, Branch Chief, informed the Board that two speakers had to leave but had left letters in opposition to be entered into the record.

At this time Chairman Smith entered into the record letters from Mr. and Mrs. Tom Brain and Mr. Fisk.

As there were no speakers and no further discussion, Chairman Smith closed the public hearing.

Prior to stating her motion, Mrs. Day moved to adopt the motion with changes to Conditions #6 and #7.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 73-D-151-1 by MCLEAN BIBLE CHURCH under Section 3-103 of the Zoning Ordinance to amend S-151-73 for church and related facilities to permit construction of additional parking facilities, on property located at 840 Balls Hill Road, Tax Map Reference 21-3((1))56A, 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 11, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 5.493 acres of land.

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. There shall be a maximum of 660 seats with a corresponding minimum of 165 parking spaces and maximum of 239 parking spaces.

6. The two (2) new entrances to the site from Balls Hill Road shall be constructed in accordance with VDH&T design standards. The southernmost of these two entrances shall be aligned so as to be directly across Balls Hill Road from Country Meadow Court.

7. Dedication of right-of-way along the frontage of the site on Balls Hill Road shall be provided as agreed upon with VDH&T and the Director, Department of Environmental Management at the time of site plan review. If the amount of required dedication reduces the twenty (20) foot wide transitional screening area between the rear parking area and the eastern lot line, the parking lot shall be shifted further to the west on the lot so as to provide the twenty (20) feet of transitional screening. Provided further, that the applicant shall not be prohibited from applying to the Fairfax County Board of Supervisors in the future for advanced density credits.

8. Handicapped parking spaces shall be provided in accordance with all applicable state and County regulations.

9. Transitional Screening 1 shall be provided as follows:

   - Transitional Screening 1 shall be provided along the eastern lot line between the new parking area and Balls Hill Road. The size and type of planting adjacent to the entrance shall be determined by the County Arborist in order to assure adequate sight distance.

   - Along the southern lot line adjacent to Georgetown Pike the existing vegetation shall be retained and supplemented to provide the equivalent of Transitional Screening 1.

   - The existing vegetation shall satisfy all Transitional Screening requirements along all other lot lines and the remainder of the eastern lot line.

10. The Barrier requirement shall be waived.

11. 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.

12. 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.

Mr. Ribble seconded the motion.

The motion carried unanimously by a vote of 7-0.

Page 357, February 11, 1986, (Tape 2), Scheduled case of:

11:30 A.M. RICHARD A. AND GLORIA A. ADAMS - SP 85-D-071, application under Section 8-901 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to allow deck to remain 3.7 feet from side lot line (15 ft. minimum side yard required by Sections 3-207 and 2-412), located at 1238 Meyer Court on approximately 19,687 square feet, zoned R-2, Dranesville District, Tax Map 31-1((13))67.

Marilyn Anderson, Staff Coordinator, presented the Staff Report and requested a deferral so that additional background information could be obtained from the builder as he was out of the state until the end of February.

Williams Hansbarger with the law firm of Hansbarger and Testerman of 1200 Mottrom Drive, represented the applicant and informed the Board that Mr. and Mrs. Adams were present and ready to testify.

Chairman Smith asked Mrs. Anderson for a deferral date and she replied the case could be heard on March 4, 1986, at 10:15 A.M.

Following a discussion between Board members, Mr. Hammack moved to defer this case until March 4, 1986, at 10:15 A.M. Mr. DiGiulian seconded the motion which passed unanimously by a vote of 7-0.

(A verbatim transcript of the public hearing is contained in the Master File.)

At this time Chairman Smith called for the applicant in the next scheduled case, Northern Virginia Regional Park Authority, SP 85-S-072, and as no one was present the case was rescheduled for a later time during the public hearing.

1:00 P.M. SEQUOYAH COUNCIL OF CO-OWNERS - A 85-L-002, application under Section 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's determination that this storage facility is not a permitted accessory use and consequently the site plan waiver that was issued was in error and is null and void, located at 8010 Seven Woods Drive, zoned R-12 & R-20, Lee District, Tax Map 101-2((10))10. (RESCHEDULED ON 12/17/85)

Chairman Smith asked Jane Gwinn, Zoning Administrator, if she had any opening remarks and she replied that she did not.

Joseph Kinley of 7611 Little River Turnpike, represented the appealant and stated that his company began managing Sequoyah Condominiums in March 1, 1985 after the storage area had been built and explained that it was his understanding that Sequoyah was not appealing the decision only that the waiver had been withdrawn due to a citizen complaint. He further noted that to move this facility to an alternate site would be very costly to the homeowners.

Ms. Gwinn explained to the Board that it was not staff's understanding that this facility was used during the initial construction of this housing development and stated this was shown as parking on the original site plan.

Ralph Hendrickson of 7912 Sausalito Place, testified that in 1978 when he moved into his house this was a parking lot and across from it there were three tennis courts, swimming pool and community center and now is a junkyard. Mr. Hendrickson stated that he had been told on the day the shed was erected it was temporary and he has been to the homeowners several times concerning this with no response and the waiver was granted without his knowledge and without a public hearing.

Ms. Gwinn informed the Board that a public hearing was not necessary on a site plan approval or site plan waiver.

During his rebuttal, Mr. Kinley reiterated the expense for this would be incurred by the homeowners and stated they would do whatever was required by the County to be in compliance.

In response to questions from Mr. Hyland, Ms. Gwinn pointed out that she had stated in Attachment 14 she did not feel a development of this size needed two separate maintenance facilities. She further stated that based on the size of the outside storage area she did not feel it was a permitted accessory use but did feel a combination maintenance and storage yard could be allowed provided the size was in accordance with the definition of accessory use.

As there was no further questions or discussion, Chairman Smith closed the public hearing.

Mr. Hyland moved to uphold the Zoning Administrator's decision that the site plan waiver which was issued in connection with the storage facility was issued in error and to deny A 85-L-002. Mr. DiGiulian seconded the motion which passed unanimously by a vote of 7-0.

Page 358 February 11, 1986, (Tape 2), Scheduled case of:

11:45 A.M. NORTHERN VIRGINIA REGIONAL PARK AUTHORITY - SP 85-S-072, application under Section 8-901 of the Zoning Ordinance to permit waiver of the dustless surface requirement for addition to existing gravel parking lot, located at 5400 Ox Road on approximately 0.9 acres of land, zoned R-C and WSPOD, Springfield District, Tax Map 64-4((1))1.

Marilyn Anderson, Staff Coordinator, presented the Staff Report.

Charles Yudd of Bengston, DeBell, Elkin and Titus represented the applicant and agreed with the conditions set forth in the staff report.

Chairman Smith called for speakers either in support or in opposition and hearing no reply, closed the public hearing.

Mr. Ribble moved to grant this application as the applicant had testified that he would comply with the development conditions set forth in the staff report.

COUNTY OF FAIRFAX, VIRGINIA
SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-S-072 by NORTHERN VIRGINIA REGIONAL PARK AUTHORITY under Section 8-901 of the Zoning Ordinance to permit the waiver of the dustless surface requirement for an addition to the existing gravel parking lot, on property located at the Bull Run Regional Park, Shooting Center Parking Lot, Tax Map 64-4((1))1, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:
WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 11, 1986; and

Page 359, February 11, 1986, (Tape 2), (Northern Virginia Regional Park Authority, SP 85-S-072, continued from Page 358)

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

1. That the applicant is the owner of the land.
2. The present zoning is R-C and WSPOD.
3. The area of the parking lot is 0.90 acres within the 1538.52 acre park.

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, 8-903 and 8-915 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 parking lot as indicated on the plat submitted with this application and is not transferable to other land. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

2. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

3. This use shall be subject to the provisions set forth in Article 17, Site Plans.

4. All gravel surface areas shall be constructed and maintained in good condition at all times in accordance with standards approved by the Director, Department of Environmental Management (DEM). There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.

5. All required handicapped parking spaces shall be paved with a dustless surface.

6. This approval is for a period of five (5) years.

7. All development shall be subject to the provisions of the Water Supply Protection Overlay District.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, twelve (12) 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.

Vice-Chairman DiGiulian seconded the motion.

The motion carried unanimously by a vote of 7-0.

Page 359, February 11, 1986, (Tape 3) After Agenda Item, Action #1:

APPEAL APPLICATION A 86-D-001
WESTPARK ASSOCIATES

Mrs. Thonen moved to grant a public hearing to West Park Associates, A 86-D-001, on March 25, 1986, at 9:00 A.M. Mr. Hyland seconded the motion which passed unanimously 7-0.

Page 360, February 11, 1986, (Tape 3) After Agenda Item, Action #2:

APPEAL APPLICATION A 86-P-002
UNITED ARTISTS COMMUNICATIONS, INCORPORATED

Mr. Ribble moved to grant a public hearing to United Artists Communications, Incorporated, A 86-P-002, on April 15, 1986, at 9:00 A.M. Mr. DiGuilian seconded the motion which passed unanimously 7-0.

Page 360, February 11, 1986, (Tape 3) After Agenda Item, Action #3:

APPEAL APPLICATION A 86-D-003
BLAIR W. CUPP

Mr. Hyland moved to grant a public hearing to Blair W. Cupp, A 86-D-003, on April 29, 1986, at 9:00 A.M. Mr. Ribble seconded the motion which passed unanimously 7-0.

Page 360, February 11, 1986, (Tape 3) After Agenda Item #4:

Mrs. Day moved to deny an Out-of-Turn Hearing to the Lutheran Church of the Abiding Presence, SPA 84-S-003-1 as it was presently scheduled for April 22, 1986. Mrs. Thonen seconded the motion which passed unanimously 7-0.

As there was no further business, the Board adjourned at 10:30 A.M.

Betsy S. Hurtt, Deputy Clerk
Board of Zoning Appeals for
Vicki Lester

Daniel Smith, Chairman
Board of Zoning Appeals

October 21, 1986
Date Submitted

October 28, 1986
Date Approved

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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, February 18, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; John F. Ribble, III, Gerald Hyland, Ann Day, Paul Hammack, Mary Thonen.

Chairman Smith opened the meeting at 8:10 P.M., and Mrs. Day led the prayer.

Prior to the start of the regularly scheduled cases, Mr. Hyland suggested that the Board consider sending a representative to sit in on Virginia Association of Counties (VACO) meetings, and therefore, moved that the Board consider the possibility of reinstituting a membership in VACO on the Zoning Committee so that annually when they do have their conferences, this Board could have one representative to attend and participate on that forum. And second that appropriate funds be made available to whatever representative attends these meetings to cover travel and related expenses.

Mrs. Day seconded the motion which passed unanimously.

Page 361, February 18, 1986, (Tape 1) Scheduled case of:

8:00 P.M. JACK H. & DOLORES MERRITT, SR. and JACK H. MERRITT, JR. - SP 85-C-061, application under Section 3-103 to permit a child care center for 98 children, located at 1806 Dawson Street on approximately 21,779 square feet, zoned R-1, Centreville District, Tax Map 29-3((3))12.

Chairman Smith announced that the notices were not in order and Mr. Hyland expressed his frustration that this was the second time the notices were not in order. He suggested that perhaps the notification package be sent by certified mail.

Jack Merritt, Jr., appeared before the Board and apologized for the notices not being in order a second time. He explained that the problem was unusual and was now offering to pick up the notification package from the BZA Office to avoid any mailing delays.

At this time the Clerk suggested a new hearing date of March 18, 1986 at 9:00 P.M. After a brief discussion among the Board, Chairman Smith requested that the case be scheduled at 8:30 P.M. There being no objection, it was so ordered.

8:15 P.M. LEE SAMMIS ASSOCIATES, INC. - A 85-C-003, application under Section 18-301 of the Zoning Ordinance to appeal (permit) office park identification sign, located at the intersection of Fox Mill and Centreville Roads (Dulles Technology Center) on approximately 5.6946 acres of land, zoned R-1, Centreville District, Tax Map 16-3((1))5. (Previously scheduled 1/21/86; Deferral Granted on 1/14/86)

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Jane Gwinn, Zoning Administrator, presented the staff report and using the viewgraph located the property for the Board.

Bud Testerman, representative for the appellant, appeared before the Board and advised that the office park was separated from Centreville Road by a strip of land which the appellant had agreed to landscape and maintain the southwestern corner where the office park sign would be located. He added that the Zoning Administrator had determined that the sign could not be placed there.

Mr. Hyland and Mr. Testerman discussed the appropriateness of the sign and whether or not it should be permitted to remain. Mr. Testerman indicated that the sign was a temporary sign to be replaced with a permanent sign if approved. He further explained that the sign needed to be placed offsite in order that it could be seen by the public. He reviewed the Zoning Ordinance (Section 12-207, Paragraph 12, Subparagraph A) and stated that it was his opinion that a sign could be placed in close proximity to the main entrance to the site which was where the applicant was requesting the sign be placed.

Mrs. Thonen pointed out that the owner of the subject property was not the owner of the office park. Chairman Smith suggested that the applicant make an effort to purchase the subject property so that it could rezoned and the sign allowed to remain.

Mark Hassinger, representing the current owner and developer of the office park, appeared before the Board to answer any questions.

Following questions from Mr. Hyland, Mr. Hassinger stated that in 1984 he was told that a permanent sign could not be placed on the property but added that nothing was said about a temporary sign. He noted that by way of an agreement with the property owner, that appellant had installed the sign and provided landscaping.

In response to a question from Chairman Smith, Ms. Gwinn stated that the a violation had not been issued to the owner of the subject property for allowing the sign and landscaping in violation.

