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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, June 2, 1988. The following Board Members were present: Daniel Smith, Chairman; Paul Hammack, John Ribble, Ann Day and Mary Thonen. John DiGiulian and Robert Kelley were absent from the meeting.

Chairman Smith opened the meeting at 9:14 a.m. with Mrs. Day leading the prayer.

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Page 1, June 2, 1988 (Tape 1), Scheduled case of:

9:00 A.M. VALLEYBROOK, INC., SPA 72-M-048-1, application under Sect. 3-203 and 11-102 of the Zoning Ordinance to amend S-48-72 for nursery school and school of general education to permit change of permittee, relocation of parking lot, a waiver of dustless surface requirement, and addition of lights in side and rear yards, located at 3420 Rose Lane on approximately 51,171 square feet of land, zoned R-2, Mason District, Tax Map Reference 60-2((32))1 and 60-2((38))A1. (DEFERRED FROM 4/19/88 FOR NEW PLATS AND ADVERTISING)

This case had been deferred from April 19, 1988 at the request of the Board for a revision of the plat in order to show the addition of two parking spaces to the proposed parking configuration, the relocation of the parking lot to the portion of the front yard adjacent to the western property line, and advertisement of the waiver to the dustless surface requirement.

Ms. Reilly explained that the April 19, 1988 Staff Report had shown the following unresolved issues which still had not been addressed: 1) the insufficient number of parking spaces; 2) the failure to provide required transitional screening along the northern and eastern property lines; and 3) the placement of the parking lot in the front yard instead of its previously proposed location in the side yard.

Randy Minchew with the firm of Hazel, Thomas, Fiske, Beckhorn & Hanes, 3110 Fairview Park Drive, Falls Church, Virginia, representative of the applicant, appeared before the Board to present the position of Valleybrook Incorporated. He stated that the plat had been revised to reflect the concerns that had been addressed at the previous hearing. In addition, he had met with the County Arborist to discuss the transitional screening which had the support of the adjacent neighbors.

Mr. Minchew stated that he had met with Bill Bailey that morning who was a neighbor across the street from the application property, but that Mr. Bailey would not be able to attend the meeting to express his support of the application. Mr. Minchew stated that he had revised the development conditions to conform to the applicant's new Special Permit plat and he handed copies to the Board Members.

Mrs. Day questioned Mr. Minchew about development condition number nine which required sixteen on-site parking spaces. Mr. Minchew stated that the fourteen spaces provided would include two bus spaces; he indicated that to provide two more spaces would take away some of the side yard which the neighbors wanted to keep green.

In response to a question from Mrs. Day, Ms. Reilly stated that the parking should be relocated to its originally approved site shown on a 1972 plat.

Mr. Minchew stated that the parking arrangement that was shown on the 1972 plat had been discussed with the surrounding neighbors who felt that taking out the mature trees in this area would detract from the residential appearance of the use and increase it to more of a commercial nature.

In response to a question from Mrs. Thonen, Mr. Minchew stated that the travel aisles were 23 feet wide instead of the 21 feet shown in the Staff Report. He indicated that the parking spaces were eighteen feet deep with wheel stops placed a foot from the edge.

Ms. Reilly stated that the travel aisle width had been correctly calculated in the Staff Report.

Mr. Minchew stated that the existing lights were twenty feet high and that the neighbors wanted them kept at that height to discourage vandalism.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant SPA 72-M-048-1 with changes in the development conditions.

Jane C. Kelsey, Chief, Special Permit and Variance Branch, asked for a clarification on the statement concerning checking the parking spaces to make sure the applicant lived up to the Special Permit. In response, Mrs. Thonen stated that this should not be added as a condition but that the Zoning Enforcement Division should check the parking spaces prior to the issuance of a Non-Residential Use Permit.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 72-M-048-1 by VALLEYBROOK, INC., under Section 3-203 of the Zoning Ordinance to amend S-48-72 for nursery school and school of general education to permit change of permittee, relocation of parking lot, a waiver of dustless surface requirement, and addition of lights in side and rear yards, on property located at 3420 Rose Lane, Tax Map Reference 60-2((32))1 and 60-2((38))A1, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 2, 1988; 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-2.
3. The area of the lot is 51,171 square feet of land.
4. That the citizens have worked with the applicant and agree with the application.
5. That the barrier and transitional screening are required by the Special Permit requirements.

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 8-305 and 8-307 of the Zoning Ordinance.

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

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

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

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

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

5. The hours of operation for this use shall be limited to 8:00 AM to 6:00 PM, Monday through Friday, 52 weeks a year.

6. Children attending this school shall range in age from 3 to 8 years old. There shall be a maximum of ninety (90) children on site at any one time. However, the maximum daily enrollment for this use shall not exceed ninety-nine (99) students per day.

7. The morning and afternoon session shall be spaced at least 30 minutes apart to reduce traffic conflicts on site.

8. There shall be a maximum of fourteen (14) employees on site at any one time. These employees are to be carpooled to and from work.

9. The outdoor recreation space shall be fenced.

10 There shall be fourteen (14) on-site parking spaces provided for this use.

11. All parking and pick-up and delivery of children for this use shall be on-site.

12. All signs shall comply with Article 12 of the Fairfax County Zoning Ordinance.

13. Transitional Screening 1 Requirements shall be modified to conform with the Special Permit Amendment Plat dated April 26, 1988. Barrier Requirements shall be provided with Barrier modifications as follows:

    - The Barrier requirement shall be waived along the western (front) property line and in the northwestern and southwestern corners of this property for approximately 60 linear feet and 68.5 linear feet, respectively, as shown on the special permit plat dated April 26, 1980.

    - The existing wooden fence along the southern property line shall be replaced and upgraded with identical or similar wood. The upgraded fence shall be 6 feet high. This fence shall satisfy the barrier F requirement for this lot line.

    - The existing chain link fence shall fulfill the barrier requirement along the eastern (rear) lot line.

    - The existing chain link fence along the northern property line shall remain 5 feet high and shall fulfill the barrier requirement except as waived in the northwest corner.

14. A waiver of the dustless surface requirement shall be granted for the parking area. This parking area shall be constructed and maintained in accordance with the standard practices set forth in the Public Facilities Manual and approved by the Director, Department of Environmental Management (DEM), which shall include but not be limited to the following:

    - Travel speeds in the parking area shall be limited to 10 mph or less.

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

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

    - Runoff shall be channeled away from and around the parking area.

    - The property owner shall perform periodic inspection to monitor dust conditions, drainage functions, compaction and migration of stone surfaces.

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

15. The applicant shall continue to provide bus service to accommodate twenty-five (25) students. If at such time the applicant discontinues this bus service, the applicant must provide a comparable mode of transportation to service at least 25 students.

16. This plat shall be signed by the Chairman of the Board of Zoning Appeals.

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

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

Mr. Ribble seconded the motion.

The motion passed by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1988. This date shall be deemed to be the final approval date of this special permit.

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9:15 A.M. THOMAS L. AND JUDITH A. RICKETTS, VC 88-S-040, application under Sect 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 5.0 feet from side lot line (20 ft. min. side yard required by Sect. 3-C07), located at 10616 Canterberry Road, on approximately 26,680 square feet of land, zoned R-C and WS, Springfield District, Tax Map 87-3((9))9.

Kathy Reilly, Staff Coordinator, presented the staff report.

Thomas Ricketts, 10616 Canterberry Road, Fairfax, Virginia, the applicant, explained the request as outlined in the statement of justification submitted with his application. He stated that due to the way the house was situated on the land, the location of the septic field, and the topography, there was no other place on the property to locate a suitable storage shed.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Day moved to deny VC 88-S-040.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-040 by THOMAS L. AND JUDITH A. RICKETTS, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 5.0 feet from side lot line, on property located at 10616 Canterberry Road, Tax Map Reference 87-3((9))9, 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, 1988; 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.
3. The area of the lot is 26,860 square feet of land.
4. The applicant has a wrap-around deck on the property.
5. The septic field is in the rear yard.
6. To the right of the property there is a large number of trees.
7. The future neighbor on the lot next door might have an objection to the addition.

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.

Page 5, June 2, 1988 (Tape 1), (Thomas L. and Judith A. Ricketts, VC 88-S-040, continued from Page 4)

7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

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

Mrs. Thonen seconded the motion.

The motion passed by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1988.

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Page 5, June 2, 1988 (Tape 1), Scheduled case of:

9:30 A.M. JENNIFER JACKSON AND GREGORY B. SPIVEY, VC 88-M-044, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a carport and covered deck to an existing detached garage 3.1 feet from side lot line (12 ft. min. side yard required by Sects. 3-307 and 10-104), located at 3017 Castle Road, on approximately 16,205 square feet of land, zoned R-3, Mason District, Tax Map 51-3((13))32.

Kathy Reilly, Staff Coordinator, presented the staff report and explained that the garage was detached, however, the carport and covered patio were attached to the garage and it was therefore considered an accessory structure.

Gregory Spivey, 3017 Castle Road, Falls Church, Virginia, the applicant, explained the request as outlined in the statement of justification submitted with his application. He stated that the existing garage had a gabled roof and that the carport structure would be an extension of that roof therefore forming a continuous roof line. Mr. Spivey stated that the neighbors were in favor of the request because it would enhance the appearance of his property from their yards.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Ribble made a motion to deny VC 88-M-044.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-044 by JENNIFER JACKSON AND GREGORY B. SPIVEY, under Section 18-401 of the Zoning Ordinance to allow construction of a carport and covered deck to an existing detached garage 3.1 feet from side lot line, on property located at 3017 Castle Road, Tax Map Reference 51-3((13))32, 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, 1988; 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 16,205 square feet of land.
4. Unfortunately, the applicants have not shown a hardship.
5. The applicant has other places to build the addition.

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This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

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

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

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

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

Mrs. Day seconded the motion.

The motion passed by a vote of 4-0 with Mr. DiGiulian and Mr. Kelley not present for the meeting 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 June 10, 1988.

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Page _____, June 2, 1988 (Tape 1), Scheduled case of:

9:45 A.M. SHERMAN NEAL, VC 88-P-041, application under Sect. 18-401 of the Zoning Ordinance to allow 6 foot high fence to remain in a front yard (4 ft. max. height for fence in a front yard per Sect. 10-104), located at 4104 Peony Way, on approximately 12,410 square feet of land, zoned R-3(C) and WS, Providence District, Tax Map 45-1((3))(63)15.

Chairman Smith informed the Board that there was a request from the applicant to defer the hearing on the application for a period of three to six months due to the fact that he had been called out of town in connection with his job.

Jane Kelsey, Chief, Special Permit and Variance Branch, explained that the applicant had been issued a Notice of Violation by the Zoning Enforcement Branch, therefore staff could not agree with a three to six months deferral.

Mrs. Thonen made a motion to defer the public hearing on VC 88-P-041 until July 7, 1988 at 11:00 a.m. Hearing no objection, the Chair so ordered. Mr. Hammack was not present for the vote, Mr. DiGiulian and Mr. Kelley absent from the meeting.

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Page 7, June 2, 1988 (Tape 1), Scheduled case of:

10:00 A.M. HOLY TRANSFIGURATION MELKITE GREEK CATHOLIC CHURCH, SPA 80-D-069-1, application under Sect. 3-103 of the Zoning Ordinance to amend S-80-D-069 for church and related facilities to permit reduction of land area, located at 8501 Lewinsville Road, on approximately 10.47 acres of land, zoned R-1, Dranesville District, Tax Map 29-1((1))21A and 21B

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that Lot 21B, which the church proposed to delete from the existing Special Permit, had already been sold because the church had not realized that the land was encumbered by the Special Permit. Ms. Greenlief stated that the applicant was in agreement with the development conditions with the exception of number ten regarding the relocation of a dumpster. She indicated that staff would support the location proposed by the church in an area adjacent to their kitchen provided that the dumpster was screened with a six-foot solid wood fence and plantings.

Thomas J. Fadoul, Jr., with the firm of Fadoul and Associates, 8280 Greensboro Drive, McLean, Virginia, representative of the applicant, appeared before the Board to present the position of the Holy Transfiguration Melkite Greek Catholic Church. He stated that his client was in agreement with all the development conditions with the exception of the relocation of the trash dumpster. He asked that the dumpster be placed in a grassy area next to the kitchen subject to the screening requirements stipulated by staff.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant SPA 80-D-069-1 with a change in the development conditions. Mr. Ribble seconded the motion.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 80-D-069-1 by HOLY TRANSFIGURATION MELKITE GREEK CATHOLIC CHURCH, under Section 3-103 of the Zoning Ordinance to amend S-80-D-069 for church and related facilities to permit reduction of land area, on property located at 8501 Lewinsville Road, Tax Map Reference 29-1((1))21A and 21B, 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, 1988; and

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

1. That Holy Transfiguration Melkite Greek Catholic Church is the owner of Lot 21 A and Stoney Point Ltd. Partnership is the owner of Lot 21 B.
2. The present zoning is R-1.
3. The area of the lot is 10.47 acres of land.
4. That the applicant meets the standards for a Special Permit.

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.

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans. If a site plan waiver is approved, a landscape plan shall still be provided which delineates the required transitional screening.

5. The seating capacity in the main area of worship shall be limited to a total of 300.

6. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11 and shall be a minimum of 75 spaces. Parking geometrics shall satisfy those guidelines specified in the Public Facilities Manual unless waived by DEM.

7. Transitional Screening 1 shall be provided along the eastern lot line of Lot 21A. The existing vegetation may be used to satisfy this requirement if the vegetation is supplemented to be equivalent to Transitional Screening 1 to the satisfaction of the County Arborist. The parsonage and the parking lot may be allowed to extend into the transitional screening yard as they currently exist. The existing screening along the remaining lot lines shall be deemed to satisfy the transitional screening requirement given the level of development on the site and the nature of this request.

8. The barrier requirement shall be waived.

9. Right-of-way necessary for future road improvement and realignment of Lewinsville Road shall be dedicated for public street purposes and shall be conveyed to the Board of Supervisors in fee simple at the time the road is improved upon written notice from the Department of Transportation. Ancillary temporary access easements shall be provided to facilitate these improvements.

10. The dumpster shall be relocated to the grassy area adjacent to the church kitchen. A six-foot high solid wood fence shall surround the dumpster on all sides, which may involve a gate to provide access to the dumpsters. Plantings shall be installed around the dumpster to soften the visual impact of this dumpster. The size, location and type shall be approved by the County Arborist.

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

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

Mr. Ribble seconded the motion.

The motion passed by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 8, June 2, 1988 (Tape 1), Scheduled case of:

10:15 A.M. FAIRFAX COUNTY BOARD OF SUPERVISORS, VC 88-W-038, application under Sect. 18-401 of the Zoning Ordinance to allow construction of an addition to a governmental building to 30 ft. from front lot line (40 ft. min. front yard required by Sect. 4-807), located at 10650 Page Street, on approximately 48.14 acres of land, zoned C-8, Countywide, Tax Map 57-4((1))14.

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that there were building elevations, floor plans and future building plans for this facility in the Office of Comprehensive Planning Master File.

Page 9, June 2, 1988 (Tape 1), (Fairfax County Board of Supervisors, VC 88-W-038, continued from Page 8)

Wilfred Vaudreuil, Director, Project Management Division, Department of Public Works, 3930 Pender Drive, Fairfax, Virginia, explained the request as outlined in the statement of justification submitted with the application. He stated that the project was designed to house less secure juveniles awaiting hearings in Domestic Relations Court and that this was the first phase of a four phase expansion of existing facilities to meet current state requirements for housing juveniles. Mr. Vaudreuil stated that originally there was a forty foot setback on the property but ten feet had to be dedicated to the City of Fairfax when they widened Judicial Drive.

Mr. Vaudreuil indicated that there was no other location for the facility because the land was bordered by a heliport pad and a parking lot. He stated that the facility would be heavily landscaped in the front for screening purposes.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Day moved to grant VC 88-W-038. Mrs. Thonen seconded the motion. The motion passed by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-W-038 by FAIRFAX COUNTY BOARD OF SUPERVISORS, under Section 18-401 of the Zoning Ordinance to allow construction of an addition to a governmental building to 30 ft. from front lot line, on property located at 10650 Page Street, Tax Map Reference 57-4((1))14, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 2, 1988; 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-8.
3. The area of the lot is 48.14 acres of land.
4. That the site is most convenient for its purpose; that is, the close proximity to the courthouse and juvenile court facilities, and close transportation is also a prime consideration.
5. That there will be no windows facing Judicial Drive to protect the commercial offices across the street.

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.

010

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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. Landscaping shall be provided as shown on the attached landscaped plan prepared by Patton, Harris, Rust & Associates, file number 5167-1-0 and as approved by the County Arborist.

Mrs. Thonen seconded the motion.

The motion passed by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 10, June 2, 1988 (Tape 1), After Agenda Item #1:

Request for Additional Time
St. Matthew's United Methodist Church
SPA 80-A-087-1

Mrs. Thonen moved to grant the request of St. Matthew's United Methodist Church, SPA 80-A-087-1 for an additional twelve months. The new expiration is March 9, 1989. Mrs. Day seconded the motion which passed by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley absent from the meeting.

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Page 10, June 2, 1988 (Tape 1), After Agenda Item #2:

Approval of Minutes from December 8,
December 15, 1987 and February 23, 1988

Mrs. Day moved to approve the Minutes of December 8, December 15, 1987 and February 23, 1988 with Mr. Ribble seconding the motion. The motion passed by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley absent from the meeting.

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Page 10, June 2, 1988 (Tape 1), Information Item:

Lori Greenlief, Staff Coordinator, stated that many applications had been received at the Board of Zoning Appeals office the previous week, most of which were scheduled for the August 2, 1988 meeting. However, she indicated that there were three applications which had to be scheduled outside the required ninety day period and had been placed on the September 1, 1988 schedule. The Zoning Ordinance requires that if an application is scheduled outside the ninety days the Board of Zoning Appeals must be advised and so approve.

Page 11, June 2, 1988 (Tape 1), Information Item, continued from Page 10)

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that the other alternatives would be to add more cases to the August 2nd meeting or schedule two meetings the first week in August.

It was the consensus of the Board to add extra cases on the August 2, 1988 agenda.

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The Board recessed at 10:45 a.m. and reconvened at 11:00 a.m.

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Page 11, June 2, 1988 (Tapes 1-2), Scheduled cases of:

10:45 A.M. RINKER-DETWILER & ASSOCIATES AND LONG SIGNATURE HOMES, INC., SP 88-L-007, 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 4.3 ft. from front lot line, (5 ft. min. front yard required by Sects. 16-106 and 3-807) locat4d at 6107 Brentford Court, on approximately 1,360 square feet of land, zoned PDH-8, Lee District, Tax Map 91-1((12))(2)57

10:45 A.M. RINKER-DETWILER & ASSOCIATES AND LONG SIGNATURE HOMES, INC., SP 88-L-008, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building locatioin to allow dwelling to remain 4.3 ft. from front lot line (5 ft. min. front yard req. by Sects. 6-106 and 3-807) located at 6105 Old Brentford Court, on approximately 1,280 square feet of land, zoned PDH-8, Lee District, Tax Map 91-1((12))(2)58

10:45 A.M. RINKER-DETWILER & ASSOCIATES AND JEFFREY AND JULIE GREGER, SP 88-L-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 dwelling to remain 3.3 ft. from front lot line (5 ft. min. front yard req. by Sects. 6-106 and 3-807) located at 6120 Brentford Court, on approximately 2,016 square feet of land, zoned PDH-8, Lee District, Tax Map 91-1((120)(2)67

10:45 A.M. RINKER-DETWILER & ASSOCIATES AND RAYMOND AND KAREN BRYNTESON, SP 88-L-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 dwelling to remain 3.6 ft. from front lot line (5 ft. min front yard required by Sects. 6-106 and 3-807) located at 6145 Old Brentford Court, on approximately 1,912 square feet of land, zoned PDH-8, Lee District, Tax Map 91-1((12))(2)48

10:45 A.M. RINKER-DETWILER & ASSOCIATES AND SUSAN AND CHARLES GUTA, SP 88-L-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 dwelling to remain 4.3 ft. from front lot line (5 ft. min. front yard required by Sect. 6-106) located at 6144 Old Brentford Court, on approximately 1,280 sq. ft. of land, zoned PDH-8, Lee District, Tax Map 91-1((12))(2)79

10:45 A.M. RINKER-DETWILER & ASSOCIATES AND DAVID AND MARIANNE EAGAN, SP 88-L-018, application under Sect. 18-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 3.7 ft. from front lot line, (5 ft. min. front yard required by Sect. 16-106) located at 6122 Old Brentford Court, on approximately 1,280 sq. ft. of land, zoned PDH-8, Lee District, Tax Map 91-1((12))(2)68

10:45 A.M. RINKER-DETWILER & ASSOCIATES AND MINEY AND MILDRED ROSEBERRY, SP 88-L-020, 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 5.9 feet from side lot line (10 ft. min. side yard required by Sect. 6-106), located at 6138 Old Brentford Court, on approximately 1,993 square feet of land, zoned PDH-8, Lee District, Tax Map 91-1((12))(2)76.

