The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 6, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; Gerald Hyland; and John Ribble.

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Chairman Smith opened the meeting at 9:13 A.M. and Mrs. Day led the prayer.

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Chairman Smith called for nominations for Chairman, Vice-Chairman and Clerk to the Board of Zoning Appeals. Mr. Hyland nominated the following for the positions: Daniel Smith as Chairman; John DiGiulian as Vice-Chairman; and Patti M. Hicks as Clerk. Mrs. Day seconded the nominations. Mrs. Thonen made a motion that the nominations be closed with Mrs. Day seconding the motion. The nominations as noted passed unanimously with Messrs. Hammack and Ribble not present for the vote.

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Jane C. Kelsey, Branch Chief, introduced Claudia Hamblin-Katnik and Heidi Belofsky to the Board. Ms. Kelsey told the Board that both would serve in the capacity of staff coordinators in the Board of Zoning Appeals Support Branch of the Zoning Evaluation Division, Office of Comprehensive Planning.

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Page 1, January 6, 1987, (Tape 1), Scheduled case of:

9:00 A.M. EDWARD M. AND ROSEMARIE F. VELLINES, VC 86-A-101, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport 3.2 feet from side lot line such that side yards total 16.8 feet (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), located at 10013 East Constable Court, on approximately 11,083 square feet of land, zoned R-2(C), Annandale District, Tax Map Reference 68-4((6))949.

Jane C. Kelsey, Branch Chief, presented the staff report. The applicant is requesting a variance of 4.8 feet to allow him to enclose an existing carport which was constructed in 1984.

Mr. Hyland asked Ms. Kelsey what the status was regarding the requested consideration for a Zoning Ordinance amendment change referencing the enclosure of carports. Ms. Kelsey explained this change is on the list of requested amendments and the Board of Supervisors set priorities concerning amendments.

Edward M. Vellines, 10013 East Constable Court, Fairfax, Virginia, the applicant referred to the statement of justification contained in the staff report. He would like to enclose an existing carport which could be converted into an extra bedroom in the future. The lot lines would not be affected by this variance and he submitted letters from three abutting property owners which stated no objection to this application.

As there were no speakers either in support or in opposition to this application, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant VC 86-A-101 based on the applicant's testimony and as she felt the applicant had met all the required standards for a variance.

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THE APPLICATION WAS DENIED DUE TO THE FAILURE OF THE FOLLOWING RESOLUTION

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-101 by EDWARD M. AND ROSEMARIE F. VELLINES, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport 3.2 feet from side lot line such that side yards total 16.8 feet, on property located at 10013 East Constable Court, Tax Map Reference 68-4((6))949, 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 6, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-2(C).
3. The area of the lot is 11,083 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. DiGiulian seconded the motion. The motion failed due to lack of the required four (4) votes necessary to approve a variance or special permit application. The vote was 3-2 with Mrs. Day, Mrs. Thonen and Mr. DiGiulian voting aye; Mr. Smith and Mr. Hyland voting nay; Messrs. Hammack and Ribble were not present for the vote.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 14, 1987.

Mr. Hyland moved to grant the applicant a waiver of the 12 month time limitation. Mr. DiGiulian seconded the motion which carried by a vote of 5-0 with Messrs. Hammack and Ribble not present for the vote.

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Page 3. January 6, 1987, (Tape 1), Scheduled case of:

9:15 A.M. JAMES E. AND JUNE W. JOHNSON, VC 86-A-105, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to carport to 2.3 feet from side lot line such that side yards total 23.7 feet (5 ft. min., 19 ft. total min. side yard req. by Sects. 3-207 and 2-412) located 4134 Minton Drive, on approximately 10,501 square feet of land, zoned R-2(C), Annandale District, Tax Map Reference 58-3((12))64.

Jane C. Kelsey, Branch Chief, presented the staff report and stated this subdivision had been developed under the cluster provision of the Zoning Ordinance which allows smaller lot sizes with open space. The applicants are proposing to extend an area of the existing carport by requesting a variance of 2.7 feet to the minimum side yard requirement.

James E. Johnson, 4134 Minton Drive, Fairfax, Virginia, the applicant submitted photographs to the Board. He stated that the property had been acquired in good faith sixteen years ago. The lot is unusually narrow with exceptional topographic conditions toward the back of the property which would prohibit construction of a garage in the rear of the lot.

Chairman Smith closed the public hearing as there were no speakers to address this application.

Mr. DiGiulian moved to grant VC 86-A-105 and stated that the applicant has met all the required standards for a variance especially 2(E) with regard to topographic conditions on the lot.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-105 by JAMES AND JUNE JOHNSON, under Section 18-401 of the Zoning Ordinance to allow construction of addition to carport to 2.3 feet from side lot line such that side yards total 23.7 feet, on property located at 4134 Minton Drive, Tax Map Reference 58-3((12))64, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 6, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-2(C).
3. The area of the lot is 10,501 square feet of land.

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

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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 by a vote of 4-1 with Messrs. Hammack and Ribble not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 14, 1987. This date shall be deemed to be the final approval date of this variance.

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9:30 A.M. JOHN AND OLA COALSON, VC 86-L-099, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing porch 9.2 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307) located at 6517 Elder Avenue, on 17,213 square feet of land, zoned R-3, Lee District, Tax Map Reference 90-2((12))1A.

Jane C. Kelsey, Branch Chief, presented the staff report. She stated that the applicant is requesting a variance of 2.8 feet to allow a glass and screen enclosure of an existing carport. The carport has been screened by right since 1975 under Sect. 30-1.3.3 of the previous Zoning Ordinance which allowed unenclosed carports to be screened. There is a shed in the rear of the dwelling for which a building permit was obtained prior to construction.

Ola Coalson, 6517 Elder Avenue, Springfield, Virginia, the applicant, stated if they were allowed to enclose the porch with sliding glass doors and screen it would block out the rain and make the porch more serviceable.

There were no speakers to address this application; therefore, Chairman Smith closed the public hearing.

Mrs. Day moved to grant VC 86-L-099 as the applicant had presented testimony showing that they met all the required standards for a variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-099 by JOHN AND OLA COALSON, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing porch 9.2 feet from side lot line, on property located at 6517 Elder Avenue, Tax Map Reference 90-2((12))1A, 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 6, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 17,213 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.

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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 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 carried by a vote of 4-1 with Messrs. Hammack and Ribble not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 14, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 6, January 6, 1987, (Tape 1), Scheduled case of:

9:45 A.M. STEPHEN L. BURNETT, VC 86-D-094, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Parcel A having a width of 25 feet (200 ft. min. lot width req. by Sect. 3-E06) located at 9100 Jeffery Road, on approximately 5.185 acres of land, zoned R-E, Dranesville District, Tax Map Reference 8-2((1))31. (TO BE WITHDRAWN)

Jane C. Kelsey, Branch Chief, told the Board that the applicant in this case had requested that he be allowed to withdraw his application.

Mr. DiGiulian made a motion to allow the applicant to withdraw his application. Mrs. Thonen seconded the motion which passed unanimously with Messrs. Hammack and Ribble not present for the vote.

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Page 6, January 6, 1987, (Tape 1), After Agenda Item #1:

Mohamad Ali Rouhani and Helen Parasiakis Appeal

Mr. Hyland made a motion to schedule the public hearing for this appeal on March 31, 1987 at 9:00 A.M. Mrs. Thonen seconded the motion which passed unanimously with Messrs. Hammack and Ribble not present for the vote.

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Page 7, January 6, 1987, (Tape 1), After Agenda Item #2:

Stohlman Tysons Corner, Inc. and Stohlman Volkswagen, Inc. Appeal

Mr. Hyland made a motion to schedule the public hearing for this appeal on March 17, 1987 at 9:00 A.M. Mrs. Thonen seconded the motion which passed unanimously with Messrs. Hammack and Ribble not present for the vote.

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Page 7, January 6, 1987, (Tape 1), After Agenda Item #3:

Oswald and Marlene Bacher Appeal

Jane C. Kelsey, Branch Chief, pointed out that there was some question as to the timeliness of the filing of the appeal. It appears that the appellant's attorney was told that the filing date for the appeal was 30 days from the date of receipt of the Zoning Administrator's decision which is incorrect. The filing date is 30 days from the date of the decision as stated in the State Code. Following a discussion among Board members, Mr. Hyland pointed out that the appellant should not be penalized due to an error on the part of the Zoning Administrator's office. Therefore, Mr. Hyland moved to accept the appeal and Mrs. Thonen seconded the motion. Mr. Hyland stated he could understand why the appellant was appealing as the property had been treated as C-8 and is now being treated as I-6 zoning which excludes this use. The motion passed unanimously with Messrs. DiGiulian, Hammack and Ribble not present for the vote. The public hearing is scheduled for March 10, 1987 at 9:00 A.M.

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Page 7, January 6, 1987, (Tape 1), Scheduled case of:

10:10 A.M. HERBERT AND BEATRICE KREINIK, VC 86-D-100, application under Sect. 18-401 of the Zoning Ordinance to allow a six foot high fence to remain in the front yard abutting a pipestem driveway (4 ft. max. height for fence in any front yard req. by Sect. 10-104), located at 9375 Robnel Place, on approximately 13,000 square feet of land, zoned R-2(C), Dranesville District, Tax Map Reference 19-4((20))18.

Jane C. Kelsey, Branch Chief, informed the Board that the attorney for the applicant in this case is ill and unable to attend the public hearing. Therefore, he was requesting a deferral until a later date. As staff had not been notified of this until this morning, staff could not contact citizens who had written opposition letters because of the lack of time before this public hearing and there were no telephone numbers in the letters. Mr. Hyland made a motion to instruct the attorney for the applicant to send letters to the people who were previously notified in addition to the people who had submitted letters informing them of the new date and time of the public hearing. The Board allowed citizens who were present for the case to view photographs that had been submitted by the applicant. The motion to defer this case to January 20, 1987 at 8:00 P.M. passed unanimously with Messrs. Hammack and Ribble not present for the vote.

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Page 7, January 6, 1987, (Tapes 1 and 2), Scheduled case of:

10:30 A.M. SAINT JAMES EPISCOPAL CHURCH, SP 86-V-052, application under Sect. 3-203 of the Zoning Ordinance to allow storage room addition to existing church and related facilities located at 5614 Old Mill Road on approximately 5.0029 acres of land, zoned R-2, Mount Vernon District, Tax Map 110-1((1))4B. (DEF. FROM 12/9/86)

Lori Greenlief, Staff Coordinator, stated that this case had been deferred from December 9, 1986 in order for staff to make a Sunday site visit to observe the traffic patterns. Staff has done this and is now readdressing some of the traffic concerns. The Office of Transportation has reviewed the realignment of the middle entrance with the subdivision street across Old Mill Road and believes there is not a great enough safety hazard to warrant this realignment. Staff does feel that the western-most entrance should be made either a one way entrance or exit. Based on these revisions, staff is now recommending approval of this application with the deletion of development condition #10; conditions #5 and #11 should remain.

In response to questions from Mr. Hyland, Mrs. Greenlief replied that striping the parking lot would be beneficial to the church and provide more parking spaces.

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Mrs. Day noted that she did not feel transportation issues were a major concern as the applicant had only requested a storage shed. Mrs. Greenlief explained as this was a new special permit not an amendment; therefore, staff has to look at the entire church facility.

Mr. Hyland stated that he had talked with the applicant's representative and the applicant had no objections to the revised development conditions. Mr. Dodge, 9101 Volunteer Drive, Alexandria, Virginia, a trustee of the church, noted that there was no objection to the one-way entrance but asked that the direction be left up to the church's judgment. There are two handicapped parking spaces provided at present. He requested that a time extension be added for the striping of the parking lot.

There were no speakers to address this application; therefore Chairman Smith closed the public hearing.

Mr. Hyland moved to grant SP 86-V-052 with the following changes to the development conditions: delete #10, renumber #11 to be #10; and revise the new #10 to read, "The applicant shall designate the western most entrance to the property as a one way entrance or exit to the property as the applicant determines, but in either event it will be marked to indicate whether it is a one way entrance or a one way exit"; and #5 should be revised by adding "within a period of three (3) years from the date of this permit" at the end of the first sentence.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-V-052 by SAINT JAMES EPISCOPAL CHURCH, under Section 3-203 of the Zoning Ordinance to allow storage room addition to existing church and related facilities, on property located at 5614 Old Mill Road, Tax Map Reference 110-1((1))4B, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 6, 1987; 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 5.0029 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 applicant shall stripe the existing parking lot and the resultant aisles and spaces shall conform to the standards set forth in the Public Facilities Manual within a period of three (3) years from the date of this permit. All parking for this use shall be on site. Handicapped parking shall be provided in accordance with the applicable Code requirements.

6. The existing vegetation along the western lot line in the area of the new addition shall be supplemented with evergreen plantings to bring the area up to the level of Transitional Screening 1. The number, size and type shall be determined by the County Arborist at the time of site plan review. Existing vegetation along the remaining lot lines shall be deemed sufficient given the level of development currently on the site.

7. The barrier requirement shall be waived along the northern, southern and eastern lot lines.

8. The maximum number of seats shall be 204.

9. The existing metal shed adjacent to the western lot line shall be removed upon completion of the new addition.

10. The applicant shall designate the western most entrance to the property as a one way entrance or exit to the property as the applicant determines but in either instance it will be marked to indicate whether it is a one way entrance or a one way exit.

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 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 14, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 9, January 6, 1987, (Tape 2), Scheduled case of:

10:45 A.M. ROUSE & ASSOCIATES-FAIR OAKS II AND FAIR OAKS PAL CHILDREN'S CENTER, INC., SP 86-P-049, application under Sect. 4-603 of the Zoning Ordinance to permit a child care center within an office park located at 11230 Lee Jackson Memorial Highway on approx. 3.86 acres of land, zoned C-6, Providence District, Tax Map Reference 56-2((1))73B. (DEF. FROM 12/2 & 12/18/86 AND 1/6/87)

Jane C. Kelsey, Branch Chief, told the Board that Marilyn Anderson, Staff Coordinator for this case, was present to respond to questions but the applicant had requested another deferral.

Melanie Miller Reilly, attorney with Boothe, Prichard and Dudley, 8280 Greensboro Drive, McLean, Virginia, represented the applicant. The applicant has requested another deferral to allow time for their engineer and architect to work with County staff to resolve the issue of the type of fence to be used in the play area. County staff feels a solid masonary fence is essential to address the noise attenuation issue. The applicant does not believe a fence of this type is appropriate for a children's play area.

Marilyn Anderson, Staff Coordinator, agreed to the deferral and stated that this is the same issue which was brought to the applicant's attention from the beginning of staff's review. Staff and the applicant have been trying to resolve this issue. If a solid wooden fence is used, staff is requesting that a noise engineer certify that it is acoustically safe for the children.

There were no speakers present for this case.

Mrs. Thonen moved to defer this case to February 10, 1987 at 9:00 A.M. as recommended by staff. Mr. DiGiulian seconded the motion which passed by a vote of 7-0.

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Page 10, January 6, 1987, (Tape 2), After Agenda Item #1:

CHURCH IN DUNN LORING
REQUEST FOR ADDITIONAL TIME

The applicant has requested an additional eighteen (18) months to commence construction of a church and related facilities. Following a discussion among Board members, Mr. Hammack moved to grant the applicant an additional twelve (12) months as recommended by staff. Mr. DiGiulian seconded the motion which passed by a vote of 7-0.

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Page 10, January 6, 1987, (Tape 2), After Agenda Item #2:

SOMERSET-OLDE CREEK RECREATION CLUB, INC.
OUT-OF-TURN HEARING

Mr. Hammack moved to grant an out-of-turn hearing to this applicant and the public hearing was scheduled for February 24, 1987. Mr. DiGiulian seconded the motion which passed by a vote of 7-0.

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The Board members discussed the Board of Zoning Appeals members' problem finding a parking space on meeting days and expressed concern about the shortage of parking spaces. One Board member was unable to locate a parking space and was unable to participate in the hearing on an application which resulted in the application's denial. Mr. Hyland made a motion that a memorandum be forwarded to the County Executive expressing their concern and asking him for his assistance. Mr. Hammack seconded the vote which passed by a vote of 7-0.

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Chairman Smith requested that staff prepare a voucher so that Mrs. Day could be reimbursed for the expenses she incurred while representing the Board of Zoning Appeals at an out of town meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 11:05 A.M.

Betsy S. Hurtt, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 2-3-87 APPROVED: 2-17-87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 13, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; Mary Thonen; and John Ribble.

Chairman Smith opened the meeting at 9:35 A.M. and Mrs. Day led the prayer.

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Page 11, January 13, 1986, (Tape 1), Scheduled case of:

9:00 A.M. BAHA'I COMMUNITY OF NORTHERN VIRGINIA, SP 86-D-042, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities located at 11318 Leesburg Pike on approx. 5 acres of land, zoned R-1, Dranesville District, Tax Map 11-2((1))28. (DEF. FROM 10/28/86 AT APPLICANT'S REQUEST)

Chairman Smith announced to the Board that there had been a verbal request from the applicant to withdraw Special Permit application SP 86-D-042.

Mr. Hyland moved to defer the application for one week during which time the applicant can submit whatever documentation necessary to withdraw it. Failing to submit an application to withdraw within the week period of time, the application will be summarily dismissed.

Mr. Ribble seconded the motion which passed unanimously.

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Mr. Hyland reminded the Board that Mr. John DiGiulian's term on the BZA would expire on February 13, 1987 and therefore moved that the BZA recommend that he be reappointed as a member of the Board of Zoning Appeals.

Mr. Ribble seconded the motion which passed unanimously.

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Page 11, January 13, 1987, (Tape 1), Scheduled case of:

9:20 A.M. HELENE MARIE CASSELL, VC 86-C-115, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport 9.9 feet from side lot line (15 ft. min. side yard req. by Sect. 3-207) located at 12006 Hamden Court on approx. 20,000 square feet of land, zoned R-2, Centreville District, Tax Map Reference 46-1((8))14.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Helene Marie Cassell, 12006 Hamden Court, Oakton, Virginia, the applicant, appeared before the Board and explained her request as outlined in the statement of justification. She added that the garage would be more aesthetically pleasing and more in conformance with the neighborhood. In conclusion, Ms. Cassell noted the long and narrow shape of the lot.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant the variance subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-C-115 by HELENE MARIE CASSELL, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport 9.9 feet from side lot line, on property located at 12006 Hamden Court, Tax Map Reference 46-1((8))14, 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 13, 1987; 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 20,000 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. DiGiulian seconded the motion which carried by a vote of 6-1 with Mr. Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 21, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 12, January 13, 1987, (Tape 1), Scheduled case of:

9:35 A.M. ELKE NASH, VC 86-M-111, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 20.1 feet from a street line of a corner lot (40 ft. min. front yard req. by Sect. 3-107), located 3232 Sleepy Hollow Road, on approx. 22,209 square feet of land, zoned R-1, Mason District, Tax Map 60-2((17))12.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Donald Klingemann, 120 Beulah Road, Vienna, Virginia, appeared before the Board as the representative for the applicant and explained the request as outlined in the statement of justification submitted with the application. He added that the applicant was proposing to locate the garage on the side of the property facing Marlo Drive which would eliminate the ingress/egress from Sleepy Hollow Road. This would also allow an additional bathroom to be added to the master bedroom. Mr. Klingemann stated that the existing driveway would be removed and seeded.

Elke Nash, 3232 Sleepy Hollow Road, Oakton, Virginia, the applicant, appeared before the Board and pointed out that the proposal would be aesthetically pleasing and in conformance with the neighborhood.

Mr. Klingemann pointed out that Sleepy Hollow Road was well traveled, therefore locating the curb cut on Marlo Drive would be more appropriate as Marlo Drive was a cul-de-sac.

In closing, Mr. Guinaw pointed out that VDH&T would require an entrance permit and would also ensure the driveway would be a sufficient distance from the intersection.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the applicant had satisfied the standards for a variance. He noted that the topography of the land required that the addition be located as proposed. Therefore, he moved to grant the variance subject to the conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-111 by ELKE NASH, under Section 18-401 of the Zoning Ordinance to permit allow construction of a garage addition to dwelling to 20.1 feet from a street line of a corner lot, on property located at 3232 Sleepy Hollow Road, Tax Map Reference 60-2((17))12, 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 13, 1987; 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 22,209 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.

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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 6-1 with Mr. Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 21, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 14, January 13, 1987, (Tape 1), Scheduled case of:

9:50 A.M. MARIE STEVENSON, VC 86-D-102, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 18 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-207) and to allow enclosure of existing porch to 11 feet from side lot line (15 ft. min. side yard req. by Sect. 3-207) located at 1471 Waggaman Circle, on 15,000 square feet of land, zoned R-2, Dranesville District, Tax Map Ref. 30-2((17))27.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Gary Stevenson, 1471 Waggaman Circle, McLean, Virginia, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He pointed out that he was requesting the existing screened porch be enclosed as well as an addition to the kitchen area.

Chairman Smith called for speakers and Ms. Elena Antonesui, 652 Smoot Drive, McLean, Virginia, appeared before the Board in opposition to the proposal. She expressed concern that the addition would be too close to the property line and suggested the addition be located on the front of the house.

Mrs. Day advised Mrs. Antonesui that the reason for the addition was to enable the applicant to provide an eat-in area for the kitchen which was located on the back of the house.

In rebuttal, Mr. Stevenson stated that he was willing to provide trees for screening.

There being no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian stated that the applicant had met the standards for a variance specifically Paragraph 2F, therefore he moved to grant the variance subject to the conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-102 by MARIE STEVENSON, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 18 feet from rear lot line and to allow enclosure of existing porch to 11 feet from side lot line, on property located at 1471 Waggaman Circle, Tax Map Reference 30-2((17))27, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 13, 1987; 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 15,000 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 and Mr. Hammack seconded the motion which carried by a vote of 5-2 with Mr. Hyland and Mr. Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 21, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 16, January 13, 1987, (Tape 1), Scheduled case of:

10:10 A.M. ROBERT L. AND BETTY J. OLCOTT, VC 86-M-109, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 28.1 feet from front lot line (35 ft. min. front yard req. by Sect. 3-207), located 3432 Barger Drive, on approx. 14,256 square feet of land, zoned R-2, Mason District, Tax Map Reference 61-1((11))727.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Robert Olcott, 3432 Barger Drive, Falls Church, Virginia, the applicant, appeared before the Board and advised them that the Lake Barcroft Architectural Review Committee had approved his request subject to the approval of the variance. He explained that the addition was necessary to accommodate a growing family. Mr. Olcott pointed out that the topography of the land made it difficult to locate the addition anywhere else.

Chairman Smith called for speakers and Joe O'Brien, 400 Tapawingo Road, Southeast, Vienna, Virginia, speaking for Mr. and Mrs. J. L. O'Brien of 3430 Barger Drive, Falls Church, Virginia, appeared before the Board to request the applicant to provide windows similar to the existing structure and some additional landscaping.

John D. Nellis, 3427 Barger Drive, Falls Chruch, Virginia, appeared before the Board in support of the proposal expressing the opinion that the applicant would not do anything detrimental to the property.

Since there were no other speakers to address the application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day noted the support of the Lake Barcroft Architectural Review Committee and added that the application had met the standards for a variance. Therefore, she moved to grant the variance subject to the development conditions contained in the staff report.

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THE APPLICATION WAS DENIED DUE TO THE FAILURE OF THE FOLLOWING RESOLUTION

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-109 by ROBERT L. & BETTY J. OLCOTT, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 28.1 feet from front lot line, on property located at 3432 Barger Drive, Tax Map Reference 61-1((11))727, 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 13, 1987; 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 14,256 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
6. 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 3-4 with Mrs. Day, Mr. Hyland and Mr. Ribble voting aye; Chairman Smith, Mr. DiGiulian, Mrs. Thonen and Mr. Hammack voting nay.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 21, 1987.

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Page 17, January 13, 1987, (Tape 1), Scheduled case of:

10:25 A.M. VINCENT ANTHONY AND SHEILA MARGARET JORDAN, VC 86-S-112, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 6 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 7834 Anson Court, on approx. 12,618 square feet of land, zoned R-3, Springfield District, Tax Map 89-2((4))(8)9.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Vincent Jordan, 7834 Anson Court, Springfield, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He added that with five drivers in the family a two car garage was necessary. He pointed out that another house in the neighborhood had been granted a variance for a similar request.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hyland stated that to deny the request for a variance would deny the applicant reasonable use of the land; and therefore moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-S-112 by VINCENT ANTHONY AND SHEILA MARGARET JORDAN, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 6 feet from side lot line, on property located at 7834 Anson Court, Tax Map Reference 89-2((4))(8)9, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 13, 1987; 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 12,618 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. Hyland seconded the motion which carried by a vote of 4-2 with Mr. Hammack and Chairman Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 21, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 19, January 13, 1987, (Tape 2), Scheduled case of:

10:45 A.M. HELMUT GUSTAV BENTLIN, VC 86-P-108, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two lots, proposed corner lot 3-B-2 having width of 84 feet (105 ft. min. width req. by Sect. 3-306) located at 2646 Jackson Drive, on approx. 30,000 square feet of land, zoned R-3, Providence District, Tax Map Reference 49-2((6))3B.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Helmut Gustav Bentlin, 2646 Jackson Drive, Falls Church, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He noted that there would be no negative impacts on the neighboring properties.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the applicant had met the standards required for a variance. He noted that the development of the property with a variance was more desirable than without and therefore moved to grant VC 186-P-108 subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-108 by HELMUT GUSTAR BENTLIN, under Section 18-401 of the Zoning Ordinance to allow subdivision into two lots, proposed corner lot 3-B-2 having width of 84 feet, on property located at 2646 Jackson Drive, Tax Map Reference 49-2((6))3B, 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 13, 1987; 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 30,000 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 subdivision of one lot into two lots as shown on the plat submitted with this application.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* 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 applicant shall dedicate adequate land to provide a standard turn radius according to VDH&T specifications on the southwest corner of the subject property (at the corner of the intersection between Jackson Drive and Martha's Lane).

Mrs. Thonen seconded the motion which carried by a vote of 5-1 with Mr. Smith voting nay; Mr. Ribble not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 21, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 21, January 13, 1987, (Tape 2), Scheduled case of:

11:10 A.M. BALLANTRAE DEVELOPMENT, INC., VC 86-D-098, application under Sect. 18-401 of the Zoning Ordinance to allow subd. into 7 lots, proposed Lot 5 having width of 20.01 ft. (150 ft. min. lot width req. by Sect. 3-106), located at 1155 Chain Bridge Road & 1176 Ballantrae Lane, on approx. 7.3103 acres of land, zoned R-1, Dranesville District, Tax Map 31-1((2))38-B1 & 38-B3.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Elizabeth Lewis, Boothe, Prichard and Dudley, 1199 N. Fairfax Street, Alexandria, Virginia, representative of the applicant, appeared before the Board and advised that the application met all of the required standards for a variance. She noted that the existing residence on the subject property faces Old Chain Bridge Road and the original front yard of the property was subdivided in 1977 leaving the existing 20 foot gravel driveway for access. Ms. Lewis added that the house on Old Chain Bridge Road should not be denied access to Chain Bridge Road. The proposed variance would allow the remainder of the property to include more open space and the road would be less intrusive to the neighbors.

Chairman Smith called for speakers and Samuel Neel, 1157 Chain Bridge Road, McLean, Virginia, appeared before the Board and provided a brief history of the property. Mr. Neel explained that there was a deed on record that states that the access road shall only be used for the existing house on 38B and the old house. Mr. Neel clarified that he was in support of the proposed variance. He stated that he would be opposed to any further construction in the 40 foot setback strip for proposed Lot 5.

William McCauley Arnold, 10521 Judicial Drive, Fairfax, Virginia, attorney on behalf of the Joseph P. Kennedy Foundation, owners of property west of the subject property, stated that he was not supporting or opposing the proposal. He expressed concern for potential traffic and buffering from the adjacent development. Mr. Arnold stated that he had discussed the proposal with the applicant's representative this morning and the the applicant had agreed that the existing driveway would remain a gravel road and the existing vegetation would not be cut. With regard to Lot 5, they will remove the existing garage and relocate it to the eastern side of the property and retain the existing vegetation on the western side of Lot 5. The vegetation that exists in the 25 foot setback to the rear of Lots 6 and 7 would remain and would not be removed at the time the property is developed or the houses constructed. The stable on Lot 6 would be removed and the vegetation along the rear of Lot 6 and the adjacent property line would remain.

In closing, Ms. Lewis stated that a restriction would be put in the deed regarding Lot 5 with respect to Mr. Neel's concerns. She added that the applicant would make every effort to preserve existing vegetation on the property and preserve the area as much as possible. She added that there was an agreement between Mr. Neel and the owner of Lot 5 that the driveway would be used only for the two houses that it currently serves.

Prior to making the motion, Mr. DiGiulian stated that the applicant had met the standards for a variance specifically under Paragraphs 2D and 2F and therefore moved to grant the variance subject to the conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-098 by BALLANTRAE DEVELOPMENT, INC., under Section 18-401 of the Zoning Ordinance to allow subdivision into 7 lots proposed Lot 5 having width of 20.01 ft., on property located at 1155 Chain Bridge Road & 1176 Ballantrae Lane, Tax Map Reference 31-1((2))38-B1 & 38-B3, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 13, 1987; 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 7.3103 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 lots into seven lots as shown on the plat submitted with this application.

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

3. Access to Lot 5 shall be provided from Old Chain Bridge Road.

4. The applicant shall provide a trail and corresponding easement along Dolley Madison Boulevard. The type, width and exact location to be determined at the time of Site Plan (Subdivision)review.

Mrs. Thonen seconded the motion which carried by a vote of 6-0 with Mr. Ribble not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 21, 1987. This date shall be deemed to be the final approval date of this variance.

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At this time, Mr. Olcott came forward and requested the Board waive the 12-month limitation on rehearing his request for a variance which had been denied earlier in the day.

Mr. Hyland moved that the Board waive the 12-month limitation on rehearing VC 86-M-109, Robert and Betty Olcott.

Page 23, January 13, 1987, (Tape 2), (VC 86-D-098 - Ballantrae Development, Inc., continued from Page 22)

Mrs. Day seconded the motion which passed by a vote of 4-2 with Messrs. Hammack and Smith voting nay; Mr. Ribble not present for the vote.

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Page 23, January 13, 1987, (Tape 3), After Agenda Item #1

OUT-OF-TURN HEARING REQUEST
DULLES CORNER PROPERTIES
VC 87-C-005

Mr. Hammack moved to grant the request for an out-of-turn hearing for the above referenced application.

Mrs. Thonen seconded the motion which passed unanimously with Mr. Ribble not present for the vote.

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As there was no other business to come before the Board, the meeting was adjourned at 12:20 P.M.

Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 2-10-87 APPROVED: 2-17-87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 20, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; and John Ribble. Mrs. Thonen was absent from the meeting.

Chairman Smith opened the meeting at 8:11 P.M. and Mrs. Day led the prayer.

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Page 24, January 20, 1987, (Tape 1), Scheduled case of:

8:00 P.M. HERBERT AND BEATRICE KREINIK, VC 86-D-100, application under Sect. 18-401 of the Zoning Ordinance to allow a six foot high fence to remain in the front yard abutting a pipestem driveway (4 ft. max. height for fence in any front yard req. by Sect. 10-104), located at 9375 Robnel Place, on approx. 13,000 square feet of land, zoned R-2(C), Dranesville District, Tax Map 19-4((20))18. (DEF. from 1/6/87)

Jane C. Kelsey, Branch Chief, presented the staff report. A previous application by these applicants was denied on May 13, 1986. After the appropriate notification process was completed on July 15, 1986, a waiver of the 12-month time limitation was granted the applicant. Under this new application, the applicants are now requesting a variance to allow a 6 foot high fence to remain.

Harold Miller, attorney with Miller and Bucholtz, 11715 Bowman Green Drive, Reston, Virginia, represented the applicants. At the previous hearing Mr. Hammack had questioned whether or not the fence was so close to the pipestem driveway to be hazardous to small children. The applicant had discussed this application with his neighbor and they believe the safety hazard issue could be addressed by removing one section of the fence and moving the fence further back from the lot line. He pointed out that the applicant had purchased this house in December 1984 and a builder had erected the fence at the applicant's request. The applicant had trusted the builder to meet the County requirements for the fence.

In response to questions from the Board, Mr. Miller replied that the pipestem was there when the applicant purchased the house and Long Fence Company constructed the fence.

Chairman Smith called for speakers in support of this application and hearing no reply called for speakers in opposition.

Eilene Jones, 9371 Robnel Place, Vienna, Virginia, opposed the application based on the safety hazard to small children as this was a corner lot with no street lights in the area.

James Van Runnen, 9357 Robnel Place, Vienna, Virginia, agreed with the comments of the previous speaker and stated that at last two sections should be removed from the fence and that the fence should be moved back at least 16 feet from the front lot line.

Henry Martin, 9161 Robnel Place, Vienna, Virginia, stated he would not oppose the fence remaining in the yard if it were relocated. He asked how many feet the fence would be moved back.

Mr. Miller stated that the fence would be moved back 10 feet from the lot line.

Mr. Martin felt this was adequate to address the safety issue.

During rebuttal, Mr. Miller stated that in the 1 1/2 to 2 years that the fence has been constructed there have been no accidents at this corner; however, the applicants are willing to provide a speed bump in front of their lot.

As there were no further speakers nor comments, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 86-D-100 in part as the applicant has met all the required standards for a variance and subject to the development conditions contained in the staff report with the addition of the following: "2. The applicant shall remove one section of the fence which will then be approximately 6 feet 4 1/2 inches from the east side of the property and 7 feet 10 inches from the west side of the property moving the fence back approximately 10 feet from the face of the curb."

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-100 by HERBERT AND BEATRICE KREINIK, under Section 18-401 of the Zoning Ordinance to allow a six foot high fence to remain in the front yard abutting a pipestem driveway, on property located at 9375 Robnel Place, Tax Map Reference 19-4((20))18, 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 20, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-2(C).
3. The area of the lot is 13,000 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 structure shown on the plat included with this application and is not transferable to other land.

2. The applicant shall remove one section of the fence which will then be approximately 6 feet 4 1/2 inches from the east side of the property and 7 feet 10 inches from the west side of the property moving the fence back approximately 10 feet from the face of the curb.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-1 with Chairman Smith voting nay; Mrs. Thonen absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 28, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 26, January 20, 1987, (Tape 1), Scheduled case of:

8:00 P.M. FRANCES L. GROS - VC 86-D-031, application under Sect. 18-401 of the Zoning Ordinance to permit subdivision into two (2) lots, proposed Parcel A having width of 59.61 feet (70 ft. min. lot width req. by Sect. 3-406), located at 2313 Highland Avenue on approx. 24,168 square feet of land (0.5548 acres), zoned R-4, Dranesville District, Tax Map 40-4((10))(A)45, 46, 47 & 48. (DEF. FROM 6/24, 7/8, 7/22 & 9/9/86)

Chairman Smith informed the Board that the applicant was requesting that she be allowed to withdraw her applicant.

Mr. Hammack moved to allow the applicant to withdraw VC 86-D-031. Mrs. Day seconded the motion which carried by a vote of 4-0 with Mr. Ribble and DiGiulian not present for the vote; Mrs. Thonen absent from the meeting.

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Page 26, January 20, 1987, (Tape 1), Scheduled case of:

8:20 P.M. DONALD S. AND SHIRLEY R. KAGLE, VC 86-V-119, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10.78 feet from side lot line (20 ft. min. side yard req. by Sect. 3-107), located at 6720 Bulkley Road, on approximately 41,584 square feet of land, zoned R-1, Mount Vernon District, Tax Map 99-2((2))18.

Jane C. Kelsey, Branch Chief, presented the staff report. The applicant is requesting a variance of 9.2 feet to allow construction of a two car garage.

Donald S. Kagle, 6720 Bulkley Road, Lorton, Virginia, the applicant appeared before the Board and read the statement of justification contained in the staff report. The garage will be constructed on the existing driveway and will provide protection from vandalism for his automobiles. There is no opposition from his neighbors.

Robert Magor, 6712 Bulkley Road, Lorton, Virginia, president of the Newington Civic Association, spoke on behalf of the applicant and reiterated that all of the neighbors were in support of this application.

Larry Moody, 6716 Bulkley Road, Lorton, Virginia, supported the application and stated that it would improve the appearance of the neighborhood and add to the property value.

As there were no speakers in opposition, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant VC 86-V-119 as the applicant had presented testimony that all standards required for a variance had been met especially Par. 2(A).

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-V-119 by DONALD S. AND SHIRLEY R. KAGLE, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10.78 feet from side lot line, on property located at 6720 Bulkley Road, Tax Map Reference 99-2((2))18, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 20, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-1.
3. The area of the lot is 41,584 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 proprty was acquired in good faith.
2. That the subject property has exceptional narrowness at the time of the effective date of the Ordinance;
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

The motion carried by a vote of 5-1 with Chairman Smith voting nay; Mrs. Thonen absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 28, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 27, January 20, 1987, (Tape 1), Scheduled case of:

8:40 P.M. RIVER BEND GOLF AND COUNTRY CLUB, INC., SPA 82-D-101-2, application under Sect. 3-E03 of the Zoning Ordinance to amend SP-82-D-101 for Country Club to permit addition of restroom on the golf course, an equipment storage building, additional office space and replacement canopy and a building to house water storage tanks and to existing facilities located at 9901 Beach Mill Road on approx. 151.321 acres of land, zoned R-E, Dranesville District, Tax Map 8-1((1))22, 23 & 41, 8-3((1))4.

Chairman Smith moved to defer this case until March 17, 1987 at 9:45 A.M. as the notices were not in order and the Board so ordered.

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Page 28, January 20, 1987, (Tape 1), After Agenda Item:

As there was a few minutes before the next scheduled case, the Board took action on the after agenda item. Mrs. Day made a motion to approve the minutes of November 6, 11, and 18, 1986 and December 9, 1986. Mr. Hyland seconded the motion which passed by a vote of 6-0 with Mrs. Thonen absent from the meeting.

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Page 28, January 20, 1987, (Tape 1), Scheduled case of:

8:50 A.M. BAHA'I COMMUNITY OF NORTHERN VIRGINIA, SP 86-D-042, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities located at 11318 Leesburg Pike on approx. 5 acres of land, zoned R-1, Dranesvile District, Tax Map 11-2((1))28. (DEF. FROM 10/28/86 & 1/13/87

At the request of the applicant, Mr. DiGiulian made a motion to allow this application to be withdrawn. Mr. Ribble seconded the motion which passed by a vote of 6-0, with Mrs. Thonen absent from the meeting.

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Page 28, January 20, 1987, (Tape 1), Scheduled case of:

9:00 P.M. CENTREVILLE BAPTIST CHURCH, SP 86-S-054, application under Sect. 3-C03 of the Zoning Ordinance to allow church and related facilities, located 15112 Lee Highway, on approx. 15.1 acres of land, zoned R-C and WSPOD, Springfield District, Tax Map 64-2((3))10, 11, 12a, 12b, 12 & pt. 13.

Jane C. Kelsey, Branch Chief, told the Board that this applicant had requested a deferral to allow time to work with staff on some unresolved issues. This will be readvertised for public hearing on February 3, 1987 at 11:50 a.m. as the applicant has added some additional land area which they hope will make the application more presentable.

Mr. Hyland stated that he had been contacted regarding this application and it would be a difficult case.

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As there was no other business to come before the Board, the meeting was adjourned at 9:05 P.M.

Betsy S. Hurtt, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 2-10-87 APPROVED: 2-17-87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 27, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; and John Ribble. Mrs. Thonen was absent from the meeting.

Chairman Smith opened the meeting at 10:06 A.M. and Mrs. Day led the prayer.

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Page 29, January 27, 1987, (Tape 1), Scheduled case of:

9:00 A.M. KOREAN CENTRAL BAPTIST, SP 86-L-026, application under Sect. 3-303 of the Zoning Ordinance to permit church and related facilities, located at 6320 Franconia Road on approx. 3.8660 acres of land, zoned R-3, Lee District, Tax Map 81-3((1))32. (DEF. FROM 7/29/86, 10/21/86 & 12/2/86)

Chairman Smith explained that this case had been deferred three times and the applicant was now requesting that the application be withdrawn. Mr. Ribble made a motion to allow the withdrawal of SP 86-L-026. Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. DiGiulian and Hyland not present for the vote; Mrs. Thonen absent from the meeting.

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Page 29, January 27, 1987, (Tape 1), Scheduled case of:

9:20 A.M. JOHN H. STOKES III, VC 86-M-113, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 1 having width of 43 feet (100 ft. min. lot width req. by Sect. 3-206), located 4340 Old Columbia Pike, on approx. 2.4158 acres of land, zoned R-2, Mason District, Tax Map 71-2((1))59.

Lori Greenlief, Staff Coordinator, told the Board that the applicant had requested a deferral of this case in order to allow time for he and staff to come to a agreement on the wordage of development condition #5 regarding the open space easement. Mrs. Day made a motion to defer VC 86-M-113 to March 10, 1987 at 11:05 A.M. Mr. Ribble seconded the motion which passed by a vote of 3-1 with Chairman Smith, Mrs. Day and Mr. Ribble voting aye and Mr. Hammack voting nay. Messrs. DiGiulian and Hyland were not present for the vote; Mrs. Thonen was absent from the meeting.

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Page 29, January 27, 1987, (Tape 1), Scheduled case of:

9:40 A.M. FREYDOON AND ROSHAN ATHARI, VC 86-D-114, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots and an outlot, proposed lot 1A having width of 135.45 feet (150 ft. min. lot width req. by Sect. 3-106), located at 1051 Swinks Mill Road, on approx. 2.0029 acres of land, zoned R-1, Dranesville District, Tax Map 21-3((1))30A and 31C.

Lori Greenlief, Staff Coordinator, presented the staff report. On December 7, 1981 the Board of Supervisors denied Rezoning Application RZ 81-D-035 in the name of the previous property owner to rezone Lot 30A from the R-1 District to the R-2 District. On January 21, 1986, a variance request identical to this application, VC 85-D-088, was denied by the Board of Zoning Appeals. Mrs. Greenlief corrected page 2 of the staff reporting by noting that the date should be March 18, 1986 rather than March 18, 1987. Staff believes that the applicant has reasonable use of the land without a variance and does not meet the requirements for a variance.

Freydoon Athari, 8107 Birnam Wood Drive, McLean, Virginia, the applicant, explained that he had purchased the property in good faith in April 1986. He intends to build a house for his family on this property and leave the existing house intact.

As there were no speakers in support, Chairman Smith called for speakers in opposition.

Mark Friedlander, 2018 Clarendon Boulevard, Arlington, Virginia, represented contiguous property owners Mr. and Mrs. Joseph Knotts, Jr. who opposed this application. He stated that the applicant had not presented testimony showing that he could not make reasonable use of the land without a variance.

Bruce Berlage, 1035 Gelston Circle, McLean, Virginia, represented Scott's Run Civic Association. He stated that the homeowners bought in this area for the rural atmosphere and are now concerned that the open space will be affected by adding other houses. He asked that the Board deny VC 86-D-114.

Dr. Fernando E. Rodriquez, 7600 Old Dominion Drive, McLean, Virginia, agreed with the previous speakers and requested that the Board deny this application.

During rebuttal, Mr. Athari stated he would be a good neighor, that he was not requesting to rezone this property and believes the type of house he would build would improve the neighborhood.

As there were no further questions or speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to deny VC 86-D-114 as he did not believe this application met the requirements for a variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-114 by FREYDOON AND ROSHAN ATHARI, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots and an outlot, proposed lot 1A having width of 135.45 feet, on property located at 1051 Swinks Mill Road, Tax Map Reference 21-3((1))30A and 31C, 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 27, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-1.
3. The area of the lot is 2.0029 acres 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:

Page 31, January 27, 1987, (Tape 1), (Freydoon and Roshan Athari, VC 86-D-114, continued from Page 30)

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 carried by a vote of 6-0 with Mrs. Thonen absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 4, 1987.

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Page 31, January 27, 1987, (Tape 1), Scheduled case of:

10:00 A.M. NORRIS W. CRIST, VC 86-L-117, application under Sect. 18-401 of the Zoning Ordinance to allow an existing outlot to be a buildable corner lot having width of 58.53 feet on one of three street frontages (105 ft. min. lot width req. by Sect. 3-306) located at 5904 Valley View Drive on approx. 19,990 square feet of land, zoned R-3, Lee District, Tax Map 81-3((31)A.

Lori Greenlief, Staff Coordinator, told the Board that the applicant had telephoned staff this morning and requested a deferral of this application due to the bad weather conditions. The Board moved this case to the end of the agenda and asked staff to contact the applicant to ascertain if there was any way possible he could attend the public hearing.

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Page 31, January 27, 1987, (Tape 1), Scheduled case of:

10:10 A.M. J. FRANCES JONES, SP 86-D-059, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow partial constructed 16 foot high garage to be completed and remain 6.0 feet from side and 11.6 feet from rear lot lines (10 ft. min. side yard and 16 ft. min. rear yard req. by Sects. 3-407 and 10-104) located at 6815 Woodland Drive, on approx. 17,937 square feet of land, zoned R-4, Dranesville District, Tax Map 40-4((1))16. (TO BE DEF.)

Jane C. Kelsey, Branch Chief, explained this application had been filed and accepted as a special permit when it should be a variance. She asked that this case be deferred to February 10, 1987 at 11:50 A.M. in order that this application could be converted to a variance application, and the Board so moved.

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Page 31, January 27, 1987, (Tapes 1 and 2), Scheduled case of:

10:20 A.M. CHRIST PRESBYTERIAN CHURCH, SP 86-C-055, application under Sect. 3-103 of the Zoning Ordinance to allow building and parking lot additions to existing church and related facilities, with waiver of the dustless surface requirement, located at 12410 Lee Jackson Memorial Highway, on approximately 6.57 acres of land, zoned R-1(HC, WS), Centreville District, Tax Map 45-4((1))9.

Kevin Guinaw, Staff Coordinator, presented the staff report which recommended approval of the building addition and ;denial of the dustless surface requirement. Staff recommends denial of a waiver of the dustless surface requirement because this is a large parking lot with heavy traffic on Sundays and staff believes gravel parking areas for large uses create more of an impact and the gravel lot is more difficult to maintain. Staff has major concerns with: 1) transitional screening; 2) provision of a trail; 3) left-turn lane lane requirement; and, 4) a service drive requirement. The applicant had originally agreed to the provision of the service drive but now no longer wishes to do so. It is staff's understanding that an agreement has been reached between the applicant and Manor Care Inc., the adjacent property owner, in which Manor Care Inc. will provide a left-turn lane. If this is the understanding, staff agrees.

A lengthy discussion took place between Board members and staff regarding the transportation issues, in particular staff's request that the applicant dedicate land for a service drive.

William Donnelly, attorney with Hazel, Beckhorn and Hanes, 4084 University Drive, Fairfax, Virginia, represented the applicant. He noted that in the Cupp Case versus the Board of Supervisors the Supreme Court stated that transportation improvements could not be required of an applicant if the proposed use would not have an adverse traffic impact on the adjacent street. The applicant does not believe that the County has the power to require the dedication of land for the service drive nor does the applicant believe they should provide a trail.

Following a lengthy discussion between the Board members and the applicant, the Board asked staff to request the presence of J. Patrick Taves, Assistant County Attorney, to discuss the legalities of this case with them. The Board passed over this case to allow time to communicate with Mr. Taves.

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Page 32, January 27, 1987, (Tape 2), Scheduled case of:

10:40 A.M. CHANTILLY NATIONAL GOLF AND COUNTRY CLUB, SPA 72-S-117-1, application under Sects. 3-C03 and 8-915 of the Zoning Ordinance to amend S-117-72 for a country club to permit renovation and additions to the club house and waiver of the dustless surface requirement for the maintenance building parking area, located at 14901 Braddock Road, on approx. 214.34768 acres of land, zoned R-C and WSPOD, Springfield District, Tax Map 43-4((1))4.

Lori Greenlief, Staff Coordinator, presented the staff report. Staff recommended approval of this application subject to the development conditions contained in the staff report.

Daniel B. Krisky, 4160 Chain Bridge Road, Fairfax, Virginia, attorney for the applicant stated that this use had been in existence since 1959. The surrounding homeowners have no objections to this application. He requested condition #5 of the recommended development conditions be changed to reflect "40" employees rather than 25 since many times they have more than 25 employees, although 25 is the average number.

There were no speakers to address this application; therefore, Chairman Smith closed the public hearing.

Mrs. Day moved to grant SPA 72-S-117-1 subject to the development conditions contained in the staff report subject to the following revisions. Change condition #5 to reflect "40" employees. Revise condition #11 to read "Barrier requirement shall be waived. The applicant may construct a barrier at such time as the applicant deems it necessary."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 72-S-117-1 by CHANTILLY NATIONAL GOLF AND COUNTRY CLUB, under Sections 3-C03 and 8-915 of the Zoning Ordinance to amend S-117-72 for a country club to permit renovation and additions to the club house and waiver of the dustless surface requirement for the maintenance building parking area, on property located at 14901 Braddock Road, Tax Map Reference 43-4((1))4, 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 27, 1987; 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(WS).
3. The area of the lot is 214.34768 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 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 maximum number of employees shall be forty (40).

6. The maximum number of memberships shall be 600.

7. The maximum number of parking spaces shall be 230. This excludes the gravel area adjacent to the maintenance building. The size of this area shall not be extended beyond that which is shown on the plat submitted with this application. All parking shall be on paved or gravelled surfaces. Handicapped parking shall be required in accordance with the Zoning Ordinance and the Public Facilities Manual.

8. A modification of the dustless surface requirement shall be granted for the parking area adjacent to the maintenance building delineated on the plat submitted with this application. These areas shall be constructed and maintained in accordance with the standard practices approved by the Director, DEM, which shall include but not be limited to the following:

   A. The parking area shall be constructed with clean stone, having as little fines material as possible. The stone should be spread evenly and to a depth adequate enough to prevent wear-through or bare subsoil exposure.

   B. Travel speeds in the parking areas shall be limited to 10 mph or less.

   C. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.

   D. During dry periods, application of water or calcium chloride shall be made in order to control dust.

   E. Runoff shall be channeled away from and around the parking areas.

   F. The applicant shall perform periodic inspections to monitor dust conditions, drainage functions, compaction and migration of stone surface.

9. The modification of the dustless surface requirement is approved for a period of five (5) years.

10. The hours of operation shall be from 7:00 a.m. to 11:00 p.m.

11. Transitional Screening 1 shall be provided along the lot line between the clubhouse parking lot and Section 11 of the Country Club Manor subdivision. Barrier requirement shall be waived. The applicant may construct the barrier at such time as the applicant deems it necessary.

12. The northern-most entrance gate shall be locked at all times unless adequate sight distance is obtained in accordance with VDOT standards.

13. The Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations so that proper neutralization can be ensured.

15. Stormwater management (BMP'S) measures shall be provided in the area of the pool parking lot as determined by the Director, DEM.

16. If it is determined by an inspector from the Department of Environmental Management that there is a violation of the floodplain regulations in the area near the maintenance building, the applicant shall correct that violation and the area shall be restored subject to DEM 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. DiGiulian seconded the motion.

The motion carried by a vote of 6-0 with Mrs. Thonen absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 4, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 34, January 27, 1987, (Tape 2) SP 86-C-055:

As Mr. Taves was now present, the Board proceeded with application SP 86-C-055, Christ Presbyterian Church. The Board members and Mr. Taves discussed the legality of the County requiring land dedication in general as it pertained to the Cupp case.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant SP 86-C-055 based upon the testimony presented by the applicant's attorney and subject to the development conditions contained in the staff report with the following revisions:

Delete development conditions #11 through #13 and renumber. Conditions 5, 14 and 15 as follows:

5. Eighty-nine (89) parking spaces shall be provided. A dustless surface shall be waived for a period of two (2) years.

14. An east bound left-turn lane shall be constructed by the applicant in the Route 50 median at the median break in front of the church property, unless construction has been provided in accordance with PCA 84-P-114 and SEA 84-P-129-1 within two (2) years of the completion and beginning of operation of the new church sanctuary.

15. This approval is for Phase I only.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-055 by CHRIST PRESBYTERIAN CHURCH, under Section 3-103 of the Zoning Ordinance to allow building and parking lot additions to existing church and related facilities, with waiver of the dustless surface requirement, on property located at 12410 Lee Jackson Memorial Highway, Tax Map Reference 45-4((1))9, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 27, 1987; 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(HC, WS).
3. The area of the lot is 6.57 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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. Eighty-nine (89) parking spaces shall be provided. A dustless surface requirement shall be waived for a period of two (2) years.

6. The seating capacity of the main worship area shall not exceed 350.

7. Transitional Screening 1 shall be provided along the rear and western side property boundaries. Existing vegetation shall be used where possible and supplemented where necessary, as determined by the County Arborist, to provide the required screening. Along the front property boundary, a twenty-five (25) foot transitional screening yard shall be provided outside of the area to be dedicated for a service drive along Rt. 50. Plantings within this screening yard shall be provided in conformance with a landscaping plan submitted to and approved by the County Arborist in coordination with the Planning Division of the Office of Comprehensive Planning.

8. The barrier requirement shall be waived.

9. A tree preservation plan shall be submitted to and approved by the County Arborist prior to the undertaking of any site clearance or construction activity, or the approval of a site plan.

10. Interior parking lot landscaping shall be provided in accordance with Article 13.

11. Signs shall be permitted in accordance with Article 12, Signs.

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

13. Best Management Practices (BMP) for the control of stormwater runoff shall be provided as determined by the Director of the Department of Environmental Management.

14. An east bound left-turn lane shall be constructed by the applicant in the Route 50 median at the median break in front of the church property, unless construction has been provided in accordance with PCA 84-P-114 and SEA 84-P-129-1 within two (2) years of the completion and beginning of operation of the new church sanctuary.

15. This approval is for Phase I only.

Page 36, January 27, 1987, (Tape 1), (SP 86-C-055, Christ Presbyterian Church, continued from Page 35)

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, 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 by a vote of 6-0 with Mrs. Thonen absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 4, 1987. This date shall be deemed to be the final approval date of this special permit.

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Lori Greenlief, Staff Coordinator, told the Board that she had been unable to contact the applicants of VC 86-L-117 scheduled for 10:00 A.M. Therefore, the Board unanimously deferred the case to February 3, 1987 at 12:10 P.M.

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Page 36, January 27, 1987, (Tape 2) After Agenda Item:

Mr. Hyland moved to approve the minutes of the December 2, 1986 meeting of the Board of Zoning Appeals. Mr. Ribble seconded the motion which passed by a vote of 6-0 with Mrs. Thonen absent from the meeting.

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Following a discussion between the Board and staff, Mr. Hyland asked that staff prepare a memorandum to the County Attorney's office and ask that the Cupp case be reviewed. He asked that specific attention be paid to pages 594 and 595 of the decision and address how this would apply to a special permit in general.

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As there was no other business to come before the Board, the meeting was adjourned at 11:25 P.M.

Betsy S. Hurtt, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 3/10/87 APPROVED: 3/17/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 3, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; Mary Thonen; and John Ribble.

Chairman Smith opened the meeting at 9:32 A.M. and Mrs. Day led the prayer.

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Page 37, February 3, 1987, (Tape 1), Scheduled case of:

9:00 A.M. WOODSIDE CITIZENS ASSOCIATION APPEAL - A 86-D-001, appl. under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's approval of Temporary Special Permit (TSP-232-86) for sale of Christmas trees on subject property located at 8970 Brook Road on approx. 3.0 acres, zoned R-1, Dranesville District, Tax Map 19-4((4))A1.

Jane W. Gwinn, Zoning Administrator, appeared before the Board and stated that her comments were set forth in her written statement to the Board. She added that she would be happy to answer any questions.

The Board discussed whether this application was now mute since the Christmas tree sales were over and a new permit would be required for tree sales next Christmas. The Board raised a question as to whether or not the appeal process was effective for temporary use permits since the use is established and over before a hearing can be held on an appeal before this Board.

Mary Reistrup, President, Woodside Citizens Association, 8614 Brook Road, McLean, Virginia, the appellant, appeared before the Board and stated that a letter is in the file stating the position of the Woodside Citizens Association; therefore, she wanted to read a resolution dated January 29, 1987 setting forth the position of the McLean Planning and Zoning Committee of the McLean Citizens Association who supported the Woodside Citizens Association. She read the resolution into the record. The resolution questioned whether or not this use was compatible with the adopted Comprehensive Plan, the adequacy of traffic controls and safety at the intersection. She expressed concern for the lack of notification to the citizens in the area prior to the approval of temporary special permits and the need for a timely appeal hearing.

Ernest J. Berger, 1111 LaurelWood Road, McLean, Virginia, appeared before the Board and stated that the granting of the temporary special permit use was not in harmony with the Comprehensive Plan or the neighborhood and pointed out that the tree stand was located at an extremely dangerous intersection. He noted that there were 31 letters submitted in support of the Woodside Citizens Association. Mr. Berger expressed concern that the organization involved with the tree stand was not a charitable organization but primarily a commercial venture.

The Board discussed this issue with Mr. Berger and the Zoning Administrator and discussed the possibility of amending the Zoning Ordinance to require an affidavit from the applicant for these non-profit temporary special permit uses which would affirm that the operator is in fact a non-profit organization.

Doris Morningstar, 8627 Dixie Place, McLean, Virginia and Mr. Alfred Bochenek, 8726 Brook Road, McLean, Virginia, appeared before the Board in support of the Woodside Citizens Association. They expressed concern for traffic and safety.

Vivian Sullivan, 1344 Woodside Drive, McLean, Virginia, appeared before the Board and expressed concern for the integrity and character of the neighborhood.

Randy Minchew, 4084 University Drive, attorney representing the owners of the property, the Linpro Company, appeared before the Board and stated that the charitable organization involved with the tree stand was the Big Brothers Association who had totally benefited from the project. He agreed that an affidavit would be a good requirement for these temporary Christmas tree sales uses which were supposed to be approved in a residential area only if it was sponsored by a non-profit organization. He stated that he had a letter of understanding and agreement from the Big Brothers organization which stated that the sales from these trees would be donated in total to Big Brothers without any profit.

Lilla Richards, Vice-President, Woodside Citizens Association, 8703 Brook Road, McLean, Virginia, appeared before the Board and shared the same concerns as the previous citizens. She also suggested that the Zoning Ordinance be amended to allow for the homeowners association closest to the affected property to be notified.

Jane Gwinn noted that there was a need to review the Zoning Ordinance with regard to temporary special permits. She stated that originally the operators for temporary uses such as this did seem to be non-profit organizations; however, there has been a trend lately for someone else to operate the stands. This appeal application has pointed out the need to seriously look at the Zoning Ordinance provisions and prompt some changes. It is possible that it is abused and needs to be tightened up. The Zoning Administrator has no authority to request that the operator's books be reviewed to make sure it is a non-profit organization. She stated that her staff has had some conversations with Big Brothers who told staff that they had made $1,000, but staff did not know the total sales.

Mr. Hyland stated that he would like a rule that says that no one else can get any money out of such sales except a non-profit organization, that this use is an intrusion on the residential community and the only reason it is allowed in a residential district is because it is for a good purpose. It appears that these provisions have been taken advantage of and there is a window in the Ordinance that should be removed. He stated that an affidavit before and after the sale of the trees would be a good idea.

Mr. Berger stated that through his conversations with commercial Christmas sales people in the area he found that $40,000 to $50,000 could be made from the one month of Christmas tree sales.

Ms. Gwinn stated that Supervisor Falck had made a motion to direct staff to look at the Zoning Ordinance and at the administrative procedures with regard to temporary special permits. Ms. Gwinn continued by stating that the appeal provisions of the Ordinance were inadequate with regard to temporary special permits. She added that the Police Department advised staff that there was no record of traffic problems at the intersection.

Following a question from Mr. Hyland, Gilbert R. Knowlton, Deputy Zoning Administrator, Zoning Administration Division, stated that before a temporary special permit was granted, research was done to check for known traffic problems and there were none for the subject location. He added that there was not as much time to study a request for a temporary special permit as there was for a regular special permit that is heard by the BZA.

Since there were no other comments or questions, Chairman Smith closed the public hearing.

Mr. Hammack moved to uphold the citizens' appeal of TSP 232-86, Appeal Application A 86-D-010 because it was not in conformance with the Comprehensive Plan. He noted his reasons were the location of the large tent and a commercial operation at a dangerous intersection.

Mrs. Day seconded the motion which failed by a vote of 3-4 with Mrs. Day, Messrs. Hammack and Hyland voting aye; Messrs. DiGiulian, Ribble, Smith, Mrs. Thonen voting nay.

Mr. Smith stated he believed that that staff had followed the proper procedure for granting a temporary special permit.

Mrs. Thonen then moved to uphold the Zoning Administrator's decision in Appeal A 86-D-010, Woodside Citizens Association.

Mr. DiGiulian seconded the motion which passed by a vote of 4-3 with Messrs. DiGiulian, Ribble, Smith, Mrs. Thonen voting aye; Mrs. Day, Messrs. Hammack and Hyland voting nay.

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Page 38, February 3, 1987, (Tape 1), Scheduled case of:

9:30 A.M. LUCK STONE CORPORATION, SPA 81-S-064-1, appl. under Sects. 8-101 and 7-305 of the Zoning Ordinance to amend S-81-S-064 for stone quarrying, crushing, processing sales, accessory uses, to permit renewal for a new term with replacement and relocation of site access and scale house, located at 15950 Lee Highway, on 200.2692 acres, zoned R-C, I-6, N-R and WS, Springfield District, Tax Map 64-1((1))1, 4,13,14,15,16 & 17, 64-1((4))7A.

Kevin Guinaw, Staff Coordinator, presented the staff report and noted that there is an addendum to the staff report dated February 2, 1987 which includes revised development conditions which recommend approval. He stated that many of the conditions were the same as those approved with the previous special permit.

Royce Spence, 605 Park Avenue, Falls Church, representative of the applicant, appeared before the Board and thanked staff, particularly Mr. Guinaw, for the cooperation in working with the applicant to work out some of the problems involving the conditions. He stated that he agreed with the development conditions with the exception of Conditions 4, 8, 17, 20, 21 and with a clarification for Condition 39.

With regard to Condition 4, Mr. Spence stated that the proposal is not a permitted use in an R District and under Article 17 the requirement for site plan is set forth in Article 8 and Article 8 does not require site plan approval for this use.and is not subject to site plan review. Mr. Guinaw disagreed stating that site plan review is needed to ensure the conditions of the special permit are met.

With regard to Condition 8, Mr. Spence stated that there were no air quality standards to be judged by and added that there had been no complaints. He then proposed a one year review to see if monitoring was necessary.

With regard to Condition 17, Mr. Spence requested clarification on where to dedicate the 50 foot strip. Mr. Guinaw stated this condition was taken from a previous special permit approval and he did not know its origin. He indicated that dedication was addressed in another condition, thus this is an overlap. Mr. Spence stated he had no objection to leaving it in.

With regard to Condition 20, Mr. Spence advised the Board that the Quarry had been operating with blasts not exceeding 15,000 pounds with a single millisecond delay charge of 1,500 pounds since 1974. This had been approved by letter signed by Jack Maise, Senior Zoning Inspector.

With regard to Condition 21, Mr. Spence pointed out that there was not room to provide a trail to the south as it tuns into the quarry rim.

Finally, concerning Condition 39, Mr. Spence requested clarification of the type of metals referred to.

Jim Pammel, Plan Assessment Branch, Office of Comprehensive Planning, advised the Board that it would be acceptable to monitor the materials (heavy metals) monthly for the first month and test quarterly thereafter provided there were no problems.

Following a question from Mr. Hammack, Edgar Chase, Director, Air Pollution Control, Fairfax County, appeared before the Board and stated that Fairfax County was required to meet the standards of the Code of Federal Regulations and take such action to control sources of pollution to ensure that the standard is met, thus monitoring of potential air pollution sources is necessary.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SPA 81-S-064-1 subject to the revised development conditions with changes to Conditions 4, 17, 20, 21 and 39.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 81-S-064-1 by LUCK STONE CORPORATION, under Sections 8-101 and 7-305 of the Zoning Ordinance to amend SPA 81-S-064-1 for stone quarrying, crushing, processing sales, accessory uses, to permit renewal for a new term with replacement and relocation of site access and scale house, on property located at 15950 Lee Highway, Tax Map Reference 64-1((1))1, 4, 13, 14, 15, 16 & 17, 64-1((4))7A, 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 3, 1987; 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, I-6, N-R, WS.
3. The area of the lot is 200.2692 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 Section 8-105 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

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apply to this Board for such 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 permit is granted for a period of five (5) years with annual review by the Zoning Administrator or designee in accordance with Sect. 8-104 of the Zoning Ordinance.

5. Landscaping and screening shall be required in accordance with a plan to be submitted and approved by the County Arborist to insure the use is adequately screened from the adjacent residentially zoned, planned, and used properties and Lee Highway. The proposed new access road shall be realigned to provide Transitional Screening between the proposed access road and the adjacent property.

6. Fifty (50) percent of the cost of seismographic and noise monitoring equipment as required by Zoning Enforcement and the total cost of training shall be provided by the applicant.

7. Air quality monitoring equipment shall be provided by the applicant and installed as necessary and as required by the County Health Department to demonstrate the attainment and maintenance of ambient air quality standards.

8. The total cost of enforcement services shall be absorbed by the applicant.

9. Dedication to eighty (80) feet from centerline on both sides of Lee Highway for future road improvements shall be provided along the site frontage in the area extending from the old site entrance to the western boundary. In the area extending from the old site entrance to the eastern boundary, dedication shall be provided for 160 feet total right-of-way on Lee Highway. Temporary grading and construction easements shall be provided to facilitate future construction.

10. The applicant shall not exceed the limits of excavation as established and reflected on the development plan submitted with this application.

11. Berms shall be twenty (20) feet in height with the exception of the berm constructed to the south of Lee Highway which shall be allowed to remain at its present height in order to allow the adjacent property to retain its view of the Bull Run Mountains. The berms shall be landscaped with plantings in accordance with the landscape plan submitted and approved by the County Arborist.

12. There will be no excavation access to and from the subject property other than by the tunnel under Routes 29-211.

13. The buffers shall be provided as shown on the development plan and shall be left in their natural state except around the pond and berm area which shall be planted in accordance with No. 12 above.

14. The existing restoration plan shall be maintained current and shall be implemented according to the progress of the operations plan.

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

16. The applicant shall dedicate a 50 feet strip from its property line along State Route 621, north of Routes 29-211. Temporary grading and construction easements shall be provided to facilitate future construction.

17. There shall be no processing or storage of processed rock north of Routes 29-211.

18. Blasting vibrations shall be limited to a maximum resultant peak particle velocity of 1.5 inches per second in the earth at any occupied structure not on quarry property. Within these limits the operator shall continue to diligently oversee all loading and blasting so as to minimize to the extent possible any justifiable complaints of residents.

19. Millisecond delay caps or their equivalent shall be used in all blasting operations, with no blast to exceed 10,000 pounds. No single millisecond delay charge shall be loaded in excess of 1,000 pounds. That blasts not exceeding 15,000 pounds with a single millisecond delay charge of 1,500 pounds may be permitted in specific areas of the site with the approval in writing of the Zoning Enforcement Branch in accordance with County and State guidelines.

20. Right and left turn lanes shall be provided for access from Lee Highway to the site at the new entrance. The applicant shall provide a travel lane eastbound from the new site entrance on Lee Highway along the site frontage to the point where two eastbound travel lanes exist.

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

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

23. The peak overpressure (noise) from any blast shall be limited to 0.0092 pounds per square inch (130 decibels) at any occupied structure not on quarry property.

24. The Zoning Enforcement Branch of the Office of Comprehensive Planning shall be notified at least four (4) hours prior to each blast to allow unscheduled monitoring.

25. Airborne noises produced by the quarry from sources other than blasting shall not exceed the following at any occupied structure not on quarry property: 10 decibels above the background in residential areas and 16 decibels in commercial or industrial areas.

26. Roads and other areas subject to traffic within the confines of the quarry shall be watered as often as necessary to control dust.

27. All present dust control equipment including the Johnson Marsh Dust Control System, shall continue to be maintained and operated.

28. No drilling or crushing shall be performed other than during the hours of 7:00 A.M. to 6:00 P.M., Monday through Friday.

29. Blasting shall be limited to a maximum of five (5) blasts per week with a maximum of two (2) blasts per day, between the hours of 10:00 A.M. and 4:00 P.M., Monday through Friday only.

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

31. There shall be no work performed other than sales of materials or maintenance activities on facilities and equipment on Saturday between the hours of 7:00 A.M. and 6:00 P.M. There shall be no work on Sundays.

32. In the event any feasible equipment or means of controlling dust during blasting activities becomes available to the industry, the quarry operators shall install and use this equipment as soon as available to them.

33. Discipline of personnel and supervision during blasting and loading shall be diligently exercised to prevent flying rock.

34. Traffic control practices shall be detailed and rigidly enforced to ensure that public roads in the immediate vicinity of the quarry are closed to all traffic during blasting activities.

35. The Zoning Administrator or designated agent, shall periodically inspect the premises to determine that the quarry is being operated in compliance with all conditions and restrictions.

36. Fencing shall be provided around the site to secure the site from unauthorized entry. Existing fencing shall be used to satisfy the barrier requirement and completed to extend around the entire perimeter of the site. This barrier shall be a minimum of six (6) feet in height.

37. Water quality monitoring reports shall be provided by the applicant quarterly for one year to the Office of Comprehensive Planning (OCP). Parameters to monitored shall be the following: water flow, sediment transport, dissolved oxygen (DO), pH, temperature, nutrients, chemical oxygen demand (COD), metals and alkalinity. After a full year of data has been provided monitoring reports shall continue to be provided quarterly, except the presence of metals which do not require monitoring pursuant to the standards as determined by the Office of Comprehensive Planning shall be deleted from the quarterly monitoring. Monitoring reports shall be provided quarterly if no evidence of water quality problems exists as determined by OCP and the Environmental Quality Advisory Council. If any evidence of a toxic pollution problem exists additional testing shall be required in accordance with EPA guidelines.

38. Best Management Practices (BMP) shall be provided as determined by the Director of the Department of Environmental Management.

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

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

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-1 with Mr. Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 11, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 42, February 3, 1987, (Tape 2), Scheduled case of:

10:00 A.M. VULCAN ANNUAL REVIEW

Lori Greenlief, Staff Coordinator, presented the staff report which stated that Vulcan is complying with all conditions of the special permit approval.

Mike Giguere, Boothe, Prichard and Dudley, 3950 Chain Bridge Road, Fairfax, Virginia, representative of the applicant, appeared before the Board to answer questions and stated that the applicant agrees with all staff's recommended conditions.

Since there were no questions or comments, Mrs. Thonen moved to accept the annual report for Vulcan Quarry.

Mrs. Day and Mr. DiGiulian seconded the motion which passed unanimously with Mr. Hammack not present for the vote.

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Page 42, February 3, 1987, (Tape 2), Scheduled case of:

10:20 A.M. RICHARD T. CHRISTIE, SP 86-M-058, appl. under Sect. 3-203 of the Zoning Ordinance to allow home professional (chiropratic) office, located at 3404 Gallows Road on approximately .9613 acres, zoned R-2, Mason District, Tax Map 59-2((1))30.

Kevin Guinaw, Staff Coordinator, advised the Board that the applicant had requested a deferral to allow time to submit a less intense plan.

Mrs. Thonen moved to defer the above referenced application to March 10, 1987 at 11:30 A.M.

Mr. Hyland seconded the motion which passed unanimously.

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10:40 A.M. MacDONNELL MOORE III, SP 86-D-061, appl. under Sect. 3-103 of the Zoning Ordinance to allow home professional (manufacturers representative) office, located at 8205 Springhill Lane, on approx. 28,246 sq. ft., zoned R-1, Dranesville District, Tax Map 20-4((17))3.

Kevin Guinaw, Staff Coordinator, presented the staff report, which recommended denial of the request for the following reasons: The use would not be in harmony with the low density residential character of this area, and thus is not in harmony with the Comprehensive Plan. Therefore the application does not meet Standards 1 and 2 for a special permit.

Mrs. Day expressed her concern about a commercial enterprise on a pipestem driveway in a residential area.

MacDonnell Moore, 8205 Springhill Lane, McLean, Virginia, the applicant, appeared before the Board and explained that he had reduced the number of employees from four to three. He had also made arrangements to pick up one of the employees so that he would not have to drive in and out of the subdivision. However, he stated that his wife is also working for this business. Mrs. Kelsey, Chief, BZASB, stated that all employees, whether voluntary or paid are employees and must be counted, thus he still has four employees.

Chairman Smith stated that there are several letters in the file in opposition to this use. This letters will be made part of the record.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian stated that the application did not meet the standards for a special permit and therefore moved to deny the application.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-D-061 by MACDONNELL MOORE, III, under Section 3-103 of the Zoning Ordinance to allow home professional (manufacturers representative) office, on property located at 8205 Springhill Lane, Tax Map Reference 20-4((17))3, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 3, 1987; 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 28,246 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 8-903 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 7-0.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 11, 1987.

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11:00 A.M. THE RESTON MONTESSORI SCHOOL, INC., SP 86-C-065, appl. under Sect. 6-303 of the Zoning Ordinance to allow a nursery school, located at 1553 Cameron Crescent Drive, on approx. 13.1123 acres, zoned PRC, Centreville District, Tax Map 17-2((16))1A.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the application subject to the development conditions.

Eileen Dowds Minarik, 11656 Mediterranean Court, Reston, Virginia, representative for the applicant, appeared before the Board and stated that she agreed with the development conditions.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day indicated that the application met all the requirements for a special permit and moved to grant the application subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-065 by THE RESTON MONTESSORI SCHOOL, INC., under Section 6-303 of the Zoning Ordinance to allow a nursery school, on property located at 1553 Cameron Crescent Drive, Tax Map Reference 17-2((16))1A, 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 3, 1987; 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 13.1123 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

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

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

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. There shall be 13 parking spaces provided for the exclusive use of the school during normal operating hours.

6. The maximum daily enrollment shall be 70 students.

7. The maximum number of employees at the site during any one school day shall not exceed six.

8. The maximum number of children using the outdoor recreation area at any one time shall not exceed 30.

9. The hours of operation shall be 8:45 A.M.to 3:00 P.M., Monday through Friday.

10. Existing vegetation shall be used to satisfy the transitional screening requirement for this use providing that dead or dying trees and shrubs are replaced. Landscaping shall be provided around the outdoor play area as proposed by the applicant.

11. The barrier requirement shall be waived.

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

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

Mr. Ribble seconded the motion which carried by a vote of 6-0 with Mrs. Thonen not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 11, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 45, February 3, 1987, (Tape 2), Scheduled case of:

11:20 A.M. DAVID MARTIN, SP 86-A-060, appl. under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow stairs from deck to remain 4.3 feet from rear lot line (8 ft. min. rear yard req. by Sects. 3-807 and 2-412), located at 10490 Malone Court, on approx. 1,500 sq. ft., zoned R-8, Annandale District, Tax Map 68-2((5))2080.

Jane Kelsey, Branch Chief, presented the staff report and advised the Board that staff could not determine, based on evidence staff had, that the error was committed in good faith. However, it appears that the deck does not cause an adverse impact upon the adjacent properties and can otherwise meet the provisions of the Zoning Ordinance for this modification. Staff cannot recommend approval unless the applicant can show at this hearing that the error was done in good faith.

David Martin, 10490 Malone Court, Fairfax, Virginia, the applicant, appeared before the Board and advised them that he had the approval of the Homeowner's Association's Architectural Review Committee. He explained that there had been a miscommunication between he and his wife as to who had obtained the building permit.

Debbie Martin, 10490 Malone Court, Fairfax, Virginia, explained to the Board that she had intended to obtain the permit but had to leave town due to an emergency situation and was unable to obtain the permit.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hyland stated that his decision to make a motion to grant the special permit could have gone either way and advised the applicants to be careful in the future. Therefore, he moved to grant the special permit subject to the conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hyland made the following motion:

WHEREAS, Application No. SP 86-A-060 by DAVID MARTIN 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 stairs from deck to remain 4.3 feet from rear lot line, on property located at 10490 Malone Court, tax map reference, 68-2((5))2080 has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on February 3, 1987; 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.

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

1. This approval is granted for the location of the deck as shown on the plat submitted with this application and is not transferable to other land or structures on the same land.

2. A Building Permit reflecting the location of the shed shall be submitted and approved and inspections made and approved.

Mr. Ribble seconded the motion.

The motion passed by a vote of 5-1 with Mr. Smith voting nay; Mrs. Thonen not present for the vote.

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Page 46, February 3, 1987, (Tape 3), Scheduled case of:

11:40 A.M. RICHARD B. PETERS, VC 86-D-085, appl. under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition and screened porch to dwelling to 12 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-E07) located at 9209 Weant Drive on approx. 47,739 sq. ft., zoned R-E, Dranesville District, Tax Map 8-4((3))12, 34.

Jane Kelsey, Branch Chief, presented the staff report.

Richard B. Peters, 9209 Weant Drive, Great Falls, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification, submitted with the application. He added that he had the support of his neighbors and the letters from the neighbors were in the file.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Ribble noted the topographical problems of the site and added that the application met the standards for a variance specifically Paragraphs 2E and 2F. Therefore, Mr. Ribble moved to grant the variance, subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-085 by RICHARD B. PETERS, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition and screened porch to dwelling to 12 ft. from side lot line, on property located at 9209 Weant Drive, Tax Map Reference 8-4((3))12, 34, 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 3, 1987; 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 47,739 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:
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of 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 brick wall located in the side yard must be detached from the proposed dwelling by at least one (1) foot.

Mr. Hyland seconded the motion which carried by a vote of 5-1 with Mr. Smith voting nay; Mrs. Thonen not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 11, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 48, February 3, 1987, (Tape 3), Scheduled case of:

11:50 A.M. CENTREVILLE BAPTIST CHURCH, SP 86-S-054, appl. under Sect. 3-C03 of the Zoning Ordinance to allow church and related facilities, located 15112 Lee Highway, on approx. 17.2 acres, zoned R-C and WSPOD, Springfield District, Tax Map 64-2((3))10,11,12a,12b,12 & 13.

Mr. Hyland inquired about other churches in the low density residential districts and how the size of those churches compares to this church. He stated that the BZA has consistently approved churches with densities higher than that which may be recommended in the Comprehensive Plan.

Ms. Greenlief, Staff Coordinator, stated that there hasn't been that many approvals in the R-C districts. The majority of the approvals have been in the R-1 District. Staff hasn't done a comprehensive study of churches, but not only was the size of the site, size of the building, and parking considered but also the site design. Even if this were a proposal for a 200 seat church, if it was up against the lot line that would be an adverse impact upon the residential property adjacent to it. In this case staff looked at the Comprehensive Plan language and felt strongly about that language and the definition of the R-C district and why it was established in the Zoning Ordinance. Staff also considered environmental issues since this is in the Occoquan Basin. The environmental issues included the large amount of impervious surface which is much greater than if it were developed in harmony with the Comprehensive Plan. The applicant proposes double the amount of parking that is required by the Zoning Ordinance.

In response to the Board's questions about how large would staff think would still be in harmony with the Plan for a church in that location, Ms. Greenlief stated that the size of the church that would be acceptable would depend in addition to the other issues discussed previously, the site design. Staff looked at not only the size of the building but the fact that this church has basically two sanctuaries. In the discussions with the applicant staff discussed a church the size of Phase 1 which would allow for better buffering, more screening and half the asphalt and half the building size. However, it would depend on the design also and staff can only review that which is submitted by the applicant.

Staff looks at the common sense basis behind the Comprehensive Plan recommendation. The area west of Cub Run is planned for non-urban uses and non-urban is rural and staff's concern is not with having a church on this site, since a church use is certainly appropriate since there are many churches in rural locations, but a church of the proposed size and design and magnitude of parking is not rural in character. It appears to be a more median density, suburban type church. Ms. Greenlief stated in response to the Board's questions that there is a R-1 Grandfathered subdivision to the north but it is zoned R-C and even though it is a developed in an R-1 Cluster it is still R-C. She stated that the Board should look beyond the grandfathered development into the whole character of the area and the character of the area should not be defined by a grandfathered subdivision.

Lori Greenlief presented the staff report and advised the Board that staff's major concerns were the size of the proposal as well as its incompatibility with the Zoning Ordinance and Comprehensive Plan. She added that the proposal was too intense and only met two of the eight standards for a special permit, therefore staff was recommending denial of SP 86-S-054. A revised plat has been submitted which shows the remaining portion of lot 13 included in the application.

Bruce Douglas, Plan Assessment Branch, Office of Comprehensive Planning, appeared before the Board and stated that to the north of the proposal was medium density use and low density should be maintained to preserve the rural character of the area.

Edward Moore, representative of the applicant, appeared before the Board and noted that 68% of the site was to be maintained as open area. He added that the church would improve the visual impact of the power lines and concluded that the applicant agreed to all development conditions that staff has submitted even though staff is not recommending approval with those development conditions.

John Casteen, 6510 White Post Road, Centreville, Virginia, Gate Post Estates Homeowners Association, appeared before the Board in support of the proposal. He stated that commercial use would be detrimental to the area but that a church would be an ideal use of the property.

Elaine McConnell, 8533, Tuttle Road, Springfield, Virginia, Supervisor, Springfield District, appeared before the Board in support of the proposal. She noted that a church was needed in the area and that the West Fairfax Land Use Committee and the neighbors supported the use. She added that access was good and that the intensity would be a few hours a week not on a daily basis. She stated that she hoped the Board would approve the church with its parking because the County may want to use it as park and ride facility. She wondered what the BZA did when the Washington Cathedral was constructed. It is a magnificent structure which might not have been built if there had been this kind of negative feelings.

Linn Opderbecke, 15113 Old Dale Road, Centreville, Virginia, appeared before the Board in support of the proposal. He expressed the opinion that the church would be good for the community.

In closing, Mrs. Greenlief stated that staff was trying to uphold the Comprehensive Plan.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant the special permit subject to the revised development conditions with a change to number five.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-054 by CENTREVILLE BAPTIST CHURCH, under Section 3-C03 of the Zoning Ordinance to allow church and related facilities, on property located at 15112 Lee Highway, Tax Map Reference 64-2((3))10, 11, 12A, 12B, 12 and 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 February 3, 1987; and

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

1. That the applicant is the contract purchaser.
2. The present zoning is R-C and WSPOD.
3. The area of the lot is 17.2 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 516, in the sanctuary constructed under Phase 1 of the Development Plan. The maximum number of seats shall be 975 in a second sanctuary to be constructed under Phase II of the Development Plan. It is understood that the 975 seat sanctuary in Phase II of the Development Plan shall ultimately become the principle place of worship for the church. The sanctuary constructed pursuant to Phase I of the Development Plan shall be converted to serve as a chapel with 228 seats. The maximum number of parking spaces shall be 485. All parking for this use shall be on site.

6. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance.

7. Transitional Screening 3 shall be provided as shown on the plat submitted with this application. A modification of the variety of plantings may be required within the utility easement. The applicant shall work with the County Arborist, Vepco, and Columbia Liquified Gas to determine the appropriate plantings for this area.

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

9. Best Management Practices shall be provided in accordance with Article 7 of the Zoning Ordinance and the Public Facilities Manual. In addition to the detention ponds shown on the plat, another facility shall be provided in the area east of the utility easement, near the headwaters of the small tributary of Cub Run. The detention facilities shall be maintained so as not be become a health hazard.

10. All entrances shall be at least 30 feet wide and no wider than 50 feet.

11. Left turn lanes shall be provided within the median at each of the two entrances.

12. Interparcel access shall be provided to the east by way of a stub street.

13. At such time as the westernmost median break is closed, the applicant shall erect signs indicating that the western-most entrance is right-turn only and shall instruct parishioners to use the easternmost entrance for left turns into and out of the site.

14. The maximum height of the sanctuary shall be 60 feet. The remaining portion of the structure shall be one story.

15. Construction of the second phase of development shall begin within seven (7) years of the issuance of the Non-Residential Use Permit for phase 1. If construction has not begun, the applicant shall apply for a special permit amendment for approval of phase 2.

16. There will be a maximum of ten (10) employees associated with the facility.

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

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

Mr. DiGiulian seconded the motion.

The motion carried unanimously with Mrs. Thonen not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 11, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 51, February 3, 1987, (Tape 3), Scheduled case of:

12:10 P.M. NORRIS W. CRIST, VC 86-L-117, appl. under Sect. 18-401 of the Zoning Ordinance to allow an existing outlot to be a buildable corner lot having width of 58.53 feet on one of three street frontages (105 ft. min. lot width req. by Sect. 3-306) located at 5904 Valley View Drive on approx. 19,990 sq. ft., zoned R-3, Lee District, Tax Map 81-3((31)A. (DEF. FROM 1/27/87)

Lori Greenlief, Staff Coordinator, presented the staff report.

Noris Crist, 5900 Valley View Drive, Alexandria, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application.

Doris Crist, 5900 Valley View Drive, Alexandria, Virginia, appeared before the Board and stated that she and Mr. Crist had owned the property since 1958.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian stated that the application met the standards for a variance specifically under Paragraphs 2D and 2F. Therefore, he moved to grant the variance subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-117 by NORRIS W. CRIST, under Section 18-401 of the Zoning Ordinance to allow an existing outlot to be a buildable corner lot having width of 58.53 feet on one of three street frontages, on property located at 5904 Valley View Drive, Tax Map Reference 81-3((31))A, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 3, 1987; 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 14,990 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 meets the following characteristics:
   D. Exceptional shape at the time of the effective date of the Ordinance;
   F. An extraordinary situation or condition of the subject property, in that it is a corner lot.

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 property indicated as "Outlot A" 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. A tree preservation plan, which includes the limits of clearing and grading, should be submitted to the County Arborist for review and approval at the time of subdivision review.

Mr. Hammack seconded the motion.

The motion carried by a vote of 4-1 with Mr. Smith voting nay; Mrs. Thonen and Mr. Hyland not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 11, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 52, February 3, 1987, (Tape 4), After Agenda Item #1

Appeal Application
Champions Gym

Mr. Ribble moved to accept the appeal for Champions Gym and schedule for February 24, 1987 at 9:00 A.M.

Mr. Hammack seconded the motion which passed unanimously with Mrs. Thonen and Mr. Hyland not present for the vote.

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Page 53, February 3, 1987, (Tape 3), (VC 86-L-117, Norris W. Crist, continued from Page 52)

As there was no other business to come before the Board, the meeting was adjourned at 3:00 P.M.

Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 3/10/87 APPROVED: 3/17/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 10, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; Mary Thonen; and John Ribble.

Chairman Smith opened the meeting at 9:11 A.M. and Mrs. Day led the prayer.

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The Board presented a Resolution to Marilyn Anderson, Staff Coordinator, for the outstanding job she had done while working in the BZA Support Branch.

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Page 54, February 10, 1986, (Tape 1), Scheduled case of:

9:00 A.M. ROUSE & ASSOCIATES-FAIR OAKS II AND FAIR OAKS PAL CHILDREN'S CENTER, INC., SP 86-P-049, application under Sect. 4-603 of the Zoning Ordinance to permit a child care center within an office park located at 11230 Lee Jackson Memorial Highway on approx. 3.86 acres, zoned C-6, Providence District, Tax Map 56-2((1))73B. (DEF. FROM 12/2 & 12/18/86 AND 1/6/87)

Marilyn Anderson, Staff Coordinator, pointed out that this case had been deferred to allow the applicant time to address staff's concern with the noise impact from the adjacent highway on the children while they were in the play area. She added if it was the Board's intent to approve this application it should condition its approval subject to the revised development conditions submitted to them this date.

Melanie M. Reilly, attorney with Boothe, Prichard & Dudley, 8280 Greensboro Drive, McLean, Virginia, represented the applicant. Ms. Reilly thanked the Board for allowing the deferrals which were necessary to resolve the noise attentuation issue. She explained that the day care center will be primarily for the employees of the business center which will allow the parents to have close contact with their children throughout the day.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hyland moved to grant SP 86-P-049 as the applicant had presented testimony showing compliance with the standards for a special permit and in accordance with the revised development conditions dated February 3, 1987.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-049 by ROUSE & ASSOCIATES-FAIR OAKS II AND FAIR OAKS PAL CHILDREN'S CENTER, INC., under Section 4-603 of the Zoning Ordinance to allow a child care center within an office park, on property located at 11230 Lee Jackson Memorial Highway, Tax Map Reference 56-2((1))73B, 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 10, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is C-6.
3. The area of the lot is 3.86 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

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

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply for this Board for such 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 74 children.
7. Fourteen (14) on-site parking spaces shall be provided. This requirement may be reduced due to the same spaces serving two or more uses if approved by the Board of Supervisors.

8. The outdoor play area shall be no less than 2,115 square feet in size.

9. The outdoor play area shall be fenced with a six (6) foot high solid wood and brick wall that is architecturally compatible with the building as approved by the Office of Comprehensive Planning at the time of site plan 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.

Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. Ribble not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 18, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 55, February 10, 1987, (Tape 1), Scheduled case of:

9:20 A.M. SNAPPY LUBE INC., VC 86-P-106, application under Sect. 18-401 of the Zoning Ordinance to allow vehicle light service establishment to have building 21 feet from and parking spaces on, a front lot line (40 ft. min. front yard req. by Sect. 4-607; parking spaces not nearer than 10 ft. to a front lot line req. by Sect. 11-102) located at 6436 Arlington Boulevard on approximately 20,369 square feet, zoned C-6, Providence District, Tax Map 51-3((1))1A.

Lori Greenlief, Staff Coordinator, explained that the Board of Supervisors had deferred its public hearing on a Special Exception to February 23, 1987. Since the Variance application is to be heard concurrently with the Special Exception, staff recommended a deferral of this application to March 10, 1987 at 11:50 A.M. and the Board so ordered.

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Page 56, February 10, 1987, (Tape 1), After Agenda Item:

As it was not time for the next scheduled case, the Board considered the after agenda item.

FIRST VIRGINIA BANK - VC 84-A-077
5336 SIDEBURN ROAD
REQUEST FOR ADDITIONAL TIME

Mr. Hyland made a motion to grant an additional two (2) months to the applicant in VC 84-A-077 which would make the new expiration date April 10, 1987. Mrs. Day seconded the motion which passed by a vote of 6-0 with Mr. Ribble not present for the vote.