Chairman Smith called for speakers and there were none.

In response to Mr. Testerman's testimony, Ms. Gwinn pointed out that unless the Ordinance specifically said a sign may be offsite, it must be onsite. With regard to Section 12-207, Paragraph 12 of the Zoning Ordinance, she stated that the Ordinance used the word "accessory" which meant something located on the same lot with the principle use. In conclusion, Ms. Gwinn stated that this was not "otherwise" specifically qualified to allow the sign to be offsite.

In rebuttal, Mr. Testerman reiterated his previously stated position.

Chairman Smith closed the public hearing.

Mr. Hammack moved that the Board of Zoning Appeals support the Zoning Administrator and uphold her position.

Mrs. Thonen seconded the motion which passed unanimously.

The Board moved to bring a brown bag lunch to the February 25, 1986 meeting so that they could meet with Pat Taves, Office of the County Attorney, to discuss legal matters.

The motion was seconded and passed unanimously.

There being no other business the Board moved to adjourn the meeting at 9:10 P.M.

Patti M. Hicks

Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith

Daniel Smith, Chairman
Board of Zoning Appeals

July 29, 1986

Date Submitted

July 29, 1986

Date Approved

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 25, 1986. The following Board Members were present: Daniel Smith, Chairman; John F. Ribble III, Gerald Hyland; Ann Day; Paul Hammack and Mary Thonen. John DiGiulian, Vice-Chairman was absent from the meeting.

Chairman Smith opened the meeting at 10:30 A.M., and Mrs. Day led the prayer.

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Page 363 (Tape 1) February 25, 1986, (Tape 1) Scheduled case of:

9:00 A.M. CARE-A-LOT LEARNING CENTER, INCORPORATED, MICHAEL J. AND KAREN L. REID, SP 85-C-078, application under Section 3-103 of the Zoning Ordinance to permit a nursery school and day care center, located at 9943 Lawyers Road on approximately 3.771 acres of land, zoned R-1, Centreville District, Tax Map 38-1((1))8. OUT-OF-TURN HEARING WAS GRANTED 1/14/86

Marilyn Anderson, Staff Coordinator, presented the staff report. She pointed out that staff was concerned with the transportation issues and was requesting that the applicant provide right and left turn lanes, locate the entrance in order to provide adequate sight distance as approved by the Virginia Department of Highways and Transportation (VDH&T), provide interparcel access to the vacant property to the west, and dedicate right-of-way for future road improvements. If the applicant can satisfy all of these transportation concerns, then it was staff's recommendation that the Board approve this application subject to the development conditions in the staff report.

In response to questions from Mr. Hyland regarding the transportation issues, Mrs. Anderson informed the Board that Kathy Ichter from the Office of Transportation was present to respond to questions. Following a lengthy discussion, Mrs. Ichter stated that changes to Lawyers Road could be made to improve the safety factor but it would be very costly for the applicant.

Mark Lipman, of 5203 Leesburg Pike, attorney for the applicant, began his presentation by stating that he had not been involved in the initial phase of the application but felt he understood the issues. Mr. Lipman stated that he would like primarily to address the concerns of the surrounding citizens.

In response to questions from Mr. Hyland, Mr. Lipman stated that he did not feel this center would generate more traffic as the people who would be using the center would already be traveling somewhere to work.

Chairman Smith called for speakers in support and hearing no reply called for speakers in opposition. The first speaker was Gerald Oshea of 10000 Garrett Street who opposed the application stating that he did not feel that Lawyers Road was a suitably safe road for a day care center.

Linda Oshea of 10000 Garrett Street requested that a signed petition by adjacent neighbors in opposition to this application be entered into the record. She stated that the surrounding subdivisions had very few children who would benefit from a day care center.

Sherman Vandeveer of 9934 Lawyers Road stated that he had subdivided a lot adjacent to this site and because of the transportation problems has to enter his site from Helmwood Court rather than Lawyers Road.

Ira Saul of 10091 Lawyers Road stated that this use would not be in harmony with the Comprehensive Plan.

Keith A. Bodamer of 9904 Carrhill Court, President of Carriage Hill Civic Association, expressed a concern for the safety of the children who would be attending this day care center.

Mike Shelling of 1000 Lawyers Road felt it would bring down the property values in the neighborhoods.

David Lotterer of 2119 Carr Hill Road stated that he knew of no planned development which would link the proposed day care center to a school site in this area.

During his rebuttal, Mr. Lipman stated that he felt day care centers should be located in residential areas and that the applicants were more than willing to make the road improvements.

As there were no additional speakers or discussion, Chairman Smith closed the public hearing. Mrs. Thonen stated that she would move to deny this application based upon the transportation issues that had not been satisfactorily resolved.

(See the file for a verbatim transcript of this case.)

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-C-078 by CARE-A-LOT LEARNING CENTER, INCORPORATED AND MICHAEL J. & KAREN L. REID, under Section 3-103 of the Zoning Ordinance to permit a nursery school and child care center, on property located at 9943 Lawyers Road, Tax Map Reference 38-1((1))8, 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 25, 1986; and

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

1. That the applicant is the contract purchaser of the land.
2. The present zoning is R-1.
3. The area of the lot is 3.771 acres of land.

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, 8-303 and 8-305 of the Zoning Ordinance.

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

Mr. Hyland seconded the motion.

The motion carried by a vote of 5-1, Chairman Smith voting Nay and Vice-Chairman DiGiulian being absent from this public hearing.

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Page 364 — At this time Chairman Smith asked if there was anyone present who was interested in application VC 85-D-104, Town and Country Developers, scheduled for 9:45 A.M. Since no one came forward, Mr. Testerman, attorney for the applicant, requested a deferral until April 8, 1986 at 9:00 A.M. and the Board so moved.

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Page 364, (Tapes 1 and 2) February 25, 1986, Scheduled case of:

9:15 A.M. PHILLIP & PATRICIA KASTELIC, VC 85-D-093, application under Section 18-401 of the Zoning Ordinance to permit construction of 20 feet high detached garage 5 feet from side lot line and 10 feet from rear lot line (15 ft. minimum side yard and 20 ft. minimum rear yard required by Sects. 3-207 & 10-104), located at 8109 Wellington Road on approximately 18,438 square feet of land, zoned R-2, Mount Vernon District, Tax Map 102-2((12))184 and 185.

Before beginning the presentation of the staff report, Lori Greenlief, Staff Coordinator, stated that the applicants were presently out of the country and their architect was present but had not been authorized as their agent on the affidavit. He was able to contact the applicants last night and they were to send a telegram but it had not yet been received.

Keith Hutchinson, architect for the applicant, of 1141 North Taylor Street explained that he had talked with the applicants by telephone the previous evening and they were sending a telegram authorizing him as their agent. He stated that this had been discussed with staff but it was not made clear to the applicants that his name had to be listed on the affidavit.

Mrs. Thonen asked Mr. Hutchinson if he would like to move the case to the end of the day to allow time for the telegram to arrive. He noted that in order to pick up the telegram he would have to make a trip to Washington, D.C. Mrs. Thonen made a motion to defer this case until April 8, 1986 at 9:15 A.M. Following the motion, a discussion took place between the Board members concerning the affidavit. Mr. Hyland made a substitute motion and Mrs. Thonen withdrew her original motion. Mr. Hyland's motion to place the case at the end of the agenda to allow time for the telegram to arrive which passed by unanimous consent.

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9:30 A.M. MARTIN D. WALSH AND H & G CORPORATION, VC 85-D-103, application under Section 18-401 of the Zoning Ordinance to permit subdivision into three lots, proposed Lots 2 & 3 each having width of 12.55 feet (150 ft. minimum lot width required by Sect. 3-106), located at 1133 and 1137 Springhill Road on approximately 3.24 acres of land, zoned R-1, Dranesville District, Tax Map 20-4((1))77 & 78.

Lori Greenlief, Staff Coordinator, presented the staff report. Mrs. Greenlief stated that staff has major transportation concerns due to the site access as direct access to a minor arterial should be permitted only when the access would provide a public benefit. She further stated that the possibility exists for access and circulation via a local street network serving this site and parcel 76 to the north, and providing site access and internal circulation in this way would serve a significantly larger area and provide the most public benefit.

Art Walsh, the applicant, of 1336 Kimberly Lane, stated that his wife had located this site in order for them to build a house and the seller would only sell if the price indicated three building lots because it is 3.24 acres and has R-1 zoning. Mr. Walsh pointed out the narrowness of the lots and stated that the lots would be larger than the majority of the ones in the area which had been subdivided recently. He stated that he was willing to limit the access on the north, once development had taken place, as staff requested but at present there was not a local street network to access this property. Mr. Walsh opposed condition #9 requiring a dedication to the Park Authority which would take half of the one acre lot making this lot undevelopable and he proposed dedicating 30 feet to the Park Authority.

As there were no speakers, Chairman Smith closed the public hearing.

Mrs. Day moved to grant this application subject to the development conditions contained in the staff report with condition #9 amended as follows:

"An area forty feet (40') in depth along the eastern property line shall be reserved by a deed of covenant which provides that no improvements may be placed in the area covered by the covenant and no clearing or grading shall be permitted. This covenant shall exclude the area in the northeast portion of the site which contains the approved area for a drainfield. In addition, a trail easement shall be provided in this area if determined necessary by the Department of Environmental Management (DEM), and the Park Authority at the time of subdivision approval."

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-D-103 by MARTIN D. WALSH AND H & G CORPORATION, under Section 18-401 of the Zoning Ordinance to permit the subdivision into three lots, proposed Lots 2 and 3 each having a width of 12.55 feet, on property located at 1133 and 1137 Springhill Road, Tax Map 20-4((1))77 & 78, 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 25, 1986; and

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

1. That the applicant is contract purchaser of the land.
2. The present zoning is R-1.
3. The area of the lot is 3.24 acres of land.

This application meets all of 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 all reasonable use 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 (2) lots into three (3) lots as shown on the plat submitted with this application.
2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless this subdivision has been recorded among the land records of Fairfax County, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval of this variance. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

3. Only one (1) entrance to all three (3) lots shall be allowed from Spring Hill Road. The driveway easements shall be recorded with deeds to the lots to ensure future access to these lots via a common driveway.

4. The driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual.

5. Dedication of right-of-way shall be forty-five (45) feet from centerline on Spring Hill Road as shown on the submitted plat.

6. A grading and construction easement for future improvements to Spring Hill Road shall be provided.

7. The shoulder shall be improved along the site frontage.

8. A tree preservation plan shall be submitted for review and approval by the County Arborist at the time of subdivision review.

9. An area forty feet (40') in depth along the eastern property line shall be reserved by a deed of covenant which provides that no improvements may be placed in the area covered by the covenant and no clearing or grading shall be permitted. This covenant shall exclude the area in the northeast portion of the site which contains the approved area for a drainfield. In addition, a trail easement shall be provided in this area if determined necessary by the Department of Environmental Management (DEM), and the Park Authority at the time of subdivision approval.

Mr. Ribble seconded the motion.

The motion carried by a vote of 6-0, Vice-Chairman DiGiulian being absent from this public hearing.

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Page 367, (Tape 2) February 25, 1986, (Tape 1) Scheduled case of:

10:00 A.M. CAROLYN OLSON BLEVINS - SP 85-A-073, application under Section 6-104 of the Zoning Ordinance to permit home professional office (landscape architecture and planning), located at 8705 Little River Turnpike on approximately 1.3783 acres of land, zoned PDH-3, Annandale District, Tax Map 59-3((9))pt. 1, pt. 20.

Lori Greenlief, Staff Coordinator, presented the staff report. She pointed out that in October 2, 1984 the Board of Supervisors had approved RZ 84-A-022 to rezone approximately 4.93 acres from the R-1 to PDH-3 including this property. She stated that it had been proffered in the rezoning application that there would be no commercial or office use of the property other than the existing home occupation, architecture and planning office as is now allowed under Part 9 of Section 8-907 of the Zoning Ordinance, and that a new access be provided through the new subdivision for the subject lot. Mrs. Greenlief further stated that the applicant has operated a landscape architecture, and planning business from the basement of the existing dwelling since 1975.

Keith Martin, attorney for Walsh, Colucci, Malinchak, Emrich and Lubeley, 950 North Glebe Road represented the applicant and stated he felt the proposed use met all the standards as required by Section 8-006, 8-903 and 8-907 of the Zoning Ordinance. Mr. Martin did not agree with condition #11 requiring a right turn deceleration lane off of Route 236 and requested that a sentence be added limiting any construction of a deceleration lane to on-site.

As there were no speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant this application subject to the development conditions contained in the staff report with condition #11 modified by adding the word "on-site."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-A-073 by CAROLYN OLSON BLEVINS under Section 6-104 of the Zoning Ordinance to permit a Home Professional Office (Landscape Architecture and Planning), on property located at 8705 Little River Turnpike, Tax Map Reference 59-3((9)) Part 1, Part 20, 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 25, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is PDH-3.
3. The area of the lot is 1.58 ± acres of land.

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, 8-903 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. A maximum of three (3) employees, including the applicant, shall be permitted.

6. The hours of operation shall be from 9:00 A.M. to 4:00 P.M., with clients allowed between 9:30 A.M. to 3:30 P.M., Monday through Friday. There shall be no clients received and no employees working on Saturdays, Sundays, or in the evenings.

7. There shall be three (3) parking spaces provided for this use and all parking shall be on-site. There shall be a maximum of one (1) client vehicle on site at any one time. The parking area for this use shall be the three (3) spaces adjacent to Little River Turnpike and the access through the subdivision shall not be used except for residential uses.