10:45 A.M. RINKER-DETWILER & ASSOCIATES AND STANLEY, HERBERT AND RUTH SOLDZ, SP 88-L-025, 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 3/7 ft. from front lot line (5 ft. minimum front yard required by Sect. 6-106) located at 6132 Brentford Court, on approximately 1,320 square feet of land, zoned PDH-8, Lee District, Tax Map 91-1((12))(2)73

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that due to the location of these application sites within one subdivision and the similarity in nature and origin of all the requests, the data had been assimilated and consolidated into a single staff report with one set of development conditions.

Ms. Belofsky indicated that there were a total of fifteen errors associated with the development which required action by the BZA; eleven of the errors were the subject of the staff report and the remaining four errors which required BZA action were forthcoming. She stated that Rinker-Detwiler & Associates had also applied for administrative reductions for twenty-three building errors in the subdivision.

Ms. Belofsky called the Board's attention to the standards necessary to approve a Special Permit for a building in error.

John Farrell with the law firm of Odin, Feldman & Pittleman, 10505 Judicial Drive, Fairfax, Virginia, representative of the applicant, appeared before the Board. He stated that a mistake had been made by the surveyor in the field regarding calculating the setbacks therefore causing the misplacement of the buildings on the lots. Mr. Farrell stated that the development conditions were acceptable to the applicant.

There being no speakers, Chairman Smith closed the public hearing.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-L-007 by RINKER-DETWILLER & ASSOCIATES AND LONG SIGNATURE 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 dwelling to remain 4.3 feet from front lot line, on property located at 6107 Brentford Court, Tax Map Reference 91-1((12))(2)57, 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, 1988; 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-8.
3. The area of the lot is 1,360 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 Special Permit is approved for the location and the specific dwelling shown on the plat submitted with this application and is not transferable to other land.

2. An approved building permit for the dwelling shall be obtained within sixty (60) days of the date of approval of the Special Permit.

This approval, 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 not be valid until this has been accomplished.

013

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 building permit has been obtained or unless additional time is approved by the Board of Zoning Appeals due to 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 Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1988. This date shall be deemed to be the final approval date of 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 88-L-008 by RINKER-DETWILLER & ASSOCIATES AND LONG SIGNATURE 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 dwelling to remain 4.3 feet from front lot line, on property located at 6105 Old Brentford Court, Tax Map Reference 91-1((12))(2)58, 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, 1988; 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-8.
3. The area of the lot is 1,280 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses 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 dwelling shown on the plat submitted with this application and is not transferable to other land.

2. An approved building permit for the dwelling shall be obtained within sixty (60) days of the date of approval of the Special Permit.

This approval, 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 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 building permit has been obtained or unless additional time is approved by the Board of Zoning Appeals due to 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 Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley not present for the meeting.

014

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1988. This date shall be deemed to be the final approval date of 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 88-L-009 by RINKER-DETWILLER & ASSOCIATES AND JEFFREY AND JULIE GREGER, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 3.3 feet from front lot line, on property located at 6120 Old Brentford Court, Tax Map Reference 91-1((120))(2)67, 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, 1988; 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-8.
3. The area of the lot is 2,016 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 Special Permit is approved for the location and the specific dwelling shown on the plat submitted with this application and is not transferable to other land.

2. An approved building permit for the dwelling shall be obtained within sixty (60) days of the date of approval of the Special Permit.

This approval, 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 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 building permit has been obtained or unless additional time is approved by the Board of Zoning Appeals due to 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 Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley 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, 1988. This date shall be deemed to be the final approval date of 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 88-L-010 by RINKER-DETWILER & ASSOCIATES AND RAYMOND AND KAREN BRYNTESON, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 3.6 feet from front lot line, on property located at 6145 Old Brentford Court, Tax Map Reference 91-1((12))(2)48, 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 10, 1988; 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-8.
3. The area of the lot is 1,912 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 Special Permit is approved for the location and the specific dwelling shown on the plat submitted with this application and is not transferable to other land.

2. An approved building permit for the dwelling shall be obtained within sixty (60) days of the date of approval of the Special Permit.

This approval, 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 not be valid until this has been accomplished.

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Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley not present for the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

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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 June 2, 1988; 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 PDH-8.
3. The area of the lot is 1,280 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses 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:

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Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley not present for the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-L-018 by RINKER-DETWILLER & ASSOCIATES AND DAVID AND MARIANNE EAGAN, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 3.7 feet from front lot line, on property located at 6122 Old Brentford Court, Tax Map Reference 91-1((12))(2)68, 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, 1988; 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 PDH-8.
3. The area of the lot is 1,280 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses 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 dwelling shown on the plat submitted with this application and is not transferable to other land.

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Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley not present for the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-L-020 by RINKER-DETWILLER & ASSOCIATES AND MINEY AND MILDRED ROSEBERRY, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 5.9 feet from side lot line, on property located at 6138 Old Brentford Court, Tax Map Reference 91-1((12))(2)76, 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, 1988; 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 PDH-8.
3. The area of the lot is 1,993 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:

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Mrs. Day seconded the motion.

The motion carried by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley not present for the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

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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 June 2, 1988; 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 PDH-8.
3. The area of the lot is 1,320 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 Special Permit is approved for the location and the specific dwelling shown on the plat submitted with this application and is not transferable to other land.

019

2. An approved building permit for the dwelling shall be obtained within sixty (60) days of the date of approval of the Special Permit.

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Mrs. Day seconded the motion.

The motion carried by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1988. This date shall be deemed to be the final approval date of 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 88-L-026 by RINKER-DETWILLER & ASSOCIATES AND GREGORY AND JOY A. PLAYLE, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 4.3 feet from front lot line, on property located at 6147 Old Brentford Court, Tax Map Reference 91-1((12))(2)47, 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, 1988; 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 PDH-8.
3. The area of the lot is 1,280 square feet of land.

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

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses 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 dwelling shown on the plat submitted with this application and is not transferable to other land.

2. An approved building permit for the dwelling shall be obtained within sixty (60) days of the date of approval of the Special Permit.

This approval, 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 not be valid until this has been accomplished.

020

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 building permit has been obtained or unless additional time is approved by the Board of Zoning Appeals due to 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 Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1988. This date shall be deemed to be the final approval date of 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 88-L-030-by RINKER-DETWILLER & ASSOCIATES AND THOMAS AND RENNE O'BRIEN, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 4.3 feet from front lot line, on property located at 6128 Old Brentford Court, Tax Map Reference 91-1((12))(2)71, 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, 1988; 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 PDH-8.
3. The area of the lot is 1,374 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 Special Permit is approved for the location and the specific dwelling shown on the plat submitted with this application and is not transferable to other land.

2. An approved building permit for the dwelling shall be obtained within sixty (60) days of the date of approval of the Special Permit.

This approval, 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 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 building permit has been obtained or unless additional time is approved by the Board of Zoning Appeals due to 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 Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1988. This date shall be deemed to be the final approval date of 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 88-L-033-by RINKER-DETWILLER & ASSOCIATES AND R. DENISE HART, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 4.0 feet from front lot line, on property located at 6130 Old Brentford Court, Tax Map Reference 91-1((12))(2)72, 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, 1988; 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 PDH-8.
3. The area of the lot is 1,340 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 Special Permit is approved for the location and the specific dwelling shown on the plat submitted with this application and is not transferable to other land.

2. An approved building permit for the dwelling shall be obtained within sixty (60) days of the date of approval of the Special Permit.

This approval, 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 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 building permit has been obtained or unless additional time is approved by the Board of Zoning Appeals due to 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 Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1988. This date shall be deemed to be the final approval date of this special permit.

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10:50 A.M. DAVID A. AND EMILY W. SPIKER, VC 88-A-039, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 3 ft. from side lot line (7 ft. min. side yard required by Sects. 3-307 and 2-412) located at 8306 Toll House Road, on approximately 11,830 square feet of land, zoned R-3, Annandale, District, Tax Map 70-1((6))15

Denise James, Staff Coordinator, presented the staff report. Mrs. Day noted that the plat included in the staff report showed a 26.75' x 16.0' carport, whereas the application description stated that the size of the proposed carport was 25.75' x 13.0'.

David Spiker, 8306 Toll House Road, Annandale, Virginia, the applicant, explained the request as outlined in the statement of justification submitted with his application. He stated that the requested carport would be 13 feet wide. Mr. Spiker indicated that he had discussed this request with the neighbor on Lot 14 who was in agreement with the placement of the carport. The neighbor did not want anything built in the rear yard because it would ruin his view of the woods.

Mr. Spiker submitted five letters in support from adjacent neighbors for the record.

Mrs. Day asked if Mr. Spiker was aware of any other carports in the area located three feet or less from the side lot line and he replied that he knew of some that were as close as five feet to the lot line.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Day moved to deny VC 88-A-039.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-039 by DAVID A. AND EMILY W. SPIKER, under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 3 feet from side lot line, on property located at 8306 Toll House Road, Tax Map Reference 70-1((6))15, 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, 1988; 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 11,830 square feet of land.
4. That both staff and the applicant stated that the house next door is 18.5 feet from the property line, but there is room in the rear yard to build the structure.
5. That the Board, as far as Mrs. Day is concerned, has never granted a variance for less than 4 feet.
6. That the future neighbors may not want the structure next to them.

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 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley not present for the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1988.

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Page 23, June 2, 1988 (Tape 2), After Agenda Item #3:

Deferral
Fairfax Baptist Temple
SP 87-S-022

Mrs. Thonen stated that the Fairfax Baptist Temple was scheduled for June 21, 1988, although the Board of Supervisors was unable to hear the case until September.

Mrs. Thonen moved to defer SP 87-S-022, Fairfax Baptist Temple from the June 21, 1988 agenda and readvertise it for October 18, 1988 at 9:00 a.m. in order for the Board of Supervisors to hear the Special Exception for a private school of general education before the Special Permit was to be heard. Furthermore, Pastor Calvert, the representative for Fairfax Baptist Temple, would be out of town on the June 21, 1988 date. This motion was seconded by Mr. Ribble and passed by a vote of 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley absent from the meeting.

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The Board recessed at 12:10 p.m. and reconvened at 12:30 p.m. Mr. Hammack had arrived at 12:15 p.m.

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Page 23, June 2, 1988 (Tapes 2-3), Scheduled case of:

11:00 A.M. THEODORE B. SIMPSON APPEAL, A 88-D-006, application under Sect 18-301 of the Zoning Ordinance to appeal Zoning Administrator's approval of building permits for 7105 and 7107 Country Meadow Court, located at 7105 and 7107 Country Meadow Court, on approximately 42,688.8 square feet 2.5 acres of land, zoned R-1, Dranesville District, Tax Map 21-3((1))63 and 64.

William E. Shoup, Deputy Zoning Administrator, presented the position of the Zoning Administrator as set forth in the staff report. Mr. Shoup explained that the appeal involved a consolidation of lots and that this was not a resubdivision. He indicated that the Zoning Ordinance provisions germane to the appeal stated that if a lot was recorded prior to March 1, 1941, then the lot may be used for any use that is permitted in the Zoning District even though it does not meet the current minimum district size, lot area and/or lot width requirements of the district, provided all other regulations of the Ordinance could be satisfied.

Mr. Shoup explained that the lots involved were originally subdivided in 1897 as part of a subdivision know as Douglassville. These lots are identified as Lots 12 through 23 in Block 4 of this subdivision. In 1930, there was a recordation of a metes and bounds conveyance of these lots which resulted in what is now shown as Lots 63 and 64 on the current Fairfax County Tax Maps. The lot lines for the two lots created by this convenyance do not coincide in all respects with the Douglassville lots lines.

With regard to any lot which was created prior to March 1, 1941, by a recordation of a subdivision plat or by a recordation of a metes and bound description, Mr. Shoup stated that it was the judgment of the Zoning Administrator that the provisions of Sect. 2-405 were also applicable to the lots created by a combination of these recordation measures which was what occurred on the referenced property.

Mr. Shoup stated that Karen Harwood, Assistant County Attorney, was present to discuss any legal questions the Board members might have.

Mrs. Day stated that the proposed dwellings would have an adverse effect on the surrounding area.

Theodore B Simpson, 7120 Georgetown Pike, McLean, Virginia, the appellant, appeared before the Board to present his position. He stated that the advertised 2.5 acres of land was incorrect and that it should read .95 acres. In addition, he indicated that staff had stated that this was not a question of a resubdivision, although the Board might conclude that this was incorrect. Mr. Simpson indicated that he had submitted two statements and would prefer that the Board just focus on the second one.

Mr. Simpson gave a viewgraph presentation to show old subdivision plats to support his position. He referenced Sect. 17-202.1 of the Public Facilities Manual which required street frontage as a building standard and stated that Outlot A did not meet this requirement.

Mr. Simpson stated that the Douglassville subdivision did not exist due to the Virginia Law of Adverse Possession, which stated that if a piece of property was occupied by a non-owner for fifteen years then he gained title to it. In response to a question from Mr. Hammack, he replied that there had not been any judicial determination that adverse possession did exist.

Mr. Simpson stated that titles transferring lots in the approximately 100 acre area covered by Douglassville had not mentioned the subdivision in the last 80 years. In conclusion, Mr. Simpson indicated that Sect. 2-405 of the Zoning Ordinance specifically stated what rights existed and that the referenced lots did not meet the requirements.

Mr. Hammack informed Mr. Simpson that two lots had been recorded in 1930 that had road frontage on Balls Hill Road. Mr. Simpson replied that if that recordation was recognized as a subdivision, then the tax map configurations were the lots which had the grandfather privileges.

In summary, Mr. Shoup emphasized that the Douglassville lots did not have to be intact and that the combination of the 1897 recordation of Douglassville along with the 1930 conveyance that showed the outer perimeters, established recorded lots prior to any Zoning Ordinance or Subdivision Ordinance.

Mr. Hammack questioned how the lot line could be reconfigured at this point instead of being developed with the frontage on Balls Hill Road. Mr. Shoup replied that the Douglassville lots were never vacated and that the builder was merely consolidating the lots to make them buildable.

Mr. Simpson submitted handouts to the Board members.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved that the Board of Zoning Appeals uphold the decision of the Zoning Administrator that building permits can be issued for two lots which are a consolidation of the lots which were recorded prior to March 1, 1941, and which do not meet the current minimum lot size requirements. In addition, he stated that the staff report was very thorough and he incorporated the reasons set forth by the staff in support of the Zoning Administrator's decision. This motion was seconded by Mr. Ribble and passed by a vote of 4-1, Mrs. Day voting nay, Mr. DiGiulian and Mr. Kelley not present for the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 10, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 25, June 2, 1988 (Tape 3), Scheduled case of:

11:45 EDWARD R. & GRACE V. VAUGHN, VC 88-M-014, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 1-A-2 having width of 12 feet (100 foot min. lot width required by Sect. 3-206), located at 4008 Downing Street, on approximately 1.324 acres of land, zoned R-2, Mason District, Tax Map 61-3((2))1A.

Chairman Smith stated that the Board was in receipt of a letter requesting withdrawal of the above-referenced application.

Mrs. Thonen moved to allow the withdrawal of VC 88-M-014, Edward R. & Grace V. Vaughn. This motion was seconded by Mr. Hammack and passed by a vote of 5-0, Mr. DiGiulian and Mr. Kelley not present for the meeting.

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Page 25, June 2, 1988 (Tape 3), After Agenda Item #4:

Approval of Resolutions from
May 24, 1988

Mr. Hammack moved to approve the Resolutions from May 24, 1988. This motion was seconded by Mrs. Thonen and passed by a vote of 5-0, Mr. DiGiulian and Mr. Kelley not present for the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 1:23 p.m. without lunch.

Judy L. Moss, Acting for the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: October 4, 1988

APPROVED: October 11, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 7, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble; and Mary Thonen.

Chairman Smith opened the meeting at 8:03 P.M. and Mrs. Day led the prayer.

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Page 26, June 7, 1988, (Tape 1), Scheduled case of:

8:00 P.M. PAUL AND ALEXANDRIA HASKELL, VC 88-D-045, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 13.2 ft. from I-66 R.O.W. (200 ft. minimum distance from R.O.W. required by Sect. 2-414) on approximately 12,571 square feet of land, zoned R-4, Dranesville District, Tax Map 40-4((36))5

Heidi Belofsky, Staff Coordinator, presented the staff report.

Alexandria Haskell, 6707 Fisher Avenue, Falls Church, Virginia, the applicant, came forward and explained that she and her husband would like to construct a garage to protect their vehicles from the possibility of vandalism that has occurred in their neighborhood.

In response to questions from the Board, Mrs. Haskell replied that her house was constructed two years ago and is located on an enbankment above I-66. She stated that she hopes the proposed garage will act as a buffer and alleviate some of the noise from I-66.

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

Mrs. Thonen moved to grant the application as she believed that the applicant had presented testimony showing compliance with the requirements for a variance, that the lot has an irregular shape, and that perhaps this will alleviate some of the noise from I-66. She did caution the applicant that if I-66 were widened at a later date it might impact upon her property. The 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 88-D-045 by PAUL AND ALEXANDRIA HASKELL, under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 13.2 feet from I-66 R.O.W., on property located at 6707 Fisher Avenue, Tax Map Reference 40-4((36))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 June 7, 1988; 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-4.
3. The area of the lot is 12,571 square feet of land.
4. The lot has an irregular shape and the addition could not be constructed without a variance.
5. The addition should help mitigate the noise from I-66.

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 fence shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless a request for 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 the approved addition.

4. The exterior of the building addition, including the roof, shall be architecturally compatible with the existing dwelling and shall be similar in style, color, and materials.

5. Approval of this variance shall not in any way be construed to be a commitment by Fairfax County or the Commonwealth of Virginia that this lot shall not acquired nor impacted in any way by future improvements to Interstate Highway #66 necessary for public street purposes.

Messrs. DiGiulian and Ribble seconded the motion which carried by a vote 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 June 15, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 27, June 7, 1988, (Tape 1), Scheduled case of:

8:10 P.M. JAMES D. CALDWELL, VC 88-P-043, application under Sect. 18-401 of the Zoning Ordinance to allow construction of roof over existing and proposed deck to 10.8 ft. from rear lot line (25 ft. minimum rear yard required by Sect. 3-307) located at 3058 Bohickert Court, on approximately 9,376 square feet of land, zoned R-3(C), Providence District, Tax Map 48-3((34))50

Heidi Belofsky, Staff Coordinator, presented the staff report.

The applicant, James Caldwell, 3058 Bohickert Court, Fairfax, Virginia, explained that he would like to construct a roof over an existing deck. He stated that he believes that this improvement will enhance the value of his property.

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

Mr. DiGiulian made a motion to grant VC 88-P-043 as he believed that the applicant satisfied the standards for a variance and that the applicant's lot has an irregular shape.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-043 by JAMES D. CALDWELL, under Section 18-401 of the Zoning Ordinance to allow construction of roof over existing and proposed deck to 10.8 feet from rear lot line, on property located at 3058 Bohickert Court, Tax Map Reference 48-3((34))50, 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 7, 1988; 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 9,376 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:
Exceptional narrowness at the time of the effective date of the Ordinance;
Exceptional shape at the time of the effective date of the Ordinance;
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 properties in the same zoning district and the same vicinity.
6. That:
A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 the approved addition.

Mrs. Day and Mrs. Thonen 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 June 15, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 29, June 7, 1988, (Tapes 1 and 2), Scheduled case of:

8:20 P.M. MARY ANNE DUFFUS/BROOKSFIELD SCHOOL, SP~~A~~ 87-D-051-1, application under Sect. 3-303 of the Zoning Ordinance to amend SP 87-D-051 to permit continuation of nursery school and child care facility without term, located at 1830 Kirby Road, on approximately 5.0871 acres of land, zoned R-3, Dranesville District, Tax Map 41-3((1))59

Heidi Belofsky, Staff Coordinator, presented the staff report. She stated that in May 1961 the Board gave approval to the existing church to allow the operation of a kindergarten and first grade class which brought the entire site under special permit control, prior to the residential development of the adjacent lots. In July 1964, the Board approved a special permit to allow expansion of the school to include second and third grades, and in March 1976, the Board approved a special permit to allow construction of a parking lot in the rear of the church. Although the parking lot is shown on the plat, the parking lot does not exist and this special permit had expired. On September 29, 1987, the Board approved SP 87-D-051 to allow a a nursery school and a child care center for 50 children on this site with a limited term of one year to expire on October 7, 1988 so that the Board could review the impact of the use on the surrounding area.

Ms. Belofsky outlined the details of the application by stating that the applicants are before the Board today to request an amendment to delete development condition #15 and are requesting an unlimited term of operation, and noted that a copy of the resolution is included in the staff report. The day care center operates from 7:00 a.m. to 6:00 p.m., Monday through Friday, year round, and employs a maximum of eight staff persons. She noted that the plat before the Board is inaccurate as the asphalt parking lot shown in the rear of the church and road widening and curb along the site frontage on Kirby Road do not exist. In November 1987, there was a complaint filed with the Zoning Enforcement Branch which indicated that the screening had not been installed prior to the commencement of operation of the day care center. As a Zoning Inspector had erroneously indicated to the applicant that she did not have to comply with development condition #9, the file was closed. The problem was brought to the attention of the County Arborist and the applicant was advised that all development conditions remained in force and that only the BZA, not County staff, could alter or delete any development condition.