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Page 56, February 10, 1987, (Tape 1), Scheduled case of:

9:40 A.M. BILLY MORGAN AND DAWNA M. MORGAN, VC 86-L-103, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a detached garage 8 feet from side lot line (12 ft. min. side yard req. by Sects. 3-307 and 10-104), located at 5816 LaVista Drive, on approximately 19,109 square feet, zoned R-3, Lee District, Tax Map 82-1((6))(E)7

Denise James, Staff Coordinator, presented the staff report.

Billy Morgan, 5816 LaVista Drive, Alexandria, Virginia, told the Board that he had bought the property twenty-six years ago and there is no other feasible location on the site to build the garage due to the drainage. This garage will provide protection for his automobiles and allow him to have a work shop now that he is retired.

Ralph Featherstone, 5818 LaVista Drive, Alexandria, Virginia, neighbor to the applicant told the Board that he supported the request.

There were no additional speakers or questions; therefore, Chairman Smith closed the public hearing.

Mrs. Day moved to grant VC 86-L-103 and stated that there are 24.9 feet between this dwelling and the dwelling on the adjacent lot. This lot is at a lower level than lot 6 and will be well screened. She stated that the applicant had presented testimony showing that all the required standards for a variance had been met, specifically 2D and E, and moved that approval be subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-103 by BILLY AND DAWNA MORGAN, under Section 18-401 of the Zoning Ordinance to allow construction of a detached garage 8 feet from side lot line, on property located at 5816 LaVista Drive, Tax Map Reference 82-1((6))(E)7, 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 10, 1986; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 19,109 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. DiGiulian seconded the motion.

The motion carried by a vote of 6-0 with Mr. Ribble not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 18, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 57, February 10, 1987, (Tape 1), Reconsideration Item:

Mr. Hammack noted a correction to the February 3, 1987 resolution of Luck Stone, SPA 81-S-064-1 by stating that development condition #20 should be deleted.

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Page 57, Febrary 10, 1987, (Tape 1), Scheduled case of:

10:00 A.M. CHARLES B. LOWRY, VC 86-V-120, application under Sect. 18-401 of the Zoning Ordinance to allow construction of service bay addition to a service station to 35.9 feet from a street line of a corner lot and 10.6 feet from rear lot line (40 ft. min. front yard, 20 ft. min. rear yard req. by Sect. 4-507), located at 2600 Sherwood Hall Lane, on approximately 17,531 square feet, zoned C-5, Mount Vernon District, Tax Map 102-1((7))(7)17B.

Lori Greenlief, Staff Coordinator, presented the staff report and explained that the applicant is requesting a variance of 4.1 feet from the mininum front yard requirement and 9.4 feet to the minimum rear yard requirement. The Board of Supervisors approved SE 86-V-021 on August 4, 1986, which allowed the addition of a service bay to the existing station. The approved special exception plat showed the addition to be 35.9 feet from

the front lot line along Schelhorn Road but one of the conditions associated with that approval stipulated that the station building be located no closer than 50 feet from Schelhorn Road.

Following a discussion among the Board members and staff, the Board asked that the Zoning Administrator make a determinion as to whether a special exception amendment was necessary prior to the Board of Zoning Appeals making a decision in this case. The Board decided to continue with the public hearing, hear the applicant's testimony, and leave the record open for additional information during the February 17, 1987 meeting.

Bernard Fagelson, attorney with Fagelson, Schonberg, Payne & Arthur, 401 Wythe Street, Alexandria, Virginia, represented the applicant. Mr. Fagelson stated that this application had been an unusual case due to the enormous amount of support it had received and proceeded smoothly through the Mount Vernon Land Advisory Task Force, the Planning Commission, and the Board of Supervisors.

As there were no speakers to address this application and no further discussion, Chairman Smith closed the public hearing.

Mr. Hammack moved to defer the decision in this case until February 17, 1987 at 8:45 P.M. and leave the record open for additional information. Mr. DiGiulian seconded the motion which passed by a vote of 6-0 with Mr. Ribble not present for the vote.

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Page 58, February 10, 1987, (Tapes 1 and 2), Scheduled case of:

10:20 A.M. ROSE MAY LINTON AND E. DEAN MORLEY, TRUSTEE, VC 86-A-110, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, proposed lot 3 having width of 24 feet (100 ft. min. lot width req. by Sect. 3-206), located 9320 Lee Street, on approximately 2.86756 acres, zoned R-2, Annandale District, Tax Map 78-2((1))24.

Lori Greenlief, Staff Coordinator, presented the staff report and stated staff did not believe the applicant would experience an undue hardship if this variance were not granted as the site could be subdivided into four lots without the variance.

E. Dean Morley, 743 Lawton Street, McLean, Virginia, read into the record the statement of justification that had been submitted with his application. He explained that since the time the application had been filed he had purchased the property and Ms. Linton was no longer involved.

Chairman Smith closed the public hearing as there were no speakers to address this application.

Mr. DiGiulian made a motion to deny this application as he did not believe the applicant had presented testimony showing the requirements for a variance had been met. He stated that four lots is reasonable for this property.

Mr. Hammack stated for the record that he was no relation to the Mrs. Hammack noted on the affidavit.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-110 by E. DEAN MORLEY, under Section 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, proposed lot 3 having width of 24 feet, on property located at 9320 Lee Street, Tax Map Reference 78-2((1))24, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 10, 1987; 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 2.86756 acres 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. Day and Mrs. Thonen seconded the motion.

The motion carried by a vote of 6-0-1 with Mr. Ribble abstaining as he was not present for the hearing.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 18, 1987.

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Page 59, February 10, 1987, (Tape 2), Scheduled case of:

10:40 A.M. SHIRLEY L. SHENKER, SPR 81-V-087-1, application under Sect. 3-203 of the Zoning Ordinance to renew S 81-V-081 for home professional office (psychologist), located at 7210 Beechwood Road, on approximately 18,704 square feet, zoned R-2, Mt. Vernon District, Tax Map 93-3((4))219.

Lori Greenlief, Staff Coordinator, presented the staff report. This is a renewal of a Special Permit and staff recommends approval if the use continues to be operated in the manner it is at present.

Henry Shenker, 7210 Beechwood Road, Alexandria, Virginia, husband of the applicant, appeared on behalf of the applicant and agreed with the development conditions contained in the staff report.

There were no speakers to address this application; therefore, Chairman Smith closed the public hearing.

Mr. Hyland pointed out the affidavit in this case had been amended showing a contribution had been made by Mrs. Shenker's husband to his political campaign. He also pointed out that at the original hearing on this application several years ago there was a lot of opposition. Now, there is no opposition which shows the Board was correct in its earlier decision.

Mrs. Thonen moved to grant SPR 81-V-087-1 as she believed the applicant had presented testimony indicating compliance with the required standards for a Special Permit and subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Renewal Application SPR 81-V-087-1 by SHIRLEY L. SHENKER, under Section 3-203 of the Zoning Ordinance to renew S 81-V-081 for home professional office (psychologist), on property located at 7210 Beechwood Road, Tax Map Reference 93-3((4))219, 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 10, 1987; 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 18,704 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 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. Since no building permit is necessary for the continued operation of this use, no site plan approval is required.

5. The number of patients shall average no more than 15 per week with an interval of 30 minutes between patients.

6. The maximum hours of operation shall be from 8:00 a.m. to 8:00 p.m., Monday through Friday.

7. In order to control parking, patients shall be seen by appointment only.

8. All parking for this use shall be on-site.

9. There shall be no exterior alterations to the residence which would change the residential appearance of the property and there shall be no signs.

10. There shall be no employee other than the applicant associated with the use.

11. This special permit is granted for a period of five years. The applicant having the option to reapply to the Board for a renewal in accordance with Sect. 8-013.

12. The home professional office shall be limited to 310 square feet of floor area of the dwelling.

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, within one (1) month unless a new Non-Residential Use Permit is approved. 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 which carried by a vote of 7-0.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 18, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 61, February 10, 1987, (Tape 2), Scheduled case of:

11:00 A.M. MICHAEL G. AKIN, SP 86-S-064, application under Sect. 3-C03 of the Zoning Ordinance to allow boarding stables and waiver of dustless surface, located at 6512 Colchester Road, on approximately 40 acres, zoned R-C and WSPOD, Springfield District, Tax Map 76-3((1))10.

Denise James, Staff Coordinator, presented the staff report. She pointed out that the map contained in the staff report had been corrected to show only the 40 acres as noted in the application. Staff's major concerns are the preservation of the Environmental Quality Corridor (EQC) and that the boarding stables be kept at a low level of intensity. The applicant has submitted a conservation plan to the Northern Virginia Soil and Conservation District designed to meet the requirements for grazing horses on the property, agreed to restrict the number of horses boarded on the property to 14, and agreed that no horse back riding instruction would be conducted. In conclusion, Mrs. James stated if it were the intent of the Board to approve this application its approval should be subject to the revised development conditions submitted this morning.

Michael G. Akin, 6580 Colchester Road, Fairfax Station, Virginia, told the Board that this was the only practical use for this property as it was in a floodplain area.

Nathaniel B. Thayer, 6525 Colchester Road, Fairfax Station, Virginia, supported the application as he believes this is a good use of the land.

Gloria W. Leidemeyer, 3865 Chain Bridge Road, Fairfax, Virginia, opposed the application as there was already a riding stable in the area on her land which is contiguous to his property and she did not see the need for another. The Board discussed the existing riding stable and staff indicated that research had not revealed the existence of this stable. However, staff stated that it would further research this and take appropriate action.

During his rebuttal, Mr. Akin stated he felt this was a reasonable use of the land, that all the requirements for a variance had been met, and agreed with the development conditions contained in the staff report.

Following Mr. Akin's remarks, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant this SP 86-S-064 as the applicant had presented testimony to support his request. The approval is subject to the revised development conditions which had been submitted to the Board this date.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-064 by MICHAEL G. AKIN, under Section 3-C03 of the Zoning Ordinance to allow boarding stables and waiver of dustless surface, on property located at 6512 Colchester Road, Tax Map Reference 76-3((1))10, 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 10, 1987; 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(WS).
3. The area of the lot is 40 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 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. This should not preclude accessory structures or uses related to the residential use of the property.

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. The number of horses to be boarded at any one time shall not exceed 14. Horse shows and lessons shall not be permitted. The number of employees shall not exceed 3 persons at any one time.

6. There shall be a minimum of 7 parking spaces provided within the designated parking area, four of which shall be large enough for horse trailers.

7. 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 the proposed construction, to maintain the stream flow, and for removal of dead or diseased trees and shrubs. A fence may be constructed for pasturing the horses with an emphasis toward keeping the horses from grazing along the stream banks. No additional structure shall be permitted in this area.

8. The proposed structure shall be located outside the floodplain.

9. No signs shall be erected on the property.

10. The manure collected from the barns, if not removed from the property, shall be covered to prevent storm water runoff from carrying manure nutrients into the watershed streams. The area shall be located away from any drainageways as approved by DEM.

11. No exterior lighting of the barn, parking, or exercise areas shall be permitted for use after dark other than security lighting. This security lighting shall be directed on site with no light projecting off the property.

12. A waiver of the dustless surface requirement shall be granted for the parking areas. These areas shall be constructed and maintained in accordance with the standard practices approved by the Director, Department of Environmental Management, which shall include but not be limited to the following:

    A. The parking area shall be constructed with 21A gravel material over a layer of 57 stone. The stone should be spread evenly and to a depth adequate enough to prevent wear-through or bare subsoil exposure.

    B. Travel speeds in the parking areas shall be limited to 10 mph or less.

    C. During dry periods, application of water or calcium chloride shall be made in order to control dust.

    D. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.

    E. Runoff shall be channeled away from and around the parking areas.

    F. The property owner shall perform periodic inspections to monitor dust conditions, drainage functions, compaction and migration of stone surface.

13. This waiver of the dustless surface requirement is approved for a period of five (5) years.

14. Pursuant to Par. 2 of Sect. 2-903 the applicant shall prepare and implement a conservation plan in in accordance with the standards of the Northern Virginia Soil and Conservation District before final approval of SP 86-S-064.

15. Pursuant to Par. 17 and Par. 20 of Sect. 10-102 of the Zoning Ordinance, the original small farm house located on the property shall not be used for any purpose other than that of servants or caretakers quarters. If the kitchen is removed the structure may be used as Guest Quarters in accordance with Par. 11 of Sect. 10-102.

16. The existing vegetation shall be deemed to satisfy Transitional Screening I. The barrier 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.

Mrs. Thonen and Mr. Ribble seconded the motion which carried by a vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 18, 1987. This date shall be deemed to be the final approval date of this special permit.

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11:20 A.M. ST. BARNABAS EPISCOPAL CHURCH, SPA 74-M-047-1, application under Sect. 3-103 of the Zoning Ordinance to amend S-47-74 for church and related facilities to permit addition of building, increase in seating and parking facilities located at 4801 Ravensworth Road, on approximately 6.4413 acres, zoned R-1, Mason District, Tax Map 71-3((1))1.

Lori Greenlief, Staff Coordinator, presented the staff report. She explained that on June 5, 1974 the Board of Zoning Appeals approved S-47-74 to permit an addition to the existing church and on July 5, 1978, it approved S-110-78 to permit a day care center in the church. Staff's main concern is with the location of the parking lot in the front yard of the church as staff believes this will change the character of the neighborhood.

Frank Spink, 4158 Piedmont Place, Annandale, Virginia, represented the applicant and objected to providing a trail, relocating the parking in the rear of the yard, and the provision of adding a hedge along Ravensworth Road as it would block the view of the church from the roadway.

Richard Savoye, 7416 Shenandoah Avenue, Annandale, Virginia, treasurer for the Annandale Play Care Center, spoke in support of the church and stated that the changes requested by the church would not in any way affect the day care center which was conducted in the church.

Mrs. Greenlief pointed out that the applicant would need to submit a new plat showing the location of the play area if it was the intent of the Board to approve this application.

Following a discussion between Board members and staff, Jane Kelsey, Branch Chief, explained that a consultant was presently reviewing the parking requirements for various uses in the County. In addition, staff is endeavoring to recommend that parking be in the rear yards when reviewing special permit for churches

As there was no further discussion, Chairman Smith closed the public hearing.

Mr. Ribble moved to grant SPA 74-M-047-1 as he believed the applicant had presented testimony showing compliance with the general standards for a special permit and subject to the development conditions contained in the staff report with the following revisions: delete conditions #7 and #10 and revise #12 to read "A trail shall be provided in accordance with Article 17, Site Plans, unless waived by DEM."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 74-M-047-1 by ST. BARNABAS EPISCOPAL CHURCH, under Section 3-103 of the Zoning Ordinance to amend S-47-74 for church and related facilities to permit addition of building, increase in seating and parking facilities, on property located at 4801 Ravensworth Road, Tax Map Reference 71-3((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 10, 1987; 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 6.4413 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 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 proposed one story addition will be architecturally compatible in terms of materials with the existing church facility.

6. Dedication of right-of-way to forty-five (45) feet from the centerline of Ravensworth Road shall be provided.

7. An evergreen hedge, six (6) feet in height, shall be planted around the proposed parking in the front yard in order to screen the lot and cars from adjacent properties.

8. Stormwater management techniques shall be provided as determined by the Director, DEM.

9. The maximum seating capacity shall be 250.

10. The minimum number of parking spaces shall be 63. The maximum number of parking spaces shall be 122.

11. The existing vegetation shall be deemed to satisfy the Transitional Screening requirement given the current level of development on the site. This condition shall not preclude the applicant from providing a six foot high evergreen hedge around the proposed front parking lot.

12. A trail shall be provided in accordance with Article 17, Site Plans, unless waived by DEM.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date* of the Special Permit unless the activity authorized has been established, or unless construction has 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 which carried by a vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 18, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 65, February 10, 1987, (Tape 3), Scheduled case of:

11:50 A.M. J. FRANCES JONES, VC 86-D-130, application under Sect. 18-401 of the Zoning Ordinance to allow construction of detached garage 6.0 feet from side lot line and 11.6 feet from rear lot line (10 foot minimum side yard required and 16 foot minimum rear yard required by Sects. 3-407 and 10-104), located at 6815 Woodland Drive, on approx. 17,937 square feet, zoned R-4, Dranesville District, Tax Map 40-4((1))16. (DEFERRED FROM 1/27/87)

Denise James, Staff Coordinator, presented the staff report.

J. Francis Jones, 6815 Woodland Drive, Falls Church, Virginia, read the statement of justification submitted with his application into the record and added there was no objection from his neighbors.

There were no speakers to address this application; therefore, Chairman Smith closed the public hearing.

Mr. Hyland moved to grant SP 86-D-059 as the applicant had presented testimony showing that all the requirements for a special permit had been met.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-130 by J. FRANCIS JONES, under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 6.0 feet from side lot line and 11.6 feet from rear lot line, on property located at 6815 Woodland Drive, Tax Map Reference 40-4((1))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 February 10, 1987; 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 17,937 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 carried by a vote of 6-0 with Mr. DiGiulian not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 18, 1987. This date shall be deemed to be the final approval date of this variance.

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As there was no other business to come before the Board, the meeting was adjourned at 12:40 P.M.

Betsy S. Hurtt
Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 3-17-87

APPROVED: 3-24-87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 17, 1987. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; and Gerald Hyland.

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

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Page 68, February 17, 1987, (Tape 1), Scheduled case of:

8:00 P.M. GLENN R. SEELEY, VC 86-C-118, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 7.5 feet from side lot line such that side yards total 22.9 feet (8 ft. min. side yard, 24 ft. total min. side yard req. by Sect. 3-207), located at 9805 Clyde Court, on approximately 17,313 square feet of land, zoned R-2(C), Centreville District, Tax Map 38-1((20))30.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report.

Glenn R. Seeley, 9805 Clyde Court, Vienna, Virginia, the applicant, explained he had purchased the property in August 1975 and would now like to enclose the existing carport. Due to the exceptional narrowness of the lot, he stated it was not practical to locate the garage elsewhere on the property.

There were no speakers to address this application; therefore, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 86-C-118 as he believed the applicant had satisfied all the standards for a variance and that the property had unusual topography conditions which produced a hardship on the applicant.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-C-118 by GLENN R. SEELEY, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 7.5 feet from side lot line such that side yards total 22.9 feet, on property located at 9805 Clyde Court, Tax Map Reference 38-1((20))30, 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 17, 1987; 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(C).
3. The area of the lot is 17,313 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 and Mr. Hyland seconded the motion which passed by a vote of 4-0 with Mrs. Thonen and Messrs. DiGiulian and Ribble were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 25, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 69, February 17, 1987, (Tape 1), Scheduled case of:

8:15 P.M. JEFFREY W. MILLS, VC 86-M-116, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 13.6 feet from a street line of a corner lot, (30 ft. min. front yard req. by Sect. 3-307) located at 3618 Terrace Drive on approximately 14,594 square feet of land, zoned R-3, Mason District, Tax Map 60-4((3))112.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and stated that the applicant's lot was larger than the majority of lots in the area, but the placement of the house toward the rear of the lot constrains his compliance with the yard regulations; therefore, he is requesting a variance.

Jeffrey W. Mills, 3618 Terrace Drive, Annandale, Virginia, stated he believes the garage would enhance the appearance of his house and there is no other practical location for the garage due to the topography. In conclusion, Mr. Mills submitted signed statements from the surrounding neighbors stating they had no objection to this request.

Following questions from the Board, Mr. Mills explained he had two antique vehicles which would be stored in the garage and he was willing to asphalt the gravel driveway.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Day moved to grant VC 86-M-116 due to the unusual topography of the lot and the applicant's willingness to asphalt the present gravel driveway.

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THE APPLICATION WAS DENIED DUE TO THE FAILURE TO APPROVE THIS RESOLUTION

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-116 by JEFFREY W. MILLS, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 13.6 feet from a street line of a corner lot, on property located at 3618 Terrace Drive, Tax Map Reference 60-4((3))112, 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 17, 1987; 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 14,594 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.

4. The applicant shall remove the gravel drive at the rear of his proposed garage and replace with sod grass. The garage siding shall match the residence. The driveway off Larchmont shall be asphalt.

The motion FAILED by a vote of 3-1 with Mrs. Day, Messrs. Hammack and Hyland voting aye; Chairman Smith voting nay. Mrs. Thonen and Messrs. DiGiulian and Ribble were absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 25, 1987.

Mr. Hyland moved to grant the applicant a waiver of the 12-month time limitation. Mr. Hammack seconded the motion which carried by a vote of 3-1 with Chairman Smith voting nay; Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting.

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Page 71, February 17, 1987, (Tapes 1 and 2), Scheduled case of:

8:30 P.M. LEESBURG PIKE COMMUNITY CHURCH, SPA 85-D-014-2, application under Sect. 3-103 of the Zoning Ordinance to amend SP 85-D-014 for church and related facilities to permit relocation and enlargement of building and parking lot facilities, located at 11022 Leesburg Pike, on approximately 33.013 acres of land, zoned R-1, Dranesville District, Tax Map 12-1((1))35.

Kevin Guinaw, Staff Coordinator, distributed new plats which had been submitted by the applicant and explained that on July 9, 1985 the Board of Zoning Appeals approved a special permit for the location of a church with a seating capacity of 350 and 89 parking spaces. The church is now requesting to increase the seating capacity to 1,100 with 285 parking spaces. Staff has no objection to the use of this site for a church but is concerned with the intensity of the proposed use, the activity which it will generate, and the visual impact created by the bulk and height of the proposed structure. Staff recommends approval of this application if a satisfactory landscape plan is provided, the height of the church building is reduced, and the development conditions contained in Appendix 1 are implemented.

Edgar Prichard, attorney with the law firm of McGuire, Woods, Battle, and Boothe, 3950 Chain Bridge Road, Fairfax, Virginia, represented the applicant. Mr. Prichard stated this application is for two phases: Phase I contains a fellowship hall, sanctuary, classrooms, meeting rooms and library and Phase II will consist of a new sanctuary with a seating capacity of 1,100 and an amphitheater. In conclusion, he added that the existing pond will be incorporated into the storm water management system which will not obstruct the natural drainage and trees will be added and developed in a park like setting to provide screening.

In response to questions from Mr. Hammack, Mr. Prichard replied that the church was requesting a seating capacity of 1,100 to allow growth in the future and that the "7 years" referenced in development condition #17 had no significant meaning it was merely a guideline.

Martha Harris, 10605 Springvale Court, Great Falls Virginia, representing the Great Falls Civic Association, told the Board that the applicant had worked closely with the citizens. They were of the opinion that a maximum seating capacity for any church should be 1,100. Because of the size of this parcel and the landscaping proposed, the Great Falls Civic Association supports this application as it feels the use would not adversely impact on the surrounding area. She stated the Civic Association believed the size of this church would be precedent setting.

Marge Toni Gersic, President of the Great Falls Civic Association, pointed out that in January 1985 the Board of the Great Falls Civic Association indicated its total agreement and an overwhelming majority voted for this church. She hopes this will be precedent setting as far as size for future church requests in the area as the Civic Association could not support a church of a larger size.

In response to the Board's questions, both Ms. Harris and Ms. Gersic stated that they would prefer a smaller church but in view of some of the other requests for churches in the area, they were willing to live with a seating capacity of 1,100.

There were no additional speakers or comments; therefore, Chairman Smith closed the public hearing.

Mr. Hyland moved to grant SPA 85-D-014-2 in accordance with the development conditions contained in the staff report. The motion FAILED by a vote of 3-1 with Mrs. Day, Chairman Smith and Hyland voting aye; Mr. Hammack voting nay. Mrs. Thonen and Messrs. DiGiulian and Ribble were absent from the meeting.

Mr. Prichard asked the Board to reconsider Phase I only. Mr. Hammack made a motion to reconsider the action just taken by the Board on this application. Mr. Hyland seconded the motion which carried by a vote of 4-0.

Mr. Hammack moved to grant SPA 85-D-014-2 for Phase I only subject to the revised development conditions.

Following the motion, Mr. Prichard asked the Board to grant a waiver of the 12-month time limitation for refiling an application for Phase II. The request was approved by a vote of 3-1 with Mr. Hammack voting nay; Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 85-D-014-2 by LEESBURG PIKE COMMUNITY CHURCH, under Section 3-103 of the Zoning Ordinance to amend SP 85-D-014 for church and related facilities to permit relocation and enlargement of building and parking lot facilities, (BZA approved Phase I only) on property located at 11022 Leesburg Pike, Tax Map Reference 12-1((1))35, 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 17, 1987; 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 33.013 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 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 identified as Phase I on the plat submitted with this application, except as qualified below. It is expressly understood that Phase II, part of this development plan, is not approved as part of this application. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. The seating capacity of the main worship area in Phase I shall not exceed 768. A minimum and maximum of 192 parking spaces shall be provided as Phase I. All parking shall be provided on site.

6. The existing house located on the southern portion of the property shall be removed.

7. Dedication for public street purposes shall be provided to thirty (30) feet from centerline on Utterback Store Road and to 98 feet from centerline on Leesburg Pike. Temporary grading and construction easements shall be provided to accommodate future road improvements. If the service drive requirement is waived, the amount of dedication along Leesburg Pike may be reduced, as determined by the Director, DEM.

8. If required by the Director, DEM, a soils study shall be provided.

9. 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.

10. The transitional screening requirement on the developed portion (western) of the site shall be modified to allow plantings in accordance with the landscape plan submitted by the applicant to staff for review and approved by the Board of Zoning Appeals and the County Arborist. The transitional screening requirement on the remainder of the site shall be deferred until such time as that portion of the site is developed. The barrier requirement shall be waived.

11. Along the boundary with Nike Park, a 25 foot transitional screening yard shall be provided in the area between the access drive and the lot line. A 25 foot transitional screening yard shall be provided in the area which bisects the site to the rear of the easternmost parking lot. A heavy landscape screen, which includes a berm at least four (4) feet in height, shall be provided to screen the westernmost parking lot from Leesburg Pike and Utterback Store Road. Plantings shall be provided according to a landscape plan submitted to staff for review and approved by the BZA and the County Arborist.

12. Interior parking lot landscaping shall be provided in excess of the minimum requirement in Article 13. Such landscaping shall include the provision of substantial planting islands in a manner that will soften the visual impact of the parking areas and building. Landscaping shall be provided in accordance with a landscape plan submitted to staff for review and approved by the BZA and the County Arborist.

13. The applicant shall prepare a tree preservation plan to be submitted to and approved by the County Arborist. Limits of clearing shall be approved by the County Arborist prior to the approval of a building permit or undertaking of any site clearance or construction activity.

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

15. Architecture of the church building shall be in general conformance with the plans submitted to the Board of Zoning Appeals with this application and construction shall be of brick, masonary, wood and glass and in harmony with the existing residential area.

16. No outside public speakers or public address systems shall be permitted

17. The maximum height of the church building shall not exceed 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 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 and Mr. Hyland seconded the motion which passed by a vote of 4-0 with Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 25, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 74, February 17, 1987, (Tape 2), Scheduled case of:

8:45 P.M. CHARLES B. LOWRY, VC 86-V-120, application under Sect. 18-401 of the Zoning Ordinance to allow construction of service bay addition to a service station to 35.9 feet from a street line of a corner lot and 10.6 feet from rear lot line (40 ft. min. front yard, 20 ft. min. rear yard req. by Sect. 4-507), located at 2600 Sherwood Hall Lane, on approximately 17,531 square feet, zoned C-5, Mount Vernon District, Tax Map 102-1((7))(7)17B. (DEFERRED FROM 2/10/87)

Jane Kelsey, Branch Chief, explained that the applicant was requesting another deferral to allow time for the Board of Supervisors to act upon a request to rezone this property to I-6. Mr. Hyland made a motion to defer this application to March 31, 1987 at 10:00 A.M. Mrs. Day seconded the motion which passed by a vote of 4-0 with Mrs. Thonen, Messrs. DiGiulian and Ribble absent from the meeting.

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Page 74, February 17, 1987, (Tape 2), After Agenda Item #1:

FELLOWSHIP BAPTIST CHURCH - SP 85-S-017
5936 ROLLING ROAD
REQUEST FOR ADDITIONAL TIME

Mrs. Day moved to grant the applicant in SP 85-S-017 an additional time of eighteen (18) months which will make the new expiration date September 24, 1988. This will allow the applicant time to resolve the issue of the easement for the sanitary sewer outfall. Mr. Hyland seconded the motion which passed by a vote of 4-0 with Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting.

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Page 74, February 17, 1987, (Tape 2), After Agenda Item #2:

Mr. Hyland made a motion to approve the Minutes of the Board of Zoning Appeals for January 13 and January 20, 1987. Mrs. Day seconded the motion which passed by a vote of 4-0 with Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting.

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Page 74, February 17, 1987, (Tape 2), After Agenda Item #3:

FAIRFAX COVENANT CHURCH - SP 87-S-001
OUT-OF-TURN HEARING

Jane Kelsey, Branch Chief, explained that the applicant in SP 87-S-001 is requesting an out-of-turn hearing due to a pending contract purchase which will expire on April 1, 1987. The applicant's public hearing is presently scheduled for April 28, 1987.

Following a discussion among the Board members and staff, Mr. Hyland moved to defer this case for additional information to February 24, 1987 and the Board so ordered.

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Page 74, February 17, 1987, (Tape 2), After Agenda Item #4:

OSWALD AND MARLENE BACHER APPEAL - A 86-V-012

Chairman Smith read a letter into the record from the applicant, Oswald and Marlene Bacher, asking that the appeal be deferred until the Board of Supervisors has acted upon a request to rezone the property from the I-6 District to a C-District. Mr. Hyland moved to allow the deferral. Mr. Hammack seconded the motion which passed by a vote of 4-0 with Mrs. Thonen and Messrs. DiGiulian and Ribble absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 11:01 P.M.

Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 3-17-87

APPROVED: 3-24-87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, February 24, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; Mary Thonen; and John Ribble.

Acting Chairman Hyland opened the meeting at 9:15 A.M. and Mrs. Day led the prayer.

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Mrs. Thonen moved to appoint Gerald Hyland as temporary Chairman of the Board of Zoning Appeals in Chairman Smith's and Vice-Chairman DiGiulian's absence.

Mr. Ribble seconded the motion which passed unanimously with Mr. Hammack, Mr. DiGiulian and Mr. Smith not present for the vote.

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Mrs. Thonen announced that the Zoning Ordinance Amendment for reconsideration of decisions made by the BZA was passed by the Board of Supervisors on February 23, 1987.

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At this time, Chairman Smith arrived and apologized to the Board for his late arrival which was due to heavy traffic.

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Chairman Smith requested a special meeting of the BZA members and staff to discuss churches, a quorum for the BZA, the Cupp and Rowe court cases, revision to the Bylaws and any other general matters.

Mr. Hyland moved to hold a special meeting of the Board of Zoning Appeals on April 7, 1987 at 9:00 A.M.

Mrs. Thonen seconded the motion which passed unanimously with Messrs. Hammack and DiGiulian not present for the vote.

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Page 76, February 24, 1986, (Tape 1), Scheduled case of:

9:00 A.M. AMERICAN POWERLIFTING, INC., t/a CHAMPIONS FITNESS CENTER, SP 86-S-072, application under Sect. 5-503 of the Zoning Ordinance to allow a health club, located at 10400 Premier Court, on approx. 6.018 acres, zoned I-5, Springfield District, Tax Map 77-2((1))58, 58A & 58C. (OUT OF TURN HEARING GRANTED 12/18/86)

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that there were transportation issues such as illegal parking and congestion on the site, however this isn't being caused by the applicant. She added that staff was recommending no classes be held between 4:00 P.M. and 6:30 P.M. which is peak traffic hours. In conclusion, Mrs. Greenlief stated that staff was recommending approval of the proposed application, subject to the development conditions.
John Cahill, attorney representing the applicant, 4084 University Drive, Fairfax, Virginia, appeared before the Board and suggested an alternative Condition Eight: "There shall be a maximum of four (4) employees on the site at any one time." He further suggested an alternative Condition Nine: "The applicant shall not conduct any group classes or special events between the hours of 4:00 and 6:30 P.M. Monday through Friday."

Ms. Kelsey pointed out that there were letters of support and opposition in the file.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen pointed out that there was adequate parking and added that the applicant had met the general standards for a special permit. Therefore she moved to grant the Special Permit subject to the development conditions contained in the staff report with the following changes: Condition Eight: "That there shall be a maximum of four (4) employees associated with this use on site at any one time." Condition Nine: "The applicant shall not conduct any group classes or special events between the hours of 4:00 P.M. and 6:30 P.M., Monday through Friday."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-072 by AMERICAN POWERLIFTING, INC., t/a CHAMPIONS FITNESS CENTER, under Section 5-503 of the Zoning Ordinance to allow a health club, on property located at 10400 Premier Court, Tax Map Reference 77-2((1))58, 58A and 58C, 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 24, 1987; and

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

1. The applicant is the lessee.
2. The present zoning is I-5.
3. The area of the lot is 6.018 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-503 of the Zoning Ordinance.

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 Section 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 area delineated as "Area of Building Subject to Special Permit Application" on the plat submitted with this application and the associated required parking. Additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board for this use other than the addition of parking spaces and minor engineering details, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans. The applicant shall submit a new site plan to the Department of Environmental Management (DEM) which shows the increase in land area, the correct uses currently occupying the building and a new parking tabulation.

5. All parking and loading spaces, and travel aisles shall conform to the geometric standards set forth in the Public Facilities Manual. Handicapped spaces shall be provided in accordance with the Zoning Ordinance and the Public Facilities Manual. All parking associated with this use shall be on-site.

6. If it is determined at the time of site plan review that the parking requirement for the entire warehouse use cannot be met, this special permit shall be deemed null and void.

7. There shall be a maximum of fifty (50) patrons associated with this use on the site at any one time.

8. There shall be a maximum of four (4) employees associated with this use on the site at any one time.

9. The applicant shall not conduct any group classes or special events between the hours of 4:00 p.m. and 6:30 p.m., Monday through Friday.

10. In the event the Zoning Administrator determines that there are more than fifty (50) patrons and four (4) employees at on site at any one time, the Zoning Administrator may institute proceedings to revoke this special permit in accordance with Sect. 8-016 of the Zoning Ordinance.

11. An evergreen hedge, four (4) feet in height, shall be provided along the eastern edge of the parking area in front of Champions Fitness 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.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-0 with Messrs. Hammack and Hyland not present for the vote.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 4, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 78, February 24, 1987, (Tape 1), Scheduled case of:

9:30 A.M. TERRY S. THORNE & MARY MARGARET THORNE - VC 86-C-125, application under Sect. 3-207 of the Zoning Ordinance to allow construction of a garage addition to dwelling 10.2 feet from side lot line (15 foot minimum side yard required by Sect. 3-207), located at 9900 Vale Road, on approx. 21,272 square feet, zoned R-2, Centreville District, Tax Map 38-3((20))56.

Denise James, Staff Coordinator, presented the staff report.

Terry and Mary Margaret Thorne, the applicants, 9900 Vale Road, Vienna, Virginia, appeared before the Board and explained their request as outlined in the statement of justification submitted with the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day noted that screening was provided and also that this was an irregular shaped lot. Therefore, Mrs. Day moved to grant VC 86-C-125 subject to the conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-C-125 by TERRY S. THORNE & MARY MARGARET THORNE, under Section 3-207 of the Zoning Ordinance to allow construction of a garage addition to dwelling 10.2 feet from side lot line, on property located at 9900 Vale Road, Tax Map Reference 38-3((20))56, 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 24, 1987; and

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

1. That the applicants are the co-owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 21,272 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. DiGiulian seconded the motion which carried by a vote of 4-1 with Mr. Smith voting nay; Messrs. Hammack and Hyland not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 4, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 79, February 24, 1987, (Tape 1), Scheduled case of:

9:50 A.M. J. C. DENNIS, VC 86-L-124, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling 10.6 feet from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 3113 Arundel Avenue, on approx. 9,172 square feet, zoned R-2 and HC, Lee District, Tax Map 92-2((19))95.

Due to the absence of the applicant, the Board recessed at 10:00 A.M. to allow staff time to contact the applicant.

The Board reconvened the meeting and staff advised the Board that the applicant was on his way. Therefore, the Board passed over VC 86-L-124, J.C. Dennis to allow time for the applicant to arrive.

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Page 80, February 24, 1987, (Tape 1), Scheduled case of:

10:10 A.M. NIKI WARD, VC 86-M-121, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12 feet from side lot line (20 ft. min. side yard req. by Sect. 3-107), located at 3113 Beechwood Lane, on approx. 43,560 square feet, zoned R-1, Mason District, Tax Map 50-4((22))11B.

Denise James, Staff Coordinator, presented the staff report.

Richard Pleasants, 3129 Valley Lane, Falls Church, Virginia, appeared before the Board as the applicant's representative. He explained the request as outlined in the statement of justification submitted with the application. He noted the exceptional narrowness of the lot and added that the proposal would correct drainage problems.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Ribble noted for the record a letter in the file in support of the application. He noted the exceptional narrowness and topographical conditions of the lot and therefore moved to grant the application subject to the conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-121 by NIKI WARD, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12 feet from side lot line, on property located at 3113 Beechwood Lane, Tax Map Reference 50-4((22))11B, 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 24, 1987; 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 43,560 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. DiGiulian seconded the motion which carried by a vote of 5-1 with Mr. Smith voting nay; Mr. Hyland not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 4, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 81, February 24, 1987, (Tape 1), Scheduled case of:

9:50 A.M. J. C. DENNIS, VC 86-L-124, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling 10.6 feet from side lot line (15 ft. min. side yard req. by Sect. 3-207), located 3113 Arundel Avenue, on approx. 9,172 square feet, zoned R-2 and HC, Lee District, Tax Map 92-2((19))95.

Mr. J.C. Dennis, the applicant appeared before the Board and apologized and explained that he was late because he was assisting his handicapped grandaughter on the school bus.

Denise James, Staff Coordinator, presented the staff report.

J.C. Dennis, 2390 Beacon Hill Road, Alexandria, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He noted that the majority of houses in the neighborhood had side yards of 10 feet.

Chairman Smith called for speakers and Tom Meiskey, 3107 Collard Street, Alexandria, Virginia, appeared before the Board in opposition to the proposal. He expressed concern for parking.

In rebuttal, Mr. Dennis noted that all the lots were small and that the proposal was the best use of the property.

Prior to making the motion, Mr. DiGiulian stated that the applicant had met the standards for a variance particularly Paragraph 2A. He moved to grant the variance subject to the conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-L-124 by J.C. DENNIS, under Section 18-401 of the Zoning Ordinance to allow construction of dwelling 10.6 feet from side lot line, on property located at 3113 Arundel Avenue, Tax Map Reference 92-2((19))95, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 24, 1987; 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 and HC.
3. The area of the lot is 9,172 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;
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 carried by a vote of 5-1 with Mrs. Thonen voting nay; Mr. Hyland not present for the vote.

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*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 4, 1987. This date shall be deemed to be the final approval date of this variance.

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10:30 A.M. JERRY A. HINN AND GARY D. KNIPLING, T/A MASON NECK ANIMAL HOSPITAL, SP 86-V-062, application under Sect. 4-503 of the Zoning Ordinance to allow veterinary hospital, located at Armistead Road, on approx. 20,004 square feet, zoned C-5 and C-8, Mount Vernon District, Tax Map 107-4((4))32A.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised that staff was recommending denial of SP 86-V-062.

In response to a question from Mr. Hammack, Ms. Belofsky stated that the permitted uses in a C-5 Neighborhood Retail Commercial District were as follows: Business service and supply service establishments, churches, chapels, drive-in banks, eating establishments, fast-food restaurants, offices, public uses, retail sales, telecommunications, etc. In a C-8 Highway Commercial District, the permitted uses were as follows: automobile oriented uses, business supply and service, churches, drive-in banks, eating establishments, financial institutions, health clubs, personnel services, plant nurseries, retail sales, theaters, wholesale trade establishments, etc.

Mr. Hammack asked if the only reason staff was recommending denial of the application was due to inadequate screening between the R-1 property and the proposal. Ms. Belofsky stated that the primary reason staff was not recommending approval of the application was because the area was planned for residential. Mr. Hammack pointed out that the property was zoned commercial.

Mrs. Thonen noted that the County was trying to upgrade the Route 1 Corridor and the subject area was one of the gateways to Route 1.

Chairman Smith inquired as to what the application was lacking and Ms. Belofsky reiterated that the proposed use was not in harmony with the Comprehensive Plan, the use was not harmonious with the proposed development of neighborhood properties, vehicular and pedestrian traffic generated by the use was hazardous or in conflict with the existing and anticipated traffic in the neighborhood and finally inadequate landscaping.

Chairman Smith pointed out that the property was zoned commercial and could be considered a community use.

Ms. Jane Kelsey, Branch Chief, BZASB, noted that the proposed use was not a use by right but a use requiring a special permit. She added that the applicant had not met the standards for a special permit because screening necessary between the proposed use and the residential use would not be provided and that the Comprehensive Plan recommends residential use of the property.

In response to a question from Mr. DiGiulian, Ms. Belofsky stated that the width of required screening strip between the subject property and the adjacent residential property for a use allowed by right depended upon the use but Transitional Screening 1 was 25 feet. Ms. Kelsey pointed out that if the proposal was a use by right, the Director of the Department of Environmental Management (DEM) would have the prerogative of modifying the transitional screening yard at site plan review and one of the justifications would be if the applicant provided a six (6) foot wall if it adequately buffered the use.

H. Kendrick Sanders, Fairfax, Virginia, attorney representing the applicant, submitted pictures of existing veterinary hospitals. He explained that a one story building was proposed similar to the one shown in the pictures. Mr. Sanders noted that a 35 foot transition yard would render the property useless because it was only 94 feet wide. With regard to the conditions, Mr. Sanders requested a change to Condition Six that the hours be changed so that the facility would open at 7:00 A.M. and disagreed with Condition Seven: Dedication should be provided to 35 feet from centerline of Armistead Road and construction to 26 feet. He stated that Armistead Road has already been constructed by the service station to a 30 foot right-of-way and 22 foot pavement. Mr. Sanders requested a clarification for Condition 12 and noted that the applicant was proposing the open space to be 5,260 square feet.

Ms. Belofsky pointed out that the Zoning Ordinance allows no more than 25% of the interior parking lot landscaping to be used to satisfy the open space requirement which was included in the staff report because the calculation was so close.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SP 86-V-062 subject to the development conditions with the following changes: Condition Six: The hours of operation shall be 7:30 A.M. to 8:00 P.M. on weekdays, and 7:30 A.M. to 2:00 P.M. on Saturdays. Emergency care will be provided as needed. Condition Seven: Dedication for public street purposes shall be from the center line of Armistead Road as well as construction of road improvements consistent with the dedication and construction previously completed by the adjacent City Service Station. Temporary grading and construction easements shall be provided. Condition 13: The maximum height of the building shall not exceed 18 feet. The building shall be one story and be in conformance with the pictures submitted.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-V-062 by JERRY A. HINN AND GARY D. KNIPLING, T/A MASON NECK ANIMAL HOSPITAL, under Section 4-503 of the Zoning Ordinance to allow veterinary hospital, on property located at Armistead Road, Tax Map Reference 107-4((4))32A, 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 24, 1987; and

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

1. That the applicant is the applicant is the contract purchaser.
2. The present zoning is C-5 and C-8.
3. The area of the lot is 20,004 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 Section 8-911 of the Zoning Ordinance.

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

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

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

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. The maximum number of employees on the premises at any one time shall be seven (7).

6. The hours of operation shall be 7:30 A.M. to 8:00 P.M. on weekdays, and 7:30 A.M. to 2:00 P.M. on Saturdays. Emergency care will be provided as needed.

7. Dedication for public street purposes shall be from the center line of Armistead Road as well as construction of road improvements consistent with the dedication and construction previously completed by the adjacent City Service Station. Temporary grading and construction easements shall be provided.

8. Twenty-four (24) parking spaces shall be required.

9. 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.

10. A seven (7) foot brick wall shall be constructed and plantings shall be provided as shown on the development plan as submitted with this application.

11. Interior parking lot landscaping shall be provided pursuant to Article 13. Such landscaping shall include the provision of substantial planting islands in a manner that will soften the visual impact of the parking areas and building. Landscaping shall be provided in accordance with a landscape plan submitted to staff for review and approved by the BZA and the County Arborist.

12. The open space calculations shall be provided to the Department of Environmental Management for review and approval to assure that no more than 25 percent of the interior parking lot landscaping is used to satisfy the open space requirement.

13. The maximum height of the building shall not exceed 18 feet. The building shall be one story and be in conformance with the pictures submitted.

14. The applicant shall comply with all Health Department regulations pursuant to Sect. 8-911, additional standards for Veterinary Hospitals.

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 6-0 with Mr. Hyland not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 4, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 85, February 24, 1987, (Tape 2), Scheduled case of:

10:50 A.M. GREEN TRAILS ASSOCIATES, SP 86-S-068, application under Sect. 3-503 of the Zoning Ordinance to permit community recreational facility, on approx. 2.7 acres, zoned R-5(WS), Springfield District, Tax Map 65-3((1))pt. 9 and pt. 10, 65-4((1))pt. 1.

Heidi Belofsky, Staff Coordinator, presented the staff report and stated that there was a correction in Appendix 1 of the staff report with regard to Condition 6 of the Development Conditions which should read: "The maximum number of family memberships shall be 633." Ms. Belofsky concluded that staff was recommending approval of SP 86-S-068 subject to the development conditions.

Michael Horwatt, 8300 Boone Boulevard, Tysons Corner, Virginia, appeared before the Board as the representative of the applicant. He explained the request as outlined in the statement of justification submitted with the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant the application subject to the development conditions contained in the staff report as amended: Condition Six: "The maximum number of family memberships shall be 633." Condition 21: "The vinyl siding shall be in earth colors."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-068 by GREEN TRAILS ASSOCIATES, under Section 3-503 of the Zoning Ordinance to permit community recreational facility, Tax Map Reference 65-3((1))pt. 9 & pt. 10, 65-4((7))pt. 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 February 24, 1987; 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-5 and WS.
3. The area of the lot is 2.7+ 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 employees shall be four (4).

6. The maximum number of family memberships shall be 633.

7. There shall be fifty-five (55) parking spaces provided.

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. If lights are provided for swimming pool and parking lot, they shall be in accordance with the following:

   - The combined height of the light standards and fixtures shall not exceed twelve (12) feet.
   - The lights shall be a low-intensity design which focuses the light directly onto the facility.
   - Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.

10. The hours of operation for the pool shall be from 7:00 A.M. to 9:30 P.M.

11. Any swim meets shall be conducted between hours of 9:00 A.M. to 9:00 P.M.

12. Any use of loudspeakers shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code and shall not be waived.

13. Transitional Screening 1 and the Barriers shall be provided in accordance with the landscape plan approved by the Board of Zoning Appeals.

14. Landscaping shall be installed around the swimming pool and bathhouse in accordance with a landscape plan to be approved by the County Arborist.

15. The County Arborist shall have final approval of the variety, size, and species of all proposed landscaping and screening plants.

16. Stormwater management measures shall be provided as deemed appropriate by the Director, DEM.

17. The Consumer Services Section of the Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations. This agency will make a determination as to whether proper neutralization of these pool waters has been completed.

18. A soil survey shall be completed prior to pool construction if required by the Director, Department of Environmental Management. If high water table soils or unstable soils resulting from uncompacted fill, resource removal or any other circumstance resulting in instability are found in the immediate vicinity of the pool, then the pool shall be engineered and constructed to ensure pool stability, including the installation of hydrostatic relief valves and other appropriate measures.

19. Bicycle racks shall be provided for a minimum of twenty (20) bicycles.

20. The hours of operation for the community center meeting room and offices shall be from 7:00 A.M. to 9:30 P.M.

21. The vinyl siding shall be in earth colors.

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 which carried by a vote of 6-0 with Mr. Hyland not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 4, 1987. This date shall be deemed to be the final approval date of this special permit.

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11:15 A.M. SOMERSET-OLDE CREEK RECREATION CLUB, INC., SPA 81-A-015-1, application under Sect. 3-203 of the Zoning Ordinance to amend S-81-A-015 for a community recreation club to permit addition of storage and pump rooms to existing bathhouse, paving of parking lot and increase in membership, located at 9705 Laurel Street, on approx. 5.091 acres, zoned R-2(C), Annandale District, Tax Map 58-3((12))A1.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval.

David Delaney, 4116 Maple Avenue, Fairfax, Virginia, appeared before the Board as the representative of the applicant. He explained the request as outlined in the statement of justification submitted with the application. He stated that there would no impact on the neighborhood.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant SPA 81-A-015 subject to the conditions contained in the staff report with a change to Condition Five: The number of parking spaces provided shall be 64.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 81-A-015-1 by SOMERSET-OLDE CREEK RECREATION CLUB, INC., under Section 3-203 of the Zoning Ordinance to amend S 81-A-015-1 for a community recreation club to permit addition of storage and pumps to existing bathhouse, paving of parking lot and increase in membership, on property located at 9705 Laurel Street, Tax Map Reference 58-3((12))A1, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on February 24, 1987; 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 (C).
3. The area of the lot is 5.091 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 memberships shall be 350. There shall be 64 parking spaces provided and a bicycle rack installed.

6. The maximum number of employees shall be five (5).

7. Existing fencing and vegetation shall suffice to meet barrier and transitional screening requirements.

8. The facility shall open no earlier than 9:00 A.M. nor close any later than 9:00 P.M.

9. Unless otherwise qualified herein, extended hours for parties or other activities of outdoor community swim clubs or recreation associations will be governed by the following:
   (A) Limited to six (6) per season.
   (B) Limited to Friday, Saturday and pre-holiday evenings.
   (C) Shall not extend beyond 12:00 midnight.
   (D) Shall request at least 10 days in advance and receive prior written permission form the Zoning Administrator for each individual party.
   (E) Requests shall be approved for only one (1) such party at a time, and such requests will be approved only after the successful conclusion of a previous extended-hour party or for the first one at the beginning of a swim season.
   (F) Request shall be approved only if there are no pending violations of the conditions of the special permit.
   (G) Any substantiated complaints shall be cause for denying any future requests for extended-hour parties for that season; or, should such shall extend to the next calendar year.

10. A shield shall be installed, if necessary, to prevent light from the parking lot light from projecting beyond the facility. If any additional lights are installed, they shall be on standards not exceeding 12 feet in height and shall be shielded so as to prevent light or glare from projecting onto adjacent properties.

11. The use of any loudspeakers shall be in accordance with the provisions of chapter 108 of the Fairfax County code and shall not be waived nor modified.

12. The parking lot shall be landscaped in accordance with Article 13 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.

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 with Mr. Hyland not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 4, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 89, February 24, 1987, (Tape 2), Scheduled case of:

11:30 A.M. FULL GOSPEL FIRST KOREAN CHURCH OF WASHINGTON, SP 86-M-056, application under Sect. 3-203 of the Zoning Ordinance to permit church and related facilities, located at 6041 Lincolnia Road, on approx. 2.85 acres, zoned R-2, Mason District, Tax Map 72-1((1))59.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that the request for approval was for Phase I only. The culvert crossing under Braddock Road is inadequate and stormwater periodically backs up onto the site and ultimately runs over the road creating a traffic nuisance and flood hazard which would have to be addressed.

John Bonds, 7724 Clifton Road, Fairfax Station, Virginia, representing the applicant, appeared before the Board and stated that the applicant agreed to all the proposed development conditions.

Chairman Smith called for speakers and Harold Countryman, 2729 Oldewood Drive, Falls Church, Virginia, appeared before the Board in support of the application.

William Martin, 4300 Braddock Road, Fairfax, Virginia, appeared before the Board to express concern for the floodplain area.

Chairman Smith advised Mr. Martin that the issue of flooding would be addressed by the Department of Public Works.

Robert Wirt, 6000 Harvester Court, Burke, Virginia, expressed concern that his property might be affected by the Church if Braddock Road were widened.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Day reiterated that Phase II was not being considered at this time nor was there a a child care facility or a school planned. She then moved to grant the special permit subject to the conditions contained in the staff report with the following change to Condition 12: "The appropriate measures, as required by the Department of Environmental Management and the Department of Public Works, shall be provided to alleviate flooding problems on the site and Braddock Road. The applicant will work with the State Highway Department to correct the culvert that is under Braddock Road. No additional runoff created by the Church property shall flow onto Mr. Martin's lot, 56, to add to his present problem."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-M-056 by FULL GOSPEL FIRST KOREAN CHURCH OF WASHINGTON, under Section 3-203 of the Zoning Ordinance to permit church and related facilities, on property located at 6041 Lincolnia Road, Tax Map Reference 72-1((1))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 24, 1987; 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 2.85 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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. This approval is for Phase I as shown on the submitted development plan only.

6. Maximum height of the church building shall be 38 feet.

7. The seating capacity of the main worship area shall not exceed 250. A minimum of 63 parking spaces shall be provided. The maximum number of parking spaces shall not exceed 68.

8. The existing house located on the Lincolnia Road side of the site shall be removed.

9. Dedication for public street purposes shall be provided to forty-five (45) feet from centerline on Lincolnia Road and to thirty-five (35) feet from centerline on Braddock Road. Temporary grading and construction easements shall be provided to facilitate future construction.

10. Right-turn lanes shall be provided into both site entrances in accordance with VDOT specifications.

11. An acceleration lane shall be constructed from the site entrance on Lincolnia Road to the Braddock Road intersection.

12. The appropriate measures, as required by the Department of Environmental Management and the Department of Public Works, shall be provided to alleviate flooding problems on the site and Braddock Road. The applicant will work with the State Highway Department to correct the culvert that is under Braddock Road. No additional runoff created by the Church property shall flow onto Mr. Martin's lot, 56, to add to his present problem.

13. A trail shall be provided along Braddock Road in accordance with the Countywide Trails Plan and Article 17 of the Zoning Ordinance.

14. Transitional Screening 1 shall be provided in the areas shown of the approved development plan. The barrier requirement shall be waived.

15. Landscape plantings shall be provided around the foundation of the church building in order mitigate the visual impact of the church structure on adjacent properties and Braddock Road. The nature, type and amount of plantings shall be determined by the County Arborist.

16. Interior parking lot landscaping shall be provided in accordance with the provisions of Article 13.

17. The area between the required transitional screening yard on the southern property boundary and the southernmost parking lot shall be maintained as open space.

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

19. Architecture of the church building shall be in substantial conformance with the sketches submitted to the Board of Zoning Appeals with this application.

20. No outside public speakers or public address systems shall be permitted.

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

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

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 which carried by a vote of 6-0 with Mr. Hyland not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 4, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 92, February 24, 1987, (Tapes 2 and 3), After Agenda Item 1:

Request for Out-of-turn Hearing
Fairfax Covenant Church
SP 87-S-001

John Keith, Blankingship & Keith, 4020 University Drive, Fairfax, Virginia, and Larry Malament, P.O. Box 2279 Braddock Road, Fairfax, Virginia, representing the applicant, appeared before the Board and explained that the applicant was requesting the out-of-turn hearing due to a pending contract which would expire by April 1, 1987. The public hearing is presently scheduled for April 28, 1987.

Mr. DiGiulian moved to deny the request for an out-of-turn hearing.

Mr. Ribble seconded the motion which passed unanimously with Mr. Hyland and Mrs. Thonen absent from the meeting.

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Page 92, February 24, 1987, (Tape 3), After Agenda Item 2:

Request for Additional Time
The Harvester Presbyterian Church of America
SP 83-S-102

Mr. Hammack moved to grant the request for additional time for The Harvester Presbyterian Church of America, SP 83-S-102 located at 7836 Rolling Road.

Mr. DiGiulian seconded the motion which passed unanimously with Mr. Hyland and Mrs. Thonen not present for the vote.

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As there was no other business to come before the Board, the meeting was adjourned at 12:52 P.M.

Patti M. Hicks
Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 3-11-87

APPROVED: 3-24-87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 3, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; Gerald Hyland; and, John Ribble.

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Chairman Smith opened the meeting at 9:12 A.M. and Mrs. Day led the prayer.

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Page 93, March 3, 1987, (Tape 1), Scheduled case of:

9:00 A.M. McLEAN PRESBYTERIAN CHURCH APPEAL, A 86-D-011, to appeal the Zoning Administrator's determination that proposed resubdivision of subject property must satisfy current minimum lot width requirements, located at 1035 Balls Hill Road, on approx. 61,809 square feet, zoned R-1, Dranesville District, Tax Map 21-3((15))18.

Jane Gwinn, Zoning Administrator, stated that she had no further comments in addition to that presented in her memorandum to the Board of Zoning Appeals dated February 24, 1987.

Thomas Dugan, attorney with the law firm of Hall, Surovell, Jackson and Colten, 4041 University Drive, Fairfax, Virginia, explained that he was the attorney for the McLean Presbyterian Church but that technically the appellants are Mr. and Mrs. Wheat who own the property which the church is proposing to purchase. Since the time the special permit was granted to the church, negotiations have commenced with the adjacent property owners to purchase part of Lot 18 to be used as a buffer for the church with the present property owners residing on the front half of the lot. Mr. Dugan presented four arguments in support of the appeal: 1) The Zoning Administrator has stated that the proposed subdivision is in violation of Sect. 2-401 which requires that only a lot which exceeds the minimum provisions of the Ordinance may be subdivided, and then only where the resultant lots themselves shall meet the minimum provisions of the Ordinance. However, the second part of Sect. 2-401 says that this provision does not apply to lots in substandard subdivisions. Sturbridge subdivision is a substandard subdivision due to the lot in question being at least three times deeper then it is wide, therefore meeting one of the requirements (Par. 3 of Definition in Article 20) for substandard subdivisions. 2) Sect. 2-405 permits the use of lots which are currently in noncompliance under certain circumstances. The lot in question was recorded prior to this Ordinance and met the requirements of the Ordinance in effect at the time; therefore, it meets the requirements of Sect. 2-405. 3) This is a nonconforming lot and can be enlarged under Sect. 15-101 of the Zoning Ordinance. Subdivision of the lot constitutes an enlargement because the number of lots is being increased. 4) In the 1970's the Board of Supervisors allowed the County Executive to approve an adjustment of lot lines for parcels which were recorded prior to June 30, 1975 and which were exempt from subdivision requirements under the previous Zoning Ordinance. This lot meets both of these criteria.

During her rebuttal, Jane Gwinn replied to Mr. Dugan's comments by stating the following: 1) The requirement referred to by Mr. Dugan (Par. 3 of the definition for substandard subdivision in Article 20) refers to "lots" meaning more than one. The subject property is the only lot in the Sturbridge Subdivision which meets this criteria therefore this is not deemed to be a substandard subdivision. 2) It is accepted that Sect. 2-405 is applicable and remains applicable as long as the property is not resubdivided or rezoned by the owner. Once a lot is rezoned or resubdivided the "grandfather" status under this Section is lost. 3) Subdivision of the property does not constitute an enlargement as allowed under Sect. 15-101. The combination of Sects. 2-405 and 15-101 do not give the authority to resubdivide or to reduce the lot area of lot 18. 4) It has been DEM's interpretation that this section providing for lot line adjustments applies only to lots which were in effect created prior to 1947 and created as exempt lots. It was not meant to be an ongoing grandfather. These provisions of the Public Facilities Manual do not apply to this lot.

As there were no further comments, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to uphold the Zoning Administrator's determination that the proposed resubdivision of the subject property must satisfy current minimum lot width requirements. Mrs. Day seconded the motion which carried by a vote of 7-0.

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Page 93, March 3, 1987, (Tape 1), Scheduled case of:

9:30 A.M. SANDRA L. DELANEY, VC 86-M-122, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport 10 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307); and to allow existing shed to remain 1.4 feet from rear lot line and 7.2 feet from side lot line (7.7 ft. min. rear yard and 12 ft. min. side yard req. by Sects. 3-307 and 10-104) located at 3106 Valley Lane, on approx. 11,200 square feet, zoned R-3, Mason District, Tax Map 51-3((11))252.

Denise James, Staff Coordinator, presented the staff report and explained that the applicant is requesting two variances, one for enclosing an existing carport and the second to allow an existing shed to remain in its present location.

Sandra L. Delaney, 3106 Valley Lane, Falls Church, Virginia, the applicant, explained that the shed was there when she purchased the house in 1972. When the shed began to deteriorate, she replaced it with a new structure. As she had not been aware of the Zoning Ordinance standards she did not obtain a building permit. Mrs. Delaney added that she wanted to enclose the existing carport to provide more living space for her family.

There were no speakers to address this application; therefore, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 86-M-122 as he believed the applicant had met the required standards for a variance and subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-M-122 by SANDRA L. DELANEY, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport 10 feet from side lot line and to allow existing shed to remain 1.4 feet from rear lot line and 7.2 feet from side lot line, on property located at 3106 Valley Lane, Tax Map Reference 51-3((11))252, 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 3, 1987; 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 11,200 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.

Page 95, March 3, 1987, (Tape 1), (VC 86-M-122, Sandra L. Delaney, continued from Page 94)

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 with Chairman Smith and Mr. Hyland voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 11, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 95, March 3, 1987, (Tape 1), Scheduled case of:

9:50 A.M. CLIFFORD R. BUYS, VC 86-C-123, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling 11 feet from side lot line (20 ft. min. side yard req. by Sect. 3-107), located at 1709 Irvin Street, on approx. 21,781 square feet, zoned R-1, Centreville District, Tax Map 28-4((10))5.

Denise James, Staff Coordinator, presented the staff report.

Clifford R. Buys, 1709 Irvin Street, Vienna, Virginia, the applicant, stated he would like to construct a one car addition adjacent to the existing one car attached garage to provide protection for a second automobile.

Chairman Smith closed the public hearing as there was no speakers to address this application.

Mrs. Thonen moved to grant VC 86-C-123 due to the unusual topography of the property and subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-C-123 by CLIFFORD R. BUYS, under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling 11 feet from side lot line, on property located at 1709 Irvin Street, Tax Map Reference 28-4((10))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 3, 1987; 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 21,781 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. DiGiulian seconded the motion.

The motion carried by a vote of 6-1 with Chairman Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 11, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 97, March 3, 1987, (Tapes 1 and 2), Scheduled case of:

10:10 A.M. JACK E. SCHMAUTZ, VC 86-P-126, application under Sect. 18-401 of the Zoning Ordinance to allow construction of glass-enclosed porch 15.3 feet from rear lot line (25 ft. rear yard req. by Sect. 3-307), located 4104 Majestic Lane, on approx. 11,115 square feet, zoned R-3 (C) and WSPOD, Providence District, Tax Map 45-1((3))(25)3.

Denise James, Staff Coordinator, presented the staff report. The applicant is requesting a 9.7 foot variance to allow an existing porch to be enclosed with glass. The applicant constructed the porch himself and did not obtain a building permit. She pointed out that the porch was located in the electrical and telephone easement in the rear of the property.

Jack E. Schmautz, 4104 Majestic Lane, Fairfax, Virginia, the applicant, stated that he constructed the porch in 1972 on a slab foundation which was there when he purchased the house the prior year. As the slab was already there, he did not believe a building permit was in order. He submitted two letters of support into the record.

A discussion took place among Board members and staff as to whether or not the Board could act on this application as 1) the porch was already in violation since a building permit had not been obtained prior to construction, and 2) it was located in the public utilities' easement.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Day moved to grant VC 86-P-126 as she believed the applicant had acted in good faith and did not see the application presented a problem regarding the public utilities due to the period of time the porch had already been there and the applicant had not been contacted by the utilities.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-126 by JACK E. SCHMAUTZ, under Section 18-401 of the Zoning Ordinance to allow construction of glass-enclosed porch 15.3 feet from rear lot line, on property located at 4104 Majestic Lane, Tax Map Reference 45-1((3))(25)3, 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 3, 1987; 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 11,115 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 for both the existing porch and for the enclosure.

4. This variance is expressly subject to any pre-existing rights which the utility company may have in their easement into which this variance encroaches.

Mr. DiGiulian seconded the motion which carried by a vote of 6-1 with Chairman Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 11, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 98, March 3, 1987, (Tape 2), Scheduled case of:

10:30 A.M. MYONG JA CHA, D.D.S., SP 86-P-057, application under Sect. 3-103 of the Zoning Ordinance to allow home professional (dental) office, located at 9100 Arlington Boulevard, on approx. 21,884 square feet, zoned R-1, Providence District, Tax Map 48-4((4))7.

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that a petition in opposition signed by the citizens in the area had been received by staff. In conclusion, he added that staff believes the use is too intense to be compatible with the existing and planned residential development in the area; therefore, staff recommended denial of SP 86-P-057 as the application does not meet standards specified in Sects. 8-006 and 8-907 of the Zoning Ordinance.

Myong Ja Cha, 9100 Arlington Boulevard, Fairfax, Virginia, the applicant, told the Board that she graduated from dentist school in 1985 and purchased this house in September 1986. When she purchased the house, she had planned to live on the property as well as operate her dentist office. She was not advised by the real estate agent there might possibly be a problem with opening a professional office at this location.

Chairman Smith closed the public hearing as there were no speakers to address this application.

Mr. Hyland moved to deny SP 86-P-057 as he did not believe the applicant had presented testimony to show that the requirements for a special permit had been met.

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Page 99, March 3, 1987, (Tape 2), (SP 86-P-057, Myong Ja Cha, D.D.S., continued from Page 98)

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-057 by MYONG JA CHA, D.D.S., under Section 3-103 of the Zoning Ordinance to allow home professional (dental) office, on property located at 9100 Arlington Boulevard, Tax Map Reference 48-4((4))7, 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 3, 1987; 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 21,884 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 8-903 and 8-907 of the Zoning Ordinance.

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

Mrs. Day seconded the motion which carried by a vote of 7-0.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 11, 1987.

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Page 99, March 3, 1987, (Tape 2), Scheduled case of:

10:50 A.M. DAVID H. WAN, SP 86-S-066, application under Sect. 3-503 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow shed addition to dwelling to remain 4.5 feet from side lot line (8 ft. min. side yard req. by Sect. 3-507) located at 7268 Linden Tree Lane, on 6,212 square feet, zoned R-5, Springfield District, Tax Map 89-3((24))8.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and stated the applicant is requesting a variance to allow a shed and deck to remain.

Following a question from Mr. Ribble, Mrs. Katnik explained that it was the Board's prerogative to treat the deck and shed as two separate structures even though they are integrally constructed.

David Wan, 7268 Linden Tree Lane, Springfield, Virginia, the applicant, explained that he had built the deck and shed for privacy and had not been aware of the requirement that a building permit should be obtained prior to construction. He added that he did not agree with the development conditions contained in the staff report with regard to the cosmetic changes recommended by staff.

As there no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Ribble moved to grant-in-part SP 86-S-066 to allow only the deck to remain as the applicant had presented testimony to show that the standards for a special permit had been met for the deck only.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-066 by DAVID H. WAN, under Section 3-503 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow shed and deck addition to dwelling to remain 4.5 feet from

side lot line (shed addition denied and deck addition approved), on property located at 7268 Linden Tree Lane, Tax Map Reference 89-3((24))8, 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 3, 1987; 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-5.
3. The area of the lot is 6,212 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 8-903 and 8-914 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 deck only indicated on the plat submitted with this application and is not transferable to other land or other structures on the same land.

2. A Building Permit reflecting the size and location of the existing deck shall be submitted and approved.

Messrs. DiGiulian and Hyland seconded the motion.

The motion carried by a vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 11, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 100, March 3, 1987, (Tape 2), Scheduled case of:

11:10 A.M. W. BELL & COMPANY INC., SP 86-M-069, application under Sect. 8-901 of the Zoning Ordinance to allow additional sign area in a regional shopping center, located at 6201 Arlington Boulevard, on approx. 1,260 square feet, zoned C-7, S-C, and H-C, Mason District, Tax Map 51-3((1))29.

Kevin Guinaw, Staff Coordinator, informed the Board that the applicant and staff were requesting a deferral of at least 60 days to acquire additional information. Staff suggested a deferral date of May 7, 1987 at 9:00 A.M. and the Board so ordered. The applicant agreed with this deferral date.

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Page 100, March 3, 1987, (Tape 2), Scheduled case of:

11:30 A.M. ANDRE'S & MARY E. GONZALEZ DUPERLY, T/A EDUCATIONAL CULTURAL CENTRE, SP 86-C-067, application under Sects. 3-103 and 8-901 of the Zoning Ordinance to allow private school of special education with waiver of the dustless surface requirement located at 3614 West Ox Road on 1.0 acre, zoned R-1(WS), Centreville District, Tax Map 45-2((1))17.

Kevin Guinaw, Staff Coordinator, told the Board that the applicant was requesting a deferral in this case, as he was advised to do by Board of Supervisors' Chairman John Herrity, in order to allow time for the Board of Supervisors to examine its policies toward latch-key facilities.

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101

11:50 A.M. ALDERSGATE UNITED METHODIST CHURCH, SP 86-V-063, application under Sect. 3-303 of the Zoning Ordinance to allow building and parking lot additions to existing church and related facilities, located at 1301 Collingwood Road, on approx. 6.23 acres, zoned R-3, Mount Vernon District, Tax Map 102-4((1))18.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that on September 27, 1983 a special permit was approved for the construction of this church. The church is now requesting approval to construct two additions to the existing facility and add parking spaces. Staff was concerned with a sight distance problem which exists at the Collingwood Road entrance but the applicant has resolved that issue by relocating the entrance and has submitted revised plats. Therefore, with this revision staff recommended approval of SP 86-V-063 in accordance with the development conditions contained in the staff report.

At this time, Mr. Hyland stated that he and the applicant had a business relationship, therefore, he would abstain from taking part in the public hearing.

Robert L. Charlton, 8703 Bluedale Street, Alexandria, Virginia, Senior Minister, represented the church and agreed with the development conditions contained in the staff report.

There were no speakers to address this application; therefore, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SP 86-V-063 as the applicant had presented testimony showing compliance with the general standards for a special permit and subject to the development conditions contained in the staff report with the following modifications: development condition #5 delete the last line in bullet #2; and add a new #10 to read, "the applicant may relocate four (4) parking spaces out of the Collingwood Road right-of-way adjacent to the western lot line of the property."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-V-063 by ALDERSGATE UNITED METHODIST CHURCH, under Section 3-303 of the Zoning Ordinance to allow building and parking lot additions to existing church and related facilities, on property located at 1301 Collingwood Road, Tax Map Reference 102-4((1))18, 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 3, 1987; 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 6.23 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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:

   - An evergreen hedge, four (4) feet in height, should be provided along the northwestern lot line within the 10 foot strip adjacent to the existing parking lot and the existing and proposed islands in that lot shall be planted with plantings of a type, size and amount to be determined by the County Arborist.

   - Transitional Screening 1 should be provided along the lot lines adjacent to Lots 19 and 21 with the following modification. In the areas where 25 feet of screening is not possible, Transitional Screening 1 shall still be provided with a reduced number of plantings in proportion to the width of the screening yard. The exact size, type, and location shall be determined by the County Arborist.

   - Transitional Screening 1 should be provided along the lot lines adjacent to Lots 21, 22, 13, 12 and 25 in the area of the new parking lot as shown on the plat submitted with this application and an evergreen hedge, four (4) feet in height, shall be included in this screening yard.

6. The barrier requirement shall be waived.

7. Dedication of right-of-way along Fort Hunt Road and Collingwood Road shall be required at the time of site plan review.

8. 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.

9. The maximum number of seats in the principal place of worship shall be 500 with a corresponding minimum number of parking spaces of 125. The maximum number of parking spaces shall be 239. All parking shall be on site.

10. The applicant may relocate four (4) parking spaces out of the Collingwood Road right-of-way adjacent to the western lot line of the property.

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 which carried by a vote of 5-0-1 with Mr. Hyland abstaining.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 11, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 103, March 3, 1987, (Tape 3), Scheduled case of:

12:10 A.M. DULLES CORNER PROPERTIES II LIMITED PARTNERSHIP, VC 87-C-005, application under Sect. 18-401 of the Zoning Ordinance to allow construction of parking structures accessory to two proposed office buildings to 32.02 feet and 33.5 feet respectively, from a front lot line (40 ft. min. front yard req. by Sect. 5-407), located on Horsepen Road, on 11.02 acres, zoned I-4, Centreville District, Tax Map 15-4((1))pt. 1. (OTH GRANTED)

Chairman Smith read a letter from the applicant requesting that VC 87-C-005 be withdrawn as a variance was no longer necessary due to a rezoning approved by the Board of Supervisors. Mrs. Thonen made a motion to allow the withdrawal of this application. Mr. Hammack seconded the motion which carried by a vote of 7-0.

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Page 103, March 3, 1987, (Tape 3), After Agenda Item:

PLEASANT VALLEY - SP 86-S-026
REQUEST FOR ADDITIONAL TIME
PLEASANT VALLEY ASSOCIATES

Mr. Hammack moved to grant the applicant in SP 86-S-026 the request for an additional time of 18 months which will make the new expiration date September 10, 1988. Mrs. Thonen seconded the motion which carried by a vote of 7-0.

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As there was no other business to come before the Board, the meeting was adjourned at 12:05 P.M.

Betsy S. Hurtt
Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 4-14-87

APPROVED: 4-21-87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 10, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Mary Thonen; and John Ribble. Gerald Hyland was absent from the meeting.

Chairman Smith opened the meeting at 9:42 A.M. and Mrs. Day led the prayer.

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Page 104, March 10, 1987, (Tape 1), Scheduled case of:

9:00 A.M. OSWALD AND MARLENE BACHER APPEAL, A 86-V-012, to appeal the Zoning Administrator's determination that a quick-service food store and fast food restaurant which have been established within the existing service station are in violation of the Zoning Ordinance, located 8570 Backlick Road, on approx. 30,325 square feet, zoned I-6, Mount Vernon District, Tax Map 99-4((1))7.

Chairman Smith announced that there had been a request for deferral by the applicant and staff recommended a new public hearing date of June 9, 1987 at 11:00 A.M.; Mr. DiGiulian so moved.

Mr. Ribble seconded the motion which passed unanimously with Mr. Hammack not present for the vote and Mr. Hyland absent from the meeting.

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Page 104, March 10, 1987, (Tape 1), After Agenda Item 1

At this time, the Board took up the After Agenda Item which was approval of Minutes for January 27, 1987 and February 3, 1987. Therefore, Mrs. Day moved approval of Minutes for January 27, 1987 and February 3, 1987.

Mr. Ribble seconded the motion which passed unanimously with Mr. Hammack not present for the vote; Mr. Hyland absent from the meeting.

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9:50 A.M. KNOLLWOOD BAPTIST CHURCH, SPA 82-S-028-3, application under Sect. 6-303 of the Zoning Ordinance to amend S-82-S-028 for church and related facilities to permit addition of 3 classroom trailers to existing facilities, located 10000 Coffer Woods Road, on approx. 5.00162 acres, zoned PRC, Springfield District, Tax Map 78-3((1))40.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised that staff was recommending approval of the application since the applicants had relocated the trailers as staff had recommended subject to the conditions contained in the staff report.

Sam Ward, 9905 Manet Road, Burke, Virginia, appeared before the Board as the representative of the applicant and stated that the applicant agreed to the proposed development conditions.

Following a question from Mrs. Thonen, Mr. Ward stated that he did not have approval of the Architectural Review Board (ARB) of the Burke Conservancy but noted that the application was scheduled to go before the ARB later this month.

Chairman Smith called for speakers and Crawford Reed, 10100 Woods Road Circle, Burke, Virginia, Administrator, ARB for the Burke Conservancy, appeared before the Board and requested that the subject application be deferred so that it could first be reviewed by the ARB. He also expressed concern for an increase in traffic and requested a parking study. Mr. Reed also questioned whether or not the property had been properly posted.

Mrs. Thonen moved to defer SPA 82-S-028-3 to March 31, 1987 at 10:50 A.M. to allow time to obtain further information and obtain approval from the ARB.

Mr. DiGiulian seconded the motion which passed by a vote of 4-1 with Mr. Ribble voting nay; Mr. Hammack not present for the vote; Mr. Hyland absent from the meeting.

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Page 104, March 10, 1987, (Tape 1), Scheduled case of:

10:15 A.M. OX HILL BAPTIST CHURCH, SPA 82-S-082-1, application under Sect. 3-103 of the Zoning Ordinance to amend S-82-S-082 for church and related facilities to permit construction of addition to existing building, new driveway, and reduction of number of parking spaces, located at 4101 Elmwood Street, on approx. 3.3990 acres, zoned R-1, HC, AN, and WS, Springfield District, Tax Map 34-3((6))46, 47, 48, 71, 72.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board of staff's concerns: That a landscaping plan for the northern lot line be submitted to the Arborist so that adequate landscaping can be determined for this area. The play area should also be relocated out of the required transitional screening yard.

Neil Weinstein, architect with Rinker, Detwiler and Associates, 10505 Judicial Drive, Fairfax, Virginia, appeared before the Board as the representative for the applicant and and submitted a letter to the Board from the Pinewood Homeowners Association requesting that no screening in the area of the eastern lot line be provided. As an alternate proposal Mr. Weinstein suggested that some shrubbery and shade trees be provided as partial screening in that area. He also objected to providing the required screening alont the northern lot line.

Ms. Greenlief pointed out that a trail thus the screening yard could be located to allow residents of the neighboring subdivision to be able to use the play area. She further added that the play area could be elongated along the parking lot rather then relocated. Ms. Greenlief reiterated that the proposal was maximizing the F.A.R. and screening is especially important.

Dean Majette, Pastor, 3543 Briarwood Court, Fairfax, Virginia, advised the Board that lot 54, which is owned by the Church would be not developed and would be used by the church as a buffer thus he couldn't see the necessity for providing the transitional screening.

Following a question from Chairman Smith, Ms. Greenlief explained that the reduction of five parking spaces was to allow for a new driveway.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the proposal does meet the standards for a special permit and moved to approve SPA 82-S-082-1 subject to the revised development conditions with Condition 7 revised as follows: Bullet 1 will remain the same and bullets 2 and 3 revised: Bullet 2 - When lot 54 adjacent to the applicant's property covered by this Special Permit is either sold or developed by the applicant, the applicant shall submit a landscape plan to the County Arborist which indicates the location of existing vegetation on the property under Special Permit. If the Arborist deems that plantings equivalent to Transitional Screening 1 do not exist on the Special Permit property along the northern lot line at that time then additional plantings shall be required to attain the level of Transitional Screening 1. Bullet 3: The play area may be allowed to remain in the transitional Screening area along the eastern lot line with Transitional Screening 1 provided along the eastern lot line outside of the play area. A trail or path a maximum of four (4) feet in width may be provided along or through the transitional screening yard if the applicant so desires.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 82-S-082 by OX HILL BAPTIST CHURCH, under Section 6-303 of the Zoning Ordinance to amend S 82-S-082 for church and related facilities to permit construction of addition to existing facilities to permit construction to existing building, new driveway and reduction of number of parking spaces, on property located at 4101 Elmwood Street, Tax Map Reference 34-3((6))46, 47, 48, 71, 72, 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 10, 1987; 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, HC, AN and WS.
3. The area of the lot is 3.3990 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 in the principal place of worship shall be 350.

6. The maximum number of parking spaces shall be 122. Handicapped parking shall be provided in accordance with applicable codes. All parking for this use shall be on site.

7. Transitional Screening shall be provided as follows:

   - The existing vegetation along the southern lot line shall be deemed to satisfy the transitional screening requirement.

   - When lot 54 adjacent to the applicant's property covered by this Special Permit is either sold or developed by the applicant, the applicant shall submit a landscape plan to the County Arborist which indicates the location of existing vegetation on the property under Special Permit. If the Arborist deems that plantings equivalent to Transitional Screening 1 do not exist on the Special Permit property along the northern lot line at that time then additional plantings shall be required to attain the level of Transitional Screening 1.

   - The play area may be allowed to remain in the Transitional Screening area along the eastern lot line with Transitional Screening 1 provided along the eastern lot line outside of the play area. A trail or path a maximum of four (4) feet in width may be provided along or through the transitional screening yard if the applicant so desires.

8. The barrier requirement shall be waived.

9. Prior to the issuance of the Non-Residential Use Permit for the addition, the trailer and shed shall be removed from the property.

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.

The motion carried by a vote of 6-0 with Mr. Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 18, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 107, March 10, 1987, (Tape 1), Scheduled case of:

10:45 A.M. CARE-A-LOT LEARNING CENTER, INC. AND MICHAEL J. AND KAREN L. REID, SP 86-C-071, application under Sect. 3-103 of the Zoning Ordinance to allow a nursery school and child care center, located at 9943 Lawyers Road, on approx. 3.771 acres, zoned R-1, Centreville District, Tax Map 38-1((1))8.

As the Board had received a letter requesting deferral of SP 86-C-071, Care-A-Lot Learning Center, Inc. and Michael J. and Karen L. Reid, Mrs. Thonen moved to defer the application to July 28, 1987 at 8:00 P.M.

Mr. Hammack seconded the motion which passed unanimously with Mr. Ribble not present for the vote; Mr. Hyland absent from the meeting.

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At 10:45 A.M. the Board recessed the meeting and reconvened it at 11:21 A.M.

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Page 107, March 10, 1987, (Tape 1), Scheduled case of:

11:05 A.M. JOHN H. STOKES III, VC 86-M-113, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 1 having width of 43 feet (100 ft. min. lot width req. by Sect. 3-206), located 4340 Old Columbia Pike, on approx. 2.4158 acres, zoned R-2, Mason District, Tax Map 71-2((1))59. (DEF. FROM 1/27/87)

At the applicant's request, Mrs. Thonen moved to defer VC 86-M-113 to March 31, 1987 at 11:10 A.M.

Mr. DiGiulian seconded the motion which passed unanimously with Mr. Hyland absent from the meeting.

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Page 107, March 10, 1987, (Tape 1), Approval of Resolutions for March 3, 1987

With regard to the Resolution approved at the March 3, 1987 public hearing for David H. Wan, SP 86-S-066, Mr. Ribble questioned the need to "spell out" what the applicant was requesting as well as what the Board granted. Therefore, Mr. Ribble moved to revise the following language in the heading of the Resolution for SP 86-S-066: To allow shed and deck addition to dwelling (Shed addition denied and deck addition approved).

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Page 107, March 10, 1987, (Tape 1), Scheduled case of:

11:30 A.M. RICHARD T. CHRISTIE, SP 86-M-058, appl. under Sect. 3-203 of the Zoning Ordinance to allow home professional (chiropratic) office, located at 3404 Gallows Road on approx. .9613 acres, zoned R-2, Mason District, Tax Map 59-2((1))30. (DEF. FROM 2/3/87)

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that adequate screening and parking were proposed, several transportation issues remained unresolved, and the intensity of the proposed use would have an adverse impact on the surrounding stable residential neighborhood. Mr. Guinaw concluded that staff was recommending denial of the application.

Richard Christie, 3404 Gallows Road, Annandale, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He stated that the proposal to operate a chiropratic business in his own home was temporary and that he planned to relocate his office to a commercial location once his practice grows. He stated that the adjacent property owners had agreed that additional plantings between the driveway and this lot line would not be necessary provided, a 7 foot solid wood fence was provided.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian noted the parking problems and inadequate screening and then moved to deny the request for special permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-M-058 by RICHARD T. CHRISTIE, under Section 3-203 of the Zoning Ordinance to allow home professional office (chiropratic), on property located at 3404 Gallows Road, Tax Map Reference 59-2((1))30, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on March 10, 1987; 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 .9613 acre 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 and 8-303 of the Zoning Ordinance.

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

The motion was seconded by Mrs. Thonen and Mr. Hammack and passed by a vote of 6-0 with Mr. Hyland absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 18, 1987.

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Page 108, March 10, 1987, (Tape 2), Scheduled case of:

11:50 A.M. SNAPPY LUBE INC. AND EAKIN PROPERTIES, INC., VC 86-P-106, application under Sect. 18-401 of the Zoning Ordinance to allow vehicle light service establishment to have building 21 feet from a front lot line and loading spaces in a required front yard prohibited by Sect. 11-202 (40 ft. min. front yard req. by Sect. 4-607, located at 6436 Arlington Boulevard on approx. 20,369 square feet, zoned C-6, Providence District, Tax Map 51-3((1))1A. (DEF. FROM 2/10/87)

Jane Kelsey, Branch Chief, Board of Zoning Appeals Support Branch, presented the staff report and advised the BZA that the applicant had requested and received approval of a special exception from the Board of Supervisors (SE 86-P-094 Snappy Lube Incorporated granted on March 9, 1987). She added that the application did not meet the standards for a variance and that the applicant had reasonable use of the land without a variance since there were other uses that could be made of this property which could be implemented without a variance.

Keith Martin, Walsh, Colucci, Stackhouse, Emrich & Lubeley, 950 North Glebe Road, Arlington, Virginia, attorney representing the applicant, appeared before the Board and explained that the by granting the special exception, the Board of Supervisors saw the proposal as a reasonable use. He added that the proposal would promote revitalization efforts in the area and a substantial tree buffer was already provided. In addition to the existing tree buffer, Mr. Walsh noted that the applicant would provide landscaping and a wooden fence. In conclusion, Mr. Walsh noted that the size of the building had been reduced to 1,716 square feet.

In closing, Ms. Kelsey expressed concern that some of the existing vegetation which Mr. Martin mentioned would be removed when South Street was widened.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day noted that the building design had been modified and that the applicant had agreed to provide landscaping along Route 50. Therefore Mrs. Day moved to grant VC 86-P-106 subject to the development conditions contained in the staff report and the conditions of SE-86-P-094.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-106 by SNAPPY LUBE INC. AND EAKIN PROPERTIES, INC., under Section 18-401 of the Zoning Ordinance to allow vehicle light service establishment to have building 21 feet from a front lot line and loading spaces in a required front yard , on property located at 6436 Arlington Boulevard, Tax Map Reference 51-3((1))1A, 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 10, 1987; and

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

1. The applicant is the lessee.
2. The present zoning is C-6.
3. The area of the lot is 20,369 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.

4. The conditions of Special Exception Application SE 86-P-094 granted by the Board of Supervisors on March 10, 1987 shall be incorporated into VC 86-P-106.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-1 with Mr. Smith voting nay; Mr. Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 18, 1987. This date shall be deemed to be the final approval date of this variance.

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As there was no other business to come before the Board, the meeting was adjourned at 12:32 P.M.

Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 4-15-87

APPROVED: 4-22-87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 17, 1987. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Mary Thonen; and Gerald Hyland. John DiGiulian and John Ribble were absent from the meeting.

Chairman Smith opened the meeting at 9:13 A.M. and Mrs. Day led the prayer.

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Page 111, March 17, 1987, (Tape 1), Scheduled case of:

9:00 A.M. STOHLMAN TYSONS CORNER, INC. AND STOHLMAN VOLKSWAGEN, INC. APPEAL - A 86-C-103, to appeal the Zoning Administrator's determination that the display of vehicles adjacent to Leesburg Pike and Gosnell Road is a violation of the Zoning Ordinance, located at 8433 Leesburg Pike, on approximately 269,971 square feet of land, zoned C-7, Tax Map 29-3((1))38.

William Shoup, Assistant to the Zoning Administrator, represented Jane Gwinn, Zoning Administrator, in her absence. Larry McDermott, Assistant Director of the Zoning Administration Division, and Gerald Carpenter, Senior Zoning Inspector, were also present to respond to questions. Mr. Shoup stated he had no additional comments other than what Ms. Gwinn had stated in her memorandum to the Board of Zoning Appeals dated March 12, 1987 and he would be glad to respond to any quesions the Board might have.

Randy Minchew, attorney with the law firm of Hazel, Beckhorn and Hanes, 4084 University Drive, Fairfax, Virginia, represented John Cahill, the attorney for the appellant. He explained that Mr. Cahill had been called to court unexpectedly and requested a deferral of the appeal until approximately 10:00 A.M. when Mr. Cahill would be present and ready to proceed with the public hearing.

Following questions from the Board, Mr. Shoup stated that the violation was not pending all the time, but there are times when the violation is being committed.

Mr. Hammack pointed out that this was an unusual situation and the Board should allow the case to be passed over to allow time for Mr. Cahill to arrive and the Board so moved.

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As it was not time for the next scheduled case the Board proceeded to take action on the after agenda items.

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Page 111, March 17, 1987, (Tape 1), After Agenda Item:

MARCH 10, 1987 RESOLUTIONS

Mrs. Thonen moved to adopt the Resolutions for applications which were heard by the Board of Zoning Appeals on March 10, 1987 as submitted. Mrs. Day seconded the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

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Page 111, March 17, 1987, (Tape 1), After Agenda Item:

DANIEL SHAPIRO - VC 87-P-023
OUT-OF-TURN-HEARING

Mr. Hyland moved to deny the request for an out-of-turn hearing to the applicant of VC 87-P-021. Mr. Hammack seconded the motion which passed by a vote of 4-1 with Mrs. Day voting nay; Messrs. DiGiulian and Ribble absent from the meeting.

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Page 111, March 17, 1987, (Tape 1), After Agenda Item:

DR. AND MRS. KENNETH B. ANDERSON APPEAL

Mrs. Thonen moved to set the date for the public hearing of the appeal of Dr. and Mrs. Kenneth B. Anderson for June 9, 1987 at 10:30 A.M. Mrs. Day seconded the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

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Page 112, March 17, 1987, (Tape 1), Scheduled case of:

9:30 A.M. LARRY BECKER AND KAREN BECKER, VC 86-D-128, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 22.7 feet from a street line of a corner lot (35 ft. min. front yard req. by Sect. 3-207), located at 931 Dead Run Drive, on approximately 22,542 square feet of land, zoned R-2, Dranesville District, Tax Map Ref. 21-3((11))77.

Jane Kelsey, Branch Chief, presented the staff report and stated that the applicants are requesting a variance in order to construct a two-car garage with a master bedroom and bath above. The applicant's justification is the fact that this is a corner lot with two front yards, therefore the applicant contends they do not have full use of his land. Ms. Kelsey pointed out that there are other corner lots in this area and the granting of this variance might set an undesirable precedent.

As the applicant was not present, Chairman Smith asked Ms. Kelsey to read the applicant's statement of justification into the record. A discussion took place among Board members and Ms. Kelsey regarding the applicant's justification being based on his property being located on a corner lot.

Ms. Kelsey told the Board that she had just been informed by her staff that the applicant in VC 86-D-128 had telephoned that he was in court and would be present shortly for the public hearing.

Following a discussion among the Board members, Chairman Smith recessed VC 86-D-128 and moved on to the next scheduled case to wait the arrival of the applicant.