8. The existing entrance onto Route 236 shall be closed and a single row of evergreen plantings shall be provided, the type and location of which shall be determined by the County Arborist.

9. Landscaping and plantings shall be provided as shown on the plat submitted with this application. These plantings shall be supplemented, if necessary, to screen the view of the parking area from Little River Turnpike.

10. Sufficient right-of-way along Route 236 shall be dedicated as determined by the Director, Department of Environmental Management, (DEM), at the time of site plan review. A temporary grading easement should also be provided to facilitate future construction.

11. An on-site right turn deceleration lane shall be provided. The length of this lane shall be determined by VDH&T.

12. The existing sign may remain and may be relocated provided it is not altered. This sign shall comply with the provisions of Article 12 of the Zoning Ordinance.

13. The Home Professional Office shall be limited to a maximum of 935 square feet.

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 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 carried by a vote of 6-0, Vice-Chairman DiGiulian being absent from this public hearing.

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Page 368 (Tape 2) Scheduled case of:

10:15 A.M. FARIDA LAKHANI - SP 85-P-079, application under Section 3-203 of the Zoning Ordinance to permit a family day care home, located at 3213 Amberley Lane on approximately 42,552 square feet of land, zoned R-2, Providence District, Tax Map 59-1((18))79.

Page 369 , February 25, 1986, (Tape 2), (SP 85-P-079, Farida Lakhani, Continued from Page 368)

Chairman Smith informed the Board that the applicant had requested a withdrawal and Mr. Ribble made a motion to accept the withdrawal. Mrs. Day seconded the motion which passed by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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Page 369 , (Tape 2) Scheduled case of:

10:30 A.M. FAITH FELLOWSHIP ASSEMBLY OF GOD CHURCH - SP 85-L-069, application under Section 3-103 of the Zoning Ordinance to permit a church and related facilities, located at 7800 Old Telegraph Road on approximately 4.75 acres of land, zoned R-1, Lee District, Tax Map 100-1((8))2 and B; 100-1((5))1; 100-1((8))B; 100-1((7))A.

Jane Kelsey, Branch Chief, explained that the staff report had been presented at the time of the public hearing and the Board had deferred this application to allow the applicant an opportunity to submit revised plats that would show the relocation of the church building, additionl acreening and open space between the adjacent property and the transitioanl screening.

Andy Giangreco, attorney, represented the applicant and stated that he had presented his comments to the Board at the January 28, 1986 public hearing and noted that he agreed with the development conditions recommended by staff.

Ms. Kelsey recommended amending condition #7 by adding, "There shall be an open unplanted area 15 feet in width along the southern lot line. Transitional Screening 1 shall be provided between this open area and the church building and parking area as shown on the plat."

Mr. Hyland moved to grant this application subject to the development conditions contained in the staff report with condition #7 amended as recommended by staff.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-L-069 by FAITH FELLOWSHIP ASSEMBLY OF GOD CHURCH under Section 3-103 of the Zoning Ordinance to permit a church and related facilities, on property located at 7800 Old Telegraph Road, Tax Map Reference 100-1((8))2 & B; 100-1((5))1; 100-1((8))B; and, 100-1((7))A, 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 25, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 4.75 acres of land.

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. This shall not preclude additions or alterations to the parsonage, provided such is for the residential purpose, not for church use.

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 in the main worship area shall be 220 with a corresponding minimum of 55 parking spaces and a maximum of 63 parking spaces. This does not include the parking area for the parsonage.

6. If parking lot lights are installed they shall not exceed ten (10) feet in height and shall be shielded, if necessary, to prevent glare to adjacent properties.

7. Transitional Screening 1 shall be provided along all lot lines except along Old Telegraph Road and Telegraph Road where landscape plantings shall be provided between the church building and Telegraph Road to soften the visual impact from the street and plantings shall be provided between the southern most parking spaces and Telegraph Road to screen the view of the spaces from the road. The size, location, and type of plants shall be approved by the County Arborist. The area of the lot designated as Flood Plain Easement shall be deemed to satisfy the transitional screening requirement and there shall be no clearing or grading within this EQC area. There shall be an open unplanted area fifteen feet (15') in width along the southern lot line. Transitional Screening 1 shall be provided between this open area and the church building and parking area as shown on the plat.

8. The barrier shall be waived along all lot lines.

9. Quality vegetation shall be preserved as determined by the County Arborist. The parking area may be redesigned to accommodate this preservation provided it is not extended closer to the front or sides of the lot.

10. The drain field may be relocated if determined necessary by the Health Department.

11. The entrance and driveway into the site shall be shifted to the south to provide for Transitional Screening 1. The entrance shall be constructed according to VDH&T standards. The second entrance shall be closed to church use.

12. Along Telegraph Road, dedication shall be provided 45 feet from centerline of Telegraph Road and temporary grading and construction easements shall be provided for future road improvements. Along Old Telegraph Road, frontage improvements shall be provided and the face-of-curb to centerline dimension for this widening shall be 22 feet.

13. A four (4) foot sidewalk shall be provided along Old Telegraph and Telegraph Roads if determined necessary by the Department of Environmental Management.

14. Interior parking lot landscaping shall be provided in accordance with Article 13.

Page 371, February 25, 1986, (Tape 2), (SP 85-L-069, Faith Fellowship Assembly of God, Continued from Page 369

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 carried by a vote of 6-0, Vice-Chairman DiGiulian being absent from this public hearing.

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PAGE 371 - Following a discussion regarding application VC 85-D-093, Phillip and Patricia Kastelic, the Board moved to defer the public hearing until March 11, 1986 at 10:45 A.M.

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Page 371, (Tape 2) After Agenda Item #2:

REQUEST FOR ADDITIONAL TIME
SP 83-P-086, CHURCH OF THE BLESSED VIETNAMESE MARTYRS

After a discussion among the Board members and staff as to the reason for the request, Mr. Hammack moved to grant an 90-day extension to the applicant which would expire on July 16, 1986. Mrs. Thonen seconded the motion which passed by a vote of 6-0 with Mr. DiGiulian absent from the meetingd the Board so moved.

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At this time the Board went into Executive Session to discuss legal matters.

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As there was no further business after reconvening, the Board adjourned at 1:30 P.M.

Betsy S. Hurtt

Betsy S. Hurtt, Deputy Clerk
Board of Zoning Appeals for
Vicki Lester

October 21, 1986
Date Submitted

Daniel Smith

Daniel Smith, Chairman
Board of Zoning Appeals

October 28, 1986
Date Approved

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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 4, 1986. The following Board members were present: Daniel Smith, Chairman, Gerald Hyland, John Ribble, Paul Hammack, Ann Day, and Mary Thonen. John DiGiulian, Vice-Chairman was absent from this hearing.

Chairman Smith opened the meeting at 9:10 A.M., and Mrs. Day led the prayer.

The Board discussed the Senate bill pertaining to the Board of Zoning Appeals ninety (90) day time constraint on deciding applications. Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, stated that the County Attorney's office had requested that the Board go into executive session in order to discuss an upcoming court case.

Page 373, March 4, 1986, (Tape 1) Scheduled case of:

9:00 A.M. BENNIE W. SAMUELS - VC 85-S-105, application under Section 18-401 of the Zoning Ordinance to permit enclosure of existing deck 16.6 feet from rear property line (25 ft. minimum rear yard required by Sect. 3-307), located at 9524 Vandola Court on approximately 13,054 square feet, zoned R-3, Springfield District, Tax Map 78-3((5))234.

Marilyn Anderson, Staff Coordinator, presented the Staff Report.

Mr. Bennie W. Samuels, applicant, presented his justification for the variance request as contained in his October 18, 1985, letter to the Board. Mr. Hammack inquired if the room that would be created by enclosing the existing deck would have a stairway and if the siding would match the siding on the house. Mr. Samuels stated that the siding would match, but that there would be no stairway down to the patio. In response to further questions, Mr. Samuels indicated that the room would be insulated like the other rooms in the house and that he did, in fact, receive a lot of noise from the neighborhood swimming pool which was located on the adjacent lot behind his home.

Chairman Smith called for further questions and for other speakers to speak in either support or opposition to the application. As there were no other speakers, he closed the public hearing.

Mr. Hammack moved that the Board accept the request for variance of 8.4 feet and adopt the standard variance resolution form. He stated that Mr. Samuels satisfied the requirements set forth in the Ordinance and, specifically, his lot has an unusual configuration in that it is almost trapezodial in shape where he has a lot of side lot but little depth to the property in which to add an addition. Also, he is backed up to the swimming pool and the enclosure of the property would not affect the swimming pool or other residences in any way.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-S-105 by BENNIE W. SAMUELS, under Section 18-401 of the Zoning Ordinance to permit the enclosure of an existing deck 16.6 feet from the rear property line, on property located at 9524 Vandola Court, Tax Map Reference 78-3((5))234, 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 4, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,054 square feet of land.

This application meets all of 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 all reasonable use 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 which was unanimously passed 6-0. Mr. DiGiulian was absent from this hearing.

Page 374, March 4, 1986, (Tape 1) Scheduled case of:

9:15 A.M. THOMAS J. & SHARI SCHUMAKER AND STEVEN & CLAUDETTE HUGHES - VC 85-P-106, application under Section 18-401 of the Zoning Ordinance to permit a 6 foot high fence to remain and a hot tub to be located in a front yard of a corner lot (4 ft. maximum height for fence in front yard and no accessory structure in any front yard as limited by Sect. 10-104), and to permit an approximately 240 square foot shed to remain (200 sq. ft. max. size as limited by Sect. 10-102), located at 2914 Summerfield Road on approximately 10,280 square feet, zoned R-4, Providence District, Tax Map 50-4((15))78 (DEFERRED FROM 3/4/86, NOTICES IN ORDER).

Chairman Smith noted that there was a request to defer this case until March 25, 1986 to be concurrent with SP 86-P-013 scheduled to be heard at that time. Marilyn Anderson, Staff Coordinator, affirmed this request and recommended that the case be heard at 11:15 A.M. on that date. Mr. Hammack moved to accept this request. Chairman Smith inquired if there were anyone present in the room interested in the case. No interested parties were present. Mrs. Day seconded the motion which passed unanimously 6-0; Mr. DiGiulian was absent from this hearing.

Page 375, March 4, 1986, (Tape 1) Executive Session:

At 9:45 A.M. Mr Ribble moved that the Board go into executive session to discuss a pending court case. Mrs. Day seconded the motion which was passed unanimously 6-0; Mr. DiGiulian was absent from this vote.

Page 375, March 4, 1986, (Tape 1) Scheduled case of:

9:30 A.M. MCLEAN CHURCH OF CHRIST - SP 85-D-070, application under Section 3-103 of the Zoning Ordinance to permit reduction of land area and addition of parking spaces for existing church and related facilities, located at 6519 Georgetown Pike on approximately 2.3837 acres of land, zoned R-1, Dranesville District, Tax Map 22-3((1))4.

Marilyn Anderson, Staff Coordinator, presented the staff report which recommended approval of the special permit in accordance with the Development Conditions set forth in the staff report.

Ken Sanders, attorney for the applicant, presented the justification for approval of the special permit stating that the church originally had hoped to expand its facilities in the future on the land that it is now requesting to sell. However, it has now been determined that the church has no plans for expansion based upon current demographics which show that the greatest growth in Fairfax County is taking place in the western part of the County. Therefore, the church would like to create a conventional subdivision lot. Mr. Sanders stated that the church agreed to the Development Conditions recommended by the staff report, including the special screening recommendations. Mr. Sanders stated that the church was in compliance with the Comprehensive Plan of the County in seeking to maintain that portion of Georgetown Pike as a strictly residential corridor. In response to a question from Chairman Smith, Mr. Sanders stated that the church membership is 45 members and no additional growth is anticipated.

Chairman Smith called for additional questions and speakers in support or opposition to the application. There was no response and he closed the public hearing.

Mrs. Thonen stated that it appeared that this special permit would have little impact on the neighborhood and moved that the Board adopt the Special Permit Resolution. She noted that the applicant had submitted testimony indicating compliance with the general standards for special permit uses and additional standards as contained in section 8-006 of the Zoning Ordinance. She moved that the Board approve the application with the Development Conditions in the staff report with Condition 13 added. This condition shall state that the land area shall be increased in an amount necessary to provide the transitional screening along the western lot line.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-D-070 by MCLEAN CHURCH OF CHRIST, under Section 3-103 of the Zoning Ordinance to permit a reduction of the land area and an addition of parking spaces for an existing church and related facilities, on property located at 6519 Georgetown Pike, Tax Map Reference 22-3((1))4, 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 4, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 2.3837 acres of land.

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 3-103 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 225 seats with a corresponding minimum and maximum of 57 parking spaces.

6. Handicapped parking spaces shall be provided in accordance with all applicable State and County regulations.

7. Transitional Screening 1 shall be modified as follows:

   - Transitional Screening 1 shall be waived along the eastern lot line adjacent to the parking area. Transitional Screening 1 shall be provided along the eastern lot line between Georgetown Pike and the parking area.

   - Along the rear lot line, existing vegetation shall be retained and supplemented to provide Transitional Screening 1 except that the width of the planting area may be reduced to the approximately fourteen (14) feet existing in that location.

   - Transitional Screening 1 shall be provided along the entire western lot line.

   - Transitional Screening 1 shall be modified along the front lot line provided additional landscape plantings are installed which will screen the parking and play area from Georgetown Pike. The size, type, and location shall be approved by the County Arborist.