Mrs. Thonen made a motion that a copy of the letter from the Zoning Inspector be made available to the Board and made the request in the form a motion. Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

Ms. Belofsky continued by outlining the background of the previous application. She stated that the play area had been relocated behind the building to alleviate any adverse impact on the adjacent properties, but the development condition was unclear as it stated, "Existing vegetation shall be used to satisfy the required transitional screening along all lot lines. Additional plantings shall be provided between the play area and the adjacent residential properties. The amount, type, and size of the plantings shall be approved by the County Arborist and shall serve to minimize the potential for adverse impact on the adjacent properties." She stated that she could only surmise that the Zoning Inspector determined it was the Board's intent not to require the applicant to provide the plantings because of the relocation of the play area.

Chairman Smith stated that in that case it should have been sent back to the Board for a clarification. Ms. Belofsky stated that the applicant had not requested an interpretation, but that in March 1988 when the amendment application was filed the applicant was told that the screening was required. This screening was intended to mitigate the impact of this use on the adjacent properties to the south and remains an outstanding issue which should also be corrected if the Board intends to grant this application. There is a problem with light projecting from the property on to adjacent properties which should be corrected. As the applicant did not request outdoor lighting in the previous application, staff did not address this in the development conditions in the previous staff report. However, to prevent any future problems with lighting, staff has incorporated the standard guidelines regarding security lighting into the development conditions of this staff report. There has also been a history of runoff drainage problems onto adjacent lots and though the problems seem to have been

corrected, the applicant should be required to take corrective measures to resolve this problem should it reoccur.

There remain several outstanding issues associated with this application and the following improvements are necessary to insure safe and efficient travel flow: 1) dedication to 45 feet from the centerline of Kirby Road, 2) construction of a left turn, 3) construction of a right turn taper, 4) and ancillary easements, formerly referred to as temporary grading and construction easements. The peak trip generation of this facility will coincide with the morning rush hour traffic and it is imperative that these road improvements be provided in order to minimize the potential for additional congestion on Kirby Road as there are no County or State funds set aside for the widening of this road.

Due to the location of the buildings and parking lots, this site does not meet the requirements for Transitional Screening 1 which are required by the Zoning Ordinance. As there is insufficient room to fulfill these requirements, staff supports a modification to allow the existing vegetation to satisfy the requirements along the western lot line and across Kirby Road to the east; however, the vegetation along the southern lot line should be supplemented to mitigate any adverse impact on the adjacent residential properties. The existing parking areas do not meet the minimum requirement of 5% interior parking lot landscaping; however, staff recommended additional plantings be provided in the area immediately adjacent to the parking lot to improve the visual impact.

In conclusion, she stated that it was staff's opinion that this use needs to be carefully monitored and that the previously approved development conditions be implemented; therefore, staff recommended that the request for a use without term be denied; however, if it was the Board's intent to approve this application staff recommends that the approval be subject to the development conditions contained in the staff report.

Mrs. Thonen questioned Ms. Belofsky as to why she did not personally contact the applicant and inform them that the screening must be provided. Ms. Belofsky explained that the Zoning Inspector failed to contact her in October when a complaint was filed, therefore she was not aware of the problem until the applicant contacted her directly in last February or early March when she told the applicant that the development conditions must be met.

Drew Carroll, attorney with the law firm of Land, Clark, Carroll, and Mendelson, 600 Cameron Street, Alexandria, Virginia, represented the applicant. He stated that the applicant decided to file an application prior to the expiration of the special permit, because the parents of the children attending the school needed to make other arrangements for their children if the school was not permitted to continue. Mr. Carroll stated that he believed there were several issues in the staff report that are incorrect, the major one being the transitional screening. The applicant was advised by the County Arborist that the screening was not needed due to the relocation of the play yard to an area that had no adverse impact on the residential properties to the southern portion of the lot. He stated that Ms. Duffus, operator of the school, would like to address the Board at this time.

Mrs. Thonen pointed out to Mr. Carroll that staff notified the applicant of this violation in February or early March and asked why it had not been taken care of as it was now June.

Mr. Carroll stated that Ms. Duffus and a representative of the school had met with County staff on March 11 and it was decided at that time that the screening language was clearly ambiguous as the screening was to be done as required by the County Arborist. Upon a visit to the site by the County Arborist, the Arborist indicated it was not necessary.

Mr. Ribble asked if the applicant had reviewed all the development conditions and Mr. Carroll stated that Ms. Duffus would address those. He did state that the lighting had been at the site prior to the school, but the applicant had discussed these complaints with staff and different lighting had been installed.

Mary Anne Duffus, 3321 Grasshill Terrace, Falls Church, Virginia, Director and Chairman of the board of the school, submitted a packet to the Board members which contained a map she would use in her presentation, letters from the County Arborist and Tammy Brown, Zoning Inspector, regarding the screening and a letter from Mr. Kellerco of Kellerco, transportation consultant.

Chairman Smith asked if staff had seen this information and Ms. Belofsky indicated that she had not.

Ms. Duffus stated that the playground was relocated further away from the southern property line and a fence was constructed. When the neighbors complained about the existing vegetation close to the play area being an eyesore, the applicant cleared the area. She noted that when the Arborist made a site visit and reviewed the development

conditions she was told that no additional screening was needed. Ms. Duffus was then contacted by Tammy Brown, Zoning Inspector, and had been told that complaints had been filed by the neighbors about the lack of sufficient screening. When Ms. Brown and her Supervisor made a site visit, they indicated that no additional plantings were needed. The Arborist thought that the church had done a very good job of landscaping the parking area but did suggest that Japanese Hollys be added along the front border as you enter the site and that was done prior to the opening of the school.

She stated that the lighting was a part of the church operation and had been there for many years but upon learning of the complaints by the neighbors, she discussed this with the church and the light was changed. The Zoning Inspector came to take a light meter reading and stated that the wattage of the light was within the County Code guidelines. When the complaints continued, she again went to the church and the church agreed to disconnect the light.

As she believed the screening was the major issue before the Board tonight, she added that she would agree to add whatever screening was necessary to satisfy the screening requirement.

Ms. Duffus addressed development condition number 13 by stating that her clientele had not voiced any difficulty in entering/exiting the site from Kirby Road, and that condition number 14 could not be complied with as the school does not own the property.

Mrs. Thonen apologized to the applicant for the confusion with regard to screening and assured her that if the Board approved her request, the Board's intent regarding the development conditions would be very clear.

Chairman Smith called for speakers in support of the request and the following came forward: Joe Webb, Rector of St. Dunstan's Church; Laura Claxton, 2236 Mohican Drive, Falls Church, Virginia; Henry Dedrick, Senior Warden of St. Dunstan's Church; Colin Baenziger, 1001 Salt Meadow Lane, McLean, Virginia; Charles Straus, 10510 Hunting Crest Lane, Reston, Virginia; Brook Kane, 6102 Franklin Park Road, McLean, Virginia; and David Grimsley, 1947 Friendship Place, Falls Church, Virginia, represented the McLean Citizens Association.

The citizens asked the Board to grant the request because the school is a well run school, the staff provides excellent care for the children, and day care facilities are desperately needed throughout the County.

As there were no more speakers in support of the application, Chairman Smith called for speakers in opposition to the request.

H. Kendrick Sanders, 3905 Railroad Avenue, Fairfax, Virginia, an attorney representing Mr. and Mrs. George Bright, Mr. and Mrs. Richard Emrich, Mr. and Mrs. Jack Grey, Mrs. William Lowenbach, and Mr. and Mrs. Carl Sebanius, owners of five abutting properties owners, came forward. He stated that the citizens were not questioning the credibility of the school but are concerned as to the impact of the school upon their privacy with regard to on-site lighting, the removal of the existing vegetation, the drainage problems, and the additional traffic on Kirby Road generated by this use. Mr. Sanders stated that he had not represented the neighbors in the previous application but that he had prepared a verbatim transcript of that public hearing, which had been presented to each Board member, wherein it was specifically stated that this was for a limited time period to determine whether or not the site was appropriate for the use. He added that he did not believe that the full impact of the school has been determined as yet because the school is not up to its full capacity, and it is unclear as to whether or not it is a year round school. In closing, he asked the Board to consider the neighbors' concerns and not grant the applicant an unlimited term until such time the full impact could be ascertained.

In response to questions from the Board as to how this could be done if the school is closed for the summer, Mr. Sanders agreed but noted that the present permit does not expire until October and perhaps this determination could be made when the school reopens in the fall.

Chairman Smith stated that he thought it was good planning on the part of the applicant to make application at this time in order for her to plan for the fall term.

As there was no further comments or speakers and the applicant's attorney waived rebuttal, Chairman Smith closed the public hearing.

Mr. Ribble asked the applicant if it was clear that the plantings referenced in condition number 9 were to be installed within 30 days and no later.

Mrs. Thonen asked if the applicant would review the conditions following the motion and ask questions at that time if there was any confusion whatsoever.

Jane Kelsey, Chief, Special Permit and Variance Branch, noted for the record that if an applicant was unclear as to any conditions placed on an application by the Board of Zoning Appeals or the Board of Supervisors, the proper remedy was to submit a letter to the Zoning Administrator's agent, Barbara Byron, who is Director of Zoning Evaluation Division, Office of Comprehensive Planning.

Prior to making his motion, Mr. Ribble asked the applicant to come back to the podium to address the question of the school term. Ms. Duffus explained that presently it was a ten month school year.

Mr. Ribble made a motion to grant SPA 87-D-051-1 as he believed that the applicant had presented testimony indicating compliance with the standards and subject to the development conditions contained in the staff report with the following modifications: delete conditions 13, 14, 15, 19, and renumber.

Mr. Kelley stated that he believed that the school was being held "hostage" for differences between the neighbors and the church.

Mr. Hammack stated that he would support the motion for a term of two (2) years and agreed with Mr. Kelley's comments and also stated that he could find nothing in the staff report to substantiate road improvements.

Ms. Belofsky asked for a clarification as to when this Special Permit would go into effect. Mr. Ribble stated that this permit would commence when the existing permit ran out. Ms. Kelsey asked that the Board reflect this wordage as part of the condition as this was not the standard procedure.

Mr. Hammack made a motion to revise condition number 14 to read: "The approval of this Special Permit is limited to a term of two (2) years which will begin on October 6, 1988 and expire without notice on October 6, 1990.

Mr. DiGiulian seconded the motion which passed by a vote of 7-0.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 87-D-051-1 by MARY ANNE DUFFUS/BROOKSFIELD SCHOOL, under Section 3-303 of the Zoning Ordinance to amend SP 87-D-051 to permit continuation of nursery school and child care facility without term (Board granted a two year term), on property located at 1830 Kirby Road, Tax Map Reference 41-3((1))59, 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 7, 1988; 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-3.
3. The area of the lot is 5.0871 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 applicants only and is not transferable 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. Any plan submitted to the Director, Department of Environmental Management, shall conform to the approved plat and these conditions.

5. The hours of operation shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.

6. The maximum daily enrollment shall be fifty (50) children.

7. There shall be a maximum of eight (8) employees on site at any one time.

8. The existing parking spaces, including handicap spaces, shall be used to satisfy the required ten (10) parking spaces. All parking shall be on site.

9. Transitional Screening 1 shall be required along the western, southern, and eastern lot lines. Existing vegetation shall be used to satisfy the planting requirement along the western and eastern lot lines. Additional plantings shall be provided along the southern lot line so as to minimize the potential for adverse impact on the adjacent residential properties. These plantings shall include ten (10) Eastern Hemlocks six (6) to eight (8) feet in height at the time of planting. The specific location of these plantings shall be determined by the County Arborist. These plantings shall be installed within thirty (30) days of the date of approval of this application by the BZA.

   Plantings shall be provided around the parking lots so as to improve the visual appearance of the parking lots. These plantings shall include four (4) Zelkova, six (6) to eight (8) feet in height at the time of planting. The specific location of these plantings shall be subject to the approval of the County Arborist. These plantings shall be installed within thirty (30) days of the date of approval of this application by the BZA.

10. The existing fencing shall fulfill the barrier requirement provided the outdoor play area is fenced.

11. The outdoor play area shall be approximately 4,100 square feet and in the location shown on the plat.

12. Any sign erected on the property shall conform to Article 12 of the Zoning Ordinance.

13. This use shall be served by public sewer and water. All existing septic facilities shall be permanently capped as required by the Health Department.

14. The approval of this Special Permit is limited to a term of two (2) years which will begin on October 6, 1988 and expire without notice on October 6, 1990.

15. There is a history of run off/drainage problems from the subject property onto adjacent lots. If these problems recur, appropriate measures as determined by the Department of Public Works shall be implemented to resolve these problems.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, six (6) months after the approval date* of the Special Permit unless the activity authorized has been established or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. 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 June 15, 1988. This date shall be deemed to be the final approval date of this special permit.

NOTE: The Board advised the applicant if there was any confusion regarding the development conditions a letter requesting an interpretation should be forwarded to the Zoning Administrator or her agent, the Director of Zoning Evaluation Division, Office of Comprehensive Planning.

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The Board took a five minute recess before proceeding with the next scheduled case.

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Page 34, June 7, 1988, (Tapes 2 and 3), Scheduled case of:

8:40 P.M. THEODORE B. CONRATH APPEAL, A 88-M-005, application under Section 18-301 of the Zoning Ordinance to appeal the Zoning Administrator's decision approving a permit for a group residential facility on the subject property, located at 8714 Leroy Place, on approximately 22,029 square feet of land, zoned R-1, Mason District, Tax Map 59-3((8))16

Jane Gwinn, Zoning Administrator, stated that the issue before the Board tonight was the approval to allow establishment of a group residential facility located at 8714 Leroy Place. She referenced her staff report to the Board of Zoning Appeals dated June 2, 1988 wherein she stated that it was her determination that the proposed facility met the criteria for such a use as set forth in Par. 3, Sect. 2-502.

Arlene Pripeton, 3811 Mothbrook Court, Fairfax, Virginia, attorney for the appellant, came forward and distributed a packet of information to the Board which she believed reinforced the request for the Board to reverse the Zoning Administrator's decision. Ms. Pripeton cited Par. 3(C), Sect. 3-502 of the Zoning Ordinance which requires that group residence facilities be located porportionally throughout the County. She stated that the area for the proposed use has a significant number of this type of use at present, that the use is not compatible with the surrounding area, that the proposed home fails to protect the health and safety of the residents, that notice was not given to all the abutting property owners, and that the permit was defective in that it did not set forth the dimensions of the house.

In response to questions, Ms. Pripeton stated that the citizens were concerned for the residents of the group home due to the high crime rate which exists in the neighborhood.

Chairman Smith called for speakers in support of the appellant's position and the following came forward: Swanee Busic, 3922 Leroy Place, Fairfax, Virginia; John Bouma, 3809 Pineland Street, Fairfax, Virginia; Ed Donnelly, 8500 Overbrook Road, Fairfax, Virginia, President, Pine Ridge Civic Association; Walter Couch, 3908 Pineland Street, Fairfax, Virginia; Tom Conrath, 3909 Pineland Street, Fairfax, Virginia; Frank Faff, 3905 Pineland Street, Fairfax, Virginia; Mark Clatterbuck, 3911 Pineland Street, Fairfax, Virginia; John Enos, 3900 Prosperity Avenue, Fairfax, Virginia; Jim Blaylock, 3804 Prosperity Avenue, Fairfax, Virginia; Jim Hill, 3902 Sandalwood Court, Fairfax, Virginia; and, Norman Neiss, 9106 Glenbrook Road, Fairfax, Virginia, President, Mantua Citizens Association.

The citizens based their opposition on their belief that the area was not safe for the residents who would utilize the group home because of the high crime rate, the difficulty they would encounter trying to use public transportation, and the concern for their property values.

As there were no additional speakers in support of the appellant, Chairman Smith called for speakers in support of the Zoning Administrator and the following came forward: Marc Bettius, attorney with the law firm of Miles and Stockbridge, 11350 Random Hills Road, Fairfax, Virginia, came forward to represent Pathway Homes. He stated there are a large number of people suffering from chronic depression with only 21 beds available, outside of hospitalization, and appropriate sites are impossible to find.

Mrs. Thonen asked Mr. Bettius if the people who would reside in the home would be supervised for their own protection. Mr. Bettius stated that this process is structured and supervised down to the very smallest detail, that this is all done on a voluntary basis, that all residents are screened, and that the home is subject to an annual review by the Zoning Administrator.

The following citizens also spoke in support of the Zoning Administrator's position: David Lombard, 6640 Hazel Lane, McLean, Virginia, a member of the Board of Directors, Hartwood Foundation, Incorporated; Carol Deitz, 4017 Old Hickory Road, Fairfax, Virginia; Ray Burmester, 5217 Gunnell Street, Fairfax, Virginia, President of Hartwood Foundation, Incorporated; Harvey McConnell, Executive Director of Pathway Homes; and Pam Stein, 3074 Covington Street, Fairfax, Virginia, a member of the Residential Development Team of the Community Services Board.

All the speakers strongly urged the Board to support the Zoning Administrator because of the critical need for group homes throughout the County. Mr. McConnell and Ms. Stein explained the long process involved in obtaining appropriate sites for these group homes.

Mrs. Thonen noted that a letter that had been received from Tom Davis, Supervisor from the Mason District. The letter stated that he believed that the Mason area currently had a disportionate number of this type of facility now. He also stated that he would work with Pathway Homes in order to assist them in locating suitable sites. Mrs. Thonen asked if one of the upcoming speakers could address Supervisor Davis' comments.

Janice Schiff, 3534 Lee Court, Fairfax, Virginia, who works with Ms. Stein at the Community Services Board assisting in locating and selecting appropriate sites for group homes, responded to Supervisor Davis' letter by stating that there are 7 more group homes needed within the year and she would be glad to accept his assistance.

In response to a question from Mr. Hammack regarding covenants on the adjacent property which might preclude this group home, Ms. Schiff replied that she believed that to be a legal question and it had never been her understanding that it was an issue.

Mr. Bettius, attorney for Pathway Homes, explained that a covenant was a contractual agreement between people who live in a community that is defined as attaching all the properties mutually. He stated that the Zoning Ordinance states that homes of 8 persons or less are considered residential uses that do not violate single-family use within the criteria.

Chairman Smith called Ms. Pripeton back to the podium to respond to Mr. Hammack's question regarding the covenant. Ms. Pripeton, attorney for the appellant, came forward and stated that it has to be determined whether or not the house is compatible with the permitted uses, with the schedule of district regulations of the zoning district in which the proposed facility is located, and with any abutting property.

Following the discussion regarding the covenants, the following came forward to speak in support of the Zoning Administrator's comments: Muriel Strickland, 3035 Holmes Run Road, Falls Church, Virginia, the Mason District Representative on the Fairfax-Falls Church Community Services Board; Elaine Joyce, Executive Director of the Association for Retarded Citizens in Northern Virginia, Falls Church, Virginia; Alto Walsh, 3966 Burning Bush Court, Fairfax, Virginia; Elizabeth McManus, 8651 Gateshead Road, Alexandria, Virginia; Edward J. Brasil, 1911 Youngblood Street, McLean, Virginia; Patricia H. Snyder, 9215 Hidden Creek Drive, Great Falls, Virginia, President for the Alliance for the Mentally Ill of Northern Virginia; Julie Quinn, 8211 Chivalry Road, Annandale, Virginia, Virginia; Joseph Hinshaw, 3315 Stoneybrae Drive, Falls Church, Virginia; Bill Snaley, Chairman of the Coalition of the Mentally Disabled Citizens of Virginia; Vera Millen, Executive Director of the Social Center for Psychiatric Rehabilitation.

The speakers agreed with the previous speakers and urged the Board to support the Zoning Administrator's position.

During rebuttal, Ms. Pripeton stated that this site has the same problems as the Beverly Road site that the Board recently turned down, that it was possible to locate other sites in the County, that the site has ingress/egress problems.

Mrs. Day stated that she would clarify for all the citizens who were present that the residents of this group home are not the same kind of people who would have been housed in the group home on Beverly Drive. She stated she has worked in a similar environment and never once did she fear for her safety. She added that she had voted against the group home on Beverly Drive but would support the Zoning Administrator in her decision regarding the group home to be located on Leroy Place.

In her closing comments, Ms. Gwinn stated that she did not believe the covenants were not a relative issue in this case, that she had discussed the crime rate in the area with the police department, and that the amount of rent paid was not a part of her decision.

As there were no further comments, Chairman Smith closed the public hearing.

Mr. Hammack made a motion to uphold the Zoning Administrator in A 88-M-005 because he believed that the Zoning Administrator has not erred in her granting of the approval nor in the dispersion factor at this particular location. He stated that he has visited the site and believes this to be an ideal setting for a group home.

Page 36, June 7, 1988, (Tapes 2 and 3), (Theodore B. Conrath Appeal, A 88-M-005, continued from Page 35)

Mrs. Day seconded the motion.

Mrs. Thonen stated that she had been contacted by several of the Supervisors who asked that people proposing the group homes contact the Supervisors so that they could work closely with them in order to alleviate some of the frustration.

The motion carried by vote of 7-0.

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Page 36, June 7, 1988, (Tape 3), After Agenda Item:

Resolutions from May 24, 1988

Mrs. Thonen made a motion to accept the resolutions as submitted.