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Page 112, March 17, 1987, (Tape 1), Scheduled case of:

9:45 A.M. RIVER BEND GOLF AND COUNTRY CLUB, INC., SPA 82-D-101-2, application under Sect. 3-E03 of the Zoning Ordinance to amend SP 82-D-101 for Country Club to permit addition of restroom on the golf course, and equipment storage building, additional office space and replacement canopy and a building to house water storage tanks and to existing facilities, located at 9901 Beach Mill Road on approximately 151.321 acres of land, zoned R-E, Dranesville District, Tax Map 8-1((1))22, 23 and 41, 8-3((1))4. (DEFERRED FROM 1/20/87 - NOTICES NOT IN ORDER)

Jane Kelsey, Branch Chief, presented the staff report and explained that on February 9, 1960 a special permit was approved by the Board of Zoning Appeals (BZA) for Forest Lake Country Club to construct and operate a golf course with club house and recreation facilities. Since that time, the BZA has approved various amendments to that special permit to allow the applicant to add improvements to the site. She pointed out that the applicant has failed to comply with certain development conditions of the most recent special permit amendment and, consequently, does not have the required Non-Residential Use Permit and the uses approved by SPA 82-D-101-1 have not been legally established. The Zoning Enforcement Division has issued a verbal notice of violation to the applicant's agent and to date the applicant has not filed for a Non-Residential Use Permit or Site Plan approval. In conclusion, Ms. Kelsey added that a planting plan must be submitted and approved by the County Arborist to assure effective screening of the bubble and to determine the amount and type of vegetation required around the existing paved-in area of the floodplain.

Kennon Bryan, attorney with the law firm of Lewis, Tydings, Bryan, Trichilo and Scott, 10511 Judicial Drive, Fairfax, Virginia, told the Board that he had personally talked with the County Arborist concerning the plantings within the floodplain which had been planted in early 1986 and submitted a copy of a letter that had been sent to the County Arborist. At the time of the County Arborist's inspection it was determined that the additional screening, recommended by staff between the air-bubble and Club View Drive Subdivision, was not necessary. Mr. Bryan told the Board that the formal site plan waiver request would be filed this date and that a Non-Residential Use Permit shows in the computer as being issued last year. Mr. Bryan added that he agreed with the development conditions in the staff report with the exception of condition #9 as he believed the applicant was in compliance with the conditions set forth in previous amendments.

Ms. Kelsey stated that if a Non-Residential Use Permit was issued it was issued in error because a site plan had never been approved and this approval is needed prior to the issuance of this permit.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SPA 82-D-101-2 as he believed the applicant had presented testimony showing compliance with the requirements for a special permit and subject to the development conditions in the staff report with a modification of condition #9 as

follows: "The existing evergreen trees between the tennis courts and the Club View Ridge Subdivision shall be retained. Additional plantings, in a manner that will ensure a screening of the bubble from the residents located immediately to the north and west of the bubble, may be required by the County Arborist, if deemed necessary."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 82-D-101-2 by RIVER BEND GOLF AND COUNTRY CLUB, INC., under Section 3-E03 of the Zoning Ordinance to amend S-82-D-101 for Country Club to permit addition of restroom on the golf course, an equipment storage building, additional office space and replacement canopy and a building to house water storage tanks to existing facilities, on property located at 9901 Beach Mill Road, Tax Map Reference 8-1((1))22, 23 and 41 and 8-3((1))4, 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 17, 1987; 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 151.321 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 equipment storage building shall be relocated outside the 100 year flood plain. A revised plat must be submitted to the Board of Zoning Appeals for final approval showing the 100 year flood plain and the relocation of the storage shed building outside the flood plain before a building permit can be approved for this structure.

6. No building permit shall be approved for any of these uses until the applicant has complied with Article 17, Site Plans.

7. The membership in the Club shall be limited to 600 members.

8. The Club shall provide 163 parking spaces.

9. The existing evergreen trees between the tennis courts and the Club View Ridge subdivision shall be retained. Additional plantings, in a manner that will ensure a screening of the bubble from the residents located immediately to the north and west of the bubble, may be required by the County Arborist, if deemed necessary.

10. The hours of operation for the Club shall be as follows:

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

11. The lights at the tennis courts, including those associated with the bubble, shall continue to be controlled by an automatic shut-off device.

12. The inflation and use of the bubble shall be permitted only between October 1 and May 31.

13. There shall be no further construction or paving in the area of the floodplain. In addition, vegetation shall be planted immediately to the southeast of the existing paved area to promote filtration of stormwater runoff prior to its entry into the swale. The type and amount of vegetation shall be determined by the Director, DEM, and such plantings shall be provided before a Non-Residential Use Permit can be obtained.

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 activities previously approved have been legally established and construction begun and 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 which carried by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 25, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 114, March 17, 1987, (Tapes 1 and 2), Scheduled case of:

9:00 A.M. STOHLMAN TYSONS CORNER, INC. AND STOHLMAN VOLKSWAGEN, INC. APPEAL - A 86-C-103, to appeal the Zoning Administrator's determination that the display of vehicles adjacent to Leesburg Pike and Gosnell Road is a violation of the Zoning Ordinance, located at 8433 Leesburg Pike, on approximately 269,971 square feet of land, zoned C-7, Tax Map 29-3((1))38.

As John Cahill, with the law firm of Hazel, Beckhorn, and Hanes, 4084 University Drive, Fairfax, Virginia, attorney for the appellant, was now present the Board proceeded with the public hearing. Mr. Cahill stated that in the staff report, staff relied upon the Zoning Ordinance provisions set forth in Sect. 2-504 relating to use limitations in yard areas which has an important caviat which states "that these limitations shall not be construed to prohibit the provision of required off street parking spaces in any yard area." He stated that he believed the critical feature is, what is an off-street parking space? The Zoning Ordinance defines parking, off-street in Article 20-300 as "any space, whether or not required by the provision of this Ordinance specifically allotted to the parking of motor vehicles as an accessory use. For the purpose of this Ordinance, such space shall not be located in a dedicated right-of-way, a travel lane, a service drive, nor any easement for public ingress or egress" and these restrictions tell where you cannot put cars. He suggested to the Board that this restriction in the definition of off-street parking would allow the dealership to do exactly what it is doing and is consistent with the provisions contained in Sect. 2-504. With regards to the limitation in Sect. 4-705 for the C-7 District, Mr. Cahill added that there is a

caviat that talks about the outdoor storage and display of goods customarily used outside: such as, fertilizer, peat moss, shrubbery and mulch. There is a distinction between the automobiles and the types of goods that are specifically identified by the provisions of the Zoning Ordinance. He suggested that given the circumstances of the definition of off-street parking which is contained in the Zoning Ordinance and the caviat of Sect. 2-504 that there is no prohibiton of the conduct that is being conducted on this property and that in fact this is an exception to that overall rule. That 40 foot area that is delineated by staff as being the front yard includes a number of spaces that are designated as parking spaces and if the applicant takes staff's interpretation, they would not be allowed to put vehicles that are on sale at the dealership within those parking spaces. In conclusion, he stated that that is why he made the distinction between the definition of off-street parking and where you can put display vehicles and where you cannot. He added that in his opinion there is no prohibition to allowing display vehicles within the 10 foot yard on Route 7.

In response to questions from the Board, Mr. Cahill stated the dealership had been notified of the violation and since that time steps have been taken to correct the violation. He added that the dealership had not intended to violate the Zoning Ordinance.

Mr. McDermott responded to comments from the Board by explaining that Zoning Enforcement did respond to complaints and that the Zoning Inspectors have been told to cite auto dealerships when they were in the field and notice zoning violations.

Following comments from the Board, Mr. Shoup explained that the Zoning Ordinance requires that an applicant, when applying for a special permit or special exception, designate the area that would be used for display on the approved site plan. This applicant had a designated area for display clearly marked on the approved site plan. He added that there has to be a distinction between off-street parking and storage and display parking. The applicant can amend the size of the display area and submit a revised plan to staff.

As there were no further comments, Chairman Smith closed the public hearing.

Mrs. Thonen moved to uphold the Zoning Administrator's determination that the display of vehicles adjacent to Leesburg Pike and Gosnell Road is a violation of the Zoning Ordinance. Mr. Hammack seconded the motion which carried by a vote of 4-1 with Mrs. Day voting nay; Messrs. DiGiulian and Ribble absent from the meeting.

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At 11:00 A.M. the Board took a short recess and reconvened at 11:15 A.M.

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Page 115, March 17, 1987, (Tape 1), Scheduled case of:

9:30 A.M. LARRY BECKER AND KAREN BECKER, VC 86-D-128, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 22.7 feet from a street line of a corner lot (35 ft. min. front yard req. by Sect. 3-207), located at 931 Dead Run Drive, on approximately 22,542 square feet of land, zoned R-2, Dranesville District, Tax Map Ref. 21-3((11))77.

This case had been passed over earlier in the public hearing as the applicant was in court and could not be present. Mr. Becker appeared before the Board and requested this case be deferred so that his neighbors, who supported the application, could be present for the public hearing. Staff suggested a date and time of April 21, 1987 at 11:15 A.M. and the Board so moved.

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Page 115, March 17, 1987, (Tape 2), Scheduled case of:

10:10 A.M. WILLIAM C. TINKLEPAUGH, VC 86-A-129, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 10.2 feet from a side lot line and 28.8 feet from a street line of a corner lot (12 ft. min. side yard, 30 ft. min. front yard req. by Sect. 3-307), located 4714 Trotting Lane, on approximately 13,846 square feet of land, zoned R-3, Annandale District, Tax Map Reference 70-1((6))56.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and stated that the applicant was requesting a variance of 1.8 feet to the minimum side yard requirement to enclose an existing carport. She added that after the staff report was written staff determined that the applicant had received a building permit for the carport based on building permit plat which showed a 38 foot setback from the street line. This was incorrect since there was only 28.8 feet existing. Therefore, the carport was built in error and encroaches into the required minimum front yard. There is no zoning violation pending at this time, but the applicant has been made aware of the problem.

William C. Tinklepaugh, 4714 Trotting Lane, Annandale, Virginia, the applicant, explained that he was requesting a variance to enclose his existing carport into a garage. This addition will provide protection for his automobiles as well as a place for his children's toys to be stored so that they are not visible from the street. He added there was no objection from the surrounding neighbors as they believed it would improve the appearance of the neighborhood. He said he was unaware of the error in the construction of the carport until the Staff Coordinator advised him of it.

There were no speakers to address this application; therefore, Chairman Smith closed the public hearing.

Mrs. Day moved to grant VC 86-A-129 as the applicant had presented testimony showing compliance with the requirements for a variance and subject to the development conditions contained in the staff report.

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THE APPLICATION WAS DENIED DUE TO THE FAILURE TO APPROVE THIS RESOLUTION

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-A-129 by WILLIAM C. TINKLEPAUGH, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 10.2 feet from a side lot line and 28.8 feet from a street line of a corner lot, on property located at 4714 Trotting Lane, Tax Map Reference 70-1((6))56, 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 17, 1987; 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 13,846 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.

The motion FAILED by a vote of 3-1 with Mrs. Day, Mrs. Thonen and Mr. Hammack voting aye; Chairman Smith voting nay. Mr. Hyland was not present for the vote and Messrs. DiGiulian and Ribble were absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 25, 1987.

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Page 117, March 17, 1987, (Tapes 2 and 3), Scheduled case of:

10:30 A.M. WILLIAM B. AND DIANNE E. HARRAH, SPA 81-S-077-1, application under Sect. 3-C03 of the Zoning Ordinance to amend S 81-S-077 for home professional office and to change four conditions with a waiver of dustless surface requirement, located at 11718 Amkin Drive, on approximately 7.6513 acres of land, zoned R-C and WSPOD, Springfield District, Tax Map Reference 86-3((5))7.

Lori Greenlief, Staff Coordinator, presented the staff report and stated that the applicant is requesting a modification to the existing special permit as follows: eliminate the condition with respect to term, increase the total number of employees from four to six, add a second computer, increase the parking from two to five spaces, and a waiver of the dustless surface requirement. Staff is recommending approval to allow the existing use to continue but deny the expansion. She stated that circumstances have changed since this application was originally approved. This property and the surrounding properties was replanned from .2 to .5 dwelling units per acre to private open space. In addition, this has been designated an Environmental Quality Corridor. Ms. Greenlief stated that staff also recommends that Condition No. 6 be amended to include the words "associated in this use" referring to outside parking spaces with the addition of two new Conditions Nos. 14 and 15.

Sarah H. Reifsnyder, attorney with the law firm of Blankinship and Keith, 4020 University Drive, Fairfax, Virginia, represented the applicant and noted that the use has been in existence since 1978. The applicants selected and designed this house so that the office would not be noticeable to the adjacent property owners. She stated that the main issue is the increase in the number of employees which are desperately needed since the business has increased dramatically within the past five years. The additional parking is needed to accommodate the new employees.

Following a discussion between the Board members and the applicant regarding the parking issue, Jane Kelsey, Branch Chief, explained that when the initial special permit was reviewed the total number of parking spaces was broken down to be two outside parking spaces with two parking spaces in the garage which the applicant agreed to at that time.

Sid Patterson, 11717 Amkin Drive, Clifton, Virginia, supported the application and stated that his house was directly across from the applicant's and that the office was not noticeable from the street.

Grace Donahue, 11707 Amkin Drive, Clifton, Virginia, had no objection to this application and stated she agreed totally with the previous speaker's comments.

Sally Tongren, 7507 Amkin Court, Clifton, Virginia, represented the Plantation Hills Homeowners Association. She stated the Association supported the application as amended by staff regarding denial of the the expansion of the business but to allow the existing office to continue.

During rebuttal, Ms. Reifsnyder told the Board that the applicants were willing to have a three (3) year time limitation on the use if they were allowed the additional employee.

As there was no additional comments or speakers, Chairman Smith closed the public hearing.

Mr. Hammack stated he believed the applicants had presented testimony showing compliance with the standards set forth in the original special permit to allow the use to continue but not for an expansion of the use. Therefore, he moved to grant-in-part SPA 81-S-077-1 subject to the development conditions contained in the staff report with the following modifications:

6. The maximum number of outside parking spaces associated with this use shall be two. The garage shall be used for two parking spaces.

14. No machinery or heavy equipment other than two computers (photocomposers), a small copier and typewriter shall be permitted.

15. The special permit use shall be limited to the basement area of the existing dwelling and shall not be expanded.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 81-S-077-1 by WILLIAM B. AND DIANNE E. HARRAH, under Section 3-C03 of the Zoning Ordinance to amend S-81-S-077 for home professional office to change four conditions and to waive the dustless surface requirement, on property located at 11718 Amkin Drive, Tax Map Reference 86-3((5))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 March 17, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-C(WS).
3. The area of the lot is 7.6513 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-915 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 not be subject to the provisions set forth in Article 17, Site Plans.

5. The maximum number of employees associated with this use shall be four including the applicants.

6. The maximum number of outside parking spaces associated with this use shall be two. The garage shall be used for two parking spaces.

7. The hours of operation shall be from 6:00 a.m. to 5:00 p.m., Monday through Friday.

8. There shall be no exterior alterations connected with this business.

9. This permit is granted for a period of five (5) years from the date of this approval.

10. No signs shall be permitted.

11. No clients shall be permitted on the property.

12. No deliveries or pick-ups shall be made to the property by anyone other than the applicants.

13. The waiver of the dustless surface is granted for a period of five (5) years from the date of this approval. This area shall be maintained in accordance with the standard practices approved by the Director, DEM, which shall include but not be limited to the following:

    A. Travel speeds shall be limited to 10 mph or less.

    B. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.

    C. During dry periods, application of water or calcium chloride shall be made in order to control dust.

    D. Runoff shall be channeled away from and around the parking area.

    E. The applicant shall perform periodic inspections to monitor dust conditions drainage functions, compaction and migration of stone surface.

14. No machinery or heavy equipment other than two computers (photo-composers), a small copier, and typewriter shall be permitted.

15. The special permit use shall be limited to the basement area of the existing dwelling and shall not be expanded.

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 which carried by a vote of 4-0 with Mr. Hyland not present for the vote; Messrs. DiGiulian and Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on March 25, 1987. This date shall be deemed to be the final approval date of this special permit.

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10:50 A.M. THOMAS M. AND MARY MOLINO, SP 86-S-075, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 17.1 feet from a street line of a corner lot (20 ft. min. front yard req. by Sect. 3-307), located 9410 Downhaul Lane, on approximately 8,770 square feet of land, zoned R-3(C), Springfield District, Tax Map Reference 88-3((3))345.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and stated that the applicants are requesting a modification to the minimum front yard requirement to allow the dwelling to remain 17.1 feet from the eastern front lot line.

Mary Jo Nerht, project manager with Bengston, DeBell, Elkin and Titus, 13924 Braddock Road, Centreville, Virginia, explained that due to a surveying error the property line between this house and the adjacent house is incorrect. Therefore, the house is situated incorrectly on the lot.

Ms. Hamblin-Katnik stated that staff is recommending approval of this application subject to the development conditions contained in the staff report.

In response to questions from the Board, Ms. Nerht noted that the house has been sold and is presently occupied.

Chairman Smith closed the public hearing as there was no further discussion.

As the mistake had occurred due to human error, Mrs. Thonen moved to grant SP 86-S-075 under the Mistake Section and subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 86-S-075 by THOMAS M. AND MARY MOLINO under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 17.1 feet from a street line of a corner lot, on property located at 9410 Downhaul Lane, tax map reference 88-3((3))345, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on March 17, 1987; 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.

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. An amended Building Permit reflecting the size and location of the existing house shall be submitted and approved.

Mrs. Day seconded the motion which passed by a vote of 4-0 with Mr. Hyland not present for the vote; Messrs. DiGiulian and Ribble absent from the meeting.

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Page 121, March 17, 1987, (Tape 3), Scheduled case of:

11:15 A.M. GERALDINE AND SAMMI G. YOUNG, SP 86-S-074, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 6.9 feet from side lot line (8 ft. min. side yard req. by Sect. 3-307), located 9412 Downhaul Lane, on approximately 9,513 square feet of land, Springfield District, Tax Map Reference 88-3((3))344.

Claudia Hamblin-Katnik, Staff Coodinator, presented the staff report and pointed out that this application was identical to the previous one as it was the adjoining property. Staff is also recommending approval of this application.

Mary Jo Nehrt, project manager with Bengston, DeBell, Elkin and Titus, 13924 Braddock Road, Centreville, Virginia, explained this was identical to the previous case.

Mrs. Day moved to grant SP 86-S-074 under the Mistake Section as the error was caused by human error.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Day made the following motion:

WHEREAS, Application No. SP 86-S-074 by GERALDINE AND SAMMI G. YOUNG 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 6.9 feet from side lot line, on property located at 9412 Downhaul Lane, tax map reference 88-3((3))344, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on March 17, 1987; 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.

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. An amended Building Permit reflecting the size and location of the existing house shall be submitted and approved.

Mrs. Thonen seconded the motion which passed by a vote of 4-0 with Mr. Hyland not present for the vote; Messrs. DiGiulian and Ribble absent from the meeting.

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Page 122, March 17, 1987, (Tape 3), Scheduled case of:

11:40 A.M. COSTAIN WASHINGTON, INC., a Maryland Corporation, SP 86-S-073, application under Sect. 3-203 of the Zoning Ordinance to allow a community recreation facility, located in the Hampton Forest Subdivision, on approximately 4.68 acres of land, zoned R-2(WS), Springfield District, Tax Map Reference 66-2((1))pt. 1A.

Claudia Hamblin-Katnik, Staff Coordinator, explained that the applicant had prepared the notices to the adjoining property owner but would like to request a deferral.

Alex Intermaggio, attorney with the law firm of Haight, Tramonte & Siciliano, 210 East Broad Street, Falls Church, Virginia, told the Board that a meeting had been held with staff and at the time of that meeting one of the addresses was incorrect and this notice was sent. The white copy of the certified receipt was not forwarded to the Clerk of the Board of Zoning Appeals within the deadline as the applicant wished to request a deferral. Since that time, the notice has been given to the Clerk and the green cards will be submitted at the time of the next scheduled public hearing. He added that the request for a deferral is based on staff's determination that part of the requested development will be located in a Environmental Quality Corridor (EQC).

Ms. Hamblin-Katnik agreed with the deferral and suggested a scheduled date and time of April 28, 1987 at 9:15 A.M. and the Board so moved.

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As there was no other business to come before the Board, the meeting was adjourned at 1:03 P.M.

Betsy S. Hurt

Betsy S. Hurt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 4/28/87

APPROVED: 5/5/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 24, 1987. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Mary Thonen; Gerald Hyland and John Ribble. John DiGiulian was absent from the meeting.

Chairman Smith opened the meeting at 8:11 P.M. and Mrs. Day led the prayer.

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Page 123, March 24, 1987, (Tape 1), Scheduled case of:

8:00 P.M. FRANCES MAE PARKS, SP 86-P-070, application under Sect. 3-403 of the Zoning Ordinance to allow home professional office and waiver of dustless surface requirement, located 2841 Brook Drive, on approximately 11,623 square feet of land, zoned R-4, Providence District, Tax Map Reference 51-3((2))66.

Heidi Belofsky, Staff Coordinator, presented the staff report. She pointed out that the applicant is requesting approval for a home professional office and waiver of the dustless service requirement. The applicant will not employ staff other than herself and will see no more then 5-6 clients per day with a time lapse of 10 minutes between appointments. In conclusion, Ms. Belofsky stated staff believes this application is in harmony with the Comprehensive Plan and the Hillwood Improvement Community Plan and therefore recommends approval of SP 86-P-070 subject to the development conditions set forth in the staff report.

In response to questions from the Board, Ms. Belofsky explained that this would only be a part time business as the applicant hopes to find a teaching position. She pointed out that the Office of Transportation does not believe this application will generate a significant amount of traffic.

Frances Mae Parks, 2841 Brook Drive, Falls Church, Virginia, the applicant, agreed with the staff report and stated that her clients would be professionals and would not present any health or safety hazards to the neighborhood.

Mary Thibeautt, 2844 Brook Drive, Falls Church, Virginia, told the Board she had submitted a letter in opposition to this request and added that she feared this would develop into a full time business and create more traffic problems.

Scott Slaybecker, 2912 Brook Drive, Falls Church, Virginia, agreed with the previous speaker's comments regarding the traffic situation and pointed out the neighborhood was a mix of elderly citizens as well as young families with small children. He added that he would not like to have a professional home office in the neighborhood.

Richard Horner, 2907 Linden Lane, Falls Church, Virginia, President of the Hillwood Homeowners Association, opposed the application and agreed with the previous speakers' comments. Mr. Horner pointed out there was presently a doctor's office and dentist's office in the neighborhood.

During her rebuttal, Ms. Parks explained that she was presently seeing patients and they were parking on the street but is willing to widen the driveway to allow a turning area so that the cars would not be backing out into the road.

As there were no further comments, Chairman Smith closed the public hearing.

Mr. Hammack moved to deny SP 86-P-070 as he did not believe the applicant had presented testimony showing that the standards for a special permit had been satisfied and noted the following reasons: He disagreed with staff that this is in line with the Comprehensive Plan; He had concerns regarding transportation based on the citizens' testimony regarding the traffic flow on the size streets which are in the neighborhood; there are presently other professional offices in the area; and, the proposed hours of operation requested by the applicant.

Mrs. Thonen stated she would support the motion for denial as she could not support a home professional office in a residential neighborhood.

Mr. Hyland expressed concern that so many requests for home professional offices are being denied by the Board of Zoning Appeals. He suggested that perhaps the Zoning Ordinance needed to be reviewed regarding this type of use.

Chairman Smith stated that he had supported many home professional offices but in this instance would have to support the motion for denial.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-P-070 by FRANCES M. PARKS, under Section 3-403 of the Zoning Ordinance to home professional office and waiver of dustless surface requirement,

on property located at 2841 Brook Drive, Tax Map Reference 51-3((2))66, 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 24, 1987; 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 11,623 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 8-903 and 8-915 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 5-1 with Mr. Hyland voting nay; Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 1, 1987.

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Page 124, March 24, 1987, (Tape 1), Scheduled case of:

8:15 P.M. WOODLAWN COUNTRY CLUB, INC. - SPA 74-V-107-1, application under Sect. 3-203 of the Zoning Ordinance to amend S-107-74 for a country club, to permit additions to structures and the parking lot and increase membership, located at 5111 Old Mill Road, on approximately 128.8291 acres of land, zoned R-2, Mount Vernon District, Tax Map 110-1((1))3-4, 13, 13A.

Heidi Belofsky, Staff Coordinator, informed the Board that the applicant in this case was requesting a deferral and that the agent for the applicant, Bob Merenes of Design Engineering, was present to respond to questions if necessary.

Mr. Hyland moved to defer SPA 74-V-107-1 to April 28, 1987 at 11:15 A.M. Mr. Ribble seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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Page 124, March 24, 1987, (Tape 1), Scheduled case of:

8:30 P.M. CARL K. HINGER, VC 87-A-002, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 16.8 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-207), located at 8426 Briar Creek Drive, on approximately 15,098 square feet of land, zoned R-2, Annandale District, Tax Map Reference 70-1((22))8.

Heidi Belofsky, Staff Coordinator, presented the staff report.

Carl Hinger, 8426 Briar Creek Drive, Annandale, Virginia, the applicant, explained there was no other location on his property for the addition due to the way the house was situated on the lot by the builder.

Mrs. Thonen moved to grant VC 87-A-002 because she believed the applicant met the standards for a variance specifically 1, 2, 3, 6 and due to the unusual topography of his lot.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-002 by CARL K. HINGER, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 16.8 feet from rear lot line, on property located at 8426 Briar Creek Drive, Tax Map Reference 70-1((22))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 March 24, 1987; 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 15,098 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 and Mr. Hammack seconded the motion.

The motion carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 1, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 126, March 24, 1987, (Tape 1), Scheduled Item:

Jane Gwinn, Zoning Administrator, had been requested to be present at tonight's meeting to discuss the status of Zoning Ordinance amendments. Ms. Kelsey had informed the Board that Ms. Gwinn could not be present due to illness. Following comments from the Board members, it was decided that this issue would be taken up at the April 7, 1987 work session between the Board of Zoning Appeals and staff.

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Page 126, March 24, 1987, (Tape 1), After Agenda Item:

McLEAN PRESBYTERIAN CHURCH - SP 85-D-034
REQUEST FOR ADDITIONAL TIME
1018 Balls Hill Road

Mrs. Thonen made a motion to grant the applicant the request for additional time of eighteen months which makes the new expiration date October 22, 1988. Mr. Hyland seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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Page 126, March 24, 1987, (Tape 1), After Agenda Item:

Mrs. Thonen moved to adopt the Minutes of February 10, 17, and 24, 1987 as submitted. Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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Page 126, March 24, 1987, (Tape 1), After Agenda Item:

RICHARD THOMAS - VC 87-D-018
OUT-OF-TURN HEARING
7511 Blaise Trail

Mr. Ribble moved to deny the request for an out-of-turn hearing for the applicant of VC 87-D-018 as the case was presently scheduled for May 26, 1987. Mr. Hammack seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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Page 126, March 24, 1987, (Tape 1), After Agenda Item:

WILLIAM C. TINKLEPAUGH - VC 87-A-030
OUT-OF-TURN HEARING
4714 TROTTING LANE

Mr. Hammack moved to grant an out-of-turn hearing to the applicant of VC 87-A-030 and at staff's recommendation the public hearing was scheduled for April 21, 1987 at 11:30 A.M. Mr. Hyland seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay; Mr. DiGiulian was absent from the meeting.

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Page 126, March 24, 1987, (Tape 1), After Agenda Item:

Mrs. Day made a motion to approve the Resolutions of the applications heard by the Board of Zoning Appeals on March 17, 1987 as submitted. Mrs. Thonen seconded the motion which carried by a vote of 5-0-1 with Mr. Ribble abstaining as he was not present at the March 17, 1987 public hearing. Mr. DiGiulian was absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 9:45 P.M.

Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 4/28/87

APPROVED: 5/5/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, March 31, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; Mary Thonen; and John Ribble.

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Chairman Smith opened the meeting at 9:32 A.M. and Mrs. Day led the prayer.

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Page 128, March 31, 1987, (Tape 1), Scheduled case of:

9:00 A.M. MOHAMAD ALI ROUHANI AND HELEN PARASIAKIS APPEAL, A 86-S-014, to appeal the Zoning Administrator's determination that a building permit for a dwelling on appellants' property was improperly approved because the proposed location did not comply with minimum yard requirements of the Zoning Ordinance, and D.E.M.'s consequent issuance of a Stop Work Order declaring the building permit null and void, located at 6419 Spring Lake Drive, on approximately 30,985 square feet, zoned R-2, Springfield District, Tax Map 88-1((15))1.

Mrs. Kelsey, Branch Chief, Board of Zoning Appeals Support Branch, advised the Board that the notices for the subject application were not in order thus necessitating a deferral. She added that staff was suggesting a new public hearing date of April 28, 1987 at 9:30 A.M.

The motion to defer the application to April 28, 1987 at 9:30 A.M. passed unanimously with Messrs. Hammack and Hyland not present for the vote.

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Page 128, March 31, 1987, (Tape 1), Scheduled case of:

9:30 A.M. VITO J. AND TONI L. FLORIMONTE, VC 87-C-004, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 6.0 feet from side lot line (15 ft. min. side yard req. by Sects. 3-107 and 2-412), located at 2331 Trott Avenue, on approx. 31,698 square feet, zoned R-1, Centreville District, Tax Map 37-2((9))130.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report, and advised the Board that a building permit had been issued for construction of a two-car detached garage at the rear of the property on May 19, 1966 and the building was constructed but is currently used as a workshop.

Vito Florimonte, 2331 Trott Avenue, Vienna, Virginia, the applicant, appeared before the Board and read his statement of justification into the record. He added that it would expensive to construct a 130 foot driveway to the structure in the back of the property and would be parallel to a natural drainage easement. Mr. Florimonte submitted photographs to the Board showing a culvert across the street and expressed the opinion that a driveway located as staff proposes would create additional drainage problems.

Mrs. Thonen disagreed with staff concerning the placement of the driveway because of the drainage easement.

Ms. Hamblin-Katnik explained that the applicant would need to put a pipe in the ditch and compact around it and access the garage over the piped ditch such as has been done on the other side of the lot where the existing driveway is. There is approximately 15 feet between the house and the easement which is significant width for a driveway.

Mrs. Day added that the location staff proposed would not be logical.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen stated that the application did meet the standards for a Variance and added that there was no other place to put the garage. She then moved to grant the application subject to the development conditions contained in the staff report.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-004 by VITO J. AND TONI L. FLORIMONTE, under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 6.0 feet from side lot line, on property located at 2331 Trott Avenue, Tax Map Reference 37-2((9))130, 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 31, 1987; 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 31,698 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 carried by a vote of 5-1 with Mr. Smith voting nay; Mr. Hammack not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 8, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 130, March 31, 1987, (Tape 1), After Agenda Item #1

Out-of-Turn Hearing Request
Christ Fellowship Ministries - SP 87-P-003 and VC 87-P-028

The Board unanimously denied the request for an out-of-turn hearing for Christ Fellowship Ministries.

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Page 130, March 31, 1987, (Tape 1), After Agenda Item #2

Approval of Resolutions for March 24, 1987

Mr. Hyland moved to adopt the Resolutions as submitted for March 24, 1987. Mrs. Thonen seconded the motion which passed by a vote of 6-0 with Mr. Hammack not present for the vote.

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Page 130, March 31, 1987, (Tape 1), After Agenda Item #3

Approval of Agenda for April 7, 1987 Special Meeting

Mr. Hyland suggested that BZA members be encouraged sit in on staffing meetings if they so desire.

Mr. Hyland then moved to adopt the proposed Agenda for April 7, 1987 with the following words stricken: "If time permits".

Mrs. Thonen seconded the motion which passed unanimously.

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Page 130, March 31, 1987, (Tape 1), Scheduled case of:

10:00 A.M. CHARLES B. LOWRY, VC 86-V-120, application under Sect. 18-401 of the Zoning Ordinance to allow construction of service bay addition to a service station to 35.9 feet from a street line of a corner lot and 10.6 feet from rear lot line (40 ft. min. front yard, 20 ft. min. rear yard req. by Sect. 4-507), located at 2600 Sherwood Hall Lane, on approx. 17,531 square feet, zoned C-5, Mount Vernon District, Tax Map 102-1((7))(7)17B. (DEF. FROM 2/10/87 and 2/17/87)

Lori Greenlief, Staff Coordinator, advised the Board that it was necessary to defer the subject application for an 8-10 week period.

Bernard Fagelson, of Alexandria, Virginia, attorney representing the applicant, appeared before the Board and advised the Board that before the applicant could proceed with the Variance request, a Special Exception Amendment was necessary and therefore the applicant was requesting a deferral.

Staff suggested July 7, 1987 at 9:00 A.M. and Mrs. Thonen so moved. The motion passed by a vote of 6-0-1 with Mr. Hyland abstaining.

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Page 130, March 31, 1987, (Tape 1), Scheduled case of:

10:15 A.M. ELSIE SMOLUK, VC 87-D-007, application under Sect. 18-401 of the Zoning Ordinance to allow construction of sunroom addition to dwelling to 15 feet from rear lot line and to 10 feet from edge of a floodplain (25 ft. min. rear yard req. by Sect. 3-307 and 15 ft. min. horizontal distance to a floodplain req. by Sect. 2-415), located at 12045 Sugarland Valley Drive, on approx. 11,513 square feet, zoned R-3(C), Dranesville District, Tax Map 11-1((4))454.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that a revised plat has been submitted which shows the addition 11 feet from the edge of a floodplain.

Jack Smoluk, 12045 Sugarland Valley Drive, the applicant, appeared before the Board and outlined the request in the statement of justification submitted with the application. Mr. Smoluk added that he was negotiating with the Park Authority to obtain additional land in the rear of the subject property.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant the Variance request subject to the development conditions and noted that the applicant had satisfied the nine standards for a variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-007 by ELSIE SMOLUK, under Section 18-401 of the Zoning Ordinance to allow construction of sunroom addition to dwelling to 15 feet from rear lot line and to 10 feet from edge of a floodplain, (Board Approved 11 Feet based on revised plat) on property located at 12045 Sugarland Valley Drive, Tax Map Reference 11-1((4))454, 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 31, 1987; 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(C).
3. The area of the lot is 11,513 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 (Board approved 11 feet from edge of a floodplain based on revised plat) 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 which carried by a vote of 6-1 with Mr. Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 8, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 132, March 31, 1987, (Tape 1), Scheduled case of:

10:30 A.M. SEYED M. BASSAM, VC 87-L-006, application under Sect. 18-401 of the Zoning Ordinance to allow 6 foot high fence to remain in front yard (4 ft. max. hgt. for fence in a front yard req. by Sect. 10-104), located at 6908 Old Rolling Road, on approx. 43,566 square feet, zoned R-3(HC), Lee District, Tax Map 81-4((1))78.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that the owner of the adjacent Lot 77 had obtained a building permit in 1984 for an addition to the front of the existing dwelling. She added that the plat shows the new addition and the existing dwelling 7.5 feet from the side lot line which is in violation of the Zoning Ordinance.

Seyed Bassam, 6008 Old Rolling Road, Springfield, Virginia, the applicant, appeared before the Board and explained that the reason for the fence was to allow him more privacy from his neighbor who had constructed an addition too close to his side lot line and had placed a heat pump between the addition and the lot line, on the shared lot line. The heat pump is very noisy.

Mr. Hyland suggested that the BZA hear a Variance request for Lot 77 first should the owner of Lot 77 wish to submit an application since his dwelling is too close to the property line.

The Board requested that the Zoning Enforcement Branch give the onwer of Lot 77 a written notice of violation with less than 30 days to comply if he's already had several months. Therefore, Mrs. Thonen moved to defer the subject application to September 15, 1987 at 8:00 P.M.

Staff advised the Board in response to questions that a verbal notice of violation had been given to both property owners. Mr. Bassam filed for a variance, but there is no pending application on the adjacent lot 77.

Mr. DiGiulian seconded the motion which passed unanimously.

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Page 132, March 31, 1987, (Tape 1), Scheduled case of:

10:50 A.M. KNOLLWOOD BAPTIST CHURCH, SPA 82-S-028-3, application under Sect. 6-303 of the Zoning Ordinance to amend S-82-S-028 for church and related facilities to permit addition of 3 classroom trailers to existing facilities, located 10000 Coffer Woods Road, on approx. 5.00162 acres, zoned PRC, Springfield District, Tax Map 78-3((1))40.
(DEF. FROM 3/10/87)

Claudia Hamblin-Katnik, reminded the Board the application had been deferred to allow the applicant time to have the case heard by the Burke Centre Conservancy Architectural Review Board (ARB). She added that the applicant had submitted a letter from the ARB in support of the application subject to the proposed development conditions. Mrs. Hamblin-Katnik concluded that staff was also recommending approval of the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day reiterated that the application had been deferred to allow the time to get ARB approval and that the applicant had done so. Mrs. Day then moved to grant the application subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 82-S-028-3 by KNOLLWOOD BAPTIST CHURCH, under Section 6-303 of the Zoning Ordinance to amend S 82-S-028 for church and related facilities to permit addition of 3 classroom trailers to existing facilities, on property located at 10000 Coffer Woods Road, Tax Map Reference 78-3((1))40, 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 31, 1987; 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 5.00162 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 limits of clearing and grading shall be retained as shown on the plat.

6. The temporary use of the three (3) trailers shall be no longer than two (2) years. Continued use beyond 2 years shall require a special permit amendment.

7. The area within the limits of clearing not occupied by trailers or walkways shall be landscaped with grass.

8. The ten (10) Cedar trees shown on the plat shall be planted throughout the limits of clearing to accentuate aesthetic appeal rather than provide a barrier.

9. The trail leading to park land on the northwestern corner of the lot shall not be removed.

10. The existing mound of dirt shall be removed in accordance with Par. 2 of Sect. 2-601 of the Zoning Ordinance, Limitations on the Removal and Addition of Soil.

11. The seating capacity shall not exceed 168, with a corresponding minimum of 48 parking spaces. There shall be a maximum of 103 parking spaces.

12. 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.

    - The barrier requirement shall be waived except that a fence may be provided along the western lot line.

13. Interior parking lot landscaping shall be provided as required by Article 13 for the new parking area.

14. Dedication and construction of an asphalt trail adjacent to Burke Center Parkway shall be provided if required at the time of site plan review by the Director, Department of Environmental Management.

15. 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 and SPA 82-S-028-2 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.

The above development conditions incorporate all applicable conditions of the previously approved special permits.

Mrs. Thonen seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 8, 1987. This date shall be deemed to be the final approval date of this special permit.

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At this time Ms. Kelsey, Branch Chief, advised the Board that there was an error in the Meeting Schedule and noted that the Meeting for July 23, 1987 was Thursday not Tuesday.

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Page 134, March 31, 1987, (Tape 1), Scheduled case of:

11:10 A.M. JOHN H. STOKES III, VC 86-M-113, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 1 having width of 43 feet (100 ft. min. lot width req. by Sect. 3-206), located 4340 Old Columbia Pike, on approx. 2.4158 acres, zoned R-2, Mason District, Tax Map 71-2((1))59. (DEF. FROM 1/27/87 AND 3/10/87)

Chairman Smith noted that the Board had received a letter from the applicant requesting the subject application be withdrawn.

Mrs. Thonen so moved. Mr. Hammack seconded the motion which passed unanimously.

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As there was no other business to come before the Board, the meeting was adjourned at 11:10 A.M.

Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 4/28/87

APPROVED: 5/5/87

The special meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 7, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; Mary Thonen; and John Ribble.

Chairman Smith opened the meeting at 9:10 A.M. and Mrs. Day led the prayer.

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James P. Zook, Director, Office of Comprehensive Planning, appeared before the Board and thanked the members for the opportunity to discuss staff's evaluation and recommendation process for special permit applications as well as other issues. He introduced the following members of staff who were present to answer questions: Barbara Byron, Director, Zoning Evaluation Division, OCP; Karen Harwood, Assistant County Attorney; Richard Little, Director, Planning Division, OCP; Jane Gwinn, Zoning Administrator and Director, Zoning Administration Division, OCP; Steve Kerr, Deputy Director, Zoning Evaluation Division, OCP; Jane Kelsey, Chief, BZA Support Branch, Zoning Evaluation Division, OCP; and, the Staff Coordinators of the BZA Support Branch, Zoning Evaluation Division, OCP.

Barbara Byron discussed special permits and provided an overview of the kinds of issues evaluated in staffing such as the Zoning Ordinance requirements and standards; role of the Comprehensive Plan; and land use issues such as intensity, bulk, compatibility and transportation issues.

Responding to questions from the Board, Bruce Douglas stated that staff tries to be sensitive to the Comprehensive Plan when evaluating churches. He added that environmental protection and runoff loss were of particular importance when evaluating an application. Mr. Douglas pointed out that a large church with a large parking lot might affect runoff and a very large church in a low density area was also a problem with compatibility with the low density character of the district. In conclusion, he added that environmental, visual, and noise impacts were all evaluated when reviewing an application.

Ms. Byron further added that during the past year there had been 42 applications related to churches and of these staff had recommended denial of five. Mr. Zook commented that some of the applications staff recommended approval for the BZA had denied.

Jane Gwinn advised the Board that her office was working on an amendment to the Zoning Ordinance concerning Home Professional Offices (HPO) which would be ready in the Fall of 1987. The Board noted that some of the issues which should be considered are: no more HPO's in a residential district unless limited to one employee; limiting this use to transition areas; limiting the number of clients; and not permitting vehicles to back out into public streets. In addition, the issue of whether the establishment with a HPO as in interim use would negate the future use of the house as a dwelling would be considered.

With regard to carports, Ms. Gwinn expressed concern with regard to any Zoning Ordinance amendment which would allow carports which currently extend into the minimum required side yard to be enclosed by right while still requiring garages to meet the minimum yard requirements unless a variance is approved. This would be inconsistent with the State Code requirements for uniform provisions.

In response to questions concerning notification of contract purchasers and recent owners, Ms. Gwinn explained that the developer could not be required to notify contract purchasers without an amendment to the State Code. She added that staff has reservations about making this recommendation because staff would have no way to verify the information supplied by the applicant. Currently verification is through the official records of the Office of Real Estate Assessments.

The Board suggested that the design of the posting signs now used be reviewed to make them more readable.

With regard to Building Errors, Ms. Gwinn explained that presently an application to allow a building constructed in error to remain is filed as a special permit but the applicant can also file these as a variance. The applicant is informed by staff that the standards for variances are more difficult to satisfy, therefore staff recommends that the applicant pursue an application for a special permit.

At 11:10 A.M., the Board took a short recess and reconvened the meeting at 11:20 A.M.

Bob Moore, Office of Transportation (OT), appeared before the Board to discuss transportation issues. He advised the Board that, between 1960 and 1980, trips generated within the County had increased 82%. He noted that highway capacity was not expanding to keep up with the growth pace. Mr. Moore stated that OT tried to protect the efficiency of the highway system and one way was by not allowing interruptions to the traffic flow such as U-turns, and entrances and exits onto main arterials. He suggested, where possible, service roads be provided by the applicants so that inter-parcel access could be created.

Page 136, April 7, 1987:

At this time, the Board held an Executive Session to discuss legal issues involving the Cupp and Rowe court cases and how these cases impact conditions on BZA approvals. Karen Harwood, Assistant County Attorney, was present to answer questions from the Board.

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As there was no other business to come before the Board, the meeting was adjourned at 12:30 P.M.

Patti M. Hicks
Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Betsy S. Hurtt
Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith Chairman
Board of Zoning Appeals

SUBMITTED: 5/12/87 APPROVED: 5/19/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 14, 1987. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Gerald Hyland; and Mary Thonen. Messrs. DiGiulian and Ribble were absent from the meeting.

Chairman Smith opened the meeting at 8:07 P.M. and Mrs. Day led the prayer.

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Chairman Smith explained to the citizens who were in attendance that the Board was awaiting the arrival of one additional member before hearing the cases scheduled for the evening.

In response to a question from Chairman Smith, Jane Kelsey, Branch Chief, explained that an extra meeting for the Board of Zoning Appeals may need to be scheduled for either June 25 or July 2 in order to meet the 90-day deadline for hearing applications already received by staff.

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As the fifth Board member still had not arrived, the Board proceeded to take action on the after agenda items.

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Page 137, April 14, 1987, (Tape 1), After Agenda Item:

OUT-OF-TURN HEARING
RYAN HOMES, INC. - SP 87-C-030
ARMFIELD FARMS

Mr. Hammack made a motion to grant an out-of-turn hearing to Ryan Homes, Inc. Mrs. Day and Mrs. Thonen seconded the motion which passed by a vote of 4-0 with Mr. Hyland not present for the vote; Messrs. DiGiulian and Ribble absent from the meeting. The application was scheduled to be heard on June 2, 1987 as suggested by staff.

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Page 137, April 14, 1987, (Tape 1), After Agenda Item:

OUT-OF-TURN HEARING
OLD KEENE MILL SWIM AND RACQUET CLUB - SPA 80-S-094-2
9534 ORION COURT

Mrs. Thonen made a motion to grant an out-of-turn hearing to the applicant in SPA 80-S-094-2. Mr. Hammack seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting. The public hearing was scheduled for June 2, 1987 as suggested by staff.

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Page 137, April 14, 1987, (Tape 1), After Agenda Item:

OUT-OF-TURN HEARING
KINGSVALE CIRCLE AND KINGSTREAM DRIVE - SP 87-D-004
TAX MAP 11-1((1))D AND 10D

As this application was presently scheduled to be heard on April 21, 1987, Mrs. Thonen made a motion to deny the request for an out-of-turn hearing as it was not possible to hear the case at a earlier time. Mr. Hyland seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

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Page 137, April 14, 1987, (Tape 1), After Agenda Item:

OUT-OF-TURN HEARING
CEDAR CREST COUNTY CLUB
16850 SUDLEY ROAD

Following questions and a request from the Board, Jane Kelsey, Branch Chief, presented a chronological list of events which had taken place concerning this application as follows:

March 27, 1986 - Jane Kelsey and Lori Greenlief, Staff Coordinator, met with Art Woods and Robert Munse with the engineering firm of Bengtson, DeBell, Elkin & Titus (BDE&T) to try to get the plat for Cedar Crest in order before the special permit amendment submittal. The 1984 approved plat was reviewed in detail and Ms. Kelsey explained the type of submission information which would be necessary on the new plat.

August - Site Plan Waiver rescinded

October 3, 1986 - Special Permit application filed with Harvey Mitchell, Zoning Administration Division, subsequently sent to Board of Zoning Appeals Support Branch to determine if acceptable; Application reviewed by Jane Kelsey and Lori Greenlief; meeting with applicant necessary.

October 24, 1986 - Met with Jackie Ash (Zoning Inspector), Clay Emery(Arborist's Office), Charlene Fuhrman-Schulz, Art Woods (BDE&T), Jane Gwinn (Zoning Administrator), Eugene Hooper (applicant), and Lori Greenlief (staff coordinator), (Harold Miller expected but never arrived). The problems with the plat were discussed in detail. Jane Gwinn suggested a building envelope idea and mentioned that they would have to submit a new site plan waiver plat which showed only those structures which were previously approved. Therefore two new plats would be necessary - the applicant was to work on envelopes and resubmit.

November 6, 1986 - Appointment set up with Charlene Fuhrman-Schulz to go over building envelope idea, never showed up.

November 14, 1986 - Ms. Fuhrman-Schulz came in to meet with Lori Greenlief. The envelope idea was discussed for the recreation areas and the clubhouse area as well as what should be included in each. It was noted that the exact boundaries with dimensions of the envelopes and the type of facilities within each envelope would have to be identified. For structures within envelope, Ms. Greenlief explained that they must show exact location and dimensions. Also Ms. Greenlief went over all the structures that were approved in 1984 and Ms. Fuhrman-Schulz marked up her plat so they could redo their site plan waiver plan.

December 8, 1986 - The Board of Zoning Appeals Support Branch returned the entire application to Harvey Mitchell since the submission requirements had still not been met and the check had not yet been processed for the application fee.

January 9, 1987 - Harold Miller resubmitted plats to Harvey Mitchell; Mr. Mitchell sent the plats and the entire application back over to the Board of Zoning Appeals Support Branch.

January 16, 1987 - Lori Greenlief spoke with Ms. Fuhrman-Shulz and Ted Welti from BDE&T, (3 party call), and told them that the resubmitted plat was still unacceptable; they showed entire building area as an envelope and still showed all the structures, etc. In addition, the second page of the plat was omitted and not all of the necessary dimensions were shown. Ms. Greenlief told Mr. Welti, who had to get off the phone, that she would call him Tuesday to again go over the details of the errors on the plat as Monday was a holiday. She asked if they had submitted a revised site plan waiver plan, and Mr. Welti said he didn't think they needed one. Ms. Greenlief stated that she felt this was incorrect and advised Ms. Furhman-Shulz to call Joe Bakos and the Site Review Branch of DEM to check on the situation.

January 20, 1987 - Lori Greenlief called Ted Welti, left message, call was not returned.

February 6, 1987 - Meeting with Harold Miller (agent), Jane Kelsey and Lori Greenlief (BZA Support Branch), Carol Sinclair, Ted Welti, Charlene Fuhrman-Schulz, Robert Munse (BDE&T), Wayne Monday (Cedar Crest Country Club) to discuss 2nd revision, see letter dated 2/6/87. Staff determined that BDE&T was not going to use the building envelope idea as staff and the engineering firm definitely had different ideas of what that should be. Discussed the need for dimensions and distances to be on the plat. Ms. Greenlief explained to Mr. Miller that the affidavit would have to be corrected to show the partners of Miller, Bucholtz & Moorcone and Bengtson, DeBell, Elkin & Titus.

February 20, 1987 - Lori Greenlief spoke with Carol Sinclair, the newly appointed project manager, and Ms. Sinclair came in on 2/20/87 with a plat for John Donnelly, Chief, Site Review Branch, DEM, in site review (see attached letter). Ms. Sinclair wanted Ms. Greenlief to check it before she submitted it to Mr. Donnelly to see if it had been done correctly. In addition, she wanted Ms. Greenlief to sign off on it that the structures approved in 1984 were shown correctly on the plat. Ms. Greenlief did so. They went over the plat in detail and Ms. Greenlief explained that there were still some problems which would have to be corrected when they redid the special permit plat. Ms. Sinclair told Ms. Greenlief that they wanted to get site plan plat cleared up before they redid the special permit plat.

March 10, 1987 - BZA Support Branch received a revised plat which still had minor problems. Ms. Greenlief wrote Harold Miller a letter dated 3/18/87 (attached) listing the problems and again requested the corrected affidavit as was verbally requested in 2/6/87 meeting and which is a submission requirement.

March 30, 1987 - Lori Greenlief spoke with Jean King, Mr. Miller's secretary. Ms. King explained that Mr. Miller wanted to come by and bring the affidavit and that he also had a few questions. A meeting was scheduled for April 2 at 10:00 A.M.

April 2, 1987 - A message was left with Mr. Miller's office that Ms. Greenlief was ill, however, Mr. Miller stated that he didn't go by his office in the morning and did not receive the message. Thus, he showed up at 10:00 a.m. and discussed the situation briefly with Jane Kelsey. He brought revised plats but did not bring the revised affidavit, nor a traffic impact statement as requested (see letter dated 3/18/87). The revised plat addressed some problems outlined in the 3/18 letter. However, the number of parking spaces was still not indicated and the traffic impact statement as well as a statement indicating whether or not the applicant was requesting an increase in membership were still not included.

April 3, 1987 - Revised affidavit was submitted to BZA Support Branch; Application was tentatively scheduled for June 30, 1987.

Week of April 6, 1987 - Lori Greenlief spoke with Carol Sinclair who had been working with Kathy Reilly-Hall, in Site Plan Review. Ms. Reilly-Hall questioned whether or not the original special permit had expired as the 18 month time limitation had expired. (SP 84-C-038 was approved on November 20, 1984). The question was brought to the attention of Jane Gwinn, Zoning Administrator, who verbally determined that the application had expired since construction had not legally begun within the 18 month period.

April 9, 1987 - Lori Greenlief discussed the situation with Harold Miller who disagreed with Jane Gwinn. He requested that she reconsider her determination.

April 10, 1987 - An out-of-turn hearing request was received by the Board of Zoning Appeals Support Branch from Harold Miller requesting that the application be heard within 30 days. In addition, another letter was submitted which included a request to increase membership and the associated traffic information. Parking space information was still not included.

The Board of Zoning Appeals considered the out-of-turn hearing request and after discussion between staff and the applicant's agent, denied the request. The applicant was represented at the hearing by Robert Vaughn from Miller, Bucholtz and Moorcone, as Mr. Miller was on vacation.

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Page 139, April 14, 1987, (Tape 1), Scheduled case of:

8:00 P.M LEONARD A. AND SALLY S. ALNE, VC 87-M-009, application under Sect. 18-401 of the Zoning Ordinance to allow construction of additions to dwelling to 9.04 feet from side lot line (15 ft. side yard req. by Sect. 3-207), located at 6234 Lakeview Drive, on approx. 15,300 square feet, zoned R-2(HC), Mason District, Tax Map 61-3((14))81.

Leonard A. Alne, the applicant, asked that the Board defer his public hearing so the President of his neighborhood Architectural Review Board could be present to respond to questions from the Board.

Chairman Smith polled the audience to ascertain if there was anyone present interested in this case. There were three citizens in support of the application and one citizen in opposition. As there were no objections to the deferral from the citizens in attendance, Mrs. Thonen moved to defer VC 87-M-009 to May 12 at 11:30 A.M. Mr. Hyland seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

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Page 139, April 14, 1987, (Tape 1), Scheduled case of:

8:15 P.M R. W. CLEMENT, INC., SP 87-A-007, application under Sect. 3-303 and 8-901 of the Zoning Ordinance to allow subdivision sales office, with modification of the dustless surface requirement, located at 10815 Zion Drive, on approx. 16,702 square feet, zoned R-3, Annandale District, Tax Map 68-3((1))31B.

Kevin Guinaw, Staff Coordinator, informed the Board that a letter requesting a withdrawal of SP 87-A-007 had been received from the applicant by staff and the Board moved to allow the withdrawal.

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8:30 P.M. ROSE SCHRIEBER, SP 87-C-013, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow enclosed addition to dwelling to remain 8.6 feet from rear lot line (20 ft. min. rear yard req. by Sect. 3-507), located at 12510 Flatwood Circle, on approx. 3,227 square feet, zoned PDH-5, Centreville District, Tax Map 45-2((7))120.

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that the applicant has screened-in an area beneath the second-story deck on her townhouse as a porch and the structure is located in violation of the rear yard requirement specified in the Zoning Ordinance for this district. Staff research indicated that the applicant had not obtained a building permit prior to constructing the enclosed porch. Based upon information submitted to date, it is staff's judgment that the subject application is not in conformance with the standards specified in the Zoning Ordinance for this special permit use. Staff believes that the error was not committed in good faith and that the structure has a negative visual impact on adjacent properties, a particularly important issue in a townhouse development, where units are developed at higher density in close proximity to each other. Consequently, staff recommends denial of SP 87-C-013.

Copies of correspondence between the applicant and the Fair Woods Architectural Review Board (ARB) were provided for the Board of Zoning Appeals members. It was noted that the applicant did not make application to the ARB prior to construction of the porch and had not complied with conditions imposed by the ARB as of this date. In response to questions from the Board, Mr. Guinaw explained that it is his understanding that since the time the meetings between the applicant and the ARB took place, the ARB has reversed its decision and requests removal of the addition.

Rose Schrieber, 12510 Flatwood Circle, Fairfax, Virginia, the applicant, stated she owns the property and lives on the lower level of the townhouse which has a walkout basement. Her daughter lives upstairs. She had the porch constructed by a neighbor to provide a place she could sit outside and she was not aware that a building permit was required prior to construction.

Responding to questions from the Board, Ms. Schrieber explained that there had only been a verbal contract between Mr. McClosky, her neighbor, and herself to construct the enclosure. She had not thought there would be a problem since she had added the enclosure beneath an existing deck.

Chairman Smith called for speakers in support and Nancy Saxe, 12510 Flatwood Circle, Fairfax, Virginia, daughter of the applicant, came forward and explained that the improvements requested by the ARB had not been done as a building permit had not been obtained prior to this hearing. She added it was her understanding that the applicant needed to obtain the special permit before a building permit could be issued and explained that it had taken some time to get someone to draw a layout of the interior of the addition.

Bernard Carbeau, 12508 Flatwood Circle, Fairfax, Virginia, informed the Board that he lived across from the applicant and had no objections to the addition.

Linda Nuckles, 3964 Burning Bush Court, Fairfax, Virginia, represented the Fair Woods Architectural Review Board (ARB) and stated that in the guidelines, that were distributed to the homeowners when they purchased their property, it was stated that screened-in areas would not be allowed in order to maintain an open feeling within the townhouse development. She explained that the ARB Committee was formed in July 1985 after the applicant had constructed the porch. The applicant applied to the ARB Committee and the request was denied and the builder asked the Committee to reach a compromise with the applicant. The ARB requested that the applicant paint the addition and supply copies of the building permit and final approval certificate to the Committee.

Ted McCarson, 3859 Waythorn Place, Fairfax, Virginia, told the Board that he was a member of the ARB Committee in the subdivision and had met with the builder, Mr. Battelle, to discuss the applicant's request for the enclosure. It was agreed at that meeting that the enclosure was not in line with the County codes and permits had not been obtained prior to construction. Mr. Battelle requested that possibly a compromise was in order. At the next Committee meeting a compromise was presented to the applicant as follows: 1) the enclosure must meet County codes, 2) have a valid electrical permit, and 3) paint the enclosure to match the exterior of her house. This meeting was held a year ago and as of now these requirements have not been met. The ARB has not taken any legal action at this time but he believes this action will be forthcoming.

Jane Kelsey, Branch Chief, told the Board that to her knowledge this was the first application staff had received for an enclosure of this size or an addition to be added to a townhouse. She explained that density for townhouses is high and decks are allowed to extend into required yard because they are open and allow the air and sunlight to flow through and does not have the impact of an enclosed area.

During rebuttal, Ms. Schrieber told the Board that she would do whatever was required and asked that the Board approve her special permit.

As there were no further comments, Chairman Smith closed the public hearing.

Mr. Hammack stated that he believed this is an extension of a living area, is not in harmony with the master plan for this subdivision that was put on record before any of the units were sold, is not in compliance with the covenants and restrictions which were on record when the units were sold, and was not done in good faith as the applicant did not make any effort to obtain a building permit. He therefore moved that SP 87-C-013 be denied because it failed to meet several of the standards required for this special permit use, particularly standard no. 3 which requires that the proposed use be harmonious with and not adversely affect the use or development of neighboring properties.

Mrs. Day told the Board that if the applicant met the requirements of the ARB and obtained the necessary permits she would not object to the porch remaining.

Mrs. Thonen stated that a planned development is an entirely different zoning and the policy is "what you see is what you get." The density can never be increased as the developer is given density credits prior to construction. She added she would support the motion for denial as she believes this is not good planning.

Mr. Hyland commented that there had been testimony that the applicant had been told that there would not be a problem enclosing the deck and the community did make an effort to try to resolve this matter. An agreement was reached between the applicant and the ARB on August 6, 1986 and he believes the applicant has tried to comply with those requirements; therefore, he could not support the motion for denial.

Chairman Smith stated that he would support the motion for denial as he believes the application does not meet the standards for a special permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-C-013 by ROSE SCHRIEBER, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow enclosed addition to dwelling to remain 8.6 feet from rear lot line, on property located at 12510 Flatwood Circle, Tax Map Reference 54-2((7))120, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 14, 1987; 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-5.
3. The area of the lot is 3,227 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 8-903 and 8-914 of the Zoning Ordinance.

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

Mrs. Thonen seconded the motion which carried by a vote of 3-2 with Chairman Smith, Mrs. Thonen and Mr. Hammack voting aye; Mrs. Day and Mr. Hyland voting nay. Messrs. DiGiulian and Ribble were absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 22, 1987.

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8:50 P.M. CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, SP 87-A-006, application under Sect. 3-104 of the Zoning Ordinance to allow addition of storage building to existing church and related facilities, located at 4911 Ox Road, on approx. 5.0018 acres , zoned R-1, Annandale District, Tax Map 68-1((1))12.

Kevin Guinaw, Staff Coordinator, presented the staff report and stated that the church has been in existence since 1974 and is not presently under special permit but that the addition of the storage shed will bring the entire facility under special permit. He explained that staff had no problems with this use on this site but is recommending that supplemental plantings be added on the rear of the site. If the transitional screening requirement is met, staff recommends approval of SP 87-A-006.

James Aulestia, 5661 Trevino Lane, Falls Church, Virginia, architect for the church, represented the church and told the Board that the shed will match the exterior of the church. He added that the applicant does not feel the supplemental plantings are necessary but does agree to add the additional screening.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen made a motion to grant SP 87-A-006 as the applicant had presented testimony showing compliance with the standards for a special permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-A-006 by CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, under Section 3-104 of the Zoning Ordinance to allow addition of storage building to existing church and related facilities, on property located at 4911 Ox Road, Tax Map Reference 68-1((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 April 14, 1987; 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 5.0018 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 of the main worship area shall not exceed 287 persons.

6. The maximum parking provided shall be 156 spaces. All parking shall be on site.

7. Transitional Screening 1 shall be provided along the rear (eastern) lot line. Existing vegetation shall be used where possible and shall be supplemented where necessary, as determined by the County Arborist, to provide the required screening.

8. The barrier requirement shall be waived.

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

Under Sect. 8-015 of the Zoning Ordinance, this approval for the addition of a shed shall automatically expire, without notice, eighteen (18) months after the approval date* 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 which carried by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 22, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 143, April 14, 1987, (Tape 2), After Agenda Item:

Mr. Hyland made a motion to accept the Resolutions adopted by the Board of Zoning Appeals on March 31, 1987. Mrs. Thonen seconded the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

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Page 143, April 14, 1987, (Tape 2), After Agenda Item:

Mrs. Thonen made a motion to approve the March 3, 1987 Minutes of the Board of Zoning Appeals as submitted. The motion was seconded by Mrs. Day and Mr. Hammack which carried by a vote of 5-0 with Messrs. DiGiulian and Ribble absent from the meeting.

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Chairman Smith thanked all the staff who took part in the work session on April 7, 1987. The Board stated the presentations were done very professionally and they stated that they would like to have at least two work sessions a year. Following further comments, it was determined that more conferences should be attended by Board members to keep them up-to-date on policies and procedures. Chairman Smith asked that a Resolution be prepared for the Board's signature.

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As there was no other business to come before the Board, the meeting was adjourned at 10:05 P.M.

Betsy S. Hurtt
Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 5/27/87

APPROVED: 6/2/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 21, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; Mary Thonen; and John Ribble.

Chairman Smith opened the meeting at 9:11 A.M. and Mrs. Day led the prayer.

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Page 144, April 21, 1987, (Tape 1), Scheduled case of:

9:00 A.M. RAYMOND C. AND CAROL R. SCHUPP, VC 87-D-014, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into 4 lots, proposed lot 2 having width of 9 ft. (150 ft. min. lot width required by Sect. 3-106) and to allow construction of dwelling on proposed lot 3,100 ft. from I-495 R.O.W. (200 ft. min. distance from Interstate Highway R.O.W. req. by Sect. 2-414) located at 7406 Old Dominion Drive on approx. 4.63 acres, zoned R-1, Dranesville District, Tax Map 21-3((1))40A.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board that the major issues associated with the development of this site are highway noise impacts from the Capital Beltway and the preservation of the Scott Run Environmental Corridor (EQC). Ms. Hamblin-Katnik noted that there are large areas of EQC on the subject property which limit the area of the site that is environmentally suitable for further development.

With regard to the transportation issues, Ms. Hamblin-Katnik stated that the property's access off of Old Dominion Drive should be closed and access should be provided via Westerly Lane. She advised the Board that a variance of the 200 foot setback from a highway right-of-way would not be in harmony with the Ordinance, and pointed out that the applicant has reasonable use of the land without a variance.

Ms. Hamblin-Katnik informed the Board that there had been a previous application to rezone the property (RZ-85-D-107, Robert L. Busby, Jr.), but that Mr. Busby had withdrawn his request due to problems with noise levels; presence of such a large quantity of land which had been designated as EQC; and objections from the neighborhood to the density represented by the R-2 zone.

Sarah Reifsnyder, attorney representing the applicant with Blankingship and Keith, 4020 University Drive, Fairfax, Virginia, appeared before the Board and referred to the Busby rezoning and stated there had been substantial objections from the neighborhood because of the proposed access via Westerly Lane. She added that the citizens wanted access via Old Dominion Drive. Ms. Reifsnyder further stated that the citizens supported the Schupp proposal over staff's recommendations. She also disagreed that the standard of 65 dBA Ldn was unacceptable as to maintain public health, safety and welfare. Ms. Reifsnyer also expressed the opinion that staff had no grounds for setting 65 dBA Ldn as guidelines for considering noise in land use planning and control.

Jane Kelsey, Branch Chief, advised the Board that the standards staff was using in this application regarding noise standards were applied to all special exception, rezoning, special permit and variance requests.

At this time, Chairman Smith called for speakers and Kathryn B. Hokenson, 7415 Churchill Road, McLean, stated that the West Langley Citizens Association supported the Schupp application and added that they preferred access via Old Dominion rather than via Westerly Drive.

There was a disagreement between the applicant and staff as to whether or not the applicant met the setback requirements for the proposed dwellings on the property. Chairman Smith called a brief recess at 10:10 A.M. to allow staff and the applicant time to determine whether or not the requirements had been met. The Board reconvened the meeting at 10:24 A.M.

Ms. Kelsey determined that the proposed dwellings do not meet the setback requirements, but the applicant had agreed to a condition of approval whereby the houses would be rearranged so that the requirements would be met and also submit a revised plat.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the application did meet the standards for a variance and therefore moved to grant the variance request subject to the development conditions as amended.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-014 by RAYMOND C. AND CAROL R. SCHUPP, under Section 18-401 of the Zoning Ordinance to allow subdivision into 4 lots, proposed lot 2 having width of 9 feet, on property located at 7406 Old Dominion Drive, Tax Map Reference 21-3((1))40A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 21, 1987; 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 4.63 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 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. Mitigation measures must be provided to achieve interior noise levels no greater than 45 dBA Ldn.

4. Dedication and construction of a Type II 6 foot asphalt trail, within a 10' easement along Old Dominion Drive, shall be provided.

5. The recorded subdivision plat shall delineate the boundaries of the Environmental Quality Corridor (EQC), as such term is defined in the language of the Comprehensive Plan. It should also include those areas within the floodplain. The exact location of these lines shall be determined at the time of subdivision plan review when accurate topographic and engineering data are available. In addition, a restrictive covenant shall be recorded in the deed of dedication and subdivision which shall state with respect to proposed lots 1, 2, 3, and 4:

   "There shall be no clearing of any vegetation except for dead or dying trees or shrubs, no grading and no structures of any kind, except a fence within this Environmental Quality Corridor area".

   A grading plan shall be reviewed and approved by the Director, DEM prior to construction for conformance with this condition.

6. All of the footprints of the houses shown on the plat attached to the application shall be rearranged on the respective sites to meet all minimum setback requirements and a new subdivision plat showing the proper setbacks shall be submitted prior to any construction being commenced.

7. A right turn deceleration lane shall be provided along Old Dominion Drive in conformance with VDOT standards.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-2 with Mrs. Day and Mr. Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 29, 1987. This date shall be deemed to be the final approval date of this variance. (See Oct. 27, 1987 Minutes)

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Page 146, April 21, 1987, (Tapes 1 and 2), Scheduled case of:

9:20 A.M. KINGS RIDGE SWIM CLUB INC., SPA 76-A-292-2, application under Sect. 3-203 of the Zoning Ordinance to amend S-292-76 for a community swimming pool to permit change of hours of operation and reduce the number of parking spaces, located at 4850 Gainsborough Drive, on approx. 2.91 acres, zoned R-2, Annandale District, Tax Map 68-2((5))V.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of SPA 76-A-292-2 subject to the development conditions contained in the staff report.William J. Hennesey, Jr., Vice-President, Kings Ridge Swim Club, Inc., appeared before the Board and explained that he had been unaware that the swim club was in violation of the Zoning Ordinance until he was advised of such by Zoning Administration to correct the situation. He questioned whether or not the existing 20-foot high light poles would have to be removed to be in conformance with the requirement of 12 feet. Mr. Hennesey also requested that the pool be allowed to stay open until 10:00 P.M. to allow the older teens (16-18 years) time to participate in the swim team and requested permission to have 5-6 swim meets per year instead 4.

The Board discussed with staff hours of operation of other pools in Fairfax County. Staff also indicated that it had not been aware that the light poles were existing and had no objection to allowing them to remain provided light does not project into adjacent properties.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen stated that the applicant has met the standards for a special permit and moved to grant-in-part the request subject to the development conditions contained in the staff report as amended.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 76-A-292-2 by KINGS RIDGE SWIM CLUB, INC., under Section 3-203 of the Zoning Ordinance to amend S-292-76 for a community swimming pool to permit change of hours of operation (Board approved hours of operation for the pool from 10:00 A.M. to 9:00 P.M. Swim team practice and swimming lessons only may be held between 7:00 A.M. and 10:00 A.M.) and reduce the number of parking spaces, on property located at 4850 Gainsborough Drive, Tax Map Reference 68-2((5))V, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 21, 1987; 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 2.91 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 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 maximum number of employees shall be four (4).

6. The maximum number of family memberships shall be 400.

7. There shall be fifty-five (55) parking spaces provided and all parking for this use shall be on site.

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 combined height of the light standards and fixtures shall not exceed twenty (20) feet for the pool and parking lot. If there proves to be a problem shields shall be installed. If the lights still create a problem, then steps should be taken to lower the light standards not to exceed twelve (12) feet.

10. The hours of operation for the pool shall be from 10:00 a.m. to 9:00 p.m. Swim team practice and swimming lessons only may be held between 7:00 a.m. and 10:00 a.m. The approval of this early opening shall be limited to two (2) years in order to evaluate its effects on the neighborhood. After expiration, this permit may be extended for an additional two (2) year period by the Zoning Administrator.

11. Swim meets shall be conducted between hours of 9:00 a.m. and 9:00 p.m. There shall be no more than six (6) swim meets a year.

12. The use of loudspeakers, whistles, and bullhorns shall be limited to the hours of 9:00 a.m. to 9:00 p.m. and also be in accordance with the provisions of Chapter 108 of the Fairfax County Code.

13. Transitional Screening 1 shall be maintained along the northern boundary as required by Article 13 of the Zoning Ordinance. The existing transitional screening around the eastern, western, and southern boundaries shall be retained. and shall be deemed to satisfy the transitional screening requirement along those lot lines.

14. The Kings Ridge Swim Club shall maintain the fencing as shown on the approved plat which shall satisfy the barrier requirement.

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

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

The above development conditions incorporate all applicable conditions of the previously approved special permits.

Mr. DiGiulian seconded the motion which carried unanimously.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 29, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 148, April 21, 1987, (Tape 2), Scheduled case of:

9:40 A.M. CALVARY ROAD BAPTIST CHURCH, SPA 84-L-071-2, application under Sect. 3-303 of the Zoning Ordinance to amend SP 84-L-071 for church and related facilities to allow continuation of use of three (3) classroom trailers without term, located at 6811 Beulah Street, on approx. 6.2288 acres, zoned R-3, Lee District, Tax Map 91-1((1))61.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that the applicant was requesting approval of an amendment to an existing special permit in order to allow three classroom trailers, which were approved in 1984, to remain without term. She added that staff was recommending approval of the request with the exception that the trailers be allowed to remain for only five years. With regard to condition 7, Ms. Greenlief suggested that the Board may desire to reword it by using the word "maintaining" instead of "provided" in the first sentence concerning transitional screening.

Richard Vannoy, 6811 Beulah Street, Alexandria, Virginia, representative of the applicant, appeared before the Board and stated that he agreed to the proposed development conditions.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant the application subject to the development conditions as amended.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 84-L-071-2 by CALVARY ROAD BAPTIST CHURCH, under Section 3-203 of the Zoning Ordinance to amend SP 84-L-071 for church and related facilities to allow continuation of use of three (3) classroom trailers without term (Board approved a term of five (5) years), on property located at 6811 Beulah Street, Tax Map Reference 91-1((1))61, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 21, 1987; 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 6.2288 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 702 with a corresponding minimum number of 176 parking spaces. The maximum number of spaces shall be 185.

6. A row of conifer-style evergreens, six feet original planted height, shall be planted around the perimeter of the trailers. A smaller variety of evergreen may be planted in front of the windows. The type and placement of these trees shall be coordinated with the County Arborist.

7. Transitional Screening 1 shall be provided in all areas except as follows:

   - Along the parking area abutting the private street in Manchester Lakes subdivision where a six foot stockade fence has been erected, a ten (10) foot screening yard shall be provided planted in accordance with Transitional Screening 1.
   - Along the existing driveways and parking areas to the northeast and south of the church as shown on the plat. The existing plantings shall be supplemented with plants of a type and amount to be determined by the Director, DEM. A 25 foot screening area shall be provided to the north of the existing outlet easement as shown on the plat with plantings of a type and amount to be determined by the Director, DEM.
   - Along the lot line west of the existing garage there shall be Transitional Screening 1 of twenty (20) feet.

- o Along the entire frontage of Beulah Street from the southernmost lot line to the corner of the cemetery at least a ten (10) foot screening yard shall be provided. The type and amount of plantings within this yard shall be determined by the Fairfax County Landscape Architect and approved by the Director, Department of Environmental Management, DEM. This ten (10) foot screening yard shall be measured from the lot line formed after dedication and vacation and shall extend along the entire frontage of the site to the cemetery. If, after dedication and vacation, there is in excess of ten (10) feet between the parking area and the new lot line, this area shall be included in the landscape plan.

8. The barrier shall be waived provided the play area is fenced, as shown on the plat.

9. An entrance may be provided to Charles Arrington Drive provided approval is obtained from DEM and the Virginia Department of Highways and Transportation, VDH&T.

10. The southernmost entrance shall be used for exiting traffic only and appropriate signs shall be installed in appropriate locations to advise parishioners of this limitation.

11. The three trailers shall be removed by April 21, 1992.

12. A right turn lane shall be provided for each of the entrances on Beulah Road.

The above 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.

Mrs. Thonen seconded the motion.

The motion carried by a unanimously.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 29, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 150, April 21, 1987, (Tape 2), Scheduled case of:

10:00 A.M. BEULAH STREET VETERINARY SERVICE, P.C., SP 87-L-002, application under Sect. 3-103 of the Zoning Ordinance to allow veterinary hospital and waiver of dustless surface requirement, located at 7434 Beulah Street, on approx. 2.2399 acres, zoned R-1, Lee District, Tax Map 91-3((1))25.

Heidi Belfosky, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of SP 87-L-002 subject to the development conditions contained in the staff report.Mrs. Thonen expressed concern about the applicant's request for office hours between 5:00 P.M. and 8:00 P.M. which would be during peak hours for rush hour traffic on Beulah Road which is a very heavily traveled road.

Dr. Roger Hart, 6704 Ridgeway Drive, Springfield, Virginia, the applicant, appeared before the Board and stated that the previous use of the land had been undesirable. He added that he would like to keep the area as rural as possible. He expressed concern about staff's recommended condition requiring a trail at this time and the condition requiring a deceleration lane.

Chairman Smith advised the applicant that he would only need to dedicate the land now and provide the trail at a later time.

Chairman Smith called for speakers and Dr. Lynd Marie Bara, who stated her address as 7500 Beulah Road, Alexandria, Virginia appeared before the Board in opposition to the proposal. She stated that she and her husband were the owners of parcel 26. Her main concerns were as follows: potential damage to the environment, additional traffic, more noise, bad drainage, excessive lighting, drugs on the property which might pose a problem and security problem. Dr. Bara questioned whether or not the applicant would reside at this location and whether or not the proposal would be a kennel.

In rebuttal, Dr. Hart stated that he would reside in the same house as the proposed veterinary service. He submitted a layout of the interior living quarters. He added that the noise level would comply with the requirements for a special permit for a veterinary facility which must also be approved by the Health Department. Dr. Hart reported that only 10 to 15 animals would be at the clinic recovering from treatments at any one time.

Ms. Belfosky informed the Board that the owners of the property were in support of the proposal.

Since there were no other speakers to address this issue, Chairman Smith closed the public hearing.

Ms. Day stated that the applicant would abide by all regulations and therefore moved to grant the special permit subject to the development conditions as amended.

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THE MOTION TO GRANT THE FOLLOWING RESOLUTION FAILED

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

In Special Permit Application SP 87-L-002 by BEULAH STREET VETERINARY SERVICE, P.C., under Section 3-103 of the Zoning Ordinance to allow veterinary hospital and waiver of dustless surface requirement, on property located at 7434 Beulah Street, Tax Map Reference 91-3((1))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
WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 21, 1987; 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 2.2399 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903, 8-911 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. The hours of operation will be 8:00 a.m. to 8:00 p.m., Monday through Thursday; 8:00 a.m. to 5:00 p.m., Friday and Saturday. Doctors hours will be by appointment only: 9:00 a.m. to 12:00 Noon and 7:00 p.m. to 8:30 p.m. Emergency care will be provided as necessary.

5. There shall be no more than two (2) employees on the premises at any one time.

6. Four (4) parking spaces shall be provided, including one handicapped space. Two parking spaces should be provided for residential use.

7. A waiver of the dustless surface requirement shall be granted for the parking areas. These areas shall be maintained in accordance with the standard practices approved by the Director, Department of Environmental Management (DEM), which shall include but not be limited to the following:

   A. Travel speeds in the parking areas shall be limited to 10 mph or less.

   B. During dry periods, application of water or calcium chloride shall be made in order to control dust.

   C. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.

   D. Runoff shall be channeled away from and around the parking areas.

   E. The property owner shall perform periodic inspections to monitor dust conditions, drainage functions, compaction and migration of stone surface.

   F. The site entrance shall be paved 25 feet from the edge of the pavement of Beulah Street.

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

9. The existing stables shall not be used in conjunction with this veterinary practice.

10. A modification to Transitional Screening 3 shall be provided along the northern, eastern, and southern lot lines. The existing vegetation shall satisfy this modification. Additional landscaping shall be provided in the stables and the parking area and shall be approved by the County Arborist pursuant to Article 13.

11. This veterinary practice shall be confined to small animals only.

12. The applicant shall comply with all Health Department regulations pursuant to Sect. 8-911, Additional Standards for veterinary hospitals.

13. Right-of way to 45 feet from centerline of Beulah Street necessary for road improvements shall be dedicated for public street purposes and shall convey to the Board of Supervisors or VDOT in fee simple upon sixty (60) days' notice.

14. Temporary construction and grading easements shall be provided along Beulah Street frontage to facilitate road improvements.

15. A trail shall be provided in accordance with the Countywide trails plan. Construction may be deferred if deemed appropriate by the Department of Environmental Management (DEM) at the time of site plan review.

16. The site entrance shall be widened to meet VDOT standards for commercial entrances, minimum width of thirty (30) feet.

17. A right turn lane shall be provided at the site entrance in conformance with VDOT standards and subject to VDOT approval.

18. This use shall be subject to the provisions set forth in Article 17, Site Plans.

19. 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.

20. This special permit is approved for a period of five (5) years.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, 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. Smith seconded the motion for the purpose of discussion, he stated.

The motion failed by a vote of 2-5 with Mrs. Day and Mr. Smith voting aye; Messrs. Ribble, Hyland, DiGiulian, Hammack and Mrs. Thonen voted nay.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 29, 1987.

At this time, Dr. Hart requested a waiver of the 12-month limitation on rehearing the subject application. Mr. Hyland then moved to grant the waiver of the 12 month limitation. Mrs. Day seconded the motion which passed by a vote of 3-2 with Mrs. Day, Mr. Hyland, Mr. Ribble voting aye; Mr. Hammack, Mr. Smith voting nay; Mr. DiGiulian and Mrs. Thonen not present for the vote.

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Page 153, April 21, 1987, (Tape 2), Scheduled case of:

10:20 A.M. RANDOLPH WILLIAMS, INC. AND KINGSTREAM COMMUNITY COUNCIL, INC., SP 87-D-004, application under Sect. 3-303 of the Zoning Ordinance to allow community swimming pool and tennis courts, located at 1438 Kingsvale Circle, on approx. 3.07 acres, zoned R-3, Dranesville District, Tax Map 11-1((1))D and 10D.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the proposal subject to the development conditions contained in the staff report.

H. Kendrick Sanders, Gilliam, Sanders and Brown, 10560 Main Street, Fairfax, Virginia, appeared before the Board as the applicant's representative and stated that they agreed to the development conditions with a change to number 11 regarding the hours for the tennis courts. He requested that the hours be during daylight time.

Mr. Hyland suggested that the pool hours be changed to be in conformance with the standard hours for other pools in the County by closing 9:00 p.m.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hyland moved to grant the proposal subject to the revised development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-004 by RANDOLPH WILLIAMS, INC., AND KINGSTREAM COMMUNITY COUNCIL, INC., under Section 3-303 of the Zoning Ordinance to allow community swimming pool and tennis courts, on property located at 1438 Kingsvale Circle, Tax Map Reference 11-1((1))D and 10D, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 21, 1987; 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 3.07 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 Kingstream Community Council, this approval will transfer to the Council. 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 employees shall be four (4).

6. The maximum number of family memberships shall be 454.

7. There shall be thirty (30) parking spaces provided.

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. There shall be no lights for the tennis courts.

10. If lights are provided for pool and parking lot, they shall be in accordance with the following:

    - The combined height of the light standards and fixtures shall not exceed twelve (12) feet for the pool and parking lot.
    - The lights shall be a low-intensity design which focuses the light directly onto the facility.
    - Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility,

11. The hours of operation for the pool shall be from 9:00 a.m. to 9:00 p.m. The hours for the tennis courts shall be during daylight hours.

12. Swim meets shall be conducted between hours of 9:00 a.m. and 8:00 p.m.
13. The use of loudspeakers shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code and shall not be waived.

14. Transitional Screening 1 shall be provided along all lot lines. The barrier requirement shall be waived.

15. Landscape planting shall be required around the pool and bathhouse and shall conform to the standards prescribed by Article 13 of the Zoning Ordinance. In addition, a landscape plan for the entire site shall be evaluated and approved by the County Arborist.

16. Interior parking lot landscaping shall be provided.

17. The Consumer Services Section of the Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations. This agency will make a determination as to whether proper neutralization of these pool waters has been completed.

18. Construction of the entrance ingress/egress shall be provided in accordance with VDOT standards.

19. A soil survey shall be completed prior to pool construction if determined necessary by the Director of the Department of Environmental Management (DEM). If high water table soils resulting from uncompacted fill, resource removal or any other circumstance resulting in instability are found in the immediate vicinity of the pool, then the pool shall be engineered and constructed to ensure pool stability, including the installation of hydrostatic relief valves and other appropriate measures.

20. Best Management Practices for stormwater removal from the tennis courts and parking lots shall be provided as 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* 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 and Mr. Ribble seconded the motion which passed unanimously with Mr. Hammack not present for the vote.
*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 29, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 155, April 21, 1987, (Tape 3), Scheduled case of:

10:40 A.M. LINCOLNIA LIMITED PARTNERSHIP, SP 87-M-009, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow one shed exceeding 7 feet in height to remain zero (0) feet from a side lot line (10 ft. min. side yard req. by Sects. 3-2007 and 10-104), located at 4904 Fran Place, on approx. 16.5403 acres, zoned R-20(HC), Mason District, Tax Map 72-3((1))54. (NOTICES NOT IN ORDER)

Due to the notices not being in order, Mr. Hyland moved to defer SP 87-M-009, Lincolnia Limited Partnership to May 26, 1987 at 11:00 A.M.

The motion was seconded by Mrs. Day and passed unanimously with Messrs. Hammack and Ribble not present for the vote.

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Page 155, April 21, 1987, (Tape 3) Scheduled case of:

11:00 A.M. JOHN TREADWAY, SP 87-V-010, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow two sheds both exceeding 7 feet in height to remain .42 feet and 2.75 feet, respectively, from a side lot line (20 ft. min. side yard req. by Sects. 3-E07 and 10-104), located at 10713 Greene Drive, on approx. 21,864 square feet, zoned R-E, Mount Vernon District, Tax Map 117-2((2))36.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board that there were other problems with the site and that staff had requested the applicant to defer the request to allow staff time to define the actions needed for the applicant to rectify his illegal structures but the applicant had declined. She stated that a building permit was obtained for the shed but what was shown on the building permit was not what was built and it was staff's opinion that the error was not made in good faith. She informed the Board that the shed could relocated outside of the minimum yard requirement without disturbing any other uses on the property. Ms. Hamblin-Katnik further advised the Board that staff was recommending denial of the request because the application could not satisfy B, D, and F of Section 8-914 of the Zoning Ordinance.

Eilihu Hirsch, 5043 MacArthur Boulevard, Washington, D.C., Northwest, architect and representative of the applicant, appeared before the Board.

Following a question from Mr. Hyland, Mr. Hirsch explained that it was true that the building permit showed the shed farther away from the side lot line. However due to the graded ramp that provides the applicant access for his boat to Massey Creek and because of the location of other sheds in the neighborhood he located it closer to the side lot line. The location of the shed was also precipitated by the area available for the shed. Mr. Hirsch indicated that his drawing was not completely accurate and the graded ramp was actually closer to the shed than was apparent on the drawing. He added that once Mr. Treadway had the permit he thought there was some flexibility as to where the shed could be located.

Mr. Hyland pointed out that it was Mr. Logan, the applicant's engineer who prepared the plat that showed the setback for the shed at 25-feet from the side lot line. Mr. Treadway said it was not Mr. Logan who drew the shed on the plat, it was a friend of Mr. Treadway's.

Mr. Hirsch disagreed with staff as to the feasibility of moving the shed. He claimed it would be difficult because the graded ramp starts to berm downward and would require additional fill as well as structural reinforcement for the wood steps.

John T. Treadway, 10713 Greene Drive, Lorton, Virginia, advised the Board that due to health problems, a friend obtained the building permit for him. He added that he put his initials by the 25-feet on the plat because his friend told him it was necessary so that he would libel for it.

Responding to a questions from Mr. Hammack and Mrs. Thonen, Mr. Treadway stated that same friend that had obtained the building permit for him had drawn the shed and wood deck onto the plat prepared by Mr. Logan. He further added that the deck was approximately 8 feet, 4 inches or 8 feet, 5 inches from the ground. Mr. Hirsch stated that there was a question at the time of inspection as to whether or not it was properly supported but that it was not too high.

With regard to the question of whether or not the deck was too high, Ms. Hamblin-Katnik deferred to Claude Kennedy, Chief, Zoning Enforcement Branch, who stated that there was a question as to whether or not the deck was the correct distance from the lot line. Mr. Hirsch stated that the deck could be made smaller so that it would be in conformance.

Chairman Smith called for speakers and Larry Wright, 8101 Bard Street, Lorton, Virginia, appeared before the Board in support of the application. He noted that the applicant had substantially improved the property over the condition it had been prior to Mr. Treadway's purchase of it.

Robert Messmer, 10709 Greene Drive, Lorton, Virginia, appeared before the Board in opposition to the request. He stated that his view had been obstructed by the applicant's structures and also indicated that the deck was 11 feet high rather than 8 feet. He submitted photographs taken in September 1986 to the Board which he stated would substantiate his opinion.

Jere Smith, 12237 Ox Hill Road, Fairfax, Virginia, appeared before the Board in opposition to the request.

In response to questions from the Board, Mr. Treadway stated that the shed was in the process of being constructed prior to obtaining the building permit. Mr. Treadway questioned why Mr. Messmer took two years to complain about the shed. Pictures of the property in its original state were submitted to the Board by Mr. Treadway.
In response to further questions from the Board, Mr. Treadway stated that he became aware of the setback requirements in November of 1986 when a complaint was filed, however, the Board stated that the building permit was obtained in October 1986 and the shed was already up. Upon further explanation, Mr. Treadway stated that the shed was erected prior to getting the building permit.

Since there were no other speakers to address this issue, Chairman Smith closed the public hearing.

Mr. Hammack stated that the applicant had not satisfied the requirements for a special permit and therefore, moved to deny SP 87-V-010.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-V-010 by JOHN TREADWAY, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow two sheds both exceeding 7 feet in height to remain .42 feet and 2.75 feet, respectively, from a side lot line, on property located at 10713 Greene Drive, Tax Map Reference 117-2((2))36, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 21, 1987; 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 21,864 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 8-903 and 8-914 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 6-0 with Mr. Ribble not present for the vote.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 29, 1987.

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Page 157, April 21, 1987, (Tape 3), Scheduled case of:

11:15 A.M. LARRY BECKER AND KAREN BECKER, VC 86-D-128, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 22.7 feet from a street line of a corner lot (35 ft. min. front yard req. by Sect. 3-207), located at 931 Dead Run Drive, on approx. 22,542 square feet, zoned R-2, Dranesville District, Tax Map 21-3((11))77. (DEF. FROM 3/17/87 AT APPLICANT'S REQUEST)

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that there was one letter of opposition and one letter of support in the file.

Larry Becker, 931 Dead Run Drive, McLean, Virginia the applicant, appeared before the Board and outlined his request as set forth in the statement of justification submitted with the application. He explained that he was requesting a 28-foot, two-car garage.

Chairman Smith noted that the request for a 28-foot wide garage was not a standard size for a garage, that it was much larger than a standard garage.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen agreed with Mr. Smith about the sign of the garage. She stated that the applicant had met the standards for a variance but indicated it was not the minimum variance that would afford relief and therefore moved to grant-in-part the request for a 24-foot wide garage, subject to the development conditions contained in the staff report.

Chairman Smith informed Mr. Becker that he would approve new plats for a 24-foot garage.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-D-128 by LARRY BECKER AND KAREN BECKER, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 22.7 feet from a street line of corner lot,(the Board granted an 8.3 foot Variance) on property located at 931 Dead Run Drive, Tax Map Reference 21-3((11))77, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 21, 1987; 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 22,542 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. The addition shall not be closer than 8.3 feet from the lot line.

2. Under Sect. 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 which carried by a vote of 5-1 with Mr. Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 29, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 159, April 21, 1987, (Tape 4), Scheduled case of:

11:30 A.M. WILLIAM C. TINKLEPAUGH, VC 87-A-030, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 10.2 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) located at 4714 Trotting Lane on 13,846 square feet, zoned R-3, Annandale District, Tax Map 70-1((6))56. (OTH GRANTED 3/24/87)

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report.

William C. Tinklepaugh, 4714 Trotting Lane, Annandale, Virginia, the applicant, appeared before the Board and reviewed his statement of justification as submitted with the application. He submitted a petition from adjacent property owners in support his request.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian stated that the applicant had met the standards for a variance, particularly Paragraph 2D. Therefore, he moved to grant the application subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-030 by WILLIAM C. TINKLEPAUGH, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 10.2 ft. from side lot line, on property located at 4714 Trotting Lane, Tax Map Reference 70-1((6))56, DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 21, 1987; 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 13,846 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:
   D. Exceptional shape 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.