8. The septic field shall be relocated to a site approved by the Fairfax County Health Department or a public sewer connection shall be obtained.

9. The solid barrier shall be provided along the southern and eastern lot lines between the parking lot and the lot lines.

10. 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.

11. Signs shall be in accordance with the provisions of Article 12, Signs.

12. An application shall be submitted and approved for the appropriate reduction of land area for the child care center utilizing the church facility.

13. The land area may be increased in an amount necessary to provide the transitional screening along the western lot line.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date of the Special Permit unless the reduction of land area as authorized has been recorded in the land records of Fairfax County and a new Non-Residential Use Permit has been approved, 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 which passed unanimously 6-0; Mr. DiGiulian was absent from this hearing.

Page 377, March 4, 1986, (Tape 1) Scheduled case of:

9:45 A.M. ARNOLD C. & RUTH L. LONG - VC 85-D-117, application under Section 18-401 of the Zoning Ordinance to permit a shed to remain in the minimum front yard adjacent to a pipestem driveway (no accessory structure permitted in a minimum front yard by Sect. 10-104), located at 9312 Arnon Chapel Road on approximately 41,471 square feet of land, zoned R-E, Dranesville District, Tax Map 8-4((2))2.

Chairman Smith noted that the Board was requested to defer this case until April 22, 1986, and he inquired if there was anyone in the room interested in the application. Marilyn Anderson stated that staff requested this deferral until April 22, 1986 and suggested that it be held at 8:00 P.M. Mrs. Thonen made a motion to grant the request which was seconded by Mr. Hammack. The motion passed 5-0; Mr. Ribble was not present for this vote and Mr. DiGiulian was absent from this hearing. It was noted that the notices for this case were not in order.

Page 377, March 4, 1986, (Tape 1) Scheduled Annual Report for the Vulcan Materials Company:

Ms. Kelsey presented the 1985 Annual Report for the Vulcan Materials Company. Barbara Hardy with the Enforcement Branch of the Air Pollution Control Branch of the Health Department indicated that although an increased amount of suspended particulants had been noted in the vicinity of the Vulcan facility, there was no increased health hazard. She reported that the Water Authority had been sandblasting in the vicinity, but at this time it was not possible to determine the source of the increased particulants. Barbara Hardy reported that Vulcan had purchased a new piece of monitoring equipment, the PM-10. Mr. Lee Fifer, attorney for Vulcan, addressed the Board on behalf of Vulcan. He noted that the portable stone crushing machine which had been installed last year was presently not in use, and he reserved the right to use it if necessary in the coming year. He confirmed that the PM-10, a new piece of monitoring equipment, had been purchased by Vulcan; he agreed to work with Vulcan in the coming year to purchase additional air pollution monitoring equipment. In addition, he reported that Vulcan plans to work closely with the town of Occoquan and Prince William County to assure that there are no complaints regarding the operation of Vulcan. He noted that Vulcan had been nominated by Fairfax County for an Erosion Control Award. Also, Vulcan had received the National Stone Association Showcase Award for Beautification. Mr. Fifer encouraged Board members to visit the quarry. In response to questions from the Board, Tom Bugenhagen from Vulcan estimated that the life of the quarry is anticipated to extend to year 2004 depending upon the demand for stone. Chairman Smith thanked the representatives of Vulcan for Vulcan's efforts to control noise and pollution at the quarry which had been "rampant" at one time.

Mr. Hyland motioned to accept the Vulcan Annual Report. Mr. Ribble seconded the motion which was passed unanimously 6-0. Mr. DiGiulian was absent from this hearing.

Page 377, March 4, 1986, (Tape 1) Scheduled case of:

10:15 A.M. THE ENTERPRISE OF NORTHERN VIRGINIA - SPR 81-D-062-2, application under Section 3-303 of the Zoning Ordinance to permit renewal of SP 81-D-062 for a private school of general education, located at 1670 Chain Bridge Road on approximately 4.00018 acres of land, zoned R-3, Dranesville District, Tax Map 30-3((1))54 and 55.

Chairman Smith stated that the Staff had suggested a deferral date of April 3, 1986 and Marilyn Anderson asked that it be heard at 9:15 A.M. on that date. Mrs. Thonen moved that this request be granted and Mr. Hyland seconded the motion. The motion passed unanimously 6-0; Mr. DiGiulian was absent from this hearing.

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Page 378, March 4, 1986 (Tape #1) Scheduled case of:

Richard A. and Gloria A. Adams, SP 85-D-071. Chairman Smith inquired if there were persons present in the room interested in this case. Ms. Kelsey stated that the applicants had been present, but had stepped out for the moment. Chairman Smith temporarily passed over the case.

Page 378, March 4, 1986 (Tape #1) Scheduled case of:

10:30 A.M. CONGREGATION BETH EMETH - SPA 84-C-008-1, application under Sections 3-103 and 8-901 of the Zoning Ordinance to amend SP 84-C-008 for synagogue and related facilities to permit changed design and location of building and parking facilities, and with modification of the dustless surface requirement, located at 12519 Lawyers Road on approximately 5.59 acres of land, zoned R-1, Centreville District, Tax Map 35-2((1))15A.

Marilyn Anderson, staff coordinator, presented the staff report and recommended approval subject to the conditions set forth in Appendix 1.

Warren Grossman, attorney for the applicants, spoke in opposition to the staff's recommended condition requiring transitional screening around the portion of the lot where there is to be no development at the present time. He stated that the church also wanted to put in three (3) foot trees instead of the required six (6) foot trees. However, he did indicate that the church plans to develop that portion of the property into a parking lot in the next few years.

Ms. Kelsey pointed out that plantings deemed necessary by the staff should be planted in order to give them time to grow to a height necessary to protect adjacent property owners from the parking lot. Staff suggested that the portion of the lot in question could be deleted from the application if the applicant desired. The representatives of the church declined to delete that portion of the lot from the special permit request.

Chairman Smith called for further questions or speakers and hearing no reply closed the public hearing.

Mr. Hyland moved to approve the special permit amendment application with the Development Conditions in that the applicants had satisfied the conditions necessary for special permits.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 84-C-008-1 by CONGREGATION BETH EMETH, under Sections 3-103 and 8-901 of the Zoning Ordinance to amend SP 84-C-008 for a synagogue and related facilities, to permit changed design and location of building and parking facilities, and with modification of the dustless surface requirement, on property located at 12519 Lawyers Road, Tax Map Reference 35-2((1))15A, 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 4, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 5.59 acres of land.

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, 3-103, 8-903 and 8-915 of the Zoning Ordinance.

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

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

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. The seating capacity of the main worship area shall not exceed two-hundred (200) with a corresponding minimum of fifty (50) and a maximum of fifty-three (53) parking spaces.

6. Transitional Screening 1 shall be provided along all lot lines with the following modifications:

   - along the front lot line the plantings requirement may be modified to allow landscape plantings to soften the visual impact of this use. The amount, type, and location of the plantings shall be approved by the County Arborist.

   - along the northern lot line between Lot 14 and the use, the planted area shall be reduced to twenty (20) feet.

7. The barrier requirement shall be waived.

8. Interior parking lot landscaping shall be provided in accordance with Article 13.

9. All gravel surface areas shall be constructed and maintained in good condition at all times in accordance with standards approved by the Director, Department of Environmental Management (DEM). There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area. This approval is for a period of five (5) years.

10. All required handicapped parking spaces shall be paved with a dustless surface.

11. The applicant shall execute an Agreement with the County prior to site plan approval to relocate the access from the location as indicated on the approved plat to connect with an access through Lot 14, 15C or 19, whichever is appropriate, at such time as these parcels redevelop and adjacent access is available.

12. The applicant shall dedicate fifty-seven (57) feet from the centerline of Lawyers Road, adjusted to provide a smooth curve matching the alignment previously approved on the western side of the road, in place of the present angle. Construction of a right turn deceleration lane within this dedicated area may be required at the time of site plan approval. Grading and temporary construction easements for future road improvements shall be provided. Adequate horizontal and vertical sight distance shall be demonstrated prior to site plan approval.

13. Parking lot lighting, if provided, shall be on standards not to exceed twelve (12) feet in height and shall be shielded in such a manner as to direct light only onto the parking lot.

14. A sign may be erected in accordance with Article 12, Signs.

15. These conditions incorporate all applicable conditions of the previously approved SP 84-C-008.

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 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, and it passed 4-0. Mr. Ribble and Mr. Hammack were absent from this vote. Mr. DiGiulian was absent from the hearing.

Page 380, March 4, 1986 (Tape 2) Scheduled Case of:

10:15 A.M. RICHARD A. AND GLORIA A. ADAMS - SP 85-D-071, application under Section 8-901 of the Zoning Ordinance to permit a reduction to minimum yard requirements based on error in building location to allow deck to remain 3.7 feet from side lot line (15 ft. minimum side yard required by Sections 3-207 and 2-412), located at 1238 Meyer Court on approximately 19,687 square feet, zoned R-2, Dranesville District, Tax Map 31-1((13))67.

Marilyn Anderson presented the staff report, stating that the builder of the deck, Mr. Richardson, was present to explain how the deck was built 3.7 feet from the side lot line.

Mr. Hansbarger, attorney for the Adams, spoke in justification for the application; he explained how the deck had been built in error 3.7 feet form the side lot line. His main contention was that the deck was built in accordance with a building permit issued by the County of Fairfax and in accordance with plans approved by the County. The footings for the deck were inspected and approved by a County Inspector. However, another building inspector did not sign the final inspection approval for the deck because the deck did not comply with the set backs required by the Zoning Ordinance. Mr. Hansbarger pointed out it seemed inconsistent to the applicant that the first building inspector would approve the deck while another one at a later time would not approve it. The discussion pointed out the difficulty in determining how far a structure may ultimately be from the lot line based on the placement of the footings. Mr. Richardson, owner of Creative Design Concepts who built the deck, contended that the carpenters and job superintendent only had technical knowledge regarding the structural construction of the deck and were not aware of zoning requirements and did not have surveying or engineering knowledge. He stated the deck was built in accordance with the plans approved by the County and the permit issued by the County. Mr. Hansbarger stated that a break in an underground water pipe resulted in silt and runoff onto a neighboring property and that the repair of this problem resulted in the improvement of the Adams property and the planting of additional screening. The grading of the lot was not changed, and the new construction caused no safety hazard. Mr. Hansbarger stated to destroy the deck would cause a severe hardship. Mr. Adams, the homeowner at the time of the construction agreed, and stated that while they were aware they were in violation of the set-backs, it was an unintentional error.

Mrs. Day moved that the application be denied. (For a full verbatim transcript, see file.)

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-D-071 by RICHARD A. AND GLORIA A. ADAMS, under Section 3-207 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in building location, to allow a deck to remain 3.7 feet from the side lot line, on property located at 1238 Meyer Court, Tax Map Reference 31-1((13))67, 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

Page 381 , (SP 85-D-071, Richard A. & Gloria A. Adams continued from Page 380)

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 4, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 19,687 square feet of land.

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, 8-903 and 8-914 of the Zoning Ordinance.
NOW, THEREFORE, BE IT RESOLVED that the subject application is DENIED.

Mr. Ribble seconded the motion, and it passed unanimously, 6-0. Mr. DiGiulian was absent from this hearing.

Page 381 , March 4, 1986, (Tape 2) After Agenda Item, Action #1:

APPROVAL OF BZA MINUTES, 12/3/85

Viki Lester asked for approval of the minutes for December 3, 1985. Mrs. Day moved that the minutes be approved. Mr. Hammond seconded the motion, and they were approved 4-0. Mr. Ribble and Mrs. Thonen were absent from the vote. Mr. DiGiulian was absent.

Page 381 , March 4, 1986, (Tape 2) After Agenda Item, Action #2

BOEHLERT, V 81-D-044, REQUEST FOR ADDITIONAL TIME

The Board voted on the Boehlert request for additional time to construct the tenth house in his subdivision. Mr. Hammack moved to deny this request for additional time. Mr. Smith seconded the motion, and the vote to deny passed 4-0. Mr. Ribble and Mrs. Thonen were not present for this vote. Mr. DiGiulian was absent from this hearing.

There being no further business, the Board adjourned at 1:05 P.M.

Mary Ellen Simmons
Mary Ellen Simmons, Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

July 29, 1986
Date Submitted

July 29, 1986
Date Approved

Blank

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 11, 1986. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Gerald Hyland; John F. Ribble, III; Mary Thonen; and Paul Hammack. John DiGiulian, Vice-Chairman was absent from this hearing.

The Chairman opened the meeting at 9:05 A.M., and Mrs. Day led the prayer.

Page 383, March 11, 1986, (Tape 1) Scheduled case of:

9:00 A.M. GEORGE B. HARTZOG, JR. AND HELEN C. HARTZOG - VC 85-D-107, application under Section 18-401 of the Zoning Ordinance to permit subdivision into two (2) lots, proposed Lot 2 having width of 12.00 feet (150 ft. minimum lot width required by Sect. 3-106) located at 6832 Georgetown Pike on approximately 2.1673 acres of land, zoned R-1, Dranesville District, Tax Map 21-4((6))F1.

Kevin Guinaw, Staff Coordinator, presented the Staff Report.