Mr. Hammack seconded the motion which carried by a vote of 7-0.

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Page 36, June 7, 1988, (Tape 3), Adjournment:

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

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

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: November 18, 1988

APPROVED: November 29, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 14, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen.

Chairman Smith opened the meeting at 9:08 A.M. and Mrs. Day led the prayer.

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Page 37, June 14, 1988, (Tape 1), Scheduled case of:

9:00 A.M. JOHN H. STOKES III, VC 87-M-149, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 1 having a lot width of 43 feet (100 ft. min. lot width required by Sect. 3-206), located at 4340 Old Columbia Pike, on approximately 2.4158 acres of land, zoned R-2, Mason District, Tax Map 71-2((1))59. (DEFERRED FROM 2/16/88 AND 3/8/88 FOR ADDITIONAL INFORMATION)

Jane Kelsey, Chief, Special Permit and Variance Branch, advised the Board that the applicant was requesting a deferral to allow time to work out problems with the Department of Environmental Management. She suggested a deferral date of September 20, 1988 at 9:00 a.m.

There being no objection, the Chair so ordered.

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Page 37, June 14, 1988, (Tape 1), Scheduled case of:

9:15 A.M. J. T. DEAVER, VC 88-C-023, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage and living space addition to dwelling to 9.1 feet from side lot line (15 ft. min side yard required by Sect. 3-207), located at 13509 Floris Street, on approximately 21,807 square feet of land, zoned R-2, Centreville District, Tax Map 25-1((2))10. (DEFERRED FROM 5/3/88 - NOTICES NOT IN ORDER)

Kathy Reilly, Staff Coordinator, presented the staff report.

Barbara Elgin of 10533 Main Street, Fairfax, Virginia, representative of the applicant, outlined the statement of justification as 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 stated that the applicant had met the standards for a variance. He also noted that the lot was narrow and that a septic field in the back precluded development in the rear of the lot.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-C-023 by J.T. DEAVER, under Section 18-401 of the Zoning Ordinance to allow construction of garage and living space addition to dwelling to 9.1 feet from side lot line, on property located at 13509 Floris Street, Tax Map Reference 25-1((2))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 June 14, 1988; 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 21,807 square feet of land.
4. The lot is narrow.
5. The septic field precludes development in the back of the lot.

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 to finish this addition shall be compatible with the principal dwelling unit.

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 June 22, 1988. 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 After Agenda items.

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Page 38, June 14, 1988, (Tape 1), After Agenda Item #1:

Additional Time Request
Paul C. and Evelyn B. Hutton,
Variance Application VC 85-A-092

Mrs. Day moved to grant the request of Paul C. and Evelyn B. Hutton for an additional twelve months from the expiration date of July 14, 1988. Mr. Hammack seconded the motion which passed unanimously. The new expiration date will be July 14, 1989.

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Page 39, June 14, 1988, (Tape 1), After Agenda Item #2:

Additional Time Request
Eddie and Norma Bellett
Variance Application VC 86-M-011

Mrs. Day moved to grant the request of Eddie and Norma Bellett for an additional six months from the expiration date. Mr. Hammack seconded the motion which passed unanimously. The new expiration date will be November 20, 1988.

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Page 39, June 14, 1988, (Tape 1), After Agenda Item #3:

Additional Time Request
Clermont Subdivision
Variance Application V-70-79

Mr. Hammack moved to deny the request for additional time by the applicant, Clermont Subdivision, V-70-79. Mrs. Day seconded the motion. Following discussion among the Board, Mrs. Day withdrew her second to the motion and Mr. DiGiulian made a substitute motion that the Board grant a six month extension and also that no further extensions be granted. Mrs. Day seconded the substitute motion. The motion passed by a vote of 6-1 with Mr. Hammack voting nay. The new expiration date will be October 15, 1988.

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Page 39, June 14, 1988, (Tape 1), Scheduled case of:

9:30 a.m. CYNTHIA FRONDA, SP 88-A-012, application under Sect. 3-103 of the Zoning Ordinance to allow accessory dwelling unit, located at 4031 Taylor Drive, on approximately 22,926 square feet of land, zoned R-1, Annandale District, Tax Map 58-4((3))17. (DEF. FROM 5/3/88 - NOTICES NOT IN ORDER)

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report in the absence of Lori Greenlief, Staff Coordinator. She advised the Board that staff was recommending approval of the proposal subject to the development conditions contained in the staff report.

Cynthia Fronda, 4031 Taylor Drive, Fairfax, Virginia, the applicant, appeared before the Board and explained her 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 stated that the applicant had met the standards for a special permit 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

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-A-012 by CYNTHIA FRONDA, under Section 3-103 of the Zoning Ordinance to allow accessory dwelling unit, on property located at 4031 Taylor Drive, Tax Map Reference 58-4((3))17, 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 14, 1988; 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 22,926 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 8-918 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. However, this condition shall not preclude the applicant from erecting structures or establishing uses that are not related to the accessory dwelling unit and would otherwise be permitted under the Zoning Ordinance and other applicable codes.

3. This Special Permit use is subject to the provisions of Article 17, Site Plans. Prior to obtaining building permit approval, any plans that are deemed necessary by the Director, DEM shall be submitted and approved by DEM pursuant to Par. 3 of Sect. 8-903. Any plans submitted shall conform with the approved Special Permit plat and these conditions.

4. The accessory dwelling unit shall occupy no more than 421 square feet of the principal dwelling.

5. The proposed driveway shall be constructed as shown on the approved special permit plat and the existing pavement of the driveway shall remain. All parking for this use shall be on-site. The existing parking area in the front yard shall be removed.

6. The accessory dwelling unit shall contain no more than one bedroom.

7. The occupancy of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 6 of Sect. 8-918 of the Zoning Ordinance.

8. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.

9. This special permit shall be approved for a period of five (5) years from the approval date or May 10, 1993 with five (5) year extensions permitted with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.

10. Upon the termination of the new addition as an accessory dwelling unit, the structure shall be internally altered so as to become an integral part of the main dwelling unit.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 22, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 41, June 14, 1988, (Tape 1), After Agenda Item:

As there was time before the next scheduled application, the Board took action on an additional After Agenda item.

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Page 41, June 14, 1988, (Tape 1), After Agenda Item:

Approval of Minutes
March 15, and April 5, 1988

Mrs. Day moved to approve the Minutes for March 15, and April 5, 1988, as submitted. Mr. Ribble seconded the motion which passed unanimously.

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Page 41, June 14, 1988, (Tape 1), Scheduled case of:

9:45 A.M. CONGREGATION BETH EMETH, SPA 84-C-008-2, application under Sect. 3-103 of the Zoning Ordinance to amend SP 84-C-008 for synagogue and related facilities to modify the condition regarding transitional screening, located at 12519 Lawyers Road, on approximately 5.59 acres of land, zoned R-1, Centreville District, Tax Map 35-2((1))15A.

Chairman Smith announced that the Board had received a request by the applicant to withdraw the application for Congregation Beth Emeth, SPA 84-C-008-2.

Mrs. Thonen moved to grant the request to withdraw the above referenced application. Mr. Ribble seconded the motion which passed unanimously.

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Page 41, June 14, 1988, (Tape 1), Scheduled case of:

10:00 A.M. ST. MATTHEW'S UNITED METHODIST CHURCH, SPA 80-A-087-2, application under Sect. 3-103 of the Zoning Ordinance to amend SP 80-A-087 for church and related facilities to permit addition of church sanctuary, increase in parking and relocation of entrance, located 8617 Little river Turnpike, on approximately 5.321 acres of land, zoned R-1, Annandale District, Tax Map 59-3((10))13-19, 22-28. (OTH GRANTED)

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report in the absence of Lori Greenlief, Staff Coordinator. She advised the Board that staff was recommending approval of the request subject to the development conditions contained in the staff report being implemented.

Bernard Burnette, 3423 Pellinore Place, Annandale, Virginia, Chairman of the Building Committee at St. Matthew's United Methodist Church, representative of the applicant, appeared before the Board and explained the request as outlined in the statement of justification. Mr. Burnette further stated that the Virginia Department of Highways (VDOT) had agreed to construct a deceleration right turn lane off of Route 236 onto Wakefield Drive provided the church dedicates the land.

David Gordon, 8601 Virginia Avenue, Annandale, Virginia, appeared before the Board and stated that he was concerned that the proposed driveway would be located across from his property and the result would be car lights shining onto his property from the church.

Chairman Smith recessed the case to allow the applicant and citizens time to discuss the proposal and work out citizen concerns.

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Page 41, June 14, 1988, (Tape 1), Scheduled case of:

10:15 A.M. DONALD H. AND ALISON M. MAY, VC 88-V-048, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a detached boat house 1.5 feet from side lot line (15 ft. min. side yard requirement by Sects. 3-207 and 10-104), located at 816 Arcturus on the Potomac, on approximately .96 acres of land, zoned R-2, Mount Vernon District, Tax Map 102-3((1))38

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report in the absence of Lori Greenlief, Staff Coordinator.

Alison May, 816 Arcturus on the Potomac, Alexandria, Virginia, the applicant, appeared before the Board and submitted a letter from a neighbor in support of the application. She explained the request as outlined in the statement of justification submitted with the application.

Mr. Hammack expressed concern that the proposed boat house would be too close (1.5 feet) to the property line.

John Savage, 1017 Queens Street, Alexandria, Virginia, the architect for the project, appeared before the Board and provided a history of the property and the rationale for the location of the proposed boat house. He noted that the closer the structure was to the house the more impact on the appearance of the house it would have and moving it closer to the river would obstruct the view.

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

Prior to making the motion, Mrs. Day noted that the proposed location of the boat house would preserve the open view of the Potomac River. She added that the existing shed and the boat house pad will be removed and noted that this location was sited to the best advantage of the architectural design of the house. The boat house will be constructed in a "nook category" surrounded by trees and is the least visible and most protected. Mrs. Day then moved to grant the request in part subject to the development conditions with the following modification to condition number 4: "The boat house shall be three feet from the property line."

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-048 by DONALD H. AND ALISON M. MAY, under Section 18-401 of the Zoning Ordinance to allow construction of detached boat house 1.5 feet from side lot line (**THE BOARD APPROVED THE BOAT HOUSE 3 FEET FROM THE SIDE LOT LINE**), on property located at 816 Arcturus on the Potomac, Tax Map Reference 102-3((1))38, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 14, 1988; 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 .96 acres of land.
4. The location for the proposed boat house preserves the open view of the Potomac River at the other side of the house.
5. The shed will be removed and the pad used for the boat house.
6. This location is sited to the best advantage of the architecture of the designed house.
7. The boat house will be constructed in a "nook category" surrounded by trees and is the least visible and most protected.
8. There are no objections from the neighbors.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

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

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

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

4. The boat house shall be three (3) feet from the property line.

Mr. Ribble seconded the motion which carried by a vote of 5-2 with 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 June 22, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 43, June 14, 1988, (Tape 1), Scheduled case of:

10:25 A.M. LEWINSVILLE PRESBYTERIAN CHURCH, SP 88-D-013, application under Sect. 3-303 of the Zoning Ordinance to allow building and parking additions to existing church and related facilities, located at 1724 Chain Bridge Road, on approximately 3.332252 acres of land, zoned R-3, Dranesville District, Tax Map 30-3((1))pt. 61.

Kevin Guinaw, Staff Coordinator, presented the staff report and advised the Board that staff was recommending approval of the request subject to the development conditions contained in the staff report with the following modifications: "Condition 7, add the following language to the first sentence, Delete the period and add that the landscape plan would be subject to final approval by the Office of Comprehensive Planning and the County Arborist and delete the second bullet. Leave the third and fourth bullets as they are and add a fifth bullet: Foundation plantings shall be provided around the perimeter of the proposed building addition. A new condition #15: Exiting traffic from the entrance to the site on Great Falls Street shall be limited to right turns only."

Minerva Andrews, 8280 Greensboro Drive, McLean, Virginia, attorney representing the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. Ms. Andrews requested that the existing lighting fixtures mounted on the side of the fellowship building be allowed to remain.

David Gallagher with the Architects Group Practice, 415 N. Alfred Street, Alexandria, Virginia, appeared before the Board and clarified that additional building mounted lighting was not proposed.

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

Prior to making the motion, Mr. Kelley stated that the standards for a special permit had been met. He then moved to grant the request subject to the revised development

conditions: "Condition 7, add the following language to the first sentence, Delete the period and add that the landscape plan would be subject to final approval by the Office of Comprehensive Planning and the County Arborist and delete the second bullet. Leave the third and fourth bullets as they are and add a fifth bullet: Foundation plantings shall be provided around the perimeter of the proposed building addition. In Condition 11: The first words shall be any proposed and insert the words additional lighting. A new Condition 15: Exiting traffic from the entrance to the site on Great Falls Street shall be limited to right turns only."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-D-013 by LEWINSVILLE PRESBYTERIAN CHURCH, under Section 3-303 of the Zoning Ordinance to allow building and parking additions to existing church and related facilities, on property located at 1724 Chain Bridge Road, Tax Map Reference 30-3((1))Pt. 61, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 14, 1988; 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 3.332252 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 for the main sanctuary shall be limited to a total of 384.

6. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11 and shall be a minimum of 96 spaces. Overflow parking for occasions, such as Christmas and Easter, shall be accommodated on the same side of Chain Bridge Road as the church.

7. Transitional screening requirements shall be modified in accordance with the landscape plan submitted with the special permit plat, modified as follows and subject to final approval by the Office of Comprehensive Planning and the County Arborist.

o A planting island with two shade trees shall be provided in the mid section of the east parking lot.

o A planting island with a shade tree shall be provided in the southwestern section of the east parking lot to separate parking spaces from the travel lane.

o Existing plantings between the southernmost Virginia Power pole and the existing brick wall shall be maintained.

o Foundation plantings shall be provided around the perimeter of the proposed addition.

8. No additional barriers shall be required, except a 42 inch high painted open rail fence shall be provided as shown on the landscape plan submitted with the special permit plat.

9. The site entrances shall be designed and constructed according to VDOT specifications.

10. Interior parking lot landscaping shall be provided in accordance with provisions of Sect. 13-106 of the Zoning Ordinance.

11. Any proposed additional lighting of the parking areas shall be in accordance with the following:

o The combined height of the light standards and fixtures shall not exceed twelve (12) feet.

o The lights shall be a low-intensity design which focuses the light directly onto the subject property.

o Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.

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

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

14. A tree preservation plan shall be prepared for review and approval by the County Arborist prior to the undertaking of any clearing activity on the site. At a minimum, the plan shall identify quality trees to be preserved and the measures to be used to protect them during the construction process and during subsequent activity to be conducted on the site after development is completed.

15. Exiting traffic from the entrance to the site on Great Falls Street shall be limited to right turns only.

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

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

Mr. Ribble 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 22, 1988. This date shall be deemed to be the final approval date of this special permit.

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10:55 A.M. HOLLIN MEADOWS SWIM & TENNIS CLUB, INC., SPA 84-V-012-1, application under Sect. 3-203 of the Zoning Ordinance to amend SP 84-V-012 for community recreation facilities to permit 6:00 a.m. opening for swimming, located at 2500 Woodlawn Trail, on approximately 5.0 acres of land, zoned R-2, Mount Vernon District, Tax Map 93-3((1))6a.

Heidi Belofsky, Staff Coordinator, presented the staff report and advised the Board that the 6:00 A.M. opening of the pool would adversely impact the adjacent residential properties. She added that the application did not satisfy Standards One or Two. Ms. Belofsky pointed out that the records indicated that the applicant has already violated the approved hours of operation in the past and that approval of this request would set an undesirable precedent for future applications. She stated that staff recommended denial of the proposed application.

Peter Race, 1812 White Oaks Drive, Alexandria, Virginia, representative of the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. Mr. Race submitted petitions in support of the request. He added that they were now requesting that the pool open at 7:00 A.M. instead of 6:00 A.M. This request would apply to weekdays and to adults only. There were would no diving into the pool, no driving of cars onto the club grounds, and signs would be posted to remind swimmers to minimize noise.

Following questions from Mr. Hammack, Mr. Race explained that people using the pool could park along Lisbon Lane or Elba Road and then walk to the pool. Mr. Hammack pointed out that off-street parking was not permitted.

Mr. Donald Muntz, 7610 Elba Road, Alexandria, Virginia, appeared before the Board in support of the proposal. He expressed the opinion that there would be a minimum of noise.

Mr. Jeffrey Lesk, 7519 Elba Road, Alexandria, Virginia, appeared before the Board in support of the proposal.

Ms. Sara Lesk, 7519 Elba Road, Alexandria, Virginia, appeared before the Board in support of the proposal.

Mr. Alfred Aiken, 7604 Elba Road, Alexandria, Virginia, appeared before the Board in opposition to the request. He submitted letters to the Board in opposition to the proposal. He expressed the opinion that the request would impact the neighborhood.

Mr. Joseph R. Garafola, 7612 Elba Road, Alexandria, Virginia, appeared before the Board in opposition to the request. He also expressed concern that it had not been mentioned that the applicant was also requesting an additional hour for swim team practice.

Mrs. Garafola, 7612 Elba Road, Alexandria, Virginia, appeared before the Board in opposition to the request.

In rebuttal, Mr. Race stated that the program would be limited and the gate would be kept closed during those hours in which the pool was not in use.

In closing, Ms. Belofsky stated that the applicant would have to amend the application if they wanted to change the proposed opening hours from 6:00 A.M. to 7:00 A.M.

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 special permit had not been met and that the proposal would set an undesirable precedent. He pointed out that there had been numerous complaints over many years. Therefore, Mr. Ribble moved to deny the request.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 84-V-012-1 by HOLLIN MEADOWS SWIM AND TENNIS CLUB, INC., under Section 3-203 of the Zoning Ordinance to amend SP 84-V-012 for community recreation facilities to permit 6:00 A.M. opening for swimming, on property located at 2500 Woodlawn Trail, Tax Map Reference 93-3((1))6A, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 14, 1988; 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 5.0 acres of land.
4. The request would set an undesirable precedent.
5. There have been numerous complaints from the neighbors over the years.
6. The modifications suggested by the applicant will not work in this case.
7. The staff report has addressed which standards cannot be met here, especially the one that says it must not affect the use and enjoyment of the neighbor's property.

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 8-403 of the Zoning Ordinance.

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

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 June 22, 1988.

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Page 47, June 14, 1988, (Tape 2), Continuation of:

St. Matthew's United Methodist Church
SPA 80-A-087-2

Mr. Burnette advised the Board that he had discussed the issue of changing the entrance with the neighbors. He explained that he and the neighbors had resolved the issue.

Mr. David Gordon, 8601 Virginia Avenue, Annandale, Virginia, appeared before the Board and stated that the issue had been resolved.

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 application met the standards for a special permit. Therefore, Mrs. Thonen moved to grant the application subject to the revised development conditions: Delete Condition 8. The last part of Condition 9 shall be deleted and shall read: "Dedication is required at the time of site plan review shall be provided for a right turn lane along Little River Turnpike".

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 80-A-087-2 by ST. MATTHEW'S UNITED METHODIST CHURCH, under Section 3-103 of the Zoning Ordinance to amend SP 80-A-087 for church and related facilities to permit addition of church sanctuary, increase in parking and relocation of entrance, on property located at 8617 Little River Turnpike, Tax Map Reference 59-3((10))13-19, 22-28, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 14, 1988; 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 5.321 acres of land.
4. The applicant has done everything to cooperate in this application that has been asked of him.

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 maximum seating capacity shall be limited to a total of 470 with a corresponding minimum number of parking spaces as set forth in Article 11 and a maximum of 178 spaces. All parking shall be on site.

7. Transitional Screening shall be provided as follows:

   - Transitional Screening 1 shall be provided along the southern lot line with a modification to 17 feet in width in the area of the existing parking lot. An appropriate reduction in the number of plantings should be made in this 17 foot area as determined by the County Arborist.

   - Twenty-five (25) feet of Transitional Screening 1 type plantings shall be provided along the northern edge of the pavement of the proposed driveway, approximately 50 feet into the property and, beginning at the curve, will diminish to 15 feet parallel to the new addition as shown on the approved special permit plat dated March 23, 1987.

   - The Transitional Screening yard shall be modified to between 15 and 25 feet along the western lot line with a corresponding reduction in the number of plantings as determined by the County Arborist. Included in this area shall be an evergreen hedge extending the length of the parking lot the purpose of which shall be to screen the lot from the adjacent residences.

   - The existing vegetation along the eastern and northern lot lines shall be deemed to satisfy the transitional screening requirement.

8. Dedication, as required at the time of site plan review, shall be provided for a right-turn lane along Little River Turnpike.

9. Entrances width for the driveway shall meet VDOT standards.

10. The handicapped spaces shall be those closest to the entrance. If a travel aisle is allowed to separate these spaces from the entrance, than a painted crosswalk shall be provided.

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

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

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

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 22, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 49, June 14, 1988, (Tape 2), Scheduled case of:

11:10 A.M. FIAZA HANIFFA, SP 88-A-029, application under Sect. 3-303 of the Zoning Ordinance to allow child care center, located at 5217 Grantham Street, on approximately 14,463 square feet of land, zoned R-3 and HC, Annandale District, Tax Map 69-4((5))436.