Mrs. Thonen and Mr. Hammack seconded the motion which carried by a vote of 5-1 with Mr. Smith voting a nay; Mr. Ribble not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on April 29, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 160, April 21, 1987, (Tape 4), After Agenda Item 1

OUT-OF-TURN HEARING
O.C. Builders, Inc.
VC 87-D-045

Mrs. Thonen moved to grant the request for an out-of-turn hearing for the above referenced application for June 9, 1987 at 10:00 A.M.

Mr. DiGiulian seconded the motion which passed unanimously with Mr. Ribble not present for the vote.

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Page 160, April 21, 1987, (Tape 4), After Agenda Item 2

Approval of Resolutions for April 14, 1987

Mrs. Thonen moved to approve the resolutions for April 14, 1987 as submitted.

Mr. Hammack seconded the motion which passed unanimously with Mr. Ribble not present for the vote.

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Page 161, April 21, 1987, (Tape 4), After Agenda Item 3

ADDITIONAL TIME REQUEST
Congregation Adat Reyim at Keene Mill Village
SP 85-S-057
Tax Map Reference 88-2((13))6B, B, B1

Mrs. Day moved to grant the request for additional time for the above referenced application for an additional 12 months.

Mr. Hammack seconded the motion which passed unanimously with Mr. Ribble not present for the vote.

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Page 161, April 21, 1987, (Tape 4), After Agenda Item 4

APPROVAL OF MINUTES
March 10, 1987

Mrs. Day moved to approve the Minutes for March 10, 1987 as submitted.

The motion was seconded and passed unanimously with Mr. Ribble not present for the vote.

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As there was no other business to come before the Board, the meeting was adjourned at 3:30 P.M.

Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 6-30-87

APPROVED: 7-7-87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, April 28, 1987. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; John Ribble; and Mary Thonen. Messrs. DiGiulian and Hyland were absent from the meeting.

Chairman Smith opened the meeting at 9:18 A.M. and Mrs. Day led the prayer.

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Page 162 April 28, 1987, (Tape 1), Scheduled case of:

9:00 A.M. ANDRES & MARY E. GONZALEZ DUPERLY, T/A EDUCATIONAL CULTURAL CENTRE, SP 86-C-067, application under Sects. 3-103 and 8-901 of the Zoning Ordinance to allow private school of special education with waiver of the dustless surface requirement located at 3614 West Ox Road on 1.0 acre, zoned R-1(WS), Centreville District, Tax Map 45-2((1))17. (DEF. FROM 3/3/87)

Kevin Guinaw, Staff Coordinator, presented the staff report and told the Board that the applicants are requesting a Special Permit to establish a private school of special education which would have a maximum enrollment of 25 students between the ages of 6 through 13, Monday through Friday. There would be a total of 2 to 4 employees on the site at any given time with classes held in the afternoon. Mr. Guinaw added that it's staff judgment that this application does not meet several of the standards required for a Special Permit; the use is too intense to be compatible with the surrounding development, is not in harmony with the Comprehensive Plan, and the proposed use would generate a substantial amount of traffic in an already congested area. Based on these concerns, staff recommended denial of SP 86-C-067.

Responding to questions from the Board, Mr. Guinaw explained that the applicants would have to meet the Health Department requirements for this type of use.

Andres Gonzalez, 12409 Ox Hill Road, Fairfax, Virginia, the applicant, thanked the Board for the work it has done over the years on behalf of Fairfax County. Mr. Gonzalez told the Board this center would provide after school care for children of working parents from 3:00 p.m. to 7:00 p.m., Monday through Friday, during the regular school year. The center would be used during the morning for administrative purposes for preparing the daily activities for the children. In response to staff's concerns regarding parking, noise, and traffic impact, Mr. Gonzalez suggested the following: 1) The entrance to the existing garage could be modified so that three automobiles could be parked inside, thus leaving only one car in the parking area to alleviate the commercial appearance of the parking spaces. 2) The noise impact would not affect the proposed use as there is presently a school in this general vicinity. 3) The traffic generation would not be as great as estimated due to the children being brought to the school by bus from their daily schools. He pointed out there are planned road improvements for the area which would make West Ox Road a four lane road in the future.

Chairman Smith called for speakers in support of the application and Virginia Ashby Wilbur, 5208 Chippewa Place, Alexandria, Virginia, came forward and spoke highly of the applicants' abilities and qualifications to operate this type of center.

Virginia Foster Erickson, 3421 West Ox Road, Herndon, Virginia, opposed the application due to the unsuitability of this site for this type of use due to the heavy traffic flow in the area at present and asked that the Board deny this application.

Nancy Foster, 3612 West Ox Road, Fairfax, Virginia, agreed with the previous speaker's comments and asked that the Board deny this application.

Mr. Guinaw clarified some of the applicant's remarks concerning traffic by stating that the Virginia Department of Transportation (VDOT) used the same procedure in this application as they use in all applications to estimate the trip generation. He pointed out that the applicants are now proposing to transport the students to the Center by van, which was not part of their original application. This will alleviate the impact on traffic in the morning rush hour but not alleviate the impact on evening rush hour. He added that there are improvements scheduled to make West Ox Road four lanes but these are scheduled five years in the future. He reiterated that it is staff's judgment the use is too intense for this site and would set a precedent in this area.

During rebuttal, Mr. Gonzalez again pointed out that the children could be dropped off at the Center by the school bus as there was a bus stop in front of the proposed site and be picked up by their parents in the evening.

In response to questions from the Board, he stated that the children would be given a snack while at the Center.

Mrs. Thonen made a motion to deny SP 86-C-067 as she felt the applicant had not presented testimony showing compliance with the standards for a Special Permit. She stated that she agreed there is a need for this type of school and that the applicants are qualified to operate this type of facility but believes that the use is too intense for the site.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-067 by ANDRES AND MARY E. GONZALEZ DUPERLY, T/A EDUCATIONAL CULTURAL CENTRE, under Section 3-103 and 8-901 of the Zoning Ordinance to allow private school of special education with waiver of the dustless surfacr requirement, on property located at 3614 West Ox Road, Tax Map Reference 45-2((1))17, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 28, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-1(WS).
3. The area of the lot is 1.0 acre 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, 8-307, 8-903, and 8-915 of the Zoning Ordinance.

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0-1 with Mr. Hammack abstaining; Messrs. DiGiulian and Hyland absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 6, 1987.

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Page 163, April 28, 1987, (Tape 1), Scheduled case of:

9:15 A.M. COSTAIN WASHINGTON, INC., a Maryland Corporation, SP 86-S-073, application under Sect. 3-203 of the Zoning Ordinance to allow a community recreation facility, located in the Hampton Forest Subdivision, on approx. 4.68 acres, zoned R-2(WS), Springfield District, Tax Map 66-2((1))pt. 1A. (DEF. FROM 3/17/87 FOR ADDITIONAL INFORMATION - FULL HEARING)

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and stated that the transitional screening and barrier requirements will be provided by the applicant. Following discussions with the applicant, staff has agreed that landscaping rather than transitional screening can be used at the entrance of the site which will enhance the site in addition to providing sufficient screening. She pointed out that development condition #6 has been modified as submitted to the Board on this date.

Alex Intermaggio, attorney with Haight, Tramonte and Siciliano, 210 Broad Street, Falls Church, represented the applicant. Mr. Intermaggio agreed with the development conditions set forth in the staff report. He added that the residents within the Hampton Forest Subidivision will have first priority in regard to annual pool memberships.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack made a motion to grant SP 86-S-073 as he felt the applicant had presented testimony showing compliance with the standards for a Special Permit and subject to the development conditions contained in the staff report with #6 amended as follows: "The maximum number of family memberships shall be 534. All eleven sections in the Hampton Forest Subdivision must be offered annual right of first refusal prior to offering annual membership to anyone other than Hampton Forest residents."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-S-073 by COSTAIN WASHINGTON, INC., A MARYLAND CORPORATION, under Section 3-203 of the Zoning Ordinance to allow a community recreation facility, on property located in the Hampton Forest Subdivision, Tax Map Reference 66-2((1))pt. 1A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 28, 1987; 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(WS).
3. The area of the lot is 2.65 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 employees shall be eight (8).

6. The maximum number of family memberships shall be 534. All eleven sections in the Hampton Forest Subdivision must be offered annual right of first refusal prior to offering annual membership to anyone other than Hampton Forest residents.

7. There shall be fifty-seven (57) parking spaces provided.

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. If lights are provided for pool and parking lot they shall be in accordance with the following:

   - o The combined height of the light standards and fixtures shall not exceed 12 feet for the pool and parking lot.
   - o The lights shall be a low-intensity design which focuses the light directly onto the facility.
   - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.

10. The hours of operation for the pool shall be from 11:00 a.m. to 8:00 p.m. Swim team practice and swimming lessons shall be held between 8:00 a.m. and 11:00 a.m.

13. Swim meets shall be conducted between hours of 9:00 a.m. and 9:00 p.m.

14. The use of loudspeakers shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code and shall not be waived. There shall be no loudspeakers, bullhorns, or whistles used prior to 9:00 a.m. nor after 9:00 p.m.

15. Transitional Screening 1 shall be provided along all lot lines, except a modification of the transitional screening shall be approved along Ashleigh Drive to enhance the character of rather than screen the use.

16. Landscape planting shall be required around the pool and bathhouse, shall conform to the standards prescribed by Article 13 of the Zoning Ordinance, and the amount, type, and location shall be approved by the County Arborist.

17. Limits of clearing and grading shall not encroach within the transitional screening areas.

18. Interior parking lot landscaping shall be provided.

20. The Consumer Services Section of the Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations. This agency will made a determination as to whether proper neutralization of these pool waters has been completed.

21. Construction of the entrance ingress/egress shall be provided in accordance with VDOT standards.

22. In order to meet the intent of Proffer #6 in RZ 79-S-119 a tree preservation plan shall be submitted to the County Arborist to determine if there are specimen trees that should be preserved. If the tree preservation plan and the plat conflict the applicant shall amend the special permit.

23. A soil survey shall be completed prior to pool construction if determined necessary by the Director, Department of Environmental Management. If high water table soils resulting from uncompacted fill, resource removal or any other circumstance resulting in instability are found in the immediate vicinity of the pool, then the pool shall be engineered and constructed to ensure pool stability, including the installation of hydrostatic relief valves and other appropriate measures.

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 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

Page 166 ,(Tape 1), April 28, 1987, (SP 86-S-073, Costain Washington, Inc., A Maryland Corporation, continued from Page 165)

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 6, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 166 ,April 28, 1987, (Tape 1), Scheduled case of:

9:30 A.M. MOHAMAD ALI ROUHANI AND HELEN PARASIAKIS APPEAL, A 86-S-014, to appeal the Zoning Administrator's determination that a building permit for a dwelling on appellants' property was improperly approved because the proposed location did not comply with minimum yard requirements of the Zoning Ordinance, and D.E.M.'s consequent issuance of a Stop Work Order declaring the building permit null and void, located at 6419 Spring Lake Drive, on approx. 30,985 square feet, zoned R-2, Springfield District, Tax Map 88-1((15))1.

Jane Gwinn, Zoning Administrator, told the Board that she had nothing to add to that which was stated in her memorandum to the Board of Zoning Appeals dated April 22, 1987.

Kenneth Moreland, 3213 Barbour Lane, Fairfax, Virginia, represented the applicant, and argued this request was not routine but carefully reviewed as there was a time lapse of approximately two and a half months between the time the building permit was applied for and the date of approval. The Zoning Administrator stated in her December 1, 1986 letter to the applicant that after further review, the building permit was issued in error as the lot does not meet the criteria for a reverse frontage lot and is clearly not a pipestem lot. Ms. Gwinn further stated in her letter that since the lot abuts two public streets it was her position that the lot was a through lot. Since a building permit had been issued and construction begun a Stop Work Order was issued to the applicant after one of the surrounding neighbors contacted Supervisor Elaine McConnell's Office. In closing, Mr. Moreland stated that the Zoning Administrator was incorrect in her interpretation and requested that the Board of Zoning Appeals overturn her decision.

Mary Allen, 6517 Spring Lake Drive, Burke, Virginia, submitted a petition signed by surrounding neighbors. She stated that prior to purchasing her property she had researched the Code of Fairfax County to determine the restrictions. During her research she discovered that the Planning Commission, at the time of rezoning, had recommended reconfiguration of lots fronting on Old Keene Mill Road to provide for access from Spring Lake Drive and had recommended that the development be disapproved unless this access was provided. Lot 8 was granted a variance of 80 feet and was recorded as a pipestem lot on the final plat but lot 1 was never granted a variance. In closing, Mrs. Allen requested that the Board of Zoning Appeals uphold the Zoning Administrator's determination.

Jane Gwinn commented that there was no question but that at the time this property was rezoned the orientation of the lots was encouraged by staff in order to minimize curb cuts on Old Keene Mill Road and the location of the house on the lot was not considered at that time. This is an unusual lot as it has frontage on both Old Keene Mill Road and Spring Lake Drive and therefore does not meet the definition of a pipestem lot as defined in the Zoning Ordinance. It also does not meet the definition of a reverse frontage lot as it does not face a local street and do not parallel a major thoroughfare, therefore it was determined the lot was a through lot. She added that that the 100 year floodplain and drainage easement does pose a development constraint on this property but that this could be considered at the time of a variance application before the Board of Zoning Appeals if the appellant should choose to file a variance application.

In response to questions from the Board, Ms. Gwinn explained that if the applicant wished to place part of the proposed dwelling inside the floodplain this issue could be addressed through a special exception application to the Board of Supervisors. She added that the she had not reviewed the application prior to the issuance of the building permit but took action to rectify the error as soon as it was brought to her attention.

During rebuttal, Mr. Moreland contended that the Zoning Administrator had withdrawn the building permit due to the pressure exerted by Supervisor McConnell and the building permit was valid as issued.

There being no further discussion, Chairman Smith closed the public hearing.

Mrs. Day moved to uphold the Zoning Administrator's decision in A 86-S-014. Mrs. Thonen seconded the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

Mrs. Thonen clarified for the appellant that if a variance application was filed that the standards for a variance would have to be met.

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10:00 A.M. RALPH AND JANE JEWELL, VC 87-V-001, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 6.6 feet from rear lot line (20 ft. min. rear yard req. by Sect. 3-1207), located at 1807 Duffield Lane, on approx. 3,192 square feet, zoned R-12(HC), Mount Vernon District, Tax Map 83-4((5))1A.

Heidi Belofsky, Staff Coordinator, presented the staff report and stated that staff finds the actual design of the proposed addition to be architecturally compatible with the existing dwelling in regard to style and materials but is concerned that the proposed addition will increase the bulk of the townhouse and therefore visually impact the surrounding units in a negative manner. In closing, Ms. Belofsky added that staff believes that the granting of this variance will set an undesirable precedent for further additions in townhouse developments.

Jane Jewell, 1807 Duffield Lane, Alexandria, Virginia, the applicant, told the Board that there were two units in the entire project where the kitchen and family room look directly into each other and their unit is one of those affected. At the time of purchase, the developer had offered a glass-enclosed greenhouse as an option but the applicants had declined because it was all glass. This proposed addition will provide privacy for the family and will look out onto open space.

A discussion took place among the Board and staff with regard to the floor area ratio (FAR) in townhouse developments. Mrs. Thonen made a motion for a brief recess at 10:45 A.M. to allow staff time to review the Zoning Ordinance. When the Board reconvened at 10:54 A.M., Ms. Belofsky pointed out that there were no FAR requirements for townhouse developments.

In response to questions from the Board, Mrs. Jewell noted she had met the notification requirements according to the Zoning Ordinance and was not aware of any objection.

Chairman Smith called for speakers in support and Ralph Jewell, 1807 Duffield Lane, Alexandria, Virginia, the co-applicant, came forward and confirmed the comments made by his wife.

As there were no additional speakers or comments, Chairman Smith closed the public hearing.

Mr. Ribble moved to grant VC 87-V-001 as he believed the applicant had presented testimony showing compliance with the standards for a variance, due to the unusual topography of the lot, and subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 8-V-011 by RALPH AND JANE JEWELL, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 6.6 feet from rear lot line, on property located at 1807 Duffield Lane, Tax Map Reference 83-4((5))1A, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 28, 1987; and

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

1. That the applicants and the owners of the land.
2. The present zoning is R-12(HC).
3. The area of the lot is 3,192 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. The motion carried by a vote of 4-1 with Chairman Smith voting nay; Messrs. DiGiulian and Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 6, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 168, April 28, 1987, (Tape 2), Scheduled case of:

10:15 A.M. PAUL J. AND DEBORAH A. HIRSCH, VC 87-M-003, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 18.43 feet from a street line of a corner lot (35 ft. min. front yard req. by Sect. 3-207), located at 8212 Woodland Avenue, on approx. 22,839 square feet, zoned R-2, Mason District, Tax Map 59-3((12))66.

Heidi Belofsky, Staff Coordinator, presented the staff report and stated that this variance is for the purpose of constructing a building addition to be used as a garage and an expansion of a family room. During staff's research, it was noted that there have been several previous modifications to this dwelling but none have required variances. Ms. Belofsky pointed out that the applicant had amended his written statement of justification to state that the existing porch would be demolished in order to construct the proposed family room if the variance is granted.

Paul J. Hirsch, 8212 Woodland Avenue, Annandale, Virginia, the applicant submitted letters in support from his neighbors and told the Board that this addition would provide protection for his automobiles. He stated that this would not set a precedent as two car garages were quite commonplace in his neighborhood.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 87-M-003 subject to the development conditions contained in the staff report and as he believed the applicant had presented testimony showing compliance with the standards for a variance, especially standard no. 4.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-003 by PAUL J. HIRSCH AND DEBORAH A. HIRSCH, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 18.43 feet from a street line of a corner lot, on property located at 8212 Woodland Avenue, Tax Map Reference 59-3((12))66, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 28, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 22,839 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 4-1 with Chairman Smith voting nay; Messrs. DiGiulian and Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 6, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 170, April 28, 1987, (Tape 2), Scheduled case of:

10:30 A.M. BRADLEY W. HALL, VC 86-P-107, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10.1 feet from side and 21.3 feet from rear lot lines (12 ft. min. side yard, 25 ft. min. rear yard req. by Sect. 3-307) located at 2429 Caron Lane, on approx. 11,075 square feet, zoned R-3, Providence District, Tax Map 40-3((25))12.

Kevin Guinaw, Staff Coordinator, explained that the applicant is requesting a two-story addition which would have a garage on the lower level with additional living space above the garage. Mr. Guinaw concluded by adding that the adjacent dwelling was located 12 feet from the shared property line.

Clifford Hines, 2007 North 15th Street, Arlington, Virginia, the agent and architect for the applicant, appeared before the Board and noted that the house is located substantially back from the front lot line and there are no objections from the adjacent property owner. He added the materials used on the addition will match those on the exterior of the house.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant VC 86-P-107 subject to the development conditions contained in the staff report, due to the request being a minimum variance, and due to the unusual topography of the lot.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 86-P-107 by BRADLEY W. HALL, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10.1 feet from side and 21.3 feet from rear lot lines, on property located at 2429 Caron Lane, Tax Map Reference 40-3((25))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 April 28, 1987; 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 11,075 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. The motion carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 6, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 171, April 28, 1987, (Tape 2), Scheduled case of:

10:45 A.M. HUNTER DEVELOPMENT COMPANY, SP 87-S-011, application under Sect. 3-503 of the Zoning Ordinance to allow subdivision sales office located at 5801 Rockdale Court on 0.24432 acres, zoned R-5 (WS), Springfield District, Tax Map 54-4((8))pt. K.

Heidi Belofsky, Staff Coordinator, presented the staff report. The applicant is requesting to be allowed to continue to operate a subdivision sales office which is presently under temporary special permit which was approved on September 21, 1984. She added there had been no complaints filed against this use with the Zoning Administration Office.

Frank McDermott, attorney with the law firm of Hunton and Williams, 3050 Chain Bridge Road, Fairfax, Virginia, represented the applicant. Mr. McDermott told the Board that this was a very attractive part of the community, functioned as an information center, and would be removed and the site restored as soon as the sales activity is completed. Mr. McDermott requested that development condition #6 be amended to read "17 parking spaces, including handicapped, shall be provided."

Ms. Belofsky agreed with the clarification suggested by Mr. McDermott.

Following a discussion between the Board members and Mr. McDermott, it was determined that a three year Special Permit would be sufficient but if additional time was needed the applicant would reapply to the Board of Zoning Appeals.

Ms. Belofsky pointed out that the Board could add a condition that this time limitation could be extended with the approval of the Zoning Administrator.

As there were no speakers in support, Chairman Smith called for speakers in opposition and Brian K. Brodin, 5845 Rockdale Court, Centreville, Virginia, came forward and opposed the application. Mr. Brodin submitted a letter that he had sent to the surrounding neighbors in which he stated his reasons for opposition as follows: 1) the center is an eyesore; 2) creates unnecessary traffic; 3) detracts from the beauty of the neighborhood; 4) the visibility and access to the center will be greatly reduced when Braddock Road is rerouted; and 5) interferes with the parking rights of the residents living on Rockdale Court.

Following a discussion among the Board, staff, and Mr. Brodin concerning the parking issue, it was unclear as to where the parking noted by the applicant was actually located and staff stated that the applicant's agent was requesting a deferral of one week to resolve the issue.

Chairman Smith pointed out that the Special Permit had expired and questioned staff as to why the use was permitted to continue after expiration. Ms. Belofsky replied that the use could continue as long as there was a pending application and that Zoning Enforcement was responsible for overseeing the expiration dates of permits. Mr. Hammack stated this parking issue should have been resolved two years ago.

Mrs. Thonen suggested that perhaps the applicant's agent could clarify some of these questions. Mr. McDermott came forward and explained that he was not aware that the Special Permit had expired as other personnel in his office had been handling the case. He added that the prior Temporary Special Permit had been an administrative approval under the Zoning Ordinance.

Mr. Hammack made a motion to defer this case for one week for additional information. Mrs. Day and Mr. Ribble seconded the motion. After further discussion, Mr. Hammack amended his motion to defer for two weeks.

Mr. Brodin objected to the deferral. Chairman Smith explained that all the facts were not available to the Board and this two week deferral would allow staff time to research the parking issue.

As a motion had been made and seconded, Chairman Smith called for the vote and the motion carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting. The new public hearing date was scheduled for May 12, 1987 at 11:30 A.M. as suggested by staff.

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Page 172, April 28, 1987, (Tape 2), Scheduled case of:

11:00 A.M. FAIRFAX COVENANT CHURCH, SP 87-S-001, application under Sect. 3-C03 of the Zoning Ordinance to allow church and related facilities, located at 11157 Braddock Road, on approx. 18.9469 acres, zoned R-C(WS), Springfield District, Tax Map 67-2((1))15

At the request of the applicant, Mrs. Thonen made a motion to allow SP 87-S-001 to be withdrawn. Mr. Hammack seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hammack absent from the meeting.

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Page 173, April 28, 1987, (Tape 2), Scheduled case of:

11:15 A.M. WOODLAWN COUNTRY CLUB, INC., SPA 74-V-107-1, application under Sect. 3-203 of the Zoning Ordinance to amend S-107-74 for a country club, to permit additions to structures and the parking lot and increase membership, located at 5111 Old Mill Road, on approx. 128.8291 acres, zoned R-2, Mount Vernon District, Tax Map 110-1((1))3, 4, 13, 13A. DEF. FROM 3/24/87

Heidi Belofsky, Staff Coordinator, stated that the applicant had retained a zoning attorney to represent them and are requesting another deferral.

W. McCauley Arnold, attorney with the law firm of Cowles, Rinaldi and Arnold, Ltd., 10521 Judicial Drive, Fairfax, Virginia, represented the applicant and requested a deferral in order to allow time to resolve some of the outstanding issues such as the trail around the perimeter of the site, request for dedication for right-of-way, and landscaping. He stated this deferral would allow time to prepare a landscaping plan to present to the Board and time to try to reach a compromise with staff regarding dedication.

Mr. Arnold requested a two week deferral.

Mrs. Thonen made a motion to defer the application until May 19, 1987 at 10:40 A.M. as suggested by staff. Mr. Ribble seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

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Page 173, April 28, 1987, (Tape 2), Reconsideration Item:

BEULAH STREET VETERINARY CLINIC RECONSIDERATION
SP 87-L-002

Mrs. Thonen explained that the applicant in SP 87-L-002 was asking the Board to reconsider their decision at its public hearing on April 21, 1987 based on erroneous testimony by the citizen who opposed the application. She added that she would make a motion to reconsider but would suggest that the applicants came back to the Board with new plans and a better proposal.

Following a discussion among the Board members, Mrs. Thonen stated that the decision was not final until the eighth day after the public hearing.

Mr. Hammack called for the question. Chairman Smith called for a vote and the motion to reconsider failed by a vote of 2-3 with Messrs. DiGiulian and Hyland absent from the meeting.

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Page 173, April 28, 1987, (Tape 2), After Agenda Item:

ADDITIONAL TIME
MR. AND MRS. GEORGE B. MONROE
VC 85-V-068

Mrs. Day moved to grant an additional time of three months to the applicant of VC 85-V-068. Mr. Hammack seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hyland were absent from the meeting. The new expiration date is August 7, 1987.

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Page 173, April 28, 1987, (Tape 2), After Agenda Item:

ADDITIONAL TIME
RAJ SINGH
VC 85-M-059

Mrs. Day moved to grant an additional two months to the applicant in VC 85-M-059 in order allow time for the applicant to commence construction of the proposed dwelling. Mr. Hammack seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting. The new expiration date will be July 12, 1987.

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Page 174, April 28, 1987, (Tape 2), After Agenda Item:

OUT-OF-TURN HEARING
JOE AND CLAIR HYLAND
VC 87-M-027

Mrs. Thonen moved to deny the request for an out-of-turn to Mr. and Mrs. Hyland. Mr. Hammack seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

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Page 174, April 28, 1987, (Tape 2), After Agenda Item:

OUT-OF-TURN HEARING
ROXBURY OF MOUNT VERNON INCORPORATED
SP 87-L-028

Mrs. Day moved to grant an out-of-turn hearing to Roxbury of Mount Vernon Incorporated and the public hearing was scheduled for June 2, 1987 as suggested by staff. Mrs. Thonen seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

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Page 174, April 28, 1987, (Tape 2), Approval of Resolutions:

Mrs. Thonen made a motion to accept the Resolutions adopted by the Board of Zoning Appeals on April 21, 1987. Mrs. Day seconded the motion which passed by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 12:25 A.M.

Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 6/2/87

APPROVED: 6/9/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 5, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; and Mary Thonen. Mr. Ribble was absent from the meeting.

Chairman Smith opened the meeting at 8:08 P.M. and Mrs. Day led the prayer.

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Page 175, May 5, 1987, (Tape 1), Scheduled case of:

8:00 P.M. MELVILLE L. GILLIAM AND WALLACE H. GILLIAM, VC 87-D-013, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport enclosure and room addition to dwelling, each to 8.2 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 1609 Longfellow Street, on approximately 23,953 square feet of land, zoned R-3, Dranesville District, Tax Map 30-4((5))12.

Lori Greenlief, Staff Coordinator, told the Board that the applicant was requesting a variance of 3.8 feet in order to construct an addition to enclose an existing carport. She added that the previous property owners had constructed the existing carport after obtaining a variance.

Wallace Gilliam, 1609 Longfellow Street, McLean, Virginia, the applicant, told the Board that the property has a unusual topography as there is a significant slope on two sides of the property with a swale on one side. The reason for enclosing a portion of the carport is to provide a new entry way into the house and the addition will provide an eating area. He added that the property owner who will be the most affected has submitted a letter stating that he has no objections to the request.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 87-D-013 subject to the development conditions contained in the staff report and as he believed the applicant had presented testimony satisfying the standards for a Variance, especially 2(E) and 6(A).

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-013 by MELVILLE L. GILLIAM AND WALLACE H. GILLIAM, under Section 18-401 of the Zoning Ordinance to allow construction of carport enclosure and room addition to dwelling, each to 8.2 feet from side lot line, on property located at 1609 Longfellow Street, Tax Map Reference 30-4((5))12, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 5, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 23,953 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. DiGiulian and Hyland seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 13, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 176, May 5, 1987, (Tape 1), Scheduled case of:

8:15 P.M. HERITAGE FOREST ASSOCIATES, SP 87-S-016, application under Sect. 3-803 of the Zoning Ordinance to allow community center and recreation facilities, located in the Heritage Estates Subdivision, on approximately 3.82 acres of land, zoned R-8, WS, Springfield District, Tax Map 65-2((1))pt. 23.

Lori Greenlief, Staff Coordinator, informed the Board that staff was requesting a deferral of this case in order to resolve outstanding transportation issues. Mrs. Greenlief added that the applicant concurred with this deferral and she suggested a new public hearing date of June 23, 1987 at 9:00 A.M.

Bruce McKechnie, attorney with Falcone & Rosenfeld, 10521 Judicial Drive, Fairfax, Virginia, represented the applicant and agreed with the deferral but pointed out that the deferral was detrimental to his client. He asked to read a prepared statement into the record.

A discussion took place among the Board and staff concerning the unresolved transportation issues. Mrs. Greenlief explained that plans for the Braddock Road interchange, located north of this site, show a connector road bisecting this site. The Office of Transportation is working with the Virginia Department of Transportation and the applicant to resolve the issue of this connector road. Mrs. Greenlief stated that staff could not support the application until this has been resolved.

Mr. McKechnie read a prepared statement and noted his client is attempting to satisfy the proffers connected with a rezoning application dated July 23, 1979. He stated that the proposed realignment of Braddock Road will be disruptive and eventually eliminate the access to Heritage Forest subdivision from Centreville Road in addition to necessitating the redesign and relocation of the recreational facilities. He contended that if the alignment is allowed as approved by the County, the applicant's ability to develop the subdivision including the recreational facilities will be greatly damaged. His client is willing to work with the County to reach a solution to this problem but will look to the County for monetary relief due to the penalties that will be incurred.

Mr. Hyland told Mr. McKechnie that he sympathized with the applicant but the Board could only act on the deferral of the Special Permit that was before them tonight and could not specifically address the merits of the application.

Following a discussion which took place between the Board and staff, Mr. Hammack disagreed with the deferral date suggested by staff and therefore made a motion to defer this application to May 19, 1987 at 11:15 A.M. He stated that he believed this was adequate time for the Office of Transportation to resolve this issue. Mr. DiGiulian seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay. Mr. Ribble was absent from the meeting.

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Page 177, May 5, 1987, (Tapes 1 and 2), Scheduled case of:

8:30 P.M. FIRST BAPTIST CHURCH OF SPRINGFIELD, SPA 75-L-215-2, application under Sect. 3-303 of the Zoning Ordinance to amend S-215-75 for a church and related facilities to allow addition of new sanctuary, new storage room and additional parking spaces to existing facilities, located at 7300 Gary Street, on approximately 3.65 acres of land, zoned R-8, Lee District, Tax Map Reference 80-3((3))(39)3 and 3A.

Lori Greenlief, Staff Coordinator, stated that the applicant is requesting approval to amend the original special permit in order to allow the construction of a new sanctuary, a new main lobby, a two-story addition to the existing educational building, and a one-story storage addition. Mrs. Greenlief referenced pages 5 and 6 of the staff report which explained in more detail staff's concerns. Staff is concerned that the proposed expansion is not compatible with the surrounding area and does not meet standards one and three for a special permit use. Therefore, staff is recommending denial of SPA 75-L-215-2.

Following questions from the Board, Mrs. Greenlief explained that the approval of the rezoning had allowed the applicant a greater floor area ratio (FAR). She added that staff had recommended denial of the rezoning also. She stated that staff recognizes the rezoning but the applicant still has to meet the standards for a special permit which are different than for a rezoning. Staff does not believe this application is compatible with the surrounding area and that there is not enough area on the site to provide any mitigating measures such as screening. The applicant has noted a current concern regarding parking on the adjacent streets. Staff notes that this concern maybe exacerbated if the number of parking spaces is reduced as proposed on the development plan. In conclusion, Mrs. Greenlief noted that the activities of increased usage were illustrated on table 1 of the use statement contained in the staff report.

Mr. Hammack questioned staff as to the height limitation set forth in the Zoning Ordinance for this type of use. Mrs. Greenlief clarified that the Zoning Ordinance limits the building height of a church in this district to sixty feet excluding the spire. Jane Kelsey, Branch Chief, pointed out that the BZA has limited the height of church spires in the past when it believed a higher spire would not be compatible with the surrounding area.

Max Peterson, 10742 Marlboro Road, Fairfax, Virginia, Chairman of the Sanctuary Steering Committee for the church, stated there were presently 180 parking spaces for the church and to reduce the number of parking spaces to 162 would still be in compliance with the Zoning Ordinance. The church had originally proposed to provide parking spaces beneath the building but staff objected to this proposal due to the height and bulk of the building. He added that there were commuters who were parking along Monticello Boulevard adjacent to the church and the church was willing to work with the community to alleviate this by providing a small area on the church lot for these commuters. Regarding any concerns the BZA might have relative to parking, Mr. Peterson stated that the church had a letter from the Fairfax County Library organization which would allow the church to use the Richard Byrd Library parking lot for overflow parking if needed. In conclusion, he stated that the large percentage rises reflected in the use were attributable to an additional Sunday School hour which would be added.

As to the proper channels regarding the church using the adjacent library for overflow, Mr. Hyland told the BZA that approval of the Board of Supervisors to do so was only necessary if the parking requirement could not be met on site by the applicant.

Mr. Peterson continued by pointing out changes that the church had made since their original request. This included lowering the church by one story, reducing the sanctuary seating capacity from 770 to 600, and reducing the height of the spire and tower.

Lawrence Cook, Lawrence Cook Associates, P.C., 3424 Mansfield Road, Falls Church, Virginia, architect for the church, presented new graphics to the BZA. He stated that the church is now requesting an FAR of .33. He further stated that the new proposal represented a reduction in the floor area to 13,000 square feet, and a reduction in the seating capacity from 770 to 600. He added that they are providing 22 parking spaces above what is required by the Zoning Ordinance.

Mr. DiGiulian pointed out a discrepancy in the number of parking spaces between what was stated by Mr. Cook and what is set forth in the staff report. Staff states that there are 11 parking spaces above what is required by the Zoning Ordinance.

Following a discussion between the Board and Mr. Cook, it was determined that there were 11 spaces as stated by staff in addition to 3 parking spaces which had been overlooked when the original plat was prepared. The additional parking spaces are located on the rear of the lot.

Mr. Cook showed the Board a section which compared the height of the original submission, 50 feet, to the one that the church is now proposing, 46 feet. He clarified that the total of both spires did not exceed 48 feet and the spires could go as high as 60 feet and still be in compliance with the Zoning Ordinance.

Responding to comments from Mr. Hyland, Mrs. Greenlief stated that the applicant had proffered at the time of rezoning to a 48 foot high building, not a 60 foot high building.

Mr. Cook continued by stating that at present there were no spires on the church and the applicant was proposing to construct two. He discussed the landscaping plan and pointed out the applicant was proposing two strips of landscaping between the church and the neighborhood.

Mr. Peterson summarized by telling the Board that this request was brought about by the growth in the church and would tie all the existing buildings together to produce a finished look to the site. He stated that he believes the church is an asset to the community.

Paul Pope, 6534 Koziara Drive, Burke, Virginia, a member of the church appeared before the Board at the request of Mr. Peterson as his family was typical of the families who attended the church. Mr. Pope discussed the benefits a church brings to the community. He noted that the church has looked for another site in order to expand but has not been able to find a suitable location.

Mr. DiGiulian asked Mr. Peterson to come forward to discuss the development conditions. He called Mr. Peterson's attention to development condition #8, bullet 2 which referred to a 10 foot landscaping strip along Gary Street that was not shown on the plat. Mr. Peterson replied that this had been reviewed by the church and they now proposed to tighten up the parking and reduce the landscaping strip next to the building in order to meet the 10 foot landscaping strip requirement without deleting any parking spaces.

In response to a question from Mrs. Thonen, Mr. Peterson asked all the people in attendance at the public hearing who supported this application to stand, which they did.

In his closing comments, Mr. Peterson stated that he strongly believes that the church provides a great service to the community and asked the Board to take this into consideration when voting on the application.

Mrs. Greenlief called the Board's attention to the revised development conditions and added that these had been discussed with the applicant. She pointed out development condition #6 should be revised to show 164 parking spaces and the applicant should submit a new plat showing the 3 additional parking spaces which were not part of the original submission.

As there were no further questions, Chairman Smith closed the public hearing.

Mrs. Thonen stated that the Planning Commission and Board of Supervisors had not been opposed to this application, that the applicant has worked diligently with the staff and the community to address their concerns such as reducing the seating capacity, reducing the number of classrooms, and reducing the FAR. Therefore, Mrs. Thonen moved to grant SPA 75-L-219-2 subject to the revised development conditions dated May 5, 1987 with the following modifications: "The maximum number of seats in the new sanctuary shall be 600, with a corresponding minimum number of parking spaces of 150. The maximum number of

parking spaces shall be 164." A new development condition #16 was added to the conditions which required that the new and the old sanctuary not be used either simultaneously or continuously.

Mr. Hyland pointed out that the last time this applicant was before the Board, it was suggested that they go back to the drawing board and work with the community which they have done and he hoped the Board would now support this request.

Chairman Smith expressed concern that there would not be sufficient parking and with the height of the proposed spires. Based upon these concerns, he abstained from the vote.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 75-L-215-2 by FIRST BAPTIST CHURCH OF SPRINGFIELD, under Section 3-303 of the Zoning Ordinance to amend S-215-75 for a church and related facilities to allow addition of new sanctuary, new storage room and additional parking spaces to existing facilities, on property located at 7300 Gary Street, Tax Map Reference 80-3((3))(39)3 and 3A, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 5, 1987; 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-8.
3. The area of the lot is 3.65 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 floor area ratio shall not exceed 0.33.

6. The maximum number of seats in the new sanctuary shall be 600, with a corresponding minimum number of parking spaces of 150. The maximum number of parking spaces shall be 164.

7. Interior parking lot landscaping shall be provided in accordance with Article 13 for the proposed parking lot.

8. Transitional Screening shall be provided as follows:

   - Existing vegetation along the northern lot line and along the western lot line adjacent to Lot 4 of the Monticello Forest subdivision shall be deemed to satisfy the transitional screening requirement.

   - A modification to the transitional screening required shall be allowed along the frontage of Monticello Boulevard to provide a ten (10) to nineteen (19) foot screening area and along the southwestern frontage of Gary Street, a landscaped area, ten (10) feet in width shall be provided. Plantings in these areas shall be evergreens at least six feet in height. The type, size, placement and amount of plantings shall be determined by the County Arborist in order to provide the maximum amount of screening possible.

9. Foundation plantings shall be provided around the proposed addition in coordination with the County Arborist to soften the visual impact of the addition.

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

11. All entrances shall be at least 30 feet wide and no wider than 50 feet.

12. The maximum height of the proposed additions shall be forty-six (46) feet. The maximum height of the entrance spire along Gary Street shall be sixty (60) feet. The portion of the tower/spire structure facing Monticello Boulevard which has vertical walls shall be a maximum of forty-eight (48) feet in height. The total height of this tower structure shall not exceed seventy-four (74) feet.

13. The building additions shall be for church use only and shall not be used for the school without approval from the Board of Supervisors.

14. All parking associated with this use shall be on site.

15. All proffers adopted in conjunction with RZ 84-L-091 shall be honored.

16. The chapel and sanctuary shall not be used simultaneously or consecutively.

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 which carried by a vote of 5-0-1 with Chairman Smith abstaining and Mr. Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 13, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 180, May 5, 1987, (Tape 2), After Agenda Item:

VIRGINIA KOREAN BAPTIST CHURCH - SP 85-C-052
REQUEST FOR ADDITIONAL TIME

Mrs. Day moved to grant eight (8) months to the applicant in SP 85-C-052 which make the new expiration date February 3, 1988. Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

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Page 181, May 5, 1987, (Tape 2), After Agenda Item:

ST. JOHN'S LUTHERAN CHURCH - SP 85-L-050
REQUEST FOR ADDITIONAL TIME

Mrs. Day moved to grant an additional ninety (90) days to the applicant. Jane Kelsey, Branch Chief, pointed out that after further consideration it was determined that staff had considered how long it would take the applicant to get site plan approval but not how long it would take for the applicant to obtain a building permit and commence construction. Ms. Kelsey suggested that perhaps six (6) months might be more in order.

Mrs. Day amended her motion to reflect six (6) months. Mr. Hyland seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

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Page 181, May 5, 1987, (Tape 2), After Agenda Item:

APPROVAL OF MINUTES FOR MARCH 17, 24, 31, 1987

Mrs. Day made a motion to approve the March 17, 24, and 31, 1987 Minutes of the Board of Zoning Appeals as submitted. The motion was seconded by Mr. Hyland which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

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Page 181, May 5, 1987, (Tape 2), After Agenda Item:

APRIL 28, 1987 RESOLUTIONS

Mrs. Day moved to approve the resolutions for April 28, 1987 as submitted.

Mrs. Thonen seconded the motion which passed unanimously with Mr. Ribble absent from the meeting.

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Page 181, May 5, 1987, (Tape 2), After Agenda Item:

LILLY HOMES - OUT-OF-TURN HEARING
VC 87-C-055, VC 87-C-056, VC 87-C-057, VC 87-C-058

Jane Kelsey informed the Board that this request had just been received today and was four subdivision variances by the same applicant. The applicant has indicated that by showing the twelve (12) lots as proposed on the subdivision plat, DEM will not give its approval until the variance is granted. Three applications are to allow three separate homes to be located too close to the right-of-way of the Dulles Airport Access Road and one application to allow a subdivision into twelve lots with two lots having less than the required lot width. The application is tentatively scheduled for July 21, 1987 with staffing scheduled for May 28, 1987, if a review of the application indicates that all the necessary information has been submitted.

Mr. DiGiulian made a motion to deny the request of Lilly Homes. Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

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At this time the Board discussed the resolution that staff had prepared, at the Board's request, following the Work Session that had taken place on April 7, 1987 between the Board of Zoning Appeals and various members of the staff. With a minor revision, the Board adopted the resolution.

The Board requested Ms. Kelsey to ascertain the status of the Environmental Quality Corridor policy memorandum that it had requested.

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As there was no other business to come before the Board, the meeting was adjourned at 10:10 P.M.

Betsy S. Hurtt, Deputy Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 6-9-87

APPROVED: 6-16-87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 12, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; Mary Thonen; and John Ribble.

Chairman Smith opened the meeting at 9:36 A.M. and Mrs. Day led the prayer.

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9:00 A.M. W. BELL & COMPANY INC., SP 86-M-069, application under Sect. 8-901 of the Zoning Ordinance to allow additional sign area in a regional shopping center, located at 6201 Arlington Blvd., on approx. 1,260 square feet, zoned C-7, S-C, and H-C, Mason District, Tax Map 51-3((1))29. (DEF. FROM 3/3/87)

Chairman Smith noted that the applicant had requested a deferral and Mrs. Thonen moved to defer the application to June 23, 1987 at 9:00 A.M.

Mr. Ribble seconded the motion which passed unanimously

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9:20 A.M. WENDELL L. IRBY, VC 87-C-016, application under Section 18-401 of the Zoning Ordinance to allow construction of additions to dwelling to 12 ft. from one side lot line and 14.2 ft. from the other such that side yards total 26.2 ft. (12 ft. min., 40 ft. total min. side yard req. by Sect. 3-107) located at 10407 Huntrace Way, on approx. 24,174 square feet, zoned R-1 (C), Centreville District, Tax Map 27-2((2))4.

Kevin Guinaw, Staff Coordinator, presented the staff report and pointed out that if the smaller addition on the east side of the property were eliminated, a variance would not be necessary.

Wendell Irby, 10407 Huntrace Way, Vienna, Virginia, the applicant, appeared before the Board and stated that he met condition F of the standards for a variance. Mr. Irby further explained to the Board that his request would provide living quarters for his mother who was in ill health and an extra bedroom. He submitted drawings of the proposed interior of the house and advised the Board that a four-car garage was necessary to house two regular vehicles plus two antique vehicles.

Chairman Smith called for speakers and Arthur Dow, III, 10400 Trumpeter Court, Vienna, Virginia, appeared before the Board in support of the application. He expressed the opinion that Mr. Irby would be improving the the property and enhancing the appearance of the neighborhood.

Dr. Richard W. Voelker, 10409 Huntrace Way, Vienna, Virginia, appeared before the Board in opposition to the proposal and stated that the proposal would make the house too large for the size of the lot. He suggested the bedroom be added to the back of the house.

Wilbert Dare, 10405 Huntrace Way, Vienna, Virginia, was the next speaker to appear before the Board in opposition to the proposal. He expressed concern that the proposal was so large that it would be an intrusion on his privacy.

Maryanne Jones, 10408 Huntrace Way, Vienna, Virginia, was the last speaker to appear in opposition to the proposal. Ms. Jones agreed with the previous speakers' objections to the proposal.

In rebuttal, Mr. Irby stated that the proposal would not create any problems for the neighbors and emphasized that he would not be subletting the house.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen noted that there was room on the back of the house for the bedroom and that the garage was a convenience. She added that application did not meet the standards for a variance and therefore moved that the application be denied.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-016 by WENDELL L. IRBY, under Section 18-401 of the Zoning Ordinance to allow construction of additions to dwelling to 12 ft. from one side lot line and 14.2 ft. from the other such that side yards total 26.2 ft., on property located at 10407 Huntrace Way, Tax Map Reference 27-2((2))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 May 12, 1987; 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(C).
3. The area of the lot is 24,174 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.

Mr. Ribble seconded the motion.

The motion carried by a vote of 6-0-1 with Mr. Hammack abstaining.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 20, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 183, May 12, 1987, (Tape 1), Scheduled case of:

9:35 A.M. HARRY W. WRIGHT, VC 86-L-127, application under Sect. 18-401 of the Zoning Ordinance to allow 6 foot high and 7 foot high fence to remain in front yards of a corner lot, located 6416 Richmond Highway, on approx. 20,754 square feet, zoned C-8 (H-C), Lee District, Tax Map 93-1((2))(2)1. (NOTICES NOT IN ORDER)

As the notices were not in order, Mrs. Thonen moved to grant a deferral to the applicant, Harry W. Wright, VC 86-L-127 to June 9, 1987 at 12:20 P.M.

Mrs. Day seconded the motion which passed unanimously with Mr. Hyland not present for the vote.

Since this application is to remedy a violation, the Board instructed to staff to advise the applicant that no other deferrals would be granted because the notices were not in order. If the notices are not done correctly for the next hearing date the Board would deny the application for lack of interest and advise the Zoning Enforcement Branch to pursue the case.

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Page 184, May 12, 1987, (Tapel), Scheduled case of:

9:50 A.M. GREAT FALLS SWIM AND TENNIS CLUB, INC., SPA 82-D-019-4, application under Section 3-103 of the Zoning Ordinance to amend SP 82-D-019 for community recreation facilities to change condition regarding hours, located at 761 Walker Road on approx. 5.5244 acres, zoned R-1, Dranesville District, Tax Map 13-1((1))27. (NOTICES NOT IN ORDER)

Lori Greenlief, Staff Coordinator, advised the Board that the applicant had failed to notify one of the ten abutting property owners in a timely manner. Ms. Greenlief added that the applicant had since notified the property owner and was present to address the Board on the issue.

Norman Hess, 10108 Sanders Court, Great Falls, Virginia, appeared before the Board as the representative of the applicant and explained that he had a letter from C&P Telephone Company which was the property owner that was not notified, stating that C&P had no objection to the request.

Chairman Smith explained that the Board had no choice but to defer the application because the C&P Telephone Company had not been notified in a timely manner.

Ms. Greenlief suggested a new public hearing date of June 2, 1987 at 11:20 A.M. and Mrs. Thonen so moved.

Mr. DiGiulian seconded the motion which passed unanimously.

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Page 184, May 12, 1987, (Tape 1), Scheduled case of:

10:10 A.M. WOODROW D. WOLLESEN, ESQ., SP 87-C-015, application under Sect. 3-E03 of the Zoning Ordinance to allow home professional office with a maximum of four (4) employees, located at 2253 Hunter Mill Road, on approx. 2.30946 acres, zoned R-E, Centreville District, Tax Map 37-2((22))1. (PC HELD PUBLIC HEARING ON 5/7/87)

Jane Kelsey, Branch Chief, BZASB, advised the Board that the Planning Commission had recommended denial of the application. She also stated that the staff had received a letter from the applicant requesting withdrawal of SP 87-C-015.

There being no objection, it was so ordered.

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Page 184, May 12, 1987, (Tape 1), Scheduled case of:

10:30 A.M. WILLIAM J. AND SOPHIA B. CASEY, SP 87-D-017, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow addition to dwelling to remain 11.1 feet from side lot line (20 ft. min. side yard req. by Sect. 3-107), located at 7540 Old Dominion Drive, on approx. 1.2562 acres, zoned R-1, Dranesville District, Tax Map 21-3((1))31B.

William Hansbarger of Hansbarger and Testerman, 10523 Main Street, Fairfax, attorney for the applicant, appeared before the Board and requested a deferral.

Staff suggested June 9, 1987 at 12:40 P.M.

Joseph Sadlick, 7536 Old Dominion Drive, McLean, Virginia, appeared before the Board in opposition to the deferral but reluctantly agreed to the new date and time as suggested by staff.

There being no other objections, it was so ordered.

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Page 185, May 12, 1987, After Agenda Item

Request for Additional Time
Surender Yepuri
VC 85-A-065
68-4((6))369

Surender Yepuri, 10018 Whitefield Street, Fairfax, Virginia, the applicant, appeared before the Board and explained that at the time the Variance was granted it was at the end of the construction season and that it had also been difficult to get someone to do a small job. Therefore, Mr. Yepuri was requesting a 12-month extension.

Mr. DiGiulian moved to grant the request for additional time for 12 months. Mrs. Day and Mrs. Thonen seconded the motion which passed by a vote of 6-1 with Mr. Smith voting nay.

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Page 185, May 12, 1987, (Tape 1), After Agenda Item:

Request for Additional Time
Korean Methodist Church
SPA 82-D-090-1
29-2((1))15

Mrs. Thonen moved to grant the request for additional time for SPA 82-D-090-1.

Mrs. Day and Mr. DiGiulian seconded the motion which passed unanimously.

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Page 185, May 12, 1987, (Tape 1) After Agenda Item:

Approval of Resolutions for May 5, 1987

Mrs. Day moved to approve the Resolutions for May 5, 1987 as submitted.

Mrs. Thonen seconded the motion which passed unanimously.

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Page 185, May 12, 1987, (Tape 1) After Agenda Item:

Out-of-Turn Hearing Request
Richard H. Cook
VC 87-S-063

Mrs. Thonen moved to deny the request for an out-of-turn hearing for VC 87-S-063.

The motion was seconded by Mrs. Day and passed by a vote of 7-0.

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Page 185, May 12, 1987, (Tape 1), Scheduled case of:

10:50 A.M. U. S. HOME CORPORATION, SP 87-S-008, application under Sect. 3-803 of the Zoning Ordinance to allow community swimming pool, located in the Singleton Grove Subdivision, on approx. 0.89 acres, zoned R-8(WS), Springfield District, Tax Map 65-2((1))pt. 15E.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that there was an addendum to the staff report. He added that the applicant had submitted a revised plat for the proposed special permit use. The original submittal had several deficiencies: poor internal circulation on the site, inadequate parking and inadequate screening. In the revised submittal, the size of the pool has been reduced and the facility redesigned to provide the following: Minimum required parking (23 spaces); improved on-site circulation for traffic; full transitional screening on the northern and eastern lot lines and modified transitional screening on the western lot line; and bicycle parking. Mr. Guinaw also pointed out that the land area of the site has been reduced by approximately .02 acres. Staff recommends approval of SP 87-S-008 subject to the revised development conditions.

Randy Minchew, 4084 University Drive, Fairfax, Virginia, appeared before the Board as the representative for the applicant and stated that the pool would not be used for swim meets. He added that there would not be more than three employees working on the site at any one time. The applicant agreed with the development conditions.

Page 186, May 12, 1987, (Tape 2), (SP 87-S-008, U.S. Home Corporation, continued from Page 185)

Since there were no speakers to address this application, Chairman Smith closed the pubic hearing.

Mr. Hammack moved to grant the proposed application subject to the development conditions contained in the addendum to the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-008 by U.S. HOME CORPORATION, under Section 3-803 of the Zoning Ordinance to allow community swimming pool, on property located in the Singleton Grove Subdivision, Tax Map Reference 65-2((1))pt. 15E, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 12, 1987; 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-8 (WS).
3. The area of the lot is .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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 Singleton's Grove Homeowners Association, this approval will transfer to the association. This approval is for the location indicated on the application and is not transferable to to other land.

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

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. The maximum number of employees on site at any one time shall be three (3).

6. The maximum number of family memberships shall be 662 from the Singleton Grove Homeowners Association.

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 exceed 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.

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- o Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.

8. If lights are provided for pool and parking lot they shall be in accordance with the following:

   - o The combined height of the light standards and fixtures shall not exceed 12 feet for the pool and parking lot.
   - o The lights shall be a low-intensity design which focuses the light directly onto the facility.
   - o Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.

9. The hours of operation for the pool shall be limited to 9:00 a.m. to 9:00 p.m.

10. The use of loudspeakers shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code and these provisions shall not be waived.

11. Transitional Screening 1 shall be provided along the northern and eastern boundaries. Transitional Screening 1 shall be provided along the western boundary, however the actual shape and width of the planting areas shall be modified as shown on the special permit plat dated May 11, 1987. Landscaping along the southeastern boundary shall be provided as shown on the special permit plat dated May 11, 1987. Landscape plantings shall be provided around the pool and bathhouse in accordance with the provisions of Article 13. The amount, type and location of all plantings shall be determined by the County Arborist.

12. Interior parking lot landscaping shall be provided in accordance with the provisions of Article 13.

13. The Consumer Services Section of the Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations. This agency will make a determination as to whether proper neutralization of these pool waters has been completed.

14. A soil survey shall be completed if determined necessary by the Director, Department of Environmental Management (DEM), prior to site plan approval. If high water table soils resulting from uncompacted fill, resource removal or any other circumstance resulting in instability are found in the immediate vicinity of the pool, then the pool shall be engineered and constructed to ensure pool stability, including the installation of hydrostatic relief valves and other appropriate measures as, determined by DEM.

15. Bicycle racks shall be provided for a minimum of twenty (20) bicycles.

16. Barriers shall be provided as shown on the special permit plat.

17. The Board of Zoning Appeals recommends that the Director of DEM approve a reduction of 26 percent in the required parking for this use or eight (8) spaces, and that the minimum required parking for this use be twenty-three (23) spaces. All required parking shall be provided on-site.

18. No swim team practice or swim meets shall be conducted at this facility.

19. Best Management Practices (BMPs) shall be provided as determined by the Director, Department of Environmental Management.

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

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

Mrs. Thonen seconded the motion.

The motion carried by a vote of 7-0.

Page 188, May 12, 1987, (Tape 2) (SP 87-S-008, U.S. Home Corporation, continued from Page 187)

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 20, 1987. This date shall be deemed to be the final approval date of this special permit.

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At 11:05 A.M., Mrs. Thonen moved that the Board go into Executive Session to discuss Board Policies and Personnel matters.

Mr. DiGiulian seconded the motion which passed unanimously.

The Board reconvened the meeting at 11:37 P.M.

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At this time, Jane Kelsey, Branch Chief, BZASB, submitted to the Board a DRAFT copy of the EQC Policies. She advised the Board that when this is finalized, James Zook, Director, Office of Comprehensive Planning and Barbara A. Byron, Director, Zoning Evaluation Division, Office of Comprehensive Planning or other appropriate persons will meet with the BZA to discuss the policies.

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Page 188, May 12, 1987, (Tapes 1 and 2), Scheduled case of:

11:10 A.M. CHRIST FELLOWSHIP MINISTRIES, INCORPORATED, SP 87-P-003, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities with modification of the dustless surface requirement, located at 2821 Chain Bridge Road, on approx. 1.09331 acres, zoned R-1, Providence District, Tax Map 48-1((1))29.

11:10 A.M. CHRIST FELLOWSHIP MINISTRIES, INC., VC 87-P-028, application under Sect. 18-401 of the Zoning Ordinance to allow church and related facilities in building which are 5.9 ft. and 7.5 ft. respectively from side lot lines (20 ft. min. side yard req. by Sects. 3-107 and 8-303) located at 2821 Chain Bridge Road on 1.09331 acres, zoned R-1, Providence District, Tax Map 48-1((1))29.

Chairman Smith noted that the applicant for Christ Fellowship Ministries, Incorporation, SP 87-P-003 and VC 87-P-028 were requesting a deferral.

Staff suggested a new public hearing date of June 23, 1987 at 9:20 A.M

The Board so ordered.

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Page 188, May 12, 1987, (Tape 2), Scheduled case of:

11:30 A.M. LEONARD A. AND SALLY S. ALNE, VC 87-M-009, application under Sect. 18-401 of the Zoning Ordinance to allow construction of additions to dwelling to 9.04 feet from side lot line (15 ft. side yard req. by Sect. 3-207), located at 6234 Lakeview Drive, on approx. 15,300 square feet, zoned R-2(HC), Mason District, Tax Map 61-3((14))81. (DEF. FROM 4/14/87)

Chairman Smith noted that there was a request from the applicant for VC 87-M-009 to withdraw the application.

Mr. Hammack moved to allow the applicant to withdraw the application.

The motion was seconded and passed unanimously.

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Page 188, May 12, 1987, (Tape 2), Scheduled case of:

11:30 A.M. HUNTER DEVELOPMENT COMPANY, SP 87-S-011, application under Sect. 3-503 of the Zoning Ordinance to allow subdivision sales office located at 5801 Rockdale Court on 0.24432 acres, zoned R-5 (WS), Springfield District, Tax Map 54-4((8))pt. K. (DEF. FROM 4/28/87 FOR ADDITIONAL INFORMATION)

Mrs. Thonen moved to recess the meeting for five minutes to allow the applicant and citizens time to resolve their differences.

Mr. Hyland seconded the motion which passed unanimously.

Chairman Smith noted that the application had been deferred to allow staff and the applicant time to gather more information regarding the parking issue.

The meeting was reconvened and the applicant's representative for Hunter Development requested a deferral to work out the parking issue.

A citizen in the audience objected to the deferral.

Ms. Kelsey, Branch Chief, BZASB, advised the Board that the applicant had just submitted a new plan thereby agreeing to construct additional parking spaces. She noted that 4.5 spaces were required and the applicant was willing to construct 5 spaces. She indicated that staff had not had an opportunity to review the new plan.

Chairman Smith and Ms. Kelsey discussed whether or not there was a difference between a sales trailer and a visitors center. Ms. Kelsey pointed out that the Ordinance did not address a visitors center.

Frank McDermott, attorney with Hunton and Williams, representing the applicant, appeared before the Board and explained that the Visitors Center attracted the public to the site and once in the Center prospective buyers were directed to the appropriate sales trailer. He noted that Mr. Hunter owned the land until it was turned over to the the homeowners association.

With regard to traffic, Ms. Kelsey advised the Board that she had made an unannounced site visit, to the Visitors Center. She stated that she had reviewed their complete log books showing who had visited the site on any given day and that there were no more than 4 to 5 people visiting the Center a day.

Chairman Smith called for speakers and Bryan Broden, 5845 Rockdale Court, Centreville, Virginia, appeared before the Board in opposition to the proposal. He expressed concern for increased traffic and that the proposed parking spaces would take away from the open space of the community.

In conclusion, Ms. Kelsey reiterated that staff had not had time to fully review the new plan but that, staff's primary reason for recommending denial of the application originally was inadequate parking. The plan today has provided the required parking.

Since there were not other speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack moved that the Board of Zoning Appeals grant SP 87-S-011 as the application had met the standards for a special permit subject to the development conditions contained in the staff report as revised.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-011 by HUNTER DEVELOPMENT COMPANY, under Section 3-503 of the Zoning Ordinance to allow subdivision sales office, on property located at 5801 Rockdale Court, Tax Map Reference 54-4((8))pt. K, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 12, 1987; 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-5 (WS).
3. The area of the lot is 0.24432 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-808 of the Zoning Ordinance.

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

Page 190, May 12, 1987, (Tape 2), (Hunter Development Company, SP 87-S-011 continued from Page 189)

1. This approval is granted to the applicant only and is not transferable 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 hours of operation are as follows Monday through Friday, 12:00 Noon to 8:00 p.m.; Saturday and Sunday, 10:00 a.m. to 7:00 p.m.

5. The maximum number of employees is three (3) with the provision that only one employee be on the premises at any one time.

6. As indicated on the plat, five (5) parking spaces shall be constructed immediately as indicated on the revised plat.

7. Handicapped parking spaces shall be provided and properly identified in accordance with the Code of Virginia, 1952, as amended.

8. The special permit is granted for a period of two (2) years.

9. Upon expiration of this special permit the sales trailer shall be removed and the land shall be deeded to the homeowners association of the Little Rocky Run subdivision.

10. Landscaping shall be provided as indicated on the submitted landscaping plan.

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

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

Mrs. Thonen seconded the motion.

The motion carried by a vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 20, 1987. This date shall be deemed to be the final approval date of this special permit.

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As there was no other business to come before the Board, the meeting was adjourned at 12:52 P.M.

Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 6-30-87 APPROVED: 7-14-87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, May 19, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; and John Ribble. Mrs. Thonen was absent from the meeting.

Chairman Smith opened the meeting at 9:08 A.M. and Mrs. Day led the prayer.

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Jane Kelsey, Branch Chief, Board of Zoning Appeals Support Branch, informed the Board that Tamara Gentry, Secretary, Board of Zoning Appeals Support Branch, would be available to operate the timer and to pass out the backup material for each application as the Board had requested.

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A discussion took place among the Board and staff as to the status of Heritage Forest application which was scheduled at 10:15 A.M. today. Ms. Kelsey explained that the case had been deferred from May 5, 1987 in order to allow time for the transportation issues to be resolved. As this had not yet been accomplished, Ms. Kelsey asked the Board what its intentions were regarding another deferral. Mr. DiGiulian stated an intent to defer at the time the case was called.

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Page 191, May 19, 1987, (Tape 1), Scheduled case of:

9:00 A.M. RONALD DERR, VC 87-V-011, application under Sect. 18-401 of the Zoning Ordinance to allow construction of second story addition to dwelling to 25.1 feet from front lot line (30 ft. min. front yard req. by Sect. 3-407), located at 6103 Bangor Drive, on approx. 6,595 square feet of land, zoned R-4 and HC, Mount Vernon District, Tax Map Reference 83-3((9))(4)2.

Claudia Hamblin-Katnik, Staff Coordinator, informed the Board that the applicant in this case was not present in the Board room.

Mr. Hyland made a motion to pass over this case until later in the day. Mr. DiGiulian seconded the motion. Before Chairman Smith had called for a vote on the motion, Mr. Derr arrived and was ready to be heard.

Mrs. Hamblin-Katnik presented the staff report and stated that a special permit was granted to the applicant on July 22, 1986 to allow a dish antenna and a shed to remain. The applicant is requesting to construct a second story addition to his dwelling requiring a variance of 4.9 feet.

Ronald Derr, 6103 Bangor Drive, Falls Church, Virginia, the applicant, explained that he planned to raise the roof of the house which would not infringe upon the lot lines. He added he has lived in the house for approximately ten years and is not aware of any objections from his neighbors.

Chairman Smith questioned staff as to whether or not the applicant could add a dormer to his house without a variance as this was a non conforming use. Mrs. Hamblin-Katnik stated that the applicant could not build without a variance because the house was located too close to the front lot line. Ms. Kelsey pointed out that a non conforming use could not be changed but he could build to the rear of the house as long as the required standards were met.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant VC 87-V-011 as he believed the applicant met all the standards for a variance, especially 2(F).

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-V-011 by RONALD DERR, under Section 18-401 of the Zoning Ordinance to allow construction of second story addition to dwelling to 25.1 feet from front lot line, on property located at 6103 Bangor Drive, Tax Map Reference 83-3((9))(4)2, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 19, 1987; 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(HC).
3. The area of the lot is 6,595 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 stared 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.

Messrs. Hyland and Ribble seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mrs. Thonen absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 27, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 193, May 19, 1987, (Tape 1), Information Item:

At the Board's request, Ms. Kelsey stated that a non conforming use would be one of the items to be discussed at the next work session between the Board of Zoning Appeals and staff. She added that she would request an interpretation from the Zoning Administrator before that time.

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As there was time before the next scheduled case, the Board took action on the After Agenda Items.

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Page 193, May 19, 1987, (Tape 1), After Agenda Item:

MINUTES FOR APRIL 7, 1987

Mr. Hyland moved to approve the Minutes for April 7, 1987 as submitted.

Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. DiGiulian and Hammack not present for the vote; Mrs. Thonen absent from the meeting.

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Page 193, May 19, 1987, (Tape 1), After Agenda Item:

RESOLUTIONS FOR MAY 12, 1987

Mrs. Day moved to approve the resolutions for May 12, 1987 as submitted.

Mr. Hyland seconded the motion which passed by a vote of 4-0 with Messrs. DiGiulian and Hammack not present for the vote; Mrs. Thonen absent from the meeting.

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Mr. Hyland asked the status of basketball hoops in front yards. Ms. Kelsey replied that a draft amendment would be included in the package the Board received today.

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Chairman Smith commended J. Patrick Taves, Assistant County Attorney, for the excellent legal representation that he has provided for the Board. Mr. Hyland told that Board that he made similar remarks to David Stitt, County Attorney, earlier. He than made a formal motion to request staff to prepare a Resolution for the Board to present to Mr. Taves. Mrs. Day seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hammack not present for the vote; Mrs. Thonen absent from the meeting.

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Page 193, May 19, 1987, (Tape 1), Scheduled case of:

9:40 A.M. UNITED CHRISTIAN PARISH OF RESTON, SP 87-C-018, application under Sect. 6-303 of the Zoning Ordinance to allow child care center located at 11508 N. Shore Drive, on approximately 2.8910 acres of land, zoned PRC, Centreville District, Tax Map Reference 17-2((1))6.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. She stated that the site is currently developed with a church which has an existing preschool. The applicant is now requesting approval of a child care center with an enrollment of twelve children and two teachers, Tuesday through Friday, 9:00 A.M. to 1:00 P.M. There will be no structural changes to the church and the Health Department has approved this use. Mrs. Hamblin-Katnik pointed out that the plat is misleading as it shows future parking which has not been approved nor is it pending approval, therefore this designation should be removed from the plat. In closing, she noted that staff recommended approval of this application subject to the development conditions contained in the staff report.

Beth Falen, 12820 Kettering Avenue, Alexandria, Virginia, Director of the Parents Day Out Program, came forward and agreed with the development conditions contained in the staff report.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Day stated that she believed this to be a good program, there will be no structural changes to the church and there is sufficient parking. She added that the play area will not be utilizied by the preschool children and the children attending the Parents Day Out Program at the same time. Therefore, she made a motion to grant SP 87-C-018 subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-C-018 by UNITED CHRISTIAN PARISH OF RESTON, under Section 6-303 of the Zoning Ordinance to allow child care center, on property located at 11508 N. Shore Drive, Tax Map Reference 17-2((1))6, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 19, 1987; 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 2.8910 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

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

2. This approval is granted for the buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind that would involve the child care center, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, 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. Days and hours of operation shall be limited to Tuesday through Friday from 9:00 a.m. to 1:00 p.m.

6. The maximum number of children enrolled in the child care center shall be twelve (12).

7. The maximum number of employees shall be five (5).

8. The preschool and Parents Day Out program shall not utilize the outdoor play area concurrently.

9. The area designated as future parking shall be removed from the plat.

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

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

Mr. Hyland seconded the motion.

The motion carried by a vote of 6-0 with Mrs. Thonen absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 27, 1987. This date shall be deemed to be the final approval date of this special permit.

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Mr. Hyland asked Ms. Kelsey to respond to the reluctance on the part of some staff members to attend executive sessions with the Board. Ms. Kelsey replied that she had talked with the parties involved and they felt that the remarks had been taken out of context, that all staff who has input into staff's position is available and willing to meet with the Board, if the Board requests.

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As there was time before the next case, the Board recessed at 9:55 A.M. and reconvened at 10:06 A.M.

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Page 195, May 19, 1987, (Tapes 1 and 2), Scheduled case of:

10:00 A.M. FIVE FOLD FELLOWSHIP CHURCH, SP 87-S-012, application under Sect. 3-C03 of the Zoning Ordinance to allow church and related facilities located at 4525 Pleasant Valley Road on 6.9518 acres of land, zoned R-C (WS, AN), Springfield District, Tax Map Reference 33-3((1))5.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and stated this property is a wooded undeveloped lot which is part of the 40,700 acres zoned R-C in July of 1982 and placed within the Water Supply Protection Overlay and Airport Noise Impact Overlay Districts. The applicant proposes to construct a church with a seating capacity of 346 and 87 parking spaces. She pointed out that it was her understanding that the applicant objects to development condition #16 which addresses dedication along Pleasant Valley Road. In closing, Ms. Hamblin-Katnik stated that staff recommends approval of this application subject to the development conditions contained in the staff report.

Mr. Hyland expressed great concern with development condition #15. Ms. Hamblin-Katnik pointed out that this condition would not be enforced until the adjacent property owner developed his site. Ms. Kelsey explained if this did occur there would be a joint agreement between the property owners to maintain the road and it would be recorded in such a manner so as to protect the church.

Peter Stephens, attorney with the law firm of Robert L. Fredericks, Jr., P.C., 10560 Main Street, Fairfax, Virginia, represented the applicant and objected to development condition #16 which addresses land dedication for road improvements. Mr. Stephens referenced the Supreme Court's ruling on the Cupp case which he said ruled that the Board does not have the power to make a landowner dedicate land for road improvements when the increased traffic is not generated by the use. The applicant does agree with providing the right turn lane as recommended by staff, but not improvement of the entire frontage along Pleasant Valley Road.

Mr. Hyland stated that he had the same concerns as the applicant with making road improvements when the proposed use will not greatly impact the roadways as opposed to a subdivision comprised of single-family dwellings.

Mrs. Hamblin-Katnik replied that a developer of a subdivision agrees to the road improvements abutting his subdivision, to provide access and move the traffic generated by the subdivision, prior to the development. The church will generate substantial traffic along Pleasant Valley Road so should be responsible for improvement of the road along the entire road frontage of the site. Aside from the traffic generation factor, to leave portions of the road wider than others is a traffic hazard. Safety concerns suggest this road be improved along the entire frontage.

A lengthy discussion took place among the Board concerning the legality of land dedication.

As there were no speakers in support, Chairman Smith called for speakers in opposition and the following came forward to speak: Joe Pasquariello, 4531 Cub Run Road, Chantilly, Virginia, Vice President of the Homeowners Association; Carol W. Ridenhour, 4535 Cub Run Road, Chantilly, Virginia; David C. Kochendarfer, 15407 Herndon Avenue, Chantilly, Virginia; and, Joseph P. Kieler, 4527 Cub Run Road, Chantilly, Virginia.

Opposition was based on the poor sight distance and additional traffic which would be generated by the proposed use. The citizens also requested that the church be architecturally compatible with the surrounding area.

During his rebuttal comments, Mr. Stephens responded to the citizen concerns by stating that as many trees as possible would be retained but some would have to be removed to address the sight distance problem. He also assured the Board that there would be no chimes or bells on the church.

Chairman Smith asked if the Board members or staff had any further comments and hearing no reply closed the public hearing.

Mr. Hammack moved to grant SP 87-S-012 as he believes the applicant has presented testimony showing compliance with the standards for a special permit and subject to the development conditions as modified:

13. Eighty-seven (87) parking spaces shall be provided. All parking shall be on site. There shall no off site parking.

15. In order to plan for the future possibility of Pleasant Valley Road being widened to a divided facility, a commitment shall be made to relocate the entrance southward opposite Herndon Avenue. Actual relocation and construction of the church's share of the relocated road should take place upon fulfillment of two conditions: improvement of the road and the agreement of the adjacent land owner for the land needed for the construction on the adjacent property.

16. Thirty (30) feet from centerline along Pleasant Valley road shall be dedicated as right-of-way, with construction of a right turn lane twenty-four (24) feet south of the entrance to the property line.

19. There is to be no off site noise generated by the church in violation of the applicable County Ordinances.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-012 by FIVE FOLD FELLOWSHIP CHURCH, under Section 3-C03 of the Zoning Ordinance to allow church and related facilities, on property located at 4525 Pleasant Valley Road, Tax Map Reference 33-3((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 May 19, 1987; 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-C, (WS), (AN).
3. The area of the lot is 6.9518 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 2 shall be provided along all lot lines.

6. A landscape plan for the space between the front facade and the parking lot shall be submitted to the County Arborist for approval. The purpose of which is to improve and enhance the exterior appearance of the steel modular structure proposed.

7. The limits of clearing and grading shall be generally within ten (10) feet from the entry aisle, parking lot, and building unless the Department of Environmental Management (DEM) requires additional clearing and grading because of unforeseen engineering problems. In that event, DEM shall coordinate with the Office of Comprehensive Planning for a resolution of issues.

8. Best Management Practices (BMP) shall be installed for disposing of stormwater runoff.

9. All structures shall provide acoustical treatment measures which achieve an interior noise level not to exceed 45 dBA Ldn.

10. Interior parking lot landscaping as specified by Sect. 13-106 of the Zoning Ordinance shall be provided.

11. The barrier requirement shall be waived.

12. The maximum number of seats in the principal place of worship shall be 346.

13. Eighty-seven (87) parking spaces shall be provided. All parking shall be on site. There shall no off site parking.

14. If deemed necessary by the County Arborist the transitional screening along Pleasant Valley Road shall be supplemented with coniferous trees.

15. In order to plan for the future possibility of Pleasant Valley Road being widened to a divided facility, a commitment shall be made to relocate the entrance southward opposite Herndon Avenue. Actual relocation and construction of the church's share of the relocated road should take place upon fulfillment of two conditions: improvement of the road and the agreement of the adjacent land owner for the land needed for the construction on the adjacent property.

16. Thirty (30) feet from centerline along Pleasant Valley road shall be dedicated as right-of-way, with construction of a right turn lane twenty-four (24) feet south of the entrance to the property line.

17. The existing tree line along Pleasant Valley Road should be cut back only to the extent the sight distance problem is corrected.

18. If deemed appropriate by the Director of DEM a geotechnical engineering study in accordance with Chapter 107 (Problem Soils) of the Fairfax County Code and the Geotechnical Guidelines of the Public Facilities Manual shall be required.

19. There is to be no off site noise generated by the church in violation of the applicable County Ordinances.

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 4-2 with Chairman Smith and Mrs. Day voting nay; Mrs. Thonen absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 27, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 198, May 19, 1987, (Tape 2), Scheduled case of:

10:20 A.M. SAINT JOHN NEUMANN CHURCH, SPA 80-C-096-2, application under Sect. 3-203 of the Zoning Ordinance to amend S-80-C-096 for church and related facilities and to permit addition of a new parish, activity center, and rectory, located at 11900 Lawyers Road, on approximately 17.90847 acres of land, zoned R-2, Centreville District, Tax Map Reference 26-3((1))5A.

Claudia Hamblin-Katnik, Staff Coordinator, informated the Board that the applicant was requesting a deferral as the community had expressed a desire to review this application. She suggested a deferral date of June 2, 1987 at 11:40 A.M. and the Board so moved.

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Page 198, May 19, 1987 (Tape 2), Scheduled case of:

10:40 A.M. WOODLAWN COUNTRY CLUB, INC. - SPA 74-V-107-1, application under Sect. 3-203 of the Zoning Ordinance to amend S-107-74 for a country club, to permit additions to structures and the parking lot and increase membership, located at 5111 Old Mill Road, on approx. 128.8291 acres, zoned R-2, Mount Vernon District, Tax Map 110-1((1))3, 4, 13, 13A. (DEF. FROM 3/24/87 and 4/28/87)

Heidi Belofsky, Staff Coordinator, presented the staff report and discussed the background of the application as outlined in the staff report. The tennis courts may totally or partially lie within the floodplain. If this is the case, the tennis courts and necessary grading should be moved outside of the floodplain or a Special Exception be obtained from the Board of Supervisors.

The Countywide Trails Plan requires a 6 foot wide Type 1 trail along the lot line of the property which runs adjacent to Old Mill Road.

There are several transportation issues associated with this application such as dedication or right-of-way to 30 feet from the centerline of Old Mill Road along the entire frontage of the site, dedication of right-of-way on Old Mill Road in order to correct a sharp curve at the western edge of the site, the proposed entrance to the new maintenance facility does not meet VDOT standards with regard to design, width and site distance, and the additional traffic generated by the proposed improvements exceed the low end of the plan range and sufficient mitigating measures have not been provided.

The applicant has requested modification of the transitional screening requirements which staff supports for the majority of the site, but appropriate screening is essential for the developed areas specifically the parking area and around each of the buildings.

The applicant proposes to provide 193 parking spaces, only 113 are required. The parking lot will have to be shifted away from Old Mill Road in order to provide 30 feet of right-of-way dedication and 25 feet of plantings for Transitional Screening 1.

Staff recommends approval of this application subject to the development conditions contained in the staff report.

W. MacCauley Arnold, attorney with the law firm of Cowles, Rinaldi & Arnold, Ltd., 10521 Judicial Drive, Fairfax, Virginia, represented the applicant and stated that the Country Club has grown in membership and therefore has expanded its facilities to accommodate its members. He added he would like to bring the Board's attention to the following changes the applicant would like to see in the development conditions: 1) the number of memberships in condition #5 should be 700; 2) condition #6 should be reworded for clarification; and, 3) condition #8 should be deleted. The applicant is willing to provide a left turn lane and widen the road and is also providing more parking spaces than is called for in the Zoning Ordinance. In closing, Mr. Arnold explained that the applicant did not wish to dedicate land as they would then lose control of that portion which has been dedicated.

Chairman Smith called for speakers in support of the application. Louis V. Genuario, 2300 Candlewood Drive, Alexandria, Virginia, came forward and told the Board that the present buildings were unattractive and that the proposed changes would be more compatible with the surrounding area. He added that he was not aware of any objections to these improvements and asked the Board for its approval.

Lola E. Rowe, 2203 Paul Spring Parkway, Alexandria, Virginia, pointed out that to provide the trail as recommended by staff would be very costly to the country club as the ninth fairway would have to be relocated.

Felix E. Celli, 8912 Lorton Road, Lorton, Virginia, reiterated the comments by the previous speakers. He added that the fairways on the course were very narrow.

Gale Parker, 8346 Orange Court, Alexandria, Virginia, told the Board that he had been a member of the country club since 1964. Mr. Parker added that the member facilities are desperately needed to be enlarged and that he believed that adding a trail at the edge of the course would be a safety hazard to anyone using the trail. In conclusion, Mr. Parker stated this was a reasonable request and that he was not aware of any objections.

As Mr. Arnold had no closing comments, Kevin Guinaw, a Staff Coordinator who had also worked on the preparation of this application, made some points of clarification. He stated that staff agrees that this is a nice use but it is in fact a special permit use and therefore must meet the standards set forth in the Zoning Ordinance. Staff is requesting the dedication to bring the road up to the current State standards. Mr. Guinaw called the Board's attention to the transportation report in the staff report.

A discussion took place among the Board, staff, and Mr. Arnold with regard to the discrepancy in membership. Ms. Kelsey pointed out that as this application had been staffed based on the applicant's statement of 450 members, staff could not address the issue of 700 members.

As there was no further discussion, Chairman Smith closed the public hearing.

Mr. Hyland stated he believed the applicant had presented testimony showing compliance with the standards for a Special Permit. Therefore, he made a motion to grant SPA 74-V-107-1 subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 74-V-107-1 by WOODLAWN COUNTRY CLUB, INC., under Section 3-203 of the Zoning Ordinance to amend S-107-74 for a country club, to permit additions to structures and the parking lot and increase membership, on property located at 5111 Old Mill Road, Tax Map Reference 110-1((1))3, 4, 13, 13A, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 19, 1987; 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 128.8291 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 memberships shall be 700. There shall be a minimum of 175 parking spaces and a maximum of 200 parking spaces provided and a bicycle rack shall be installed in the main parking area. Seven (7) parking spaces shall be provided at the maintenance facility for employee use.

6. The maximum number of employees shall be 38 full time on the premises at any one time.

7. The hours of operation shall be as follows:

Club House Facilities:	6:30 A.M. to 1:00 A.M.
Swimming Pool:	7:30 A.M. to 9:00 P.M.
Golf Course:	5:30 A.M. to Dusk
Tennis Courts:	7:30 A.M. to 9:00 P.M.
Maintenance Facility	6:30 A.M. to 9:00 P.M.

8. If lights are provided for tennis courts, pool and parking lot, they shall be in accordance with the following:

   - The combined height of the light standards and fixtures shall not exceed twenty-two (22) feet for the tennis courts, and twelve (12) feet for the pool and parking lot.
   - The lights shall a low-intensity design which focuses the light directly onto the facility.
   - Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.
   - There shall be an automatic devise installed to extinguish tennis courts lights.

9. The use of any loudspeakers shall be in accordance with the provisions of Chapter 108 of the Fairfax County Code and shall not be waived nor modified.

10. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance.

11. Existing fencing and vegetation shall suffice to meet barrier and screening requirements except for the areas of the parking lot and the buildings where Transitional Screening 1 is required. Additional landscaping shall be provided around the golf cart barn and maintenance building in order to adequately screen them from adjacent residential properties, Old Mill Road and to maintain the integrity of the Woodlawn Historic District. The nature and type of plantings shall be determined by the County Arborist.

12. Final approval of all architectural plans for construction within the Woodlawn Historic Overlay District shall rest with the Architectural Review Board (ARB). No building permit within the historic district shall be issued without ARB approval.

Page 201, May 19, 1987, (Tape 2), (SPA 74-V-107-1, Woodlawn Country Club, Inc., continued from Page 200)

13. The applicant shall demonstrate to the Director, DEM that the proposed tennis courts are either not in the Dogue Creek floodplain or that the paved surface will not exceed 5,000 square feet. If the applicant fails to demonstrate this, the tennis courts shall not be constructed without special exception approval from the Board of Supervisors.

14. The applicant shall provide a left turn lane at the entrance on Old Mill Road

15. Temporary grading and construction easements shall be provided to facilitate the improvements to Old Mill Road.

16. The proposed entrance to the new maintenance facility shall meet VDOT requirements and standards.

17. Limits of clearing and grading shall be determined at site plan review by the County Arborist. If a specimen tree is discovered on the property any of the proposed buildings may be relocated no more than 15 feet from the location shown the plat in order that the specimen tree might be preserved. Any such relocation shall not be closer to a lot line than shown on the approved plat.

18. 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.
    - The applicant shall provide 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.

The above 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.

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 which carried by a vote of 5-1 with Chairman Smith voting nay; Mrs. Thonen absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 27, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 201, May 19, 1987, (Tape 2) Scheduled case of:

11:15 A.M. HERITAGE FOREST ASSOCIATES, SP 87-S-016, application under Sect. 3-803 of the Zoning Ordinance to allow community center and recreation facilities, located in the Heritage Estates Subdivision, on approximately 3.82 acres of land, zoned R-8(WS), Springfield District, Tax Map 65-2((1))pt. 23. (DEFERRED FROM 5/5/87)

Lori Greenlief, Staff Coordinator, pointed out this case had been deferred from May 5, 1987 to allow time for unresolved transportation issues to be addressed. As this had not yet been accomplished, Mrs. Greenlief suggested another deferral date of June 9, 1987 at 1:00 p.m. and the Board so moved.

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Page 202, May 19, 1987, (Tape 2),

As there was no other business to come before the Board, the meeting was adjourned at 10:05 P.M.

Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 6-30-87

APPROVED: 7-7-87

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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, May 26, 1987. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Gerald Hyland; Mary Thonen; and John Ribble; John DiGiulian, Vice-Chairman was absent from the meeting.

Chairman Smith opened the meeting at 9:24 A.M. and Mrs. Day led the prayer.

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Page 203, May 26, 1987, (Tape 1), Scheduled case of:

9:00 A.M. THOMAS J. CASEY, VC 87-C-017, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a screened porch addition to dwelling to 13.1 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-107) located at 2708 Berryland Drive on approx. 33,566 square feet, zoned R-1, Centreville District, Tax Map Reference 37-3((8))39.

Heidi Belfosky, Staff Coordinator, presented the staff report.

Thomas Casey, 2808 Berryland Drive, Oakton, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He noted that the land had been acquired in good faith and added that there was not enough depth to the back yard for a screened porch. In conclusion, he reported that there were no objections from his neighbors.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the applicant had satisfied the nine standards for a Variance and added that the rear of the house was only 25 feet from the rear lot line. Therefore, Mr. Hammack moved to grant the request for a variance subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-017 by THOMAS J. CASEY, under Section 18-401 of the Zoning Ordinance to allow construction of a screened porch addition to dwelling to 13.1 feet from rear lot line, on property located at 2708 Berryland Drive, Tax Map Reference 37-3((8))39, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 26, 1987; 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 33,566 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 carried by a vote of 5-1 with Mr. Smith voting nay; Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 204, May 26, 1987, (Tape 1), Scheduled case of:

9:15 A.M. STEFAN AND NOEMI DOSA, VC 87-D-019, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 9.6 feet from side lot line (12 ft. min side yard req. by Sect. 3-307) located at 1924 Foxhall Road on approx. 11,708 square feet, zoned R-3, Dranesville District, Tax Map Reference 40-2((3))20A.

Heidi Belfosky, Staff Coordinator, presented the staff report.

Stefan Dosa, 1924 Fox Hall Road, McLean, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen moved to approve the request as the application had satisfied the standards for a Variance, subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-019 by STEFAN AND NOEMI DOSA, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 9.6 feet from side lot, on property located at 1924 Foxhall Road, Tax Map Reference 40-2((3))20A, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 26, 1987; 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 11,708 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.

4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

Mrs. Day seconded the motion carried by a vote of 5-1 with Mr. Smith voting nay; Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 206, May 26, 1987, (Tape 1), Scheduled case of:

9:30 A.M. RICHARD AND JACKIE THOMAS, VC 87-D-018, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.2 feet from side lot line (12 ft. min. side yard req. by Sect. 3-107) located at 7511 Blaise Trail on approx. 20,001 square feet, zoned R-1 (C), Dranesville District, Tax Map Reference 21-3((12))22.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that staff was concerned about the number of requests for reduction to the minimum yard requirements in this area. She added that staff had also received many phone calls expressing concern about the decline in the character of the neighborhood.

Richard Thomas, 7511 Blaise Trail, McLean, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. Mr. Thomas stated that he had purchased the property two years ago with the intent of adding on to the house, but was unaware that he could not do so by right. He explained that by granting the Variance, the Board would be allowing them to expand the kitchen and dining area as well as to add a bathroom and a bedroom. Mr. Thomas pointed out that the proposed addition would be compatible with the existing house.

Chairman Smith call for speakers and Bruce L. Berlage, 1035 Gelston Circle, McLean, Virginia, appeared before the Board in support of the request. He pointed out that the house was placed on the lot in peculiar manner.

Marvin Goode, 439 Utterback Road, Great Falls, Virginia, General Contractor for the Thomas', appeared before the Board in support of the request. He stated that the bedroom, kitchen and dining areas were only being increased in size large enough to accommodate the family.

William R. Charik, 7520 Old Dominion Drive, McLean, Virginia, appeared before the Board in opposition to the request. He expressed concern for the number of variances being granted in the neighborhood. Mr. Charik submitted photographs showing the lot line and view of the adjacent structure. He stated that the large number of reductions to minimum yard requirements in the area would be detrimental to the neighborhood.

In response to a question from Mrs. Day, Mr. Charik stated he could see the Thomas' house from his kitchen.

Joseph Sadlik, 7536 Old Dominion Drive, McLean, Virginia, appeared before the Board in opposition to the proposal. Mr. Sadlik agreed with Mr. Charik's remarks and pointed out that the Thomas' were aware of the lot and house size when they purchased the property two years ago.

John Kurelic, 7522 Old Dominion Drive, McLean, Virginia, appeared before the Board in opposition to the request and supported the two previous speakers.

In rebuttal, Mr. Thomas stated that he was aware that the lot was narrow but thought the addition could be constructed without a variance. He expressed the opinion that there was sufficient barrier between their home and the other properties to maintain the integrity of the neighborhood.

Responding to a question from Mr. Hyland, Mr. Thomas stated that he intended to construct the addition when he purchased the house.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day stated that the applicant had a personal hardship and without the addition the Mr. Thomas would not have enough room for his family. Therefore, Mrs. Day moved to grant the request for a Variance subject to the development conditions.

Mr. Hyland seconded the motion for purposes of discussion.

Mrs. Thonen stated that she could have supported a request for a minimum variance but that the request was too great.

Mr. Hammack stated that he could not support the application because of the size of the addition. He added that the Thomas' could possibly satisfy their expansion requirements by building into the side yard. He noted that there was room on both sides of the house for an addition.

Chairman Smith agreed with Mrs. Thonen and Mr. Hammack.

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THE RESOLUTION TO GRANT FAILED

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-018 by RICHARD AND JACKIE THOMAS, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.2 feet from side lot line, on property located at 7511 Blaise Trail, Tax Map Reference 21-3((12))22, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 26, 1987; 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(C).
3. The area of the lot is 20,001 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.

4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

Mr. Hyland seconded the motion.

The motion FAILED by a vote of 1 to 5 with Mrs. Day voting aye; Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1987.

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At this time, Mr. Thomas requested a waiver of the 12-month limitation on rehearing the application.

Mrs. Day so moved. Mr. Hyland seconded the motion which failed by a vote of 3-3 with Messrs. Hyland, Ribble and Mrs. Day voting aye; Mrs. Thonen, Messrs. Smith and Hammack voting nay; Mr. DiGiulian absent from the meeting.

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Page 208, May 26, 1987, (Tape 1), Scheduled case of:

9:45 A.M. RAYMOND A. AND PATRICIA A. LENHARDT, VC 87-D-020, application under Sect. 18-401 of the Zoning Ordinance to allow construction of sunroom addition to dwelling to 15.0 feet from side lot line, (20 ft. min. side yard req. by Sect. 3-107) located at 7518 Old Dominion Drive on approx. 39,205 square feet, zoned R-1, Dranesville District, Tax Map 21-3((1))35C.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that staff was concerned about the number of requests for reduction to the minimum yard requirements in this area. She added that staff had also received many phone calls expressing concern about the decline in the character of the neighborhood.