John F. Cahill, attorney for the applicants, presented the justification submitted with the application. Mr. Cahill objected to the staff recommendations in regard to the placement of the driveway stating that the Hartzogs had decided to locate the pipestem driveway at the point of the existing driveway for the following reasons: 1) to consolidate the access to both parcels, 2) to minimize disruption to the existing traffic pattern, and 3) to preserve the existing topography and vegetative screening of lot 1. Mr. Cahill stated that the Hartzogs wished to amend Condition 4 to place the driveway on the eastern side of the property instead of the western side and to delete Condition 6 dealing with the site frontage and the proposed right turn lane.

Mr. Joseph Kane of 6838 Georgetown Pike, who is the property owner of Lot F2 next to and west of the Hartzog property, spoke in opposition to the subdivision of the Hartzog property. He was concerned that installation of an additional septic system would cause seepage into his water and septic system which is located downhill from the Hartzog property. His second concern was regarding the ability of the current driveway to serve two properties and that the location of the present driveway on the eastern side of the lot was preferable to a location on the western side of the property as recommended in the Staff Report. He recommended that the Board deny the application to subdivide the lot.

Mr. Cahill offered rebuttal at 9:35 A.M. stating that the Hartzog's engineers would design a septic field that would not seep into the adjacent property. Mr. Wes Harris of Patton, Harris and Rust Engineers testified that such a septic system could be designed. In response to questions from the Board, he admitted that the omission of the location of the existing septic system from the plat of the Hartzog property was an oversight. He further testified that he had walked the Hartzog property with Larry Johnson, Fairfax County Soils Scientist, who had assured him that the back portion of the Hartzog property would perk.

As there were no additional questions, Chairman Smith closed the public hearing.

Kevin Guinaw reiterated the Staff position that as the sight distance along the entire property was poor, Staff recommended grading along the entire frontage of the property to provide adequate sight distance in conformance with the recommendations of the Office of Transportation, provision of a right-turn-deceleration lane, and location of the driveway on the western side of the property. Mr. Guinaw added that a public safety issue was raised by this variance application and that no hardship had been demonstrated by the applicant.

Mr. Kane restated that a driveway on the western side of the property would be more dangerous than one on the east.

Prior to stating the motion, Mr. Hammack stated that he felt the applicants had met all of the required standards for variances. He moved to accept the variance with the following two changes: 1) Change Condition 4 to recommend the placement of the driveway on the eastern side of the property instead of the western side, and 2) delete Condition 6 and renumber the remaining Conditions. The following motion made by Mr. Hammack failed by a vote of 4 to 2, Messrs. Hyland, Smith, and Ribble, and Ms. Day voting Nay, and Mr. DiGiulian being absent from this hearing.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-D-107 by GEORGE AND HELEN HARTZOG, JR., under Section 18-401 of the Zoning Ordinance to permit subdivision into (2) two lots, proposed Lot 2 having width of 12.0 feet, on property located at 6832 Georgetown Pike, Tax Map Reference 21-4((6))F1, 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 11, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 2.1673 acres of land.

This application meets all of 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 all reasonable use 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 of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code, and the applicable requirements of the Public Facilities Manual.

4. Access to both of the lots from Georgetown Pike shall be via one (1) shared driveway entrance constructed in accordance with the Public Facilities Manual. The driveway easements shall be recorded with the deeds to both lots to ensure future access to these lots with a common driveway. The driveway shall be located on the eastern side of the property.

5. Dedication of right-of-way for public street purposes shall be forty-five (45) feet from centerline of Georgetown Pike.

6. A plan shall be submitted to the Department of Environmental Management demonstrating the attainment of adequate sight distance at the property's exit in accordance with VDH&T standards.

7. Grading and construction easements for future possible improvements to Georgetown Pike shall be provided.

8. Environmental studies as determined by the Director, Department of Environmental Management, shall be completed prior to application for a building permit or the undertaking of any site clearance or construction activity.

9. The applicant shall work with the County Arborist to determine the boundaries for tree clearance before approval of a building permit or undertaking any site clearance or construction activity. Existing trees shall be preserved except where removal is necessary to accommodate construction.

Mrs. Thonen seconded the motion.

Mr. Hyland objected to the granting of the variance on the grounds of the safety issue noted by the Office of Transportation. In addition, he saw no evidence of the existence of a hardship presented should the Hartzogs be refrained from subdividing the lot. Mrs. Day also objected to the granting of the variance on the basis of the transportation issue and concern for the neighbor downhill from the Hartzog property should an additional septic field be installed.

The motion was denied by a vote of 4-2, with Mr. Ribble, Mr. Hyland, Mrs. Day, and Chairman Smith voting Nay, and Mr. DiGiulian being absent from this hearing.

Page 385, March 11, 1986, (Tape 1) Scheduled case of:

9:15 A.M. HAROLD DAVID DELLINGER - VC 85-P-109, application under Section 18-401 of the Zoning Ordinance to permit construction of 11.29 foot high detached garage, 2.0 feet from rear and 2.8 feet from side lot lines (11.29 ft.minimum rear yard and 12 ft. minimum side yard required by Sections 3-307 and 10-104), located at 8111 Bright Meadows Lane on approximately 12,165 square feet, zoned R-3, Providence District, Tax Map 39-4((18))10.

The Board voted by unanimous consent to defer this case to April 15, 1986 at 9:15 A.M. because the notices were not in order. Mr. DiGiulian was absent from this hearing.

Page 385, March 11, 1986, (Tape 1) Scheduled case of:

9:30 A.M. ROBERT W. ATWOOD - VC 85-C-110, application under Section 18-401 of the Zoning Ordinance to permit construction of second-story addition to existing dwelling 9.7 feet from side lot line (20 ft. minimum side yard required by Section 3-107), located at 1927 Beulah Road on approximately 1.0 acres of land, zoned R-1, Centreville District, Tax Map 38-2((1))5.

Kevin Guinaw, Staff Coordinator, presented the Staff Report.

Robert Atwood, the applicant, presented the justification submitted with the application and noted that the proposed second story addition to his home would not change the "footprint" of his house on his lot. He presented two letters in support of his variance and testified that additional neighbors had given him verbal support. Mr. Hyland stated that it seemed to him that the Board had always voted in favor of such applications in cases where a home had been placed close to property lines many years prior to the Zoning Ordinance governing such placement and that perhaps a grandfathering provision should be added to the Zoning Ordinance regarding such cases.

Chairman Smith asked if there were any persons to speak either for or against this application and hearing no reply, closed the public hearing.

Prior to stating the motion, Mrs. Thonen stated that she felt the applicant had met all of the required standards for variances, and moved for approval of the application.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-C-110 by ROBERT W. ATWOOD, under Section 3-107 of the Zoning Ordinance to permit construction of second-story addition to existing dwelling 9.7 feet from side lot line, on property located at 1927 Beulah Road, Tax Map Reference 38-2((1))5, 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 11, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 1.0 acres of land.

This application meets all of 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 all reasonable use 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 was passed unanimously 6-0; Mr. DiGiulian being absent from this hearing.

Page 387, March 11, 1986, (Tape 1) Scheduled case of:

9:45 A.M. MARIO ATSAVES - VC 85-D-111, application under Section 18-401 of the Zoning Ordinance to allow construction of enclosed porch addition to dwelling to 13 ft. from rear lot line (25 ft. minimum yard required by Sect. 3-207), located at 6104 Woodland Terrace on approximately 15,681 square feet, zoned R-2, Dranesville District, Tax Map 31-4((6))2-B.

Kevin Guinaw, Staff Coordinator, presented the Staff Report.

Marcia Atsaves, a co-owner, spoke in justification of the variance request as presented in the application. The Board discussed the location of the Atsaves home on the back corner of the lot and noted the existence of a storm drainage ditch across the front of the property. The Board also noted the steepness of the back yard and the location of the existing porch which the applicant wished to enclose.

Chairman Smith asked if there were any further questions or comments in support or opposition to the application and hearing none, closed the public hearing.

Mrs. Day moved to accept the application on the basis that the applicant had met all of the required standards for variances. Mrs. Day particularly noted the applicant's need to use their back yard in order to increase their quality of living, the existence of the open porch which overlooked the steep back yard, the fact that the enclosure of the porch would still provide for a "feeling of open air and a visibility aspect".

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-D-111 by MARIO ATSAVES, under Section 3-207 of the Zoning Ordinance to permit construction of enclosed porch addition to dwelling 13 feet from rear lot line, on property located at 6104 Woodland Terrace, Tax Map Reference 31-4((6))2B, 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 11, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 15,681 square feet of land.

This application meets all of 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 all reasonable use 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 carried by a vote of 6-0, Mr. DiGiulian being absent from this hearing.

Page 388, March 11, 1986, (Tape 1) Scheduled case of:

10:00 A.M. CENTEX HOMES ENTERPRISES, INC. - SP 85-D-077, application under Section 3-103 of the Zoning Ordinance to permit temporary construction and subdivision sales office, located at 6500 Diedre Terrace on approximately 20,507 square feet, zoned R-1, Dranesville District, Tax Map 22-1((2))229.

Kevin Guinaw, Staff Coordinator, presented the Staff Report which recommended approval in accordance with the Developmental Conditions contained therein.

Minerva Wilson Andrews of Boothe, Prichard and Dudley, attorney for the applicant, presented the justification as set forth in the application.

Mr. Jan Censky of 910 Ridge Drive, a homeowner in Langley Oaks, spoke in opposition to the two year time period recommended by the Staff Report to allow Centex Homes Enterprises to maintain a sales office in the model home in Langley Oaks. Since only one remaining lot and the model home remained to be sold as testified to by Ms. Andrews, Mr. Censky did not think that a two year extension was appropriate. In addition, Ms. Wilson projected a July completion of the remaining construction and stated that Centex already had a list of interested buyers for the model home. Further, the residents had contended with construction traffic for nine years. Mr. Censky stated that the homeowners in Langley Oaks were only in favor of an extension of three to six months. Letters from Langley Oaks residents were presented in opposition to the Special Permit. Barbara Censky of 910 Ridge Drive also testified in opposition to the two year extension and noted the muddy road conditions existing in Langley Oaks due to the construction trucks. Jane Kelsey, Chief, Board of Zoning Appeals Support Branch, stated that this complaint would be forwarded to the Department of Environmental Management. Ms. Censky stated that it was the belief of many of the residents of Langley Oaks that the model home sales office was being used to sell property in other subdivisions, because a sign outside the subdivision stated "now selling, new division".

Mr. Gary Jernigan of 4124 Walney Road, Chantilly, representing Centex Homes, stated that the sales office in the model home at Langley Oaks was used for that subdivision only and that Centex would take down the sign and leave as soon as the last house is sold.

Chairman Smith called for questions and for other speakers either in support or opposition to the application. As there were no further questions or speakers he closed the public hearing.

Mr. Hyland moved that the Board of Zoning Appeals adopt the following Resolution amended as follows: amend Condition 7 to grant the permit for a period of four months from March 11, 1986, and add an additional Condition to specify that the use of the model home as a sales office shall be restricted to the sale of the one lot remaining to be developed and the model home itself.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-D-077 by CENTEX HOMES ENTERPRISES, Inc., under Section 3-103 of the Zoning Ordinance to permit temporary construction and subdivision sales office, on property located at 6500 Diedre Terrace, Tax Map Reference 22-1((2))229, 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 11, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 20,507 square feet of land.

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, 8-806 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. The approval is granted for the buildings and uses indicated on the plans submitted with this application, except as qualified below. Any additional structure of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a special permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such 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 Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County during the hours of operation of the permitted use.

4. If the construction or sales use of this dwelling unit continues for a period more than six (6) months, the turnaround portion of the driveway from Diedre Terrace to the garage shall be constructed as shown on plat approved with this application.

5. Parking shall be provided on-site to accommodate two (2) employees and two (2) customers at any one time.

6. Hours of operation shall be from 6:00 A.M. to 8:00 P.M., seven days a week.

7. This permit is granted for a period of four (4) months from March 11, 1986.

8. The use of the model home as a sales office shall be restricted to the sale of the one lot remaining to be developed and the model home itself.

Mr. Hammack seconded the motion which was carried unanimously 6-0, Mr. DiGiulian being absent from this hearing.

10:15 A.M. KINGSTON CHASE HOME OWNERS ASSOCIATION - SPA 79-D-241-1, application under Section 3-303 of the Zoning Ordinance to amend S-241-79 for community swimming pool and recreation to permit security lights, change in hours of operation to 7:30A.M.-9:00P.M., building addition to bath house, and reduce land area from 4.9207 acres to 2.4784 acres, located at 1623 Hiddenbrook Drive on approximately 4.9207 acres of land, zoned R-3, Dranesville District, Tax Map Reference 10-2((4))C1 and Tax Map 10-4((14))E1.

Jane Kelsey, Staff Coordinator, presented the Staff Report which recommended approval of the Special Permit Application subject to the conditions set forth in the Development Conditions of the Staff Report.

The members of the Board of Zoning Appeals discussed the hours of operation for community swimming pools in Fairfax County.

Mr. William Clark of 1701 Builders Court in Herndon, Virginia, representing the Kingston Chase Homeowners Association, presented the justification for the request as presented in the application. He stated that the current hours of operation were from 9:00 A.M. to 9:00 P.M. The swim team meets at 8:15 A.M. for practice; the whole team is never there at one time. The meets are scheduled for 8:00 A. M. on Saturday. He stated that Kingston Chase Homeowners Association is requesting a change in operating hours to give pool services time to perform their maintenance functions and to allow the swim team increased practice time. He stated that the security flood lights in the pool area were orginally constructed on two poles with two 250 watt sodium vapor lights. Upon receiving complaints these were changed to one pole with one 250 watt light and one with 150 watt light; both were redirected to shine directly into the pool.