Chairman Smith announced that the Board was in receipt of a request from the applicant to allow the application to be withdrawn. Mr. Hammack so moved. Mr. DiGiulian seconded the motion which passed unanimously.

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Page 49, June 14, 1988, (Tape 2), Scheduled case of:

11:25 A.M. CHRIS K. KYRGOS, SP 88-M-027, 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 17.7 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-207), located at 3450 Quaker Court, on approximately 17,504 square feet of land, zoned R-2, Mason District, Tax Map 60-2((30))72. (TO BE HEARD CONCURRENT WITH VC 88-M-047)

11:25 A.M. CHRIS K. KYRGOS, VC 88-M-047, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to 14.2 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-207), located at 3450 Quaker Court, on approximately 17,504 square feet of land, zoned R-2, Mason District, Tax Map 60-2((30))72. (TO BE HEARD CONCURRENT WITH SP 88-M-027)

Denise James, Staff Coordinator, presented the staff reports for both applications and advised the Board that the staff was recommending approval of the special permit subject to the development conditions.

Chris Kyrgos, 3450 Quaker Court, Falls Church, Virginia, the applicant, appeared before the Board and explained the requests 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 regarding the Special Permit, Mr. Hammack stated that the standards had been met and therefore, 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 88-M-027 by CHRIS K. KYRGOS, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 17.7 feet from rear lot line, on property located at 3450 Quaker Court, Tax Map Reference 60-2((30))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 June 14, 1988; and

050

WHEREAS, the Board has made the following [redacted] 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 17,504 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 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 within (30) days.

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 June 22, 1988. This date shall be deemed to be the final approval date of this special permit.

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Prior to making the motion regarding the variance application, Mr. Hammack noted that the lot was shallow and irregularly shaped. He further stated that the original dwelling was constructed in violation of the setback lines. The two houses on the adjoining properties to the rear appear to be located far from the property lines so as not to be impacted by the proposed addition. 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 88-M-047 by CHRIS K. KYRGOS, under Section 18-401 of the Zoning Ordinance to allow construction of addition to 14.2 feet from rear lot line, on property located at 3450 Quaker Street, Tax Map Reference 60-2((30))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 June 14, 1988; 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 17,504 square feet of land.
4. The lot is irregular shaped and shallow.
5. The original dwelling was constructed in violation of the set back requirements.
6. The request is for an extension to the kitchen, therefore it cannot be located anywhere else.
7. The neighboring houses are located far from the applicant.

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 Chairman Smith voting nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 22, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 51, June 14, 1988 (Tape 2), After Agenda Item 6:

Approval of Resolutions
June 7, 1988

Mr. Hammack moved to approve the Resolutions from June 7, 1988 as submitted. Mrs. Day seconded the motion which passed unanimously.

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Page 52, June 14, 1988 (Tape 2), After Agenda Item 7:

Out of Turn Hearing
Hollin Hills Civic Association

There being no objection, it was so ordered that the request by the Hollin Hills Civic Association for an out of turn hearing be denied.

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Page 52, June 14, 1988 (Tape 2), After Agenda Item 8:

Out of Turn Hearing
David Brent

Following a discussion among the Board and staff, it was determined that the request by David Brent be deferred to June 21, 1988 to allow staff time to obtain additional information.

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Page 52, June 14, 1988 (Tape 2), After Agenda Item 9:

Out of Turn Hearing
John and Corrine Jeffries

Mr. DiGiulian moved to deny the request by John and Corrine Jeffries for an out of turn hearing. Mr. Ribble 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 12:45 p.m.

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

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: November 29, 1988

APPROVED: December 6, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 21, 1988. The following Board Members were present: Daniel Smith, Chairman; Paul Hammack, John Ribble, Ann Day, Robert Kelley, and Mary Thonen. John DiGiulian was absent from the meeting.

Chairman Smith opened the meeting at 9:52 a.m. with Mrs. Day leading the prayer.

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Page 53, June 21, 1988 (Tape 1), Scheduled case of:

9:30 A.M. VIGUEN R. & TERESA TER-MINASSIAN, VC 87-D-164, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 1A having a lot width of 20.15 feet (150 feet min. lot width required by Sect. 3-106) located at 1025 Spring Hill Road on approximately 2.1958 acres of land, zoned R-1, Dranesville District, Tax Map 20-4((14))1. (DEFERRED FROM 3/1/88 TO RESOLVE OUTSTANDING ISSUES. DEFERRED FROM 3/22/88)

Chairman Smith announced that the Board was in receipt of a letter from the applicant's attorney requesting a deferral of the application in order for the Appeal of the Zoning Administrator's decision concerning this property to be heard on June 28, 1988.

Ms. Kelsey suggested a deferral date of September 13, 1988 at 9:15 a.m.

Mrs. Thonen made the motion to defer the application to September 13, 1988 at 9:15 a.m. with Mrs. Day seconding the motion. The motion passed by a vote of 5-0 with Mr. Kelley not present for the vote, and Mr. DiGiulian absent from the meeting.

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Page 53, June 21, 1988 (Tape 1), Scheduled case of:

9:40 A.M. BURKE & HERBERT BANK & TRUST COMPANY, A VIRGINIA CORPORATION, VC 88-M-050, application under Sect. 18-401 of the Zoning Ordinance to allow addition to building to the rear lot line (20 ft. rear yard required by Sect. 4-807), located at 5705 Seminary Road, on approximately 10,661 square feet of land, zoned C-8, Mason District, tax Map 62-3((2))52A.

Denise James, Staff Coordinator, presented the staff report. Ms. James pointed out that a Drive-In Bank is not proposed for this site.

Bernard M. Fagelson with the law firm of Fagelson, Schonberger, Payne & Arthur, 401 Wythe Street, Alexandria, Virginia, appeared before the Board and presented the statement of justification for this variance as outlined in the staff report. Mr. Fagelson pointed out that the shape and size of the lot meets the criteria for a variance. Mr. Fagelson submitted for the record a copy of the rendering of the building.

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

Mr. Ribble made the motion to grant, VC 88-M-050, based on the facts that the property is in an unusual location with two side yards, that the property abuts commercial zoning on both sides, and that the property has exceptional narrowness.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-050 by BURKE & HERBERT BANK & TRUST COMPANY, under Section 18-401 of the Zoning Ordinance to allow addition to building to the rear lot line, on property located at 5705 Seminary Road, Tax Map Reference 62-3((2))52A, 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 21, 1988; 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-8.
3. The area of the lot is 10,661 square feet of land.
4. That the property is in an unusual location with two side yards.
5. That the property abuts commercial zoning on both sides.
6. That the property has exceptional narrowness.

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. 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 properties in the same zoning district and the same vicinity.
6. That:
   A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
   B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 and site plan approval shall be obtained prior to any construction and site approval. If a site plan waiver is requested and approved, a waiver condition plan shall be submitted to show that the proposal meets the provisions of the current Zoning Ordinance regarding FAR, parking requirements and peripheral parking lot landscaping for the zoning district.

4. The proposed storage structure for mechanical equipment shall be attached to the existing structure and constructed of materials compatible with the existing and proposed buildings.

Mrs. Day seconded the motion.

The motion carried by a unanimous 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 29, 1988. This date shall be deemed to be the final approval date of this variance.

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9:50 A.M. ROLLING VALLEY SWIM & TENNIS CLUB, SPA 77-S-112-1, application under Sect. 3-303 of the Zoning Ordinance to amend S-112-77 for community pool and tennis courts to permit increase in maximum family memberships from 300 to 400, located at 7200 Hadlow Drive, on approximately 2.607 acres of land, zoned R-3, Springfield District, Tax Map 89-3((5))416A.

Denise James, Staff Coordinator, presented the staff report. Mrs. James stated that based on the staff report, staff recommends approval subject to the development conditions contained in the staff report dated June 14, 1988. These conditions incorporate all applicable conditions associated with Special Use Permits S-105-75 and S-112-77.

Jim Lockwood, 7012 Ashbury Drive, Springfield, Virginia, agent for the applicant stated that he was in support of the application to increase the membership from 300 members to 400 members as the club was underused and the treasury has been reduced.

In answer to Mr. Hammack's question, Mr. Lockwood stated that the applicant was in agreement with the development conditions.

Denise James pointed out that staff had received one letter in opposition to this application. She further pointed out that the development conditions had brought the present pool use into conformance with other pool standards in the County.

Mr. Kelley stated that he did not agree that the increase of family membership should be limited.

Mr. Hammack disagreed with development condition #10 because the applicant should not be subject to site plan review because it is an existing facility.

Ms. Kelsey noted that there was a letter in opposition in the file.

P. J. Greco, 7566 Cloud Court, Springfield, Virginia, a member of the Board for the pool, stated that the parking lot of the pool property is lighted by two large mercury vapor lights at either end of the pool.

In answer to Mr. Hammack's question, Mr. Greco stated that the lights are approximately 30 feet high. He added that the development condition making them 12 feet high would not work, for security reasons.

Mr. Hammack questioned staff as to why they put development conditions on lighting in their staff report. Staff replied by stating that they did intend to put standards on the lighting as this is a usual and standard condition for all pools because of lights and glare can create an adverse impact on the surrounding properties.

In conclusion, Mrs. James noted in the applicant's favor there is a "no parking" sign posted on that public area.

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

Mr. Kelley made the motion to grant SPA 77-S-112-1, based on the applicant's testimony that they met the general standards of the special permit use. Mr. Kelley made the approved subject to the development conditions with the following modifications: delete conditions #4, #10 and #13, and renumber the others accordingly; and, development condition #5 to have the second sentence removed "The maximum number of family memberships shall be limited to a total of 400".

Chairman Smith stated that in the staff report dated June 25, 1975, that the Board stated in the findings of fact that compliance with the site plan ordinance was required and it was part of the motion.

Mr. Kelley commented that the applicant was just increasing membership and should not be subject to any additional expense; there have been no reported violations.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 77-S-112-1 by ROLLING VALLEY SWIM & TENNIS CLUB, under Section 3-303 of the Zoning Ordinance to amend S-112-77 for community pool and tennis courts to permit increase in maximum family memberships from 300 to 400, on property located at 7200 Hadlow Drive, Tax Map Reference SPA 77-S-112-1, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 21, 1988; 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 2.607 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. The maximum number of family memberships shall be limited to a total of 400.

5. The number of parking spaces provided shall be 73.

6. Bicycle racks for thirty (30) bikes shall be provided.

7. Existing vegetation and landscape plantings shall be maintained and deemed to satisfy the standards for Transitional Screening 1.

8. The barrier requirement shall be waived provided existing fencing remains.

9 Handicapped parking spaces shall be provided at a location nearest the entrance and shall be appropriately marked and striped in accordance with applicable regulations.

10. The hours of operation for the pool shall be limited to 8:00 am to 9:00 pm daily.

11. Any swim meets shall be conducted between the hours of 9:00 am and 9:00 pm and shall be limited to four (4) per season.

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. 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.

    The following procedure is implemented to insure that pool waters are properly neutralized prior to being discharged during draining or cleaning operations. The recommended method involves adding sufficient amounts of lime or soda ash to the acid cleaning solution to achieve a pH approximately equal to that of the receiving stream. The Virginia Water Control Board standards for the class II and III waters found in Fairfax County range in pH from 6.0 to 9.0. In addition, the standard for dissolved oxygen should be attained prior to the release of pool waters. This requires a minimum concentration of 4.0 milligrams per liter.

If the water being discharged from the pool is discolored or contains a high level of suspended solids that could effect the clarity of the receiving stream, it should be allowed to stand so that most of the solids settle out prior to being discharged. Please note that pool waters are not to be discharged into the sanitary sewer system.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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 5-1 with Chairman Smith voting nay and Mr. DiGiulian not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 29, 1988. This date shall be deemed to be the final approval date of this special permit.

Mr. Hammack pointed out that he disagreed with staff placing additional expenses to the applicants in many of the applications which are very expensive, when they have minor changes in the use.

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Page 57, June 21, 1988 (Tape 1), Scheduled case of:

10:05 A.M. ROBERT HENRY BREWER, VC 88-A-060, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 7.6 ft. from side lot line such that side yards total 20 ft. (8 ft. min., 24 ft. total min. side yard required by Sect. 3-207) located at 8620 Hepplewhite Court, on approximately 12,582 square feet of land, zoned R-2(C), Annandale District, Tax Map 70-1((12))28

Kathy Reilly, Staff Coordinator, presented the staff report. Ms. Reilly noted that there was a typographical error in the staff report stating that a variance of 2.2 feet to the combined side yard requirement was requested and should state "3.2" feet to the combined side yard requirement.

Robert Brewer, 8620 Hepplewhite Court, Annandale, Virginia, the applicant, appeared before the Board and outlined the justification for a variance as set forth in the application. Mr. Brewer pointed out the unusual shape and extreme sloping of the lot. He stated there is a requirement of the Homeowner Association that a boat cannot be visible from the front of the property and because of this requirement his was currently being kept by his in-laws. In conclusion, Mr. Brewer stated there were four other properties notified, lots 25, 35, 55 and 56 that have double car garages.

Mrs. Thonen noted for the record that the applicant does have a irregular shaped lot, not only is it narrow but it goes to another extreme angle to the back of the house.

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

Mr. Hammack made the motion to grant VC 88-A-060 based on the applicant's testimony and the facts that the property has converging lot lines, that the property has severe topographical conditions between the front and rear of the property, and that the property has storm sewer easements down both lot lines.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-060 by ROBERT HENRY BREWER, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 7.6 feet from side lot line such that side yards total 20 feet, on property located at 8620 Hepplewhite Court, Tax Map Reference 70-1((12))28, 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 21, 1988; 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 12,582 square feet of land.
4. That the property has converging lot lines.
5. That the property has severe topographical conditions between the front and rear of the property.
6. That the property has storm sewer easements down both lot lines.

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 to finish this structure shall be compatible with the principal dwelling unit.

Mrs. Day seconded the motion.

The motion carried by a unanimous vote of 5-0 with Mr. Kelley not present for the vote and Mr. DiGiulian not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 29, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 59, June 21, 1988 (Tape 1), Scheduled case of:

10:15 A.M. ROBERT L. BLUNT, JR., VC 88-V-034, application under Sect. 18-401 of the Zoning Ordinance to allow a 6 foot high fence to remain in a front yard (4 ft. max. hgt. for a fence in any front yard required by Sect. 10-104), located at 8219 Mount Vernon Highway, on approximately 14,259 square feet of land, zoned R-3, HC, Mount Vernon District, Tax Map 101-4((27))1. (DEF. FROM 5/24/88 SO THAT REPRESENTATIVE FROM SOLIS FENCE CAN APPEAR BEFORE THE BOARD)

Chairman Smith announced that this application was deferred from May 24, 1988 so that a representative from Solis Fence could appear before the Board.

Robert Blunt, 8219 Mount Vernon Highway, Alexandria, Virginia, the applicant, appeared before the Board and stated that David Sines, Zoning Inspector with the Zoning Enforcement Branch, cited him for violation of the County Ordinance.

Tom Sullivan, 10222 Ranger Road, Fairfax, Virginia, representative from Solis Fence Company appeared before the Board. Mr. Sullivan stated that he told the applicant to check the regulations with the County, and check with the adjoining property owners for their comments.

In answer to Mr. Ribble's question, Mr. Sullivan commented that the owner was responsible for all property lines and for staking out those lines, prior to the fence being put in.

Mr. Hammack suggested that the Board have Fairfax County file a violation against Solis Fence for operating illegally.

Prior to making her motion, Mrs. Thonen recommended that Solis Fence Company bring the fence into compliance at their expense and not the applicant's. Mrs. Thonen made the motion to deny VC 88-V-034 based on the fact that it does not meet 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 88-V-034 by ROBERT L. BLUNT, JR., under Section 18-401 of the Zoning Ordinance to allow a 6 foot high fence to remain in a front yard, on property located at 8219 Mount Vernon Highway, Tax Map Reference 101-4((27))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 June 21, 1988; 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 14,259 square feet of land.
4. That Solis Fence Company has agreed to bring the fence into conformance without cost to the applicant.

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 4-2 with Mr. Hammack and Mr. Kelley voting nay and Mr. DiGiulian not present for the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on June 29, 1988.

Mr. Hammack pointed out that he was voting against the motion because the applicant presented testimony that he needs the six foot fence in the front yard on this particular property location. Mr. Hammack reiterated that Solis Fence Company should be reported to Zoning Enforcement for whatever action they deem appropriate.

Mrs. Thonen stated she was satisfied with Solis Fence Company going out and correcting the 6 foot fence in the front yard, and did not think it was appropriate to report to Zoning Enforcement.

Mr. Kelley pointed out that he supported Mr. Hammack in that the six foot fence should be granted in the front yard.

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Page 61, June 21, 1988 (Tape 1), Scheduled case of:

10:25 A.M. THE CHARLES E. SMITH COMPANIES/THE ARTERY ORGANIZATION PARTNERSHIP, A 88-S-001, appeal of Zoning Administrator's decision that breezeways in appellant's proposed multiple family dwelling complex constitute gross floor area, 11800 Lee Highway, on approximately 50.7 acres of land, zoned PDC, Springfield District, Tax Map 56-1((1))pt. 40A. (DEFERRED FROM 4/19/88 AND 5/24/88 AT THE APPLICANT'S REQUEST)

Chairman Smith announced that the Board was in receipt of a letter from Mr. Emrich with the law firm of Walsh, Colucci, Stackhouse, Emrich and Lubeley, requesting to withdraw the appeal.

Mrs. Thonen moved that the Board grant the request to withdraw the Appeal of Charles E. Smith Companies/The Artery Organization Partnership.

Mrs. Day seconded the motion which passed unanimously 6-0, with Mr. DiGiulian absent from the meeting.

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Ms. Kelsey presented the Board with copies of the Agendas from June 28 through September 20, 1988, so the Board would be aware of the schedule before they voted on Out-of-Turn Hearing Requests. In addition, three (3) applications have been scheduled 2 or 3 days out of the 90 day time limit set in the code and the code requires that if an application is scheduled out of the 90 day limit, that the BZA so approve. The Board approved the Agenda and asked that staff try to get concurrence of the applicant for those applications which are set outside the 90 day limit.

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Page 61, June 21, 1988 (Tape 1), After Agenda Item #1:

R & R Associates
SP 88-C-048
Out-of-Turn Hearing Request

Mr. Ribble moved to deny the request for an out-of-turn hearing for SP 88-C-048.

Mr. Kelley seconded the motion which passed unanimously 6-0 with Mr. DiGiulian absent from the meeting.

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Page 61, June 21, 1988 (Tape 1), After Agenda Item #2:

Gerhard Stohrer
VC 86-S-077
Additional Time Request

Mr. Hammack moved to grant the request for additional time for Gerhard Stohrer. The new expiration date will be December 28, 1989.

Mr. Ribble seconded the motion which passed unanimously 6-0 with Mr. DiGiulian absent from the meeting.

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Page 61, June 21, 1988 (Tape 1), After Agenda Item #3:

Aldersgate United Methodist Church
SPA 86-V-063-1
Out-of-Turn Hearing Request

Mr. Hammack made the motion to deny the request for an out-of-turn hearing for Aldersgate United Methodist Church.

Mr. Ribble seconded the motion which passed unanimously 6-0 with Mr. DiGiulian absent from the meeting.

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Page 62, June 21, 1988 (Tape 1), After Agenda Item #4:

McLean Bible Church
SPA 73-D-151-2
Out-of-Turn Hearing Request

Mrs. Thonen moved to grant the applicant's request that SPA 73-D-151-2 be scheduled simultaneously with the variance application on July 26, 1988 at 11:15 a.m..

Hearing no objection, the Chair so ordered.

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Page 62, June 21, 1988 (Tape 1), After Agenda Item #5:

Approval of Resolutions for June 14, 1988

Mrs. Thonen moved to grant the Resolutions as submitted.

Mr. Ribble seconded the motion which passed unanimously 6-0 with Mr. DiGiulian absent from the meeting.

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Page 62, June 21, 1988 (Tape 1), After Agenda Item #6:

David and Cynthia Brent, VC 88-M-026
Out-of-Turn Hearing

Ms. Kelsey pointed out that the Brent Application was an application to allow a pool in a front yard. The plat did show a fence around the pool, the fence in the side yard was 6 feet in height. The applicant requested to have the pool in the front yard, and did not make the application for the fence. Mr. Hammack did mention he would include the 6 foot fence in his motion, but if the applicant could build a 4 foot fence in accordance with Health Department requirements, that the applicant should do so. The six (6) foot fence was not advertised so it could not be approved. Ms. Kelsey pointed out that the neighbors have called and the fence was under construction and that the Health Department stated that only a four foot fence was required in a front yard.

Ms. Belofsky informed the Board that she spoke with the applicant and his wife and reiterated the Board's action was for the approval of the pool only, and not the house nor the fence. The applicants advised Ms. Belofsky they intended to go forward with the construction of the six foot fence around the pool.

Mrs. Thonen made the motion to deny the request for the out-of-turn hearing.

Mr. Ribble seconded the motion which passed unanimously 6-0 with Mr. DiGiulian absent from the meeting.