Raymond Lenhardt, 7518 Old Dominion Drive, McLean, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He stated that the proposed location was the only place the addition could be located.

Chairman Smith noted the irregular shape of the lot which caused a building restriction.

Chairman Smith called for speakers and William Charik, 7520 Old Dominion Drive, McLean, Virginia, appeared before the Board in opposition to the proposal. He stated that the large number of reductions to minimum yard requirements in the area would be detrimental to the neighborhood.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hyland stated that the applicant requested a variance for the construction of a sunroom to the side of the property and there was no other place for the addition, that the sunroom was not a large intrusion, nor a major variance. Therefore, Mr. Hyland moved to grant the request for a variance subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-020 by RAYMOND A. AND PATRICIA A. LENHARDT, under Section 18-401 of the Zoning Ordinance to allow construction of sunroom addition to dwelling to 15.0 feet from side lot line, on property located at 7518 Old Dominion Drive, Tax Map Reference 21-3((1))35C, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 26, 1987; 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 39,205 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.

4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 210, May 26, 1987, (Tape 2), Scheduled case of:

10:00 A.M. DALE SHAFFER, VC 87-M-021, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 13.6 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-207) located at 6907 Valleybrook Drive on approx. 13,135 square feet, zoned R-2, Mason District, Tax Map Reference 60-2((30))85.

Heidi Belofsky, Staff Coordinator, presented the staff report.

Dale Shaffer, 6907 Valley Brook Drive, Falls Church, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Ribble noted the irregular shape of the lot, the topography conditions and the extraordinary situation due to the location of the house on the lot. Therefore, he moved that the Board grant the request for a variance subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-021 by DALE SHAFFER, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 13.6 feet from rear lot line, on property located at 6907 Valleybrook Drive, Tax Map Reference 60-2((30))85, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 26, 1987; 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 13,135 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:
   B. Exceptional shallowness 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

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

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or properties in the same zoning district and the same vicinity.

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 exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-1 with Mr. Smith voting nay; Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 211, May 26, 1987, (Tape 2), Scheduled case of:

10:15 A.M. KATIE H. BARR, SP 87-S-019, application under Section 3-C03 of the Zoning Ordinance to allow a kennel and waiver of dustless surface requirement, located at 7121 Bull Run P.O. Road on approx. 28.403 acres, zoned R-C and WSPOD, Springfield District, Tax Map 64-1((1))36.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that a previous special permit had expired without a request for renewal. She added that without construction of an addition, the facility is not adequate to handle the increase in the number of animals. In conclusion, Ms. Belofsky stated that without the addition staff cannot recommend that the number of animals be increased from 65 to 100.

At this time, Ms. Belofsky introduced Jack Spring, Assistant County Attorney, to the Board who stated that there were three members of County staff present to answer questions from the Board concerning this application.

Jack Armstrong, Sanitarian, Health Department, appeared before the Board and stated that the conditions at the kennel were poor and that a letter had been sent to the applicant listing conditions that needed to be corrected to be in compliance with the Code. Mr. Armstrong indicated that Ms. Barr had been given until June 7, 1987 to correct the situation at the kennel.

Mr. Hammack requested that all correspondence from the Health Department concerning this matter be submitted for the record.

Miles Lee, Warden Supervisor, Animal Control, appeared before the Board and stated that he had also observed poor conditions at the kennel.

Jackie Ash, Senior Zoning Inspector, Zoning Enforcement Branch, appeared before the Board and stated that his only concern was the expiration of the Special Permit but added that he had also observed poor conditions at the kennel.

Jack Spring, Assistant County Attorney, pointed out that Ms. Barr had been operating the kennel in violation since 1983 and although she had the option of requesting renewal of the Special Permit, however she had not made the request.

Katie Barr, 7121 Bull Run Post Office Road, Centreville, Virginia, appeared before the Board and stated that she had taken care of many of the problems cited. She added that she had limited funds and help and did the best she could in running the kennel.

Mr. Hyland suggested the application be deferred until after June 7, 1987 so that it can be determined if the violations have been corrected and the Board so ordered that SP 87-S-019 be deferred to July 23, 1987 at 9:00 A.M.

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Page 212, May 26, 1987, (Tape 2), Scheduled case of:

10:30 A.M. THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, SPA 81-V-066-2, application under Sect. 3-303 of the Zoning Ordinance to amend SP 81-V-066 for a church and related facilities to permit addition of a dish antenna to existing facilities and reduce parking, located 2000 George Washington Memorial Parkway, on approx. 317,988 square feet, zoned R-3, Mount Vernon District, Tax Map Reference 111-1((1))2.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board that the applicant had agreed to the development conditions and staff was recommending approval with those conditions.

John Boland, 8133 Leesburg Pike, Vienna, Virginia, attorney with Rees, Broome and Diaz, P.C., appeared before the Board as the representative of the applicant. He stated that he agreed with the proposed development conditions.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hyland moved to grant SPA 81-V-066-2.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 81-V-066-2 by THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, under Section 3-303 of the Zoning Ordinance to permit addition of a dish antenna to existing facilities and reduce parking, on property located at 2000 George Washington Memorial Parkway, Tax Map Reference 111-1((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 May 26, 1987; 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 317,988 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 Section 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 structures 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 dish shall be no higher than eleven (11) feet.

6. The dish shall be enclosed in a 18 x 20 x 6 foot cyclone fence with wood slats for screening.

7. Coniferous trees of no less than twelve (12) feet in height shall be placed in sufficient numbers and rows to the east and south of the fenced area so as to totally screen the use from the property to the southeast (Lot 1) and the George Washington Parkway. The type, height, and placement of trees shall be approved by the County Arborist.

8. The maximum seating capacity shall be 317.

9. The hours of operation shall be normal hours for church related activities.

10. The number of parking spaces shall be 203. All parking shall be on site.

11. No trees shall be disturbed within 170 feet of the northern right-of-way line of the parkway.

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

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

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

14. Means of ingress and egress for all vehicles, to include service and delivery vehicles, shall be via Lucia Lane.

15. Other than that listed in Condition #7, 11, 12, and 13, there shall be no further Transitional Screening or barrier required.

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 4-0 with Mrs. Day and Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1987. This date shall be deemed to be the final approval date of this special permit.

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At 12:38 P.M., the Board called a brief recess and reconvened the meeting at 12:41 P.M.

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Page 214, May 26, 1987, (Tape 2), Scheduled case of:

10:45 A.M. RYAN HOMES INC., SP 87-C-030, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow partially constructed dwelling to remain 6.3 feet from side lot line (8 ft. min. side yard req. by Sect. 3-207), located at 16309 Bromall Court, on approx. 7,563 square feet, zoned R-5 and WSPOD, Centreville District, Tax Map 34-4((10))386. (OTH GRANTED - 4/14/87)

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that the problem was caused by a staking error in the field. She stated that staff was recommending approval of the request since all applicable standards have been met.

Robert Boykin of Greenhorne and O'Mara, 11214? Waples Mill Road, Fairfax, Virginia, appeared before the Board and explained that there had been a staking error in the field.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SP 87-C-030, Ryan Homes, Inc.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-C-030 by RYAN HOMES INC., under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow partially constructed dwelling to remain 6.3 feet from side lot line, on property located at 16309 Bromall Court, Tax Map Reference 34-4((10))386, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 26, 1987; 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-5 and WS.
3. The area of the lot is 7,563 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 8-903 and 9-914 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 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.

Mr. Hyland seconded the motion which carried by a vote of 4-0-1 with Mrs. Thonen abstaining; Mrs. Day not present for the vote; Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 215, May 26, 1987, (Tape 3), Scheduled case of:

11:00 A.M. LINCOLNIA LIMITED PARTNERSHIP, SP 87-M-009, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow one shed exceeding 7 feet in height to remain zero (0) feet from a side lot line (10 ft. min. side yard req. by Sects. 3-2007 and 10-104), located at 4904 Fran Place, on approx. 16.5403 acres, zoned R-20(HC), Mason District, Tax Map 72-3((1))54. (DEFERRED FROM 4/21/87)

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board the applicant had not provided evidence that the shed could not be placed so as to meet the minimum yard requirements. Ms. Hamblin-Katnik stated that staff was recommending denial of the request since it is staff's position that the application does not meet the applicable standards.

Scott Sterling, representative for the applicant, 1735 Jefferson Davis Highway, Arlington, Virginia, appeared before the Board and stated that he had tried to work out a way to bring the shed into compliance. He submitted pictures of the shed to show that it does not adversely effect other property owners. Mr. Sterling indicated that substanial cost would be incurred it the shed were relocated.

Chairman Smith called for speakers and Nessian Bamdad, 5300 Holmes Run Parkway, Arlington, Virginia, appeared before the Board in opposition to the proposal and stated that the shed was easy to remove and would be an intrusion if he ever developed his property.

In rebuttal, Mr. Sterling reiterated his previous statement and added that if the adjacent property were developed the shed would be relocated.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen stated that the shed was too close to the property line and violated the intent of the Zoning Ordinance. She added that the application did not meet the standards for granting a special permit and therefore moved to deny SP 87-M-009.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-M-009 by LINCOLNIA LIMITED PARTNERSHIP, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow one shed exceeding 7 feet in height to remain zero (0) feet from a side lot line, on property located at 4904 Fran Place, Tax Map Reference 72-3((1))54, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 26, 1987; 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, HC.
3. The area of the lot is 16.5403 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 8-903 and 8-914 of the Zoning Ordinance.

Mr. Hammack seconded the motion.

The motion carried by a vote of 4-1 with Mr. Hyland voting nay; Mrs. Day not present for the vote; Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 3, 1987.

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Page 216, May 26, 1987, (Tape 3), After Agenda Item # 1

Request for Additional Time
Tax Map Number 27-2((1))15
Peter and Normal Mae Nordlie
VC 85-C-082

Mr. Ribble moved that the request for additional time be granted for six months. The new expiration date is December 30, 1987.

Mr. Hammack seconded the motion which passed unanimously with Mrs. Day and Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 216, May 26, 1987, (Tape 3), After Agenda Item # 2

Approval of Resolutions
May 19, 1987

Mr. Ribble moved that the Resolutions for May 19, 1987 be approved as submitted.

Mr. Hammack seconded the motion which passed unanimously with Mrs. Day and Mr. Hyland not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 216, May 26, 1987, (Tape 3), After Agenda Item # 3

The Board requested the status of the reclassification of the Clerk and Deputy Clerk. Chairman Smith directed staff to convey to Mr. Zook, Director, Office of Comprehensive Planning, that the request for reclassification be expedited.

As there was no other business to come before the Board, the meeting was adjourned at 1:02 P.M.

Patti M. Hicks
Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 6-30-87

APPROVED: 7-7-87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 2, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; Gerald Hyland; and John Ribble.

Chairman Smith opened the meeting at 9:20 A.M. and Mrs. Day led the prayer.

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Page 217, June 2, 1987, (Tape 1), Scheduled case of:

9:00 A.M. JOHN M. NOVACK, SP 87-A-014, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 8 foot high shed to remain 2.2 feet from side lot line (12 ft. min. side yard req. by Sects. 3-307 and 10-104), located at 5508 Atlee Place, on approx. 12,020 square feet, zoned R-3, Annandale District, Tax Map Reference 80-1((2))(21)17.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. The applicant is requesting special permit approval to allow a 8 foot high shed, which is surrounded by a 6 foot high fence, to remain. In October 1986 a neighbor brought this violation to the attention of the Zoning Enforcement Division (ZED) and an inspector from that division went to the site. After a site inspection was made, the applicant was sent a certified letter listing the options which could be taken by the applicant to remedy this violation. Ms. Hamblin-Katnik added that staff does not believe that the applicant meets standards b, d, f, and g of the additional standards to allow a modification of the minimum yards based on error in building location.

John Novack, 5508 Atlee Place, Springfield, Virginia, the applicant, stated that he had received the letter from ZED citing the violation. He added that prior to constructing the sheds he walked through the neighborhood to compare the existing sheds. Mr. Novack noted that there had been a previous shed located too close to the house which had resulted in a termite problem. He added that this was the most practical location for the shed due to a significant slope in the rear yard. In closing, he stated that he was not aware of the 7 foot height limitation and he would be willing to paint the shed and to provide additional screening.

A discussion took place among the Board and staff as to whether or not the fence was in violation as it seemed to be located in the front yard. Ms. Hamblin-Katnik assured the Board that the fence was not located within the minimum front yard.

There were no speakers to speak in support of this application. Diane B. Pauli, 5513 Atlee Place, Springfield, Virginia, spoke in opposition to this application. She stated that she had lived in this neighborhood for 29 years and considered the shed to be an eyesore.

In rebuttal, Mr. Novack stated that Mrs. Pauli had also been opposed to the previous property owner's shed.

As there was no further discussion, Chairman Smith closed the public hearing.

Mrs. Thonen did agree that the applicant's lot was an irregular shape and stated that the roof on the shed could be lowered. She added that the neighbors who lived directly across from the applicant should not have to look out their window at this shed. Therefore, she made a motion to deny SP 87-A-014 as the applicant had not presented testimony showing compliance with the required standards for this special permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-A-014 by JOHN M. NOVACK, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 8 foot high shed to remain 2.2 feet from side lot line, on property located at 5508 Atlee Place, Tax Map Reference 80-1((2))(21)17, 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 2, 1987; 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 12,020 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 8-903 and 8-914 of the Zoning Ordinance.

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

Mr. DiGiulian seconded the motion which carried by a vote of 6-0-1 with Mr. Hammack abstaining as he was not present to hear the entire case.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1987.

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Page 218, June 2, 1987, (Tape 1), Scheduled case of:

9:20 A.M. RALPH B. MONROE, JR., VC 87-P-025, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 13.6 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307) located at 2402 Hurst Drive on approx. 11,447 square feet, zoned R-3, Providence District, Tax Map 39-4((1))224.

Lori Greenlief, Staff Coordinator, presented the staff report. The applicant is requesting to construct a two-car garage which requires a variance of 11.4 feet.

Ralph Monroe, Route 1, Box 285, Menita, Virginia, the applicant, told the Board that he was retired and no longer lived in this area and had purchased the property at 2402 Hurst Street as an investment one year ago. He stated that he would like to construct a two-car garage to improve the property and noted that the materials used to construct the garage would match the exterior of the house. Mr. Monroe concluded by explaining that if this variance is granted a surveyor will come to stake the proposed garage and a representative of the Sanitation Department will make an inspection of the sanitary sewer easement prior to construction.

Chairman Smith closed the public hearing as there were no speakers to address this application.

Mr. Hammack made a motion to grant this application as he believed that this was the most suitable location for the garage, that the impact would be minimal to the surrounding property owners, and that the applicant had satisifed the criteria for a variance.

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THE RESOLUTION TO GRANT FAILED

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-025 by RALPH B. MONROE, JR., under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 13.6 feet from rear lot line, on property located at 2402 Hurst Drive, Tax Map Reference 39-4((1))224, 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 2, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 11,447 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.

4. The relocated sanitary sewer easement shall be inspected by the Department of Public Works prior to the issuance of a building permit.

Mr. DiGiulian seconded the motion. The motion **FAILED** by a vote of 3-3 with Mrs. Day, Messrs. DiGiulian and Hammack voting aye; Mrs. Thonen absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1987.

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Page 219, June 2, 1987, (Tape 1), Scheduled case of:

9:35 A.M. JOHN R. AND SANDRA W. QUAST, VC 87-L-024, application under Sect. 18-401 of the Zoning Ordinance to allow construction of 13 ft. high detached garage 10 ft. from a rear lot line on a corner lot (20 ft. min. rear yard req. by Sects. 3-107 and 10-104), located at 6100 Burnett Street on approximately 0.539 acre, zoned R-1, Lee District, Tax Map 91-1((8))12.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated there is an existing two-car garage which will be converted into a utility room if the request to construct a three-car garage is granted. Since this addition exceeds the 600 square foot limitation established by the Zoning Administrator for the size of detached garages, the Zoning Administration Division (ZAD) has reviewed this application. There are no objections from ZAD to the size of the proposed structure if it will not be used for commercial purposes. She also pointed out that this determination should not be construed as support for the proposed location of the structure.

Sandra Quast, 6100 Burnett Street, Alexandria, Virginia, the applicant told the Board that converting the two-car garage into a utility room will provide additional living space. There are other three-car garages in the neighborhood and thus will not change the character of the surrounding area and will not be precedent setting.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. DiGiulian made a motion to deny this applicaton as he did not believe there was any justification for locating a garage that close to a property line.

A discussion took place among the Board members and staff as to whether or not this was side or rear yard. Mrs. Greenlief clarified that this could be a rear or side yard but that the rear yard setback is 25 feet which is less than the setback for a side yard.

In response to a question from Mr. Hammack, Mrs. Greenlief stated Sect. 10-104 of the Zoning Ordinance allowed staff to use judgment in determining whether a yard is a side or rear.

Mrs. Thonen stated for the record that she had reviewed this application thoroughly and could not find any justification for this use.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-L-024 by JOHN R. AND SANDRA W. QUAST, under Section 18-401 of the Zoning Ordinance to allow construction of 13 foot high detached garage 10 feet from a rear lot line on a corner lot, on property located at 6100 Burnett Street, Tax Map Reference 91-1((8))12, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 2, 1987; 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 0.539 acres 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 and Mr. Hammack seconded the motion.

The motion carried by a vote of 7-0.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1987.

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Page 221, June 2, 1987, (Tape 1), Scheduled case of:

9:50 A.M. GLORIA SCHEINKMAN, VC 87-S-022, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to 3.1 feet from side lot line such that side yards total 14.7 feet (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307) located at 8517 Greeley Boulevard on approx. 11,621 square feet, zoned R-3 (C), Springfield District, Tax Map 89-1((9))76.

Lori Greenlief, Staff Coordinator, presented the staff report. The applicant is requesting to construct a two-car garage which requires a variance of 4.9 feet from the side yard and 5.3 feet from the total yards. On July 15, 1986, the Board of Zoning Appeals (BZA) heard an application similar to this and the Board granted a variance of .5 feet and a waiver of the 12-month time limitation. In closing, Mrs. Greenlief pointed out that if the Board determines that the applicant has satisifed these standards, Sect. 18-405 requires that the Board then must determine the minimum variance which would afford relief.

Gary Scheinkman, 8517 Greeley Boulevard, Springfield, Virginia, co-applicant, stated that he had requested the waiver of the time limitation at his original hearing where the Board denied his application as he believed there was some confusion on the part of the Board. He explained that this is the only suitable location as there is a significant slope in the rear of the lot. He added that there are no objections from his neighbors. He pointed out that this request will decrease the risk of damage to his automobiles from the overflow parking of people visting the adjacent recreational facility. Mr. Scheinkman noted that there were other two-car garages in the neighborhood, that this will not present a sight distance problem, and he believes the standards for a variance have been satisfied.

In response to questions from the Board, Mr. Scheinkman stated that his neighbor had a garage.

Jane Kelsey, Branch Chief of the Board of Zoning Appeals Support Branch, responded to questions from the Board by stating that to staff's knowledge the neighbor has a carport not a garage. She stated that staff would look into this as there was no record of a building permit for a garage on the property adjacent to the applicants.

There no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mrs. Day stated that she believed there are mitigating circumstances in this application due to the overflow parking from the recreational facility, the adjacent neighbor has had a garage since 1979, and the lot has an irregular shape and there is a steep incline on th rear of the property. Therefore, she made a motion to grant VC 87-S-022 subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-S-022 by GLORIA SCHEINKMAN, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to 3.1 feet from side lot line such that side yards total 14.7 feet, on property located at 8517 Greeley Boulevard, Tax Map Reference 89-1((9))76, 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 2, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 11,621 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 5-2 with Chairman Smith and Mr. Hammack voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 223, June 2, 1987, (Tape 1), Scheduled case of:

10:05 A.M. DANIEL S. SHAPIRO AND PATRICIA L. MARTINO-SHAPIRO, VC 87-P-023, application under Sect. 18-401 of the Zoning Ordinance to allow construction of room addition to dwelling to 8.4 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307) located at 7602 Westminister Court, on approx. 11,028 square feet, zoned R-3, Providence District, Tax Map Reference 59-2((13))10.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that the applicants are requesting a variance of 3.6 feet to construct a room addition to the side of the existing dwelling which will entail enclosing and enlarging an existing screened porch.

Daniel Shapiro, 7602 Westminister Court, Falls Church, Virginia, co-applicant, explained that he wants to enclose an existing porch and will not come any closer to the lot lines with the enclosure. He stated that there is a 10 foot slope in the rear yard which prohibits an addition being constructed there. He added that there are no objections from the neighbors.

Chairman Smith closed the public hearing as there were no speakers to address this application.

Mr. Hyland stated he believed that the applicant had presented testimony showing compliance with the standards for a variance, that the lot has an irregular shape, that the addition will not affect the lot lines, that there are no objections from the neighbors, and the request will not adversely impact the neighborhood. He then made a motion to grant VC 87-P-023 subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-023 by DANIEL S. SHAPIRO AND PATRICIA L. MARTINO-SHAPIRO, under Section 18-401 of the Zoning Ordinance to allow construction of room addition to dwelling to 8.4 feet from side lot line, on property located at 7602 Westminister Court, Tax Map Reference 59-2((13))10, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 2, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 11,028 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 carried by a vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 224, June 2, 1987, (Tapes 1 and 2), Scheduled case of:

10:20 A.M. HUNTER DEVELOPMENT COMPANY OF FAIRFAX, INC., SP 87-S-020, under Sect. 3-303 of the Zoning Ordinance to allow community recreation facility located at Little Rocky Run on 3.5 acres, zoned R-3(WS), Springfield District, Tax Map 65-4((1))pt. of 7.

Lori Greenlief, Staff Coordinator, presented the staff report and stated that the surrounding area is zoned R-3 and Water Supply Protection Overlay District (WSPOD). The applicant is requesting to construct a recreation facility in a subdivision which is in the final stage of three planned facilities. She stated that it is staff's judgment that if screening is provided the development and use of this site will not have a negative visual impact on the surrounding community. Mrs. Greenlief added that staff's major concern is with the parking deficiency which may adversely impact the surrounding neighborhood. In closing, she stated that staff recommends approval of SP 87-S-020 subject to the development conditions contained in the staff report with development condition amended to reflect "47" parking spaces.

A discussion took place among the Board and staff concerning the development conditions. Mrs. Greenlief explained that there would be no swim meets and pointed out that the Board could stipulate times for the operation of the pool if they so desired.

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Frank McDermott, attorney with law firm of Hunton and Williams, 3050 Chain Bridge Road, Fairfax, Virginia, represented the applicant. Mr. McDermott explained that this the final stage of a three stage proposal. The multi-purpose facility will be used mainly at night for community meetings and the swimming pool will be utilized only three months out of the year.

Following a discussion among the Board regarding the number of parking spaces, Mr. Hyland pointed out that the meeting hall and swimming pool would not be utilitized at the same time and therefore could be treated as one use to determine the number of required parking spaces.

Mr. McDermott continued his presentation and informed the Board that many of the people using the facilities would walk rather than drive as they would be residents of the subdivision. He asked the Board for its favorable consideration of this application.

Jane Kelsey, Branch Chief of the Board of Zoning Appeals Support Branch, informed the Board that the Zoning Ordinance did not specifically address the number of parking spaces for a meeting hall. Therefore, the Zoning Administrator has determined that in this instance where the meeting room is in conjunction with the pool operation, no additional parking spaces should be required for the meeting room. She reiterated staff's earlier comment that if the Board did not feel this was an adequate number of spaces it was within the Board's power to revise the development conditions.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mr. Ribble stated that he believed that the applicant had presented testimony showing compliance with the standards for a special permit. He made a motion to grant SP 87-S-020 subject to the development conditions contained in the staff report with the following modifications:

7. The regular hours of operation for the swimming pool shall be from 9:00 a.m. to 9:00 p.m. The hours of operation for the tennis courts and multi-purpose courts shall be from 8:00 a.m. to 9:00 p.m. Swim team practice and swimming lessons may begin at 8:00 a.m.

18. The minimum and maximum number of parking spaces shall be 47. There shall no off-site parking associated with this use.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-020 by HUNTER DEVELOPMENT COMPANY OF FAIRFAX, INC., under Section 3-303 of the Zoning Ordinance to allow community recreation facility, on property located at Little Rocky Run, Tax Map Reference 65-4((1))pt. of 7, 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 2, 1987; 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(WS).
3. The area of the lot is 3.5 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 Little Rocky Run Homeowners Association, this approval will transfer to the association. This approval for the location indicated on the application and is not transferable to other land.

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

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. The maximum number of employees on site at any one time shall be six (6).

6. The maximum number of family memberships shall be 750, all from the Little Rocky Run subdivision.

7. The regular hours of operation for the swimming pool shall be from 9:00 a.m. to 9:00 p.m. The hours of operation for the tennis courts and multi-purpose courts shall be from 8:00 a.m. to 9:00 p.m. Swim team practice and swimming lessons may begin at 8:00 a.m.

   There shall be no league swim meets conducted at this facility.

8. After-hour parties shall be governed by the following:

   - Limited to six (6) per season.
   - Limited to Friday, Saturday, and pre-holiday evenings.
   - Shall not exceed beyond 12:00 midnight.
   - A written request must be received by the Zoning Administrator at least ten (10) days in advance of each event for each event.
   - 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. If 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 focuses the light directly onto the facility.
   - Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.

10. The use of loudspeakers, bullhorns and whistles shall not be used before 9:00 A.M. or after 9:00 P.M., except in emergencies. All other provisions of Chapter 108 of the Fairfax County Code and the provisions of this Chapter shall apply and shall not be waived.

11. Transitional Screening 1 shall be provided along all lot lines as shown on the plat submitted with this application. A modification may be permitted in the northern portion of the site in the area of the trail access to Rockland Drive. In this area, an evergreen hedge, six (6) feet in height shall be planted, along with low shrubs. The area along the southern lot line between Stonefield Drive and the drop off lane shall include low evergreen shrubs to screen the pavement and to soften the visual impact of the structures. The type, amount and placement of all plantings should be reviewed and approved by the County Arborist. Trails may be allowed to cross the transitional screening yards as shown on the plat.

12. The Consumer Services Section of the Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations. This agency will make a determination as to whether proper neutralization of these pool waters has been completed.

13. A soil survey shall be completed if determined necessary by the Director, Department of Environmental Management (DEM), prior to site plan approval. If high water table soils resulting from uncompacted fill, resource removal or any other circumstances resulting in instability are found in the immediate vicinity of the pool, then the pool shall be engineered and constructed to ensure pool stability, including the installation of hydrostatic relief valves and other appropriate measures, as determined by DEM.

14. The geotechnical report shall be prepared by, or under the direction of a geotechnical engineer experienced in soil and foundation engineering and shall be submitted and approved by DEM prior to submittal of the construction plan so that approved measures can be incorporated.

15. If the easternmost entrance as shown on the plat is to be one-way, it shall be marked as such. All entrance widths shall conform to Virginia Department of Transportation (VDOT) standards.

16. Best Management Practices (BMP's) shall be provided as determined by the Director, DEM.

17. The multi-purpose court shall not be used for the playing of tennis.

18. The minimum and maximum number of parking spaces shall be 47. There shall no off-site parking associated with this use.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date* of the Special Permit unless the activity authorized has been established, or unless construction has 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 which carried by a vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 227, June 2, 1987, (Tape 2), Scheduled case of:

10:40 A.M. OLD KEENE MILL SWIM AND RACQUET CLUB, SPA 80-S-094-2, application under Sect. 3-103 of the Zoning Ordinance to amend S-80-S-094 for community recreation facilities to permit additions to existing facilities, located at 9534 Orion Court, on approx. 3.27 acres, zoned R-1, Springfield District, Tax Map 78-3((1))7C. (OTH GRANTED 4/14/87)

Lori Greenlief, Staff Coordinator, presented the staff report. The applicant is requesting to construct a deck, tennis backboard, storage addition and to enclose an existing overhang on the poolhouse. She pointed out that staff's major concern is with the noise which will be generated by the backboard and stated that staff suggests that the material with the most effective noise absorbency be used for the construction. Mrs. Greenlief concluded by stating that staff can support this application only if there is assurance that the noise will not create an adverse impact and the hours for the use of these backboards do not exceed 9:00 p.m.

Richard Kelly, 9620 Villagesmith Way, Burke, Virginia, President of Old Keene Mill Swim and Racquet Club, appeared before the Board and agreed with the proposed development conditions. He stated that the most noise absorbent material had been chosen to construct the backboards. He pointed out that there had been no prior complaints from the neighbors.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making a motion to grant, Mrs. Thonen stated that she believed the applicant had presented testimony showing compliance with the standards for a special permit and, that she would make a motion to approve subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 80-S-094-2 by OLD KEENE MILL SWIM AND RACQUET CLUB, under Section 3-103 of the Zoning Ordinance to amend S-80-S-094 for community recreation facilities to permit additions to existing facilities, on property located at 9534 Orion Court, Tax Map Reference 78-3((1))7C, 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 2, 1987; 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 3.27 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 8-403 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 unless a waiver is requested.

5. The existing vegetation shall be used to satisfy the Transitional Screening and Barrier requirement. If supplemental and barrier screening is deemed necessary by the Director, Department of Environmental Management (DEM), the amount and type of such screening shall be determined by the Director, DEM.

6. The hours of operation shall be limited to 9:00 a.m. to 10:00 p.m. for the tennis, from 9:00 a.m. to 9:00 p.m. for the backboard courts , and from 9:00 a.m. to 9:00 p.m. for the swimming pool.

7. Membership shall be limited to 600 families.

8. There shall be a minimum and maximum of eighty-four (84) parking spaces.

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

   - Limited to Friday, Saturday, and pre-holiday evenings.
   - Limited to six (6) per season.
   - Shall not extend beyond 12:00 midnight.
   - Shall be requested in writing to the Zoning Administrator at least ten (10) days in advance
   - 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.

Page 229, June 2, 1987, (Tape 2), (SPA 80-S-094-2, Old Keene Mill Swim and Racquet Club, Continued from Page 228)

10. A dBA Ldn reading shall be taken at the southern property line adjacent to Lot 214 after the tennis backboard is constructed. If during use, it is found that the sound transmission exceeds the maximum allowable in accordance with Chapter 108 of the Fairfax County Code, the applicant shall take measures to correct the violation. If this is not possible, the backboard court or courts shall be removed. This shall be accomplished before a Non-Residential Use Permit can be approved to use the courts.

11. There shall be no lighting of the backboard courts.

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 which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 229, June 2, 1987, (Tape 2), Scheduled case of:

11:00 A.M. ROXBURY OF MOUNT VERNON, INC., SP 87-L-028, application under Sect. 3-1203 of the Zoning Ordinance to allow community tennis court within a townhouse development, located at 8220 Richmond Highway, on approx. 7.478 acres, zoned R-12(HC), Lee District, Tax Map 101-4((1))11 and 101-2((1))6 and pt. of 7. OTH GRANTED

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. The surrounding area is zoned R-12 and lies within the Highway Corridor Overlay District. The proposed site is vacant and the applicant proposes to construct a tennis court which will be open from 7:00 a.m. to dusk seven days a week. There will be no lights on the tennis courts.

Mrs. Hamblin-Katnik responded to questions from the Board by stating that this type of use comes before the Board of Zoning Appeals so that the Board could stipulate conditions on the use.

Donald L. Hanback, 7620 Little River Turnpike, Annandale, Virginia, President of Roxbury Mount Vernon, Inc., came forward and stated that he agreed with the development conditions set forth in the staff report.

Chairman Smith closed the public hearing as there were no speakers to address this application.

Mr. DiGiulian stated that he believed the applicant had presented testimony showing compliance with the standards for a special permit. He therefore made a motion to grant SP 87-L-028 subject to the development conditions contained in the staff report with the addition of condition #9.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-L-028 by ROXBURY OF MOUNT VERNON, INC., under Section 3-1203 of the Zoning Ordinance to allow community tennis court within a townhouse development, on property located at 8220 Richmond Highway, Tax Map Reference 101-4((1))11 and 101-2((1))6 and pt. of 7, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 2, 1987; 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-12(HC).
3. The area of the lot is 7.478 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 Roxbury of Mount Vernon Homeowners' Association, this approval will convey to the Homeowners' 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 structures and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. Hours of operation shall be limited to 7:00 a.m. to dark seven days a week.

6. Two parking spaces shall be provided. All parking shall be on site.

7. The tennis court shall not be lighted.

8. Transitional screening shall be modified to require the plantings which is shown on the approved plat. The barrier requirement shall be modified to require the fence around the tennis court as shown on the plat.

9. No bike racks will be provided.

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

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

Mr. Hyland seconded the motion which carried by a vote of 6-0-1 with Mrs. Thonen abstaining.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 231, June 2, 1987, (Tape 2), Scheduled case of:

11:20 A.M. GREAT FALLS SWIM AND TENNIS CLUB, INC., SPA 82-D-019-4, application under Section 3-103 of the Zoning Ordinance to amend SP 82-D-019 for community recreation facilities to change condition regarding hours, located at 761 Walker Road on approx. 5.5244 acres, zoned R-1, Dranesville District, Tax Map 13-1((1))27. (DEF. FROM 5/12/87 - NOTICES NOT IN ORDER)

Lori Greenlief, Staff Coordinator, presented the staff report. In May 1986, the Board granted a change in the hours of operation for adult swimming for a trial period of one year. She stated that this seems to be a successful program as there have no objections from the neighbors. In closing, she stated that staff recommends approval of this application if the development conditions are implemented and pointed out that the last bullet in condition #5 should be deleted.

Norman Hess, 10108 Sanders Court, Great Falls, Virginia, explained that this had been a successful program and there have been no objections from the neighborhood.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mrs. Day moved to grant SPA 82-D-019-4 and stated that she believed the program has been successful during the trial period and there have been no complaints from the neighbors. She amended condition #5 as staff had suggested.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 82-D-019-4 by GREAT FALLS SWIM AND TENNIS CLUB, INC., under Section 3-103 of the Zoning Ordinance to amend SP 82-D-019 for community recreation facilities to change condition regarding hours, on property located at 761 Walker Road, Tax Map Reference 13-1((1))27, 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 2, 1987; 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 5.5244 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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.

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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. Transitional Screening shall be provided and maintained in the area between the pool and the southern lot line. The County Arborist shall determine the size, and type of plantings. The existing vegetation along the remainder of the site shall be preserved to satisfy Transitional Screening 1. If there is an area where insufficient plantings exist to screen this use from adjacent residences, additional supplemental evergreen plantings shall be provided as determined by the County Arborist. The existing chain link fence which encircles the pool and tennis courts shall remain to satisfy the barrier requirement.

5. The hours of operation for the facility shall be limited to the as following:

   - Tennis Courts & Platform
     Tennis Courts:
     7:00 a.m. to 10:00 p.m.

   - Swimming Pool Regular Hours:
     9:00 a.m. to 9:00 p.m.

   - Adult Swim (18+ years of age):
     6:00 a.m. to 8:00 a.m.
     (Monday thru Saturday)

   - Swim Team Practice and meets:
     8:00 a.m. to 9:00 a.m.
     (Monday thru Saturday)

6. 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 exceed beyond 12:00 midnight
   - A written request shall be submitted at least ten (10) days in advance to the Zoning Administrator for each individual party or activity.
   - Request 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. No bullhorns, loudspeakers, radios or setting up of facilties shall be permitted before 9:00 a.m. These devices may be used at or after 8:00 a.m. on the two to four occasions of swim meets at the facility.

8. All loudspeakers, bullhorns, and lighting shall be directed on site.

9. There shall be no more than four (4) "A" level swim meets per year at this facility.

10. There shall be a minimum of sixty-seven (67) parking spaces and a maximum of one hundred and eighteen (118) parking spaces provided on site.

11. All activities shall comply with the provisions of Chapter 108 of the County Code, Noise Ordinance, and the glare performance standards in the Zoning Ordinance.

12. The maximum number of family memberships shall be four hundred (400).

13. Bicycle racks shall be provided to accommodate a minimum of twenty-five (25) bicycles.

14. All gravel surface areas shall be maintained in good condition at all times in accordance with standards approved by the Director, DEM. There shall be a uniform grade in all areas and adequate cover of gravel uniformly spread over the entire area.

15. All required handicapped parking spaces shall be maintained with a dustless surface and in accordance with all applicable standards.

16. There shall be annual inspections of the gravel parking areas to ensure compliance with the conditions of this permit, the applicable provisions of the Zoning Ordinance and Chapter 103 of the Fairfax County Code, Air Pollution Control.

17. The approval of a waiver of the dustless surface requirement shall be valid until June 19, 1989.

These conditions incorporate all applicable conditions of 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.

Messrs. DiGiulian and Hyland seconded the motion which carried by a vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1987. This date shall be deemed to be the final approval date of this special permit.

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As there was time before the next scheduled case, the Board took action on an After Agenda Items.

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Page 233, June 2, 1987, (Tape 2), After Agenda Item:

REECE AND JANET BAKER APPEAL

Jane Kelsey, Branch Chief of the Board of Zoning Appeals Support Branch, informed the Board that staff suggested a hearing date and time of August 4, 1987 at 9:00 A.M. Mr. Hammack made a motion to accept the Appeal as being timely filed and endorsed staff's suggested date and time. Mr. DiGiulian seconded the motion which carried unanimously.

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Page 233, June 2, 1987, (Tapes 2 and 3) Scheduled case of:

11:40 A.M. SAINT JOHN NEUMANN CHURCH, SPA 80-C-096-2, application under Sect. 3-203 of the Zoning Ordinance to amend S-80-C-096 for church and related facilities and to permit addition of a new parish, activity center, and rectory, located at 11900 Lawyers Road, on approx. 17.90847 acres, zoned R-2, Centreville District, Tax Map 26-3((1))5A. (DEF. FROM 5/19/87 AT APPLICANT'S REQUEST)

Chairman Smith stated that he had been informed there was a question as to whether or not the Board could proceed with this application. Claudia Hamblin-Katnik, Staff Coordinator, explained that Mr. Hammer, attorney for the adjacent property owners, had requested a ruling from the Zoning Administrator as to whether or not CCD is a church related activity. The Zoning Administrator has stated that this is a church related activity and Mr. Hammer is filing an appeal to overturn the Zoning Administrator's determination. There is also a question pertaining to the density appropriate for this site.

Jane Gwinn, Zoning Administrator, appeared before the Board and stated that on May 26, 1987, Mr. Hammer had delivered a letter to her office requesting an interpretation on this case. Mr. Hammer believes that based upon the number of students who will be attending the school it should be a special exception and that the property has a very vague rezoning history. She added that a check had not been included with the appeal application, but Mr. Hammer was presently rectifying this oversight. Ms. Gwinn added that she had verbally informed Mr. Hammer that it is her position that the CCD classes which will be conducted at the church is part of the church related activities.

A discussion took place among the Board as to whether or not this was an appealable use. Mr. DiGiulian made a motion to proceed with the public hearing as scheduled. Mrs. Thonen seconded the motion which carried unanimously.

Claudia Hamblin-Katnik, Staff Coodinator, presented the staff report. The applicant is requesting approval to construct a parish activity center with a seating capacity of 400, a rectory, and 97 additional parking spaces. This application was deferred from May 19, 1987 to allow time for the applicant to meet with the surrounding property owners to address their concerns. She pointed out staff's concerns were outlined in the May 5, 1987 staff report. The applicant has submitted a design which appears to mitigate all of staff's concerns except the sight distance which is still inadequate.

Following a discussion among the Board and staff, Mrs. Hamblin-Katnik stated that she had told by the Office of Transportation (OT) that the traffic analysis had been based on the posted speed limit of 35 miles per hour.

Mrs. Hamblin-Katnik concluded her presentation by stating that the applicant has agreed to the following conditions: to grade and clear and provide additional vegetation in the area to the west of the proposed activity center to achieve adequate sight distance, the height of the light standards will not be higher than 12 feet, and has agreed to dedicate and construct a trail. She stated that staff is still concerned with the stormwater management and staff believes that the stormwater drainage concerns should be reviewed by the Department of Environmental Management (DEM) and the Department of Public Works. She pointed out a discrepancy in the hours of operation of the CCD classes and stated that this should be clarified prior to the Board rendering a decision. In closing, she noted that it was staff's judgment that if all the oustanding issues are resolved, staff can support this application subject to the development conditions contained in the staff report.

In response to comments from Mr. Hyland, Mrs. Hamblin-Katnik stated that staff is not stipulating hours on the activities to be conducted at the church but that the number of people coming in and out of the site at any time on a given day is a relevant issue as it impacts the traffic flow. Jane Kelsey, Branch Chief of the Board of Zoning Appeals Support Branch, pointed out that the applicant is constructing a separate building for this CCD use and therefore staff is looking at the impact of the use within this structure.

William Donnelly, attorney with Hazel, Thomas, Fisk, Beckhorn and Hanes, 4084 University Drive, Fairfax, Virginia, represented the church. Mr. Donnelly addressed the procedural issue of the appeal by stating that he did not believe that this was an appealable case as there has been no official interpretation by the Zoning Administrator. Mr. Donnelly noted proposed changes to the development changes as follows: delete conditions #6 and #7, revise condition #13 to say that "the limits of clearing shall be generally within 20 feet ...", condition #8 should be revised to read "this screening shall be subject to review by the property owners abutting the eastern and western property line which review shall not be unreasonably delayed"; and, condition #14 revised to read "to the extent reasonably feasible the stormwater management facility shall be designed to minimize tree clearing."

Father John Heenan, Pastor of the Saint John Neumann Parish, 11900 Lawyers Road, Reston, Virginia, told the Board that the parish was founded in 1979 and had consisted of 800 families at that time and is currently made up of 1,550 families. The church is requesting this expansion in order to accommodate the increased membership.

Father Douglas Smith, 11900 Lawyers Road, Reston, Virginia, Associate Pastor and Director of Religious Education for the parish, explained that the proposed multi-purpose building would be used totally for religious instruction There will be approximtely four classes made up of 25 students who will meet once a week for approximately 1 hour and 15 minutes beginning at 3:00 p.m.

Chairman Smith clarified for the record that he was not related to Father Smith.

As there were no additional speakers in support of this application, Chairman Smith called for speakers in opposition. Norman Hammer, attorney with the law firm of McPherson and Hammer, 447 Carlisle Drive, Herndon, Virginia, came forward and represented the adjoining property owners. He told the Board that he had been in the process this morning of trying to stay the public hearing by appealing the Zoning Administrator's determination regarding the CCD classes and had been informed the Zoning Administrator had not ruled on this case therefore an appeal could not be filed. He stated that he believed that when a building is added that is twice the size of the existing structure and the number of students utilizing the facility is above the Zoning Ordinance calls for a Special Permit it becomes a land use issue. Mr. Hammer stated he believes this application should be brought before the Planning Commission and the Board of Supervisors as a Special Exception.

Chairman Smith explained that since this use has already been established the Board of Zoning Appeals can only make a determination on what the applicant has brought before them in this application. He asked Mr. Hammer if he would like to address the question of the CCD. Mr. Hammer replied that he would leave the question of the CCD to the determination to the Zoning Administrator. He added that he represented twelve families and asked the Board's permission to have one of the citizens speak.

Dr. John Dockery, 2507 Pegasus Lane, Reston, Virginia, told the Board that the citizens were not opposed to this application but were only trying to determine how the proposed additions by the church could best be fitted into the site. He pointed out that the Diocese of Arlington owned the church and the citizens were concerned about what the Diocese might propose to add in the future. Dr. Dockery stated that the citizens were happy with the changes that the church has agreed to but would like some type of restriction to be placed on the site as far as future development.

Mr. Hammer again spoke to reiterate his earlier remarks that he believed that this is a land issue and asked that the Board limit the future development on the site. He asked that if it was the intent of the Board to approve this application that it be approved pursuant to a private covenant between the Board of Supervisors, the surrounding property owners, and the Reston Association. Mr. Hammer requested the following conditions: that the new facility be moved to maintain a larger side yard, enforce development condition #13, prohibit a detention pond, limit the number of students daily with specific times, no future development on the site, the parking be limited to only the Zoning Ordinance requirement, and the future use as an elementary school be prohibited.

During rebuttal, Mr. Donnelly explained that the applicant had held numerous meetings with the citizens. He objected to adding a covenant and noted for the record that any future development would have to be approved by the Board of Zoning Appeals.

In response to a question from Mr. Hyland, Mr. Donnelly stated that at the present time there are no plans to expand the facility.

Mrs. Hamblin-Katnik responded to questions from the Board by explaining that since the applicant has stated that there will be 150 to 200 children entering and exiting this site daily staff does not believe that staff can knowingly abolish a condition which provides the minimum requirement for the provision health, safety and welfare of the citizens within the County. However, she stated that staff understands the concerns as noted by the applicant and suggested that development condition #6 be revised to read "evidence of adequate sight distance at the western exit shall be provided prior to site plan approval or the western exit shall be closed."

At the Board's request, Father Smith came forward and explained that there would be two classes one after the other with approximately 150 students and classes would be held between 3:00 P.M. and 5:30 P.M. give or take 15 minutes.

Mr. Hyland requested staff's reaction to the suggested amendments to the development conditions. Mrs. Hamblin-Katnik stated that staff would like to retain development condition #7 for safety reasons but had no objections to the revision to development condition #8. She stated that she believes Mr. Donnelly was correct in his remarks that development condition #13 as it is presently written would be constrictive to the applicant and agreed with the rewording with the exception of changing the reference to the suggested "20 feet", and agreed with the modifications to development condition #14.

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The Board recessed at 1:15 P.M. in order to allow time for the representatives of the applicant and citizens to try to reach an agreement regarding the development conditions The Board reconvened at 1:40 P.M.

Chairman Smith called Mr. Donnelly and Mr. Hammer forward. Mr. Donnelly stated that they had reached an agreement which is to accept the conditions as proposed by staff with the amendments as proposed by Mr. Donnelly. At this time, Mr. Hyland interjected that perhaps he should first make the motion and then let Mr. Donnelly and Mr. Hammer see if they agree.

Mr. Hyland made a motion to grant this application subject to the following development conditions: #6 to read "evidence of adequate sight distance at the western exit shall be provided prior to site plan approval or the western exit shall be closed", #8 will have an addition as suggested by Mr. Donnelly, #10 changed to read "light standards no higher than 12 feet may be provided for the parking lots", #13 will be amended by changing the first sentence to read "the limits of clearing and grading shall be generally within 15 feet from the clearing lines shown on the plat except for minor engineering changes that may be required by the Department of Environmental Management due to unforeseen engineering problems" with the remainder of the paragraph to remain the same, #14 add

"stormwater management techniques shall be provided as determined by the Director, DEM. To the extent reasonably feasible, the stormwater management facilities shall be designed to minimize tree clearing." and #16 shall be changed to read "the sign shall be as permitted in Sect. 12-208" as opposed to required.

Chairman Smith asked Mr. Donnelly if he had any comments. Mr. Donnelly stated that he and Mr. Hammer requested that development condition #13 show 10 feet for the clearing line and add another sentence to #14 which read "that the site plan shall be brought back to the Board of Zoning Appeals for review of the stormwater detention facility." He added that #8 read "the existing vegetation along the western property line shall be supplemented with evergreen and hardwood trees as appropriate."

Mr. Hyland requested that Mr. Donnelly and Mr. Hammer take a week to review these development conditions and come back to the Board. Mr. Hammack stated that he would like staff's input into this also. Mr. Donnelly stated for the record that the church would not apply for an amendment to the special permit for a parochial school for at for at least ten years. Chairman Smith suggested that a development condition be added to reflect this agreement. Mr. Hammer stated for the record that the citizens will withdraw the appeal he had filed concerning this special permit.

Mr. Hyland made a motion to grant this application subject to the revised development conditions which are to be brought back to the Board of Zoning Appeals on June 9, 1987 for final approval.

Mrs. Day seconded the motion which carried by a vote of 7-0.

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Page 236, June 2, 1987, (Tape 3), After Agenda Item:

MINNIE M. WILLINGHAM - WAIVER OF THE 12-MONTH TIME LIMITATION

Mrs. Thonen moved to grant Mrs. Willingham a waiver of the 12-month time limitation for refiling a new application. Mr. Hammack seconded the motion which carried by a vote of 7-0.

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Page 236, June 2, 1987, (Tape 3), After Agenda Item:

RICHARD AND JACKIE THOMAS - VC 87-D-018
RECONSIDERATION

Heidi Belofsky, Staff Coordinator, explained that this case had been heard and denied by by the Board of Zoning Appeals on May 26, 1987 by a vote of 5-1 . She pointed out there had been three speakers who spoke against this application.

Mr. Hammack made a motion to deny the reconsideration. Mrs. Thonen seconded the motion which carried by a vote of 6-1 with Mrs. Day voting nay.

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Page 236, June 2, 1987, (Tape 3), After Agenda Item:

MAY 26, 1987 RESOLUTIONS

Mrs. Thonen moved approval of the Resolutions for May 26, 1987. Mrs. Day seconded the motion which passed by a vote of 7-0.

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Page 236, June 2, 1987, (Tape 4), After Agenda Item:

Approval of Minutes
April 14, 1987

Mrs. Thonen moved to approve the Minutes of April 14, 1987 as submitted.

Mr. DiGiulian seconded the motion which passed by a vote of 7-0.

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As there was no other business to come before the Board, the meeting was adjourned at 2:05 P.M.

Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 7/28/87

APPROVED: 8/4/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 9, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian; Vice-Chairman; Ann Day; Paul Hammack; Gerald Hyland; John Ribble; and Mary Thonen.

Chairman Smith opened the meeting at 9:25 A.M. and Mrs. Day led the prayer.

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Page 237, June 9, 1987, (Tape 1), Board Matters

Mr. Hyland moved to amend the Board of Zoning Appeals' current policy regarding after hour parties for community recreation facilities to permit the Zoning Administrator to allow the permittee to have a party on an evening other than the three that the current policy enumerates provided the permittee obtains the approval of all abutting property owners. This policy would affect all existing and future community recreation associations including the ones with this policy as a condition. Included in that motion is a condition that this amendment be subject to obtaining a ruling from the County Attorney as to the authority of the Board to do this and also, if the Board adopts this motion and this change in policy, that the permittee that is referenced as the Somerset Old Creek Recreation Club, Inc. be permitted to apply under the changed policy for relief in connection with the party that they want to hold this coming Thursday.

Chairman Smith and Mrs. Kelsey, Chief, BZA Support Branch, gave the Board a brief history of the reason for the adoption of the original policy. They stated that prior to the adoption of the policy in 1978 almost every application for amendments to recreation facilities were met with opposition by the adjacent neighbors who complained about noise and other problems being generated from pool parties every weekend. With implementation of the policy the complaints have been almost eliminated.

Messrs. Ribble and DiGiulian seconded the motion which passed by a vote of 6-1 with Mr. Hammack voting nay.

Mrs. Kelsey advised the Board that staff did not see the revised policy to be the problem, but the fact that this policy has been incorporated into the conditions of approval for every community recreation facility that has been approved since 1978. In the past, the Zoning Administrator and the County Attorney has concurred that a condition of a special permit or special exception cannot be modified or changed without an amendment application to the appropriate hearing body. The Board asked that the motion include the need to implement the policy for existing community recreation facilities even the ones with this policy as a condition. Hearing no objection, the Chair so ordered.

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Page 237, June 9, 1987, (Tape 1), Scheduled case of:

9:00 A.M. ERIC M. DELMAN, VC 87-D-008, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 4.61 feet from side lot line (7 ft. min. side yard req. by Sects. 3-307 and 2-412), located at 1204 Croton Drive, on approx. 12,285 square feet, zoned R-3, Mount Vernon District, Tax Map 102-4((5))(16)3.

Kevin Guinaw, Staff Coordinator, presented the staff report.

Charles S. Cox, 616 N. Washington Street, Alexandria, Virginia, appeared before the Board and stated that the applicant was requesting a variance of 2.39 feet, not 2.9 feet. Mr. Cox showed the Board a large scale drawing of the proposed carport and added that the applicant would provide shrubbery or trees to help screen the proposal. Mr. Cox pointed out that a precedent had already been set for this kind of request as noted in the staff report.

Chairman Smith called for speakers and John S. Faruki, 1206 Croton Drive, Alexandria, Virginia, appeared before the Board in opposition to the request. He expressed concern that the carport would come too close to his property line. Mr. Faruki also indicated that the under the covenants for the subdivision, the addition would not be allowed.

In rebuttal, Mr. Cox stated that the applicant was unaware of any restrictive covenants but was willing to comply with any requirements.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that if the applicant constructs within an easement, he does so at his own risk, but he encouraged the applicant to reduce the width of the carport. Mr. Hammack added that the applicant had satisfied the nine standards for a variance and noted the narrowness of the lot, the public water and sewer easement in the back of the yard. Therefore, Mr. Hammack moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-008 by ERIC M. DELMAN, under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 4.61 feet from side lot line, on property located at 1204 Croton Drive, Tax Map Reference 102-4((5))(16)3, 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 9, 1987; 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 12,285 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. Hyland seconded the motion which carried by a vote of 6-1 with Mr. Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 17, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 239, June 9, 1987, (Tape 1), Scheduled case of:

9:15 A.M. JEFFREY MILLS, VC 87-M-029, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition of dwelling to 13.6 ft. from a street line of a corner lot (30 ft. min. front yard req. by Sect. 3-307) located at 3618 Terrace Drive on 14,594 square feet, zoned R-3, Mason District, Tax Map 69-4((3))12

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board that an identical application had been heard by the Board on February 17, 1987 but was denied. The applicant then requested and was granted a waiver of the twelve (12) month limitation on rehearing an application.

Jeffrey Mills, 3618 Terrace Drive, Annandale, Virginia, the applicant, appeared before the Board and stated that the property had been acquired in good faith and has an exceptional pie shape with an extraordinary positioning of the house to the rear of the lot. He added that most of the other houses in the neighborhood had room for a detached garage addition in the rear yard but this was impossible for him. He added that he was unable to build any type of addition without a variance. Mr. Mills stated that the variance would be in harmony with the spirit of the Zoning Ordinance because it would allow him to park two vehicles off the street which is already overcrowded.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen stated that the applicant had met all nine standards for a variance, noting the exceptional shape of the lot. Mrs. Thonen moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-029 by JEFFREY MILLS, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 13.6 feet from a street line of a corner lot, on property located at 3618 Terrace Drive, Tax Map Reference 69-4((3))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 June 9, 1987; 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 14,594 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 carried by a vote of 5-1 with Mr. Hyland not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 17, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 240, June 9, 1987, (Tape 1), Scheduled Case of:

9:30 A.M. DENNIS O. HOGGE AND KAREN M. HOGGE, VC 87-S-064, application under Sects. 18-401 and 4-607 of the Zoning Ordinance to allow commercial use in a building 13.1 feet from the rear lot line (20 ft. min. req.) and to allow a commercial use in a building 5.2 feet from the front lot line (40 ft. min. req.), located at 13940 Braddock Road on approx. 40,027 square feet, zoned C-6, WS, HD, SC, Springfield District, Tax Map 54-4((1))43.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board that the applicant was requesting two variances.

Roger Cornellier, 14098 Lee Highway, Centreville, Virginia, attorney representing the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. Mr. Cornellier noted that the structures which were the subject of this application were known as historic buildings located in a Historical District in Centreville, and were known as the "Havener House" and the "Stone House".

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian stated that the applicant had met the standards for a variance particularly Paragraph 2F. Therefore, Mr. DiGiulian moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-S-064 by DENNIS O. HOGGE AND KAREN M. HOGGE, under Section 18-401 and 4-607 of the Zoning Ordinance to allow commercial use in a building 13.1 feet from the rear lot line and to allow a commercial use in a building 5.2 feet from the front lot line, on property located at 13940 Braddock Road, Tax Map Reference 54-4((1))43, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 9, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is C-6, WS, HD, SC.
3. The area of the lot is 40,027 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 the following characteristics:
   F. An extraordinary situation or condition of the subject property,
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of 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 locations and the specific additions shown on the plat included with this application and is not transferable to other land.

2. An amended Building Permit shall be obtained prior to a Non-Residential Use Permit being approved for the "Stone House", and a Non-Residential Use Permit shall be obtained prior to occupancy of the Havener House.

Mr. Ribble seconded the motion.

The motion carried by a vote of 6-0 with Mr. Hyland not present for the vote.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 17, 1987. This date shall be deemed to be the final approval date of this variance.

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10:00 A.M. O.C. BUILDERS, INC., VC 87-D-045, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into 5 lots, proposed Lot 2 having width of 12 ft. (80 ft. minimum lot width required by Sect. 3-306), as approved in VC 85-D-050, expired, located at 1638 Davidson Road, on approx. 2.1675 acres, zoned R-3, Dranesville District, Tax Map 30-3((1))26.

Kevin Guinaw, Staff Coordinator, presented the staff report. Mr. Guinaw advised the Board that the applicant was proposing to subdivide the property into five lots with one proposed being a pipestem lot. He informed the Board that a variance had been granted on September 24, 1985 but had expired without any requests for additional time. He added that it is staff's position that the application does not meet standards 2, 4 and 6, nor is there an undue hardship. He noted that the applicant could subdivide the property into four (4) lots by right. The proposed pipestem lot is located on the periphery on the northern border, adjacent to the Westberry Heights subdivision. It is staff's opinion that this location of the pipestem would have functional and negative impacts on the adjacent subdivision. If the application is approved, the pipestem driveway should be internalized within the application property.

Earl Griggs, 6623A Old Dominion Drive, McLean, Virginia, representative of the applicant, appeared before the Board and stated that as soon as the applicant had received a copy of the staff report indicating reservations about the location of pipestem driveway, the subdivision was redesigned and the driveway located between lots one and three so that it is completely internalized. Mr. Griggs submitted a revised plat showing the changes.

Following questions from Chairman Smith and Mr. Hammack, Mr. Guinaw stated that staff had not had an opportunity to review it. Mr. Griggs indicated that there was another change to take care of the relocation of all of the driveways to the four lots that front on the cul-de-sac as required by VDOT.

Mrs. Thonen noted that the changes the applicant was referring to were in Appendix 4 of the staff report.

Chris Henderson, 1843 West Moreland Place, Annandale, Virginia, Vice-President, O.C. Builders, appeared before the Board and stated that the changes were in answer to staff comments listed in the staff report.

The Board discussed the possibility of deferring the application to allow staff time to review the plat.

Mr. Hammack stated that it was his understanding that the applicant had an approved variance and site plan but the day the permits were issued, the variance expired which necessitated the applicant coming back and going through the process again. He stated that the applicants have resubmitted and are trying to comply with staff's additional requests.

Mr. DiGiulian noted that the plat from the master file was the same plat that was before the Board in the original case. The variance request was granted with development conditions and none of them referred to internalizing the pipestem driveway. He expressed the opinion that the request could be granted as requested without new plats.

Mr. Griggs reiterated that the original variance had expired the same day the permits for the project were issued but the applicant failed to request additional time.

Mr. Griggs pointed out that the existing access which is a gravel road (Outlot A) extending to Davidson Road would be blocked and not used as an access road. He added that another constraint imposed on the property was the ingress/egress 50-foot easement to McLean Swim and Tennis Association which has to be maintained. The property has met five of the seven standards for a variance such as its exceptional shape and narrowness, and the extraordinary condition that the property immediately adjacent is totally developed making the parcel isolated. He added that the original request was for six lots and the Comprehensive Plan calls for 2-3 du/ac and the applicant is only requesting 2.3 lots per acre. The proposal exceeds the minimum requirements for the R-3 District as shown in the Comprehensive Plan. Denial of the request would be a downzoning of the property from R-3 to at least R-2 which creates a hardship on the applicant. Mr. Griggs noted that the smallest lots, proposed lots 4 and 5 each exceeds the minimum R-3 lot area by approximately 4,000 square feet which is 40% larger than the R-3 requirement. Mr. Griggs reiterated that the applicant will internalize the pipestem lot and locate the driveways to the remaining four lots on the cul-de-sac. In conclusion, Mr. Griggs stated that the request was an extension of the original variance with improvements.

Mrs. Day suggested the application be deferred as it was not the same as the original request. The siting of the lots is different and, the proposed houses are too close to the pipestem lot. She agreed with staff and stated that she would not support the application.

In response to the Chairman's inquiry, Mr. Guinaw reiterated that the applicant could get four lots by right.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day stated that the application does meet the required standards for a variance and the placement of the houses on lots 1, 2 and 3 are too close to the pipestem lot. Mrs. Day then moved to deny the request.

The motion failed due to the lack of a second.

Mr. DiGiulian pointed out the long and narrow shape of the property. He added that it met all nine standards for a variance and moved to grant the request subject to the development conditions contained in the staff report with a revised number four.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-045 by O.C. BUILDERS, INC., under Section 18-401 of the Zoning Ordinance to allow subdivision into 5 lots, proposed lot 2 having width of 12 ft. as approved in VC 85-D-050, expired, on property located at 1638 Davidson Road, Tax Map Reference 30-3((1))26, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 9, 1987; 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 2.1675 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 five (5) lots, one of the lots to have a minimum lot width of not less than 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* 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. The provision of adequate sewer and water shall be demonstrated before this subdivision is recorded.

5. The subdivision shall be redesigned to locate the proposed pipestem lot between Lots 1 and 3.

6. 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 VDOT. This ingress and egress shall comply with that which is recorded in Deed Book 1876, at Page 37 among the Fairfax County land records.

7. A geotechnical study shall be provided if determined to be necessary by the Director of the Department of Environmental Management.

Mrs. Thonen seconded the motion which carried by a vote of 4-2 with Mrs. Day and Mr. Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 17, 1987. This date shall be deemed to be the final approval date of this variance.

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As there was time before the next scheduled application, the Board took action on the After Agenda Items.

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Page 244, June 9, 1987, (Tape 2), Scheduled case of:

10:30 A.M. KENNETH ANDERSON APPEAL, A 87-S-002, to appeal the Zoning Administrator's determination that appellant's home professional office has lost its nonconforming status and Special Permit approval is required to continue the use, located at 12805 Melvue Court, on approximately 14,408 square feet, zoned R-3, Providence District, Tax Map 45-2((3))(30)24.

Chairman Smith noted that there was a request from the applicant to defer the above referenced application. Staff recommended a new public hearing date of July 7, 1987 at 11:30 A.M. There being no objection, it was so ordered.

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Page 244, June 9, 1987, (Tape 2), Scheduled case of:

11:00 A.M. OSWALD AND MARLENE BACHER APPEAL, A 86-V-012, to appeal the Zoning Administrator's determination that a quick-service food store and fast food restaurant which have been established within the existing service station are in violation of the Zoning Ordinance, located 8570 Backlick Road, on approx. 30,325 square feet, zoned I-6, Mount Vernon District, Tax Map 99-4((1))7. CONCURRENT WITH RZ. DEF. FROM 3/10/87)

Chairman Smith noted that there was a request from the applicant to defer the above referenced application. Staff recommended a new public hearing date of October 27, 1987 at 9:00 A.M. There being no objection, it was so ordered.

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Page 245, June 9, 1987, (Tape 2), Scheduled case of:

11:30 A.M. KOREAN UNITED METHODIST CHURCH, SPA 82-D-090-2, application under Sect. 3-203 of the Zoning Ordinance to amend S-82-D-090 for a church and related facilities to permit addition to building located at 1219 Swinks Mill Road on approx. 4.7735 acres, zoned R-2, Dranesville District, Tax Map 29-2((1))15

Chairman Smith noted that there was a request from the applicant to defer the above referenced application. Staff recommended a new public hearing date of September 10, 1987 at 11:30 A.M. There being no objection, it was so ordered.

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Page 245, June 9, 1987, (Tape 2), Scheduled case of:

11:45 A.M. FAIRFAX BAPTIST TEMPLE, SP 87-S-022, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities, located at 10207 Burke Lake Road, on approx. 32.9 acres, zoned R-1, Springfield District, Tax Map 77-4((1))pt. 16 and 87-2((1))pt. 3.

Chairman Smith noted that there was a request from the applicant to defer the above referenced application. Staff recommended a new public hearing date of July 21, 1987 at 11:15 A.M. There being no objection, it was so ordered.

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Page 245, June 9, 1987, (Tape 2) After Agenda Item:

On June 2, 1987, the Board of Zoning Appeals held a public hearing on SPA 80-C-092-2, St. John Neumann Church and approved the application subject to the revised development conditions as discussed by the Board, Mr. William Donnelly, the applicant's attorney, and Mr. Norman Hammer, attorney for the citizens in opposition to the application, which were to be submitted today.

Claudia Hamblin-Katnik, reviewed the conditions with the Board and explained that Condition 14 was redundant and unnecessary as Condition 13 addressed the same issue.

Mr. Hammack stated that he agreed with the conditions as submitted and added that that was exactly what he intended in making the motion.

Bill Donnelly, attorney with Hazel, Thomas, Fisk, Beckhorn and Hanes, 4084 University Drive, Fairfax, Virginia, representing the applicant, appeared before the Board and agreed with Mr. Hammack in that he preferred the conditions as submitted.

Norman Hammer, McPherson and Hammer, 447 Carlisle Drive, Herndon, Virginia, representing the adjacent property owners, advised the Board that the citizens were opposed to the detention facilities because that would cause the need for an increased cleared area. He stated that the citizens supported staff's position for the very minimum amount of clearing.

Mr. Hammer noted that staff and the applicant had agreed to the following proposed Condition 19:

> In addition to otherwise required screening a double row of evergreen trees six (6) feet tall at planting shall be planted on 30 foot centers all along the eastern side of the property in the area of the clearing line for new construction as close to the parking area as reasonably possible from the ten (10) foot clearing area.

Mr. Hammack then moved that the Board of Zoning Appeals adopt the 18 development conditions as prepared by staff at the direction of the Board at last week's hearing, specifically including the language in number 14 and with the addition of a new development condition number 19.

Mr. DiGiulian seconded the motion which passed by a vote of 6-0 with Mr. Hyland not present for the vote.

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

2. This approval is granted for the buildings and uses indicated on the 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 approved plat shall delineate the boundaries of the Environmental Quality Corridor (EQC), as such is defined in the language of the Comprehensive Plan and as approximated on the attached plat. The location of these lines shall be at the top of the slope breaks, the intent being to include the steepest slopes within the EQC area. It should also include those areas with floodplain soils. The exact location of these lines shall be determined at site plan review by the Director of the Department of Environmental Management (DEM) when accurate topographic and engineering data are available. The attached plat and the above description shall be used as a guide in determining the location of the EQC boundaries. All further plats submitted shall delineate the EQC clearly as defined by the Director of DEM. In addition, a restrictive covenant shall be recorded with the deed of this property which shall state:

   "There shall be no clearing of any vegetation except for dead or dying trees or shrubs, no grading and no structures of any kind, except a fence within this Environmental Quality Corridor area."

   A grading plan shall be reviewed and approved by the Director, DEM prior to construction for conformance with this condition.

6. Evidence of adequate sight distance at the western exit shall be provided prior to site plan approval or the western exit shall be closed.

7. If the western exit is closed the eastern exit shall be moved to align with a future median break.

8. Transitional Screening 2 shall be provided adjacent to Lawyers Road. Thirty five (35) feet of wooded area supplemented to achieve the requirements of Transitional Screening 2 shall be provided along all other lot lines. This screening shall be subject to review by the property owners abutting the eastern and western property lines, which review shall not be unreasonably delayed.

9. The barrier requirement shall be waived.

10. Light standards no higher than twelve (12) feet may be provided for the parking lots.

11. The maximum seating capacity shall be 1,000.

12. There shall be a maximum of 320 parking spaces provided. Interior parking lot landscaping requirements shall be provided as specified in Sect. 13-106 of the Zoning Ordinance. All parking shall be on site.

13. The limits of clearing and grading shall be generally within ten (10) feet of the clearing and grading line shown along the western property line and within fifteen (15) feet of the clearing and grading lines shown along all other property lines except for MINOR engineering changes as may be required by the Department of Environmental Management due to unforeseen engineering problems. The intent of this development condition is specifically to preserve the wooded areas to the greatest extent possible. If the clearing and grading lines must be moved to satisfy more than minor engineering problems then an amendment to this application shall be submitted for Board of Zoning Appeals for approval.

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14. Stormwater management techniques shall be provided as determined by the Director, DEM. To the extent reasonably feasible, the stormwater management facilities shall be designed to minimize tree clearing. In the event a detention pond is proposed the site plan shall be brought back to the BZA for review and approval of the stormwater management facilities proposed.

15. A trail shall be provided in the floodplain at the rear of the property which should connect with existing segments of the Trail system in Reston as outlined within the Countywide Trails Plan. The type, width and exact location shall be determined at the time of site plan review.

16. Signs shall be as permitted in Sect. 12-208, "Signs for Special Permit, Special Exception Uses".

17. The bus or busses shall be parked so as not to be seen from Lawyers Road or the adjoining properties.

18. An application for a parochial school shall not be made to the Board of Zoning Appeals or the Board of Supervisors for a period of ten (10) years.

19. In addition to otherwise required screening a double row of evergreen trees six (6) feet tall at planting shall be planted on 30 foot centers all along the eastern side of the property in the area of the clearing line for new construction as close to the parking area as reasonably possible from the ten (10) foot clearing 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.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 17, 1987. This date shall be deemed to be the final approval date of this special permit.

NOTE: See Minutes for June 16, 1987 for revised Resolution and Conditions.

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At 11:05 A.M. the Board went into Executive Session to discuss Policies.

At 11:30 A.M., the Board reconvened the meeting and Mr. DiGiulian moved that the Board go into Executive Session to discuss with the Assistant County Attorney the Keith Barnett, Et Al versus the Board of Zoning Appeals.

Mr. Hammack seconded the motion which passed by a vote of 5-0 with Mrs. Thonen and Mr. Hyland not present for the vote.

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Page 247, June 9, 1987, (Tape 2), Scheduled case of:

12:00 P.M. ST. TIMOTHY'S CATHOLIC CHURCH, SPA 81-S-049-2, to amend SP 81-S-049 for a church and related facilities to permit building additions and reduction of previously approved parking spaces, located at 13807 Poplar Tree Road, on approx. 18.1678 acres, zoned R-1, WS, Springfield District, Tax Map 44-4((1))8.

Jane Kelsey, Branch Chief, BZASB, introduced Elaine O'Flaherty, Staff Coordinator of the RZ/SE Branch of the Zoning Evaluation Division. Ms. Kelsey advised the Board that whenever an application was concurrent with another such as an special exception and special permit, improve the efficiency of the overall division and gives the staff coordinators a larger realm of expertise, one staff coordinator would handle both requests.

Elaine O'Flaherty, Staff Coordinator, presented the staff report. Due to the malfunction of the viewgraph, the Board proceeded with the applicant's presentation.

Marc E. Bettius, Miles & Stockbridge, Random Hills Road, Fairfax, Virginia, attorney representing the applicant, appeared before the Board and advised the Board that the proposal was to convert the existing Rectory into an Administration building and to provide a new rectory directly across from administration building, and to construct a bus maintenance facility. The requirements for screening will encourage onsite parking. He also requested the temporary classroom trailers be allowed to remain for several more years.

In response to a question from Mr. Ribble, Mr. Bettius stated that an additional five years would be adequate for the classroom trailers to remain onsite.

With regard to condition 14, Mr. Bettius requested that the materials used for the maintenance and equipment storage shed be of steel material with a brick facade instead of materials comparable to the existing buildings on site. Ms. O'Flaherty stated that staff would agree to the request.

Mr. Hammack expressed concern about the request to reduce the number of parking spaces when church members were parking on residential streets. Ms. O'Flaherty pointed out that there was not a lack of parking spaces but a habit of some church members to park on the street.

Mr. Bettius noted that the members would be educated concerning the parking requirement. Chairman Smith reiterated that the condition regarding onsite parking must be met.

Chairman Smith called for speakers and Carl Bowlen, 13822 Poplar Tree Road, Fairfax, Virginia, appeared before the Board and expressed concern about the parking situation. He submitted pictures of the parking problem taken on May 17, 1987.

Father O'Brien, Pastor, St. Timothy's Church, 13807 Poplar Tree Road, Fairfax, Virginia, appeared before the Board and reiterated that the reduction in parking spaces still leaves them with a number of spaces greater than that which is required. He also advised the Board that a church would be established in the next year which would relieve some of the congestion at the church. Father O'Brien stated that the church had a seating capacity of 800; however, the County requirement was 750. He clarified that no additional seating had been added but some people had to stand.

Ms. O'Flaherty suggested two additional conditions: The temporary classroom may remain for a period of five (5) years and that the bus maintenance be limited to routine and minor repairs such as oil and tire changing.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Mr. Ribble moved to grant the request subject to the development conditions contained in the staff report with an additional condition 15 and 16 and a change to condition 14.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 81-S-049-2 by ST. TIMOTHY'S CATHOLIC CHURCH, under Section 3-103 of the Zoning Ordinance to amend SP 81-S-049 for a church and related facilities to permit building additions and reduction of previously approved parking spaces, on property located at 13807 Poplar Tree Road, Tax Map Reference 44-4((1))8, 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 9, 1987; 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 (WS).
3. The area of the lot is 18.1678 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 9-006 of the Zoning Ordinance.

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

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

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

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. Transitional screening 1 shall be provided along the rear and side lot lines and there shall be no clearing or grading performed within the 25 foot transitional screening area, except that clearing shall be permitted to accommodate necessary utility work as approved by the County Arborist. The transitional screening shall consist primarily of the existing vegetation and shall be supplemented with additional plantings, as determined by the County Arborist at the time of site plan review, to ensure that the intent of the Transitional Screening Requirement is satisfied. The barrier requirement shall be waived.

6. A row of evergreens that adequately screen the parking lot from view shall be planted along the Poplar Tree Road frontage, west of the entrance drive. Plantings shall consist of one large evergreen tree with an ultimate height of 40 feet or greater for every 10 linear feet, plus one medium evergreen tree with an ultimate height of 20 to 40 feet planted every 5 linear feet. The type and layout of this planting shall be approved by the County Arborist.

7. The proposed support center shall be fenced with a wood fence that is both acoustically and visually solid. This fence shall be a minimum of eight (8) feet in height and shall be of board on board construction that is flush with the ground without gaps. Evergreen trees shall be planted on the north and west sides of the support center to create a dense visual screen as approved by the County Arborist.

8. The seating capacity in the main worship area shall not exceed seven-hundred and fifty (750).

9. A minimum of two-hundred and seventy five (275) parking spaces shall be provided.

10. All parking shall be provided on-site.

11. All development shall be subject to the provisions of the Water Supply Protection Overlay District.

12. A permit shall be obtained prior to the installation, removal, repair or abandonment of any tanks containing flammable-combustible-hazardous material in compliance with Article 29 of the BOCA Fire Code. Information shall be provided to the Fire Prevention Division of the Fire and Rescue Department, Suite 400, 4031 University Drive, Fairfax, Virginia 22030, as to the condition of any removed storage tanks and a leak detection survey of the surrounding soil shall be conducted as required by Article 29 of the BOCA Fire Code.

13. The petroleum products stored at this location shall be transported in vehicles which meet all applicable local, state, and federal regulations. In the event any toxic and/or hazardous substances are used on the property, all pertinent state, local, and federal regulations shall be satisfied prior to their use, storage, treatment and/or disposal to include compliance with all provisions of Chapter 62 of the Fairfax County Code.

14. The construction materials to be used for the proposed maintenance and equipment storage shed may be a metal building with partial brick facade.

15. The temporary classroom may remain for a period of five (5) years.

16. The bus maintenance on site shall be limited to routine repairs such as tire changing and oil changing.

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 himself 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 Section 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date* the Special Permit unless the activity authorized has been established, or unless construction has commenced and is diligently pursued, or unless additional time is approved by the Board of Zoning Appeals because of the occurrence of conditions unforeseen at the time of 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 which carried by a vote of 6-0 with Mr. Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 17, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 250, June 9, 1987, (Tape 2), Scheduled case of:

12:20 P.M. HARRY W. WRIGHT, VC 86-L-127, application under Sect. 18-401 of the Zoning Ordinance to allow 6 foot high and 7 foot high fence to remain in front yards of a corner lot, located 6416 Richmond Highway, on approx. 20,754 square feet, zoned C-8 (H-C), Lee District, Tax Map 93-1((2))(2)1. (DEF. FROM 5/12/87 - NOTICES NOT IN ORDER)

Lori Greenlief, Staff Coordinator, advised the Board that the applicant was no longer in violation because he had cut the fence back to four feet.

Harry Wright, 3711 Maryland Street, the applicant, appeared before the Board and explained that he had replaced an existing fence which was in bad condition. He added that the the reason for the fence was for security. Mr. Wright further explained he wa requesting a deferral to allow time to determine if the four foot fence would be adequate and if not, he would ask the Board for a seven foot high fence.

Mr. Hammack moved to defer the above referenced application to September 22, 1987 at 9:00 A.M.

There being no objection, the Board so ordered.

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Page 250, June 9, 1987, (Tape 3), Scheduled case of:

12:40 P.M. WILLIAM J. AND SOPHIA B. CASEY, SP 87-D-017, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow addition to dwelling to remain 11.1 feet from side lot line (20 ft. min. side yard req. by Sect. 3-107), located at 7540 Old Dominion Drive, on approx. 1.2562 acres, zoned R-1, Dranesville District, Tax Map 21-3((1))31B.
(DEFERRED FROM 5/12/87 AT APPLICANT'S REQUEST)

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that the applicant had secured Contractor's Group, Inc. to construct the proposed addition. Mr. James Minard, Building Permit Service submitted the contractor's plans to the Department of Environmental Management (DEM) and obtained a building permit for the subject addition on the north side of the house.

On September 22, 1986, Mr. Minard amended the building permit to increase the size of the addition.

On October 27, 1986 the Zoning Administration Division (ZAD) received a complaint that a building addition was being constructed contrary to plans approved by the ZAD and that the addition was in violation of the Zoning Ordinance.

On September 10, 1986 a building permit and plat were approved for the subject addition. However, the approved plat shows the addition on the opposite side of the dwelling.

Site inspections were conducted by ZAD on October 29, 1986 and November 13, 1986 confirmed that the addition currently under construction is in violation of the Zoning Ordinance.

On October 30, 1986 a verbal notice of violation was issued to Mrs. Sophia Casey. She was advised by the Zoning Inspector that if she allowed the construction to continue she would do so at her own risk.

Ms. Belofsky further notes that the application did not meet several standards for special permitto permit a reduction in the minimum yard requirement based on error. She stated that it does not appear that the non-compliance was done in good faith. The applicant obtained a building permit showing the proposed addition to the rear of the dwelling and the addition was erected contrary to the approved building permit. The construction was completed after the verbal notice of violation was given by the Zoning Inspector.

This situation was brought to the attention of the authorities via a neighbor's complaint. The complaintant has provided a copy of the registered letter dated November 3, 1986 notifying the Caseys of his opposition to the construction of the addition in violation of the Zoning Ordinance. The applicant has not demonstrated that this addition will not adversely impact the enjoyment of the adjacent parcel. This addition may hinder and discourage appropriate development and impair the property value of the adjacent parcel.

To force compliance with the minimum yard requirement would not cause unreasonable hardship upon the owners. The applicant's statement says "only a small part of the addition encroaches into the side yard." The applicants have created their own hardship by allowing the construction to continue after they received the notice of violation.

Ms. Belofsky stated that even though the building permit was obtained by the agent for the property owner, the property owner is responsible for the error. In conclusion, staff recommends denial of the request.

William Hansbarger, 10523 Main Street, Fairfax, Virginia, attorney representing the applicant, appeared before the Board and submitted photographs of the addition to the existing dwelling. He stated that Mrs. Casey was unaware of the building permit process. She hired a contractor who mistakenly indicated that the building addition was to be to the rear when in fact it was to be to the side of the house where Mrs. Casey had directed. None of the contractors were aware of the location of the property line nor did they realize that a violation was occurring.

He stated that the County was not diligent in searching its records because a letter from the Zoning Enforcement Branch was sent instructing the applicant to acquire building permits for the previous additions when in fact the permits had been obtained and was part of the County records. The error does exceed for a portion of 10% as it approaches the middle of the building the error diminishes to zero. Although there was negligence involved, the noncompliance was done in good faith. The reduction will not impair the purpose and intent of the Ordinance because of the purpose and intent of the R-1 zone is to have one single family dwelling unit per acre, not to exceed that density. He further stated that it will not be detrimental to the use and enjoyment of other property in the immediate vicinty nor does it create a safety hazard or increased traffic.

Chairman Smith called for speakers and Sophia Casey, 7540 Old Dominion Drive, McLean, Virginia, appeared before the Board and explained that a cement patio was in the location of the addition previously and it seemed to be a logical place for the addition.

Dr. Rodriguez, 7600 Old Dominion Drive, McLean, Virginia, appeared before the Board in support of the application. He expressed the opinion that it would be a travesty to deface the building.

Joseph Sadlick, 7536 Old Dominion Drive, McLean, Virginia, appeared before the Board in opposition to the application, and advised the Board that he had sent a registered letter to the Caseys expressing his concerns. He added that he talked with the the construction crews almost daily and Mrs. Casey expressing his opposition. Mr. Sadlock

stated that Mr. Minard, the Contractor, had falsified the placement of the proposed addition on the plat and that he further ignored the proviso written on the amendment to the building permit "no closer to the property line". He further added that the addition would effect the use and enjoyment of his property as he had future plans to subdivide his property so that his son could build a house on the property. Mr. Sadlock pointed out that there was significant room for the Casey's addition on the other side of the property. In conclusion, Mr. Sadlock stated that he supported the staff report.

The next speaker to appear before the Board in opposition to the proposal was William Cheric, 7520 Old Dominion Drive, McLean, Virginia, who supported the previous speaker and also expressed the opinion that the applicant's hardship was self-inflicted.

Paul Sadlick, 7536 Old Dominion Drive, McLean, Virginia, appeared before the Board in opposition to the proposal and stated that the proposal did cause a hardship for him as it would effect his plans to build on his father's property.

Donald Chandler, 6731 Whittier Avenue, McLean, Virginia, an architect, appeared before the Board and explained that the Casey's addition would be detrimental to the Sadlock property as it would effect the placement of the future home.

In rebuttal, Mr. Hansbarger explained that the addition was complete by the time the official notice was given to the applicant. He noted that he had spoke with Mary Burton, Zoning Inspector, who told him that she told the Casey's to proceed at their own risk, she recognized that the structure was connected to the rest of the house where the rest of the house is open to it and winter was coming and it must be sealed. He added that Mary Burton told the Casey's to go ahead and finish the structure but to do so at their own risk. Mr. Hansbarger added that the letter of violation was issued in December of 1986 at which time the structure was complete. With regard to the Sadlock's proposal to subdivide, Mr. Hansbarger showed a plan for subdividing the property that would not be affected by the Casey's addition.

Jane Kelsey, Branch Chief, BZASB, submitted for the record a copy of Mary Burton's notes regarding the Casey addition. She stated Mr. Hansbarger also has a copy and she and Mr. Hansbarger disagreed as to what Mary Burton, Zoning Inspector said. Since she was not present and is no longer a County employee, any testimony about what she said is hearsay, thus Ms. Burton's notes would speak for themselves

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian stated that he believed the applicant acted in good faith and the application meets the requirements under the Ordinance for the special permit. He added that the granting of the 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 properties in the immediate vicinity. The granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and to force compliance of setback requirements would cause unreasonable hardship upon the owner. Mr. DiGiulian then moved to grant the request with the following condition:

> The applicant shall provide a double row of evergreens of a type and size and spacing as directed by the Fairfax County Arborist along the easterly property line, extending from the northeast corner of the lot towards Old Dominion Drive for a distance of 100 feet.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-017 by WILLIAM J. AND SOPHIA B. CASEY, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow addition to dwelling to remain 11.1 feet from side lot line, on property located at 7540 Old Dominion Drive, Tax Map Reference 21-3((1))31B, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 9, 1987; and

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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 1.2562 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-903 and 8-914 of the Zoning Ordinance.

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. The applicant shall provide a double row of evergreens of a type and size and spacing as directed by the Fairfax County Arborist along the easterly property line, extending from the northeast corner of the lot towards Old Dominion Drive for a distance of 100 feet.

Mrs. Thonen seconded the motion which carried by a vote of 5-1 with Mr. Ribble voting nay; Mr. Hyland not present for the vote.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 17, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 253, June 9, 1987, (Tape 1), Scheduled case of:

1:00 P.M. HERITAGE FOREST ASSOCIATES, SP 87-S-016, application under Sect. 3-803 of the Zoning Ordinance to allow community center and recreation facilities, located in the Heritage Estates Subdivision, on approx. 3.82 acres, zoned R-8, WS, Springfield District, Tax Map 65-2((1))pt. 23. (DEF. FROM 5/5/87 AND 5/19/87)

Lori Greenlief, Staff Coordinator, advised the Board that the applicant was still trying to resolve issues related to the application and was requesting a deferral. Staff was suggesting a new public hearing date of July 7, 1987 at 12:00 P.M.

Bruce McKechnie, 10521 Judicial Drive, Fairfax, Virginia, representative for the applicant, stated that he agreed with the deferral.

There being no objection, the Board so ordered.

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Page 253, June 9, 1987, (Tape 3), After Agenda Item 1:

Request for Additional Time
Dr. Buckis
SP 86-C-021

Mrs. Day moved to deny the request and Chairman Smith seconded the motion which failed by a vote of 2-4 with Messrs. DiGiulian, Ribble, Hammack and Mrs. Thonen voting nay; Mr. Hyland not present for the vote.

Mr. DiGiulian then moved to grant the request for an additional six months and that no further requests would be granted.

Mr. Hammack seconded the motion which passed by a vote of 4-2 with Mrs. Day and Mr. Smith voting nay; Mr. Hyland not present for the vote.

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Page 254, June 9, 1987, (Tape 3), After Agenda Item 2:

Out-Turn-Hearing Request
Beulah Street Veterinary Services, P.C.
SP 87-L-043

After a brief discussion, the Board determined that the application was scheduled in July before the August recess, therefore the request was moot and denied.

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Page 254, June 9, 1987, (Tape 3) After Agenda Item 3:

Approval of Resolutions
June 2, 1987

Mr. DiGiulian requested staff to check the vote on Ralph B. Monroe, Jr., VC 87-P-025 application.

Mrs. Day moved approval of all other Resolutions for June 2, 1987.

The motion passed unanimously with Mr. Hyland not present for the vote.

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Page 254, June 9, 1987, (Tape 4), After Agenda Item 4:

Request for Out-Of-Turn Hearing
Joseph H. Powers
VC 87-L-084

Mrs. Thonen moved to deny the request for an out-of-turn hearing for VC 87-L-084.

Mr. Ribble seconded the motion which passed unanimously with Mr. DiGiulian and Mr. Hyland not present for the vote.

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Page 254, June 9, 1987, (Tape 4), After Agenda Item 5:

Approval of Minutes
April 28, 1987

Mrs. Day moved to approve the Minutes of April 28, 1987 as submitted.

Mrs. Thonen seconded the motion which passed unanimously with Mr. DiGiulian and Mr. Hyland not present for the vote.

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As there was no other business to come before the Board, the meeting was adjourned at 2:40 P.M.

Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 7/28/87

APPROVED: 8/4/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 16, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; Gerald Hyland; and, John Ribble.

Chairman Smith opened the meeting at 8:32 P.M. and Mrs. Day led the prayer.

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Page 255, June 16, 1987, (Tape 1), Scheduled case of:

8:00 P.M. ALBERTA L. BOOTHE, VC 87-D-033, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lots 1 and 2 each having a lot width of 12.55 feet (200 ft. min. lot width req. by Sect. 3-E06), located at 8548 Seneca Road, on approximately 6.4184 acres, zoned R-E, Dranesville District, Tax Map Reference 6-4((1))9.

Kevin Guinaw, Staff Coordinator, presented the staff report and pointed out that a brief history of this site was outlined in the staff report. He added that the applicant had filed a similar application in December 1986 which was denied. Mr. Guinaw summarized staff's position by stating that it is staff's judgment that this application does not meet the standards for a variance and to grant this application would set an undesirable precedent in the area.

Royce Spence, 605 Park Avenue, Falls Church, Virginia, attorney for the applicant came forward and explained that this site had consisted of 6.4 acres and had been subdivided prior to the death of the applicant's husband. He pointed out that the lot had a very irregular shape and the rear of the lot lies within an Environmental Quality Corridor (EQC). Mr. Spence stated that the applicant was willing to comply with the requirements of the Virginia Department of Transportation (VDOT) in order to address staff's concerns regarding the inadequate sight distance on Seneca Road. A signed petition in support of this application was introduced into the record by Mr. Spence.

Chairman Smith called for speakers in support and Walter Harrison, 800 Kentland Drive, Great Falls, Virginia, came forwarded and supported the request as he believes staff's concern regarding the traffic on Seneca Road is unjustified. He added that he did not believe it is fair to place a burden on this applicant by denying her request when a much larger subdivision is already being constructed in the area.

Chairman Smith called for speakers in opposition. Martha Harris, 10605 Springvale Court, McLean, Virginia, President of the Great Falls Civic Association; Vera Haywood, 869 Seneca Road, Great Falls, Virginia; Marge Gersic, 11120 Corobon Lane, Great Falls, Virginia, President of the Great Falls Citizens Association; Bayla Corbin Brynstein, 10423 Artemel Lane, Great Falls, Virginia, represented Mr. Nytrai, owner of Lot 8; Edith McKinnon, 864 Seneca Road, Great Falls, Virginia; Bert Nye, 421 Ole Dirt Road, Great Falls, Virginia; Sarah Ramulglia, 850 Seneca Road, Great Falls, Virginia; Gary Parker, 11337 Fairfax Drive, Great Falls, Virginia; Seymour Dravitz, 11327 Fairfax Drive, Great Falls, Virginia; and, David Bridge, 11324 Fairfax Drive, Great Falls, Virginia, spoke in opposition to the request.

The citizens' indicated in their testimony that their opposition was based upon the fact that Seneca Road is a heavily traveled road with inadequate sight distance at this particular location. They stated they had purchased their homes based upon the area having a rural setting and believe this will set a undesirable precedent.

Following the opposition, Evelyn Harrison, 800 Kentlig Drive, Great Falls, Virginia, asked permission from the Board to be allowed to speak in support of the applicant. She came forward and stated that she believed that the applicant should be allowed to subdivide her property as this would not be precedent setting.

During rebuttal, Mr. Spence reiterated his earlier remarks and asked the Board to approve this request.