Chairman Smith called for questions and for speakers in support and in opposition to the permit request.

Jenna Davis of 980 Young Avenue, Herndon, Virginia, who lives in the house directly behind the swimming pool, spoke in opposition to the request. Ms. Davis testified that the swim team practice and meets had started at 7:00 A.M. last year and that pool parties lasted until midnight. Whistles and bull horns were used by the life guards to direct the children.

In answer to a question from Mr. Hyland as to hours of operation that Ms. Davis would think appropriate, Ms. Davis replied that 8:00 A.M. during the week would be fine, but that 9:00 A.M. on Saturday would be better. She continued by pointing out that the pool lights shine into her bedroom at night and lighted her back yard like a stadium. In her opinion these security lights did not increase security, but seemed to contribute to loitering on the property after pool hours. Chairman Smith advised Ms. Davis that this trespassing should be addressed to the management.

Freland Young of 972 Young Avenue, Herndon, Virginia spoke against the special permit application. He mentioned three problems: noise, lights, and screening. The lights are 18 feet high, but the screening is only six feet high. The trees planted in a 3-4 foot swale are totally inadequate and never have screened out the lights.

Chairman Smith asked Ms. Kelsey what she recommended to alleviate this problem. Ms. Kelsey stated that Development Condition 10 would provide for the shielding of the lights, and that the plantings as approved on the original site plan should be replanted. Mr. Ribble pointed out that the Arborist report indicated that 59 of the original plantings were missing or had died.

Mr. Robert Beare of 1602 Bayou Court, Herndon, Virginia testified that the glare of the lights from the swimming pool present a safety hazard to traffic coming down Hiddenbrook Road.

A discussion followed by the Board and Staff concerning the Fairfax County Noise Ordinance in relation to the Zoning Ordinance. Chairman Smith stated that granting permission by the Zoning Administrator to a facility to have a party did not waive the Noise Ordinance.

Mr. Hyland inquired of Mr. Clark under what circumstance the pool lights had been installed in violation of the permit. Mr. Clark stated that the pool had been acquired by the Kingston Chase Homeowners Association from A&A Homes which had gone bankrupt. Fairfax County had given the homeowners association permission to accept the pool. The association was attempting to bring the pool up to standard; it did want to shield the lights; and it had not had complaints from the home owners who had testified before the Board today.

Ms. Kelsey clarified the Zoning Ordinance in regard to the noise level permitted at after hours parties. She stated that the letter from the Zoning Administrator gave permission to have amplified music between the hours of 11:00 P.M. and midnight, but not to go beyond the decibel level stated the Fairfax County Code, Sect. 108.

Calling for further questions and hearing none, Chairman Smith closed the public hearing.

Mr. Ribble moved that the Board of Zoning Appeals adopt the standard special permit resolution form because the applicant has presented testimony indicating compliance with the general standards for special permit uses based upon the Development Conditions contained in the Staff Report with the following modifications: Condition 5 shall read that the hours of operation shall be from 8:00 A.M. to 9:00 P.M. on Saturday and from 9:00 A.M. to 9:00 P.M. the rest of the week. Further, in Condition 7, an additional bullet shall be added to say that each party shall comply in all respects with the Fairfax County Noise Ordinance, and noise from such parties shall be controlled to prevent any adverse impact upon the contiguous properties.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 79-D-241-1 by KINGSTON CHASE HOME OWNERS ASSOCIATION, under Section 3-303 of the Zoning Ordinance to permit security lights, change in hours of operation to 7:30 A.M. - 9:00 P.M., building addition to bath house, and reduction of land area from 4.9207 acres to 2.4784 acres, on property located at 1623 Hiddenbrook Drive, Tax Map Reference 10-2((4))C1 and 10-4((4))E1, 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 11, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 2.4787 of land.

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 8-403 and 8-006 of the Zoning Ordinance.

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

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

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

* 5. The hours of operation for the facility shall be from 8:00 A.M. to 9:00 P.M. on Saturday and from 9:00 A.M. to 9:00 P.M. the rest of the week.

6. Transitional screening shall be provided as shown on the approved site plan and additional evergreen plantings between the existing improvements and the lot line to screen the view of the parking lot, security light, and swimming pool from the adjacent properties, shall be provided, if deemed necessary by the County Arborist, to achieve these goals. The size, type, and location of these plantings shall be approved by the County Arborist. The barrier shall be modified to permit the fencing as shown on the plat.

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.
   - Each party shall comply in all respects with the Fairfax County noise ordinance and noise from such parties shall be controlled to prevent any adverse impact upon the contiguous properties.

8. The maximum number of family members shall be 538.

9. The number of parking spaces shall be seventy (70).

10. The security light shall be directed so as to prevent light from projecting off the property. Shields shall be installed, within thirty (30) days of this approval, to prevent the light from projecting off the property. If it is determined that the lights are still impacting the adjacent properties, the Zoning Administrator shall require the light standard to be reduced to twelve (12) feet in height. This requirement shall be met within a maximum of two (2) months from the date of approval. The Zoning Enforcement Branch shall inspect to determine if this requirement has been met.

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 unforseen 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 which was passed unanimously 6-0; Mr. DiGiulian being absent from this hearing.

Page 392, March 11, 1986, (Tape 3) Scheduled case of:

10:30 A.M. YORK, HOWARD L. & LYNN R. - VC 85-V-099, application under Section 18-401 of the Zoning Ordinance to permit construction of 16 ft. high detached garage in front yard and minimum required side yard 12.0 feet from the side lot line (No accessory structure permitted in front yard or min. side yard by Sect. 10-104; 20 ft. min. side yard req. by Sect. 3-E07), located at 6124 River Drive on approximately 26,408 square feet, zoned R-E, Mount Vernon District, Tax Map 122-1((4))13 (DEFERRED FROM 2/4/86).

Kevin Guinaw, Staff Coordinator, presented the Staff Report.

Mr. Howard of 6124 Hallowing Point presented the justification as presented in the application.

Chairman Smith called for questions and for speakers in support or opposition to the request; there were no questions or speakers. Chairman Smith closed the public hearing.

Mr. Hammanck moved to approve the application on the basis that the applicant had met all of the required standards for variances and that the location of the septic field on the property prevented moving the garage to the rear of the lot and that there was no opposition from the owner of the adjacent undeveloped lot.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-V-099 by HOWARD L. AND LYNN R. YORK, under Section 18-401 of the Zoning Ordinance to permit construction of 16 foot high detached garage in front yard and minimum required side yard 12.0 feet from the side lot line, on property located at 6124 River Drive, Tax Map Reference 122-1((4))13, 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 11, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-E.
3. The area of the lot is 26,408 square feet of land.

This application meets all of 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 all reasonable use 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 which was passed 5-1, Chairman Smith voting Nay, and Mr. DiGiulian being absent from this hearing.

10:45 A.M. PHILLIP & PATRICIA KASTELIC - VC 85-V-093, application under Section 18-401 of the Zoning Ordinance to permit construction of 20 feet high detached garage 5 feet from side lot line and 10 feet from rear lot line (15 ft. minimum side yard and 20 ft. minimum rear yard required by Sects. 3-207 & 10-104), located at 8109 Wellington Road on approximately 18,438 square feet, zoned R-2, Mount Vernon District, Tax Map 102-2((12))184 & 185 (DEFERRED FROM 2/25/86).

Lori Greenlief, Staff Coordinator, presented the Staff Report.

Patricia Kastelic of 8109 Wellington Road introduced Keith Hutchinson of 1141 North Taylor Street, Arlington, Virginia, the architect of the proposed garage. Mr. Hutchison spoke in justification of the application.

Chairman Smith called for questions or speakers in support or in opposition to the request.

Herbert Bolte of 836 Herbert Springs Road, Alexandria, Virginia chairman of the grounds committee of St. Lukes Church, objected to the five (5) foot side yard distance and requested at least an eight (8) foot distance. He stated that the architect had told the church that the garage would have a 17 1/2' high roof, and not a 20 foot roof as stated in the Kastelic's letter in the application. Mr. Hyland instructed the architect to show Mr. Bolte the architectural drawing and revision showing the roof height. After viewing the architectural plans, Mr. Bolte testified that the church would be willing to accept the roof height as the design of the roof would reduce the massive appearance of the structure.

Chairman Smith called for a one (1) minute rebuttal.

Mr. Hutchinson agreed to reduce the mass of the roof, but stated that the extra 3' side lot set back requested by the church would make a considerable difference in the driveway circulation at the Kastelic property. Mr. Bolte then stated that the church would be willing to allow the Kastelics another foot in order to reduce the set back to 7 feet.

The Board discussed the size of the structure in relation to the set backs.

Mrs. Thonen stated that she felt the applicants had met all of the required standards for variances, and she moved to approve the variance with the following changes: the granting of a 5' variance instead of a 10' variance requested by the applicants and the addition of a sixth Condition stating that the height of the roof of the garage shall not exceed 17 1/2 feet.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-V-093 by PHILLIP AND PATRICIA KASTELIC, under Section 18-401 of the Zoning Ordinance to permit the construction of a 20 feet high detached garage 5 feet from side lot line and 10 feet from rear lot line, on property located at 8109 Wellington Road, Tax Map Reference 102-2((12))184 & 185, 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 11, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-2.
3. The area of the lot is 18,438 square feet of land.

This application meets all of 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 all reasonable use of the land and/or buildings involved.

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

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

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time 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 structure shall not exceed 924 square feet in size.

5. The structure shall be used solely as an accessory use to the dwelling and shall not be used for any commercial purposes.

* 6. The garage shall not exceed 17.5 feet in height and be any closer than 10 feet from side lot line and 15 feet from rear lot line.

Mr. Hyland seconded the motion which was passed 4-2, Mr. Hammack and Chairman Smith voting Nay, and Mr. DiGiulian being absent from the hearing.

Chairman Smith informed Mr. Hutchison that the Board would need new plats in conformity with the motion which the Chair would sign off on.

Mr. Hutchinson, the architect, then requested permission to reduce the size of the building, changing the design to an "L-shaped" structure. Chairman Smith adivised Mr. Hutchinson that he would have to submit new plats showing the size of the proposed structure in conformity with the setback variance granted by the Board. In addition, prior to the time he presented this plat to the Board for the Board's approval, he should call Mr. Bolte to see if Mr. Bolte had any additional comments to make, and if so, Mr. Bolte could reply in a memorandum which should be addressed to the Board and attached to the plat when it is submitted to the Chair for approval. Chairman Smith told the Board that they would have a chance to comment if the new plat was not consistent with the new proposal.

Page 396, March 11, 1986, (Tape 3) After Agenda Item, Action #1:

GREATER LITTLE ZION BAPTIST CHURCH, SP 86-A-007.

Mr. Hyland moved that the Board of Zoning Appeals grant the request for the out-of-turn hearing for the Greater Little Zion Baptist Church, Special Permit Application SP 86-A-007. This motion was seconded by Mr. Ribble and carried by a vote of 5-0. Mr. Hammack was out of the room for this vote, and Mr. DiGiulian was absent from this hearing.

Page 396, March 11, 1986, (Tape 4) After Agenda Item, Action #2:

DAVID C. BUCKIS - SPA 83-C-041-1.

Mrs. Day moved that the Board of Zoning Appeals deny the request for additional time for David C. Buckis, Special Permit Application, SPA 83-C-041-1. This motion was seconded by Mr. Ribble and carried by a vote of 5-0. Mr. Hammack was out of the room for this vote, and Mr. DiGiulian was absent from this hearing.

Page 396, March 11, 1986, (Tape 4) After Agenda Item, Action #3:

ANTHONY R. AUDIA, VC 84-D-074.

Mrs. Thonen moved that the Board of Zoning Appeals grant the request for additional time for Anthony R. Audia, Variance Application VC 84-D-074. This motion was seconded by Mr. Hyland and carried by a vote of 5-0. Mr. Hammack was out of the room for this vote, and Mr. DiGiulian was absent from this hearing.

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

By: Mary Ellen Simmons
Mary Ellen Simmons, Deputy Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

Submitted to the Board:_____

Approved by the Board:_____

397

The regular meeting of the Board of Zoning Appeals was held in the Board room of the Massey Building on Tuesday, March 18, 1986. The following Board Members were present: Daniel Smith, Chairman; John F. Ribble, III, Gerald Hyland, Ann Day, Paul Hammack, Mary Thonen. John DiGiulian was absent from the meeting.

Chairman Smith opened the meeting at 8:10 P.M., and Mrs. Day led the prayer.

Page 397, March 18, 1986 (Tape 1) Scheduled case of:

8:00 P.M. PAUL KELLY - A 85-P-004, application under Section 18-301 of the Zoning Ordinance to appeal the decision of the Zoning Administrator's approval and issuance of a Group Residential Facility Permit 22-P-85 to the Fairfax-Falls Church Community Services Board permitting the establishment of a Group Residential Facility at 2816 Chain Bridge Road, zoned R-2, Providence District, Tax Map Reference 47-2((26))9.

Chairman Smith announced that the notices were not in order and that Mr. Kelly was requesting a deferral. Staff suggested a new hearing date of April 22, 1986 at 8:15 P.M., there being no objection it was so ordered.

Page 397, March 18, 1986 (Tape 1) Action Item #1

Mr. Hyland moved that the minutes for December 10, 1985 be approved. Mrs. Day seconded the motion which passed unanimously with Mr. DiGiulian absent from the meeting.