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Page 62, June 21, 1988 (Tape 1), After Agenda Item #6:

Request of Development Condition Interpretation for James B. Thorsen
Thorsen Construction Company

Mr. Thorsen appeared before the Board and asked to be recognized. The Chairman stated that this was highly irregular, but the Board would hear a brief statement to determine whether or not it had jurisdiction over the applicant's concern.

Mr. Thorsen explained that he disagreed with development condition number 3 of the Variance approval which stated:

> "3. Only one (1) entrance to Lots 1, 2, and 3 shall be allowed from Fort Hunt Road. The driveway easements shall be recorded with deeds to the property to ensure future access to these lots via a common driveway."

He added that he did not wish to put in a driveway to Lot 3 since there was an existing driveway to the easement over the Sandburg School property.

Mr. Hammack stated that the Board had no jurisdiction to change conditions from a previous Variance approval. He added that any change would have to be readvertised and go through the hearing process again.

Ms. Kelsey outlined the background of this case as follows:

> 1) In January, 1986 the applicant filed a Variance application (VC 86-V-002) to allow the subdivision of Lot 54 into five (5) lots.

2) In April, 1986, the Board of Zoning Appeals granted this Variance in-part for the subdivision of Lot 54 into three (3) lots. Lots 1 and 2 would satisfy the minimum lot width requirements, but proposed Lot 3 would be a pipestem lot with a lot width of 12 feet.

3) The previous Variance expired in November, 1987, which required the applicant to file a new application.

4) The applicant submitted the first subdivision plat to the Department of Environmental Management (DEM) in January, 1987. The preliminary plat was approved. However, the record plat has not been approved and recorded, therefore the variance expired. The BZA approved the application, but the subdivision plat, according to DEM, does not comply with condition 3.

5) While this record plat was still pending, the applicant recorded a deed by metes and bounds in the land records of Fairfax County, this deed showed two lots. A copy of this deed was transmitted to the County Mapping Division and the maps were changed accordingly to show two lots. Subsequently, the applicant applied for and obtained a building permit to construct a dwelling on Lot 54. The other lot, 54A, already had an existing dwelling. At that time, it had not been determined that the subdivision was not approved and the building permit should not have been issued. Based on conversations with personnel in DEM, the building permit was issued because the County map book showed Lot 54 as a separate lot with a separate address. Moreover, DEM was unaware that the subdivision had not been approved by the County. A house has been constructed on Lot 54 and the existing house remains on Lot 54A. However, the official County records state that the entire lot was still recorded as Lot 54 because the mapping was based on a deed which had not been approved by DEM in accordance with the Subdivision Ordinance. It was an illegal subdivision.

Mr. Ribble stated that he did not see a conflict in the development condition and moved that a memo be sent immediately to the Zoning Administrator regarding Thorsen Construction. He asked that the memo reflect it was the "sense" of the Board that there was no conflict between the development condition which allows ingress and egress from Fort Hunt Road since that condition does not limit access to Lot 3 from the existing driveway to the easement onto the Sandburg School property. The Board did nothing to eliminate that entrance. The driveway goes to the easement on Sandburg School property from Lot 3 and that driveway then accesses Fort Hunt Road.

Mrs. Thonen seconded the motion and asked that a copy of this memo be sent to John Winfield, Branch Chief, Site Review, Department of Environmental Management.

Mr. Hammack stated that he was not sure that Mr. Thorsen had complied technically with condition 3.

Mr. Ribble stated that he was aware of the additional entrance to Lot 3 and did not think the access to the easement should be denied. He added that the applicant should provide the legal access from the common driveway for all the lots to Fort Hunt Road, but if he wanted to continue to use the existing driveway that was his choice.

Chairman Smith stated that this was highly irregular as the Board originally granted the Variance to allow this subdivision to come into being. The Board went overboard to allow the applicant to get himself out of a bad situation, but for the Board to continue to bend the rules was highly irregular. He added that it was the Zoning Administrator who was charged with the responsibility of interpreting the conditions of this Board, as well as conditions and proffers of the Board of Supervisors.

The Board members advised Mr. Thorsen that he should write the Zoning Administrator requesting an interpretation of the conditions of the Variance if he needed clarification. They stated that they were not interpreting but clarifying their thoughts when they approved the motion.

Mr. Hammack stated that he would not support the motion since he felt procedurally the Board should not be doing this. Mrs. Thonen agreed.

Mr. Kelley stated that he supported the motion, but felt that unless all the Board members could support the motion, there would be a false impression that the Board was not united on the main issue. All the members seemed to be in agreement.

Mr. Ribble stated that his main thought was to convey the "sense" of the Board that there was no conflict with the condition and the other driveway could remain provided the applicant met condition 3 for the main driveway to all three lots.

Ms. Kelsey stated that without a motion there was no Board action. Since members were expressing their own opinions that they appeared not to be in unanimity, a letter could not be addressed to the Zoning Administrator advising her of the Board's recommendation if there was no approved motion.

Mr. Ribble withdrew his motion.

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As there was no other business to come before the Board, the meeting was adjourned at 12:45 p.m.

Tamara S. Gentry, Associate Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: October 4, 1988

APPROVED: October 11, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 28, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; John Ribble; and, Mary Thonen. Robert Kelley was absent from the meeting.

Chairman Smith opened the meeting at 9:40 A.M. and Mrs. Day led the prayer.

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Page 65, June 28, 1988, (Tape 1), Scheduled case of:

9:00 A.M. HAPPY FACES CHILD DEVELOPMENT CENTER, SP 88-V-035, application under Sect. 3-403 of the Zoning Ordinance to allow nursery school and child care center, located at 6215 Richmond Highway, on approximately 36,768 square feet of land, zoned R-4, C-8, and HC, Mount Vernon District, Tax Map 83-3((1))38 and Outlot A.

Chairman Smith informed the Board members that staff had indicated that the notices were not in order in this case.

Lori Greenlief, Staff Coordinator, suggested a new public hearing date of September 27, 1988 at 9:00 A.M. and stated that the applicant was present if there were any questions.

Mrs. Thonen asked when the applicant planned to open the child care center. The applicant, Jacqueline Smith, 4319 Rockcreek Road, Alexandria, Virginia, came forward and stated that she hoped to open the school on August 1, 1988.

Mrs. Thonen asked staff if there was any possible way to move this public hearing to an earlier date. Mrs. Greenlief replied that at least thirty days was needed in order for the applicant to meet the notice requirement as stipulated in the Zoning Ordinance.

Mrs. Thonen then made a motion to defer this case to September 6, 1988 at 8:00 p.m. Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Hammack absent from the meeting.

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Page 65, June 28, 1988, (Tape 1), Scheduled case of:

9:15 A.M. JOHN APINIS AND INARA APINIS, VC 88-D-053, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 4.7 feet from side lot line and 20.0 feet from rear lot line (12 ft. min. side yard and 25 ft. min rear yard required by Sect. 3-307) and to allow construction of deck 4.0 feet from the other side lot line (7 ft. min. side yard required by Sects. 3-307 and 2-412), located at 1524 Pathfinder Lane, on approximately 15,244 square feet of land, zoned R-3, Dranesville District, Tax Map 30-4((2))(8)15 and 16.

Chairman Smith stated that staff had indicated that the notices were not in order in this case.

The applicant, John Apinis, 1524 Pathfinder Lane, McLean, Virginia, explained that there were only two adjoining property owners who were notified outside the fifteen day deadline and that one property owner was present to voice his support.

Chairman Smith stated that the Chair would rule that the notices were not in order because the applicant had not met the deadline as stipulated in the Zoning Ordinance.

Mr. Ribble noted that he sympathized with the applicant but did agree with the Chair.

Lori Greenlief, Staff Coordinator, suggested September 27, 1988 as a deferral date because presently the Board had four cases scheduled on September 6, ten cases scheduled on September 13, and five cases scheduled with three tentative cases on September 20.

Following a discussion among the Board members, Mr. Ribble made a motion to defer this case to September 20, 1988 at 9:15 A.M. Hearing no objection, the Chair so ordered.

Jane Kelsey, Chief, Special Permit and Variance Branch, stated for the record that the Office of Assessments would only give out by telephone the names and addresses of two property owners at a time, therefore, staff suggested that the applicants go in person to the Office of Assessments to obtain the needed information. This would also assist the applicant in obtaining the correct property owners as he could use both the map and the records in addition to the assessment personnel who would be there to assist.

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Page 66, June 28, 1988, (Tape 1), Scheduled case of:

9:30 A.M. KEITH MARKHAM AND TRACY SANDERS, SP 88-V-037, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow detached garage to remain in a front yard on a corner lot and 4.2 ft. from rear lot line (accessory structure not permitted in any front yard and 10 ft. min. side yard required by Sects. 3-407 and 10-104) located at 6801 Swarthmore Drive, on approximately 7,846 sq. ft. of land, zoned R-4, Mt. Vernon District, Tax Map 93-1((23))(2)14

Lori Greenlief, Staff Coordinator, stated this application needed to be converted from a special permit to a variance application and that the applicant agreed with a deferral. She suggested a deferral date of September 27, 1988 at 9:00 a.m.

Chairman Smith polled the audience to determine if anyone was present who was interested in the case and Harold Henegax, 6802 Swarthmore Drive, Alexandria, Virginia, came forward to address the application.

Chairman Smith explained that the Board was not going to hear the case today and suggested that the speaker come back on September 27 or submit his comments in writing.

Hearing no objection, the Chair so ordered to defer this case to the date and time suggested by staff.

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Page 66, June 28, 1988, (Tape 1), Scheduled case of:

9:45 A.M. THE MILTON COMPANY, SP 88-L-011, application under Sect. 3-803 of the Zoning Ordinance to allow community tennis court, located at 5901 South Van Dorn Street, on approximately 0.5873 acres of land, zoned R-8, Lee District, Tax Map 81-4((1))Part of 33 and Part of 34

Kathy Reilly, Staff Coordinator, presented the staff report and stated that it is staff's opinion that SP 87-L-011 should be denied as it did not satisfy standards 1, 2, 3, 4, and 5.

Marc Bettius, attorney with the law firm of Miles & Stockbridge, 11350 Random Hill Road, Suite 500, Fairfax, Virginia, represented the applicant. He added that in 1985 this piece of land had been the subject of a rezoning application heard by the Board of Supervisors and had resulted in the applicant committing to a proffered condition plan which included this tennis court. At that time, the Board of Supervisors told the applicant of the possible need for road improvements in the area and requested that a plat not be recorded until August 1987, the applicant agreed. As this time has now passed and the County has not taken any land for road improvements, the applicant now wants to go forward with the development and that the tennis court was proffered to be in this location. Concerning the recommendation in the staff report, Mr. Bettius stated that the applicant had added additional parking spaces and transitional screening, but disagreed with the barrier as this was a common recreation area between two projects owned by the applicant. He added that during a meeting with John McBride, Director, Land Acquisition, Department of Public Works, it was requested that the applicant consider entering into an agreement with the County to "fix" the price of the land and "a take" would occur in the very near future. He stated that it was his opinion that the County should acquire land by paying for it.

Chairman Smith pointed out that staff had made their recommendation of denial based on the application not meeting the standards required for a special permit and that he did not agree that this would affect the rezoning.

Mrs. Thonen stated that the proffered conditions placed on the applicant by the Board of Supervisors could not be altered by this application.

Chairman Smith asked why the applicant was before the Board of Zoning Appeals. Mr. Bettius explained that he did not believe that the applicant should be here, but that Department of Environmental Management (DEM) had made a determination that a special permit was needed and the applicant had complied.

In response to questions from Mrs. Thonen, Jane Kelsey, Chief, Special Permit and Variance Branch, replied that the Board of Supervisors was not certain what portion of the site was going to be needed for the road improvements, and because of that uncertainty a condition had been added that prevented the applicant from recording a subdivision plat prior to August 1987. She pointed out that staff had discussed a deferral with the applicant until such time as a decision could be reached regarding the road improvement but the applicant would not agree.

Mr. Kelley stated that it was his belief that the applicant had not been treated fairly by the County and that the Board should grant this request.

In response to a question from Mrs. Thonen, Ms. Kelsey replied that it was staff's belief that if the tennis court was constructed it would raise the value of the land.

As there was no further discussion, Chairman Smith called for speakers in support of this request. Hearing no reply, he called for speakers in opposition to the request.

The following citizens came forward: Mark Saunders, 5937 Woodfield Estates Drive, Alexandria, Virginia, represented the Board of Directors for the Willow Creek South Homeowners Association; and, John Cleckner, 5916 Woodfield Estates Drive, Alexandria, Virginia.

They opposed the application as they believed that the present parking was inadequate and that the construction of additional townhouses and a tennis court would not help the problem.

During rebuttal time, Mr. Bettius stated that there was not enough parking anywhere in Fairfax County and added that the applicant had met the parking requirement and had cooperated with the County throughout the entire process.

Chairman Smith asked whether construction of the townhouses had begun and if not when would construction occur. Mr. Bettius stated that there are no existing townhouses on this portion of the site and the applicant would agree to a condition that states "the addition of the tennis court will not raise the value of that property one nickel."

Bob Jansen, 1430 Spring Hill Road, Arlington, Virginia, a representative of the Milton Company, explained that there was a final site plan in DEM and that the approvals of both the fire marshal and the water authority have been obtained.

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

Mrs. Thonen made a motion to grant this application as she believed that the applicant had satisfied the standards for a special permit. She added that she was pleased that the applicant had postponed construction for such a long period of time in order to cooperate with the County on the possible road improvements, which would take a portion of the subject site. The approval was subject to the development conditions contained in the staff report with the following addition:

"11. No development to take place before August 1989."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-L-011 by THE MILTON COMPANY, under Section 3-803 of the Zoning Ordinance to allow community tennis court, on property located at 59801 South Van Dorn Street, Tax Map Reference 81-2((1))17C and 81-4((1))32, 33, 34, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 28, 1988; 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 8.83 acres of land.
4. The applicant has postponed construction on the site for approximately three years.
5. The Board of Supervisors must have been aware of the proposed road improvements.

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 parcel to the Willow Creek North Homeowners' Association, this approval will transfer to the homeowners' association and is for the location indicated on the application and is not transferable to other land.

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

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

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

5. The hours of operation shall be limited to daylight hours only, 365 days a year.

6. Four (4) paved parking spaces shall be provided. A bicycle storage rack for six (6) bicycles shall also be provided.

7. The tennis court shall have no outdoor lighting.

8. There shall be no employees associated with the tennis court.

9. A grading plan shall be obtained for the tennis court.

10. Transitional Screening 1 shall be provided around the eastern and southern lot lines of the special permit site with the following modifications:

    o Transitional Screening 1 shall be provided along the eastern lot line. The plantings, size, type and location shall be determined by the County Arborist to meet the intent of Transitional Screening 1. A Barrier F shall be provided along the eastern lot line for approximately 190 feet. This barrier shall be made of solid wood and be six (6) feet in height.

11. No development to take place before August 1989.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required 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 5-1 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 7, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 68, June 28, 1988, (Tape 1), Scheduled case of:

10:00 A.M. GIRARD J. GURGICK, SP 88-S-036, application under Sect. 8-901 of the Zoning Ordinance for modification to minimum yard requirements for an R-C lot to allow deck addition to dwelling to 15.0 ft. from side lot line (20 ft. min. side yard required by Sects 3-C07 and 2-412) located at 15243 Louis Mill Drive, on approximately 10,640 sq. ft. of land, zoned R-C, AN and WS, Springfield District, Tax Map 33-4((2))258

Kathy Reilly, Staff Coordinator, presented the staff report and stated that it was staff's opinion that the applicant had satisfied the standards for a special permit, therefore staff recommended approval of this application.

Page 69, June 28, 1988, (Tape 1), (Girard J. Gurgick, SP 88-S-036, continued from Page 68)

The applicant, Girard Gurgick, 15243 Louis Mill Drive, Chantilly, Virginia, came forward and stated that there are glass doors on the rear of his house and he planned to line up the deck with those doors. He added that he had not been aware of any setback requirements until he went to apply for a building permit and was told that he would need to apply for a special permit. He asked the Board to grant the request and to waive the eight day waiting period.

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

Mr. DiGiulian made a motion to grant SP 88-S-036 as he believed that the applicant had presented testimony showing compliance with the standards for this Special Permit.

The Board also waived the eight day time limitation.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-036 by GIRARD J. GURGICK, under Section 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow deck addition to dwelling to 15.0 feet from side lot line, on property located at 15243 Louis Mill Drive, Tax Map Reference 33-4((2))258, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 28, 1988; 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, AN and WS.
3. The area of the lot is 10,640 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 approval is granted for the location and the specific structure shown on the plat included with this application and is not transferable to other land.

2. A Building Permit shall be obtained prior construction of the proposed structure.

Mrs. Thonen seconded the motion which carried by a vote of 5-0 with Mr. Kelley 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 June 28, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 69, June 28, 1988, (Tape 2), Scheduled case of:

10:15 A.M. JOSEPH F. KLIMAVICZ, VC 88-S-054, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 5.3 ft. from side lot line (7 ft. min. side yard required by Sects. 3-307 and 2-412) located at 6302 Greeley Boulevard, on approximately 11,537 square feet of land, zoned R-3, Springfield District, Tax Map 79-4((2))578

Heidi Belofsky, Staff Coordinator, presented the staff report.

The applicant, Joseph Klimavicz, 6302 Greeley Boulevard, Springfield, Virginia, told the Board that his lot was very narrow as compared to the other lots and that there are other carports in his neighborhood. He added that this was the only location where a carport could be constructed and added that there was no room to park his vehicles on the street in front of his house because of a bus stop.

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

Mrs. Day made a motion to grant this application as she believed that the request was minimal, that the lot was narrow, that this was the only feasible location for a carport, and that the size of the addition cannot be reduced because a chimney juts out into the area of the proposed construction.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-054 by JOSEPH F. KLIMAVICZ under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 5.3 feet from side lot line, on property located at 6302 Greeley Boulevard, Tax Map Reference 79-4((2))578, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on June 28, 1988; 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 11,537 square feet of land.
4. This is a minimal request.
5. The lot is exceptionally narrow.
6. There is a chimney which juts out into the area of the proposed construction.
7. The size of the proposed carport is not exceptionally large.
8. There is adequate space between the applicant and the adjoining property.

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:
   F. An extraordinary situation or condition 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 the approved addition.

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 7, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 71, June 28, 1988, (Tapes 2 and 3), Scheduled case of:

10:30 A.M. SMC - LEARNING CENTERS LIMITED PARTNERSHIP, SP 88-S-034, application under Sect. 3-803 of the Zoning Ordinance to allow 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 65-2((1))pt. 15.

Heidi Belofsky, Staff Coordinator, presented the staff report and stated that on November 17, 1987, the Board of Zoning Appeals heard a similar application which was denied by a vote of 3-2, even though staff had informed the Board at the time of the previous public hearing that all outstanding issues had been resolved and staff recommended approval. The Board did grant the applicant a waiver of the 12-month waiting period for the filing of a new application. With regard to the waiver time limitation, Ms. Belofsky stated that one speaker from the previous hearing had made allegations that the waiver of the 12-month time limitation had been done in a "back room closed session of the Board."

In response to questions from the Board regarding these allegations, Ms. Belofsky replied that the letter had been signed by Preston and Beverly Mulford, owners of the adjacent lot who operate a day school on their property. The Board expressed surprise that the speakers had made such allegations.

Ms. Belofsky continued by stating that the applicant had made the following modifications to the application: 1) the building is now centrally located on the site with a maximum height of 18 feet, 2) 21 parking spaces, including handicapped, will be constructed in front of the building, 3) there would be an emergency turn around area with access off Singleton's Way, 4) the proposed play area encompasses 13,800 square feet, 5) extensive landscaping, berm, and storm water management area have been added, and 6) the applicant was proposing at least 70 percent open space on the site as compared to the required 20 percent.

Ms. Belofsky stated that at the last public hearing, the Board had requested that the applicant submit a transportation study which they did and the study had been analyzed by the Office of Transportation. She added that John Herrington with the Office of Transportation was present if the Board had questions.

In conclusion, Ms. Belofsky stated it was staff's opinion that the proposed use was in harmony with the Comprehensive Plan, was compatible to a similar use to the north, will serve to buffer the large commercial area to the west from the townhouses, and will not adversely impact the neighboring properties; therefore, staff recommended approval of the application based on the development conditions contained in the staff report being implemented. She noted that on June 23, 1988, the Planning Commission recommended to the Board of Zoning Appeals that this application be denied and that the BZA hearing

on this application be rescheduled for a night meeting. She added that a letter had been received by staff from the Office of Children which noted the dire need for day care centers in the Centreville area.

In response to questions from Mr. Ribble regarding the transportation study, Mr. Herrington replied that the only place of any disagreement was in the volume of trip generation, but noted that for day care centers typically 75 to 95 percent of these trips are an interruption of trips that are already on the road.

The applicant's attorney, Grayson Hanes, with the law firm of Hazel, Thomas, Fiske, Beckhorn and Hanes, 3110 Fairfax Park Drive, Falls Church, Virginia, submitted a analysis of the criteria the applicant must meet to be granted a special permit for this type of use. He stated he had also contacted a real estate appaiser, Thomas E. Reed, who advised that in his opinion this application would have no economic, adverse impact on the surrounding properties. Mr. Hanes stated the applicant regreted that the citizens are opposed to this request but believed there was no way that an agreement can be reached with the citizens.