As there were no additional speakers or comments, Chairman Smith closed the public hearing.

Mr. Hammack stated that he had voted against a similar application by the same applicant in December 1986. Since he could find nothing to substantiate granting this request, Mr. Hammack made a motion to deny for the following reasons: opposition was stronger this time than before, stated that he believed staff was right concerning the subdivision to the north since it was developed by right and not with a Variance, that there are several undeveloped lots in this area and thus a great potential for pipestems on almost any of them, and there is nothing unique about this lot that many of the other lots do not have.

Mr. DiGiulian noted that he could not support the motion to deny as he believed the applicant did meet the standards. The area is changing constantly and just to the north there is a subdivision averaging a little over two acres in each lot.

Chairman Smith stated that he had agreed with the motion to deny and for the reasons stated by Mr. Hammack.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-033 by ALBERTA L. BOOTHE, under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lots 1 and 2 each having a lot width of 12.55 feet (200 ft. min. lot width req. by Sect. 3-E06), on property located at 8548 Seneca Road, Tax Map Reference 6-4((1))9, 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 16, 1987; 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 6.4184 acres 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. Day seconded the motion which carried by a vote of 5-2 with Mrs. Thonen and Mr. DiGiulian voting nay.

Page 257, June 16, 1987, (Tape 1), (VC 87-D-033, Alberta L. Boothe, continued from Page 256)

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 24, 1987.

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Page 257, June 16, 1987, (Tape 1), Scheduled case of:

8:15 P.M. SOPHIE PAULE HOWARTH, VC 87-D-034, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 17B having a width of 87.32 ft. (200 ft. min. lot width req. by Sect. 3-E06) located at 11328 Fairfax Drive on approximately 6.7758 acres, zoned R-E, Dranesville District, Tax Map 6-4((2))17

Chairman Smith brought the Board's attention to a letter from the applicant requesting a withdrawal of VC 87-D-034. Mrs. Day made a motion to allow the applicant to withdraw her request. Mr. Ribble seconded the motion which carried by a vote of 7-0.

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Page 257, June 16, 1987, (Tape 1), Scheduled case of:

8:30 P.M. THE LUTHERAN CHURCH OF THE ABIDING PRESENCE, SPA 84-S-003-2, application under Sect. 3-103 of the Zoning Ordinance to amend SP 84-S-003 for a church and related facilities to permit additional parking and possible future addition to building located at 6304 Lee Chapel Road on approximately 3.133 acres, zoned R-1, Springfield District, Tax Map Reference 78-3((1))22.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. She stated that the applicant has withdrawn the requested addition and is now requesting only the 94 additional parking spaces. The applicant is proposing to provide only 10 feet of transitional screening and 25 feet is required between a residential area and special permit use. In closing, Mrs. Hamblin-Katnik stated staff could support this application if the full 25 foot transitional screening requirement was met.

Following a discussion among the Board and staff, Mrs. Hamblin-Katnik pointed out that the property to the rear was owned by the Milton Company and that the applicant could reduce the number of requested parking spaces in order to meet the transitional screening requirement. The number of spaces proposed is considerably more than that which is required.

Thomas Bailey, 8702 Bridal Wood Drive, Springfield, Virginia, pastor of the church, represented the applicant and explained that the church was requesting to construct a 6 foot barrier between the church's parking lot and the proposed recreational facility in order to meet the screening requirement.

A discussion took place among the Board, Mr. Bailey, and staff regarding the transitional screening between the parking lot and the proposed recreational facility. He agreed with the development conditions set forth in the staff report and added as many existing trees as possible would be retained. Jane Kelsey, Branch Chief of the Board of Zoning Appeals Support Branch, informed the Board that a development condition should be added stating that the applicant will work with the County Arborist to determine the type of tree to be used in the yard for screening. The applicant agreed with this condition.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mr. DiGiulian made a motion to grant SPA 84-S-003-2 as he believed the applicant had presented testimony showing compliance with the standards for a special permit. He conditioned his approval subject to the development conditions set forth in the staff report with the following revisions: development condition #6 add a third bullet, #8 maximum parking spaces shall be 157, and a new #16.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 84-S-003-2 by THE LUTHERAN CHURCH OF THE ABIDING PRESENCE, under Section 3-103 of the Zoning Ordinance to amend SP 84-S-003 for a church and related facilities to permit additional parking, on property located at 6304 Lee Chapel Road, Tax Map Reference 78-3((1))22, 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 16, 1987; 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 3.133 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 not exceed 248 seats.

6. Transitional Screening 1 shall be provided along all lot lines except for the following modifications:

   - along the lot line adjacent to the proposed public street in the area between the new driveway and Lee Chapel road. Transitional Screening 1 shall be modified to provide landscape plantings.

   - along the lot line adjacent to Lee Chapel road where no plantings are shown on the approved site plan. Landscape plantings shall be provided to soften the visual impact of the building and the detention pond from the surrounding residential neighborhoods.

   - The setback of the parking lot from the western lot line shall be 10 feet, with the 10 foot area planted in a manner to satisfy the intent of Transitional Screening 1 to the satisfaction of the Fairfax County Arborist.

   A Landscape Plan showing the amount, type and location of these plantings shall be approved by the County Arborist.

7. The Barrier requirements shall be waived along all lot lines.

8. A maximum of one hundred fifty-seven (157) parking spaces shall be provided. All parking shall be on site.

9. Interior parking lot landscaping shall be provided in accordance with Article 13.

10. The driveway entrance shall be from the proposed public street as shown on the approved plat.

11. The building shall be located no closer than ninety-five (95) feet from the front lot line along Lee Chapel Road that is established after dedication.

12. A sign 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. Best Management Practices (BMPs) shall be applied during construction.

15. This plat shall be in agreement with the proposed plans for widening Lee Chapel Road. If deemed necessary by the Director, Department of Environmental Management, there shall be additional dedication on Lee Chapel Road for a right turn lane, and provide temporary grading/construction easements.

16. The parking lot can be reconfigured provided that it comes no closer to any lot line than shown on the plat. The reconfiguration to accommodate the saving of as many existing trees as possible.

The above 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 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 which carried by a vote of 6-1 with Mrs. Thonen voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 24, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 259, June 16, 1987, (Tape 1), After Agenda Item:

REQUEST FOR ADDITIONAL TIME
PROVIDENCE BAPTIST CHURCH - SP 85-D-018

Mrs. Thonen made a motion to grant the Providence Baptist Church's request for an additional eighteen months in which to begin construction which would make the new expiration date January 21, 1989.

Mr. Hyland seconded the motion which carried by a vote of 7-0.

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Page 259, June 16, 1987, (Tape 1), After Agenda Item:

APPROVAL OF RESOLUTIONS

Mr. Hammack made a motion to approve the Resolutions from the cases heard by the Board at its June 9, 1987 meeting. At the June 9, 1987 meeting the Board had requested the Clerk to review the vote on the Resolution of Ralph B. Monroe, Jr., VC 87-P-025 heard by the Board on June 2, 1987. The revised Resolution was adopted also included in this motion.

Mr. DiGiulian seconded the motion which carried by a vote of 6-0-1 with Mr. Hyland abstaining as he was not present at the public hearing.

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Page 260, June 16, 1987, (Tape 1), After Agenda Item:

APPROVAL OF MINUTES

Mrs. Thonen made a motion to accept the Minutes of the May 5, 1987 meeting of the Board of Zoning Appeals as submitted.

Mrs. Day seconded the motion which carried by a vote of 7-0.

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Page 260, June 16, 1987, (Tapes 1 and 2), After Agenda Item:

At its June 2, 1987 public hearing, the Board of Zoning Appeals heard the application of Saint John Neumann Church, SPA 80-C-096-2, which was granted. The Board allowed the applicant's attorney and the attorney representing the citizens one week to resolve outstanding issues. The development conditions were brought before the Board on June 9, 1987 and were approved. On June 16, 1987 staff requested a clarification from the Board of development condition #19. Mr. Hammack stated that he had interpreted the 10 foot clearing area referenced the clearing line for new construction as opposed to the parking area which limited the grading limits in the interior of the site. There were no objections.

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Page 260, June 16, 1987, (Tape 2), After Agenda Item:

SOUTHLAND CORPORATION APPEAL

The Board accepted the Appeal application of Southland Corporation but in accordance with the applicant's request did not set a date and time for public hearing. Mr. DiGiulian made a motion to accept the Appeal as being complete and timely filed. Mrs. Thonen seconded the motion which carried by a vot of 7-0.

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Page 260, June 16, 1987, (Tape 2), After Agenda Item:

FIRST VIRGINIA BANKS, INC. APPEAL
6400 Arlington Boulevard

Mr. DiGiulian made a motion to accept the Appeal application of First Virginia Banks, Inc. as the Board found it to be complete and timely filed and scheduled the public hearing at 9:00 A.M. on September 1, 1987 as suggested by staff. Mrs. Thonen seconded the motion which carried by a vote of 7-0.

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As there was no other business to come before the Board, the meeting was adjourned at 10:08 P.M.

Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 7/28/87 APPROVED: 8/4/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 23, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian; Vice-Chairman; Ann Day; Paul Hammack; John Ribble; and Mary Thonen. Gerald Hyland was absent from the meeting

Chairman Smith opened the meeting at 9:46 A.M. and Mrs. Day led the prayer.

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As there were speakers present to address one of the After Agenda Items, the Board took action on the After Agenda items before the regularly scheduled applications.

Page 261, June 23, 1987, (Tape 1), After Agenda Item 1

Out-Of-Turn Hearing Request
New Life Chapel Mother's Day Out
SP 87-S-047

Mrs. Day noted that the schedule for the summer was full and therefore moved to deny the request and abide by the staff scheduled hearing date of September 1, 1987.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Messrs. Hammack and Hyland absent from the meeting.

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Page 261, June 23, 1987, (Tape 1), After Agenda Item 2:

Out-Of-Turn Hearing Request
Children's School of Great Falls
SP 87-D-046

Ms. Kelsey, Branch Chief, BZASB, advised the Board that there were two citizens present to speak in opposition to the request. One of the persons was a representative of the church who objected to an early hearing.

Mrs. Day moved to deny the request based on the full summer schedule.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Messrs. Hammack and Hyland absent from the meeting.

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Page 261, June 23, 1987, (Tape 1), After Agenda Item 3

Out-Turn-Hearing Request
National Association of Secondary School Principles
VC 87-C-088

Mrs. Day moved to deny the request based on the full summer schedule.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Messrs. Hammack and Hyland absent from the meeting.

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Page 261, June 23, 1987, (Tape 1), After Agenda Item 4

Out-Turn-Hearing Request
G. Thomas Cator
VC 87-P-090

Mr. Ribble moved to deny the request based on the full summer schedule.

Mrs. Day seconded the motion which passed by a vote of 5-0 with Messrs. Hammack and Hyland absent from the meeting.

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Page 261, June 23, 1987, (Tape 1), After Agenda Item 5

Out-Of-Turn-Request
James P. McGregor
VC 87-A-079

Ms. Kelsey advised the Board that the application had been deficient and therefore was scheduling was deferred. She added that the application was now correct and had been rescheduled. Ms. Kelsey added that Supervisor Audrey Moore's Office had requested the

hearing be expedited. Ms. Belofsky stated that she had explained to staff at Supervisor Moore's office that there was a 90 day requirement for hearing BZA applications, and the scheduling of this application met this requirement, but due to the summer crunch the application had not been scheduled earlier than 90 days.

Mr. Ribble moved to deny the request based on the full summer schedule.

Mrs. Day seconded the motion which passed by a vote of 5-0 with Messrs. Hammack and Hyland absent from the meeting.

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Page 262, June 23, 1987, (Tape 1), Scheduled case of:

9:00 A.M. BELL & COMPANY INC., SP 86-M-069, application under Sect. 8-901 of the Zoning Ordinance to allow additional sign area in a regional shopping center, located at 6201 Arlington Blvd., on approx. 1,260 square feet, zoned C-7, S-C, and H-C, Mason District, Tax Map 51-3((1))29. (DEF. FROM 3/3/87 AND 5/12/87)

In response to a question from Chairman Smith, Kevin Guinaw, Staff Coordinator explained that the applicants were requesting another deferral because the existing sign W. Bell has on the Seven Corners Shopping is in violation of the sign permit that was issued for that sign. Therefore, before they can decide what they want to apply to the BZA for in terms of an additional sign on the Route 50 side of Seven Corners, they must bring their current sign on the other side of Seven Corners into compliance. This is necessary in order to calculate whether or not they have any remaining allowable sign capacity and to determine what to request from the Board of Zoning Appeals.

Mr. Guinaw advised the Board that staff was suggesting a new public hearing date of October 6, 1987 at 9:00 A.M.

There being no objection, it was so ordered.

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Page 262, June 23, 1987, (Tape 1), Scheduled case of:

9:20 A.M. CHRIST FELLOWSHIP MINISTRIES, INCORPORATED, SP 87-P-003, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities with modification of the dustless surface requirement, located at 2821 Chain Bridge Road, on approx. 1.09331 acres, zoned R-1, Providence District, Tax Map Reference 48-1((1))29. (DEFERRED FROM 5/12/87)

9:20 A.M. CHRIST FELLOWSHIP MINISTRIES, INC., VC 87-P-028, application under Sect. 18-401 of the Zoning Ordinance to allow church and related facilities in building which are 5.9 ft. and 7.5 ft. respectively from side lot lines (20 ft. min. side yard req. by Sects. 3-107 and 8-303) located at 2821 Chain Bridge Road on 1.09331 acres, zoned R-1, Providence District, Tax Map Reference 48-1((1))29. (DEFERRED FROM 5/12/87)

Kevin Guinaw, Staff Coordinator, advised the Board that a deferral for the above-referenced applications had been requested previously to resolve outstanding issues. He added that the applicants were now requesting a deferral because they had changed attorneys and the new attorney needed time to review the case.

Mr. Guinaw advised the Board that staff was suggesting a new public hearing date of October 6, 1987 at 9:20 A.M.

There being no objection, it was so ordered.

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Page 262, June 23, 1987, (Tape 1), Scheduled case of:

9:40 A.M. JAMES JEFFRIES MCWILLIAMS, VC 87-C-037, application under Sect. 18-401 of the Zoning Ordinance to allow an enclosed porch 21.0 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located at 2958 Mockernut Court, on 13,213 square feet, zoned R-3(C), Centreville District, Tax Map 25-3((7))147.

Heidi Belofsky, Staff Coordinator, presented the staff report.

James J. McWilliams, 2958 Mockernut Court, Herndon, Virginia, the applicant appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. Mr. McWilliams submitted additional pictures showing the covered deck.

Following a question from Mr. DiGiulian, Mr. McWilliams stated that the porch was already existing and he only wanted to enclose it. He further explained that the covered deck had already been approved by the County and he was now requesting that it be screened or enclosed.

In response to a question from Chairman Smith, Ms. Kelsey advised that a screened porch was not permitted without a variance as it was considered an enclosed structure.

Responding to a question from Chairman Smith, Mr. McWilliams stated that he had obtained a building permit for a covered deck. He added that he had initially applied for the deck portion and then found that a covered deck was permitted to 12 feet into the setback requirement of 25 feet but it could not be enclosed which is why he was requesting a variance.

Ms. Belofsky pointed out that on March 19, 1987, the applicant was issued a building permit for a covered deck and on the building permit application, it was written "Plat attached, open deck with posts for future roof, no screens at this time." with future underlined.

Mr. McWilliams explained that an additional permit was issued approximately ten days later.

Ms. Kelsey advised the the Board that, under Section 2-412 of the Zoning Ordinance, an open deck unenclosed can extend into a required yard, the distance depends on the height of the deck. The Zoning Ordinance definition of an open deck is any deck which is unroofed. Therefore, a deck which is roofed cannot extend into a required yard unless it is no higher than three (3) feet at the highest point. The application before the BZA is for a screened porch. If the BZA approves the application, the applicant does not have a problem with the existing deck; if the application is not approved and the deck is roofed and exceeds 3 feet, this will be turned over to the Zoning Administrator for resolution. Ms. Kelsey also pointed out that if the applicant has an additional building permit issued incorrectly, this does not make the structure legal, unless it complies with the Zoning Ordinance, or a variance is granted.

Mr. McWilliams submitted to the Board, an amendment to the existing building permit, dated March 19, 1987 for a covered deck. He added that the plans approved by the County showed a roof structure.

Chairman Smith stated that the subject subdivision was a new cluster subdivision and the houses were large for the lot.

Mrs. Day disagreed with Chairman Smith by expressing the opinion that it should be no problem for a citizen to screen in his porch.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen noted the irregular shape of the lot and the applicant has gone through the proper process to come before the BZA. Therefore, Mrs. Thonen moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-037 by JAMES JEFFRIES MCWILLIAMS, under Section 18-401 of the Zoning Ordinance to allow an enclosed porch 21.0 feet from rear lot line, on property located at 2958 Mockernut Court, Tax Map Reference 25-3((7))147, 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 23, 1987; 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(C).
3. The area of the lot is 13,213 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.

4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

Mr. DiGiulian and Mrs. Day seconded the motion which carried by a vote of 4-1 with Mr. Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 1, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 264, June 23, 1987, (Tape 1), Scheduled case of:

9:55 A.M. GEORGE W. PICKARD, VC 87-S-035, application under Sect. 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 5.5 ft. from side and 8.5 ft. from rear lot lines (19.25 ft. min. side yard and 13.85 min. rear yard req. by Sect. 2-412) located at 7910 Lobelia Lane on approx. 16,328 square feet, zoned PDH-3, Springfield District, Tax Map 89-2((14))(15)11

Page 265, June 23, 1987, (Tape 1), (VC 87-S-035, George W. Pickard, continued from Page 264)

Heidi Belofksy, Staff Coordinator, presented the staff report.

George Pickard, 7910 Lobelia Lane, Springfield, Virginia, the applicant appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. Mr. Pickard pointed out that a portion of the proposed deck was in an area depicted as a buffer easement, but he submitted a letter from the County Attorney's Office stating that a proffered condition amendment was not necessary to remove the buffer easement. He added that Zoning Administration Division had advised him to proceed with the variance request. The Public Facilities Division is in the process of releasing the easement.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian stated that the applicant had not satisfied the conditions for a variance and the BZA could not vacate the easement and therefore, moved to deny the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-S-035 by GEORGE W. PICKARD, under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 5.5 feet from side and 8.5 feet from rear lot lines, on property located at 7910 Lobelia Lane, Tax Map Reference 89-2((14))(15)11, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 23, 1987; 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 16,328 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. Day and Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0 with Messrs. Hammack and Hyland absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 1, 1987.

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Page 266, June 23, 1987, (Tape 1), Scheduled case of:

10:10 A.M. MOBIL OIL CORPORATION, VC 87-M-036, application under Sect. 18-401 of the Zoning Ordinance to allow construction of service station/quick-service food store building 7 feet from a street line of a corner lot (40 ft. min. front yard req. by Sect. 4-807), located at 6301 Leesburg Pike, on approx. 26,049 square feet, zoned C-8(HC), Mason District, Tax Map 51-3((13))37, 38.

Kevin Guinaw, Staff Coordinator, advised the Board that the applicant had requested a deferral of the above-referenced application.

Jonathan Rak, Thomas and Fiske, P.C., 510 King Street, representative of the applicant, appeared before the Board and stated that Mr. Rust who was handling the application was called to Richmond and could not attend the hearing. He added that the applicant would like to have some additional time to resolve outstanding issues.

Merrill Kreipke, 3060 Hazelton Street, appeared before the Board and requested that the application be resolved soon as it had been pending for some time.

Mr. Guinaw stated that staff was suggesting a new public hearing date of July 14, 1987 at 11:40 A.M.

Mrs. Thonen so moved. Mr. Ribble and Mrs. Day seconded the motion which passed unanimously with Mr. DiGiulian not present for the vote; Messrs. Hammack and Hyland absent from the meeting.

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Page 266, June 23, 1987, (Tape 1), Request for Waiver of the 12-Month Limitation on Rehearing VC 87-S-035, George Pickard

At this time, Mr. Pickard requested a waiver of the 12 month limitation on rehearing the above-referenced application.

Mr. DiGiulian so moved. Mr. Ribble seconded the motion which passed by a vote of 3-2 with Mr. Smith and Mrs. Thonen voting nay; Messrs. Hammack and Hyland absent from the meeting.

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Page 266, June 23, 1987, (Tape 1), Scheduled case of:

10:30 A.M. VIRGINIA 95 ASSOCIATES LIMITED PARTNERSHIP, SP 87-L-029, application under Sect. 5-503 of the Zoning Ordinance to allow health club within industrial/office building, located at Fullerton Road and Boston Boulevard, on approx. 2.79 acres, zoned I-5, Lee District, Tax Map 99-1((1))pt. 1. (OTH GRANTED)

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that staff was recommending an additional Condition 9: "The area of the health club shall not exceed 4,000 square feet." Mrs. Greenlief stated that staff was recommending approval of the proposal subject to the development conditions.

Mike Giguere, with the law firm of McGuire, Woods, Battle & Boothe, 8280 Greensboro Drive, McLean, Virginia, appeared before the Board as the representative of the applicant. Mr. Giguere stated that the hours of operation would be 6:30 A.M. - 8:00 P.M., Monday through Friday; 9:00 A.M. - 1:00 P.M. Saturday; closed Sunday.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day pointed out that the landscaping plan was adequate, the facilities would be for the use of the employees in the area and therefore, moved to grant the request subject to the development conditions with two additions, No. 9 as recommended by staff and No. 10 relating to hours of operation which the applicant has agreed to, staff's conditions had no limitation on hours of operation..

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-L-029 by VIRGINIA 95 ASSOCIATES LIMITED PARTNERSHIP, under Section 5-503 of the Zoning Ordinance to allow health club within industrial/office building, on property located at Fullerton Road and Boston Boulevard, Tax Map Reference 99-1((1))pt. 1, 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 23, 1987; 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-5.
3. The area of the lot is 2.79 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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. There shall be 34 parking spaces provided for the health club within the area designated for special permit use.

6. There shall be a maximum of 100 persons associated with this use in the club at any one time.

7. There shall be a maximum of four (4) employees associated with this use on site at any one time.

8. Patrons of the club shall be primarily limited to the employees of the Virginia 95 Industrial Park and the Fullerton Industrial Park.

9. The area of the health club shall not exceed 4,000 square feet.

10. The hours of operation shall be:

Monday through Friday	6:30 A.M. - 8:00 P.M.
Saturday	9:00 A.M. - 1:00 P.M.
Sunday	Closed

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 which carried by a vote of 5-0 with Messrs. Hammack and Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 1, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 268, June 23, 1987, (Tape 1), Scheduled case of:

10:40 A.M. SPRINGFIELD CHRISTIAN CHURCH, SPA 75-L-239-1, application under Sect. 3-203 of the Zoning Ordinance to amend S-239-75 for a church and related facilities to permit additions, located at 5407 Backlick Road, on 3.481 acres, zoned R-2, Lee District, Tax Map Reference 80-2((1))4.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that there were several issues:

- while the adopted Comprehensive Plan does not currently recommend that Backlick Road be widened to four (4) lane, divided facility standards, the current Plan was intended to accommodate traffic growth only through 1990. As the existing traffic volume on Backlick Road already exceeds the warrants for a four lane, divided facility, additional right-of-way, to forty-five (45) feet from the centerline, should be provided for future road improvements.

- temporary grading and construction easements should be provided along the site frontage of Backlick Road to facilitate future road improvements.

- A right-turn deceleration lane to minimize disruption of traffic flow and to provide safe ingress into the existing northern entrance should be constructed along the site frontage on Backlick Road. This deceleration lane should be built to VDOT design standards.

- Site access via the southern entrance should be replaced by way of the existing interparcel access to the adjacent property to the south (the north Springfield Professional Center). Site access by way of the North Springfield Professional Center would have less impact on Backlick Road as that entrance already has an existing deceleration lane, is opposite an existing intersection, and therefore, is located at a possible future median break location.

She added that there may not be enough handicapped parking spaces provided and that the interior parking lot must be landscaped. In conclusion, Ms. Belofsky stated that staff was recommending approval of the proposal subject to the development conditions.

Merlin McLaughlin, Chairman, Building Committee, Springfield Christian Church, 8650 Black Forest Circle, Fairfax, Virginia, representative of the applicant, appeared before the Board and provided a history of the site. He explained that an expansion of the sanctuary (3 rows in the rear), narthex and the administrative area were necessary. Mr. McLaughin pointed out that there was a right-turn lane at the south entrance and if the entrance into the adjacent office park were used, it would be awkward. As to the right turn lane at the northern entrance, there is very little right turn entry needed at that point. With regard to the 45-foot dedication from center line, he suggested that if this should be required by the BZA the following language be inserted: Right-of-way to not more than 45 feet from the existing centerline be provided. He objected to a requirement for dedication as recommended by staff.

Responding to a question from Chairman Smith, Ms. Belofsky stated that staff did not object to the change in this condition.

With regard to Condition 4, Mr. McLaughlin stated that he was requesting that a site plan waiver may be granted pursuant to the provisions of the Zoning Ordinance. Mrs. Kelsey pointed out that the BZA has no authority to waive a site plan. If the applicant desires a waiver, this must be addressed to the Department of Environmental Management.

Concerning Conditions 7 and 8, Mr. McLaughlin pointed out that along the northern property line was another church, therefore transitional screening was not necessary. He noted that Condition 8 was in conflict with the first sentence in Condition 6 which related to new construction and the church was already in place. Condition 8 refers to interior of the parking lot and there was only small places at the corners and should not be included. He added that they were willing to plant some supplemental evergreens in the area of the east boundary, abutting the residential use.

Ms. Belofsky indicated that transitional screening would only be required along the adjacent residential properties, but that planting should be provided in the corners of the parking lot to soften the visual impact of the asphalt.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant the request subject to the revised development conditions as he would revise from the staff's recommended development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 75-L-239-1 by SPRINGFIELD CHRISTIAN CHURCH, under Section 3-203 of the Zoning Ordinance to amend S-239-75 for a church and related facilities to permit additions, on property located at 5407 Backlick Road, Tax Map Reference 80-2((1))4, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 23, 1987; 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 3.481 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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. The Board of Zoning Appeals has no objection to the granting of a site plan waiver by DEM.

5. There shall be a maximum of 416 seats in the church sanctuary.

6. The number of parking spaces shall remain unchanged at 127. Handicapped parking spaces shall be provided and labeled in accordance with all applicable Codes. All parking shall be on site.

7. A modification of the transitional screening requirement is approved such that the existing vegetation is adequate on the full adjacent property lines.

8. The height of the steeple shall be no higher than forty (40) feet.

9. The exterior of the building additions shall be similar to the existing church in color, architectural style, and materials and shall be approved by the Department of Environmental Management prior to building permit approval.

10. A Right-of-way of not more than 45 feet from the existing center line of Backlick Road to the extent necessary for planned road improvements shall be dedicated for public street purposes and shall convey to the Board of Supervisors or VDOT in fee simple upon sixty (60) days notice from these parties.

11. Temporary grading and construction easements shall be provided to facilitate the improvements to Backlick Road.

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-1 with Mr. Smith voting nay; Messrs. Hammack and Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 1, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 270, June 23, 1987, (Tape 2), Scheduled case of:

11:00 A.M. FALCON RIDGE ASSOCIATES, VC 87-D-015, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into 30 lots, proposed Lot 81 having a width of 20 feet (200 ft. min. lot width req. by Sect. 3-E06) located on Falcon Ridge Road, on approx. 112,101 square feet, zoned R-E, Dranesville District, Tax Map Reference 3-4((1))pt. 7

Heidi Belofsky, Staff Coordinator, presented the staff report.

Keith Martin, Walsh, Colucci, Stackhouse, Emrich & Lubeley, P.C., 950 N. Glebe Road, Arlington, Virginia, appeared before the Board as the representative for the applicant and outlined the request as contained in the statement of justification submitted with the application. He stated that the applicant has met with the adjacent landowners and has agreed to preserve the maximum number of trees. To achieve this objective, a pipestem lot configuration is necessary. An extension of the public street and cul-de-sac to meet minimum lot width requirements for one lot would cause an additional 20,000 square feet of clearing of mature trees. Mr. Martin reiterated that the pipestem configuration was at the neighbors request and would allow the applicant to place the house on Lot 81 farther away from the common property line and establish a greater buffer area.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Ribble stated that the applicant had met the nine standards for a variance and noted the support of the neighbors. Mr. Ribble added that it was a sound idea which would save 20,000 square feet of mature trees and therefore, he moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-015 by FALCON RIDGE ASSOCIATES, under Section 18-401 of the Zoning Ordinance to allow subdivision into 30 lots, proposed Lot 81 having a width of 20 feet, on property located on Falcon Ridge Road, Tax Map Reference 3-4((1))pt. 7, 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 23, 1987; 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 112,101 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.
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.

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 thirty (30) 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 driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-0 with Messrs. Hammack and Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 1, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 272, June 23, 1987, (Tape 1), Scheduled case of:

11:20 A.M. SAINT MARY OF SORROWS CATHOLIC CHURCH, SPA 77-A-041-1, application under Sect. 3-103 of the Zoning Ordinance to amend S-41-77 for a church and related facilities to permit additions to building and parking and a new access road located at 5222 Sideburn Road, on approx. 6.7525 acres, zoned R-1, Annandale District, Tax Map Reference 68-4((1))2.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the request subject to the development conditions.

William Enderlee, 200 N. Glebe Road, Arlington, Virginia, representative of the Church, appeared before the Board and stated that the applicant agreed with the development conditions. He also stated that the church had met with the neighbors to try and accommodate them.

Chairman Smith called for speakers and John E. Henneberger, 5209 Concordia Street, Fairfax, Virginia, appeared before the Board and noted that the revised plat shows the elimination of 11 parking spaces.

Ms. Belofsky clarified that the transparency being used was based on the old plat and the new plat does not show those 11 parking spaces.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen stated that all issues had been resolved and therefore moved to grant the request subject to the revised development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 77-A-041-1 by SAINT MARY OF SORROWS CATHOLIC CHURCH, under Section 3-103 of the Zoning Ordinance to amend S-41-77 for a church and related facilities to permit additions to building and parking and a new access road, on property located at 5222 Sideburn Road, Tax Map Reference 68-4((1))2, 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 23, 1987; and

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

1. The applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 6.7525 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 fifteen (15) full-time employees.

6. Grading and clearing shall be limited to those areas where the additional parking, building additions and access road will be located as reviewed and approved by Department of Environmental Management (DEM).

7. Sight distance shall be provided in accordance with VDOT standards. The location of the entrance may be adjusted for the purpose of ensuring adequate site distance.

8. The seating capacity shall remain at its present level of 800.

9. There shall be 223 parking spaces and a maximum of 243 parking spaces. The size of the parking spaces shall be in accordance with Sect. 70-802 of the Public Facilities Manual. All parking shall be on site.

10. A landscaping plan shall be submitted to the County Arborist for final approval. The purpose of this landscape plan is to soften the visual impact of the structure and screen the parking lot from view of the residential acres including the motoring public.

11. The barrier requirement shall be waived. Transitional Screening 1 shall be provided along all lot lines with the exception of the front of the church where landscaping shall be provided in accordance with Par. 10 above. A modification is approved to accommodate the new entrance. The driveway shall be shifted to accommodate this requirement. Existing vegetation may be used with supplemental plantings, where necessary to fulfill this requirement.

12. The exterior of the additions shall be architecturally compatible with the existing church and shall be similar in color, style, and materials as determined by DEM.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date* of the Special Permit unless the activity authorized has been established, or unless construction has 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 5-0 with Messrs. Hammack and Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 1, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 274, June 23, 1987, (Tape 2), Scheduled case of:

11:40 A.M. JULIUS T. HANKIN, SP 87-D-021, application under Sect. 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements based on error in building location to allow 9.5 ft high shed to remain 3.7 ft. from one side lot line and 4.7 ft. from another (10 ft. min side yard req. by Sects. 3-407 and 10-104) located at 7600 Lisle Avenue on approx. 17,928 square feet, zoned R-4, Dranesville District, Tax Map 39-2((6))37.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the request subject to the development conditions.

Julius and Mary Ann Hankin, 7600 Lisle Avenue, Falls Church, Virginia, the applicants, appeared before the Board and outlined the request as presented in their statement of justification submitted with the application. Mr. Hankin explained that they were limited as to where they could place the shed and also that they were replacing an original shed which was in poor condition. He added that they were careful about the placement of the shed but were unaware that the overhang would be included in the 150 square foot allowance, which would require a building permit.

Chairman Smith called for speakers and Joseph T. Barsotti, 7606 Lisle Avenue, Falls Church, Virginia, appeared before the Board in support of the request.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian stated that the noncompliance was done in good faith and moved to grant the special permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-021 by JULIUS T. HANKIN, under Section 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements based on error in building location to allow 9.5 ft. high shed to remain 3.7 ft. from one side lot line and 4.7 ft. from another, on property located at 7600 Lisle Avenue, Tax Map Reference 39-2((6))37, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

Page 275, June 23, 1987, (Tape 1), (SP 87-D-021, Julius T. Hankin, continued from Page 274)

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 23, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 17,928 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 8-903 and 8-914 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 as shown on the plat submitted with this application and is not transferable to any other land.

2. A building permit shall be obtained indicating the location and dimensions of the shed as approved.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-0 with Messrs. Hammack and Hyland absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 1, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 275, June 23, 1987, (Tape 2), After Agenda Item 6

Approval of Resolutions for June 16, 1987

Ms. Kelsey explained that with regard to The Lutheran Church of the Abiding Presence, SPA 84-S-003-2, on page 3, Condition 14, a new plat was not necessary.

Mr. DiGiulian so moved approval of the Resolutions for June 16, 1987. Mr. Ribble seconded the motion which passed unanimously with Messrs. Hammack and Hyland absent from the meeting.

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Page 275, June 23, 1987, (Tape 2), After Agenda Item 8:

Ruxton Appeal

Mr. DiGiulian moved to accept the Ruxton appeal as being filed timely and proper and to schedule it for September 10, 1987 at 9:00 A.M.

Mr. Ribble seconded the motion which passed unanimously with Messrs. Hammack and Hyland absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 12:05 P.M.

Patti M. Hicks
Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 7/28/87 APPROVED: 8/4/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 30, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Gerald Hyland; and, John Ribble.

Chairman Smith opened the meeting at 9:12 A.M. and Mrs. Day led the prayer.

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Page 276, June 30, 1987, (Tape 1), Scheduled case of:

9:00 A.M. PAUL M. MARCH, VC 87-A-026, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 6.7 feet from side lot line such that side yards total 17.9 feet (8 ft. min., 24 ft. total min. side yard req. by Sect. 3-207), located at 8604 Bonnie Drive on approx. 14,069 square feet, zoned R-2(C), Annandale District, Tax Map Reference 70-1((12))14.

Jane Kelsey, Branch Chief of the Board of Zoning Support Branch, presented the staff report. She informed the Board that the applicant's statement of justification did not speak to the nine general standards for a variance but the applicant was prepared to do so today.

Paul March, 8604 Bonnie Drive, Annandale, Virginia, the applicant, stated that he proposes to enclose and widen an existing carport in order to construct a two car garage. He added that his lot has an irregular shape, this request would enhance the neighborhood, there are no objections from his neighbors, therefore he believes that he meets the criteria for a variance. Mr. March submitted into the record a letter in support from the adjoining property owner.

In response to a question from Mr. DiGiulian, Mr. March replied that only a small portion of the garage would be in violation of the setback required by the Zoning Ordinance. He stated that the structure and materials would be similar to those on the other garages in the area.

As there were no speakers to address this appliation, Chairman Smith closed the public hearing.

Mr. DiGiulian made a motion to grant and stated that he believed the applicantion meets the nine standards for a variance especially 2(D) and subject to the development conditions set forth in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-026 by PAUL M. MARCH, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 6.7 feet from side lot line such that side yards total 17.9 feet, on property located at 8604 Bonnie Drive, Tax Map Reference 70-1((12))14, 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 30, 1987; 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(C).
3. The area of the lot is 14,069 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 carried by a vote of 5-1 with Chairman Smith voting nay; Mr. Hammack absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 277, June 30, 1987, (Tape 1), Scheduled case of:

9:15 A.M. MOHAMED E. NOUH, VC 87-P-032, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of carport for a garage 11.4 ft. from side lot line (20 ft. min. side yard req. by Sect. 3-107) located 8205 Westchester Drive, on approx. 30,000 square feet, zoned R-1, Providence District, Tax Map 39-4((3))49A.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that the surrounding development is single family dwellings except for a strip to the rear of the applicant's property which is a Virginia Power and Electric Company (VEPCO) easement. The applicant is requesting a variance in order to enclose an existing two car garage.

Mohamed Nouh, 8205 Westchester Drive, Vienna, Virginia, the applicant, proposes to enclose an existing carport as there is no other feasible place to locate a garage as the lot has an irregular shape. There are no houses on either side of his property and therefore the garage would not interfere with adjacent properties. Mr. Nouh stated the following reasons for for this request: (1) at present there is nothing to prevent small children from entering the pool area, (2) will provide privacy, (3) will provide protection for his automobiles, and (4) will prevent the neighborhood children from utilizing the pool when the applicant's family is away from the house.

Page 278, June 30, 1987, (Tape 1), (VC 87-P-032, Mohamed E. Nouh, continued from Page 277)

There were no speakers to address this application, therefore Chairman closed the public hearing.

Chairman Smith asked if staff had any further comments. Mrs. Greenlief explained that the adjacent property owner had an existing carport which was constructed in 1969.

Mrs. Thonen made a motion to grant VC 87-P-032 and stated that she believed the application meets the standards for a variance as the applicant is seeking to enclose an existing carport, the house sets back from the front lot line at least approximately 200 feet, and the garage will not adversely impact the neighborhood. This approval was subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-032 by MOHAMED E. NOUH, under Section 18-401 of the Zoning Ordinance to allow enclosure of carport for a garage 11.4 feet from side lot line, on property located at 8205 Westchester Drive, Tax Map Reference 39-4((3))49A, 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 30, 1987; 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 30,000 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* 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.

Messrs. DiGiulian and Ribble seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay; Mr. Hammack absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 279, June 30, 1987, (Tape 1), Scheduled case of:

9:30 A.M. ROBERT C. AND CAROLYN ABBOTT, VC 87-L-041, application under Sect. 18-401 of the Zoning Ordinance to allow construction of additions to dwelling to 5.7 feet from the rear lot line on a corner lot (10 ft. min. rear yard req. by Sect. 3-407), located 5609 Bristol Court, on approx. 9,779 square feet, zoned R-4, Lee District, Tax Map Reference 81-1((4))(G)36.

Heidi Belofsky, Staff Coordinator, presented the staff report. She explained that the existing dining area will be converted into a bedroom and the dining area and kitchen will be relocated to the carport.

Robert Abbott, 5609 Bristol Court, Alexandria, Virginia, the applicant, informed the Board that he had purchased the property ten years ago and since that time his family has grown and now requires more living space. He stated that this is the most feasible location due to the shape of the lot. There are no objections to this application and he has met the legal requirements specified in the Zoning Ordinance.

Mrs. Thonen agreed with the applicant's comments regarding the shape of the lot and stated that she was familiar with the area.

Chairman Smith closed the public hearing as there were no speakers to address this application.

Mrs. Day made a motion to grant this application and stated that she believed the applicant has presented testimony showing compliance with the standards for a variance. She stated that the lot has an irregular shape and the request will not adversely impact the neighborhood.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-L-041 by ROBERT C. AND CAROLYN ABBOTT, under Section 18-401 of the Zoning Ordinance to allow construction of additions to dwelling 5.7 feet from the rear lot line on a corner lot, on property located at 5609 Bristol Court, Tax Map Reference 81-1((4))(G)36, 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 30, 1987; 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 9,779 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.

4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

5. Upon completion of the proposed driveway, as delineated on the plat, the existing driveway shall be removed.

Mr. Hyland seconded the motion which carried unanimously with Mr. Hammack absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1987. This date shall be deemed to be the final approval date of this variance.

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9:45 A.M. BENNIE C. KERR, VC 87-V-042, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a 13 1/2 foot high detached garage 4 feet from side and rear lot lines (12 ft. min. side yard, 13 1/2 ft. min. rear yard req. by Sects. 3-307 and 10-104), located at 8915 Cullum Drive, on approx. 17,320 square feet, zoned R-3, Mount Vernon District, Tax Map 108-1((2))41.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. She explained that the applicant's house was located at the end of a cul-de-sac. There are no garages in the immediate area but there is one existing carport.

Bennie Kerr, 8915 Cullum Drive, Lorton, Virginia, the applicant, told the Board that he purchased the house in 1977. He stated that there is a slope on the left side of the house which has a rather large tree that he would like to retain and there is a gas line easement on the left side of the house. This garage would also allow the applicant some protection for his vehicles and will get them off the street.

In response to questions from the Board, Mr. Kerr stated there were only two licensed drivers in the family but he does have antique cars and this would not adversely impact Lot 48 as it is a vacant, wooded lot.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mr. Hyland made a motion to grant VC 87-V-042 and stated that he believed this is the only feasible location to construct this garage, there are no objections from the neighborhood, and the garage will not adversely impact the adjoining properties. This approval is subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-V-042 by BENNIE C. KERR, under Section 18-401 of the Zoning Ordinance to allow construction of a 13 1/2 foot high detached garage 4 feet from side and rear lot lines, on property located at 8915 Cullum Drive, Tax Map Reference 108-1((2))41, 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 30, 1987; 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 17,320 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 and Mr. Ribble seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay; Mr. Hammack absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1987. This date shall be deemed to be the final approval date of this variance.

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As there was time before the next scheduled case, the Board took action on the After the Agenda Items.

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Page 282, June 30, 1987, (Tape 1), After Agenda Item:

GARY J. ALLEY - VC 87-L-092
OUT-OF-TURN HEARING

Mr. DiGiulian questioned staff as to the staff error which the applicant stated had caused the need for the out-of-turn hearing. Jane Kelsey, Branch Chief of the Board of Zoning Support Branch, informed the Board that Kevin Guinaw the Staff Coordinator who had prepared this Action Item was not present at this time. The Board deferred action on this request until such time as Mr. Guinaw was present.

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Page 282, June 30, 1987, (Tape 1), After Agenda Item:

GEORGE PICKARD RECONSIDERATION - VC 87-S-035

The Board considered the request for Reconsideration made by Mr. Pickard. This request was to reconsider the Board of Zoning Appeal's action on June 23, 1987 to deny Mr. Pickard's variance. Mr. DiGiulian noted that he believed that the question of the buffer easement should be resolved prior to a variance being granted to the applicant.

The Board members also stated that there were other concerns about the location of the structure in addition to the question of the buffer easement. Mrs. Thonen made a motion to deny the reconsideration of VC 87-S-035. Mrs. Day seconded the motion which carried by a vote of 5-0 with Mr. Hyland not present for the vote; Mr. Hammack absent from the meeting.

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Page 283, June 30, 1987, (Tape 1), After Agenda Item:

RESOLUTIONS FOR JUNE 23, 1987

Jane Kelsey, Branch Chief of the Board of Zoning Appeals Branch, brought the Board's attention to a clarification in development condition #11 in the Saint Mary of Sorrows Resolution. She explained that if a Development Condition is not clear the Zoning Enforcement Branch and the Zoning Administrator sometimes have difficulty in enforcing the condition.

Following Ms. Kelsey's comments, Mrs. Thonen made a motion to accept the Resolutions for June 23, 1987 as revised. Mr. DiGiulian seconded the motion which carried by a vote of 5-0 with Mr. Hyland not present for the vote; Mr. Hammack absent from the meeting.

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Page 283, June 30, 1987, (Tape 1), Scheduled case of:

10:00 A.M. ANDREW LIPPS, VC 87-D-040, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.0 feet from side lot line (15 ft. min. side yard req. by Sect. 3-207), located at 1620 Oak Lane, on approx. 15,618 square feet, zoned R-2, Dranesville District, Tax Map 31-4((4))301.

Heidi Belofsky, Staff Coordinator, presented the staff report.

Andrew Lipps, 1620 Oak Lane, McLean, Virginia, the applicant, noted that he had purchased the house four years ago and would like to expand the kitchen area as he now has two small children. Mr. Lipps added this is the only feasible location for the addition as the rear yard has a significant slope. In closing, he pointed out there are no objections from his neighbors.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Ribble stated this is a minimal request, the lot has an irregular shape, and he believes the applicant has satisfied the requirements for a variance. Therefore, he made a motion to grant VC 87-D-040 subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-040 by ANDREW LIPPS, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.0 feet from side lot line, on property located at 1620 Oak Lane, Tax Map Reference 31-4((3))301, 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 30, 1987; 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 15,618 square feet of land.

Page 284, June 30, 1987, (Tape 1), (VC 87-D-040, Andrew Lipps, continued from Page 283)

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. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

Mr. DiGiulian seconded the motion which carried by a vote of 4-1 with Mr. Hyland not present for the vote; Mr. Hammack absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1987. This date shall be deemed to be the final approval date of this variance.

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10:15 A.M. EUGENE M. OSBORN, VC 87-C-043, application under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed porch to 8.8 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-507), located at 3603 Elderberry Place, on approx. 10,890 square feet, zoned R-5, Centreville District, Tax Map 35-3((5))63.

Jane Kelsey, Branch Chief, presented the staff report. The applicant proposes to construct an enclosed porch 8.8 feet from the rear lot line adjacent to an area where a Colonial Pipeline easement is located. She pointed out that of the adjoining lots one is open space and one is developed with a single-family dwelling.

Eugene Osborn, 3603 Elderberry Place, Fairfax, Virginia, the applicant, explained he is proposing to construct a screened-in porch. The open space to the rear of this lot is owned and managed by the Franklin Glen Governance. This body has no objections to this request nor do the any of the neighbors. He added that no homes can be built within 200 feet of the rear of his property.

Following questions from the Board, Mr. Osborn stated that his garage is located beneath the house and that he has the pipeline company's permission for this construction.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mrs. Thonen made a motion to grant VC 87-C-043 as she did not believe the request would adversely impact the neighborhood as there is open space around the property. There are no objections from the neighbors and she believes that the applicant has satisfied the requirements for a variance. Mrs. Thonen did caution the applicant to notify Colonial Pipeline prior to construction.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-043 by EUGENE M. OSBORN, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed porch to 8.8 feet from rear lot line, on property located at 3603 Elderberry Place, Tax Map Reference 35-3((5))63, 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 30, 1987; 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-5.
3. The area of the lot is 10,890 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

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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 which carried by a vote of 5-1 with Chairman Smith voting nay; Mr. Hammack absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 286, June 30, 1987, (Tapes 1 and 2), Scheduled case of:

10:30 A.M. JOE AND CLAIR HYLAND/CONCORD DEVELOPMENT OF VIRGINIA, INC., VC 87-M-027, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, one having width of 12 ft. and the other 88.09 ft. (100 ft. min lot width req. by Sect. 3-206) located at 6361 Lincolnia Road on 61,533 square feet, zoned R-2, Mason District, Tax Map 72-1((1))53.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. The applicants are proposing to subdivide this property into two lots which requires a variance of the 100 foot minimum lot width requirement for the R-2 District. Turkeycock Run bisects the rear half of the subject property. Turkeycock Run, its 100-year floodplain and adjacent steep slopes constitute this as an Environmental Quality Corridor (EQC). This area is shown as possible open space on the Comprehensive Plan map therefore is required to be dedicated to the Park Authority or the Board of Supervisors. To enforce this required dedication would render Lot 53B an non-buildable lot. It is staff's judgment that the applicant does not meet Paragraphs 3, 4, 5, 6, and 9 of Sect. 18-404 and staff therefore cannot support this request.

Mr. Hyland expressed concern with the requirement of the County to require dedication from property owners. A lengthy discussion took place among the Board members and staff as to whether or not the County Attorney needed to discuss the legalities of this case and how it related to the two recent Supreme Court cases prior to the Board rendering a decision. Mr. Hyland made a motion to defer this public hearing until such time as the County Attorney could respond.

William Moore, 2007 North 15th Street, Arlington, Virginia, attorney for the applicant, came forward and told the Board that he had discussed the EQC with the surveyors and the surveyors did not agree that this request would impact the EQC. Mr. Moore did not agree with the deferral as there is a pending contract on this land contingent on the granting of this variance.

Following a discussion between the Board and Mr. Moore, Mr. Moore agreed to a one week deferral. Chairman Smith called for a vote on the motion to defer the public hearing to July 7, 1987 at 11:30 A.M. The motion carried by a vote of 4-2 with Chairman Smith and Mr. DiGiulian voting nay.

The Board requested staff to contact the County Attorney's office for a verbal or written response to the question of land dedication.

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Page 287, June 30, 1987, (Tape 2), Scheduled case of:

10:45 A.M. LEESBURG PIKE COMMUNITY CHURCH, SPA 85-D-014-3, application under Sect. 3-103 of the Zoning Ordinance to amend SP 85-D-014 for a church and related facilities to permit church services in tents, lighted field parking, and storage trailer, located at 11022 Leesburg Pike, on 33.013 acres, zoned R-1, Dranesville District, Tax Map Reference 12-1((1))35.

Kevin Guinaw, Staff Coordinator, presented the staff report. The applicant is requesting an amendment to their existing Special Permit to erect tents on a temporary basis on the the subject property in order to conduct church services. This application is identical to the one submitted to the Board in 1986. The tents will be removed within 15 days after the temporary special permit expires. Staff recommends approva of SPA 85-D-014-3, subject to the development conditions set forth in the staff report.

The Board questioned staff as to whether or not the citizens in the area are opposed to this request. Mr. Guinaw explained that staff had not received any opposition letters and that perhaps the applicant could better respond to questions regarding the timing for the construction of the church.

Clayton Davis, 128 Kale Avenue, Sterling, Virginia, Administrative Pastor of the Church, told the Board that he was not aware of any citizen opposition. There had been a violation notice on their sign but they have obtained the necessary permit and the sign now meets the requirements as stated in the Zoning Ordinance. He explained that all the engineering plans for the church have been submitted to the proper agencies within the County and have been approved. Therefore, the construction should begin in the Spring of 1988.

Chairman Smith closed the public hearing as there were no speakers to address this application.

Mrs. Day moved to grant SPA 85-D-014-3 subject to the development conditions as she believed that the applicant had presented testimony showing compliance with the requirements for a special permit, there is no citizen opposition, and staff has recommended approval.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 85-D-014-3 by LEESBURG PIKE COMMUNITY CHURCH, under Section 3-103 of the Zoning Ordinance to amend SP 85-D-014 for a church and related facilities to permit church services in tents, lighted field parking, and storage trailer, on property located at 11022 Leesburg Pike, Tax Map Reference 12-1((1))35, 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 30, 1987; 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 33.013 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 seating capacity of the tents shall be 500. A minimum of 125 parking spaces shall be provided on site. Parking shall be allowed only in the area designated on the plat as field parking. All parking shall be located at least 50 feet from any lot line.

6. The existing dwelling may be used for church office purposes and for group meetings of no more than six (6) persons including the pastor until such time as the new church building is completed. Prior to the issuance of a Non-Residential Use Permit for the permanent church facility, the dwelling shall be removed.

7. There shall be no clearing or grading, except that which would be allowed under a grading permit approved in accordance with SPA 85-D-014-2.

8. No outside public speakers or public address system shall be permitted.

9. All lighting shall be directed onto the site and shall meet the glare performance standards in Sect. 14-901 of the Zoning Ordinance.

10. Approval of this special permit amendment shall not relieve the applicant from any conditions included in prior approvals of a church use on this site.

11. All entrances and exits to Leesburg Pike shall be closed and barricaded.

12. The applicant shall request a waiver of the dustless surface requirement of the Ordinance from the Director, Department of Environmental Management, for all areas designated as "field parking".

13. The adult, youth tents, children's shelter, storage trailer, portable toilets, and lights for field parking shall be removed within 15 days after September 14, 1987.

14. All signs shall be constructed in accordance with Article 12 of the Zoning Ordinance.

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

Mr. DiGiulian seconded the motion carried by a vote of 6-0 with Mr. Hammack absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1987. This date shall be deemed to be the final approval date of this special permit.

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GARY J. ALLEY - VC 87-L-092
OUT-OF-TURN HEARING

The Board had passed over this request earlier in the public hearing to allow time for Mr. Guinaw to arrive. Mr. Guinaw told the Board that the applicant had obtained a building permit but the building permit had been issued in error. The plat which had been attached to the original application for a building permit had not clearly delineated the property as a corner lot since the plat only showed one street. The applicant proposes to construct a garage larger than 600 feet and had submitted new plats which clearly showed the property as a corner lot and therefore required a variance.

Mr. DiGiulian made a motion to deny this request for an out-of-turn hearing. Mr. Ribble seconded the motion which passed by a vote of 6-0 with Mr. Hammack absent from the meeting.

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Mr. Hyland stated that there seems to be some confusion on the part of the applicants as to when the approval became final. Mr. Hyland suggested adding this information to the front of each staff report and the Board so moved.

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As there was no other business to come before the Board, the meeting was adjourned at 11:23 P.M.

Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 7/28/87

APPROVED: 8/4/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 7, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; Gerald Hyland; and John Ribble.

Chairman Smith opened the meeting at 9:25 A.M. and Mrs. Day led the prayer.

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Page 290, July 7, 1987, (Tape 1), Scheduled case of:

9:00 A.M. McLEAN POST 8241 VETERANS OF FOREIGN WARS, VC 87-D-012, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to building to 7.8 feet from side lot line (20 ft. min. side yard req. by Sect. 3-107), located at 1051 Springhill Road, on approx. 40,480 square feet of land, zoned R-1, Dranesville District, Tax Map Reference 20-4((1))71.

Jane C. Kelsey, Chief of the Board of Zoning Appeals Support Branch, explained that Ned B. Clark with Hansbarger and Testerman requested an indefinite deferral in order for the applicant to amend his application to include another variance. After he has amended the application, readvertising, reposting, and renotification of property owners will be necessary.

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Page 290, July 7, 1987, (Tape 1), Scheduled case of:

9:15 A.M. JAMES R. AND CHARLOTTE M. HALL, VC 87-D-044, application under Sect. 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 11.6 feet from side lot line (15 ft. min. side yard req. by Sect. 3-207), located at 1867 Massachusetts Avenue, on approximately 20,265 square feet of land, zoned R-2, Dranesville District, Tax Map Reference 41-1((13))(1)22 and 23.

Jane C. Kelsey, Chief of the Board of Zoning Appeals Support Branch, presented the staff report. The applicant is requesting a variance of 11.6 feet from side lot line to replace an existing garage.

The applicant, Mr. James R. Hall whose address is 1867 Massachusetts Avenue, explained that the garage was built some 40 years ago and is in need of repair. The neighbors have already agreed to this variance request. He explained that he needed the addition for several reasons. He cannot shift the garage to any other position on the lot and his wife has health problems and it would be more convenient to have the garage built in the same place.

As there were no speakers either in support or in opposition to this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 87-D-044 based on the applicant's testimony and the exceptional topographical conditions of the lot.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-044 by JAMES R. AND CHARLOTTE M. HALL, under Section 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 11.6 feet from side lot line, on property located at 1867 Massachusetts Avenue, Tax Map Reference 41-1((13))(1)22 and 23, 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 7, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 20,265 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 carried by a vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 15, 1987. This date shall be deemed to be the final approval date of this variance.

Mr. Hyland commented on the fact that on numerous other occasions the applicant has had to come before the Board with situations such that a variance is needed to replace an existing structure in the same location and he feels that the rules should be changed in the Zoning Ordinance to permit the Zoning Administrator to approve such a variance.

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Page 292, July 7, 1987, (Tape 1), After Agenda Item:

Request for an Out-of-Turn Hearing
Douglas P. Green
SPA 83-V-084-2
101-2((1))17

The applicant has requested an out-of-turn hearing to change the name of the permittee of Special Permit SPA 83-V-084-2 to Happy Time Child Development Center, Inc. Following a discussion among Board members, Mr. Hyland moved to grant the applicant an out-of-turn hearing on August 4, 1987 at 10:30 A.M. Mr. Ribble seconded the motion which passed by a vote of 7-0.

Mr. Hyland advised the Board of the new procedure for the filing and acceptance of applications. Once they are filed with Harvey Mitchell, the affidavits are then sent to the County Attorney to be approved. Once the affidavits are approved they are sent back to Harvey Mitchell and then they are sent to the Board of Zoning Appeals Support Branch.

The Board discussed how full the agendas are up to the August recess and indicated they did not want to schedule any more out-of-turn hearings.

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Page 292, July 7, 1987, (Tape 1), Scheduled Case Of:

9:30 A.M. A. JOHN WARNECKI AND PATRICIA C. WARNECKI, VC 87-D-049, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 4.4 feet from a side lot line (8 ft. min. side yard req. by Sect. 3-207) located at 8105 Cawdor Court, on approximately 12,914 square feet of land, zoned R-2(C), Dranesville District, Tax Map Reference 29-2((3))366.

The Board received a letter from the applicant withdrawing their application. Mr. Hyland moved to grant the withdrawal. Mr. Ribble seconded the motion which carried by a vote of 7-0.

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Page 292, July 7, 1987, (Tape 1), Scheduled Case Of:

9:45 A.M. PETER P. OSTROWSKI, VC 87-L-046, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 16.1 feet from rear lot line and to allow a fence 6 feet in height to remain in the front yard abutting a pipestem driveway (25 ft. min. rear yard req. by Sect. 3-307 and 4 ft. max. hgt. for fence in any front yard req. by Sect. 10-104), located at 4531 Flintstone Road, on approximately 10,726 square feet of land, zoned R-3(C), Lee District, Tax Map Reference 92-1((10))6120.

Jane C. Kelsey, Chief of the Board of Zoning Appeals Support Branch, presented the staff report. The applicant is requesting two variances. The first variance is to permit construction of an addition to the dwelling which would be 16.1 feet from the rear lot line. Sect. 3-307 of the Zoning Ordinance requires a minimum rear yard of 25 feet in the R-3 District. A variance of 8.9 feet is therefore requested. The second variance request is to be withdrawan.

The applicant, Peter P. Ostrowski whose address is 4531 Flintstone Road, Fairfax, Virginia, referred to the statement of justification contained in the staff report. He stated that he had hired an architectural firm and was advised that a variance was necessary. He stated that his justification for this variance is the irregular shaped lot. His hardship was to have enough room for his family to entertain since currently the kitchen is the only place in which to entertain. This addition will have to be approved by the Homeowners Association before they can build. He stated that he was confused as to why the yard was defined as a front yard. Ms. Kelsey explained the definition of the required yards as they relate to this application. Mr. Ostrowski stated that he was very confused with the instructions that were sent to him to prepare for the meeting. The Board questioned him concerning this and requested that staff note this problem and try to resolve it.

As there were no speakers either in support or in opposition to this application, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant VC 87-L-046 based on the applicant's testimony, that they met the required standards for a variance.

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-L-046 by PETER P. OSTROWSKI, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 16.1 feet from rear lot line and to allow a fence 6 feet in height to remain in the front yard abutting a pipestem driveway, on property located at 4531 Flintstone Road, Tax Map Reference 92-1((10)6120, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 7, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 10,726 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.

Page 294, July 7, 1987, (Tape 1), (VC 87-L-046, Peter P. Ostrowski, continued from Page 293)

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

Mrs. Day seconded the motion which carried by a vote of 4-1 with Mr. Smith voting nay; Mr. DiGiulian and Mr. Hammack not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 15, 1987. This date shall be deemed to be the final approval date of this variance.

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Mr. Hyland asked Ms. Kelsey about putting additional information on the staff reports advising that the decisions are not final for eight (8) days after the decision when the Board approves the Resolutions. Ms. Kelsey agreed with this and said she would pass this on to staff. The additional paragraph on the bottom of the staff reports will read as follows: "The BZA decision does not become final for eight (8) days after the decision is made. A copy of the BZA's Resolution setting forth the decision will be mailed within five (5) days after the decision."

Mr. Hyland questioned the type of information and material given applicants for variances and special permits to prepare them for the meeting. He requested to see a copy. He stated that he feels that staff can make the instructions much simpler for the applicant to understand in order to prepare for the meeting. He asked Mr. Ostrowski to send in comments to the Board of Zoning Appeals Staff suggesting improvements so that staff could review them and perhaps make changes.

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Page 294, July 7, 1987, (Tape 1), Scheduled case of:

10:00 A.M. CHARLES B. LOWRY, VC 86-V-120, application under Sect. 18-401 of the Zoning Ordinance to allow construction of service bay addition to a service station to 35.9 feet from a street line of a corner lot and 10.6 feet from rear lot line (40 ft. min. front yard, 20 ft. min. rear yard req. by Sect. 4-507), located at 2600 Sherwood Hall Lane, on approximately 17,531 square feet of land, zoned C-5, Mount Vernon District, Tax Map Reference 102-1((7))(7)17B. (DEF. FROM 3/31/87 to allow an application for a Special Exception Amendment to be obtained from the Board of Supervisors)

Mr. Bernard Fagelson, attorney for the applicant requested continued deferral of the application until October 13, 1987 at 9:00 A.M. Mr. Hyland moved to defer the case to October 13, 1987 at 9:00 A.M. Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. Ribble not present for the vote.

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Page 294, July 7, 1987, (Tape 1), Scheduled case of:

10:15 A.M. MICHAEL J. CARONE, SP 87-S-025, application under Sect. 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow porch addition to dwelling to 32.3 feet from front lot line and 11.5 feet from side lot line, (40 ft. min. front yard, 20 ft. min. side yard req. by Sect. 3-C07), located at 15109 Bernadette Court, on approximately 13,716 square feet of land, zoned R-C WS, AN, Springfield District, Tax Map Reference 33-4((2))402.

Staff requested the Board pass over the application to give the applicant time to correct the affidavit.

Being no objections the Board moved the application to the end of the agenda.

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Page 294, July 7, 1987, (Tape 1), After Agenda Item

Request for Additional Time
Knollwood Baptist Church
SPA 82-S-028-2
78-3((1))40

Mrs. Thonen moved to grant the request for additional time for the above referenced application for an additional six months. The new expiration date is January 28, 1988.

Mr. DiGiulian seconded the motion which passed unanimously.

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Page 295, July 7, 1987, (Tape 1), After Agenda Item

Approval of Resolutions for June 30, 1987

Mr. Hammack moved to approve the Resolutions for June 30, 1987 as presented.

Mr. Hyland seconded the motion which passed unanimously.

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Page 295, July 7, 1987, (Tape 1), After Agenda Item

Approval of Minutes

Mrs. Thonen requested staff to check the times for recessing and reconvening the meeting for May 12, 1987. She then moved to approve the Minutes for April 21, 1987 and May 19, 1987.

Mr. DiGiulian seconded the motion which passsed unanimously.

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Page 295, July 7, 1987, (Tape 1), Scheduled case of:

10:30 A.M. ELWYNNE WRAY GODLOVE, SP 87-P-005, application under Sect. 3-403 of the Zoning Ordinance to allow family day care home as permitted by S-307-79, expired, located at 2906 Lawrence Drive, on approximately 9,453 square feet of land, zoned R-4, Providence District, Tax Map Reference 50-3((15))138.

Lori Greenlief, Staff Coordinator, presented the staff report. The applicant is requesting a special permit to operate a family day care home within the existing dwelling. The hours of operation for the facility will be from 6:30 a.m. to 6:30 p.m. and care will be provided for nine (9) children, ages one and one-half to ten. One employee is proposed in addition to the applicant.

The property is located on the west side of Lawrence Drive, approximately 250 feet south of its intersection with Adams Lane. The surrounding properties are zoned R-4 and developed with single family dwellings. Ms. Godlove operated under a previous permit until its expiration in December of 1985.

Ms. Greenlief explained that staffs' primary concern with this application was transportation issues which are a safety consideration. At the present time when the children are dropped off and picked-up, the driver has to back in and out of the driveway. It is staff's opinion that a stub can be provided off of the existing driveway to allow the children to be dropped off and picked-up on site as required by the Zoning Ordinance.

The application also does not satisfy the required number of parking spaces and this requirement cannot be waived. At the present time the applicant is proposing three parking spaces within the driveway area. Two of the three spaces shown on the plat are tandem spaces which cannot be considered as required parking spaces for the proposed use, although one of the two required residential spaces can be a tandem space.

The applicant, Elwynne Godlove whose address is 2906 Florence Drive, explained to the Board that she has been in child care services for 22 years and even carries insurance for her children. She feels that if her application is denied the children and the parents would be inconvenienced. She submitted letters from the parents in support of her application.

Mr. Hyland wanted to know if the turn-around area was really necessary. He commented that the cost to the applicant to provide this is expensive and he did not feel this is necessary.

Ms. Greenlief stated that staff believes this is necessary to have a safe operation.

Mark Godlove, who identified himself as Mrs. Godlove's son living in Centreville, Virginia, spoke in support of the application.

Mrs. Day made a motion that SP 87-P-005, Elwynne Wray Godlove, be deferred to give the applicant additional time to try to work out the problems raised in the staff report. Mr. Hyland seconded the motion which passed by a vote of 7-0. The new date is September 22, 1987 at 9:15 a.m. The Board advised Mrs. Godlove to meet with staff and try to work out the problems prior to that time.

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Page 296, July 7, 1987, (Tape 1), Scheduled case of:

10:45 A.M. DR. THOMAS S. ROEHR, SPA 79-C-091-1, application under Sect. 4-503 of the Zoning Ordinance to amend S-91-79 for a veterinary hospital to permit addition to existing building, located at 2703 Centreville Road, on approximately 19,049 square feet of land, zoned C-5 and R-1, Centreville District, Tax Map Reference 25-1((1))23A.

Lance Gardiner, 1560 Main Street, Fairfax, Virginia, attorney for the applicant requested deferral of the application in order to file for a variance and to include the real estate office in the special permit application.

There being no objections, Mrs. Day moved to defer the case to September 22, 1987 at 9:30 a.m. to allow time to file for a variance to allow the existing structure to remain and continue to be used as a veterinary clinic and to amend the special permit application to include the real estate office. The Board so ordered.

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Page 296, July 7, 1987, (Tapes 1 and 2), Scheduled case of:

11:00 A.M. JOHN GARDINER, VC 87-P-047, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lots 2 and 3 each having a lot width of 10 feet and proposed lot 4 having a lot width of 57 feet (70 ft. min. lot width req. by Sect. 3-406) located at 6715 James Lee Street, on approximately 1.5 acres of land, zoned R-4, Providence District, Tax Map Reference, 50-4((1))56.

Jane C. Kelsey, Chief of the Board of Zoning Appeals Support Branch, explained that just this morning staff was advised by the Virginia Department of Transportation that James Lee Street is not a state owned and maintained road. Staff is attempting to get additional information. She requested that the application be moved to the end of the agenda to give staff time to get the answers.

The Board moved that the John Gardiner, VC 87-P-047 case be moved in the agenda to after the Carone case.

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Page 296, July 7, 1987, (Tape 2), Scheduled case of:

11:30 A.M. KENNETH ANDERSON APPEAL, A 87-S-002, to appeal the Zoning Administrator's determination that appellant's home professional office has lost its nonconforming statue and Special Permit approval is required to continue the use, located at 12805 Melvue Court, on approximately 14,408 square feet, zoned R-3, Providence District, Tax Map 45-2((3))(30)24. (DEF. FROM 6/9/87)

A letter had been received from the applicant in Kenneth Anderson Appeal, A 87-S-002, requesting that he be allowed to withdraw his application.

There being no objections, Mr. Hyland made the motion to allow withdrawal of A 87-S-002, Kenneth Anderson Appeal; Mrs. Day seconded the motion which carried by a vote of 6-0, Mrs. Thonen being absent.

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Page 296, July 7, 1987, (Tape 2), Scheduled case of:

10:15 A.M. MICHAEL J. CARONE, SP 87-S-025, application under Sect. 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow porch addition to dwelling to 32.3 feet from front lot line and 11.5 feet from side lot line, (40 ft. min. front yard, 20 ft. min. side yard req. by Sect. 3-C07), located at 15109 Bernadette Court, on approximately 13,716 square feet of land, zoned R-C(WS, AN), Springfield District, Tax Map Reference 33-4((2))402.

Jane C. Kelsey, Chief of the Board of Zoning Appeals Support Branch, presented the staff report. The applicant is requesting approval of a special permit in order to construct a porch to the northwest and northeast side of the existing dwelling. The proposed porch will be located 32.3 feet from the front lot line and 11.5 feet from the side lot line. She stated that this application meets all of the requirements for this special permit.

Michael Carone, 15109 Bernadette Court, Chantilly, Virginia, the applicant submitted additional pictures to the Board. He also explained that at the time the houses were built he had the option of adding the porch. He did not choose at that time to have the porch added on, but has decided now that he wants the porch put on.

As there were no speakers either in support or in opposition to this application, Chairman Smith closed the public hearing.

Mr. Hyland moved to grant SP 87-S-025 based on the applicant's testimony.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-025 by MICHAEL J. CARONE, under Section 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow porch addition to dwelling to 32.3 feet from front lot line and 11.5 feet from side lot line, on property located at 15109 Bernadette Court, Tax Map Reference 33-4((2))402, 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 7, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-C, WS, AN.
3. The area of the lot is 13,716 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 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 special permit is approved for the location and the specific addition shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this special permit shall automatically expire, without notice, eighteen (18) months after the approval date* of the 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 which carried by a vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 15, 1987. This date shall be deemed to be the final approval date of this special permit.

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Mr. Hyland moved to take a 5 minute recess to give Staff and Mr. Gardiner, VC 87-P-047, time to check whether or not James Lee Street is a public street. Mr. DiGiulian seconded the motion which passed with a vote of 7-0.

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Page 297, July 7, 1987, (Tape 2), Scheduled case of:

11:00 A.M. JOHN GARDINER, VC 87-P-047, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lots 2 and 3 each having a lot width of 10 feet and proposed lot 4 having a lot width of 57 feet (70 ft. min. lot width req. by Sect. 3-406) located at 6715 James Lee Street, on approximately 1.5 acres of land, zoned R-4, Providence District, Tax Map Reference, 50-4((1))56.

Lori Greenlief, Staff Coordinator, presented the staff report. The application requests a variance to the minimum lot width in order to subdivide the existing lot into four (4)

lots. Proposed Lots 2 and 3 will be pipestem lots with lot widths of 10 feet and Proposed Lot 4 will have a lot width of 57 feet. Sect. 3-406 requires a seventy (70) foot minimum lot width for lots in the R-4 District. Therefore, the applicant is requesting two variances of 60 feet each and one variance of 13 feet from the minimum lot width requirement.

In reference to environmental concerns, Ms. Greenlief stated that the applicant must conduct a geotechnical engineering study to determine where floodplain soils are located and their bearing capacity prior to construction.

Staff brought out three points related to the transportation issue: adequate right-of-way along James Lee Street, construction of curb, gutter, and sidewalk on the site's frontage as determined by the Director, DEM, and construction of a turn-around on James Lee Street at its terminus.

Staff is concerned that this application does not meet at least standard numbers 4 and 6 of Sect. 18-404. Staff pointed out that the applicant can subdivide the property into two lots without a variance.

J. Sidney Holland, 6454 Holyoke Drive, Annandale, Virginia, spoke in support of the application and stated that the variance if granted will be an asset to the community.

As there were no more speakers Chairman Smith closed the public hearing.

Mr. Ribble moved to grant VC 87-P-047 based on the exceptional topographic conditions, the applicant's testimony and as he felt the applicant had satisfied all nine conditions. Mr. Ribble revised the Development Conditions as follows: #1 through #7 being the same, #8 be deleted, and add a new #8 which reads "This subdivision must meet the Subdivision Ordinance of Fairfax County".

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-047 by JOHN GARDINER, under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots proposed lots 2 and 3 each having a lot width of 10 feet and proposed lot 4 having width of 57 feet, on property located at 6715 James Lee Street, Tax Map Reference 50-4((1))56, 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 7, 1987; and
WHEREAS, the Board has made the following findings of fact:

1. That the applicant is the co-owner of the land.
2. The present zoning is R-4.
3. The area of the lot is 1.5 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 four lots as shown on the plat submitted with this application.

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

3. Only one (1) entrance to Proposed Lots 2, 3 and 4 shall be allowed from James Lee Street. The driveway easements shall be recorded with deeds to the property 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. The applicant shall conduct a geotechnical engineering review of Lots 3 and 4 as determined by the Director of the Department of Environmental Management (DEM).

6. The applicant shall submit a tree preservation plan to the County Arborist for review and approval which shows the maximum amount of quality hardwoods to be saved.

7. Dedication of right-of-way and construction of curb, gutter, and sidewalk shall be provided along the site's frontage on James Lee Street. The amount of dedication shall be determined by the Director of DEM at the time of subdivision plan review.

8. This subdivision must meet the Subdivision Ordinance of Fairfax County.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-0-1 with Mr. Hammack abstaining.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 15, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 299, July 7, 1987, (Tape 2), Scheduled case of:

11:30 A.M. JOE AND CLAIR HYLAND/CONCORD DEVELOPMENT OF VIRGINIA, INC., VC 87-M-027, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, one having width of 12 ft. and the other 88.09 ft. (100 ft. min lot width req. by Sect. 3-206) located at 6361 Lincolnia Road on 61,533 square feet, zoned R-2, Mason District, Tax Map 72-1((1))53. (DEFFERED FROM 6/30/87 FOR ADDITIONAL INFORMATION

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. The property consists of 61,533 square feet and the applicants are proposing to subdivide the property into two (2) lots. Proposed Lot 53-B would be a pipestem lot and would have a width of twelve (12) feet at the building restriction line, therefore a variance of

eighty-eight (88) feet is being requested. Turkeycock Run bisects the rear half of the subject property. This application was deferred to allow applicant to meet with staff to determine the area of the EQC and whether or not a dwelling could be placed on the rear lot.

Ms. Hamblin-Katnik stated that given the information presented to staff to date, the application does not meet at least Paragraphs 3, 4, 5, 6 and 9 of Sect. 18-404.

Mr. Hyland commented that the last two Supreme Court cases relate to this case and he wanted to know the outcome of the cases. Ms. Kelsey commented that the Lutheran Church case and the Coastal Coast case were the two cases related to land use issues. The County Attorney has advised staff that the Lutheran Church case has no bearing on this type application, but the Coastal Coast just came out last week and the County Attorney has not had an opportunity to review the case. However, the initial reaction is that it has no bearing on this type application.

William Moore, 2007 15th Street, Arlington, Virginia, representative for the applicant, submitted a petition in support of the application. He stated that the applicant had a question whether the land could be divided and had to spend $320 to have a study done. Mr. Moore states that the application meets the nine (9) standards. He also stated that the EQC issue could be resolved by adding an additional development condition.

Being no speakers in support or opposition of the case, Mr. Smith closed the public hearing.

Prior to making the motion, Mr. Digiulian said he will not support this application because the hardship was self-inflicted and does not meet the required standards.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-027 by JOE AND CLAIR HYLAND/CONCORD DEVELOPMENT OF VIRGINIA, INC., under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, one having width of 12 feet and the other 88.09 feet, on property located at 6361 Lincolnia Road, Tax Map Reference 72-1((1))53, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 7, 1987; and

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

1. That the applicants are the owners of the land
2. The present zoning is R-2.
3. The area of the lot is 61,533 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 4-3, with Mrs. Day, Mr. Hyland and Mr. Ribble voting nay.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 15, 1987.

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Page 301, July 7, 1987, (Tape 2), Scheduled case of:

12:00 P.M. HERITAGE FOREST ASSOCIATES, SP 87-S-016, application under Sect.3-803 of the Zoning Ordinance to allow community center and recreation facilities, located in the Heritage Estates Subdivision, on approx. 3.82 acres, zoned R-8(WS), Springfield District, Tax Map 65-2((1))pt. 23. (DEF. FROM 5/5/87, 5/19/87, AND 6/9/87)

Lori Greenlief, Staff Coordinator, upon applicant's behalf, requested a deferral of the case. She stated that Bruce McKechnie sent a letter to Elaine McConnell presenting the issues, and stated that Bob Moore will address the transportation issues within the month.

Mr. McKechnie, attorney for the applicant, stated that he hoped the issues would be decided within the month.

There being no objections, Mr. DiGiulian moved that the case be deferred to September 10, 1987 at 9:30 a.m. with Mr. Ribble seconding the motion which passed 7-0.

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Ms. Kelsey brought up the question of having the first September meeting on September 3 instead of September 1 to give the Board additional vacation time and the next hearing thereafter would be September 10. This was agreeable with the Board.

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As there was no other business to come before the Board, the meeting was adjourned at 12:36 p.m.

Tamara S. Gentry

Tamara S. Gentry, Associate Clerk to the Board of Zoning Appeals

Daniel Smith

Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: 7/28/87

APPROVED: 8/4/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 14, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; Gerald Hyland; and, John Ribble.

Chairman Smith opened the meeting at 9:17 A.M. and Mrs. Day led the prayer.

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Page 302, July 14, 1987, (Tape 1), Scheduled case of:

9:00 A.M. ROBERT B. OLEXY, VC 87-C-038, application under Sect. 18-401 of the Zoning Ordinance to allow construction of an enclosed porch addition to dwelling to 13.7 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located at 2910 Pleasant Glen Drive on approximately 9,277 square feet of land, zoned R-3(C), Centreville District, Tax Map Reference 25-3((9))307.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. She stated that the applicant is requesting to construct an enclosed porch on a portion of an existing deck. She added that to the immediate west of the subject property a floodplain easement is shown on the plat averaging approximately 55 feet in depth.

Robert Olexy, 2910 Pleasant Glen Drive, Herndon, Virginia, the applicant, explained that when a survey was performed it was noted that the house was not located where the house location plat indicated. Mr. Olexy stated to the rear of the lot there is a significant slope as well as a floodplain and submitted letters of support into the record.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Thonen made a motion to grant this application based upon the applicant's testimony that the foundation support for this addition already existed, the lot has an irregular shape, and there are no objections from the neighbors. She made the motion subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-038 by ROBERT B. OLEXY, under Section 18-401 of the Zoning Ordinance to allow construction of an enclosed porch addition to dwelling to 13.7 feet from rear lot line, on property located at 2910 Pleasant Glen Drive, Tax Map Reference 25-3((9))307, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 14, 1987; 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(C).
3. The area of the lot is 9,277 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.

Messrs. DiGiulian and Ribble seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay; Mr. Hammack not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 22, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 303, July 14, 1987, (Tape 1), Scheduled case of::

9:15 A.M. RICHARD G. STOLL, VC 87-D-053, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 20.8 feet from front lot line (35 ft. min. front yard req. by 3-207), located at 1440 Waggaman Circle, on approximately 19,900 square feet of land, zoned R-2, Dranesville District, Tax Map reference 31-1((7))5.

Heidi Belofsky, Staff Coordinator, presented the staff report and told the Board that the applicant is requesting permission to convert an existing garage into a two car garage. She stated that staff is concerned with the architectural impact but does believe these concerns can be addressed if the development conditions are implemented.

Richard Stoll, 1440 Waggaman Circle, McLean, Virginia, the applicant, explained that the existing carport is not architecturally compatible with the house. He added that the materials to be used to construct the garage will match the exterior of the house. Mr. Stoll concluded by stating that this is the only practical location for this addition due to the unusual topography of the lot.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mr. DiGiulian made a motion to grant VC 87-D-053 as the applicant had presented testimony showing compliance with the standards for a variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-053 by RICHARD G. STOLL, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 20.8 feet from front lot line, on property located at 1440 Waggaman Circle, Tax Map Reference 31-1((6))5, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 14, 1987; 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 19,900 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.

4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

5. The roof of the garage shall be no higher than that of the existing dwelling.

Mr. Ribble seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay; Mr. Hammack not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 22, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 305, July 14, 1987, (Tape 1), Scheduled case of:

9:30 A.M. HANS H. AND JANE S. RUNOW, VC 87-L-052, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 6819 Jerome Street, on approximately 12,791 square feet of land, zoned R-3, Lee District, Tax Map Reference 90-4((6))183.

Jane Kelsey, Branch Chief of the Board of Zoning Appeals Support Branch, presented the staff report. This particular lot is surrounded by R-3 zoning developed with single family dwellings. The applicant is requesting a 2 foot variance in order to construct an addition 10 feet from the side lot line.

Hans Runow, 6819 Jerome Street, Springfield, Virginia, the applicant, stated that his lot is pie shaped and therefore restricts where an addition of this type can be constructed. He added that the existing porch will be removed in order to accommodate the new addition which will be used as a dining room. Mr. Runow displayed renderings to the Board showing his house as it presently looks and another showing how the house will look with the proposed addition.

At the conclusion of the applicant's comments, Mrs. Thonen commended him for a thorough and well thought out presentation.

In response to a question from Mrs. Day, Mr. Runow pointed out that only a portion of the addition will not meet the setback requirements as set forth in the Zoning Ordinance.

Chairman Smith closed the public hearing as there were no speakers to address this application.

Mrs. Day stated she believed that the applicant had presented testimony stating that the lot has an unusual shape, the house is situated at an angle on the lot lines, the footing for this addition already exists, and there are no objections from the surrounding property owners. Therefore, she made a motion to grant VC 87-L-052 subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-L-052 by HANS H. AND JANE S. RUNOW, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10 feet from side lot line, on property located at 6819 Jerome Street, Tax Map Reference 90-4((6))183, 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 14, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 12,791 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.

4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

5. The existing screened-in porch shall be removed prior to the construction of the proposed addition.

Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 22, 1987. This date shall be deemed to be the final approval date of this variance.

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As there was time before the next scheduled case, the Board took action on an After Agenda Item.

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Page 307, July 14, 1987, (Tape 1), After Agenda Item:

JULY 7, 1987 RESOLUTIONS

Mr. Hyland made a motion to accept the Resolutions of the actions of the Board from the July 7, 1987 public hearing as submitted.

Mr. Hammack seconded the motion which carried by a vote of 7-0.

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Page 307, July 14, 1987, (Tape 1), Scheduled case of:

9:45 A.M. GERALD B. CARLSON, VC 87-S-054, application under Sect. 18-401 of the Zoning Ordinance to allow construction of deck addition to dwelling to 9 feet from side lot line (20 ft. min. side yard req. by Sects. 3-C07 and 2-412), located at 15201 Philip Lee Road, on approximately 11,694 square feet of land, zoned R-C, Springfield District, Tax Map Reference 33-4((2))273.

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that the applicant is requesting permission to construct a deck addition and that the houses on adjacent Lot 274 and Lot 272 lie 28.5 feet and 26 feet, respectively, from the lot lines shared with the subject property.

Following a discussion among the Board and staff, Mr. Guinaw explained that the applicant could have constructed this deck addition within 10 feet of the lot line by right prior to the area being rezoned R-C in 1982.

Gerald Carlson, 15201 Philip Lee Road, Chantilly, Virginia, the applicant, explained that at the time the house was built the deck could have been added without a variance due to the zoning at that time. He stated that after he had filed the variance application staff informed him that he could file this request as a special permit. Mr. Carlson added that he had chosen to proceed with the variance as he was requesting a greater reduction to the minimum side yard requirements than would have been allowed under the previous zoning. In closing, he pointed out due to the the unusual shape of the lot this is the only feasible location for the addition.

Following comments from Mr. Hyland, Mr. Carlson explained that there were other decks in the area and he would be willing to reduce the size of the deck.

Chairman Smith called for speakers in support and hearing no reply called for speakers in opposition to this request. John Robertson, owner of Lot 272, opposed the application as he believes this request will lower the property value of his house. He also stated that this addition will be an invasion of his privacy because it will be situated so close to the lot line.

During rebuttal, Mr. Carlson informed the Board that he had discussed the proposed addition with the previous owners of Lot 272 where Mr. Robertson now lives. He reiterated that he would be willing to reduce the size of the deck.

As there were no additional speakers, Chairman Smith closed the public hearing.

Mr. Hyland made a motion to grant VC 87-S-054 in part by allowing the applicant to construct a deck to 10 feet from the property line rather than the 9 feet as the applicant had requested. He pointed out that if a rezoning had not taken place in the applicant's area that the applicant would have been able to construct a deck to 10 feet from the property line without a variance. Mr. Hyland advised the applicant that revised plats would have to be submitted.

Mrs. Day stated that she would support the motion to grant-in-part. She added she sympathized with Mr. Robertson but she also believed the applicant had the right to construct the deck if he met the requirements.

Chairman Smith noted if the applicant had submitted a special permit application rather than a variance the applicant would have been entitled to a 10 foot minimum yard.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-S-054 by GERALD B. CARLSON, under Section 18-401 of the Zoning Ordinance to allow construction of deck addition to 9 feet from side lot line (the Board approved construction of deck addition to 10 feet from side lot line), on property located at 15201 Philip Lee Road, Tax Map Reference 33-4((2))273, Mr. Hyland moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 14, 1987; 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.
3. The area of the lot is 11,594 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.

Mrs. Day seconded the motion which carried by a vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 22, 1987. This date shall be deemed to be the final approval date of this variance.

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10:00 A.M. ROBERT A. OSBORN, JR. AND MICHAEL F. OSBORN, VC 87-D-051, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed lot 2 having a lot width of 12 feet and proposed lot 3 having a lot width of 88 feet (100 ft. min. lot width req. by Sect. 3-206), located at 2139 North Powhatan Street, on approximately 2.393 acres of land, zoned R-2, Dranesville District, Tax Map Reference 41-1((1))66.

Jane Kelsey, Branch Chief of the Board of Zoning Appeals Support Branch, presented the staff report. She informed the Board that the applicants had submitted a revised affidavit as they have now retained an attorney. She continued her presentation by stating that the property is located adjacent to the Arlington County line and the applicants are requesting to subdivide the property into four lots making Lot 2 a pipestem lot with a width of 12 feet and Lot 3 would have a lot width of 88 feet. Ms. Kelsey added that staff's concerns are outlined in the staff report pertaining to transportation and environment and stated that the applicant could subdivide this property into three lots without a variance. She noted for the record that the Board of Zoning Appeals had denied an application to permit a four lot subdivision on a narrow lot across Powhatan Street and that case is presently in litigation. In closing, Ms. Kelsey told the Board that the applicant's attorney raised several questions during a telephone conversation with staff on July 13, 1987. She advised the Board that the County Attorney has not yet had the opportunity to review the latter Supreme Court decision thus cannot advise the Board as to its applicability to this application.

In response to questions from the Board, Ms. Kelsey explained that the applicant's attorney argues that if the Board of Zoning Appeals denies this subdivision it would amount to confiscation. She stated that she had spoken with the County Attorney concerning this specific question and it is his opinion that it does not amount to confiscation.

Mark Moorstein, attorney with the law firm of Watt, Tieder, Killian, Toole and Hoffar, 8401 Old Courthouse Road, Vienna, Virginia, represented the applicants. He stated that this application meets all the standards for a variance as set forth in Sect. 18-401 of the Zoning Ordinance. He argued that the recent Supreme Court cases are very germain to this case. Mr. Moorstein pointed out that the mother of the applicants had owned this land for 53 years and prior to the present Zoning Ordinance. He stated that this would not be precedent setting as there were other pipestem lots in the area.

Michael Osborn, 8930 Jeffery Road, Great Falls, Virginia, co-applicant, addressed three points in justification for this request: 1) the precedent for pipestem lots has already been set by other pipestems in the area, 2) regarding the other application for subdivision across Powhatan Street which was denied by the Board of Zoning Appeals, that lot does not have as much road frontage as this one, and 3) transportation would be improved due to the proposed road improvements by the applicant.

Robert Osborn, 11112 Split Rail Lane, Fairfax Station, Virginia, co-applicant, stated that approximately one year ago he had met with Harvey Mitchell of the Board of Zoning Appeals in order to understand the filing process. He had been advised by Mr. Mitchell not to file for a rezoning but to file for a variance and to request a five lot subdivision. Prior to the submission of this variance application, Mr. Mitchell reviewed the application. Mr. Osborn stated that he believes this subdivision will be beneficial to the area.

Barnett Keith, 3610 North Powhatan Street, Fairfax, Virginia, stated that he owned the parcel of property directly across the street from the applicant property which the Board of Zoning Appeals denied and is now the subject of litigation. He referenced the court case Arlington County versus God and added that he believed it was unfair for the applicants to be economically penalized by denying this application.

Ms. Kelsey corrected for the record that Mr. Mitchell is not a member of the Board of Zoning Appeals and that his primary responsibility is to receive the applications and then forward them on to the Board of Zoning Appeals Support Branch staff for processing.

Chairman Smith closed the public hearing as there were no additional speakers or comments.

Mr. Ribble made a motion to defer VC 87-87-D-051 to allow time for the County Attorney to respond to the Supreme Court decisions which may be pertinent to this case. He stated that the public hearing will be reopened at that time for additional information.

Mr. DiGiulian seconded the motion which carried by a vote of 7-0. Staff suggested a date and time for the new public hearing of September 10, 1987 at 10:00 A.M.

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Page 310, July 14, 1987, (Tape 2), Scheduled case of:

10:20 A.M. WILLIAM J. TATE AND SHEILA B. TATE, SP 87-D-033, application under Sect. 8-901 of the Zoning Ordinance for modification to minimum yard requirements based on error in building location to allow screen porch to remain 14.5 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located at 1913 Miracle Lane, on approximately 8,400 squre feet of land, zoned R-3(C), Dranesville District, Tax Map Reference 40-1((9))47.

Jane Kelsey, Branch Chief of the Board of Zoning Appeals Support Branch, informed the Board that the applicant in this case has to amend his application to request an additional variance. Thus, the adjoining property owners will have to be renotified and the new public hearing date and time will have to be readvertised in the appropriate newspaper. She suggested deferring this case indefinitely and the Board so ordered that it be scheduled whenever the applicant amends the application.

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Page 310, July 14, 1987, (Tape 2), Scheduled case of:

10:40 A.M. FRIENDSHIP UNITED METHODIST CHURCH, SP 87-P-034, application under Sect. 3-303 of the Zoning Ordinance to allow sanctuary addition to existing church and related facilities, located at 3527 Gallows Road, on approximately 2.8595 acres of land, zoned R-3, Providence District, Tax Map Reference 60-1((1))25.

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that the church is requesting a two-level addition which will consist of offices and a meeting room on the lower level and a sanctuary with a seating capacity of 186 on the second level. The church is located on a heavily wooded lot and therefore staff is recommending that the existing vegetation be used to meet the transitional screening requirements on the eastern, northern, and western lot lines. Mr. Guinaw pointed out to the Board that the existing church was constructed before special permits were required for churchs and therefore the current application will bring the entire church under special permit. In closing, Mr. Guinaw stated it is staff's judgment that the application meets the standards for a special permit and recommended approval of this application with the development conditions contained in the staff report.