Page 397, March 18, 1986 (Tape 1) Action # 2

Request for Waiver of 12 month limitation
VC 85-D-088 - Peter M. Linquist and Patricia Kauffmann

Mr. Hyland moved that the request for waiver of the 12 month limitation be approved. Mrs. Thonen seconded the motion which passed unanimously with Mr. Ribble and Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

Page 397, March 18, 1986 (Tape 1) Action Item #3

Out-of-Turn Hearing Request, SP 86-D-012, John Hanson

Mr. Hyland moved to approve the request for an out of turn hearing for John Hanson, SP 86-D-012. Mrs. Day seconded the motion which passed unanimously with Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

Page 397, March 18, 1986 (Tape) Action Item #4

Request for reconsideration of Board of Zoning Appeals Decision
VC 85-D-107, George and Helen Hartzog

Mr. Hyland moved that the Board grant the request to reconsider VC 85-D-107. Mrs. Thonen seconded the motion which failed with Mr. Hammack, Mrs. Thonen, Mr. Hyland voting aye; Mr. Smith, Mrs. Day and Mr. Ribble voting nay; Mr. DiGiulian absent from the meeting.

Page 397, March 18, 1986 (Tape 1) Scheduled case of:

8:30 P.M. JACK H. & DOLORES MERRITT, SR. and JACK H. MERRITT, JR. - SP 85-C-061, application under Section 3-103 to permit a child care center for 98 children, located at 1806 Dawson Street on approximately 21,779 square feet, zoned R-1, Centreville District, Tax Map 29-3((3))12. (DEFERRED FROM 1/14/86 & 2/18/86)

Marilyn Anderson, Staff Coordinator, presented the Staff Report and advised that staff was recommending denial of the proposal.

Jack H. Merritt, Jr., the applicant, appeared before the Board and explained the use as outlined in the statement of justification as submitted with the application. Mr. Merritt indicated that at staff's request the number of children requested had been reduced.

The Board, staff and the applicant discussed the traffic and parking issues and the reduction in the number of children.

Chairman Smith called for speakers and Jack Mitchell, 1005 Country Club Drive, President, West Briar Civic Association, appeared before the Board in opposition to the proposal, supporting the staff report.

Charles Lewis, 8512 Old Courthouse Road, Secretary, Moss Crest Civic Association, appeared before the Board in opposition to the proposal based on land use planning issues.

In rebuttal, Mr. Merritt stated that the proposal would not change the character of the neighborhood nor promote commercialization of the area. He reiterated the need for a child care center in the area.

There being no other comments, questions or speakers to this application, Chairman Smith closed the public hearing.

Mr. Hammack expressed the opinion that the proposed use was too intense for the site and moved that the subject application be denied.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-C-061 by JACK H. & DOLORES MERRITT, SR. & JACK H. MERRITT, JR., under Section 3-103 of the Zoning Ordinance to permit a child care center for 98 children, on property located at 1806 Dawson Street, Tax Map Reference 29-3((3))12, 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 18, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 21,779 square feet of land.

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 8-303 and 8-305 of the Zoning Ordinance.

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

Mrs. Day seconded the motion.

The motion carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

Page 399, March 18, 1986 (Tape 1) Scheduled case of:

9:00 P.M. FAIRFAX BAPTIST TEMPLE - SPA 76-A-230-1, application under Section 8-901 of the Zoning Ordinance to amend S-230-76 for church and related facilities to permit addition of two mobile classrooms, an addition to the church, and underground tanks and gasoline pumps to existing facilities, located at 9524 Braddock Road on approximately 4.8485 acres of land, zoned R-1, Annandale District, Tax Map 69-3((1))21.

Mrs. Anderson noted that SPA 76-A-230-1, Fairfax Baptist Temple, was to be heard concurrently by the Board of Supervisors. She added that the Board of Supervisors had deferred the application indefinitely. Chairman Smith suggested that the application be returned to staff for rescheduling.

9:00 A.M. WEST*GROUP, INC., AGENT FOR THE APPLICANT, WESTPARK ASSOCIATES - A 86-D-001, application under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's decision denying density credit for certain dedicated public rights-of-way, Dranesville District, Tax Map 29-2((15))pt. A4 and 29-4((7))A3.

With regard to an appeal from West*Group, Inc., Agent for the Applicant, Westpark Associates, A 86-D-001, Jane Gwinn, Zoning Administrator advised that due to a staff error the case could not be heard as scheduled next week. She added that the next date available was April 8, 1986 at 10:55 A.M.

There being no objection, Chairman Smith so ordered.

Mr. Hyland noted that the Planning Commission had commended Jane Kelsey for "fine staff work" concerning Jack H. & Dolores Merritt, Sr. and Jack H. Merritt, Jr. - SP 85-C-061. There being no further business, the Board voted to adjourn at 9:35 P.M.

Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

Date Submitted

Date Approved

Blank

400

401

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 25, 1986. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman, Ann Day; Gerald Hyland; John F. Ribble, III; Mary Thonen; and Paul Hammack.

Chairman Smith opened the meeting at 9:15 A.M., and Mrs. Day led the prayer.

Page 401, March 25, 1986, (Tape 1) Scheduled case of:

9:00 A.M. WEST*GROUP, INC., AGENT FOR THE APPLICANT, WESTPARK ASSOCIATES - A 86-D-001, application under Section 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's decision denying density credit for certain dedicated public rights-of-way, Dranesville District, Tax Map 29-2((15))pt. A4 and 29-4((7))A3.

Chairman Smith announced that due to an error the above referenced case had been deferred to April 8, 1986 at 10:55 A.M.

Page 401, March 25, 1986, (Tape 1) Scheduled case of:

10:00 A.M. GERALD WALDMAN AND STEVEN SATRE - VC 85-P-112, application under Section 18-401 of the Zoning Ordinance to permit subdivision into four (4) lots, proposed Lots 9-A and 10 each having a width of 6 feet (80 ft. minimum lot width required by Section 3-306), located at 7900 and 7904 Oak Street on approximately 1.969 acres of land, zoned R-3, Providence District, Tax Map 39-4((30))9 and 39-4((1))102-A.

Marilyn Anderson, Staff Coordinator, presented the Staff Report.

Gerald Waldman, the applicant appeared before the Board and explained the use as outlined in the statement of justification. He noted the irregular shape of the subject lot.

Steven Satre, the applicant appeared before the Board and objected to the entrance at Oak Street.

Chairman Smith called for speakers and Frances M. Norton, 2239 Morgan Lane, appeared before the Board in opposition to the proposal. He expressed concern for traffic problems.

In rebuttal, Mr. Waldman noted that the community would be improved by the proposal.

There being no other comments, questions or speakers to this application, Chairman Smith closed the public hearing and turned to Mrs. Day for action on the case.

Mrs. Day moved to approve the application in part, subject to the revised development conditions.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-P-112 by GERALD WALDMAN AND STEVEN SATRE, under Section 18-401 of the Zoning Ordinance to permit the subdivision into four (4) lots, proposed

Lots 9A and 10 each having a width of six feet on property located at 7900 and 7904 Oak Street, Tax Map Reference 39-4((30))9 and 39-4((1))102A, 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 25, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 1.969 acres of land.

This application meets all of 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 all reasonable use 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 (2) lots into four (4) lots to allow two (2) of the lots to have a minimum lot width of not less than six (6) feet.

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. The subdivision of this property shall be in accordance with the requirements of Chapter 101, Subdivision Provisions of the Fairfax County Code.

4. Only one (1) entrance to all four (4) lots shall be allowed from Oak Street. The driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway. The driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual.

5. Dedication of right-of-way for public street purposes shall be provided as shown on the attached plat. In addition, the applicant shall make any road improvements deemed necessary by the Director of DEM and the VDH&T, including constructing the entrance to the site to meet the new grade of Oak Street after improvements to Oak Street are made.

6. The applicant shall reconfigure the "Y" turnaround and easement on Lots 9A and 10 to better serve the lots. The plat should note which lots have access over, and maintenance responsibility for, the pipestem driveway and it should note that access is permitted over the pipestem for fire and other emergency vehicles.

7. The houses shall face toward Oak Street.

Vice-Chairman DiGiulian seconded the motion.

The motion carried by a vote of 4-1-2, Chairman Smith voting Nay, Mr. Hammack and Mrs. Thonen abstaining.

At 11:05 A.M. Chairman Smith called a brief recess and reconvened the meeting at 11:15 A.M.

Page 403 March 25, 1986, (Tape 1), Scheduled case of:

10:15 A.M. NAZEM & HALLA HACHWI - SP 85-C-013, application under Section 8-914 of the Zoning Ordinance to permit a reduction to the minimum yard requirements based on an error in building location to allow a deck to remain .5 feet from the side lot line (8 ft. min. side yard req. by Sects. 3-207 & 2-412); .6 feet from the rear lot line (8 ft. min. rear yard req. by Sects. 3-207 & 2-412); and 15 feet from the front lot line (25 ft. min. front yard req. by Sects. 3-207 and 2-412), located at 11933 Riders Lane on approximately 15,895 square feet, zoned R-2, Centreville District, Tax Map 26-3((10))159.

10:30 A.M. NAZEM & HALLA HACHWI - VC 85-C-024, application under Section 18-401 of the Zoning Ordinance to permit accessory uses and structures to cover more than thirty percent (30%) of the area of the minimum required rear yard (30% max. coverage allowed by Sect. 10-103); to permit a fence approximately 4'8" high to remain in a front yard (4 ft. max. height for fence in a front yard by Sect. 10-104); to permit a fence approximately 9'10" high to remain in the rear and side yards (7 ft. max. height for fence in rear & side yards by Sect. 10-104); and to permit a pool and deck to remain in the front yard (no accessory structure permitted in a front yard by Sect. 10-104), located at 11933 Riders Lane on approximately 15,895 square feet, zoned R-2, Centreville District, Tax Map 26-3((10))159.

Harold Miller, representing the applicant and requested that the cases be deferred to work out outstanding issues. There being no objection, Chairman Smith so ordered. The Clerk suggested a new hearing date of June 10, 1986 at 9:00 A.M.

Page 403 March 25, 1986, (Tape 1), Scheduled case of:

10:45 A.M. BROOKFIELD SWIMMING CLUB, INC. - SPA 81-C-027-1, application under Section 3-303 of the Zoning Ordinance to amend S-81-C-027 for a community swimming club to permit addition of a frame pavilion to existing facility, located at 13611 Pennsboro Drive on approximately 2.8863 acres, zoned R-3, Springfield District, Tax Map Reference 44-2((1))15 & 16.

Marilyn Anderson, Staff Coordinator, presented the staff report and advised that staff would recommend approval if transitional screening 1 were provided along the front lot line.

Charles Woods, Brookfield Swim Club, appeared before the Board and explained the use as outlined in the statement of justification as submitted with the application. Mr. Woods advised the Board that he agreed that transitional screening was necessary, however, the swim club did not have the funds to cover the entire cost of the screening at this time. Therefore, Mr. Woods requested that a third of the screening be provided each year for a period of three years.

Chairman Smith called for speakers and George Bigius, 13604 King Cape Place, appeared before the Board and questioned the need for transitional screening.

There being no other comments, questions or speakers to this application, Chairman Smith closed the public hearing and turned to Mr. Hyland for action on the case.

Mr. Hyland moved to grant the special permit.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 81-C-027-1 by BROOKFIELD SWIMMING CLUB, INCORPORATED, under Section 3-303 of the Zoning Ordinance to amend S-81-C-027 for a community swimming club to permit an addition of a frame pavilion to the existing

facility on property located at 13611 Pennsboro Drive, Tax Map Reference 44-2((1))15 and 16, 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 25, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 2.8863 acres of land.

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. There shall be a minimum of 100 parking spaces and a maximum of 101 parking spaces including handicapped parking spaces as required by the Zoning Ordinance and the Public Facilities Manual.

6. There shall be a maximum of 450 family memberships.

7. The hours of operation shall be from 8:00 A.M. to 9:00 P.M.

8. The following screening shall be provided as approved by the County Arborist:

   - Transitional Screening 1 shall be provided along the front lot line outside of the public access easement so as to screen the swimming pool use and the parking area from the residential lots across Pennsboro Drive.

   - Existing trees and vegetation along the eastern side lot line shall be supplemented so as to provide Transitional Screening 1 between the parking lot and Lot 346 which is contiguous to the east.

   This transitional screening shall be phased in over a three-year period in accordance with a plan as determined by the County Arborist.

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.
   - 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.

Page 405(Brookfield Swimming Club, SPA 81-C-027-1, continued from Page 403)

- 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. All lighting for this use shall be directed on-site so as to prevent any glare on the adjacent properties.

11. All noise from the loudspeakers shall be in accordance with Chapter 108 of the Fairfax County Code.

These conditions incorporate all applicable conditions of the previously approved special permits.

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 carried unanimously by a vote of 7-0.

Page 405 March 25, 1986 (Tape 1) Scheduled case of:

11:00 A.M. GARY H. RUDD - SP 86-V-076, application under Section 8-901 of the zoning Ordinance to permit modification to minimum yard requirements based on error in building location to allow industrial building to remain 6.5 feet from a front lot line (40 ft. minimum front yard required by Sect. 5-607) located at 10116 Giles Run Roan on approximately 40,200 square feet, zoned I-6, Mount Vernon District, Tax Map 113-2((3))E6.