Mr. Hanes addressed the issues by stating that the use would be located in an area that was planned for 625 townhouses and where there was an existing day care center. He noted the revisions that the applicant had made in the application and added that the applicant is willing to accept a condition that states "a Non-Residential Use Permit would not be obtained until New Braddock Road was completed or until January 1, 1990." He pointed out that if competitive issues were involved in this application, the Davis Case heard by the Virginia Supreme Court, whereby the Court ruled for free enterprise, addressed those issues. Mr. Hanes concluded by stating that the application meets all the criteria for a special permit and asked the Board to grant the request.

Chairman Smith called for speakers in support of the request, and hearing no reply called for speakers in opposition to the request. The following came forward: Leslie Kinkead, President of Concerned Citizens of Singleton's Grove, and Daniel Kinkead, 13965 Antonia Ford Court, Centreville, Virginia; Michael K. Boone, Sr., 13968 New Braddock Road, Centreville, Virginia; Beverly M. Mulford, 6101 Old Centreville Road, Centreville, Virginia; David O. Kane, 13985 Antonia Ford Court, Centreville, Virginia; Preston Mulford, 6101 Old Centreville Road, Centreville, Virginia; Dorothy E. Roberson; 6020 Old Centreville Road, Centreville, Virginia; and Reza Darvishian, 13977 Antonia Ford Court, Centreville, Virginia.

The citizen's opposition was based on the traffic they believed would be generated by the proposed use as the roads were already heavily traveled and to allow this use to be constructed at the entrance to their subdivision would bring commercialization right to their doors.

When Mrs. Mulford came to the podium, she stated that she would like to clarify her statement about the Board meeting in a "back room" session to grant the waiver of the 12-month time limitation. She stated that it was not her intent to insult the Board and was sorry if this had been the result of her letter.

Chairman Smith informed Mrs. Mulford that it was the Board's practice to always consider a request from an applicant for a waiver, especially when the application was denied for the lack of four affirmative votes.

Mrs. Thonen stated she resented the speaker's reference to the Board meeting only with the applicant's attorney in secret session to discuss the waiver. The other Board members agreed with Mrs. Thonen's comments.

During rebuttal, Mr. Hanes stated that this was not a commercial use but a permissible use under the Zoning Ordinance and that the applicant had satisfied all the criteria for a special permit. He reiterated his earlier comments and asked the Board to grant the request.

Ms. Belofsky stated that funding of New Braddock Road had been completed since the filing of this application.

As there were no further comments, Chairman Smith closed the public hearing.

Mr. Ribble stated that he had voted against the previous application, but he would support this application because the applicant had revised the application by reducing the size of the building, providing more open space, and improving the landscaping. He added he did not believe this use would adversely impact the community; therefore, he made a motion to grant the request subject to the development conditions contained in the staff report with the following addition:

"19. The day care center shall not receive a Non-Residential Use Permit until such time as the segment of New Braddock Road between Singleton's Way and Route 28 is bonded by Fairfax County or January 1, 1990, which ever is sooner."

Mrs. Thonen stated that she would support the child care center because there were no grounds for denial, but added she wished it were located in the development rather than at the entrance.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-034 by SMC - LEARNING CENTERS LIMITED PARTNERSHIP, under Section 3-803 of the Zoning Ordinance to allow child care center, on property located at Old Centreville Road and Singleton's Way, Tax Map Reference 65-2((1))pt. 15, 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 28, 1988; 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 1.25 acres of land.
4. The applicant has revised the application by reducing the size of the building, providing more open space, and improving the landscaping.
5. The transportation study submitted by applicant has satisfied the Office of Transportation.
6. This use will not adversely impact the community.

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. Any plan submitted to the Director, Department of Environmental Management, shall conform to the approved plat and these conditions.

5. The maximum daily enrollment shall be 99 students.

6. The maximum number of employees on site at any one time shall be ten (10).

7. The hours of operation shall be limited to 6:30 a.m. to 7:00 p.m., Monday through Friday.

8. The following transportation improvements shall be provided by the applicant as may requested by the Director, DEM. These issues shall be addressed at the time of site plan review.

   - Dedication along the site frontage of Old Centreville Road necessary for road improvements shall be dedicated for public street purposes and shall convey to the Board of Supervisors in fee simple and

   - Construction of right-of-way on Old Centreville Road shall be provided in accordance with the specifications of the Virginia Department of Transportation.

   - Ancillary easements (formerly referred to as temporary grading and construction easements) shall be provided to facilitate road improvements on Old Centreville Road.

9. Twenty-one (21) parking spaces shall be provided on site. Adequate turnaround are shall be provided as shown on the plat.

10. Transitional Screening 1 shall be provided on the northern, eastern, and southern lot lines. The landscaping and the specific plantings shown on the plat shall satisfy the planting requirement subject to the approval of the County Arborist.

11. The outdoor play area shall contain approximately 13,680 square feet and shall be located in the area shown on the plat. Fencing around the play area shall be provided as required by the Health Department

12. The barrier requirement shall be modified to allow the outdoor play area fencing and the berming shown on the plat to satisfy this requirement.

13. Interior parking lot landscaping shall be provided in accordance with the provisions of Article 13.

14. The design of the structure shall be architecturally compatible with the residential character of the area as determined by the Director, DEM. The roof of the structure shall be earth tone in color. Maximum building height shall be eighteen (18) feet.

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

16. Outdoor lighting, if installed, shall be erected in accordance with the following specifications:

    The combined height of the light standards and fixtures shall not exceed twelve (12) feet.

    The lights shall be of a low intensity design which focuses the light directly on the subject property.

    Shields shall be installed, if necessary, to prevent the light from projecting beyond the lot lines.

17. The facility shall be served by public water and sewer.

18. Stormwater Best Management Practices (BMPs) shall be provided in the location shown on the plat, as may be acceptable to the Director, DEM.

19. The day care center shall not receive a Non-Residential Use Permit until such time as the segment of New Braddock Road between Singleton's Way and Route 28 is bonded by Fairfax County or January 1, 1990, which ever is sooner.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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-six (36) 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 75, June 28, 1988, (Tapes 2 and 3), (SMC - Learning Centers Limited Partnership, SP 88-S-034, continued from Page 74)

Mrs. Day seconded the motion which 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 7, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 75, June 28, 1988, (Tape 3), After Agenda Item:

Resolutions for June 28, 1988

Jane Kelsey, Chief, Special Permit and Variance, pointed out to the Board that it would not be meeting until the following Thursday, July 7; therefore, the Resolutions could not be approved next Tuesday. She added because SMC was such a controversial case that perhaps the Board should not make its decision final today.

Mrs. Thonen made a motion to make the final approval date of the Board's action today final on July 7, 1988. Mr. Hammack seconded the motion which carried by a vote of 6-0 with Mr. Kelley absent from the meeting.

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Page 75, June 28, 1988, (Tape 3), Information Item:

Jane Kelsey, Chief, Special Permit and Variance Branch, reminded Chairman Smith about the discussion held earlier regarding a special meeting by the Board to be held on September 22, 1988 in order for the BZA to meet the 90-day time limitation for deciding applications.

Mrs. Thonen made a motion to hold a special meeting by the Board of Zoning Appeals to be held on September 22, 1988. Mr. Ribble seconded the motion which carried by a vote of 6-0 with Mr. Kelley absent from the meeting.

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Page 75, June 28, 1988, (Tape 3), Information Item:

Several of the Board members expressed concern over the letter referenced during the SMC hearing from the adjacent neighbors rebuking the Board for holding a closed session and why this was not brought to the Board's attention prior to today.

Heidi Belofsky, Staff Coordinator, explained that the letter was addressed personally to Chairman Smith and that Kevin Guinaw, the Staff Coordinator on the previous application, and Jane Kelsey, Chief, Special Permit and Variance Branch, had worked with Chairman Smith on the reply.

Mr. Ribble stated that since the integrity of the entire Board was questioned he believed that all members should have been informed. The other members agreed.

Chairman Smith asked that in the future to please apprise all Board members of such letters.

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

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

Daniel Smith, Chairman Board of Zoning Appeals

SUBMITTED: October 4, 1988

APPROVED: October 11, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, June 30, 1988. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen. John DiGiulian, Vice-Chairman, was absent from the meeting.

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

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Page 76, June 30, 1988, (Tape 1), Scheduled case of:

9:00 A.M. B. DAVID AND LYNN M. WINGERD, VC 88-A-32, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling 2.1 ft. from side lot line and 11.2 from the floodplain (15 ft. min. side yard required by Sect. 3-207 and 15 ft. min. yard from a floodplain required by Sect. 2-415) located at 4306 Braeburn Drive, on approximately 16,740 square feet of land, zoned R-2, Annandale District, Tax map 69-2 ((6))243

Kathy Reilly, Staff Coordinator, presented the staff report and advised the Board that the entire width of the proposed garage is 27.9 feet, according to the footprint on the plat.

B. David Wingerd, 4306 Braeburn Drive, Annandale, Virginia, the applicant, appeared before the Board and explained his request and stated, in reference to the width of the garage, that the stoop in fact is only 4 feet, that the dimension on the plat is 4 feet and the dimension on the ground is 4 feet, and that the width of the proposed garage would be 24.9 feet.

Ms. Reilly explained that Mr. Wingerd's plat would appear to be in error if indeed it is 24 feet, that it had been measured to scale, which is the normal procedure for every plat that staff reviews.

Mr. Ribble moved that, in the absence of a surveyor's measurement, the Board defer the application until a new survey showing the correct dimension is obtained.

Mrs. Thonen seconded the motion to defer the application, which passed unanimously by vote of 5-0, Mr. Hammack not present, Mr. DiGiulian absent.

The Board suggested that the applicant get new plats of the existing structure and what is proposed to be added, showing the correct dimensions. Ms. Kelsey stated for the record that the applicant did not present his justification, so he would need to present that at the next meeting. The Board decided to defer the hearing on the application until July 7, 1988 at 11:15 by a unanimous vote of 5-0.

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Page 76, June 30, 1988, (Tape 1), Scheduled case of:

9:15 A.M. TEMPLE BAPTIST CHURCH, SPA 85-D-009-2, application under Sect. 3-303 of the Zoning Ordinance to renew child care center use, increase parking, relocate trailer and change approved building addition to phases, located at 1545 Dranesville Road, on approximately 6.2 acres of land, zoned R-3, Dranesville District, Tax Map 10-2 ((1))7 and 7A.

Jane C. Kelsey, Chief, Special Permit and Variance Branch, advised the Board that the applicant was present, but the notices were not in order since the applicant had given the Department of Assessments the incorrect tax map number inadvertently and, because of that, the incorrect person was notified. Ms. Kelsey stated there were also some staff issues which have not been addressed, so the applicant should contact the Staff Coordinator, Lori Greenlief, to try to resolve these problems, relating to transportation primarily.

Mrs Thonen moved to grant a deferral to September 20, 1988 at 9:30 a.m., a motion which passed unanimously by a vote of 5-0, Mr. Hammack not present for the vote and Mr. DiGiulian absent.

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Page 76, June 30, 1988 (Tape), Scheduled case of:

9:30 A.M. GAYE L. AND JOHN F. COLLINS, VC 88-C-056, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 9.2 ft. from a side lot line such that side yards total 19 ft. (8 ft. min. 24 ft. total min. side yard required by Sect. 3-207) located at 2324 Riviera Drive, on approximately 12,885 square feet of land, zoned R-2 (C), Centreville District, Tax Map 38-1 ((22))29

Denise James, Staff Coordinator, presented the staff report and advised the Board that the applicants met the minimum side yard requirements, but not the total side yard requirement.

Mr. Ribble pointed out the unusual discrepancy between the recorded address of 2324 and the posted address of 2322 listed on the plats.

Gaye L. Collins, 2324 Rivera Drive, Centreville, Virginia, appeared before the Board and explained that this is the only property that they own, consisting of one lot, and that a possible explanation for the two addresses is that the builder had planned to have an ingress from Riviera to a house behind theirs, but it actually has an ingress from the other side. The applicant then explained her request as outlined in the statement of justification submitted with the application. In addition, she stated that the neighbor next door had submitted a letter in support.

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 applicant had stated that when the existing carport is enclosed, now being under a structured roof, it will not extend into the yard beyond the existing carport; that the next door neighbor, which would be adjacent to this addition, has written a letter stating that they have no objection to this, that the house on the adjacent property is located 16.5 feet from the joint property line, and that there have been other variances granted to surrounding property owners.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-C-056 by GAYE L. AND JOHN F. COLLINS, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 9.2 ft. from a side lot line such that side yards total 19 ft., on property located at 2324 Riviera Drive, Tax Map Reference 38-1((22))29, 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, 1988; 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 12,885 square feet of land.
4. That the structure will not extend into the yard beyond the existing carport.
5. That the next door neighbor, which will be adjacent to this addition, has written a letter stating they have no objection to this variance. That the house on the adjacent property is located 16.5 feet from the joint property line.
6. That there have been other variances for carports and garages in this subdivision.
7. That this would be an improvement to the surrounding area.
8. That the applicant satisfied the standard for variances.
9. That the applicant will experience hardship.

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 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 to finish this structure shall be compatible with the principle dwelling unit on the property.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hammack not present for the vote and Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 78, June 30, 1988 (Tape 2), Scheduled case of:

9:45 A.M. IGNAT V. KALCHEFF, VC 88-M-059, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.0 ft from side lot line and 14.4 ft. from rear lot line (15 ft. min. side yard, 25 ft. min. rear yard required by Sect. 3-207) located at 6454-5th Street, on approximately 8,250 square feet of land, zoned R-2, Mason District, Tax Map 2-3 ((8)) (F)47, 48, 49

Denise James, Staff Coordinator, presented the staff report and advised the Board that on Tuesday, June 28th, Zoning Enforcement did inform staff they had issued a verbal notice of violation to Mr. Kalcheff regarding the woodshed in the rear of the property, which would be followed up by a written notice of violation.

Ignat Kalcheff, 6446 Fifth Street, Alexandria, Virginia, the applicant appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application. Mr. Kalcheff provided pictures of his house for the Board. In reference to the woodshed, Mr Kalcheff explained that when he purchased the property he didn't have it surveyed; when it was surveyed, he found that it had been in violation with the existing zoning. Mr. Kalcheff further stated that he intended to either reduce the size or move the old shed to be in compliance with the Zoning Ordinance.

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

Mr. Ribble move to grant VC 88-M-059, noting that there was an exceptional narrowness to these lots, there was an extraordinary situation on the subject property, and on the adjacent property, that cause the location of the addition to be the only place that it could properly go on the lots.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-059 by IGNAT V. KALCHEFF, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.0 feet from side lot line and 14.4 feet from rear lot line, on property located at 6454-5th Street, Tax Map Reference 72-3((8))(F)47, 48, 49, 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, 1988; 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 8,250 square feet of land.
4. Exceptional narrowness; they were 25' lots at the time of the Ordinance.
5. Extraordinary situation exists on the subject property. Testimony regarding the adjacent property indicates the location of the addition is the only place that it could properly go on the 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:

Page 80, June 30, 1988 (Tape 2), (Ignat V. Kalcheff, VC 88-M-059, continued from Page 79)

THAT the applicant has satisfied the Board that physical conditions as listed above 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 to finish the proposed addition shall be compatible with the principle dwelling unit on the property and to the adjacent properties.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-0 with Mr. Hammack not present for the vote and Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 80, June 30, 1988 (Tape 1), Scheduled case of :

10:15 A.M LUCINDA M. GOLART, VC 88-S-058, application under Sect. 18-401 of the Zoning Ordinance to allow construction of extension to carport to 3.1 ft. from side lot line such that side yards total 18.7 ft. (5 ft. min., 19 ft. total min. side yard required by Sects. 3-207 and 2-412) located at 8709 Fox Ridge Road, on approximately 10,551 square feet of land, zoned R-2 (C), Tax Map 89-1 ((5))94

Jane C. Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Linda McCoy Golart, 8709 Fox Ridge Road, Springfield, Virginia, the applicant, appeared before the Board and explained her 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.

Mr. Kelley moved to grant VC 88-V-013 based on the applicant's testimony, the exceptional topographic conditions of the property, and the extraordinary situation involving safety and the prevention of property damage.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-058 by LUCINDA M. GOLART, under Section 18-401 of the Zoning Ordinance to allow construction of extension to carport to 3.1 ft. from side lot line such that side yards total 18.7 feet, on property located at 8709 Fox Ridge Road, Tax Map Reference 89-1((5))94, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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, 1988; 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-2(C).
3. The area of the lot is 10,551 square feet of land.
4. There are exceptional topographical conditions of the property.
5. An extraordinary situation exists involving safety, and will prevent property damage.

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 the approved addition.

Mr. Ribble seconded the motion and the motion carried by a vote of 4-1 with Chairman Smith voting nay and Mr. Hammack not present for the vote and Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1988. This date shall be deemed to be the final approval date of this variance.

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10:30 COTY LLOYD, VC 88-D-055, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 4.3 ft. from side lot line such that total side yards would be 29.2 ft. (12 ft. min., 40 ft. total min. side yard required by Sect. 3-107) located at 12172 Holly Knoll Circle, on approximately 20,154 square feet of land, zoned R-1 (C), Dranesville District, Tax Map 61-1 ((70))58

Jane C. Kelsey, Chief, Special Permit and Variance Branch, presented the staff report, noting that this application is identical to a variance application approved by the BZA in 1981 which had expired.

Coty Lloyd, 12172 Holly Knoll Circle, Great Falls, Virginia, appeared before the Board and explained her request as outlined in the statement of justification as submitted with the previous application submitted in 1981. Ms. Lloyd explained that the garage that was to be built in 1981 was not completed due to financial hardship, that the original application was filed in her husband's name when she was married and that she was now filing in her own name.

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

Ms. Day moved to grant VC 88-D-055 based on the applicant's testimony, the application is to complete work previously granted, and the property to the left of where the garage is planned is open space and dedicated and there is no adverse effect to any property owners.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-055 by COTY LLOYD, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 4.3 feet from side lot line such that total side yards would be 29.2 feet, on property located at 12172 Holly Knoll Circle, Tax Map Reference 61-1((70))58, 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, 1988; 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 20,154 square feet of land.
4. That this application is to complete work previously approved by the Board.
5. There is no objection by the next door neighbor.
6. That on the left of the property is a sewer easement and it is open space property.
7. That where the garage is planned there is no adverse affect to other property owners; it is open space and dedicated.
8. That the applicant has stated the hardship and she is justified in this and meets the requirements.

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 the approved addition.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay, Mr. Hammack not present for the vote and Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1988. This date shall be deemed to be the final approval date of this variance.

Mr. Hammack arrived at 11:00 a.m.

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Page 83, June 30, 1988 (Tape 2). Scheduled case of:

11:00 A.M. VIGUEN R. AND TERESA TER-MINASSIAN APPEAL, A 88-D-007, application under Sect. 18-301 of the Zoning Ordinance to appeal Zoning Administrator's determination that resubdivision of a lot in a cluster subdivision requires special exception approval, located at 1025 Spring Hill Road, on approximately 2.1958 acres of land, zoned R-1 (C), Dranesville District, Tax Map 20-4 ((14)) 1.

Jane W. Gwinn, Zoning Administrator, presented the background information on her decision. Ms. Gwinn explained that the issue on appeal involved the appellant's request to resubdivide the lot, her position being that this lot was approved in 1981 as part of a cluster subdivision and the Zoning Ordinance was subsequently amended to say that cluster subdivisions are special exception uses which require the Board of Supervisors' approval, and her position further being that any request to resubdivide this lot or to remove it from the cluster subdivision would require a special exception under Paragraphs 1 and 2 of Sect. 15-101 of the Zoning Ordinance. Ms. Gwinn stated that even if the argument was that the request was to delete this lot from the cluster subdivision in order to allow the re-subdivision, it would still require a special exception because it would be reducing or replacing the grandfathered cluster subdivision land area by reducing it, and further stated that staff erred when they accepted the variance application because the variance request is to vary the minimum lot size requirement for a conventional subdivision lot and this lot was created and recorded as part of a cluster subdivision plat and is not a conventional subdivision lot, but a cluster subdivision lot.

Ms. Thonen inquired about the setback requirements or side yard requirements on interior lots in a cluster. Ms. Gwinn responded there are yard requirements, but this is an interior lot and there are no minimum lot width requirements for an interior lot in a cluster subdivision.

A discussion was held as to whether the special exception would come under the Board's authority, Ms. Gwinn stating that the Zoning Ordinance is very clear that the Board of Supervisors has adopted provisions that say that cluster subdivisions are to be subject to Board of Supervisors' review as a special exception and that, to allow this to happen via variance through the Board of Zoning Appeals is, in effect, amending or prompting an amendment to the Zoning Ordinance or changing the text. There was concern stated on the part of the Board as to what it would be that the Board would be varying if there was no interior lot width requirement for a cluster subdivision lot and as to whether or not a legislative act was required.