Dr. James D. Ritter, 3888 Gallows Road, Annandale, Virginia, represented the church. He stated that the church has been worshipping in a temporary facility for 30 years and would now like to construct a sanctuary. Dr. Ritter added that the church has worked with an architect to provide a minimal impact on the surrounding neighborhood. He agreed that the church would retain the existing vegetation.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mrs. Thonen stated that she believed the church has cooperated with staff regarding the screening and the request will not impact the surrounding neighborhood. Therefore, she made a motion to grant SP 87-P-034 subject to the development conditions. She pointed out that staff has stated this application will bring the entire church under special permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-034 by FRIENDSHIP UNITED METHODIST CHURCH, under Section 3-303 of the Zoning Ordinance to allow sanctuary addition to existing church and related facilities, on property located at 3527 Gallows Road, Tax Map Reference 60-1((1))25, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 14, 1987; 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 2.8595 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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. Forty-nine (49) parking spaces shall be provided and constructed of a dustless surface in accordance with the provisions of the Public Facilities Manual. All parking shall be provided on site.

6. The seating capacity of the main worship area shall not exceed 186.

7. Landscaping and screening shall be provided as follows:

   - Existing vegetation shall be allowed to satisfy the transitional screening requirement on the eastern, northern and western lot lines.

   - Along the front lot line, the existing tree and surrounding vegetation which serve as a memorial shall be integrated into the screening required for the proposed use. Other existing vegetation shall be used to satisfy the screening requirement where possible and supplemented as necessary to provide screening equivalent to Transitional Screening 1.

   - Foundation plantings shall be provided along the front of the proposed building addition which will reduce the perceived bulk of the structure when viewed from Gallows Road and the adjacent properties.

   - The nature, type and location of all supplemental plantings shall be determined by the County Arborist.

8. The barrier requirement shall be waived.

9. Signs shall be permitted in accordance with Article 12, Signs.

10. 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.

11. Noise mitigation shall be provided for the proposed addition in accordance with the acoustical guidelines attached.

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 312, July 14, 1987, (Tape 2), (SP 87-D-034, Friendship United Methodist Church, continued from Page 311)

Mrs. Day and Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 22, 1987. This date shall be deemed to be the final approval date of this special permit.

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At this time the Board took a short recess at 11:07 A.M. and reconvened at 11:23 A.M.

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Page 312, July 14, 1987, (Tapes 2 and 3), Scheduled case of:

11:00 A.M. CHRISTIAN FELLOWSHIP CHURCH, SP 87-D-031, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities, located at 10920 Leesburg Pike, on approximately 76.9 acres of land, zoned R-1, Dranesville District, Tax Map Reference 12-1((1))33A, 52, 53.

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that the property is located concentrated on the north side of Leesburg Pike and to the west on Lot 35 is the future location of Leesburg Pike Community Church which was approved by the Board of Zoning Appeals on February 17, 1987 for a seating capacity of 768 seats on 33 acres. The applicant is proposing a sanctuary with a seating capacity for 1,690 and 690 parking spaces. The development is to be located on the southern portion of the property. He stated that staff analysis of this proposal has identified several issues of concern. The major issue is the land use issue relating to the intensity of the proposed use. It is staff's judgment that the magnitude and scale of the development proposed and the activity it would generate far exceed that which can be considered compatible with the low density residential character of the surrounding area. This situation is exacerbated by such a large facility being located on only 29 acres when the application property consists of 76.9 acres. Mr. Guinaw pointed out that this had been discussed with the applicant after the initial staffing of this case on May 7, 1987. At that time, staff recommended two ways for the applicant to remedy the land use concern: 1) that the proposed development be more centrally located on the property and major wooded buffers be provided on the sides, front, and rear of the property, and 2) if the church is not relocated, staff recommended that the intensity of the use be reduced at a level which would be commensurate with the recent approval for the Leesburg Pike Church. Mr. Guinaw stated that staff does not believe that the applicant has satisfactorily addressed either of these staff suggestions.

Mr. Guinaw informed the Board that Richard Harrison, Virginia Department of Transportation (VDOT), was present to speak to the median break issue referenced in the applicant's development plan. Also, John Herrington, Fairfax County Office of Transportation (OT), was present to respond to the transportation report submitted by the applicant.

Mr. Guinaw summarized his remarks by noting that (1) the Comprehensive Plan recommends that the area along Leesburg Pike be maintained as low density residential and that new development provide for ample landscaping, buffering, and setbacks to ensure the low density character of the area, (2) that the R-1 regulations stipulate uses other than residential must be compatible with the low density character of the district, (3) staff believes the proposed use will have an adverse impact on the use and future development on neighboring properties and could set a high density precedent for the future development, and (4) believes that the proposed use would generate conflicts with the existing and anticipated traffic in the area. In closing, Mr. Guinaw stated that based upon staff's analysis, staff is recommending denial of this special permit. He added that numerous letters both in support and opposition of this application have been received by staff and have been made available to the Board.

Following questions from the Board, Mr. Guinaw explained that the soils report submitted by the applicant indicates that soils in the area that staff had recommended relocating the proposed facility were undevelopable. He stated that staff disagrees with this conclusion.

Mr. Hyland expressed his desire to have the representatives from VDOT and OT come forward to respond to questions from the Board. Richard Harrison, Transportation Planning Engineer, VDOT, came forward and explained that the applicant had requested a second median break on Route 7 in addition to the existing median break along the frontage of the site. After reviewing this request, VDOT informed the applicant and the County Office of Transportation that the request had been denied. Based upon consideration of the main purpose of Route 7 as an arterial highway to move through traffic, VDOT decided it was not prudent to create another point of friction along Route 7 in this area. He added that the entrance as proposed by the applicant at the existing median break on Route 7 would, if approved, contribute to a deterioration of the level of service on Route 7 as it operates today. In response to a question from the Board, Mr. Harrison stated that any improvements on Route 7 which would potentially mitigate adverse traffic impacts generated by the proposed use, for example, a grade change at the existing median break, would be very expensive.

Edgar Prichard and David S. Houston, attorneys with McGuire, Woods, Battle and Boothe, 3950 Chain Bridge, Fairfax, Virginia, represented the applicant. Mr. Prichard came forward to speak on behalf of the applicant. He began his remarks by stating that in December 1986 when a similar application was before the Board two of the Board members had indicated that the application was deficient because the building was too large and was located too close to Route 7. He indicated a map which showed the area where the parishioners lived. There is a membership of 1,000 with an attendance on Sunday mornings of 1,800 to 2,000 people. They have now outgrown the facility they are presently using and now are requesting to build a larger facility. This is the third time before the Board of Zoning Appeals. The first time they sought to expand the existing facility and the application was denied. After the church facility for this site was denied in December, the church was told that the proposed facility was too intense for the site, the applicant went back to the drawing board and developed the plan that is before the Board now. There were several meetings between staff and the applicant and at those meetings staff indicated that they would not support the application unless the sanctuary was relocated or the size was reduced. The applicant chose to reduce the size of the sanctuary to 1,690 seats from 2,000 seats. This will not accommodate all the parishioners at one time, therefore the church will need to hold more than one service and the applicant is willing to work with the County on the time lapse between these services. The sanctuary has been moved back 90 feet, reduced in size by 30,000 feet, reduced in height by 15 feet thereby reducing the Floor Area Ratio to .025, and they have increased the distance between the proposed facility and the surrounding neighborhoods. Mr. Prichard stated that the church could not be moved further back due to a gas easement and to relocate the church past the gas easement would be infringing on property that the church does not now own. He explained that the church has a pending contract on the rear of the lot but at present the church is not financially able to purchase the property. He stated that the architect has laid out the church in a way that from one of the neighborhoods the church looks like only a one story building. Mr. Prichard added that a 340 foot setback is quite generous, the parking has been relocated from the front of the church to the rear, berms will be provided to enclose the parking area and the waiver of the transitional screening requested by the applicant is only around the property that is not now owned by the church. In closing, Mr. Prichard displayed a comparison sheet which showed the other churchs which the Board has approved compared to the one proposed in this applicantion.

At this time Chairman Smith called for speakers in support and the following speakers came forward: Walter Mahan, 2442 Brussels Court, Reston, Virginia; Jay Schroeder, 11285 Beach Mill Road, Great Falls, Virginia; Woody Fitzhugh, 1152 Riva Ridge Drive, Great Falls, Virginia; Jeannette Williams, 10405 Dunn Meadow Road, Vienna, Virginia; Warren Rosenberger, 526 Utterback Store Road, Great Falls, Virginia; Barbara Soderquist, 1055 Rector Lane, McLean, Virginia; and, Richard J. Enrico, 13365 Meadowsweet Drive, Fairfax, Virginia.

The speakers supported this application as they believe the church was a great benefit to the community and would not impact the traffic as the primary use would be during off peak hours.

Chairman Smith called for speakers in opposition to this application and the following came forward: Richard Manley, 1110 Burywood Lane, Reston, Virginia; Bob MacKichan, 1003 Riva Ridge, Drive, Great Falls, Virginia; Gary Long, 1166 Kettle Pond Lane, Great Falls, Virginia.

Kevin Guinaw informed the Board that John Herrington from OT had to leave for another meeting. John Herrington came forward and stated that OT did not agree with the transportation analysis submitted by the applicant. He stated that the historic growth used in the analysis to project future traffic volumes on Route 7 did not take into account the increase in traffic which had occurred in recent years. As a result, the future congestion on Route 7 is undercounted.

He pointed out that in the applicant's analysis, access to the site was analyzed under the assumption of a signzalied intersection. However, since the proposed entrance would only be a stop-controlled intersection, a substantial deterioration from level of service A, as indicated in the applicant's study, could be anticipated. Conversations with the applicant's engineer indicated that the level of service for the traffic exiting the site under stop-controlled conditions would be level E.

Following Mr. Herrington's comments, Chairman Smith called for additional speakers in opposition: Thomes Denomme, 932 Riva Ridge Drive, Great Falls, Virginia, represented the Foxdale Civic Association; Martha Harris, 10605 Springvale Court, Great Falls, Virginia, Chairman of Planning and Zoning Committee of the Great Falls Civic Association; Marge Gersic, 11120 Corabon Lane, Great Falls, Virginia, President of the Great Falls Citizens Association; Vivian Lyons, 10808 Nicholsridge Road, Great Falls, Virginia; Alan B. Brownstein, 938 Riva Ridge Drive, Great Falls, Virginia; Maureen Pesci, 906 McMillen Court, Great Falls, Virginia; Len Beech, 1162 Kettle Pond Lane, Great Falls, Virginia; Paul Neuschler, 903 Riva Ridge Drive, Great Falls, Virginia; and, Paula Frew, 1127 Riva Ridge, Great Falls, Virginia.

The citizen opposition was based upon the proposed use being too intense for the site, the significant traffic that would be generated by this use, and the use not being in line with the low density residential character of the surrounding neighborhoods.

Chairman Smith questioned staff as to the references that had been made to 76 acres. Mr. Guinaw explained that the application property is 76 acres but that the proposed facility was located on 29 acres of the 76 acres. At present the applicant only owns the 29 acres with a pending contract on the remaining acreage.

During rebuttal, Mr. Prichard asked those in attendance who supported this application to stand and the citizens stood. He stated that 4,000 people had written letters in support of this application and that the transportation issues would be addressed at the time of site plan approval. Mr. Prichard pointed out for the benefit of the citizens that any expansion that the church would request in the future would have to come back to the Board for approval. The entire 76 acres is included in the application with the consent of the contract seller.

Mr. Hyland questioned Mr. Prichard as to what the church's future plans are for the remainder of the 76 acres. Mr. Prichard explained that in order for the church to purchase the site they had to purchase the entire 76 acres not just a portion. He added there is no active plans for the remainder of the site and that the Board's action would be binding on the contract seller.

Following a discussion among the Board members, Mr. Guinaw pointed out that Mr. Prichard has a letter of consent from the contract seller stating that the applicant has their consent to include the entire 76 acres of land in the special permit and that the contract seller will be bound by the special permit.

Mr. Guinaw noted for the record that since the entire 76 acres was included in this application if the church failed to purchase the remainder of the acreage that the church would have to come back to the Board for an amendment to remove any portion of that land.

As there was no further discussion, Chairman Smith closed the public hearing.

Mr. Hammack explained that the Board's decision has nothing to do with religious freedom but deals with land use. He stated that the church has come back with a revised plan which reduced the sanctuary, reduced the seating capacity, and eliminated the chapel but that he still believes the use is too intense for the site and is not in line with the low density character of the area. Mr. Hammack added that he believes the application fails to meet General Standards 1, 2, 3, 4 and 7 for a Special Permit. Therefore, he made a motion to deny special permit application SP 87-D-031.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-D-031 by CHRISTIAN FELLOWSHIP CHURCH, under Section 3-103 of the Zoning Ordinance to allow church and related facilities, on property located at 10920 Leesburg Pike, Tax Map Reference 12-1((1))33A, 52, and 53, 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 14, 1987; and

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

1. That the applicant is the owner of 29.3 acres.
   That the applicant is the contract purchaser of 47.6 acres.
2. The present zoning is R-1.
3. The area of the lot is 76.9 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 and 8-303 of the Zoning Ordinance.

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

Mrs. Day seconded the motion which carried by a vote of 4-2 with Chairman Smith and Mr. DiGiulian voting nay; Mrs. Thonen not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 22, 1987.

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Page 315, July 14, 1987, (Tape 3) Scheduled case of:

11:20 A.M. MARK ALLEN LAWRENCE, M.D., SP 87-D-035, application under Sect. 3-E03 and 8-901 of the Zoning Ordinance to allow a home professional office and waiver of the dustless surface requirement, located at 8612 Tabbs Lane, on approx. 4.2760 acres of land, zoned R-E, Dranesville District, Tax Map 20-1((1))52.

Chairman Smith informed the Board that the applicant in SP 87-D-035 had requested a deferral. Jane Kelsey, Branch Chief of the Board of Zoning Appeals Support Branch, suggested a date of September 22, 1987 at 9:45 A.M. and the Board so moved.

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Page 315, July 14, 1987, (Tapes 3 and 4), Scheduled case of:

11:40 A.M. MOBIL OIL CORPORATION, VC 87-M-036, application under Sect. 18-041 of the Zoning Ordinance to allow construction of service station/quick-service food store building 7 feet from a street line of a corner lot (40 ft. min. front yard req. by Sect. 4-807), located at 6301 Leesburg Pike, on approx. 26,049 square feet, zoned C-8(HC), Mason District, Tax Map 51-3((13))37, 38. (DEFERRED FROM 6/23/87)

Kevin Guinaw, Staff Coordinator, presented the staff report. The applicant is requesting a variance of the minimum front yard requirement in order to construct a service station and quick-service food store. The Board of Supervisors approved a special exception for this use on June 15, 1987. The variance application is for the setback from Castle Place. He pointed out that the applicant had submitted an addendum to the justification for the request which was presented to the Board this morning.

John Rust, attorney with the law firm of Hazel, Thomas, Fisk, Bechorn and Hanes, 3110 Fairview Park Drive, Falls Church, Virginia, represented the applicant. Mr. Rust stated that this application is a companion to the special exception in which the applicant had requested to rebuild the existing Mobil Oil service station that is at Route 7 in Seven Corners at the present time. He pointed that the station has been in operation since 1954 and the station is badly in need of repair and upgrade. Over the past year, the applicant has worked with the Planning Commission and Board of Supervisors and on June 15, 1987 the Board of Supervisors approved the special exception subject to the applicant applying and obtaining this variance. He explained that the lot has three front yards and is a very narrow lot and without some relief from the Ordinance it would take approximately 63 percent of the lot in setbacks.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. DiGiulian stated that he believed that the applicant had presented testimony showing compliance with the standards for a variance and made a motion to grant this application.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-036 by MOBIL OIL CORPORATION, under Section 18-401 of the Zoning Ordinance to allow construction of service station/quick-service food store building 7 feet from a street line of a corner lot, on property located at 6301 Leesburg Pike, Tax Map Reference 51-3((13))37 and 38, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 14, 1987; and

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

1. That the applicant is the owner and lessee of the land.
2. The present zoning is C-8(HC) and (SC).
3. The area of the lot is 26,049 square feet of land.

Page 316, July 14, 1987, (Tape 3), (VC 87-M-036, Mobil Oil Corporation, continued from Page 315)

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 carried by a vote of 6-0 with Mrs. Thonen not present for the vote

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 22, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 316, July 14, 1987, (Tape 4), After Agenda Item:

APPROVAL OF MINUTES

Mrs. Thonen made a motion to approve the Minutes of the May 12, 1987 meeting of the Board of Zoning Appeals as submitted.

Mrs. Day seconded the motion which carried by a vote of 7-0.

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As there was no other business to come before the Board, the meeting was adjourned at 2:10 P.M.

Betsy S. Hurtt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 7/28/87

APPROVED: 8/4/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 21, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; and John Ribble. Gerald Hyland was absent from the meeting.

Chairman Smith opened the meeting at 9:17 A.M. and Mrs. Day led the prayer.

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Page 318, July 21, 1987, (Tape 1), Scheduled case of:

9:00 A.M. ISMAIL M. DAHIYAT AND SIHAM R. DAHIYAT, VC 87-A-039, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of carport for a garage 8.85 feet from a side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 9603 Baccarat Drive, on approximately 10,871 square feet of land, zoned R-3, Annandale District, Tax Map Reference 58-3((13))18.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report.

Ismail Dahiyat, 9603 Baccarat Drive, Fairfax, Virginia, the applicant, explained his request as outlined in the statement of justification submitted with the application. Mr. Dahiyat pointed out that the enclosure of the carport would allow him more storage space. He added that most of the houses in the neighborhood had garages and approval of his request would bring his house in line with houses in the neighborhood.

Following a question from Mr. DiGiulian, Mr. Dahiyat clarified that he was not proposing to enlarge the carport but only to enclose it.

Responding to questions from Mrs. Day, Mr. Dahiyat stated that he had three children and three cars.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen noted the irregular shape of the lot and also that the applicant had met the nine standards for a variance. Therefore, she moved to grant the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-039 by ISMAIL M. DAHIYAT AND SIHAM R. DAHIYAT, under Section 18-401 of the Zoning Ordinance to allow enclosure of carport for a garage 8.85 feet from a side lot line, on property located at 9603 Baccarat Drive, Tax Map Reference 58-3((13))18, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 21, 1987; 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 10,871 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 carried by a vote of of 4-1 with Chairman Smith voting nay; Mr. Hammack not present for the vote; Mr. Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 29, 1987. This date shall be deemed to be the final approval date of this variance.

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Chairman Smith announced that Mr. Hyland was not present for the meeting because he was on two weeks of reserve training.

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Page 319, July 21, 1987, (Tape 1), Scheduled case of:

9:30 A.M. CALVERT P. BENEDICT, VC 87-D-060, application under Sect. 18-401 of the Zoning Ordinance to allow construction of tennis court with 10 foot fence to 9 feet from front lot line and 13 feet from side lot line (40 ft. min. front yard and 20 ft. min. side yard req. by Sects. 3-107 and 10-104), located at 1216 Mottrom Drive, on approximately 2.045 acres of land, zoned R-1, Dranesville District, Tax Map Reference 30-1((2))7A.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report.

Calvert Benedict, 1216 Mottrom Drive, McLean, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He added that when he purchased the property he was unaware that he could not build a tennis court without a variance. Mr. Benedict stated that the property was so configured and the house so positioned that the septic field and driveway precluded placing a court in the rear or along the side of the property. He noted that the court perimeter would be fully landscaped with Canadian elms and azaleas.

Page 320, July 21, 1987, (Tape 1), (VC 87-D-060, Calvert P. Benedict, continued from Page 319)

Following a question from Mrs. Thonen, Mr. Benedict clarified that there would not be lighting for the court.

Chairman Smith called for speakers in support of the proposal and the following citizens came forward: William and Marianne Young, 1215 Mottrom Drive, McLean, Virginia, Phyllis Miller Palombi, 7201 Old Dominion Drive, McLean, Virginia.

They expressed the opinion that the proposal would improve the quality of the neighborhood and also that the court would not be visible from the road. Mr. Young submitted photographs of the subject property from across the street.

In closing, Ms. Hamblin-Katnik advised the Board that if it granted the request, condition 6 should be omitted as a building permit was not necessary.

Mr. Ribble noted for the record a letter from Richard Fly in support of the application.

Since there were no speakers in opposition to address the request, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian noted shape of the lot and location of the dwelling, pool, driveway and septic field. He added that the request met the requirements for a variance and therefore, moved to grant the request subject to the development conditions with 1-5 remaining the same and the deletion of number 6.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-060 by CALVERT P. BENEDICT, under Section 18-401 of the Zoning Ordinance to allow construction of tennis court with 10 foot fence to 9 feet from front lot line and 13 feet from side lot line, on property located at 1216 Mottrom Drive, Tax Map Reference 30-1((2))7A, 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 21, 1987; 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 2.045 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 grading permit shall be obtained to ensure that there will be no additional drainage off site as a result of this construction.
4. The tennis court shall not be lighted.
5. Quality vegetation in the area of the tennis court and retaining wall shall be preserved and supplemented with evergreen plantings to the satisfaction of the County Arborist in order to effectively screen this use from adjacent Lot 8 and from Mottrom Drive.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay; Mr. Hammack not present for the vote; Mr. Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 29, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 321, July 21, 1987, (Tape 1), Scheduled case of:

9:45 A.M. ELAINE W. SERLIN, VC 87-V-061, application under Sect. 18-401 of the Zoning Ordinance to allow construction of 12 foot high detached carport in a front yard and 9.8 feet from a side lot line (no accessory structure permitted in front yard and 15. ft. min. side yard req. by Sects. 3-207 and 10-104), located at 1715 Hollinwood Drive, on approximately 16,140 square feet of land, zoned R-2, Mount Vernon District, Tax Map Reference 93-4((11))35.

Chairman Smith announced that the Board was in receipt of a letter requesting the above referenced application be withdrawn.

Mr. DiGiulian so moved and Mrs. Day seconded the motion which passed by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Hyland absent from the meeting.

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As there was time before the next scheduled public hearing, Ms. Kelsey, Branch Chief, BZASB, advised the Board that staff had received a letter from a concerned citizen commending staff on their fine work on the Friendship Fellowship Church application.

Chairman Smith requested that a copy of the letter be placed in each staff member's individual personnel file. The letter also thanked the Board of Zoning Appeals.

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Page 322, July 21, 1987, (Tape 1), After Agenda Item 1:

Request for Additional Time
Bibleway Church of Fairfax
SPA 79-A-023-1
57-4((1))2

Mrs. Day moved to grant the request for additional time for Bibleway Church of Fairfax for an additional eight months.

Mr. DiGiulian seconded the motion which passed by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Hyland absent from the meeting. The new expiration date is April 4, 1987.

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Page 322, July 21, 1987, (Tape 1), After Agenda Item 2:

Approval of Resolutions
July 14, 1987

Mrs. Thonen moved to approve the Resolutions for July 14, 1987 as submitted.

Mr. DiGiulian seconded the motion which passed by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Hyland absent from the meeting.

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Page 322, July 21, 1987, (Tape 1), After Agenda Item 2:

Approval of Minutes
May 26, 1987

Mrs. Thonen moved to approve the Minutes for May 26, 1987, as submitted.

Mrs. Day seconded the motion which passed by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Hyland absent from the meeting.

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Page 322, July 21, 1987, (Tape 1), After Agenda Item 4:

Application for Appeal
Parkwest Fairview Associates, A Delaware Partnership,
and Cadillac Fairview Urban Development, Inc.

Ms. Kelsey explained to the Board that it was the Zoning Administrator's determination that the interpretation being appealed is a decision involving a proffered condition which does not involve an order, requirement, decision or determination subject to BZA review.

Mr. Ribble requested a verbal interpretation from the County Attorney's office. Therefore, action on this item was passed over until the County Attorney's office could be contacted.

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Page 322, July 21, 1987, (Tape 1), Scheduled case of:

10:00 A.M. MARK EDWARD MULVEY, SP 87-S-032, application under Sect. 8-901 of the Zoning Ordinance for modification to minimum yard requirements for an R-C lot to allow enclosure of screen porch 17.1 feet from a side lot line (20 ft. min. side yard req. by Sect. 3-C07), located at 5199 Dungannon Road, on approximately 21,690 square feet of land;, zoned R-C(WS), Springfield District, Tax Map Reference 67-2((4))31.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the application.
Mark Mulvey, 5199 Dungannon Road, Fairfax, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day noted the irregular shape of the lot and therefore, moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-S-032 by MARK E. MULVEY, under Section 8-901 of the Zoning Ordinance to for modification to minimum yard requirements for an R-C lot to allow enclosure of screen porch 17.1 feet from a side lot line, on property located at 5199 Dungannon Road, Tax Map Reference 67-2((4))31, 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 21, 1987; 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, WS.
3. The area of the lot is 21,690 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 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 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. 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 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 carried by a vote of 6-0 with Mr. Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 29, 1987. This date shall be deemed to be the final approval date of this special permit.

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As there was time before the next scheduled public hearing, the Board recessed the meeting at 10:05 A.M. and reconvened the meeting at 10:30 A.M.

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Page 323, July 21, 1987, (Tape 1), Scheduled case of:

10:15 A.M. THE RICHARDS GROUP OF WASHINGTON, SP 87-S-026, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 16.0 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307) located at 13478 Stream Valley Drive, on approximately 8,700 square feet of land, zoned R-3(C), WS, Springfield District, Tax Map Reference 45-1((9))20

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the request as it met all required standards for this special permit.

Allan Gasner, 7004 Darvey Road, Bethesday, Maryland, the applicant's representative, appeared before the Board and explained that the engineer interpreted the side yard to be the rear yard which caused the building error. He added that the applicant was trying to come into compliance by way of this special permit application.

Page 324, July 21, 1987, (Tape 1), (SP 87-S-026, The Richards Group of Washington, continued from Page 323)

In closing, Ms. Hamblin-Katnik informed the Board that if the application were granted, development condition 2 would not be necessary because it was built as shown on the building permit.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Ribble moved to grant the request subject to the development conditions with the deletion of condition 2.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Ribble made the following motion:

WHEREAS, Application No. SP 87-S-026 by THE RICHARDS GROUP OF WASHINGTON 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 16.0 feet from rear lot line, on property located at 13478 Stream Valley Drive, Tax map reference 45-1((9))20, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on July 21, 1987; 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.

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.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 6-0 with Mr. Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 29, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 324, July 21, 1987, (Tape 1), Scheduled case of:

10:30 A.M. CALVARY CHURCH OF THE NAZARENE, SP 87-M-036, application under Sect. 3-203 of the Zoning Ordinance to allow church and related facilities, located at 8250 Little River Turnpike, on approximately 19.157 acres of land, zoned R-2, Mason District, Tax Map Reference 59-3((91))pt. 32.

Chairman Smith announced that the Board had received a request from the attorney for the Calvary Church of the Nazarene requesting a deferral and added that staff was in agreement with the request.

Staff suggested September 15, 1987 at 8:30 P.M. Mrs. Day so moved. Mr. DiGiulian seconded the motion which passed unanimously with Mrs. Thonen not present for the vote; Mr. Hyland absent from the meeting.

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Page 325, July 21, 1987, (Tape 1), After Agenda Item 4:

Application for Appeal
Parkwest Fairview Associates, A Delaware Partnership,
and Cadillac Fairview Urban Development, Inc.

At this time, Ms. Kelsey informed the Board that she had been advised by the County Attorney's office that the appeal was not properly before the BZA.

Mrs. Thonen moved that the Board not accept the appeal application for Parkwest Fairview Associates, A Delaware Partnership, and Cadillac Fairview Urban Development, Inc. as it was not properly before the BZA.

Mr. Ribble seconded the motion which passed by a vote of 6-0 with Mr. Hyland absent from the meeting.

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At 10:45 A.M., the Board called a brief recess and reconvened the meeting at 11:07 A.M.

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Page 325, July 21, 1987, (Tape 1), Scheduled case of:

10:50 A.M. U. S. HOME CORPORATION, SP 87-S-037, application under Sect. 3-803 of the Zoning Ordinance to allow a child care center, located at Old Centreville Road and Singleton's Way, on approximately 1.25 acres of land, zoned R-8, Springfield District, Tax Map Reference 65-2((1))pt. 15A.

Kevin Guinaw, Staff Coordinator, advised the Board that the applicant was requesting a deferral to allow time to address the issues raised in the staff report.

Mr. Ribble so moved. Mr. DiGiulian seconded the motion.

Chairman Smith called for speakers to address the issue of deferral and the following citizens came forward: Beverly and Preston Mulford, 6101 Old Centreville Road, Centreville, Virginia. They were owners and operators of a day school adjacent to the proposal. Mr. and Mrs. Mulford also expressed the opinion that the deferral was unnecessary as the applicant had already had sufficient time to resolve any outstanding issues.

Jack Cahill, attorney with Hazel, Thomas, Fiske Beckhorn, & Hanes, appeared before the Board and explained that he had only had the staff report a few days and was requesting additional time to address staff's concerns regarding design and transportation issues.

Leslie Kincaid, Antonio Ford Court, also appeared before the Board in opposition to the deferral.

Mr. Guinaw pointed out that the Mr. Cahill had had difficulty contacting the applicant and has not had the authority to make any changes to the application in order to resolve the issues raised by staff.

Mr. Cahill further explained that he was trying to coordinate between U.S. Homes and the operator of the child care center.

Mrs. Mulford then requested a night meeting if the Board were going to defer the application so that she would not miss time from work.

Staff suggested a new public hearing date of October 20, 1987 at 8:00 P.M.

The motion passed unanimously with Mr. Hyland absent from the meeting.

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Page 326, July 21, 1987, (Tape 1), Scheduled case of:

11:10 A.M. WILLIAM AND GWEN KING, SP 87-C-024, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow partial construction of garage to be completed and remain detached in a front yard (accessory structure or use not permitted in any front yard by Sect. 10-104), located at 10815 Cross School Road on approximately 21,368 square feet of land, zoned PRC, Centreville District, Tax Map Reference 27-1((3))8.

Claudia Hamblin-Katnik, Staff Coordinator, advised the Board that the Zoning Administrator had notified staff that the application had been processed incorrectly. Since the application should have been processed as a variance, not a special permit, the application will now be converted to a variance and reprocessed and a new notice package sent.

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Page 326, July 21, 1987, (Tape 1), Scheduled case of:

11:15 A.M. FAIRFAX BAPTIST TEMPLE, SP 87-S-022, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities, located at 10207 Burke Lake Road, on approx. 32.9 acres, zoned R-1, Springfield District, Tax Map 77-4((1))pt. 16 and 87-2((1))pt. 3. (DEFERRED FROM 6/9/87 AT APPLICANT'S REQUEST)

Kevin Guinaw, Staff Coordinator, advised the Board that staff was in receipt of a petition requesting a deferral so the application could be scheduled for a night meeting.

Robert Lawrence, attorney with the law firm of Hazel, Thomas, Fiske, Beckhorn and Hanes, 4084 University Drive, Fairfax, Virginia, appeared before the Board and expressed opposition to the request.

Mrs. Thonen moved to go forward with the application and Mr. DiGiulian seconded the motion.

Mr. Hammack stated that he would prefer to see what action the Board of Supervisors took on the pending applications for a private school (SE 87-S-018, by the same applicant) and related special exception applications (SE 87-S-011, 87-S-047, 87-S-048, 87-S-049) for a cluster subdivision in the vicinity of the subject property.

The motion to go forward with the application passed by a vote of 4-2 with Mrs. Day and Mr. Hammack voting nay; Mr. Hyland absent from the meeting.

Kevin Guinaw presented the staff report and advised the Board that a new development plan was submitted late yesterday, July 20, 1987, which clarified the future addition. He further noted that the Comprehensive Plan map shows residential use of .2-.5 dwelling units per acre and public park. At this time, Mr. Guinaw introduced to the Board, Bill Swietlik, Environmental Planner with the Office of Comprehensive Planning.

Mr. Swietlik advised the Board that Burke Lake is an aquatic ecosystem of extremely high quality and value and that Burke Lake is the most heavily fished recreational lake in Virginia. Mr. Swietlik further advised the Board that Burke Lake has obtained a water quality that is the best of any lake or reservoir in Fairfax County. The Comprehensive Plan identifies low density (.2-.5 du/acre), large-lot residential as the most environmentally sensitive land use for development in the watershed.

The Comprehensive Plan was developed with certain land use recommendations to maintain these conditions. The South Run watershed that drains into the lake was planned for low density residential development in order to protect against excessive peak stormwater runoff flows which can lead to streambank erosion, siltation, and the gradual sedimentation of Burke Lake and the resultant detrimental impacts on the water quality. Furthermore, low density residential development which is planned for the watershed reduces nonpoint source pollution in stormwater runoff or the type of pollution caused by the suburban runoff containing fertilizer, pesticides, automotive oil and coolants, chlorine from swimming pools and miscellaneous other household contaminants can have deleterious effect upon water quality in the suburban lake.

As an indication of intensity and the potential impacts on water quality within Burke Lake, Mr. Swietlik highlighted the following factors: The percentage of the total amount of space on this parcel that is preserved as Environmental Corridor Open Space, and when compared with development that has occurred within the Burke Lake Watershed, this proposal is five times less than anything that has been previously approved for development within the Burke Lake Watershed. The percent of area preserved in undisturbed tree preservation areas, in comparison to other development that has occurred in the area, is 4 and 1/2 times less with the proposal. In relation to impervious surface a major source of storm water peak discharges and storm water containments, this proposal has 2 and 1/2 times more than what has been previously

approved other developments. In relationship to another church that was approved in the area, the FAR is twice as high, and the parking is 10 times more than what has already been approved on other similiar uses. Dedication of the stream valley open space areas to the Fairfax County Park Authority is not happening on this application which is called for by the Plan.

In conclusion, Mr. Swietlik stated that the use is highly intense, not in character with what the Comprehensive Plan recommends for this area.

Mr. Guinaw further stated that the size of the proposed building is not compatible with the low-density residential development existing and planned for the area. Mr. Guinaw noted that there were major transportation problems without considering the special exception for the school. In conclusion, Mr. Guinaw stated that the use was too intense and not in harmony with the Plan therefore, staff was recommending denial of the proposal.

Following questions from Mr. Hammack, Mr. Guinaw stated that he had also asked why the number of seats could not be reduced from 2,000 since the building had been reduced, but that he had not yet received an answer. He added that if the special exception for the cluster subdivision is not approved there would no access to the site.

Robert Lawrence and Grayson Hanes, with the law firm of Hazel, Thomas, Fiske, Beckhorn and Hanes, 4084 University Drive, Fairfax, Virginia, were present as representatives of the applicant. Mr. Lawrence requested an additional 20-30 minutes to make his presentation.

Mrs. Thonen so moved. Mr. Hammack seconded the motion which passed unanimously with Mr. Hyland absent from the meeting.

Mr. Lawrence stated that the Plan is only a guide and not the Zoning Ordinance. He explained that the proposed soccer field would be deleted and that six percent of the site must be dedicated to the County for the Springfield Bypass. He added that impervious parking would be provided and also noted that the Board of Supervisors had approved three cluster subdivisions in the area because otherwise it could not impose the Best Management Practices (BMP's). The applicant will provide BMP's by following the regulations set by the Department of Environmental Management (DEM). Mr. Lawrence also expressed the opinion that staff is ignoring the number of acres for the proposal and noted that the proposal is only half of what could be requested based on the floor area ratio (FAR) limitation.

In response to a question from Mrs. Thonen, Mr. Guinaw explained that staff's comparative analysis was based on recently approved R-1 clusters in the area. Mr. Lawrence stated that it was unfair to compare the proposal with an R-1 cluster development.

Mr. Lawrence clarified that access is shown across two properties which are not part of the application but there was an agreement with the property owner that access would be granted, contingent on the cluster subdivision approval. He added that there was substantial wooded buffer adjoining the property. With regard to visual impacts, he expressed the opinion that it would not be detrimental to see a church and also pointed out that it would be located in the central portion of the property which was 33 acres. Mr. Lawrence also indicated that additional landscaping would be provided along the proposed Springfield Bypass area.

Mrs. Thonen expressed concern about the noise impacts from the Springfield Bypass.

With regard to transportation issues, Mr. Lawrence stated that the applicant should not be required to solve all transportation problems in the area. He introduced William Fissell, engineer with Dewberry and Davis, 8401 Arlington Boulevard, Fairfax, Virginia.

Mr. Fissell presented slides showing how road improvements proposed by the applicant would be made to enhance traffic flow in the area.

Mr. Lawrence indicated that a traffic signal would be necessary and the applicant was willing to provide it subject to approval by the Virginia Department of Transportation.

Mr. Hammack asked why the church had not reduced the size of its building. Mr. Lawrence responded that the new design would accommodate the number of seats requested. Following further questions from Mr. Hammack, Mr. Lawrence stated that the church membership was 1,350 and members came from all areas of Fairfax County.

Chairman Smith called for speakers in support of the proposal and the following citizens came forward: Drew Richardson, 9605 Little Cobbler Court, Burke, Virginia, Sam Edwards, 6923 Clifton Road, Clifton, Virginia, Mark DeWeese, 5732 Oak Court, Burke, Virginia, Ronald Fannin, 9730 Abington Court, Fairfax, Virginia, Phil Singley, 11801 Grenadier Court, Fairfax Station, Virginia.

They all expressed support for the proposal noting that the traffic caused by the church would be minimal, signalization was proposed and the church would enhance the area.

Chairman Smith called for speakers in opposition to the proposal and the following citizens came forward: J.O. Estabbrooks, Poburn Woods Civic Association, 6313 Karmich Street, Fairfax Station, James Xiton, Burke Lake Road and Pohick Road Civic Association, 10129 Pohick Road, Burke, Virginia, Jane Lyon, 6310 Karmich Street, Fairfax Station, Virginia; Paul Youney, White Oaks Civic Association, 10207 Burke Lake Road, Fairfax Station, Nancy Crum, Longwood Knolls Civic Association, 7304 Compass Court, Burke, Virginia; Toni Carney, 9909 Rand Drive, Burke, Virginia; Bill Worsham, Killarney Homes Association, 6413 Fairfax Station Road, Fairfax Station, Virginia; and Kathleen Easton, 10456 Burke Lake Road, Fairfax Station, Virginia.

The speakers in opposition supported the staff report and expressed concerns for increased traffic, the environment and safety. They also noted that there was no community support for the proposal and that it was a commercial use in the residential area.

Another citizen who spoke out of turn and did not sign the speakers list stated that he resided at 2710 Livingstone Lane, Vienna, Virginia, and appeared before the Board in support of the proposal noting that it was not a commercial use.

At this time, Kevin Guinaw advised the Board that John Herrington from the Office of Transportation was available to provide information requested by the Board concerning the transportation analysis. Mr. Herrington stated that signalization would be warranted at Burke Lake and Pohick Roads but that access to and from the church entrance would not be improved by the signalization.

In rebuttal, Mr. Lawrence advised the Board that the applicant would delete the soccer fields and no lighting would be provided for the fields, and landscaping along Burke Lake and Pohick Roads will be provided with more mature trees. With regard to the water quality, the BMP requirements will be satisfied. Transportation improvements will be provided.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack stated that after hearing the testimony of the applicant and the opposition there are some real good issues in this case. This is a very intensive use of the property and the issues are very important issues. He further stated that he still had reservations about taking action on the request without first knowing what action the Board of Supervisors would take regarding the proposal for a private school by the applicant and a proposal for a cluster subdivision in the same vicinity. Therefore, he moved to defer decision on the application until after the Board of Supervisors had taken action on the pending special exception applications.

Staff suggested October 27, 1987 at 9:30 A.M.

Mrs. Day seconded the motion which passed by a vote of 5-1 with Mr. Smith voting nay; Mr. Hyland absent from the meeting.

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At 1:35 P.M. the Board called a brief recess and reconvened the meeting at 1:44 P.M.

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Page 328, July 21, 1987, (Tape 3), Scheduled case of:

11:30 A.M. CEDAR CREST COUNTRY CLUB, SP 87-S-049, application under Sects. 3-C03 and 8-915 of the Zoning Ordinance to allow commercial golf course and recreational ground and waiver of the dustless surface, located at 16850 Sudley Road, on approximately 812.4 acres of land, zoned R-C(WS), Springfield District, Tax Map Reference 52-3((1))1, 42-4((1))9, 52-2((1))4, and 52-1((1))1 and 2.

Harold Miller, 11715 Bowman Green Drive, Reston, Virginia, the applicant's representative, appeared before the Board and requested a deferral to allow time for the soils studies to be completed for Health Department Analysis and he also needed some expert assistance to evaluate the staff report.

Chairman Smith called for speakers to address the question of deferral and the following citizens came forward: Jane Wilson 5649 Sudley Road, Manassas, Virginia, appeared before the Board in opposition to the request for deferral due to the many violations pending and because the applicant has more than ample time to correct the situation. Martha Hendley also spoke in opposition to the deferral.

Lori Greenlief, Staff Coordinator, advised the Board that the applicant has 25 violations and that staff has been working with the applicant since October of 1986. She added that the applicant has been aware of the many problems for some time. In addition, staff's recommendations are consistent with which was recommended in 1984.

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Mr. Ribble moved to defer the application for 90 days. Mr. DiGiulian seconded the motion.

Chairman Smith expressed the opinion that 90 days was too long.

Jane Kelsey, Branch Chief, Board of Zoning Appeals Support Branch, pointed out that she had discussed the problem of the septic facilities last fall and the applicant had told staff that the soils studies were being done at that time.

Mr. Miller explained that the delay in septic testing was because they changed engineers.

Horace Jones, Department of Environmental Health, appeared before the Board and told the Board that soils tests were taking approximately five months to complete.

Mr. Pokrifka, 8715 Plantation Lane, Prince William County, Virginia, Soil Conservationist, appeared before the Board and suggested that the stream crossing be discontinued.

Mr. Miller agreed to stop crossing the stream and put a barrier in place to stop it.

Ms. Kelsey suggested that the application be scheduled for early September, however the Board members expressed concern that the soil analysis would not be complete by then and asked for a date closer to 90 days. At the Board's request, Mr. Miller agreed to provide the soils analysis to staff by September 20, 1987.

At the Board's request, staff suggested October 20, 1987 at 8:20 P.M.

The motion passed unanimously with Messrs. Hammack and Ribble not present for the vote; Mr. Hyland absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 1:47 P.M.

Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 7/28/87

APPROVED: 8/4/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, July 23, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day, Mary Thonen and Paul Hammack. Messrs. Hyland and Ribble were absent from the meeting.

Chairman Smith opened the meeting at 9:20 a.m. and Mrs. Day led the prayer.

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Page 330, July 23, 1987, (Tape 1), Scheduled case of:

9:00 A.M. KATIE H. BARR, SP 87-S-019, application under Section 3-C03 of the Zoning Ordinance to allow a kennel and waiver of dustless surface requirement, located at 7121 Bull Run Post Office Road on only approx. 28.403 acres, zoned R-C and WSPOD, Springfield District, Tax Map 64-1((1))36. (DEFERRED FROM 5/26/87)

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that she and Ms. Kelsey, Branch Chief, BZASB, had visited site and found the kennel to be consistent with the applicable Zoning Ordinance provisions and the Comprehensive Plan. Ms. Belofsky stated that staff was recommmending approval of the request subject to the development conditions.

James Armstrong, Senior Health Inspector, of the Health Department, appeared before the Board and stated that he had visited the site on July 22, 1987 and found the conditions to be basically unchanged from June 8, 1987 report. He added that the barbed wire had been removed and that there were 84 dogs and 11 cats on the property. Mr. Armstrong further stated that the kennel was not in compliance with the Health Department Code. Mr. Armstrong informed the Board that Mrs. Barr would not let him inspect the barn.

Following questions from Mrs. Day and Mr. Hammack, Mr. Armstrong stated the animals were properly cared for but the facility is in a gross state of disrepair, kennels are not considered to be cleanable, and cannot be kept in a sanitary fashion. Sharp edged sheet metal, dog houses with exposed nails, and junk throughout the entire facility are some of the injurious conditions occurring at the site. Twenty-six dog houses are adequate if the sheet metal is removed. If Mrs. Barr does not correct any of the problems, the Health Department does not recommend approval of this facility as a boarding kennel for any number of dogs.

Ms. Belofsky stated that she contacted Drs. Humphrey and Austin, veterinarians for Mrs. Barr; they would make no comments except that they had never seen a dog brought in that was hurt.

Fredrick H. Goldbecker, P. O. Box 517, Fairfax, Virginia, attorney for the applicant, stated that he believed the report by the Health Department is subject to interpretation. The structures are sturdy and meet the requirements of the Code.

Since the attorney had just recently been retained by the applicant, Mr. Hammack gave Mr. Goldbecker some background information on the case: that Mrs. Barr has had since 1986 to clean up this situation; that this case was deferred because he wanted updated information and did not want to make a motion on outdated information; and months later Mrs. Barr has still not corrected the situation by the Health Department standards.

Mr. Goldbecker brought up a point that alot of the dogs in the kennel are Mrs. Barr's dogs and do not come under the purview of the kennel regulations. Ms. Belofsky, stated that 35 dogs are owned by Mrs. Barr, and there are 84 dogs in total.

Chairman Smith stated that everybody has tried to help Mrs. Barr, but she has not cooperated, nor abided by the conditions of the use permit.

Mr. Hammack stated that the Health Department has tried to defer a prosecution to allow Mrs. Barr time to correct the deficiencies so she can avoid criminal prosecution.

After discussion with the Board, Mr. Goldbecker, and Mr. Armstrong about the Health Department inspecting Mrs. Barr's premises, it was decided that Mr. Armstrong could inspect the property any time from 9:00 a.m. to 5:00 p.m.

Photographs were submitted of Mrs. Barr's premises by Mr. Goldbecker. Mr. Armstrong looked at the photographs and commented that this is the present condition of the premises.

Discussion ensued between the Board and Mr. Goldbecker about the prior Health Department Report concerning the barn that burned down, the pile of debris sitting near the kennels, the rat holes, all of which the Health Department believes to be hazardous. Several members of the Board commented that Mrs. Barr has had well over a year to try to satisfy the County Health Department requirements; that the negative report from the Health Department was issued in March of 1986; and that all that Mrs. Barr has done to correct these problems is to remove the barb wire, put gravel down and do some general cleaning. Chairman Smith stated that Mrs. Barr's problem is that she does not try to cooperate.

Carolyn Glade, 7404 Bull Run Drive, Centreville, Virginia, spoke in support of the application. She submitted a petition that the neighbors signed with seven reasons why they believed Mrs. Barr's kennel should remain open. She stated that she has been both a customer and employee of Mrs. Barr's, and although her kennel is not quite like the one at the County Shelter, the animals receive expert care.

Mr. Hammack questioned whether or not Mrs. Glade was being paid for her work for Mrs. Barr and she stated that she was. He also wanted to know how many animals she thought could be properly boarded under maximum conditions. Mrs. Glade stated that she did not feel qualified enough to answer.

Mrs. Thonen pointed out that if all the neighbors are in favor of Mrs. Barr's kennel maybe all of them could bann together and do a community service and help her get the kennel up to standards. Mrs. Glade commented that some of the neighbors have already discussed this and have not had an opportunity to make Mrs. Barr an offer.

Chairman Smith discussed the fact that the Board's concern is that the kennel is not up to par to grant a special use permit for her to continue.

Roy Schroup, 7514 Bull Run Drive, Centreville, Virginia, spoke in support of the application and stated that the character of their particular piece of land is rural. He stated that he understood Mrs. Barr's viewpoint and her frustration because since 1955 she has been running the kennel and getting permits on a regular basis and now it appears that the Health Department has tightened down. He feels that Mrs. Barr and the County are both correct. He again stated that the neighbors are willing to do some additional clean-up at the kennel.

Frederick H. Sanders, Kings Park Subdivision, Springfield, Virginia spoke in support of the application. Mr. Sanders explained that as a dog handler he had visited the Barr kennel several times and found the kennels to be sound and the animals in fine condition. Another point that he made is that Katie Barr is doing a great community service and saving the County money. Mr. Sanders stated that he recently adopted a dog from Katie Barr's kennel that was boarded in the barn for a year and a half and the dog did not bring disease into his household.

Chairman Smith commented that the Board was aware of Mrs. Barr's community service and that is why she has been given so much flexibility and time to clean up the situation.

Ann Lewis, 13721 Poplar Tree Road, Chantilly, Virginia, who works for Friends of Homeless Animals, spoke in support of the application. They do not own any facilities such as a kennel so therefore, have to board with commercial facilities, such as the Barr kennel. They usually have 45 dogs in her care.

During rebuttal, Mr. Goldbecker, attorney for the applicant, requested that if the application is granted, that somewhere in the conditions they differentiate between Mrs. Barr's own dogs and the number of dogs that she is allowed under the standards of Article 5. Mr. Hammack's response to this was that she is under a special permit and it covers the entire land, so her dogs are included.

Mr. Hammack made a motion to defer the application until September 22, 1987 at 10:15 a.m. and at that time he would be inclined to limit the number of dogs on the premises until the sanitation requirements set forth by Fairfax County have been satisfied. Mr. Hammack further stated that if these requirements are not met he would be inclined to make a motion to deny the Special Permit for the boarding kennels.

Mrs. Thonen pointed out that the applicant and Mr. Armstrong should get together with the attorney and tell them exactly what it will take to bring everything up to standards. Staff will also have be involved as far as the land use. Chairman Smith suggested that Mr. Goldbecker get in touch with Mr. Armstrong, because it is his responsibility to do so.

Mr. Hammack stressed that he expects Mrs. Barr to comply with the requirements of the Health Department. Mr. DiGiulian stated that he wants to hear testimony from the Health Department that Mrs. Barr is in compliance or he would not support any motion for a special permit.

Ann Lewis stated that Mrs. Barr had been paid $3,600 for this past month but animals are constantly being moved and the money varies and is not to be counted on.

Mr. Hammack stated that the Board has been told that Mrs. Barr does not accept money for many of these services to a large extent and she is running a commercial operation when she accepts money for the boarding of animals.

Mr. DiGiulian seconded Mr. Hammack's earlier motion to defer the hearing until September 22, 1987 at 10:15 a.m., in order for the attorney for the applicant, the staff, and the representative, Mr. Armstrong, from the Health Department to work out a solution to the deficiencies that have been reported to the Board.

Mr. Hammack requested staff to determine whether or not Mrs. Barr has a county license to operate this facility.

This motion was carried by a vote of 5-0 with Messrs. Hyland and Ribble absent from the meeting.

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Page 332, July 23, 1987, (Tape 1), Scheduled case of:

9:20 A.M. W. CRAIG STIER, VC 87-C-062, application under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed sunporch addition to dwelling to 12.0 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-107), located at 12131 Westwood Hills Drive, on approximately 20,879 square feet of land, zoned R-1(C), Centreville District, Tax Map Reference 36-1((16))9.

Jane C. Kelsey, Branch Chief, presented the staff report. The applicant is requesting a variance to the rear yard requirement to allow the construction of an enclosed sun porch 12.0 feet from the rear lot line. The applicants are therefore requesting a variance of 13 feet from the minimum rear yard requirement.

Craig Stier, 12131 Westwood Hills Drive, Herndon, Virginia, the applicant, referred to the criteria to be met for a variance. He stated that the exterior would be in conformance with the regulations. He stated that his justification for the variance was due to exceptional narrowness of the lot, a septic field to the right of the rear yard, and a slope that made it impossible for him to build on. He stated that the undue hardship is due to the fact that a sunporch cannot be built anywhere in the yard. This problem is not shared with any other homes in the subdivison. He stated that all materials would be architecturally compatible with the other homes in the area.

Mrs. Thonen questioned the applicant in reference to notifying lot 7A of this hearing. The applicant stated that he did that. Mr. Bozak, who is on the Architectural Committee for the Folkstone subdivision, made every effort to contact abutting property owners but he did not know how successful he was.

Jane C. Kelsey, commented that she made a mistatement in that the files did not indicate that any other variances had been approved in this area. In response to Chairman Smith's question as to whether or not the adjacent property owners have open decks or sunporches this was not researched, she stated.

As there were no speakers either in support or in opposition to this application, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant VC 87-C-062 based on the applicant's testimony and that the applicant had met the nine standards, especially the depth of the lot and that the septic field and the easement cover half of the lot.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-062 by W. CRAIG STIER, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed sunporch addition to dwelling to 12.0 feet from rear lot line, on property located at 12131 Westwood Hills Drive, Tax Map Reference 36-1((16))9, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 23, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-1(C).
3. The area of the lot is 20,879 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.

4. The exterior of the sun porch addition shall be architecturally compatible with the existing dwelling and shall be complimentary in color and materials.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay; Messrs. Hyland and Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 31, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 334, July 23, 1987, (Tape 2), Scheduled case of:

9:35 A.M. RICHARD H. COOK, VC 87-S-063, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling to 15 feet from both side lot lines (20 ft. min. side yard req. by Sect. 3-107), located at 6131 Garden Road, on approximately 32,279 square feet of land, zoned R-1, Springfield District, Tax Map Reference 79-3((7))4.

Jane C. Kelsey, Chief of the Board of Zoning Appeals Support Branch, presented the staff report. The applicant is requesting two variances to the minimum side yard requirement to allow construction of a dwelling 15 feet from each side lot line; therefore requesting a variance of 5 feet from each minimum side yard requirement for a total of 10 feet. One of the problems with this variance is that Garden Road has not yet been constructed to provide access to the site. Mr. Cook will have to obtain approval from VDOT and get a permit in order to access the property.

Richard Cook, 8678 Center Road, Springfield, Virginia, the applicant, stated that the house design is a total of 68' wide, however, that will be reduced because the brick is not going onto the side so it will then be approximately 67'. The garage has living space in behind it as well as over it. To not allow the variance would require the elimination of that total living space, which is part of the kitchen area, as well as the master bedroom area of the house. With regard to the access to the property he has filed for a driveway easement down lot 6. He has permits from VDOT to provide access to that lot. He has the required verification from Site Review, Department of

Environmental Management, that Garden Road is now a Fairfax County undeveloped road. He can acquire driveway access down Garden Road in the existing condition. Mr. Cook stated that he is also making significant improvements in the area and is installing a sewer line. Mr. Cook has had two different engineers look at the lot and it is impossible to resite the house, have it fit on the lot and conform to existing Zoning Ordinance provisions. To build a house smaller than what is designated would be a detriment to the neighborhood. Lot 14 has been rezoned by the County to R-5, and properties on ((22)) and ((23)) are also R-5. The nearest distance to the house he will build from lot 6, 7 and 5 will be 100 feet.

After questions from Mrs. Day and Mr. Hammack regarding notification of abutting property owners, Mr. Cook commented that Mrs. Peacock owns lots 1, 2 and 3 but they are vacant, and the owner of lot 5 does not have any objections.

Mrs. Kelsey commented that the Board of Zoning Appeals Support Branch did receive a phone call from Mrs. Peacock who seemed to be interested in developing her property at this time, but believed she could not since Garden Road is undeveloped.

As there were no speakers either in support or in opposition to this application, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant VC 87-S-063 based on the fact that the applicant meets the nine conditions required for a variance, specifically with the exceptional shape of the lot which is long and narrow. Mr. DiGiulian revised the Development Conditions as follows: #1 through #4 remain the same and delete condition #5.

Mr. Cook stated that on lot 14, Edgeco Company has a proposal in at this time to develop to improve Garden Road, at that time Mrs. Peacock and Mr. Cook would probably go in with them and improve that extension of Garden Road.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-S-063 by RICHARD H. COOK, under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to 15 feet from both side lot lines, on property located at 6131 Garden Road, Tax Map Reference 79-3((7))4, 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 23, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 32,279 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.

4. The proposed driveway shall comply with the standards set forth in the Public Facilities Manual.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-1 with Mr. Hammack voting nay; Messrs. Hyland and Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 31, 1987. This date shall be deemed to be the final approval date of this variance.

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9:50 A.M. FRANK T. CATENACCIO, VC 87-S-065, application under Sect. 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 4.0 feet from a side lot line (8 ft. min. side yard req. by Sect. 3-307), located at 6301 Shiplett Boulevard, on approximately 9,709 square feet of land, zoned R-3(C), Springfield District, Tax Map Reference 78-4((6))237.

Jane C. Kelsey, Branch Chief to the Board of Zoning Appeals Support Branch, presented the staff report. The applicant is requesting a variance to the minimum side yard requirement to allow construction of an addition to the dwelling. According to the records in the Zoning Administration Division no other variances have been approved in the area, and the houses are situated on the lots in approximately the same location as the applicant's property.

Frank T. Catenaccio, 6301 Shiplett Boulevard, Burke, Virginia, the applicant, submitted two letters from owners of lots 236 and 238, both in support of the proposal. He referred to homes in the same area which have added double garages. A year after purchasing the house, he added two adults to the house, and two years after that he added one child. He has the smallest home in Dormay Estates subdivision, it has three bedrooms and no basement. He feels the addition will increase the property value. He has the only home in Dormay Estates that does not have a built-in garage.

Responding to questions from Mrs. Day, Mr. Catenaccio stated that there are three bedrooms upstairs, downstairs is a family room, an open room that he uses as a study, and a room that is used for a utility room.

As there were no speakers either in support or in opposition to this application, Chairman Smith closed the public hearing.

Mrs. Day moved to grant VC 87-S-065 based on the fact that lot 238 is 20' from the property line and the owner is in agreement with the approval of this application; lot 236 is 22' from the property line and the owner is also in agreement. Also, there is a similar garage built in the same area. Mr. Catenaccio's house is the smallest in the area. Mrs. Day stated that Mr. Catenaccio has a personal hardship, and meets the nine standards for a variance.

Due to the lack of a second the motion died.

Mr. Hammack moved to deny VC 87-S-065 based on the fact that the minimum variance requirements are not being requested.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-S-065 by FRANK T. CATENACCIO, under Section 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 4.0 feet from a side lot line, on property located at 6301 Shiplett Boulevard, Tax Map Reference 78-4((6))237, 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, 1987; 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(C).
3. The area of the lot is 9,709 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.

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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 4-1 with Mrs. Day voting nay with Messrs. Ribble and Hyland absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 31, 1987.

Mr. Catenaccio requested a waiver of the twelve month limitation on rehearing the application. Mr. DiGiulian moved to grant the request for a waiver of the twelve month limitation, Mrs. Day seconded the motion and the motion failed by a vote of 2-3 with Mrs. Day and Mr. DiGiulian voting aye, Chairman Smith, Mr. Hammack and Mrs. Thonen voted nay; Mr. Ribble and Mr. Hyland absent from the meeting.

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Page 337, July 23, 1987, (Tape 2), Scheduled case of:

10:20 A.M. WOODROW A. AND ELLEN A. HOWARD, VC 87-M-072, application under Sect. 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 28 feet from the front lot line of a corner lot (35 ft. min. front yard req. by Sect. 3-207), located at 6388 Lakewood Drive, on approximately 14,363 square feet of land, zoned R-2, Mason District, Tax Map Reference 61-3((11))46.

Jane C. Kelsey, Branch Chief to the Board of Zoning Appeals Support Branch, presented the staff report. The applicant is requesting a variance to the front yard requirement to allow construction of a single story addition to the dwelling 28 feet from the front lot line. Ms. Kelsey noted that any addition that is constructed should be compatible with the existing dwelling and similar in color and materials.

Woodrow Howard, 6388 Lakewood Drive, Falls Church, Virginia, the applicant, stated that his justification for the variance is the fact that the house is very small and has no basement. The house was built years ago and it was not placed in the middle of the lot. The purpose of the addition is a larger room for a washer and dryer, breakfast and dining area. He has contacted all of his immediate neighbors and they have no objections to this variance.

Ms. Kelsey pointed out that the house location on lot 45 is 19.5 feet from the side lot line. The house location on lot 47 is approximately 15 feet from the side lot line.

As there were no speakers in either support or opposition to this application, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 87-M-072 based on the fact that the applicant has met all the required standards for a variance. In particular, the lot is a corner lot with frontage on two streets. The addition Mr. Howard is proposing is one story addition below the existing grade of the adjacent house.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-072 by WOODROW A. AND ELLEN A. HOWARD, under Section 18-401 of the Zoning Ordinance to allow construction of an addition to dwelling to 28 feet from the front lot line of a corner lot, on property located at 6388 Lakewood Drive, Tax Map Reference 61-3((11))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 July 23, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 14,363 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.

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2. Under Sect. 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 exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

Mrs. Thonen seconded the motion which carried by a vote of 4-1 with Chairman Smith voting nay; with Messrs. Hyland and Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 31, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 339, July 23, 1987, (Tape 2), Scheduled case of:

10:35 A.M. DANIEL L. GERMAN, VC 87-S-048, application under Sect. 18-401 of the Zoning Ordinance to allow dwelling in an existing building located 21.4 feet from front lot line (40 ft. min. front yard req. by Sect. 3-107), located at 5416 Bradley Road, on approximately 75,000 square feet of land, zoned R-1, Springfield District, Tax Map Reference 55-3((2))61.

Lori Greenlief, Staff Coordinator, presented the staff report. The applicant is requesting approval of a variance to allow a building, which is used as a dwelling, to be located 21.4 feet from the front lot line. The applicant did obtain a temporary special permit to use the garage as a dwelling.

Robert Whitestone, 15011 Judicial Drive, Fairfax, Virginia, attorney for the applicant, stated that Mr. German acquired this property in 1960. In 1982 the garage was built, and in 1986 the house burned down. Mr. German and his grandson lived in temporary quarters until they converted the garage into a dwelling for the two of them. They moved into the garage in May or June of 1986. Mr. German agrees with the Development Conditions contained in the staff report.

Mrs. Thonen wanted to clarify the fact that the applicant wants to keep living in the garage, since he refinished it.

Daniel German, 5416 Braddock Road, Centreville, Virginia, the applicant, stated that he has been a resident of this property for 30 years. In answer to the Board's question concerning a bathroom in the garage, there is one but it was not inspected. The garage was built in 1982 and there was a building permit.

Ms. Greenlief stated that there is an approved building permit dated June 30 which states a front yard setback of 40'. There are two plats in the street file, but it is difficult to ascertain which plat goes with the building permit.

Mr. German stated that Wallace Covington, former Chief, Permit, Plan Review Branch, told him to build the building 40' from the edge of pavement. At the time he built the building 40' from the pavement, it was legal.

Chairman Smith wanted to know why Mr. German is not before the Board with a building in error application.

Ms. Greenlief stated that Appendix 4 of the staff report contains a letter from the Zoning Administrator that does spell out the fact that if this structure was to be continued to be used as a garage as an accessory structure then a special permit for an error in building location should be filed. If the building is going to be used as a dwelling that changes the use of the structure and a variance is necessary.

In response to Mr. Hammack's questions, Mr. German stated that the building has one bedroom, with bunkbeds. He would like to build an addition to the garage instead of building a new home.

Mr. Hammack wanted to know if the Board can condition the variance to this applicant only so that the applicant can continue to live in this residence but it would not be transferable if Mr. German sold the property. The applicant agreed.

Page 340, July 23, 1987, (Tape 2), (VC 87-S-048, Daniel L. German, continued from Page 339)

Elizabeth Peterson, 5408 Bradley Road, Centreville, Virginia, spoke in opposition to the application. She stated that she is opposed to Mr. German living in the garage permanently; there is no bathroom in the building; there is no septic field because they cannot get a septic permit due to the soil conditions. She stated that Mr. German put up the garage before he received a building permit.

Stuart Stanley, 5424 Bradley Road, Centreville, Virginia, spoke in opposition to the application. He stated that from the front of his house you can see the back of Mr. German's house. He stated Mr. German's house is too close to the road.

Atlee Stanley, 8724 Cherry Drive, Fairfax, Virginia, spoke in opposition against the application. Mr. and Mrs. Stanley bought the land next to Mr. German's property and gave it to their children. In 1980 Mr. Stanley ran 300' of water line up Bradley Road so that their son could live on the property.

In rebuttal, Mr. Whitestone spoke to the fact that the pictures show that there was an automobile in the garage. Mr. Whitestone submitted the picture for part of the record. He feels Mr. German has complied with the nine requirements in the Code.

Mrs. Thonen stressed that if the application is granted it will be for the applicant only and is not transferable.

Mr. Whitestone commented that the inspections for the residential use permit cannot be made until the variance is granted.

Mrs. Thonen moved that VC 87-S-048 be deferred to September 22, 1987 at 10:20 a.m. for decision only in order that research be done to determine whether or not the Board could condition the variance to run with the applicant. Mr. Hammack seconded the motion. The motion passed with a vote of 5-0 with Messrs. Hyland and Ribble absent from the meeting.

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The Board took a brief recess at 12:05 and reconvened the meeting at 12:35.

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Page 340, July 23, 1987, (Tape 2), Scheduled case of:

10:50 A.M. JARVIS A. AND BERNICE H. BOYKIN, VCA 77-V-322-1, application under Sect. 18-401 of the Zoning Ordinance to amend VC 77-V-322 to delete limitations on the location of proposed structures indicated on 1977 BZA approved subdivision plats, located at 1406 Dade Lane, on approximately 13,279 square feet of land each, zoned R-3, Mount Vernon District, Tax Map Reference 102-4((1))36B, 36C, 36D.

Jane C. Kelsey, Branch Chief of the Board of Zoning Appeals Support Branch, presented the staff report. The applicant received approval for a variance on February 4, 1978 which permitted a subdivision of two existing lots into three lots. The applicants are requesting an amendment to their previous approval to allow the removal of those structures from that previous plat. There has been some confusion with the neighbors in that they are under the assumption that the applicants are requesting approval of a subdivision, but the subdivision has already been approved.

Mr. DiGiulian wanted to know if the required setbacks for the property have changed between the time the variance was granted and now. Ms. Kelsey stated that the setback is 40' now and was 40' then.

Jarvis A. Boykin, 1906 Tollbridge Ct., Alexandria, Virginia, the applicant, stated that the only thing he is asking for is that the language in the Minutes of the 1978 be deleted as to specific structure, location and size.

Mac Bishop, 8408 Fort Hunt Road, Alexandria, Virginia, spoke in opposition of the application. Mr. Bishop stated that he owned lots 39 and 40, his house is located on lot 39. Mr. Bishop submitted letters from the neighbors for record.

Chairman Smith stated that Mr. Bishop was discussing a matter that has no bearing on this request.

As there were no other speakers either in support or in opposition to this application, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant VCA 77-322-1 to delete the limitations on the location on the proposed structures that were shown on the plat on the original variance and accept as a substitute plat the plat that was submitted with this application.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VCA 77-V-322-1 by JARVIS A. AND BERNICE H. BOYKIN, under Section 18-401 of the Zoning Ordinance to amend VC 77-V-322 to delete limitations on the location of proposed structures indicated on 1977 BZA approved subdivision plats, on property located at 1406 Dade Lane, Tax Map Reference 102-4((1))36B, 36C, 36D, 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 23, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,279 square feet of land in each lot for a total of 39,837 square feet in all 3 lots.

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 approval is to allow the removal of the proposed structures on the originally approved plat. The substitute plat showing no structures is dated November 1986 and will be the approved plat.

2. All other conditions of approval remain the same.

Mrs. Thonen seconded the motion.

Page 342, July 23, 1987, (Tape 2), (VCA 77-V-322-1, Jarvis A. and Bernice H. Boykin, continued from Page 341)

The motion carried by a vote of 5-0; with Messrs. Hyland and Ribble absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 31, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 342, July 23, 1987, (Tape 3), Scheduled case of:

11:05 A.M. RANDY AND KAREN STEIN, SP 87-S-038, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 11 foot high pool enclosure to remain 10.7 feet from side lot line (20 ft. min. side yard req. by Sects. 3-C07 and 10-104), located at 5911 Innisvale Drive, on approximately 25,682 square feet of land, zoned R-C(WS), Tax Map Reference 76-2((6))5.

Lori Greenlief, Staff Coordinator, requested a deferral to October 6, 1987 at 9:40 a.m. due to the fact that the notices are not in order.

Ms. Kelsey stressed that the applicant should not install the bubble until after the public hearing is held and that the Board make this a condition to the deferral.

Mr. DiGiulian so moved that SP 87-S-038 be deferred to October 6, 1987 at 9:40 a.m. and Mrs. Thonen seconded the motion. The motion passed with a vote of 5-0 with Messrs. Hyland and Ribble absent from the meeting.

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Page 342, July 23, 1987, (Tape 3), Scheduled case of:

11:20 A.M. MOHAMAD ALI ROUHANI, VC 87-S-067, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a dwelling on the edge of a floodplain (15 feet minimum yard requirements by Sect. 2-415), located at 6419 Spring Lake Drive, on approximately 30,985 square feet of land, zoned R-2, Springfield District, Tax Map Reference 88-1((15))1.

Claudia Hamblin-Katnik, Staff Coordinator, presented a letter from the applicant requesting that VC 87-S-067 be withdrawn. She stated that it has been determined by Fairfax County that no floodplain exists, only a storm drainage easement which requires no setbacks, therefore, no variance is needed.

Ken Moreland, 3313 Barbara Lane, Fairfax, Virginia, stated that a variance is not needed due to the fact that a storm drainage easement does not require setbacks. Mr. Moreland wanted to know how the 15' setback was originally requested by the County.

In answer to Mr. Moreland's question, Ms. Hamblin-Katnik, stated that it was unclear as to whose mistake it was. It was on the plat submitted with the application.

Mrs. Thonen moved to have the request for VC 87-S-067 withdrawn since there is no longer a need for the variance with Mrs. Day seconding the motion. The motion passed with a vote of 5-0 with Messrs. Hyland and Ribble absent from the meeting.

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Page 342, July 23, 1987, (Tape 3), After Agenda Item:

Request for Additional Time
Richard & Lu Ann Bennett, Jr.
VC 85-D-097
22-3((1))46

Mrs. Day moved to grant the request for additional time for the above referenced application for an additional twelve months. The new expiration date is August 4, 1988.

Mrs. Thonen seconded the motion which passed unanimously.

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Request for Additional Time
Paul C. and Evelyn B. Hutton
VC 85-A-092
70-1((7))224

The Board asked why it took so long for the applicant to get started and why they are requesting an eighteen month extension.

In response to the Board's question regarding the eighteen month extension, Ms. Kelsey referred to the applicant's statement of justification which stated that circumstances unforeseen at the time of approval made it impossible to meet the time limit of eighteen months.

Mrs. Day moved to grant the request for additional time for the above referenced application for an additional twelve months with Mr. Hammack seconding the motion. The new expiration date is July 14, 1988. The motion passed unanimously.

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Following a discussion between the Board and staff regarding approval of resolutions eight days following the public hearing day, Mr. DiGiulian made a motion that the resolutions would automatically be approved on the ninth day as long as there was no dissent. This will apply to the July 30, and August 4, 1987 meetings.

There being no objections it was so ordered.

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As there was no other business to come before the Board, the meeting was adjourned at 1:03 P.M.

Tamara S. Gentry, Assistant Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 10/13/87

APPROVED: 10/20/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 28, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; and Gerald Hyland. John Ribble was absent from the meeting.

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

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Page 344, July 28, 1987, (Tapes 1 and 2), Scheduled case of:

8:00 P.M. CARE-A-LOT LEARNING CENTER, INC. AND MICHAEL J. AND KAREN L. REID, SP 86-C-071, application under Sect. 3-103 of the Zoning Ordinance to allow a nursery school and child care center, located at 9943 Lawyers Road, on approximately 3.771 acres of land, zoned R-1, Centreville District, Tax Map Reference 38-1((1))8. DEFERRED FROM 3/10/87 - NOTICES NOT IN ORDER

Heidi Belofsky, Staff Coordinator, presented the staff report. She introduced Larry Berg, Transportation Planner, Fairfax County Office of Transportation, who was present to answer questions regarding the transportation issues. She pointed out that the applicant had filed a similar application in February 1986 which the Board had denied. Staff has received an opposition letter from Planning Commissioner John Thillmann with an enclosure of the a more detailed opposition letter regarding the previous application. In closing, Ms. Belofsky stated staff recommended denial of SP 86-C-071 as it was staff's judgment that this application does not meet the General Standards for a Special Permit specifically 1, 3, 4, and 7.

In response to questions from the Board, Ms. Belofsky stated that the ages of the children who would be attending the school would be between the ages of 2 and 12 years with 12 employees. She noted that this application had been evaluated by staff on its own merits and was completely separate from the prior application.

Mr. Hyland stated that he visited the site prior to the public hearing of the previous application and questioned staff as to whether or not a site visit had been conducted by staff. Mr. Belofsky stated that she and Jane Kelsey, Branch Chief of the Board of Zoning Appeals Support Branch, had visited the site.

Larry Berg, Transportation Planner, addressed the transportation issues by stating that the applicant had shifted the entrance on the site to try to achieve adequate sight distance. He pointed out that the applicant had submitted a road profile by a certified engineer based upon the standards set forth in the Fairfax County Public Facilities Manual (PFM) which were not as stringent as those used by the Virginia Department of Transportation (VDOT). He stated that in order to obtain an entrance permit from VDOT for an entrance onto Lawyers Road as proposed by the applicant, the applicant would have to demonstrate to VDOT that there is adequate sight distance.

In response to questions from the Board, Mr. Berg explained that Fairfax County owns the property to the west of the proposed site but at this time there are no plans to develop a public school on the site. He also added that the existing traffic volumes on Lawyers Road warrant it being redesigned to a four lane divided road which would require median breaks spaced a specific distance apart. It this were to occur, the applicant could not access the site as proposed as there would be no median break at the entrance of the proposed site. Therefore, the applicant would have to access the proposed site through the adjoining property.

Chairman Smith pointed out that staff had recommended approval of the previous application and asked why staff was now recommending denial of this application. Ms. Belofsky pointed out that the BZA staff evaluated this application on its own merits and did not allow the previous application to prejudice its position. She stated that staff's reasons for recommending denial are outlined in the staff report. She added after reviewing the initial plans and visiting the site a preliminary conclusion was taken to staffing for input from other County staff members and the joint recommendation was for denial.

Chairman Smith further questioned staff as to whether or not the development conditions would not address all of staff's concerns. Ms. Belofsky brought the Board's attention to the viewgraph showing that all the proposed development was located on one portion of the site even though the application property consisted of 3+ acres. She stated that it would be very difficult for the applicant to adequately screen the proposed use because of the topography the proposed development is to be on the top of the hill.

Mr. Hyland stated that he believed that this site was too hazardous and much too dangerous for a day care center. He asked if staff had conducted a site inspection when the last application had been filed. Ms. Belofsky stated that she assumed that one was done as it is staff's policy to visit each site on which an application has been filed. Mr. Berg stated that Office of Transportation had visited the site while reviewing the previous application.

Ms. Belofsky responded to Chairman Smith's earlier question by stating that staff's recommendation of approval of the first application was conditional on the implementation of the transportation issues being resolved. After reviewing this application, it is staff's judgment that the concerns cannot be resolved because in order to accommodate the additional parking spaces as recommended by staff the parking lot would have to be expanded. She pointed out that staff is also concerned with the children's safety as they would have to cross the parking lot in order to go to the play area.

Chairman Smith disagreed with staff's findings that the proposed use was too intense as he believes that the applicant could provide screening that would meet the requirements of the Zoning Ordinance.

A discussion took place among the Board and staff regarding the issue of the entrance to the proposed site. Mr. Berg pointed out if the School Board chose not to construct a school on this site and sold the property, the applicant would still have to obtain permission from whomever the property owner was in order to access the proposed day care center.

Ms. Kelsey interjected that if there is not a school constructed there will no interparcel access. Therefore, people using the center, if this road is divided with a median strip in the front of the property, would not be able to make a left turn but would have to turn right, go to the next median break and make a u-turn which staff has never been able to support.

Mr. DiGiulian asked if there were any plans for the widening and construction of a median on Lawyers Road. Mr. Berg replied that there were no plans at the present for road improvements.

In response to questions from the Board regarding the future and present dwelling shown on the plat, Ms. Belofsky explained that the future dwelling will be the residence of the applicants, the existing barn will be used for storage, the existing farm house will be used either for storage, administrative office, or be removed.

Chairman Smith argued that if the applicant complies with all the development conditions stipulated by staff and is willing to make vast road improvements he believes that the site would be perfect for this use.

Marc D. Lipman, 10500 Sager Avenue, Suite B, Fairfax, Virginia, attorney for the applicant, stated that staff had recommended approval of the prior application subject to certain conditions. He stated that staff has stipulated 26 development conditions on this application and that the applicant is willing to comply with all conditions. Regarding the sight distance, Mr. Lipman stated that the applicant had been told that in VDOT's opinion that a sight distance of 350 feet would be adequate and in order to achieve this, the entrance was relocated. Mr. Lipman stated that he could not understand staff's recommendation since the applicant is willing to make road improvements and minimize the traffic generation by using vans or buses to transport the children. He stated that the existing farm house will probably be removed in order to enlarge the play area and that other than putting a single family dwelling on this site the .02 Floor Area Ratio (FAR) is the lowest that can probably be achieved. He stated that the Comprehensive Plan as well as the County regulations specifically provide for this type of use to be in a residential area under a special permit. If a public school was constructed on the adjacent lot, the traffic generated from the school would far exceed that which will be generated by the day care center. Mr. Lipman stated that the residents have implied that there are no children in the surrounding neighborhoods who will utilize the center nor who would utilize a public school if one were constructed. He displayed artist renderings as to how the site will look with the proposed screening and pointed out the grading that the applicant proposes in order to level the site as there is a steep grade in the area where the proposed day care center will be located. Mr. Lipman stated that he believes other than abandoning the project the applicant has done whatever possible to comply with staff's recommendation to make this site suitable for the use. He informed the Board that Conrad Brewer, Brewer, Sinclair & Associates, 10374-B Democracy Lane, Fairfax, Virginia, the engineer for the applicant, was present to respond to questions if necessary.

Mrs. Thonen requested a clarification as to how the children are going to get from the center to the play area without crossing the parking area. Mr. Lipman explained that there is a sidewalk that the children will use and the applicant is willing to construct a fence.

Following comments from Mr. Hammack, Mr. Lipman explained that the applicants will reside on the site and the house will take up approximately one acre of the site but that applicant is willing to relocate the house if the Board deems it necessary. He added he believed that the FAR was calculated on the total space with the development as shown. As a demographic study would have been costly and not very feasible, one was not conducted.

Karen Reid, 9943 Laywers Road, co-applicant, came forward and explained that her mother has operated a day care center in Vienna, Virginia since 1974. Mrs. Reid stated that based upon a survey that she had conducted within a ten mile radius there would be a substantial number of children who could utilize the center in addition to the overflow from her mother's center. She added that there will be two vans making two trips in the morning and evening with 16 children per van. Mrs. Reid noted that the enrollment could be cut back to 60 children without any impact upon the school.

Margaret Madden, 916 Ninovan Road, Vienna, Virginia, mother of the co-applicant, stated that she had been approached by parents asking about another day care center which could accommodate their children as her center was at its maximum. She pointed out that the applicant would have to meet the requirements of Social Services and the Health Department in addition to the development conditions in order to insure the children's safety.

Chairman Smith called the next listed speaker in support of this application who was Conrad Brewer. Mr. Lipman informed the Board that Mr. Brewer had no additional input at this time but would be available for questions.

As there were no questions for Mr. Brewer, Chairman Smith called for speakers in opposition and the following came forward: Keith A. Bodamer, 9904 Carrhill Court, Vienna, Virginia, President of the Carriage Hill Civic Association; Al Barsanti, 10004 McDuff Court, Vienna, Virginia, represented the Glencannon Homeowners Association; Mike Shilling, 10000 Lawyers Road, Vienna, Virginia; Ronald B. Eaton, 9938 Laywers Road, Vienna, Virginia; Charles Hall, 2118 Carrhill Road, Vienna, Virginia; and, Linda O'Shea, 10000 Garrett Street, Vienna, Virginia.

The citizen opposition was based on their belief that Lawyers Road is a hazardous and dangerous road and to add a use of this type would endanger the lives and safety of the children and the general public. They also did not believe this use would be in harmony with the R-1 zoning nor with the Comprehensive Plan for the area and would not be compatible with the adjacent residential community. They were also concerned about the precedent this use might set in the area.

During rebuttal, Mr. Lipman stated that the applicants recognize the concerns of the citizens that this might set an undesirable precedent but pointed out that any applications for commercial uses would have to come before the Board and would probably be denied. He stated that this application was for a day care center, not a commercial establishment, as he believes is defined by the Code. He added that Laywers Road is heavily traveled and the traffic that would be generated by this use would not significantly impact the traffic flow. He stated that if the citizens who vehemently opposed this applicant had as diligently pursued VDOT perhaps the road improvements would be made.

Following Mr. Lipman's comments, Mr. Berg replied to an earlier question from the Board by stating that due to the opening of the Vienna Metro Station in the area there would be an increase in the amount of traffic flow on this section of Lawyers Road. He stated that the trip generation for the site was based upon the applicant's conformance with their stated intention of having 100 percent van pool participation.

As there was no additional comments or speakers, Chairman Smith closed the public hearing.

Mr. Hammack made a motion to deny SP 87-C-071 as he did not believe that the applicant had presented testimony showing compliance with the proposed Plan for the area, that the use was too intense for the site, that Lawyers Road is a hazardous and heavily traveled road at present, and that the application does not satisfy the general standards for a special permit especially 1, 2, and 3.

Chairman Smith pointed out that the development conditions addressed all the issues that have been raised and stated that the applicants have agreed to provide vast road improvements.

Mr. Hyland stated that he could not support a child care facility at this location as he had been to the site and believed this to be much too dangerous for this type of use.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 86-C-071 by CARE-A-LOT LEARNING CENTER INC. AND MICHAEL J. AND KAREN J. REID, under Section 3-103 of the Zoning Ordinance to allow a nursery school and child care center, on property located at 9943 Lawyers Road, Tax Map Reference 38-1((1))8, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 28, 1987; and

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

1. That the applicants are the owners 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 8-303 and 8-305 of the Zoning Ordinance.

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

Mr. Hyland seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay; Mr. Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 5, 1987.

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Page 347, July 28, 1987, (Tape 2), Scheduled case of:

8:15 P.M. MORTON AND HARRIET MOSS, VC 87-D-069, application under Sect. 3-207 of the Zoning Ordinance to allow construction of an addition to dwelling to 13.9 feet from the street line of a lot contiguous to a pipestem driveway (25 feet minimum front yard required by Sect. 2-416), located at 1208 Old Stable Road, on approximately 22,493 square feet of land, zoned R-2, Dranesville District, Tax Map Reference 29-2((6))69.

Chairman Smith informed the Board that this case needed to be deferred as the notices were not in order.

Kevin Guinaw, Staff Coordinator, pointed out that the notices were in order but that the advertisement requirement had not been met and suggested a date and time of August 4, 1987 at 10:50 A.M.

Jane Kelsey, Branch Chief of the Board of Zoning Appeals Support Branch, clarified for the Board that the Providence Journal had failed to advertise this case. They stated they had not received the ads for this hearing date. After checking with the other newspapers, she stated that staff determined that the other ads had run as scheduled. She added that the cases in question had been advertised in the Fairfax Journal with a public hearing date of August 4, 1987 if the Board had no objections. As there no objections, the Board so moved.

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Page 347, July 28, 1987, (Tape 2), Scheduled case of:

8:30 P.M. GREENBROOK CORPORATION T/A GREENBROOK CREATIVE DAY SCHOOL, SP 87-C-040, application under Sect. 3-103 of the Zoning Ordinance to allow nursery school, as permitted by S-285-79, expired, located at 12410 Lee Jackson Highway, on approximately 6.5955 acres of land, zoned R-1(H-C, WS), Centreville District, Tax Map Reference 45-4((1))9.

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that the proposed use is located in the Christ Presbyterian Church on Route 50. The applicant is proposing to operate a nursery school for a maximum of 60 students between the hours of 9:15 A.M. and 12:00 noon with a maximum of 6 employees on site. He noted that this use was previously under special permit which had been issued in 1979 but that the permit had expired in November 1985. Mr. Guinaw added that there is an adequate play area, significant parking, has the approval of the Health Department, and screening has been provided under the special permit of the Christ Presbyterian Church. In conclusion, he stated that this application is in compliance with the special permit use as specified in Sects. 8-006, 8-303 and 8-305 of the Zoning Ordinance, and therefore staff recommends approval subject to the development conditions contained in the staff report.

Jerry C. Gustin, 13217 Pender View Lane, Fairfax, Virginia, the applicant, stated that the nursery school has been in operation at the current site since 1969 and during that time the size, operation, and philosophy of the school has not substantially changed. He agreed with the development conditions contained in the staff report.

There were no speakers to address this application, therefore Chairman Smith closed the public hearing.

Mr. DiGiulian made a motion to grant this application as he believed the applicant had presented testimony showing compliance with general standards for a special permit and subject to the development conditions set forth in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-C-040 by GREENBROOK CORPORATION T/A GREENBROOK CREATIVE DAY SCHOOL, under Section 3-103 of the Zoning Ordinance to allow nursery school, as permitted by S-285-79, expired, on property located at 12410 Lee Jackson Highway, Tax Map Reference 45-4((1))9, 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 28, 1987; and

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

1. That the applicant is the lessee of the land.
2. The present zoning is R-1, HC, and WS.
3. The area of the lot is 6.5955 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-305 of the Zoning Ordinance.

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

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

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

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. Maximum daily enrollment shall be sixty (60) students, ages three to five years old.

6. The maximum number of employees on site at any one time shall be six (6).

7. A minimum of twelve (12) parking spaces shall be provided on site for the exclusive use of the school.

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8. Hours of operation shall be 9:00 a.m. to 12 Noon, Monday through Friday.

9. This permit is granted for a period of five (5) years.

10. Noise mitigation measures shall be provided in accordance with the attached guidelines.

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 and Mr. Hyland seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 5, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 349, July 28, 1987, (Tape 2), After Agenda Item:

APPROVAL OF MINUTES FOR JUNE 9 AND JUNE 23, 1987

Mr. DiGiulian pointed out a correction to the June 23, 1987 Minutes in the case of Julius T. Hankin.

Having noted the correction for the record, Mrs. Thonen made a motion to accept the June 9, 1987 minutes as submitted. Mr. DiGiulian seconded the motion which passed 6-0 with Mr. Ribble absent from the meeting.

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Page 349, July 28, 1987, (Tape 2), After Agenda Item:

APPROVAL OF JULY 21, 1987 RESOLUTIONS

Mr. DiGiulian moved to approve the Resolutions for July 21, 1987 as submitted. Mr. Hyland seconded the motion which passed by a vote of 6-0 with Mr. Ribble absent from the meeting.

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Page 349, July 28, 1987, (Tape 2), After Agenda Item:

OUT-OF-TURN HEARING
JULIE SCHMIDT ROBERTS - VC 87-M-097

Ms. Kelsey explained that this application had been tentatively scheduled for October 13, 1987. Mr. Hyland made a motion to deny the applicant's request for the out-of-turn hearing. Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

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Page 349, July 28, 1987, (Tape 2), After Agenda Item:

OUT-OF-TURN HEARING
RONALD AND BETTY VICKERS - VC 87-L-098

Mr. Hammack made a motion to deny this out-of-turn hearing. Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Ribble absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 10:23 P.M.

Betsy S. Hurt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 9/22/87

APPROVED: 9/29/87

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 30, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Mary Thonen; Paul Hammack; and John Ribble. Gerald Hyland was absent from the meeting.

Chairman Smith opened the meeting at 9:17 A.M. and Mrs. Day led the prayer.

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Page 351, July 30, 1987, (Tape 1), Scheduled case of:

9:00 A.M. TOBY CEDAR, VC 87-V-075, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.5 ft. from a front lot line on a corner lot (30 ft. min. front yard req. by Sect. 3-307) located at 1601 H Street, on approximately 7,000 square feet of land, zoned R-3, Mt. Vernon District, Tax Map Ref. 83-4((2))(10)17, 18.

Lori Greenlief, Staff Coordinator, presented the staff report.

Toby Cedar, 5700 Gaines Street, Alexandria, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen noted that the proposed location of the addition was the only place it could be located and also pointed out that the lot was very narrow. She then moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-V-075 by TOBY CEDAR, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.5 feet from a front lot line on a corner lot, on property located at 1601 H Street, Tax Map Reference 83-4((2))(10)17,18, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 30, 1987; 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 7,000 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. DiGiulian seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 7, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 352, July 30, 1987, (Tape 1), Scheduled case of:

9:15 A.M. SANDRA E. MCGARY/FREDERICK H. TRAKOWSKI, VC 87-M-070, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 17.5 feet from a front lot line on a corner lot (35 ft. minimum front yard req. by Sect. 3-207), located at 6518 Lakeview Drive, on approximately 31,300 square feet of land, zoned R-2, Mason District, Tax Map Reference 60-4((13))388A.

Lori Greenlief, Staff Coordinator, presented the staff report.

Sandra McGary, 6518 Lakeview Drive, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian noted that the applicant had met the standards for a variance especially 2F and 2D.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-070 by SANDRA E. MCGARY/FREDERICK H. TRAKOWSKI, under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 17.5 feet from a front lot line on a corner lot, on property located at 6518 Lakeview Drive, Tax Map Reference 60-4 ((13))388A, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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, 1987; 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 31,300 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 the following characteristics:
   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 4-1 with Mr. Smith voting nay; Mr. Hammack not present for the vote; Mr. Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 7, 1987. This date shall be deemed to be the final approval date of this variance.

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At 9:35 A.M., the Board took a brief recess and reconvened the meeting at 9:55 A.M.

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Page 354, July 30, 1987, (Tape 1), Scheduled case of:

9:30 A.M. GERALD PATRICK PRICE, VC 87-D-031, application under Sect. 18-401 of the Zoning Ordinance to allow construction of living space addition to dwelling to 5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) and a fence 6 feet in height to remain within a front yard (4 ft. max. allowed by Sect. 10-104) and a fence 8 feet in height to remain in a side and rear yard (7 ft. max. allowed by Sect. 10-104), located at 6900 Chelsea Road on approximately 6,250 square feet of land, zoned R-3, Dranesville District, Tax Map Reference 30-2((4))(5)8, 9.

Chairman Smith announced that the above referenced application was to be deferred to August 4, 1987 at 10:40 A.M. There being no objection, it was so ordered.