Marilyn Anderson, Staff Coordinator, presented the staff report. Mrs. Anderson noted two discrepancies on the plat, one being that the six foot fence located along Giles Run Road is within the VDH&T right-of-way in two places and that approximately 1.8 feet of the building on the adjacent lot is shown as being on Lot E6. The application stated that the industrial building was built as a temporary use. Staff believes that to approve the structure to remain in its present location permanently would be detrimental to the future use and enjoyment of other properties in the immediate vicinity. In addition, allowing a large building to remain 6.5 feet from the roadway may create an unsafe condition when this road is widened, especially considering that heavy traffic will be using this I-6 District. Mrs. Anderson stated that it is staff's judgment that this special permit application does not satisfy the provisions for approval of a structure constructed in error and, therefore, recommended denial of the application.

Gary Rudd presented his justification for the special permit request. He stated that he now had a septic system approved. Prior to this approval, he needed an area to operated out of so he built a temporary building. Over the past year and a half he updated it and now has a lot of money tied up in the building. He further stated that whatever staff recommended, he would be willing to do to update it and bring it up to COde, but that he would like to leave it in its present location. Mr. Rudd stated that at the time of subdividing the property, he gave the highway department five to six feet to widen the road if needed. He stated that it is his opinion that the highway department does not need to take additional land from him because he does not think that the building will encroach upon additional widening of the road. There are only 14 additional lots that enter from Giles Run Road. Mr. Rudd anticipates only light traffic on Giles Run Road because some of the lots will not be developed since they do not perk and there is no available sewer system. He stated that the building is not detrimental to pedestrians and is not in an area blocking drainage or water. He stated that he would be willing to comply with any updating or screening recommended.

In response to questions from the Board, Mr. Rudd stated that he needed two or three years to obtain financing and to construct a larger, permanent building on the rear of the property. At this time, he needs the building to conduct his business and to obtain permanent financing.

Mr. Hyland suggested that one solution might be to permit the use of the temporary building for reasonable length of time until the permanent building is constructed and then Mr. Rudd could move his operation to a building that is consistent with the setbacks.

Mr. Rudd stated that he would be willing to obtain site plan approval for another building, if given a reasonable length of time, and then take the present building down.

In an effort to gain consensus, Chairman Smith inquired if two years would be an adequate time period. Chairman Smith pointed out that the building was built as a temporary structure and that is what it should be used as; there should be a time limit placed on its use, normally a period of two years.

Chairman Smith asked if there was anyone present to speak in favor or in opposition to the request. Mr. Hyland stated that there was a letter from Harbor View Association in objection, and Chairman Smith requested that this letter be placed in the record. He closed the public hearing.

Mr. Hammack pointed out that the Development Conditions require a number of other improvements and he had reservations about approving something that completely failed to satisfy any of the requirements of use, even for a limited use of time. Mr. Hammack did not object to allowing the applicant the use of the property for a limited period of time until he could move or remove the structure, but he did not believe the applicant should have to comply with the Development Conditions if the Board was going to make him tear down the structure.

Mr. Hammack moved that special permit application be denied because the applicant has failed to present testimony showing that he met the standards for special permit uses and additional standards for this use as contained in Sections 5-607 and 8-006 of the Zoning Ordinance. He noted that Mr. Rudd had testified that he had built the building where he wanted it with no regard to the setback requirements and that he intended it to be a temporary building. Mrs. Thonen seconded the motion.

This motion failed by a vote of 2-4 with Mr. Hyland, Mrs. Day, Chairman Smith, and Vice-Chairman DiGiulian voting NAY; Mr. Ribble was not present for this vote.

Chairman Smith indicated to Ms. Kelsey that the Board's intent was to allow the applicant a limited time to use the building for construction purposes while developing the rest of the property according to Code.

Mr. Hyland moved that the Board approve the special permit application with the following modifications to the Development Conditions: Development Condition 5 shall read, "The chain link fence along the front lot line along Giles Run Road shall be removed from the VDH&T right-of-way prior to approval of the site plan by DEM, and not later than 90 days from the date of this resolution;" Development Condition 6 shall read, "The error in the location of the building on Lot E5 shall be corrected prior to approval of the site plan by DEM, and not later than 10 days from the date of this resolution;" Development Condition 7 shall be added to read, "This Special Permit is granted for a period of two (2) years at the expiration of which the building, which is the subject of this Special Permit, shall be removed or relocated to another location on that site which is in conformance with applicable setbacks and all other requirements of Fairfax County."

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 85-V-076 by GARY H. RUDD, under Section 8-901 of the Zoning Ordinance to permit modification to minimum yard requirements based on error in building location to allow industrial building to remain 6.5 feet from a front line, on property located at 10116 Giles Run Road, Tax Map Reference 113-2((3))E6, 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 25, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is I-6.
3. The area of the lot is 40,200 square feet of land.

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 Sect. 8-006 and the additional standards for this use as contained in Sections 5-607 and 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 for the location of the structure indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.

2. Site plan approval shall be required and a Building Permit reflecting the location of the existing building shall be submitted and approved.

3. The parking lot, driveway and walkways shall be paved with an all-weather dustless surface.

4. A row of evergreen trees shall be planted between the building and the front lot line.

5. The chain link fence along the front lot line along Giles Run Road shall be removed from the VDH&T right-of-way prior to approval of the site plan by DEM, and no later than ninety (90) days from the date of this resolution.

6. The error in the location of the building on Lot E5 shall be corrected prior to approval of the site plan by DEM, and no later than ninety days from the date of this resolution.

7. This Special Permit is granted for a period of two (2) years at the expiration of which the building, which is the subject of this Special Permit, shall be removed or relocated to a location on that site which is in conformance with the applicable setbacks of the Zoning Ordinance and all other requirements of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 4-2 with Mr. Hammack and Mrs. Day voting nay; Mr. Ribble absent from the meeting.

Chairman Smith asked Mr. Rudd if he understood that he had to clear up the two violations on the fence and the trailer within 90 days and that he has a period of two years to use the building on a temporary basis, and that he still had to get a Non-Residential Use Permit.

Mr. Hyland strongly suggested that Mr. Rudd get in touch with Harbor View Association and communicate to them exactly what has happened and that he has been given a period of time to bring the property into compliance with the County Codes.

Page 407 March 25, 1986 (Tape 2) Scheduled case of:

11:15 A.M. THOMAS J. & SHARI SCHUMAKER AND STEVEN & CLAUDETTE HUGHES - VC 85-P-106, application under Section 18-401 of the Zoning Ordinance to permit a 6 foot high fence to remain and a hot tub to be located in a front yard of a corner lot (4 ft. maximum height for fence in front yard and no accessory structure in any front yard as limited by Sect. 10-104), and to permit an approximately 240 square foot shed to remain (200 sq. ft. max. size as limited by Sect. 10-102), located at 2914 Summerfield Road on approximately 10,280 square feet, zoned R-4, Providence District, Tax Map 50-4((15))78 (CONCURRENT W/SP 86-P-013) (DEFERRED FROM 3/4/86, NOTICES IN ORDER).

11:30 A.M. THOMAS J. & SHARI SCHUMAKER AND STEVEN & CLAUDETTE HUGHES - SP 86-P-013, application under Section 8-901 of the Zoning Ordinance to permit a reduction to minimum yard requirements based on an error in building location to allow a shed to remain 1.7 feet from the side lot line and 4.1 feet from the rear lot line of a corner lot (10 ft. min. side yard req. by Sects. 3-407 and 10-104), located at 2914 Summerfield Road on approximately 10,280 square feet of land, zoned R-4, Providence District, Tax Map 50-4((15))78 (CONCURRENT W/VC 85-P-106).

Marilyn Anderson, Staff Coordinator, presented the staff report. Mrs. Anderson stated that staff believes the error in the location of the shed was made in good faith and consequently recommends approval of the special permit. She stated that if the Board intended to approve the special permit and the variance that it do so based upon the conditions within the staff report.

Thomas Schumaker of 2914 Summerfield Road spoke in support of both applications on behalf of all the applicants, including the Hughes to whom he had sold the property. Mr. Schumaker stated that he had letters of approval of the fence from neighbors on each side and also petitions and verbal approval of the fence from other neighbors. Mr. Schumaker stated that the pictures he had presented with the application showed that the fence set back far enough from the road so that it would not block the view of the traffic. He said he would move the fence back on his property if he is allowed to keep it six feet in height. The hot tub is portable and is empty awaiting the variance.

Chairman Smith asked if there was anyone to speak in support of the application.

Mr. Al Castle of 6724 Jefferson Avenue spoke in support of the application. He stated that he had no objection to the hot tub and fence and that the property had been greatly enhanced and improved since the Schumakers had owned it. He said he was appearing to answer one letter of opposition to the Schumaker application. Mr. Castle stated that it was his opinion that the writer of the opposition letter was a chronic complainer, and that the majority of the people that Mr. Castle could speak for were very happy with the appearance of the fence and the shed.

Mr. Hammack pointed out that the Board had testimony that the noncompliance with the Zoning Ordinance in the Schumaker case had been done in good faith or through no fault of the property owner.

Chairman Smith called for speakers in favor or opposition to the application and hearing no reply, closed the public hearing.

Mrs. Thonen made the following motion to adopt the standard special permit resolution form for SP 86-P-013. She stated that, to her mind, it was never quite settled if a temporary use was allowed or whether a temporary pool is not allowed. She stated that, as a rule, she did not sanction six foot high fences but a fence of this height would be necessary in order to cover the hot tub for safety reasons. Also, the fact that the Schumaker property is a corner yard with two front yards greatly limits the areas where a hot tub could be placed. Mrs. Thonen stated that the applicant had presented testimony of compliance with the general standards for special permits as contained in Section 8-006 of the Zoning Ordinance, and she felt they had met the standards especially numbers 1, 2, and 3. Mrs. Thonen said that it would not adversely affect the use of the neighborhood and that Mr. Schumaker had testified that the errors had been committed in good faith; therefore, she moved for approval of the application in conformance with the Development Conditions of the staff report.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-013 by THOMAS J. & SHARI SCHUMAKER AND STEVEN S. & CLAUDETTE HUGHES, under Section 8-901 of the Zoning Ordinance to permit a reduction to minimum yard requirements based on an error in building location to allow a shed to remain 1.7 feet from the side lot line and 4.1 feet from the rear lot line of a corner lot, on property located at 2914 Summerfield Road, Tax Map Reference 50-4((15))78, 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 25, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 10,280 square feet of land.

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, 8-903, and 8-914 of the Zoning Ordinance.

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

Page 409 (Thomas J. & Shari Schumaker and Steven & Claudette Hughes, VC 85-P-106, and SP 86-P-013, continued from Page 407)

1. This special permit approval is granted for the location of the shed as indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land. Should access be required to the sanitary sewer easement, the owner will be responsible for moving the shed to provide such access.

2. A Building Permit shall be obtained for the shed.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-0.

Mrs. Thonen moved to adopt the standard variance resolution form with the Development Conditions which apply to the variance. Mrs. Thonen stated that the error in the location of the fence was through no fault of the property owner and that the fence will serve to prevent an unsafe condition.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 85-P-106 by THOMAS J. & SHARI SCHUMAKER AND STEVEN S. & CLAUDETTE HUGHES, under Section 18-401 of the Zoning Ordinance to permit a 6 foot high fence to remain and a hot tub to be located in a front yard of a corner lot and to permit an approximately 240 square foot shed to remain, on property located at 2914 Summerfield Road, Tax Map Reference 50-4((15))78, 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 25, 1986; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 10,280 square feet of land.

This application meets all of 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

Page 410 (Thomas J. & Shari Schumaker and Steven & Claudette Hughes, VC 85-P-106 and SP 86-P-013, continued from Page 407)

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 all reasonable use 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 not transferable to other land and is approved for:

   - a six (6) foot fence to be located in the front yard on Lot 78 generally as shown on the accompanying plat except that the fence shall be relocated so that it is on Lot 78 and not in the VDH&T right-of-way,
   - a hot tub to be located in the front yard as shown on the accompanying plat, and
   - an approximately 240 square foot shed to remain on the property as shown on the accompanying plat.

2. A building Permit shall be obtained for the shed.

Mr. DiGiulian seconded the motion which passed 5-1 with Mrs. Day voting NAY and Mr. Ribble not being present for this vote.

Ms. Kelsey suggested that the Board add a couple of meeting dates in addition to the ones already scheduled in case they are needed. Mrs. Thonen and Mr. Hyland stated that July would be a better month than August to schedule an extra meeting. Thursday, July 31, 1986 and Thursday, September 25, 1986 were selected as dates for tentative extra meetings. Chairman Smith asked if these dates were acceptable and there being no objection, so ordered.

Page 410, March 25, 1986, (Tape 2) After Agenda Item, Action #1:

VIVIAN C. VOCHAN - SP 86-A-016

Mr. Hyland moved to deny the request for an Out-of-Turn Hearing for Vivian C. Vochan, Special Permit Application SP 86-A-016. Mr. Hammack seconded the motion, which was passed unanimously.

As there was no further business to come before the Board, Mr. Hammack moved adjournment at 1:00 P.M. The motion was seconded by Mr. Hyland and carried by a vote of 6-0; Mr. Ribble being absent.

Ms. Kelsey asked the Board when they would like to have the joint meeting with staff. Mr. Hyland replied that he thought a special meeting should be scheduled for this purpose. Chairman Smith suggested that this meeting could be scheduled at the next Board meeting.

Mary Ellen Simmons
Mary Ellen Simmons, Deputy Clerk
Board of Zoning Appeals

Viki L. Lester
Viki L. Lester, Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: July 29, 1986 APPROVED: July 29, 1986