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Page 354, July 30, 1987, (Tape 1), Scheduled case of:

9:45 A.M. WILLIAM A. WHEAT, ET UX/MCLEAN PRESBYTERIAN CHURCH, VC 87-D-073, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into a lot and an outlot, proposed lot 18A having width of 120.46 ft. (150 ft. min. lot width req. by Sect. 3-106) located at 1034 Balls Hill Road, on approximately 61,803 square feet of land, zoned R-1, Dranesville District, Tax Map Ref. 21-3((15))18. (CONCURRENT WITH SPA 85-D-034-1)

9:45 A.M. MCLEAN PRESBYTERIAN CHURCH, SPA 85-D-034-1, application under Sect. 3-103 and 3-203 of the Zoning Ordinance to amend SP 85-D-034 for church and related facilities to permit addition of land area, located at 7144 Old Dominion Dr., on approx. 7.6159 acres of land, zoned R-1 & R-2, Dranesville District, Tax Map Ref. 21-3((1))50A, 50, 51, pt. 18 (Outlot A). (CONCURRENT WITH VC 87-D-073)

Chairman Smith announced that the above referenced applications had not been properly advertised due to the lack of proper follow-through by the newspaper where the ads were sent.

Thomas Dugan, representative of the applicant, advised the Board that the applicant did not object to the deferral of one week for the William A. Wheat application, VC 87-D-073. With regard to the application for McLean Presbyterian Church, Mr. Dugan requested that both applications be deferred for one week.

Chairman Smith pointed out that there were other issues involved with the Church application and the Board follows strict procedures regarding advertising applications.

Jane Kelsey, Branch Chief, BZASB, noted in staff review it was discovered that there was an increase in the number of parking spaces over the previous approval thus, the applicant amended the application to include an increase in the amount of parking spaces which had not been advertised.

Staff recommended a new public hearing date of September 3, 1987 at 11:50 A.M. There being no objection from Board members, it was so ordered.

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Page 354, July 30, 1987 (Tape 1), Scheduled case of:

10:00 A.M. LILLY HOMES, INC., VC 87-C-055, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into twelve (12) lots and an outlot, proposed corner Lots 8 and 9 having widths of 173.54 feet and 141.32 feet, respectively, (175 ft. min. lot width req. by Sect. 3-106), located at east side of Route 675 and along the southern side of Dulles Access Toll Road, on approximately 17.6325 acres of land, zoned R-1, Centreville District, Tax Map Reference 28-1((1))14, 15, 18A.

10:00 A.M. LILLY HOMES, INC., VC 87-C-056, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lots 8, 9, and 10 which dwellings are 170.0, 140.0 and 195.0, respectively, feet from Dulles Airport Access Road right-of-way (200 ft. min. distance from right-of-way req. by Sect. 2-414), located at east side of Route 675 and along the southern side of Dulles Airport Access Toll Road, on approximately 36,052 square feet of land, zoned R-1, Centreville District, Tax Map Reference 28-1((1))pt. 15.

10:00 A.M. LILLY HOMES, INC., VC 87-C-057, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 11 which dwelling is 149 feet from Dulles Airport Access Road right-of-way (200 ft. min. distance from right-of-way req. by Sect. 2-414), located at east side of Route 675 and along the southern side of Dulles Airport Access Road, on approximately 90,587 square feet of land, zoned R-1, Centreville District, Tax Map Reference 28-1((1))18A.

10:00 A.M. LILLY HOMES, INC., VC 87-C-058, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling on proposed Lot 12 which dwelling is 155 feet from Dulles Airport Access Road right-of-way (200 ft. min. distance from right-of-way req. by Sect. 2-414), located at east side of Route 675 and along the southern side of Dulles Airport Access Road, on approximately 67,223 square feet of land, zoned R-1, Centreville District, Tax Map Reference 28-1((1))pt. 14.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that the applicant did not meet at least standards 3, 4, 5 and 6 of the required standards for a variance. She added that there is no hardship associated with the request and it is possible for the applicant to resubdivide the property by changing the design without a variance. She also pointed out that at an administrative hearing on July 23, 1987, the Planning Commission recommended denial of the proposal. In conclusion, Ms. Belofsky stated that staff was recommending denial of the request.

Daniel Fiore, 1515 N. Courthouse Road, Arlington, Virginia, representative of the applicant, appeared before the Board and noted the exceptional shape and narrowness of the property. Mr. Fiore stated that if the applicant were not granted the variances, he would suffer a financial hardship and that subdivision of the property was a reasonable use of the land.

Following a question from Mr. Hammack, Fred Lilly, 8445 Cloverleaf Drive, McLean, Virginia, the applicant, appeared before the Board and stated that he was aware of the easement on the property when he purchased it, but thought it could be abandoned.

Ms. Belofsky reiterated that subdivision of the property was reasonable but the particular design necessitated a variance which is the reason staff was opposed.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day noted that high noise level and also that the hardship was self-inflicted. Therefore, Mrs. Day moved to deny VC 87-C-055.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Applications VC 87-C-055, by LILLY HOMES, INC., under Section 18-401 of the Zoning Ordinance to allow subdivision into twelve (12) lots and an outlot, proposed corner lots 8 and 9 having widths of 173.54 feet and 141.32 feet, respectively, on property located at the east side of Route 675 and along the southern side of Dulles Access Toll Road, Tax Map Reference 28-1((1))14, 15, 18A, 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 30, 1987; 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 17.6325 acres 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 with Mr. Hyland absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 7, 1987.

Mrs. Thonen moved to allow the applicant to withdraw VC 87-C-056 through 058 without prejudice.

Mr. Ribble seconded the motion which passed by a vote of 6-0 with Mr. Hyland absent from the meeting.

Mr. Fiore requested a waiver of the 12-month limitation on rehearing VC 87-C-055.

Mr. Hammack so moved. Mr. DiGiulian seconded the motion which passed unanimously with Mr. Hyland absent from the meeting.

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Page 356, July 30, 1987, (Tapes 1 and 2), Scheduled case of:

10:20 A.M. C. DOUGLAS ADAMS, SP 87-A-044, application under Sect. 3-203 of the Zoning Ordinance to allow home professional office, located at 5700 Gaines Street, on approximately 30,220.2 square feet of land, zoned R-2, Annandale, District, Tax Map Reference 78-2((1))31A.

10:20 A.M. C. DOUGLAS ADAMS, VC 87-A-095, application under Sect. 18-401 of the Zoning Ordinance to allow dwelling unit to remain 32.7 feet from front lot line (35 ft. min. front yard required by Sect. 3-207) and barn to remain at 0.0 feet from the side lot line (25 ft. required from the edge of a pipestem by Sect. 2-416), located at 5700 Gaines Street, on approximately 30,220.2 square feet of land, zoned R-2, Annandale District, Tax Map Reference 78-2((1))31A.

Lori Greenlief, Staff Coordinator, presented the staff report. She advised the Board that staff was recommending that two parking spaces be provided for the residential use and that two spaces be provided for the special permit use on site. With the implementation of the development conditions, staff recommends approval of the request.

Douglas Adams, 5700 Gaines Street, Burke, Virginia, the applicant appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. Mr. Adams requested a waiver of the dustless surface requirement. He added that there were three to four spaces on site and that he would like to limit the parking spaces as this was only a temporary use.

Chairman Smith called for speakers and Jonathan Livingston, 9336 Lee Street, Burke, Virginia, appeared before the Board in opposition to the proposal. He submitted a letter from some of the neighbors in the area expressing concern about the proposal. Mr. Livingston also expressed concern that by granting the request a precedent would be set.

In closing, Mr. Adams stated that he shared the concerns of the neighbors but would leave the matter in the hands of the Board. Mr. Adams also commended Lori Greenlief, Staff Coordinator and Betsy Hurtt, Deputy Clerk for the their help with the application.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Ribble stated that the standards for a variance had been and therefore, moved to grant VC 87-A-095 subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-095 by C. DOUGLAS ADAMS, under Section 18-401 of the Zoning Ordinance to allow dwelling unit to remain 32.7 feet from front lot line and barn to remain 0.0 feet from side lot line, on property located at 5700 Gaines Street, Tax Map Reference 78-2((1))31A, 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, 1987; 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 30,220.2 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.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-0 with Mr. Hyland absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 7, 1987. This date shall be deemed to be the final approval date of this variance.

Prior to making the motion, Mr. Ribble stated that the proposal would not be precedent setting and the number of cars would be limited and therefore moved to grant SP 87-A-044.

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-A-044 by C. DOUGLAS ADAMS, under Section 3-203 of the Zoning Ordinance to allow home professional office, on property located at 5700 Gaines Street, Tax Map Reference 78-2((1))31A, 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, 1987; 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 30,220.02 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 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. This special permit shall expire without notice on July 30, 1988.

6. The hours of operation shall be limited to 9:00 a.m. to 5:00 p.m., Monday through Friday.

7. There shall be one employee besides the applicant associated with the use.

8. There shall be no more than three clients on site per week and only one client shall be on site at any one time.

8. Existing vegetation shall be deemed to satisfy the transitional screening requirement. The barrier requirement shall be waived.

9. There shall be two parking spaces provided for the residential use and the special permit use 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. DiGiulian seconded the motion.

The motion carried by a vote of 6-0 with Mr. Hyland absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 7, 1987. This date shall be deemed to be the final approval date of this variance.

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Due to Chairman Smith's early departure, Mr. DiGiulian, Vice-Chairman took over the Chair for the remainder of the meeting.

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Page 359, July 30, 1987, (Tape 2), Scheduled case of:

10:40 A.M. BEULAH STREET VETERINARY SERVICE, P.C., SP 87-L-043, application under Sects. 3-103 and 8-901 of the Zoning Ordinance to allow veterinary hospital with waiver of dustless surface requirement, located at 7434 Beulah Street, on approximately 2.2399 acres of land, zoned R-1, Lee District, Tax Map Reference 91-3((1))25.

Heidi Belofsky, Staff Coordinator, presented the staff report which recommended approval with the development conditions.

William Arnold, attorney representing the applicant, 10521 Judicial Drive, Fairfax, Virginia, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. Mr. Arnold showed pictures of the area and some of the commercial uses in the area. He submitted a letter from the Amberleigh Homeowners Association in support of the request. Mr. Arnold stated that the applicant was requesting two employees in addition to the applicant instead of including the applicant. In conclusion, Mr. Arnold noted that there were no adverse impacts on the property or the neighborhood.

Chairman Smith called for speakers and Shirley Carter Gray, 6419 Miller Drive, appeared before the Board in support of the request.

Since there were no other speakers to address this application, Acting Chairman DiGiulian closed the public hearing.

Prior to making the motion, Mrs. Thonen stated that the proposal was good and the requirements for a special permit have been met. She added that possibly at the last hearing there had been some false testimony by a person speaking in opposition which have led to the denial of the application. Mrs. Thonen moved to grant the request subject to the revised development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 87-L-043 by BEULAH STREET VETERINARY SERVICE, P.C., under Sections 3-103 and 8-901 of the Zoning Ordinance to allow veterinary hospital with waiver of dustless surface requirement, on property located at 7434 Beulah Street, Tax Map Reference 91-3((1))25, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 30, 1987; 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 2.2399 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 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. The hours of operation shall be limited to 8:00 a.m. to 8:00 p.m., Monday through Thursday; 8:00 a.m. to 5:00 p.m., Friday and Saturday. Doctors hours shall be by appointment only: 9:00 a.m. to 12:00 Noon and 5:00 p.m. to 8:00 p.m. Emergency care may be provided as necessary.

5. There shall be no more than two (2) employees on the premises at any one time, in addition to the applicant.

6. Four (4) parking spaces shall be provided, including one handicapped space for the veterinary hospital. Two parking spaces shall be provided for the residential use.

7. A waiver of the dustless surface requirement shall be granted for the parking areas. These areas shall be maintained in accordance with the standard practices approved by the Director, Department of Environmental Management (DEM), which shall include but not be limited to the following:

   A. Travel speeds in the parking areas shall be limited to 10 mph or less.

   B. During dry periods, application of water or calcium chloride shall be made in order to control dust.

   C. Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.

D. Runoff shall be channeled away from and around the parking areas.

E. The property owner shall perform periodic inspections to monitor dust conditions, drainage functions, compaction and migration of stone surface.

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

9. The existing stables shall be not used in conjunction with this veterinary practice.

10. A modification to Transitional Screening 3 shall be approved along the northern, eastern, western, and southern lot lines to allow the existing vegetation to satisfy this requirement without supplementation. Additional landscaping shall be provided around the stables and the parking areas to screen the view of these structures and the parking area. The size, type and location of the plantings shall be approved by the County Arborist pursuant to Article 13.

11. This veterinary practice shall be confined to small animals only, i.e., commonly accepted pets, as defined in the Zoning Ordinance.

12. The applicant shall comply with all Health Department regulations pursuant to Sect. 8-911, Additional Standards for Veterinary Hospitals.

13. Right-of-way to 45 feet from centerline of Beulah Street necessary for road improvements shall be dedicated for public street purposes and shall convey to the Board of Supervisors or VDOT in fee simple upon sixty (60) days' notice.

14. Temporary construction and grading easements shall be provided along Beulah Street frontage to facilitate road improvements.

15. A trail shall be provided in accordance with the Countywide Trails Plan. Construction may be deferred, if deemed appropriate by the DEM at the time of site plan review.

16. The site entrance shall be widened to meet VDOT standards for commercial entrances, minimum width of thirty (30) feet.

17. This use shall be subject to the provisions set forth in Article 17, Site Plans.

18. 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.

19. This special permit is approved for a period of five (5) years.

20. All signs shall conform with Sect. 12-208 of the Zoning Ordinance.

21. Alterations and improvements to the property of a strictly residential nature, not affecting the veterinary hospital are permitted without amendment to this Special Permit.

22. The veterinary hospital shall be located entirely within the dwelling and shall encompass no more than 950 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, 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 4-0 with Messrs. Smith and Hammack not present for the vote; Mr. Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 7, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 362 July 30, 1987, (Tape 2), Scheduled case of:

11:00 A.M. LIVING SAVIOR LUTHERAN CHURCH, SPA 86-S-023-1, application under Sect. 3-103 of the Zoning Ordinance to amend SP 86-S-023 for church and related facilities to permit additional land area and relocation of proposed building and parking, located at 5540 Ox Road, on approximately 7.9 acres of land, zoned R-C, Springfield District, Tax Map Reference 68-3((1))50, 50A.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that the applicant was requesting a relocation of the church building and parking area and the addition of land and parking area. He noted that there were several unresolved transportation issues and the play area was too close to the cul-de-sac. Mr. Guinaw suggested a revised Condition 15 to read as follows: "A service drive shall be provided from the site entrance to the northern property line by the year 1990 or earlier if there is a connecting service drive to the north." He added that staff had suggested a deferral until permission could be obtained from VDOT for the median break but the applicant had declined. In conclusion, Mr. Guinaw stated that staff was recommending denial of the request due to the unresolved transportation issues.

Norman Hammer, the representative for the applicant, stated that the proposed location was an ideal site for the church. Due to the parking area being moved farther from the property line and the elevation being lowered, therefore transitional screening 1 was all that was necessary along the property line to the west for its entire length. He noted that along the northern property line was dense vegetation. Mr. Hammer requested that the applicant be relieved of constructing a fence that would go through the dense vegetation along the western property line.

Mrs. Thonen stated that she had never supported a use where the access onto the property was by way of a u-turn.

Mr. Hammer stated that the applicant would agree to design the entrance to VDOT standards.

Michael LeMay, Architect, 11143 Saffold Way, Reston, Virginia, appeared before the Board and explained that the screening for the play area was not necessary because it was located behind the building and that future expansion would hide the play area.

Mr. Hammer stated that the applicant would like the conditions revised as follows: Condition 7, That screening 1 be required along the southern property line and the north property line. Condition 15, okay as revised by staff. Condition 17, to terminate with the words "southern boundary."

Acting Chairman DiGiulian called for speakers and John Gilbert, 5514 Sandy Folly Court, Fairfax Station, Virginia, representative of Barton Place Homeowners Association, appeared before the Board in opposition to deletion of the fence which had previously been agreed upon by the applicant.

Mr. Hammer stated that the applicant would provide whatever the BZA required regarding the fence.

In closing, Mr. Guinaw stated that staff would like to have VDOT approval of the proposed median break on Route 123. Mr. Guinaw explained that screening the residential property was not the only purpose of the screening but that it was also to maintain the residential character of the neighborhood and minimize the visual impacts of the development on the site. He added that the Arborist would take into consideration the existing vegetation therefore, there was no need to waive the screening requirement. In conclusion, Mr. Guinaw stated that staff was recommending a deferral to allow time to resolve the remaining issues.

Since there were no other speakers to address this application, Acting Chairman DiGiulian closed the public hearing.

Mrs. Day moved to defer the application for decision only to September 22, 1987 at 10:30 A.M. to allow time to obtain approval from VDOT for the median break and give the applicant time to submit new plats.

Mrs. Thonen seconded the motion which passed by a vote of 4-0 with Messrs. Hammack and Smith not present for the vote; Mr. Hyland absent from the meeting.

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11:20 A.M. ST. ANDREW PRESCHOOL, SPA 79-S-351-2, application under Section 3-303 of the Zoning Ordinance to amend SP 79-351 for a church and nursery school to change hours of operation for the school, located at 14640 Soucy Place on approximately 2.6 acres of land, zoned R-3, Springfield District, Tax Map 54-1((6))1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A, 9A.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that staff was now recommending approval waiver of the dustless surface requirement for one year because the Pastor of the church indicated that they would be requesting a special permit amendment for a building addition in about six months and at that time the parking area would be paved. Mr. Guinaw concluded that staff was recommending approval of the request subject to the development conditions.

Holly Carey, representative of the applicant, appeared before the Board and concurred with staff's comments.

Since there were no speakers to address this application, Acting Chairman DiGiulian closed the public hearing.

Mr. Ribble moved to grant the request subject to the development conditions as revised.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 79-S-351-2 by ST. ANDREW PRESCHOOL, under Section 3-303 of the Zoning Ordinance to amend SP 79-351 for a church and nursery school to change hours of operation for the school, on property located at 14640 Soucy Place, Tax Map Reference 54-1((6))1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A, 9A, 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, 1987; and

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

1. That the applicant is the operator.
2. The present zoning is R-1.
3. The area of the lot is 2.6 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 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 maximum enrollment shall be limited to no more than forty (40) children.

6. The hours of operation for the school shall be no earlier than 9:00 a.m. and no later than 3:30 p.m.

7. Barrier type H shall be provided along the southeastern lot line. Existing vegetation may be used to satisfy this requirement where possible provided it is supplemented where necessary to meet the barrier requirement as determined by the County Arborist. The remaining barrier requirements shall be waived provided the play area is fenced as shown on the plat submitted with this application.

8. Transitional Screening 1 shall be required along a portion of the lot line along Braddock Road. Existing vegetation may be used to satisfy this requirement provided it is supplemented to be equivalent to Transitional Screening 1. A modification shall be approved along Cranoke Place, along Soucy Place, and from the north western lot line to the eastern edge of the church building and in lieu thereof, a landscape plan shall be submitted to the County Arborist as part of the site plan review process. Landscape plantings shall be provided in these areas to soften the visual impact of the building and screen the play area and parking area from view of the adjacent residential properties and streets. The size, type, and location of all plantings shall be approved by the County Arborist.

   The ten (10) foot landscape strip along Soucy Place shall be planted with landscape plantings to screen the lights of vehicles from the adjacent residential community.

9. The maximum number of seats in the church shall be 270.

10. The minimum and maximum number of parking spaces shall be 72 including three (3) handicapped spaces.

11. A waiver of the dustless surface requirement shall be granted for a period of five (5) years at which time the applicant must pave the surfaces or apply for a renewal. These areas shall be maintained in accordance with the standard practices approved by the Director, Department of Environmental Management, which shall include but not be limited to the following:

    A. Travel speeds shall not exceed 10 mph and shall be appropriately signed.

    B. During dry periods, application of water or calcium chloride shall be made in order to control dust.

    C. Routine maintenance shall be performed as may be required by the Director, DEM to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin at the direction of the Director, DEM.

    D. Runoff shall be channeled away from and around parking areas.

    E. The site entrance shall be paved twenty-five (25) feet from the edge of the pavement.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, three (3) months after the approval date* of the Special Permit unless the activity authorized has been legally established Site Plan Approval and a Non-Residential Use Permit has been obtained, 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 4-0 with Messrs. Smith and Hammack not present for the vote; Mr. Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 7, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 365, July 30, 1987, (Tape 3), After Agenda Item

Approval of Resolutions
July 23, 1987

Mrs. Thonen moved to approve the Resolutions for July 23, 1987 as submitted.

Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. Smith and Hammack not present for the vote; Mr. Hyland absent from the meeting.

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Page 365, July 30, 1987, (Tape 3), After Agenda Item

Out-Turn-Hearing
Elementary Montessori School of Oakton
SPA 81-C-054-1
37-4((1))23

Mrs. Thonen moved to deny the request for an out-turn-hearing.

Mr. Ribble seconded the motion which passed by a vote of 4-0 with Messrs. Smith and Hammack not present for the vote; Mr. Hyland absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 12:40 P.M.

Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 12-15-87

APPROVED: 1-5-88

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, August 4, 1987. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Mary Thonen; Paul Hammack; and John Ribble. Messrs. DiGiulian and Hyland were absent from the meeting.

Chairman Smith opened the meeting at 9:22 A.M. and Mrs. Day led the prayer.

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Page 366, August 4, 1987, (Tape 1), Scheduled case of:

9:00 A.M. REECE AND JANET BAKER APPEAL, A 87-V-003, to appeal the Zoning Administrator's determination that replacement equipment at a nonconforming concrete batching plant is not in violation of Article 15 of the Zoning Ordinance, located at 9917 Richmond Highway, zoned R-1, Mount Vernon District, Tax Map 113-2((1))57.

Jane Gwinn, Zoning Administrator, appeared before the Board and requested that this case be deferred. She explained that the deferral would allow time for her to review whether or not the concrete plant was properly deemed a non-conforming use, which could affect the validity of the decision which is the subject of this appeal.

Edmund Matricardi, 5411-D Backlick Road, Springfield Virginia, attorney for the appellant, came forward and objected to the deferral as this appeal has been pending since May 9, 1987. He stated that the appellants have contacted several County agencies and have received no assistance to help in alleviating the problem which the appellant believes has been generated by the concrete batching plant. Mr. Matricardi argued that the two-story concrete structure with a bathroom is a building and should not be classed as a piece of equipment.

A discussion took place among the Board and the appellant's attorney regarding the health hazards involved with this use. Mr. Matricardi presented photographs to the Board and explained that the appellants have a small child who could not play outside due to the runoff from the batching plant. He added that the appellants have well water and the deposits are leaking into the water supply.

Mr. Hammack questioned Ms. Gwinn as to how the validity of the appeal would be affected if she deemed this use to be a nonconforming use. Ms. Gwinn replied that the appeal would then proceed, but if this is determined not to be a nonconforming, then she would withdraw her letter, which is the subject of this appeal. She further explained that the use is a concrete batching plant which mainly consists of equipment and if this use was never legally established, it would therefore not be a nonconforming use and replacement of equipment would not be allowed.

Mrs. Thonen requested that prior to the next public hearing Ms. Gwinn assist the appellant by contacting the Health Department concerning an inspection of the site. She added that if it is determined that an environmental problem does exist, shut down the plant until such time as a resolution could be reached. Ms. Gwinn replied that it was her intention during the month of August to request new noise readings, to request that the Health Department visit the site, and to discuss the possibility with the Department of Environmental Health of someone revisiting the site.

Mrs. Thonen asked the appellant's attorney if Ms. Gwinn's proposal met with the appellant's approval. Mr. Matricardi replied that this was a satisfactory response but that he did not believe that the appellants should have to continue to live under these conditions in the meantime. Mrs. Thonen assured the appellants that she would visit the site prior to the next public hearing.

James Bright, 8136 Bard Street, Lorton, Virginia, opposed the deferral and stated that the appellants were prepared to speak to the issue of the appeal today. He expressed concern that the Zoning Administrator needed additional time to make a determination in this appeal as the appellants have been living under these adverse conditions since January 1987.

Following a discussion among the Board members, Mrs. Thonen made a motion to defer the Reece and Janet Baker Appeal to September 22, 1987 at 10:40 A.M. for additional information. She requested that staff supply copies of all materials involved in this case to the Board prior to the next public hearing. Mr. Hammack seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

Mr. Hammack expressed his concern that a staff report had not been prepared and submitted to the Board prior to this public hearing.

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Page 366, August 4, 1987, (Tape 1), Reconsideration Item:

At this time Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, pointed out that the Board had indicated that it might wish to reconsider its decision in the C. Douglas Adams application which it had heard on July 30, 1987.

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Chairman Smith explained to the other members that he had been contacted by some of the people in Mr. Adams' subdivision who had indicated that they intended to file suit unless the Board reverses its decision.

A discussion took place among the Board and it was determined that there were no grounds for reconsidering its decision.

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9:30 A.M. HAL S. JONES, VC 87-D-078, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 28.2 ft. from front and 15.2 ft. from side lot lines (40 ft. min. front yard, 20 ft. min. side yard req. by Sect. 3-107), located at 980 Spencer Road, on approximately 38,071 square feet, zoned R-1, Dranesville District, Tax Map 21-3((7))16.

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that the property is located on Spencer Road and is surrounded by R-1 zoning. The applicant is requesting variances to the minimum front and side yards in order to construct a garage addition on the front of the existing dwelling. The addition will be located 28.2 feet from the front lot line and 15.2 feet from the side lot line.

Hal S. Jones, 980 Spencer Road, McLean, Virginia, applicant, explained that he is the only resident in his subdivision who does not have a garage. He stated that this is the only place that a garage can be constructed due to a swimming pool and a septic field located in the rear of the lot. He closed by stating that there were no objections from his neighbors to this request.

In response to a question from Mrs. Day, Mr. Jones stated that the pool was there when he purchased the house. He added that materials used in the construction of the garage will match those on the exterior of the house.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack made a motion to grant VC 87-D-078 as he believed the applicant had satisfied the standards for a variance, and that this is the most feasible location for the addition. He conditioned the approval subject to the development conditions contained in the staff report being implemented.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-078 by HAL S. JONES, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 28.2 feet from front and 15.2 feet from side lot lines, on property located at 980 Spencer Road, Tax Map Reference 21-3((7))16, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 4, 1987; 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 38,071 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.

4. The materials used in the construction and architectural design shall be compatible with the existing dwelling.

Mr. Ribble seconded the motion which carried by a vote of 4-1 with Chairman Smith voting nay; Messrs. DiGiulian and Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 12, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 368, August 4, 1987, (Tape 1), Information Item:

Ms. Kelsey pointed out to the Board that due to the August recess the resolutions for the July 30 and August 4, 1987 meetings could not be brought back to the BZA at the end of the 8-days for its final approval. Therefore, Mr. Hammack made a motion to waive these resolutions being brought back to the Board for its approval unless staff was contacted by a Board member prior to the end of the 8-day reconsideration period. Mr. Ribble seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

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9:45 A.M. FERNANDO OVALLE SANTA-CRUZ, VC 87-L-081, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 44A having width of 67.23 ft.(80 ft. min. lot width req. by Sect. 3-306), located at 5604 Clermont Drive, on approximately 32,697 square feet, zoned R-3, Lee District, Tax Map Reference 82-1((4))44.

Kevin Guinaw, Staff Coordinator, informed the Board that the notices were not in order in this case as there had been some confusion as to whether the applicant or the applicant's attorney should have received the notification package. Staff sent the notification packet to the applicant and he neglected to forward it on to his attorney, therefore the notices were not done. He suggested a date and time for the public hearing date of September 3, 1987 at 12:00 noon.

Mrs. Thonen made a motion to defer this case to September 3, 1987 at 12:00 noon. Mr. Hammack seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

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10:00 A.M. PHILIP B., JR. AND LUCY A. HENSHAW, VC 87-M-071, application under Sect. 18-401 of the Zoning Ordinance to allow construction of second story addition to dwelling to 7.2 feet from a side lot line (12 feet minimum side yard required by Sect. 3-307), located at 6250 Diamond Drive, on approximately 13,944 square feet, zoned R-3, Mason District, Tax Map Reference 61-1((7))8.

Jane Kelsey, Branch Chief of the Board of Zoning Appeals, explained that this case would have to be deferred as the proposed addition could not be constructed on top of the garage as the garage was in violation of the minimum yard requirements for the R-3 Zoning District. She stated that the applicant has now completed the filing of the special permit application and the two applications can be rescheduled as soon as they can be advertised.

Mrs. Thonen questioned staff as to why it took so long to discover the fact that a special permit was also needed. Ms. Kelsey explained that the primary importance is placed on controversial special permits and the person doing the research simply overlooked the error. Upon reviewing the staff report, she discovered that the garage was not in accordance with the present Zoning Ordinance. Ms. Kelsey apologized to the Board and stated that working under a 90-day acceptance to hearing deadline sometimes things are overlooked.

Due to the Board's heavy case load for September, Ms. Kelsey suggested a date and time of September 29, 1987 at 9:30 A.M. and hearing no objections, the Board so moved.

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10:15 A.M STEVEN P. ERLICH, SP 87-P-050, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling addition to remain 19.4 feet from a street line of a corner lot (40 ft. min. front yard req. by Sect. 3-107), located at 8533 Crestview Drive, on approximately 50,113 square feet, zoned R-1, Providence District, Tax Map Reference 59-1((2))55.

Lori Greenlief, Staff Coordinator, explained that there had been a problem with the notifications in that one property owner had not been notified as required by the Zoning Ordinance. She stated that this oversight was not discovered until after the 15-day deadline for the notifications had passed but that the citizen had been notified 2 days after the deadline.

William B. Lawson, Plaza Suite 5, 4141 N. Henderson Road, Arlington, Virginia, attorney for the applicant, came forward and submitted a letter from the property owner in question. The letter stated that the property owner was not opposed to this request and had no objection to the hearing going forward.

In light of this information, the Board decided to proceed with the public hearing.

Mrs. Greenlief presented the staff report and stated that the property is located at the intersection of Crestview Drive and Prosperity Lane with the surrounding properties zoned R-1 and developed with single-family detached dwellings. The applicant is requesting approval of a special permit for a reduction to the minimum front yard to allow an addition to remain 19.4 feet from the front lot line. The minimum front yard is 40 feet, therefore the applicant is requesting a modification of 20.6 feet. She referenced the background of the case as outlined in the staff report by noting that a building permit was issued in error for this addition as Prosperity Lane was inadvertently considered to be a side yard because it was not shown on the plat

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accompanying the building permit. She stated that it is staff's judgment that the applicant did begin construction in good faith with what he believed to be a valid building permit and that the addition will not have an adverse impact as it is adjacent to a street. In closing, Mrs. Greenlief stated that staff recommends approval of this application subject to the development conditions contained in the staff report.

Mr. Lawson told the Board that the applicant had acquired the property in January 1987 at which time he put a purchase and construction loan contract on the property and prepared plans for submission to the County in order to obtain a building permit. The applicant's plans indicated that Prosperity Lane was a side yard and showed a setback of 20 feet in accordance with the R-1 zoning for the area and was issued a building permit on March 6, 1987. On June 25, 1987, the applicant was notified by the County that he was building in violation of the Zoning Ordinance as the addition was located in the front yard of the property requiring a setback of 40 feet. In order to prevent weather damage, the applicant did construct a roof on the addition but did cease construction and immediately filed this application for a special permit.

Mr. Lawson stated that the applicant agrees to the development conditions stipulated by staff but suggested that Condition #12 be reworded as follows: "The material used on the exterior of the addition will be an exterior grade wood or wood fiber composition installed in an overlapped horizontal pattern and will be painted the same color as the existing dwelling, the objective being to create a similar appearance between the existing dwelling and proposed addition." He urged the Board to grant this special permit as the applicant had acted in good faith and that this would not be precedent setting.

At this time Chairman Smith called for speakers in support of this application and hearing no reply called for speakers in opposition to the request. The following citizens came forward to oppose the request: Clay Cameron, 3243 Hyland Lane, Fairfax, Virginia, Chairman of the Land Use and Parks Committee for Pine Ridge Civic Association. Mr. Cameron came forward and opposed the application as the corner on which the property is located is a dangerous intersection without sidewalks, that the addition is not in harmony with the covenants of the surrounding neighborhood, and that the applicant did not act in good faith.

Following Mr. Cameron's comments, Mrs. Thonen questioned the speaker as to whether anyone from the Civic Association spoke to the applicant as to the violation. Mr. Cameron stated that neighbors had pointed out the restrictions outlined in the covenants of the Association to the applicant.

In response to questions from the Board, Mrs. Greenlief stated that she was not aware of any transportation plans at this time to extend the widening of Prosperity Lane. She added that staff would place a call to the Office of Transportation in try to obtain this information.

The applicant, Steven Erlich, 8533 Crestview Drive, Fairfax, Virginia, came forward and explained that the existing driveway would remain as it now exists but that there would be a continuation of the driveway to meet up with the new garage. He stated that he had planned to remove the existing carport within the next year but that it could be removed now if the Board so desired. As he had obtained a building permit prior to construction, he believes that he did act in good faith.

As this time Chairman Smith called for any additional speakers and Jack Myer, 3223 Hyland Lane, Fairfax, Virginia; Corinne Toplosky, 3200 Prosperity Avenue, Fairfax, Virginia; and Jim Egburt, 8611 Crestview Drive, Fairfax, Virginia, came forward.

The citizen opposition was based upon their beliefs that the request was not in harmony with the surrounding neighborhood, that the applicant has not acted in good faith, that this intersection is dangerous due to the poor visibility, and that the applicant may turn this into a house for single adults.

During rebuttal, Mr. Lawson stated that the addition was 90 feet back from the street and therefore would not adversely affect the sight distance. He added that this is the applicant's permanent home.

Following comments from the Board, Mr. Erlich returned to the podium and explained that there were currently three bedrooms and with the addition there would be four bedrooms which is the average for the subdivision. He had located the addition adjacent to the street in order not to disturb the abutting property owners on the opposite side as they have small children.

Mr. Lawson continued his remarks by stating that he had not addressed the covenant issue as he did not believe this was an issue that should affect the Board's decision.

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Mr. Hammack pointed out that the Board has deferred decisions on other applications until such time as the applicant could obtain approval of their Civic Associations before granting variances. Mr. Ribble brought the Board's attention to a discussion which had taken place in Mr. Hammack's absence. During that discussion, the Board had agreed that its decisions were not related to covenants as copies were not always available for the Board to review during the time of the public hearing.

Mr. Lawson argued that he believed this to be a very unique situation as the applicant had acted in good faith and therefore was not ignoring the covenants of the neighborhood.

Mrs. Greenlief informed the Board that staff could now respond to the Board's earlier question regarding the widening of Prosperity Lane. She stated that the lanes on Prosperity are now substandard and there are plans for widening the road to 12 feet which can be accomplished within the existing right of way. However, there will be a bike and a pedestrian path but it has not yet been determined which side of the Lane these will be constructed and therefore an easement may be needed.

As there were no additional speakers or comments, Chairman Smith closed the public hearing.

The Board expressed concern that this type of error was made and they had to make a determination to correct it. Mrs. Thonen stated that this case was even more difficult as there was so much citizen opposition.

Mrs. Day stated that she did not believe that the applicant had met Standards C, D, or E.

Chairman Smith pointed that he did not believe testimony had been presented showing that the applicant did not meet all the standards for a special permit and that it would be detrimental to the surrounding neighbors.

As there was no further discussion, Mrs. Thonen made a motion to grant SP 87-P-050 subject to the development conditions contained in the staff report with the following modifications as she believed that the applicant had satisfied the standards for a special permit and that the applicant had acted in good faith

2. "The materials used on the exterior of the addition will be an exterior grade wood or wood fiber composition installed in an overlapped horizontal pattern and will be painted the same color as the existing dwelling, the objective being to create a similar appearance between the existing dwelling and proposed addition."

5. The existing carport must be removed and the existing driveway is to be removed and resown with grass."

Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, asked if the Board intended to stipulate a time period for the removal of the driveway. Mrs. Thonen questioned the applicant as to how long it was take for this to be completed. Mr. Erlich requested that he be allowed thirty days after the completion of the addition.

Mr. Hammack stated that he could not support the motion even though he did sympathize with the applicant as the error had occurred through no fault of his own. He added that he did not believe that the applicant meets Standards D or E, that this would set an undesirable precedent, that there are no sidewalks at this intersection, and that the additional screening that would be added would affect the sight distance.

Chairman Smith stated that he did not believe this addition would affect the intersection as this addition sets back at least 80 feet from the corner.

Following a discussion among the Board regarding the transitional screening at this intersection, Mrs. Thonen called for the question. Chairman Smith called for a vote on this application and the vote was 3-2 with Mrs. Day and Mr. Hammack voting nay; Messrs. DiGiulian and Hyland absent from the meeting.

As there was some confusion as to whether or not the motion to grant carried the Board recessed at 11:20 A.M. and reconvened at 11:33 A.M. Chairman Smith explained that he was in error and that the motion had failed to carry as 4 affirmative votes are needed for a special permit or variance to be granted.

Mr. Lawson, attorney for the applicant, came forward and requested the Board reconsider its decision on September 3, 1987 or waive the 12-month time limitation for refiling a new application.

Mrs. Thonen made a motion to grant the applicant the waiver of the 12-month time limitation. Mr. Ribble seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

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MOTION TO GRANT FAILED

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mrs. Thonen made the following motion:

WHEREAS, Application No. SP 87-P-050 by STEVEN P. ERLICH 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 addition to remain 19.4 feet from a street line of a corner lot, on property located at 8533 Crestview Drive, Tax Map Reference 59-1((2))55, 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 August 4, 1987; 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.

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

1. This approval is granted for the exact location and the specific addition shown on the plat submitted with this application.

2. The material used on the exterior of the addition will be an exterior grade wood or wood fiber composition installed in an overlapped horizontal pattern and will be painted the same color as the existing dwelling, the objective being to create a similar appearance between the existing dwelling and proposed addition.

3. The applicant shall coordinate with the County Arborist for the installation of additional evergreen plantings between the addition and Prosperity Avenue to effectively screen the addition during the winter months. In addition, the applicant shall provide foundation plantings around the base of the garage and some evergreen plantings along the driveway in front of the garage. The location, amount, and type of plantings shall be reviewed and approved by the County Arborist.

4. A building permit, which shows location of the addition in accordance with this special permit, shall be obtained prior to the completion of the addition.

5. The existing carport must be removed.

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. This Special Permit shall automatically expire, without notice, six (6) months after the approval date of the Special Permit unless a new building permit is obtained and construction 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.

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Mr. Ribble seconded the motion which FAILED by a vote of 3-2 with Mr. Hammack and Mrs. Day voting nay; Messrs. DiGiulian and Hyland absent from the meeting. It is noted that the Zoning Ordinance requires four (4) affirmative votes to approve a Special Permit or Variance application.

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Page 373, August 4, 1987, (Tape 2), Scheduled case of:

10:30 A.M. HAPPY TIME CHILD DEVELOPMENT CENTER, INC., SPA 83-V-084-02, application under Sect. 3-203 of the Zoning Ordinance to amend SP 83-V-084 for child care center to permit change of permittee located at 7932 Janna Lee Avenue, on approximately 21.7293 acres, zoned R-20, Mount Vernon District, Tax Map Reference 101-2((1))17. (OTH GRANTED)

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. The applicant is requesting a special permit for a change in name only of an existing child care center which came under special permit in November 1983. She stated that staff is recommending approval of this application subject to the development conditions which were stipulated on the original special permit and as contained in Appendix 1 of the staff report.

Joy Mason, 510 King Street, Alexandria, Virginia, attorney for the applicant, came forward and thanked the Board for granting the applicant an out-of-turn hearing. Ms. Mason agreed with the development conditions as outlined in the staff report.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mrs. Day made a motion to grant SPA 83-V-084-2 subject to the development conditions contained in the staff report with the addition of a new #13 which reads as follows: "The children shall be carefully monitored while on route to the play ground as they cross the street since this street serves only four apartments and is not a thru street."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 83-V-084-2 by HAPPY TIME CHILD DEVELOPMENT CENTER, INC., under Section 3-203 of the Zoning Ordinance to amend SP 83-V-084 for child care center to permit change of permittee, on property located at 7932 Janna Lee Avenue, Tax Map Reference 101-2((1))17, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 4, 1987; and

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

1. That the applicant is the lessee of the land.
2. The present zoning is R-20.
3. The area of the lot is 21.7293 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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

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or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans.

5. This permit is approved for a maximum daily enrollment of 75 children.

6. There shall be a maximum of seven (7) employees, two (2) of whom shall reside within the Janna Lee apartments.

7. The hours of operation for the day care center shall be limited to 6:00 a.m. and 7:00 p.m., Monday through Friday.

8. The enrollment shall be limited to only those residents of Woodlawn Village Apartments, Section II, also known as Janna Lee Apartments, unless the applicant obtains approval from the Board of Supervisors for cooperative parking with a reduction in the total number of required spaces for both uses as set forth in Article 11 of the Zoning Ordinance.

9. A total of three (3) parking spaces shall be provided for this use.

10. The transitional screening and barrier requirement shall be waived and such planting as are deemed appropriate by the County Arborist shall be installed around the building and play area to soften any impacts from this use on adjacent apartment units.

11. The emergency access driveway leading to the pool shall not be used for parking, loading, unloading, dropping off or picking up students.

12. All Health Department requirements shall be satisfied prior to the issuance of a Non-Residential Use Permit.

13. The children shall be carefully monitored while on route to the play ground as they cross the street since this street serves only four apartments and is not a thru street.

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 legally established 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. Ribble seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 12, 1987. This date shall be deemed to be the final approval date of this special permit.

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10:40 A.M. GERALD PATRICK PRICE, VC 87-D-031, application under Sect. 18-401 of the Zoning Ordinance to allow construction of living space addition to dwelling to 5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307) and a fence 6 feet in height to remain within a front yard and a 8 foot high fence in rear yard, located at 6900 Chelsea Road on approximately 6,250 square feet, zoned R-3, Dranesville District, Tax Map Reference 30-2((4))(5)8,9. DEFERRED FROM 7/30/87.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report. She stated that the applicants are requesting two variances. The first variance is to increase living space by adding an addition which would be located 5 feet from the side lot line which requires a variance of 7 feet. The second variance is to allow a fence over 4 feet in height to remain in the front yard which requires a variance of 3 feet. She pointed out that the second variance was posted improperly and therefore would need to be rescheduled and suggested a public hearing date of September 29, 1987 at 9:45 A.M.

Chairman Smith expressed concern with the Board hearing one part of an application and asked why both variance requests could not be deferred.
Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, explained that the applicant had originally made application for the addition but when Mrs. Hamblin-Katnik visited the site she noticed that the fence exceeded the height limitation. Upon pointing this out to the applicant, the applicant amended their application but the amendment did not make it through all the appropriate channels and therefore was posted incorrectly.

Following a discussion among the Board and staff, Sarah O'Brien, 6900 Chelsea Road, McLean, Virginia, co-applicant, came forward and requested that they be allowed to withdraw the fence portion of the application.

Mr. Hammack made a motion to allow the applicant to withdraw the request for a variance on the height of the fence and go forward with the request for the addition. Mrs. Thonen and Mr. Ribble seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

Ms. O'Brien then addressed the addition request by pointing out the unusual nature of the house as the houses are set on their sides with the front doors situated on the side of the house. She stated that this request would allow them to construct a 7 foot wide addition to the house a door which would face the street. This addition will provide them with privacy which they presently do not have as their neighbor's porch looks directly into the existing front door. In closing, Ms. O'Brien stated that they had contacted each neighbor individually, two of which serve on the Community Board, and there are no objections to this request and she submitted letters in support into the record.

Chairman Smith stated that he believed the applicant's true hardship was due to the lot being a substandard lot.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Ribble made a motion to grant VC 87-D-031 as he believed that the applicant had purchased the house in good faith in 1978, that the applicants have satisfied the standards for a variance, and due to the unusual way that the house is situated on the lot. He conditioned his approval subject to the development conditions contained in the staff report being implemented.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-031 by GERALD PATRICK PRICE, under Section 18-401 of the Zoning Ordinance to allow construction of living space addition to dwelling to 5 feet from side lot line, on property located at 6900 Chelsea Road, Tax Map Reference 30-2((4))(5)8 and 9, 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 4, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 6,250 square feet of land.

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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 which carried by a vote of 4-1 with Mr. Hammack voting nay; Messrs. DiGiulian and Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 12, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 376, August 4, 1987, (Tapes 2 and 3), Scheduled case of:

10:50 A.M. MORTON AND HARRIET MOSS, VC 87-D-069, application under Sect. 3-207 of the Zoning Ordinance to allow construction of an addition to dwelling to 13.9 feet from a contiguous pipestem lot line (25 feet minimum front yard required by Sect. 2-416), located at 1208 Old Stable Road, on approximately 22,493 square feet, zoned R-2, Dranesville District, Tax Map Reference 29-2((6))69. DEFERRED FROM 7/28/87.

Jane Kelsey, Chief of the Board of Zoning Appeals Support Branch, presented the staff report. She stated that this lot is adjacent to a pipestem driveway and the applicants

are requesting a variance to construct an addition 13.9 feet from the front lot line that is formed by the pipestem driveway. Ms. Kelsey noted that this subdivision was approved in 1970 prior to the adoption of the present Zoning Ordinance which requires a 25 foot setback.

Morton Moss, 1208 Old Stable Road, McLean, Virginia, co-applicant, came forward and stated that this addition would provide much needed living space. He stated that if the house had not been constructed at an angle on the lot there would be no encroachment on the property line. Although a variance of 13.9 feet is requested, he pointed out that there is a distance of 33 feet from the asphalt portion of the pipestem driveway to the lot line. In closing, Mr. Moss quoted from Sect. 2-416, Par. 2, of the Zoning Ordinance and stated that he was confused as to why a variance is needed when there is a distance of 33 feet from the pipestem driveway.

In response to questions from the Board, Ms. Kelsey explained that she had discussed this question with William Shoup of the Zoning Administrator's office. Mr. Shoup informed her that the Zoning Administrator has interpreted that the greater distance, either the distance of the lot line formed by the pipestem or the pavement of the driveway, must be used in determining setback.

Mr. Moss continued by stating that the Homeowners Association in his area and the abutting neighbors support this request.

As there were no speakers to address this application, Chairman Smith closed the public hearing.

Mr. Hammack made a motion to grant VC 87-D-069 subject to the development conditions being implemented as he believed the applicants have satisfied the standards for a variance, that the lot does have an irregular shape, and that only a portion of the dwelling is encroaching into the setback.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-069 by MORTON AND HARRIET MOSS, under Section 3-207 of the Zoning Ordinance to allow construction of an addition to dwelling to 13.9 feet from a contiguous pipestem lot line, on property located at 1208 Old Stable Road, Tax Map Reference 29-2((6))69, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 4, 1987; and

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

1. That the applicants are the owners of the land.
2. The present zoning is R-2.
3. The area of the lot is 22,493 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.

4. The exterior of the addition shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

Mr. Ribble seconded the motion which carried by a vote of 5-0 with Messrs. DiGiulian and Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 12, 1987. This date shall be deemed to be the final approval date of this variance.

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At 12:38 P.M. the Board took a recess. When the Board reconvened at 12:43 P.M., Mr. Hammack informed the citizens present that he would be serving as Acting Chairman due to Chairman Smith's absence due to illness.

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Page 378, August 4, 1987, (Tape 3), Scheduled case of:

11:00 A.M. WILLIAM A. WHEAT, ET UX/McLEAN PRESBYTERIAN CHURCH, VC 87-D-073, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into a lot and an outlot, proposed lot 18A having width of 120.46 ft. (150 ft. min. lot width req. by Sect. 3-106) located at 1034 Balls Hill Road, on approximately 61,803 square feet, zoned R-1, Dranesville District, Tax Map Ref. 21-3((15))18. (CONCURRENT WITH SPA 85-D-034-1) DEFERRED FROM 7/30/87.

Claudia Hamblin-Katnik, Staff Coordinator, stated that the special permit in conjunction with this variance would not be heard today and would be rescheduled for a later date. She stated that this variance is a request of the subdivision requirements and is located on Balls Hill Road south of I-495. The request is to allow a subdivision with a lot width of 120 feet where a minimum lot width of 150 feet is required. This is an existing nonconforming lot and the applicant wishes to subdivide the lot so that a portion of the lot can be sold to the McLean Presbyterian Church. She stated that one of the development conditions stipulates that the outlot be retained in its natural

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vegetated state to which the applicant has agreed. She pointed out that the other development conditions are the standard conditions which are placed on variance to lot width requests and these will be implemented should the transaction between the applicant and the church not transpire.

Thomas Dugan, attorney with the law firm of Surovell, Jackson, Colten & Dugan, P.C., 4010 University Drive, Fairfax, Virginia, stated that the applicants inherited the property in the 1930's and that the property is of no benefit to the applicants due to its irregular shape. This request is to allow the McLean Presbyterian Church to purchase Outlot A from the applicant which the church will use as additional buffering between the church and the adjoining property owners.

In response to a question from Mr. Ribble, Mr. Dugan replied that Sturbridge Subdivision was dedicated after the applicant had inherited the property.

Mrs. Thonen asked Mr. Dugan to clarify the pending court action that was filed in April 1987. Mr. Dugan explained that if this variance is granted today the suit will be ruled moot.

In conclusion, Mr. Dugan stated that this request will not change the character of the surrounding area but will alleviate the hardship to the applicants.

In response to questions from Mr. Hammack, Mr. Dugan stated that if this variance is denied the application of the McLean Presbyterian Church will be moot as it is in conjunction with this request.

William Wheat, 1034 Balls Hill Road, McLean, Virginia, co-applicant, told the Board that the money he will receive from the sale of the outlot will help him to maintain his home. He added that there are no objections from the neighbors to this request.

There were no speakers to address this application, therefore Acting Chairman Hammack closed the public hearing.

Mrs. Thonen made a motion to grant VC 87-D-073 subject to the development conditions contained in the staff report as she believed that the applicants have presented testimony showing compliance with the standards for a variance and subject to the outlot being retained in its natural state.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-073 by WILLIAM A. WHEAT, ET UX/McLEAN PRESBYTERIAN CHURCH, under Section 18-401 of the Zoning Ordinance to allow subdivision into a lot and an outlot, proposed 18A having width of 120.46 feet, on property located at 1034 Balls Hill Road, Tax Map Reference 21-3((15))18, 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 4, 1987; 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 61,803 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 subdivision of one lot into one (1) lot and one (1) outlot 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 outlot shall be retained in its naturally vegetated state as volunteered by the applicant.

4. The driveway to the proposed Lot 18A shall be constructed in accordance with the Public Facilities Manual.

Mrs. Day seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Messrs. DiGiulian and Hyland absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 12, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 380, August 4, 1987, (Tape 3), After Agenda Item:

Reality Gospel Church, SPA 79-L-269-1
Additional Time

Mrs. Day made a motion to grant an additional 12-months to the Reality Gospel Church located at 5937 Franconia Road in order for them to commence construction of a new church sanctuary. The new expiration date would be July 21, 1988.

Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Messrs. DiGiulian and Hyland absent from the meeting.

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Page 381, August 4, 1987, (Tape 3), After Agenda Item:

Faith Fellowship Assembly of God, SP 85-L-069
Additional Time

Mrs. Day moved to grant Faith Fellowship Assembly of God an additional 12 months to commence construction of a church located at 7800 Old Telegraph Road. The new expiration date will be August 25, 1988.

Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Messrs. DiGiulian and Hyland absent from the meeting.

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Page 381, August 4, 1987, (Tape 3), After Agenda Item:

Congregation Beth Emeth, SPA 84-C-008-1
Additional Time

Mrs. Day moved to grant Congregation Beth Emeth an additional 12 months to commence construction of a synagogue and related facilities. The new expiration date will be August 4, 1988.

Mrs. Thonen and Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Messrs. DiGiulian and Hyland absent from the meeting.

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Page 381, August 4, 1987, (Tape 3), After Agenda Item:

Approval of Minutes for June 2, June 9, June 16, June 23, June 30,
July 7, July 14, and July 21, 1987

Mrs. Thonen made a motion to accept the minutes of the Board of Zoning Appeals for June 2, June 9, June 16, June 23, June 30, July 7, July 14, and July 21, 1987 as submitted.

Mrs. Day and Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Messrs. DiGiulian and Hyland absent from the meeting.

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Page 381, August 4, 1987, (Tape 3), After Agenda Item:

Mary Anne Duffus, SP 87-D-051
Out-of-Turn Hearing

Claudia Hamblin-Katnik, Staff Coordinator, informed the Board that this request was for a day care center and that the applicant was present and would like to address the Board.

Mary Anne Duffus, 3321 Grass Hill Terrace, Falls Church, Virginia, applicant, stated that she has spent the last two years searching for a suitable location. Due to the nature of this application, she requested that the Board grant an out-of-turn hearing so that the school could be opened as soon as possible.

Mrs. Thonen made a motion to grant an out-of-turn hearing to the applicant in SP 87-D-051 for September 19, 1987 at 10:00 A.M. as suggested by staff.

Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Messrs. DiGiulian and Hyland absent from the meeting.

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Page 381, August 4, 1987, (Tape 3), After Agenda Item:

Phillip L. and Barbara C. Gray, SP 87-L-053
Out-of-Turn Hearing

Kevin Guinaw, Staff Coordinator, told the Board that this application had been received by staff late in the day on August 3, 1987 and staff has not yet had a chance to review it.

Mrs. Thonen pointed out that she was concerned about setting public hearing dates for applications that had not yet been officially accepted.

Mr. Guinaw stated that this application has been reviewed by the County Attorney's office and accepted by the Board of Zoning Appeals Support Branch.

Page 382, August 4, 1987, (Tape 3), (SP 87-L-053, Phillip L. and Barbara C. Gray, continued from Page 381)

Mrs. Thonen made a motion to grant an out-of-turn hearing to the applicants in SP 87-L-053 and scheduled the public hearing for September 22, 1987 at 10:40 A.M.

Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Messrs. DiGiulian and Hyland absent from the meeting.

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Page 382, August 4, 1987, (Tape 3), After Agenda Item:

Mary S. Allan Appeal

Mr. Ribble moved that the Mary S. Allan Appeal had been properly and timely filed and moved to schedule the public hearing for October 13, 1987 at 9:15 A.M.

Mrs. Thonen seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Messrs. DiGiulian and Hyland absent from the meeting.

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Page 382, August 4, 1987, (Tape 3), After Agenda Item:

Jack Baker Appeals

Mr. Ribble moved that the Jack Baker Appeals had been properly and timely filed and moved to schedule the public hearing for September 29, 1987 at 9:00 A.M.

Mrs. Thonen seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Messrs. DiGiulian and Hyland absent from the meeting.

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Page 382, August 4, 1987, (Tape 3), After Agenda Item:

Approval of Resolutions for July 28, 1987

Mrs. Thonen made a motion to accept the Resolutions of the actions of the Board of Zoning Appeals at its public hearing of July 28, 1987 as submitted.

Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Messrs. DiGiulian and Hyland absent from the meeting.

As this was the last scheduled public hearing prior to the August recess, Mrs. Thonen made a motion to waive the 8-day reconsideration for the Resolutions for the Board's public hearing of July 30, 1987 unless notified by a Board member.

Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith not present for the vote; Messrs. DiGiulian and Hyland absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 1:38 P.M.

Betsy S. Hurt, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 11/5/87

APPROVED: 11/10/87

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, September 3, 1987. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Gerald Hyland; Mary Thonen; Paul Hammack; and John Ribble.

Chairman Smith opened the meeting at 9:14 A.M. and Mrs. Day led the prayer.

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Page 383, September 3, 1987, (Tape 1), Scheduled case of:

9:00 A.M. FIRST VIRGINIA BANK APPEALS, A 87-P-004, under Sect. 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's denial of sign permit applications for three (3) signs, based on Par. 1 of Sect. 12-203, located at 6400 Arlington Boulevard, on approximately 94,732 square feet of land, zoned PDC, Providence District, Tax Map Reference 51-3((1))1E.

As there as a request from the appellant to defer the above referenced application, Mrs. Thonen moved to defer A 87-P-004, First Virginia Bank Appeals to November 5, 1987 at 9:00 A.M.

Mr. DiGiulian seconded the motion which passed unanimously.

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At 9:16 A.M., Mrs. Thonen then moved that the Board go into Executive Session and hearing no objection it was so ordered.

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Page 383, September 3, 1987, (Tape 1), Scheduled case of:

9:30 A.M. LINDA MARGARET TETER, VC 87-C-083, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 12.3 ft. from side lot line (15 ft. min. side yard req. by Sect. 3-207), located at 12012 Hamden Court, on approximately 28,197 square feet of land, zoned R-2, Centreville District, Tax Map Reference 46-1((8))17.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board that the owner of lot 14 had been granted a variance to allow a two-car garage.

Richard Teter, 12012 Hamden Court, Oakton, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He noted that the proposed location of the garage was the only place the garage could be located due to the narrowness of the lot. He added that there were no objections from the neighbors.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Thonen noted that the size of the garage should be reduced in width to 21 feet thus requiring less of a variance. She also noted the irregular shape of the lot and the location of the drainage field as justification for the request. Therefore, Mrs. Thonen moved to grant the request as modified and subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-083 by LINDA MARGARET TETER, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 12.3 ft. from side lot line,(The Board Granted a Variance to permit the garage 13.3 ft. from the side lot line) on property located at 12012 Hamden Court, Tax Map Reference 46-1((8))17, 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 3, 1987; 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 28,197 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 to be 13.3 feet from the side lot line 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.

Messrs. DiGiulian and Hyland seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

Chairman Smith requested Mr. Teter to submit new revised plats.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 11, 1987. This date shall be deemed to be the final approval date of this variance.

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9:40 A.M. JOSEPH H. POWERS, VC 87-L-084, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport 10.5 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 5411 Clifton Street, on approximately 10,500 square feet, zoned R-3, Lee District, Tax Map 80-2((2))133.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and pointed out that most of the homes in the neighborhood have carports and many of them have been enclosed.

Joseph Powers, 5411 Clifton Street, Springfield, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack noted that the applicant had satisfied the nine standards for a variance and in particular noted the exceptional narrowness of the property. Therefore, he moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-L-084 by JOSEPH H. POWERS, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport 10.5 ft. from side lot line, on property located at 5411 Clifton Street, Tax Map Reference 80-2((2))133, 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 3, 1987; 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 10,500 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. Thonen seconded the motion which carried by a vote of 6-0 with Chairman Smith not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 11, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 386, September 3, 1987, (Tape 1), Scheduled case of:

9:50 A.M. JAMES P. MCGREGOR, VC 87-A-079, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17 ft. from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located 4657 Braddock Green Court, on approximately 8,503 square feet of land, zoned R-3(C), Annandale District, Tax Map Reference 69-1((13))5.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that a site inspection was conducted and it was found that a large wooden deck had been erected in the rear yard. The deck did not appear on the submitted plat. She added that the records of the Zoning Administration Division indicated that the applicant had obtained a building permit to construct a deck and that the permit had been issued prior to the drawing of the variance plat and prior to the submission of the variance application. She added that the applicant was advised of this and was requested to provide staff with revised corrected plats.

James McGregor, 4657 Braddock Green Court, Fairfax, Virginia, the applicant, appeared before the Board explained his request as outlined in the statement of justification submitted with the application. He noted the slope in the rear of the yard and therefore stated that he did not have reasonable use of the property.

Following a question from Mr. Hammack, Mr. McGregor stated that the deck was not completed but had been started when the application for a variance was submitted.

In closing, Ms. Belofsky noted that the plat was drawn after the deck was constructed.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. DiGiulian stated that the applicant had met the standards for a variance, particularly under 2B and 2D. Therefore, Mr. DiGiulian moved to grant the request with subject to the conditions contained in the staff report with an an additional condition: "That the applicant submit revised plats showing the sundeck."

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-079 by JAMES P. MCGREGOR, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17 ft. from rear lot line, on property located at 4657 Braddock Green Court, Tax Map Reference 69-1((13))5, 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 3, 1987; and

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

1. That the applicant is the co-owner of the land.
2. The present zoning is R-3(C).
3. The area of the lot is 8,503 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 the following characteristics:
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   D. Exceptional shape 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. Revised, accurate plats showing all dimensions of the all structures including the deck shall be submitted to staff prior to the release of the resolution of approval and the issuance of a building permit for the screened in porch.

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

5. The exterior of the screened in porch shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

6. If the revised plats show the deck is in violation, it shall either be made to be in compliance with the Zoning Ordinance or a special permit shall be obtained to allow it to remain.

Mrs. Thonen seconded the motion which carried by a vote of 5-2 with Mr. Hyland and Chairman Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 11, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 388, September 3, 1987, (Tape 1), Scheduled case of:

10:00 A.M. EDGAR C. BEERY, JR, VC 87-M-068, application under Sect. 18-401 of the Zoning Ordinance to allow construction of an addition to office building to the rear lot line (25 feet minimum rear yard requirement by Sect. 4-207) and to allow parking 5.5 feet from the side lot line and 5.5 feet from a rear lot line (15 ft. min. side and rear yards req. by Sect. 9-609 and 3-207), located at 4215 Evergreen Lane, on approximately 14,881 square feet, zoned R-2, C-2, HC, and SC, Mason District, Tax Map 71-2((2))26 and 2B.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report.

Roy Spence, 605 Park Avenue, Falls Church, Virginia, representative of the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mrs. Day noted that the rear lot had been purchased to be used for parking and that the Board of Supervisors had granted the applicant a waiver of the parking restrictions on the rear lot (a special exception was approved for parking in a residential district for a commercial use). Therefore, Mrs. Day moved to grant the request subject to the conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-068 by EDGAR C. BEERY, JR., under Section 18-401 of the Zoning Ordinance to allow construction of an addition to office building zero feet from the rear lot line, on property located at 4215 Evergreen Lane, Tax Map Reference 71-2((2))26, 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 3, 1987; 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 C-2, HC and SC.
3. The area of the lot is 10,222 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;

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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 which carried by a vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 11, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 389, September 3, 1987, (Tape 2), Scheduled case of:

10:10 A.M. NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS, VC 87-C-088, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to building to 25.89 feet from front lot line (40 ft. min. front yard req. by Sect. 5-307), located at 1904 Association Drive, on approximately 184,132 square feet, zoned I-3, Centreville District, Tax Map Reference 17-4((12))2.

Heidi Belofsky, Staff Coordinator, presented the staff report.

In response to a question from Chairman Smith, Ms. Belofsky stated that there had been no other variances granted to permit office buildings closer to the lot lines in this area.

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Brian O'Connor, 11718 Bowman Green Drive, Reston, Virginia, the applicant's representative, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He stated that he concurred with the staff report and noted that there was a slope on the other side of the property which prevents placement of addition on that side. Mr. O'Connor also noted a sewer line to the rear of the property.

Since there were no speakers to address this application, Chairman Smith closed the public hearing. Prior to making the motion, Mr. Hyland noted the topographical conditions of the property and that other locations would not be practical. He also pointed out that the application had the support of the neighbors and therefore moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-C-088 by NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS, under Section 18-401 of the Zoning Ordinance to allow construction of addition to building to 25.89 ft. from front lot line, on property located at 1904 Association Drive, Tax Map Reference 17-4((12))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 September 3, 1987; 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-3.
3. The area of the lot is 184,132 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.

4. The exterior of the addition shall be architecturally compatible with the existing building and shall be similar in color and materials.

5. Landscape plantings shall be provided between the building addition and the front lot line so as to lessen any potential adverse impact. The type, size, and location of the planting shall be subject to the approval of the County Arborist at the time of site plan review.

Mr. Ribble seconded the motion.

The motion carried by a vote of 6-1 with Chairman Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 11, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 391, September 3, 1987, (Tape 2), Scheduled case of:

10:20 A.M. MR. AND MRS. WILLIAM E. ALLISON, VC 87-M-082, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15 ft. from a street line on a corner lot, (40 ft. min. front yard req. by Sect. 3-107), located at 3014 Sylvan Drive, on approximately 25,592 square feet of land, zoned R-1, Mason District, Tax Map Reference 50-4((21))57.

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report.

William Allison, 3014 Sylvan Drive, Falls Church, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application.

Chairman Smith called for speakers and the following citizens came forward: Carol Mabon, 3005 Sylvan Drive, Harrison Hancock, 3013 Sylvan Drive, Roy Messer, 3018 Sylvan Drive, Falls Church, Vriginia.

The speakers all spoke in support of the application and noted that the request would be an improvement to the area.

Since there were no other speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Ribble stated that applicant had met the nine standards for a variance, noting the double front yard and topographical conditions. Therefore, Mr. Ribble moved to grant the request subject to the development conditions contained in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-M-082 by MR. AND MRS. WILLIAM E. ALLISON, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15 ft. from a street line on a corner lot, on property located at 3014 Sylvan Drive, Tax Map Reference 50-4((21))57, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 3, 1987; 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 HC.
3. The area of the lot is 25,592 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.

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2. Under Sect. 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 which carried by a vote of 5-1 with Mrs. Day not present for the vote; Chairman Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 11, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 393, September 3, 1987, (Tape 2), Scheduled case of:

10:30 A.M. PROFESSIONALS, INC., VC 87-P-086, application under Sect. 18-401 of the Zoning Ordinance to allow an existing outlot having width of 5.01 ft. to be a buildable lot, (80 ft. min. lot width req. by Sect. 3-306), located at 4002 Maureen Lane, on approximately 12,788 square feet of land, zoned R-3, Providence District, Tax Map Ref. 45-2((9))B.

Mrs. Day announced that she would be abstaining from the vote on the above-referenced application because she had been employed for a short time by Mr. McGinnis the attorney for the applicant.

Heidi Belofksy, Staff Coordinator, began her presentation of the staff report. She advised the Board that the subdivision could have been designed so that a variance would not be necessary therefore the hardship was self imposed. She added that approval of this variance would set an undesirable precedent for other subdivisions.

Mr. Hyland pointed out that the affidavit needed to be revised to show that Mrs. Day had been employed by Mr. McGinnis.

At this time, Mr. Hammack moved to place the application at the end of the agendas to allow the applicant time to revise the affidavit.

Mr. DiGiulian seconded the motion which passed unanimously with Mrs. Day abstaining.

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Page 393, September 3, 1987, (Tape 2), Scheduled case of:

10:40 A.M. STEVEN J. PARNELL, VC 87-D-087, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed corner Lot 1 having a width of 69.75 feet (105 ft. min. lot width req. by Sect. 3-306) and to allow an existing dwelling to remain on Lot 1, 20.0 feet from the front lot line (30 ft. min. front yard req. by Sect. 3-307), located at 6520 Old Chesterbrook Road, on approximately 36,317 square feet, zoned R-3 and R-4, Dranesville District, Tax Map 30-4((1))63.

Heidi Belofsky, Staff Coordinator, presented the staff report.

Steven Parnell, 6520 Old Chesterbrook Road, McLean, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

Since there were no speakers to address this application, Chairman Smith closed the public hearing.

Prior to making the motion, Mr. Hammack noted that applicant had satisfied the standards for a variance and also noted the exceptional shape of the lot. Therefore, Mr. Hammack moved to grant the request subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-D-087 by STEVEN J. PARNELL, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed corner Lot 1 having a width of 69.75 ft. and to allow an existing dwelling to remain on Lot 1, 20.0 feet from the front lot line, on property located at 6520 Old Chesterbrook Road, Tax Map Reference 30-4((1))63, 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 3, 1987; 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 and R-4.
3. The area of the lot is 36,317 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 subdivision of one lot into 2 lots as shown on the plat submitted with this application.

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2. Under Sect. 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. All existing sheds on the property shall be removed prior to the recordation of this subdivision.

4. The driveway to proposed Lot 2 shall be constructed in accordance with the Public Facilities Manual.

5. Access to Lot 2 shall be provided from Old Chesterbrook Road.

6. Right-of-way to thirty (30) feet from the centerline of Old Chesterbrook Road along the frontage of the application property necessary for road improvements shall be dedicated for public street purposes and shall convey to the Board of Supervisors in fee simple.

7. A revised plat indicating that the location of the existing garage is at least twelve (12) feet away from north/south lot line that divides Lot 1 and Lot 2 must be submitted to staff or the garage shall be razed prior to the recordation of this subdivision.

8. For the purpose of tree preservation, clearing and grading shall be limited to a forty (40) foot circumference of each dwelling.

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 6-1 with Chairman Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 11, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 395, September 3, 1987, (Tapes 2 and 3), Scheduled case of:

10:50 A.M. CALVARY MEMORIAL PARK, INC. T/A FAIRFAX MEMORIAL PARK, SPA 81-A-022-3, application under Sect. 3-103 of the Zoning Ordinance to amend SP 81-A-022 for a cemetery and mausoleum to permit addition of entrance and roadway from Braddock Road, located at 4401 Burke Station Road, on approximately 128.1 acres, zoned R-1, Annandale District, Tax Map 69-1((1))1 and 12.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that staff was concerned about the entrance on Braddock Road as it is a minor arterial. However, if this entrance is approved right and left turn lanes and sufficient dedication should be provided.

Grayson Hanes, attorney representing the applicant, appeared before the Board and stated that the Virginia Department of Transportation (VDOT) has previously granted the necessary entrance permit for this entrance. He added that this is not an expansion of any of the uses on the site and there would be no adverse affect upon the use or development of neighboring properties. Mr. Hanes stated that the applicant was requesting the development conditions be modified as follows: Condition 2, add the word "entrance", Condition 4, delete because the structure was already built, Condition 5, delete the words "Right and left turn lanes shall be provided at", Condition 6, add sentence to include: The BZA does not object to a site plan waiver by the Department of Environmental Management, Condition 8, add the words, "that was approved on June 11, 1985, Condition 10, delete the "s" from the word mauseleum, Condition 11, add sentence to state that although no one would be buried within 100 feet of the road, they may use the area for other uses such as a park.

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Since there were no speakers to address this application, Chairman Smith closed public hearing.

Mr. DiGiulian moved to grant the request subject to the revised development conditions.

Responding to a question from Mr. Hammack, Mr. Hanes stated that there was an average of one funeral per day.

Chairman Smith pointed out that the police would direct traffic should there be any problems.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 81-A-022-3 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 a cemetery and mausoleum to permit addition of entrance and roadway from Braddock Road, on property located at 4401 Burke Station Road, Tax Map Reference 69-1((1))1 and 12, 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 3, 1987; 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 128.1 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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. A building permit shall be obtained within 30 days of approval which accurately illustrates the location of the wall.

5. The site entrance on Braddock Road shall conform to Virginia Department of Transportation (VDOT) standards.

6. This use shall be subject to the provisions set forth in Article 17, Site Plans. The BZA does not object to a waiver of the site plan by the Department of Environmental Management.

7. Transitional screening and the barrier shall be modified along all lot lines provided the plantings as shown on the plat are installed.

8. Buildings A and B shall not be constructed for five (5) years from the approval of the special permit that was approved on June 11, 1985 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 June 11, 1985.

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

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

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

12. The southern most entrance on Burke Station Road shall not be used for funerals.

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 aforementioned conditions incorporate all previous conditions from all previous special permit approvals.

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, thirty (30) days after the approval date of the Special Permit unless the activity authorized has been legally established, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion carried by a vote of 6-0 with Mrs. Thonen not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 11, 1987. This date shall be deemed to be the final approval date of this special permit.

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At 12:30 P.M., the Board recessed the meeting and reconvened at 12:56 P.M.

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Page 397, September 3, 1987, (Tape 3), Scheduled case of:

11:10 A.M. THE CHILDREN'S SCHOOL OF GREAT FALLS, SP 87-D-046, application under Sect. 3-E03 and 8-901 of the Zoning Ordinance to allow nursery school and waiver of the dustless surface requirement, located at 9220 Georgetown Pike, on approximately 6.8132 acres of land, zoned R-E, Dranesville District, Tax Map 13-2((1))8.

In Lori Greenlief, Staff Coordinator's absence, Jane Kelsey, Branch Chief, BZASB, presented the staff report and advised that staff was recommending approval of the request subject to the development conditions.

Janeen Ehrhart, 4222 Riverbend Road, Great Falls, Virginia, representative of the applicant, appeared before the Board and stated that the hours would not be extended and the children would be arriving in carpools.

Charles Nichols, 438 Riverbend Road, Great Falls, Virginia, also representing the applicant, appeared before the Board and provided a slide show presentation of the church property and proposed location of the school. He added that the school will comply with all improvements requested. Mr. Nichols indicated that there would be a maximum of 30 children attending the school. With regard to the waiver of the dustless

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surface, the applicant contends that the gravel driveway maintains the semi-rural nature of the area and enforcement of the dustless surface would place an undue financial hardship on the school. Mr. Nichols also indicated that they would rather not relocate the play area but will if the Board desires. He also stated that the additional screening requested by staff was not necessary and they would work with the Arborist to provide supplemental plantings.

Chairman Smith called for speakers and Karen Ann Lewis, 1087 Pensive Lane, Great Falls, Virginia, representing the parents of the children who attended the school at the previous location, appeared before the Board in support of the request. She stated that there was no other location that could meet the school's needs.

David Tuma, Senior Warden, St. Francis Church, 801 Hickory Vale Lane, Great Falls, Virginia, advised the Board that the church had initially approved the school in May of this year and final approval came in August and was based on community need, reputation of the school, its non-profit status, and because other areas were not available.

Marge Gersic, President of the Great Falls Citizens Association, 11120 Corobon Lane, Great Falls, Virginia, appeared before the Board and stated that the Planning and Zoning Committee voted to reject the application by a two vote margin because the application may be precedent setting, the school may be a commercial venture and concerns of the neighbors. She added that the Executive Committee then met and voted to support the application by a slim margin because they received new information that the application was not precedent setting and was not a commercial use.

Charles DeBona, 9306 Georgetown Pike, Great Falls, Virginia, appeared before the Board in opposition to the proposal. He stated that the existing septic system for the school building was on his property and the current easement for its use expires December 2, 1987 and the church has been given notice that it will not be extended. Mr. DeBonner also expressed the opinion that the application was not properly filed because there was not a contract in place at the time the application was filed, therefore it does not comply with Sect. 8-011 of the Zoning Ordinance. In conclusion, Mr. DeBonner also stated that the proposal would change the character of the neighborhood which is rural and would also be precedent setting and detrimental to the wildlife in the area.

Dane Morine, 9314 Georgetown Pike, 9314 Georgetown Pike, Great Falls, Virginia, appeared before the Board in opposition to the request, expressing concern for the wildlife in the area.

Reid Dennis, 9221 Georgetown Pike, Great Falls, Virginia, appeared before the Board in opposition to the request and expressed concern about the increased traffic.

Evelyn DeBona, 9306 Georgetown Pike, Great Falls, Virginia, was the next speaker to appear before the Board in opposition to the proposal. She suggested that an alternative location be found for the school.

Caroline DeBona, 9306 Georgetown Pike, Great Falls, Virginia, appeared before the Board in opposition to the proposal and requested that if the application were approved the request for waiver of the dustless surface should not be granted as the dust from the road would create health problems.

The last person to appear before the Board in opposition to the request was Thomas Scott, 500 Springvale Road, Great Falls, Virginia, who also suggested that an alternative location for the school be found.

In rebuttal, Richard Haver, 807 Lundenburg Road, Great Falls, Virginia, representing the applicant, appeared before the Board and reiterated that there would not be any change in hours and the children would not be coming to school during rush hours, that the proposed use would be in harmony with the neighborhood, and the play area was best located behind the school.

In closing, Ms. Kelsey stated that there was a statement in the file that indicated that the church had given the school the right to use the property. She added that although a lease is preferred, the school has a written statement from the church giving them permission.

Since there were no other speakers to address this issue, Chairman Smith closed the public hearing.

At this time, Mr. Tuma signed the written statement that gave the school permission to use the property as it had not been signed.

As the Board requested a determination from the County Attorney as to whether or not the application was properly filed because the applicant did not have a formal lease, Mrs. Day moved to defer the application for decision only to September 10, 1987 at 9:45 A.M.

Mrs. Thonen seconded the motion which passed unanimously.

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At this time, Vice-Chairman DiGiulian took over the Chair from Chairman Smith due to Chairman Smith's departure.

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Page 399, September 3, 1987, (Tape 3), Scheduled case of:

11:25 A.M. NEW LIFE CHAPEL MOTHER'S DAY OUT, SP 87-S-047, application under Sect. 6-303 of the Zoning Ordinance to allow child care center, located at 9837 Burke Pond Lane, on approx. 6.24 acres, zoned PRC, Springfield District, Tax Map 78-3((14))pt. U1 and 3C3.

Jane Kelsey, Branch Chief, BZASB, advised the Board that the applicant and staff were requesting a deferral to September 10, 1987 at 12:10 P.M.

Mr. Hyland so moved. Mr. Ribble seconded the motion which passed with Chairman Smith and Mrs. Thonen not present for the vote.

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Page 399, September 3, 1987, (Tape 3), Scheduled case of:

11:40 A.M. ROBERT I. LAINOF AND MARTIN B. JARVIS, JR., VC 87-V-085, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 3B having a lot width of 20.09 ft. (200 ft. min. lot width req. by Sect. 3-E06), located at 10629 Gunston Road, on approximately 4.76597 acres, zoned R-E, Mount Vernon District, Tax Map 114-4((2))3.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that the proposed subdivision would result in lot sizes which are smaller than the majority of lots in the immediate vicinity and would not be in conformance with the Plan. She added that the proposal would set a precedent for similiar properties in the area which could be redeveloped in the same manner. In conclusion, Ms. Belofsky stated that the application does not meet standards number 2, 4 or 6 required for the approval of a variance.

Martin Jarvis, 10808 Harley Road, Lorton, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. Mr. Jarvis disagreed with staff that the proposal would be precedent setting and pointed out several smaller lots in the area.

Chairman Smith called for speakers and Pete Pauly, 10621 Gunston Road, Lorton, Virginia, appeared before the Board in neither support or opposition to the request but expressed concern about the traffic in an already dangerous area.

Cliff Hughes, 10625 Gunston Road, Lorton, Virginia, also appeared before the Board in neither support or opposition to the request, but expressed concern about the well situation and requested that grading be limited. He also requested that the existing wells not be affected by the proposal.

In rebuttal, Mr. Jarvis reiterated his previous comments and agreed to limit grading.

In closing, Ms. Belofsky stated that there were several smaller lots in the area but they were allowed by right a number of years ago.

Since there were no other speakers to address this application, Vice Chairman DiGiulian closed the public hearing.

Prior to making the motion, Mr. Ribble noted traffic problems as well as problems with the well system. He also stated that it was his opinion that Mr. Jarvis had failed to show that there was a hardship, therefore he moved to deny the variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-V-085 by ROBERT I. LAINOFF AND MARTIN B. JARVIS, JR., under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots proposed Lot 3B having a lot width of 20.09 ft., on property located at 10629 Gunston Road, Tax Map Reference 114-4((2))3, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 3, 1987; and

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

1. That the applicants are the owner and the contract purchaser of the land.
2. The present zoning is R-E.
3. The area of the lot is 4.76597 acres 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. Day seconded the motion.

The motion carried by a vote of 6-0 with Chairman Smith not present for the vote.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 11, 1987.

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Page 400, September 3, 1987, (Tapes 3 and 4), Scheduled case of:

11:50 A.M. MCLEAN PRESBYTERIAN CHURCH, SPA 85-D-034-1, application under Sects. 3-103 and 3-203 of the Zoning Ordinance to amend SP 85-D-034 for church and related facilities to allow addition of land area and parking, located at 1010, 1020, and 1028 Balls Hill Road, on approx. 7.6159 acres of land, zoned R-1 & R-2, Dranesville Disrict, Tax Map Ref. 21-3((1))50A, 50, 51, pt. 18 (Outlot A). (DEFERRED FROM 7/30/87)

Claudia Hamblin-Katnik, Staff Coordinator, presented the staff report and advised the Board that staff and the applicant had agreed upon revised development conditions for conditions 9, 10, 15. She added that the remaining outstanding issue concerned the applicant's request for waiver of transitional screening. Ms. Hamblin-Katnik stated that the standards called for 35 feet and staff had compromised by requesting 25 feet and the applicant was requesting a waiver of the 25 feet. She suggested that the

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applicant provide parallel parking to help increase the number of spaces. In conclusion, Ms. Hamblin-Katnik stated that staff was recommending approval of the request subject to the development conditions as revised.

Thomas Dugan, attorney, representing the applicant, appeared before the Board and stated that the applicant had eliminated 32 spaces in order to get approval from the neighbors and requested 20 feet of transitional screening instead of 25 feet.

Vice-Chairman DiGiulian called for speakers and Steven Smallman, Pastor, 10631 Runaway Lane, Great Falls, Virginia, appeared before the Board and requested 20 feet of transitional screening.

Geza Cseri 1028 Delf Drive, McLean, Virginia, appeared before the Board in support of the application.

In rebuttal, Mr. Dugan stated that a parking problem existed at the present location of the church and they were requesting a slight excess of parking at the proposed site.

Since there were no other speakers to address this issue, Vice-Chairman DiGiulian closed the public hearing.

Mr. Hyland moved to grant the special permit subject to the development conditions as revised: Condition 6 change 262 to 292, Condition 8 change 25 feet to 20 feet, Conditions, 9, 10, 15 as revised by staff.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 85-D-034-1 by MCLEAN PRESBYTERIAN CHURCH, under Section 3-103 and 3-203 of the Zoning Ordinance to amend SP 85-D-034 for church and related facilities to allow addition of land area and parking, on property located at 1010, 1020 and 1028 Balls Hill Road, Tax Map Reference 21-3((1))50A, 50, 51, pt. 18 (Outlot 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 September 3, 1987; 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 R-2.
3. The area of the lot is 7.6159 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 as set forth in Sect. 8-006 and the additional standards for this use as contained in Section 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 not exceed five hundred and eighty (580).

6. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11, and shall not exceed a maximum of 292 spaces.

7. The limits of clearing and grading shall be as shown on the approved plat. However, minor alterations shall be permitted to accommodate engineering or other code required changes.

8. Existing vegetation shall be supplemented to the satisfaction of the County Arborist to meet the width and planting requirements of Transitional Screening 1 along all lot lines except:

   - Along all lot lines associated with Outlot A, provided Outlot A remains in its undisturbed naturally vegetated state.

   - Along the common lot line with proposed Lot 18A, provided the limits of clearing and grading remain as shown on the plat submitted.

   - Along the lot line common to the rear of Lot 50B.

   - Modification of planting along the Transitional Screening area adjacent to Balls Hill Road to provide landscaping rather than screening as per the landscape plan submitted with this request. The purpose of this landscaping is to enhance the aesthetics of the building and screen the parking lot and the lights from vehicles from properties across Balls Hill Road. The width of Transitional Screen yard shall remain a minimum of twenty (20) feet.

9. Barrier F shall be provided along Lots 4, 5, 6, and 50B where the property is adjacent to the church's southern property line, except along Outlot A. The barrier requirement shall be waived along all other lot lines except as stated above.

10. Interior parking lot landscaping shall be provided in accordance with provisions of Sect. 13-106 of the Zoning Ordinance. In addition, there shall be a minimum of one tree per individual planting island, the elongated islands being planted with trees at 40 feet on center. The ground shall be maintained in grass. Tree selection and grass species shall be approved to the satisfaction of the County Arborist.

11. A right turn deceleration lane shall be provided to the southern entrance from Balls Hill Road. If it is determined by the Office of Transportation that the proposed control measures provided to prevent ingress movements into the northern exit are inadequate, the applicant shall commit to construct a standard right-turn deceleration lane.

12. Dedication for public street purposes to the Board of Supervisors shall be provided in accordance with Article 17 as determined by the Director, Department of Environmental Management (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 39. Doors and windows should have a laboratory 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.

   - If the building is not constructed to residential noise standards then a school or child care center shall not be allowed in the building, unless it can be acoustically retrofitted or modified to meet these standards.

15. The floor area ratio (FAR) for this entire parcel shall be 0.15; that which governs the most restrictive district (R-1) this property is within.

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.

17. Signs shall be permitted provided they are erected in accordance with the provisions of Article 12. This sign shall be located so as to complement the landscape plan rather than detract from it.

These development conditions contain applicable development conditions from all previous approvals.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of the 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 with Chairman Smith not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 11, 1987. This date shall be deemed to be the final approval date of this special permit.

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Page 403, September 3, 1987, (Tape 4), Scheduled case of:

12:00 NOON FERNANDO OVALLE SANTA-CRUZ, VC 87-L-081, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 44A having width of 67.23 ft.(80 ft. min. lot width req. by Sect. 3-306), located at 5604 Clermont Drive, on approximately 32,697 square feet, zoned R-3, Lee District, Tax Map Reference 82-1((4))44. (DEFERRED FROM 8/4/87 NOTICES NOT IN ORDER).

Vice-Chairman DiGiulian announced that there had been a request for deferral of the above referenced application. Mrs. Thonen moved to defer the application to November 11, 1987 at 8:00 P.M.

At this time Thomas Bee, 5608 Clermont, Alexandria, Virginia, came forward and advised the Board that he had no objection to the deferral.

Charles Elder, 5615 Glenwood Drive, Alexandria, Virginia, came forward and objected to the deferral as he expressed the opinion that the applicant had already had enough time to present his application.

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Page 403, September 3, 1987, (Tape 4), Scheduled case of:

10:30 A.M. PROFESSIONALS, INC., VC 87-P-086, application under Sect. 18-401 of the Zoning Ordinance to allow an existing outlot having width of 5.01 ft. to be a buildable lot, (80 ft. min. lot width req. by Sect. 3-306), located at 4002 Maureen Lane, on approximately 12,788 square feet of land, zoned R-3, Providence District, Tax Map Ref. 45-2((9))B.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that the affidavit was now in order. Ms. Belofsky concluded her presentation by pointing out that this was a recurring condition which is duplicated in other subdivisions that have outlots which have been ruled by the Department of Environmental Management not to be buildable lots primarily do to lot width.

Robert A. McGinnis, attorney representing the applicant, 120 N. Lee Street, Falls Church, Virginia, appeared before the Board and stated that the applicant had received preliminary approval of a subdivision for 16 lots. He added that lot 8 was the object of the proposed variance and DEM issued a waiver to allow the lot to be incorporated into the subdivision in its present configuration. At the time the property was subdivided an easement was placed on lot 7 to allow access to lot 8 thus creating a pipestem lot. Mr. McGinnis pointed out that the criteria for allowing a pipestem lot had been met. He submitted eight letters from homeowners in the subdivision supporting the proposal. Mr. McGinnis explained the hardship as being that lot 8 could not be used as originally anticipated because of giving up the outlot road to Lee Highway.

Since there were no speakers to address this application, Vice-Chairman DiGiulian closed the public hearing.

Prior to making the motion, Mr. Hammack stated that the applicant had satisfied the nine standards for a variance and therefore moved to grant the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-P-086 by PROFESSIONALS, INC., under Section 18-401 of the Zoning Ordinance to allow an existing outlot having width of 5.01 ft. to be a buildable lot, on property located at 4002 Maureen Lane, Tax Map Reference 45-2((9))B, 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 3, 1987; 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 12,788 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.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 shown on the plat included with this application and is not transferable to other land.

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

3. The easement and driveway to the proposed lot shall be recorded and constructed in accordance with the Public Facilities Manual.

4. The access easement for Lot B delineated on the plat shall be recorded in the deed of Lot 7 as a permanent access easement.

Mrs. Thonen seconded the motion which carried by a vote of 6-0 with Chairman Smith not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 11, 1987. This date shall be deemed to be the final approval date of this variance.

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Page 405, September 3, 1987, (Tape 4), Scheduled case of:

12:00 NOON FERNANDO OVALLE SANTA-CRUZ, VC 87-L-081, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 44A having width of 67.23 ft.(80 ft. min. lot width req. by Sect. 3-306), located at 5604 Clermont Drive, on approximately 32,697 square feet, zoned R-3, Lee District, Tax Map Reference 82-1((4))44. (DEFERRED FROM 8/4/87 NOTICES NOT IN ORDER).

At this time, Ms. Kelsey, Branch Chief, BZASB, advised the Board that George Symanski, Assistant County Attorney, had advised the Board that it had the authority to proceed with the public hearing without the applicant being present.

The Board requested staff proceed with the presentation of the staff report. Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board there were no land use or transportation problems however, the application does not meet standards 6 and 8 thus setting a precedent in terms of shape and size.

Vice-Chairman DiGiulian called for the applicant or applicant's representative and no one came forward.

Vice-Chairman DiGiulian called for speakers and Phyllis Eldridge, 5615 Glenwood Drive, Alexandria, Virginia, appeared before the Board in opposition to the proposal and expressed concern that too many trees would be removed.

Thomas Bee, 5608 Clermont Drive, Alexandria, Virginia, also appeared before the Board in opposition to the proposal and expressed concern that his property value would be decreased.

Since there were no other speakers to address this issue, Vice Chairman DiGiulian closed the public hearing.

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Prior to making the motion, Mrs. Thonen stated that the Lee District member of the Planning Commission recommended denial of the application. She added that the proposal did not meet the standards for a variance and would change the character of the area, therefore she moved to deny the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-L-081 by FERNANDO OVALLE SANTA-CRUZ, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 44A having width of 67.23 ft., on property located at 5604 Clermont Drive, Tax Map Reference 82-1((4))44, 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 3, 1987; 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 32,697 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.

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Page 407, September 3, 1987, (Tape 4) Fernando Ovalle Santa-Cruz, VC 87-L-081, continued from page 406).

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 Chairman Smith not present for the vote.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 11, 1987.

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Page 407, September 3, 1987, (Tape 4), After Agenda Item #1:

Additional Time Request
Carolyn Olson Blevins
59-3((9))pt. 1 and pt. 20
SP 85-A-073

Mr. Hammack moved to grant the request. Mrs. Thonen seconded the motion which passed by a vote of 5-0 with Chairman Smith and Mr. Ribble not present for the vote. The new expiration date is August 25, 1988.

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Page 407, September 3, 1987, (Tape 4), After Agenda Item #2:

Out-Of-Turn Hearing Request
Elementary Montessori School of Oakton
SPA 81-C-054-1

Mrs. Thonen moved to deny the request for an out-turn-hearing for SPA 81-C-054-1. Mr. Hammack seconded the motion which passed by a vote of 4-1 with Mr. Hyland voting nay; Chairman Smith and Mr. Ribble not present for the vote.

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Page 407, September 3, 1987, (Tape 4), After Agenda Item #3:

Appeal Application
Jack Baker

Mrs. Thonen moved that the application for appeal for Jack Baker had been properly and timely filed and moved to set the public hearing for September 29, 1987 at 9:00 A.M.

Mr. Hyland seconded the motion which passed by a vote of 5-0 with Chairman Smith and Mr. Ribble not present for the vote.

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As there was no other business to come before the Board, the meeting was adjourned at 4:08 P.M.

Patti M. Hicks
Patti M. Hicks, Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: December 8, 1987

APPROVED: December 15, 1987