Patrick M. Via, Esquire, of the firm of Hazel, Thomas, Fiske, Beckhorn & Hanes, appeared before the Board on behalf of the appellant and explained the appellant's request as outlined in the statement of justification as submitted with the application. Mr. Via stated that they did not wish to discuss the merits of the variance request but merely the appeal issues. After presenting his argument on these issues, Mr Via requested a ruling from the Board of Zoning Appeals that the subject property is within a lawful existing cluster subdivision and that the proposed subdivision of the subject property will not result either in the replacement or the enlargement of the cluster subdivision, and, therefore, that special exception approval is not required.

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

Mrs. Thonen moved to uphold the Zoning Administrator's decision with regard to Appeal A 88-D-007, stating that based on the fact that the Board of Supervisors have all the legislative power and, since this cluster lot was clustered for the entire eight lots, if the Board of Zoning Appeals ruled on the Appeal, they would be adding a lot to the cluster, which would not be within the Board's jurisdiction.

Mrs. Day seconded the motion. The motion carried by a vote of 6-1, with Mr. Kelley voting nay, and Mr. DiGiulian absent. This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1988. This date shall be deemed to be the final approval date of this Appeal.

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Page 84, June 30, 1988 (Tape 2), Scheduled case of:

11:30 A.M. NICHOLAS J. FERK, VC 88-M-057, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 3.9 ft. from side lot line and to allow deck with 6 foot high railing to remain 1 foot from side lot line (12 ft. min. side yard required by Sect 3-307) located at 3427 Charles Street, on approximately 14,597 sq. ft. of land, zoned R-3, Mason District, Tax Map 61-2 ((18))6

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that the advertisement for the deck stated that the deck was within 1 foot of the property line, but when the applicant had the deck surveyed it came out to 1.5 feet.

Nicholas Ferk, 3427 Charles Street, Falls Church, 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.

Mr. Hammack moved to grant VC 88-M-057 based on the applicant's testimony.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-057 by NICHOLAS J. FERK, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 3.9 feet from side lot line and to allow deck with 6 foot high railing to remain 1 foot from side lot line (BZA approved deck to 1.5 feet), on property located at 3427 Charles Street, Tax Map Reference 61-2((18))6, 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 30, 1988; 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 14,597 square feet of land.
4. That the deck rail is attached to a deck on the rear of a dwelling which is located very close to the lot line and was built prior to the present Zoning Ordinance.
5. The rail acts as a screen for the deck and is similar to a privacy fence.
6. The deck does not adversely impact the adjacent property owners.

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

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

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

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

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

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

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

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

4. A revised plat shall be submitted which shows the existing railing on the deck including its height and the distance of the deck to the side lot line at its closest point.

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-1 with Chairman Smith voting nay and Mr.DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 8, 1988. 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 12:00 noon.

Judy Finney, Court Reporter, Acting
for Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: September 6, 1988

APPROVED: September 13, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, July 7, 1988. the following Board Members were present: Chairman Daniel Smith; Ann Day; Paul Hammack; John Ribble; Robert Kelley and Mary Thonen. John DiGiulian, Vice-Chairman, was absent from the meeting.

Chairman Smith called the meeting to order at 9:20 A.M. with Mrs. Day leading the prayer.

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Page 87, July 7, 1988, (Tape 1), Scheduled case of:

9:00 A.M. AUSTIN ZAPPALA, VC 87-M-165, application under Sect. 18-401 of the Zoning Ordinance to allow vehicle major service establishment in existing building 12.6 feet from rear lot line (20 feet min. rear yard required by Sect. 4-807, compliance with bulk regulations required by Sect. 9-503) located at 6116 Columbia Pike, on approximately 22,830 square feet of land, zoned C-8 and H-C, Mason District, Tax Map Reference 61-4((1))160A. (TO BE HEARD CONCURRENT WITH SE 87-M-126)

Kathy Reilly, Staff Coordinator, informed the Board that the staff was recommending deferral of this case based on a scheduling error. She stated that the concurrent Special Exception was scheduled to be heard by the Board of Supervisors on July 18, 1988, and that this case should be deferred until after a decision had been made on the Special Exception.

Mrs. Thonen moved to defer VC 87-M-165 until July 26, 1988 at 9:15 A.M.

Mr. Hammack seconded the motion which passed by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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Page 87, July 7, 1988, (Tape 1), Scheduled case of:

9:15 A.M. JOAN M. CHARTERS, SP 88-S-040, application under Sect. 8-901 of the Zoning Ordinance for reduction to minimum yard requirements based on error in building location to allow 16.4 foot high shed to remain 4.8 feet from rear lot line (16.4 ft. min. rear yard required by Sect. 10-104) located at 6503 Harwood Court, on approximately 11,137 square feet of land, zoned PRC, Springfield District, 89-2((9))313C

Kathy Reilly, Staff Coordinator, presented the staff report. She informed the Board that a notice of violation had been issued to the applicant on December 10, 1987 and stated that it was staff's opinion that this application did not meet the standards specified in Paragraph 3 of Sect. 8-006 of the Zoning Ordinance. In addition, she indicated that the proposed structure, 4.8 feet from the rear lot line, would not be harmonious with the PRC zoning district and would adversely affect the use of neighboring properties.

Ms. Reilly stated that the file for this application contained six letters in opposition to this request and one letter in support.

Mrs. Thonen stated that one of the letters had indicated that the structure had been erected on the Cardinal Square Condominium common property. Ms. Reilly stated that, to the best of her knowledge, this property was owned by the applicant.

In response to a question from Mrs. Thonen, Ms. Reilly stated that a smaller shed could be constructed on the subject property and not be in violation.

Michael Charters, 6503 Harwood Court, Springfield, Virginia, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He stated that his wife had called the County prior to the erection of the shed and had been informed that they did not need any permits for a storage building. Mr. Charters stated that he had the shed located in a heavily wooded area and that his property had a 14 foot dropoff from one side to the other. He added that the building had been purchased from and installed by the Sturdy-Built Company located Maryland.

In response to the Board's question concerning the notice of violation, Jane Kelsey, Chief, Special Permit and Variance Branch, stated that the Zoning Inspector had given Mr. Charters several alternatives, including removing the shed, reducing the height of the shed, or applying for a Special Permit for error in building location. The applicant chose the latter option.

Joan Charters, 6503 Harwood Court, Springfield, Virginia, the applicant, appeared before the Board. She indicated that when she had called the Zoning Office she had told them that she wanted to put up a temporary structure and was told that she did not need a building permit. Ms. Charters stated that she had not been asked for the dimensions of the structure.

Chairman Smith called for speakers in support of the application, and hearing no response called for speakers in opposition to the request.

William O. Miller, 6507 Orono Court, Springfield, Virginia, came forward and stated that the building in question was less than 100 feet from his front door. Mr. Miller read a copy of a letter he had sent to the Board of Zoning Appeals which stated that the building was aesthetically displeasing and had a negative impact on the resale value of adjacent properties.

During rebuttal, Mrs. Charters asked the Board to take into consideration that she had contacted the County prior to the erection of the building and that she was trying to improve the looks of her property.

In response to the Board's question, Ms. Reilly stated that she had made a site inspection prior to writing the staff report. She used the viewgraph to display a tax map indicating adjacent property owners who were either in support or in opposition to the request.

There being no further speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SP 88-S-040. The motion failed for lack of a second.

Mrs. Thonen moved to deny SP 88-S-040.

Mr. Ribble seconded the motion which passed by a vote of 5-1 , Mr. Hammack voting nay and Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-040 by JOAN M. CHARTERS, under Section 8-901 of the Zoning Ordinance for reduction to minimum yard requirements based on error in building location to allow 16.4 foot high shed to remain 4.8 feet from rear lot line, on property located at 6503 Harwood Court, Tax Map Reference 89-2((9))313C, 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, 1988; 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 11,137 square feet of land.
4. That a structure built in a Planned Community would be a detriment to the surrounding area.
5. That the applicant has not convinced the Board that the structure was built in error.

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. Ribble seconded the motion.

The motion carried by a vote of 5-1 with Mr. Hammack voting nay and Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 15, 1988.

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Page 89, July 7, 1988, (Tape 1), After Agenda Item #1:

Reconsideration Request
Stanley Martin Learning Center
SP 87-S-037

Mr. Ribble moved to deny the reconsideration request for Stanley Martin Learning Center, SP 87-S-037, and stated that the transportation report by John Herrington, Office of Transportation, was not the sole basis for their decision as they had considered all the information submitted.

Mrs. Thonen seconded the motion which passed by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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Page 89, July 7, 1988, (Tape 1), Scheduled case of:

9:30 A.M. SECOND HOLLY KNOLL HOMEOWNERS ASSOCIATION, SPA 85-D-046-1, application under Sect. 3-103 of the Zoning Ordinance to amend SP 85-D-046 for community tennis courts to permit addition of a tot lot, located at 939 Rolling Holly Drive, on approximately 387,778 square feet of land, zoned R-1, Dranesville District, Tax Map 6-3((4))I

Chairman Smith announced that staff had requested that this case be deferred.

Henry Nash, President, Second Holly Knolls Civic Association, 909 Holly Creek Drive, representative of the applicant, appeared before the Board. He stated that he had requested a deferral as a last resort because of the outstanding issue of the Conservation Easement He added that the Board of Supervisors would take action on this item at its meeting on July 11, 1988. He requested that the application be approved pending the Board of Supervisors' approval.

Chairman Smith stated that the legislative body had to take action before the Board of Zoning Appeals could proceed.

Mr. Nash stated that, in that case, he was not requesting a deferral and asked that the case be heard.

Kathy Reilly, Staff Coordinator, explained that staff was recommending a deferral because the one outstanding issue was that the subject property was located in a Conservation Easement. Ms. Reilly stated that she had been advised by the County Attorney's Office that the Conservation Easement needs the Board of Supervisors' written approval before any construction could occur in this easement. In addition, the County Attorney's Office indicated that it was not appropriate for the BZA to hear the case until the Board of Supervisors had rendered a decision regarding the easement.

Ms. Reilly stated that this information had been discussed with the applicant. Ms. Reilly had been told that by June 30, 1988, she would receive a deferral request letter from the applicant and a revision to the staff report would be forthcoming because the plat depicting the proposed tot lot was actually larger than what was there. In addition, she stated that this lot was already built and operational.

In response to a question from Mr. Hammack, Ms. Reilly stated that the Zoning Enforcement Branch had been notified of the violation.

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that the tot lot and the tennis courts would have to be removed if the Board of Supervisors did not vote to approve the construction. She stated that the Board of Zoning Appeals had previously approved the tennis courts and the notation on the plan indicating that it was in a Conservation Easement had been overlooked by both the BZA and the Department of Environmental Management.

Mr. Hammack moved to defer SPA 85-D-046-1 to July 19, 1988 at 11:30 A.M.

Mr. Ribble seconded the motion which passed by a vote of 5-0; Mr. Kelley not present for the vote; and, Mr. DiGiulian absent from the meeting.

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Page 89, July 7, 1988, (Tapes 1 and 2), Scheduled case of:

9:45 A.M. ELEANOR A. MILLER, SP 88-S-041, application under Sect. 3-C03 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow deck addition to dwelling to 11.9 ft. from side lot line (20 ft. min. side yard required by Sect. 3-C07) located at 6323 Blackburn Ford Drive, on approximately 27,499 square feet of land, zoned R-C and WS, Springfield District, Tax Map 76-4((8))812

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that the proposed deck addition met the standards in Sect. 8-916 of the Zoning Ordinance.

Garrett S. Miller, 6323 Blackburn Ford Drive, Fairfax Station, represented the applicant and stated that the deck would be built in the same design and style as the current structure. He added that the adjacent property owner on Lot 11 had submitted a letter supporting the request.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Day moved to grant SP 88-S-041.

Mr. Hammack seconded the motion which passed by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

At the request of the applicant, Mrs. Day moved that the eight-day waiting period be waived.

Mr. Hammack seconded the motion which passed by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-041 by ELEANOR A. MILLER, under Section 3-C-3 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow deck addition to dwelling to 11.9 feet from side lot line, on property located at 6323 Blackburn Ford Drive, Tax Map Reference 76-4((8))812, 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 7, 1988; 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 and WS.
3. The area of the lot is 27,499 square feet of land.
4. That in July of 1982 the applicant could have extended the deck fourteen feet from the lot line.
5. That the property is an irregular shaped lot and the house is sited to the left and rear of the property.
6. That the structure will have no adverse affects on the neighbors.
7. The house on lot 811 is 37.16 feet from the shared lot line.
8. That the extension does not exceed 50% of the yard in accordance with Sect. 2-412.

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 8-916 of the Zoning Ordinance.

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

1. This special permit is approval 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 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.

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-0 with Mr. Ribble not present for the vote and Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 7, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 91, July 7, 1988, (Tape 2), Scheduled case of:

10:00 A.M. FISCHER MACLEOD ASSOCIATES, SP 88-L-042, application under Sect. 8-901 of the Zoning Ordinance to allow additional sign area and a different arrangement of sign area in a regional shopping center, located at Springfield Mall, on approximately 79.24 acres of land, zoned C-7, HC and SC, Lee District, Tax Map 90-2((13))1, 2, 3, 4, 4A, 5, 5A, 5B, 6, 9, 10.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that Fischer MacLeod Associates was located in the Springfield Mall where the Zoning Ordinance specified that no one tenant could have more than 200 square feet of sign area.

Ms. Greenlief informed the Board that there was an error in the staff report regarding the size of the "Spring Fest" sign and stated that 576 square feet, it should be corrected to 484 square feet. She added that any calculations in the staff report should be modified.

Tony Calabrese, attorney with the law firm of McGuire, Woods, Battle & Boothe, 8280 Greensboro Drive, Tysons Corner, representative of the applicant, appeared before the Board to present the position of Fischer MacLeod Associates. He handed out copies of the following exhibits: Exhibit A, highlighting the location of the signs; Exhibit B, a rendering of how the mall will look by the late 1980's/early 1990's; Exhibit C, a depiction of the "Spring Fest Foodcourt" sign; Exhibit D, an elevation of the "Bennigans" sign; Exhibit E, a depiction of the two "General Cinema" signs; and Exhibit F, total square footage of sign area available and used at the Springfield Mall.

Mr. Calabrese stated that the proposed future construction planned for the Mall will block existing signs and that one of the hardships suffered was the way the Zoning Office interpreted sign area for cubes.

Mr. Calabrese stated that he was in agreement with the development conditions contained in the staff report.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Kelley moved to grant SP 88-L-042.

Mr. Hammack seconded the motion which passed by a vote of 5-0 (Mr. Ribble not present for the vote and Mr. DiGiulian absent).

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-L-042 by FISCHER MACLEOD ASSOCIATES, under Section 8-901 of the Zoning Ordinance to allow additional sign area and a different arrangement of sign area in a regional shopping center, on property located at Springfield Mall, Tax Map Reference 90-2((13))1, 2, 3, 4, 4A, 5, 5A, 5B, 6, 9, 10, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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, 1988; and

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

1. That the applicant is the lessee.
2. The present zoning is C-7, HC and SC.
3. The area of the lot is 79.24 acres of land.
4. This is a good example of both the applicant and staff working together on an application.

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 8-912 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 four signs indicated by location and size on the plat submitted with this application. Any additional signs of any kind, associated with the mall/concourse, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. This condition shall not preclude the approval of additional sign permits in accordance with Article 12 for signs associated with a new anchor store for which 200 square feet of sign would be allowed and it shall not preclude the erection of signs that do not require sign permits such as directional signs. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. Sign Permits, as regulated by Article 12 of the Zoning Ordinance, shall be obtained for all signs.

4. Illumination of the signs shall be in conformance with the performance standards for glare as set forth in Part 9 of Article 14 of the Zoning Ordinance.

5. Only the oval-shaped graphic area of the Spring Fest sign, not the background, shall be illuminated with neon. The background shall be a color similar to that of the cube on which it is mounted.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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 5-0 with Mr. Ribble not present for the vote and Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 15, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 92, July 7, 1988, (Tape 2), Scheduled case of:

10:15 A.M. ANTONIO N. DIAS, VC 88-P-061, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 2 having a lot width of 12 feet (100 min. lot width required by Sect. 3-206) located at 2219 Sandburg Street, on approximately 1.14 acres of land, zoned R-2, Providence District, Tax Map 39-2((1))97

Denise James, Staff Coordinator, presented the staff report. She informed the Board that the site had been rezoned from R-1 to R-2 in January of 1988. Proffer number 10 specifically states that the applicant understands that the Board of Supervisors' approval of the rezoning was not a recommendation to approve or deny this Variance application.

Laura Cox, 9030 New Britian Circle, Manassas, Virginia, representative of the applicant, appeared before the Board. She stated that she was a certified architect employed by Kidde Consultants, Inc. and had prepared the plat that was before the Board.

Ms. Cox stated that the applicant had originally requested a rezoning to an R-3 Cluster which would not have required BZA approval, but the Board of Supervisors had granted an R-2 rezoning which required a pipestem. She stated that Mr. Dias had earnestly tried to consolidate with the two adjacent parcels but was unsuccessful.

Ms. Cox stated that the lot was exceptionally narrow and had a limited amount of road frontage. In addition, it was constrained by the development next to it which contained a pipestem. She indicated that there were no other similar R-2 lots in the area which contained one dwelling unit.

Tony Dias, 406 North Cleveland Street, Arlington, Virginia, the applicant, appeared before the Board. He stated that he did not live on the property and had purchased it four years ago.

There being no other speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 88-P-061.

Mr. Kelley seconded the motion which failed by a vote of 2-3 (Chairman Smith, Mrs. Day and Mrs. Thonen voting nay) (Mr. Ribble not present for the vote and Mr. DiGiulian absent from the meeting).

Chairman Smith stated that the applicant's representative had done an excellent job in presenting the testimony concerned.

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MOTION TO GRANT FAILED

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-061 by ANTONIO DIAS, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed lot 2 having a lot width of 12 feet, on property located at 2219 Sandburg Staret, Tax Map Reference 39-2((1))97, 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, 1988; 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 1.14 acres of land.
4. That the Board is impressed with the applicant's representative's testimony that the applicant has attempted to consolidate the property.
5. That the property is in R-2 zoning and that two residences on a little over 1 acre lots is consistent with the Master Plan.
6. That the Ordinance would prohibit the reasonable use of the property in this application.
7. That the Ordinance would result in a hardship on this application.

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

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at the time of the effective date of the Ordinance;
   E. Exceptional topographic conditions;
   F. An extraordinary situation or condition of the subject property, or
   G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

4. That the strict application of this Ordinance would produce undue hardship.

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

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

1. This variance is approved for the subdivision of one lot into two (2) lots as shown on the plat submitted with this application.

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

3. Only one (1) entrance to all two (2) lots shall be allowed from Sandburg 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. A geotechnical study shall be provided at the request of the Director, Dept. of Environmental Management at the time of site plan approval.

6. The applicant shall mitigate the gullying problem along Sandburg Street if requested to do so by the Department of Public Works (DPW). The applicant shall coordinate all stormwater management activities with the Storm Drainage Branch of DPW.

7. In order to achieve a maximum interior noise level of of 45 dBA Ldn, the applicant shall provide accoustical treatment as follows:

Lot 1: Exterior walls shall have a laboratory sound transmission class (STC) of at least 39, and doors and windows should have a laboratory sound transmission class (STC) of at least 28 (unless windows function as walls, in which case they shall have an STC of at least 39). All areas between surfaces shall be sealed and caulked.

Lot 2: Exterior walls shall have a laboratory sound transmission class (STC) of at least 45, doors and windows shall have an STC of at least 37 (unless the windows will function as walls, in which case they shall have an STC of at least 45). All areas between surfaces shall be sealed and caulked.

8. In order to reduce exterior noise levels to the standard of 65 dBA Ldn, the applicant shall provide accoustical fencing along the limits of clearing and grading between the north and south building restriction lines of lot 2. All such fencing shall be architecturally solid from the ground up with no gaps or openings and shall be at least six (6) feet in height.

9. As determined by the Department of Environmental Management, the applicant shall dedicate and construct to VDOT standards or escrow sufficient funds for construction of pavement widening and curb and gutter across the entire frontage of this property to a width of 19 feet from center line of Sandburg Street.

Mr. Kelley seconded the motion.

The motion FAILED by a vote of 2-3 with Mr. Hammack and Mr. Kelley voting aye and Chairman Smith, Mrs. Day and Mrs. Thonen voting nay and Mr. Ribble not present for the vote and Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 15, 1988.

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Page 95, July 7, 1988, (Tape 2), Scheduled case of:

10:30 A.M. RONALD DEANGELIS, VC 88-M-062, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 7.48 ft. from side lot line (15 ft. min side yard required by Sect. 3-207) located at 3547 Half Moon Circle, on approximately 16,700 square feet of land, zoned R-2, Mason District, Tax Map 61-3((14))455.

Denise James, Staff Coordinator, presented the staff report.

Ronald DeAngelis, 3547 Half Moon Circle, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with his application. He stated that due to the topography of the property, there was no other suitable location for a garage. Mr. DeAngelis stated that he had purchased the property in 1987.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant VC 88-M-062.

Mrs. Day seconded the motion which failed by a vote of 3-2 with Chairman Smith and Mr. Hammack voting nay; Mr. Ribble not present for the vote; and, Mr. DiGiulian absent from the meeting. Four (4) affirmative votes are required to approve an application.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 15, 1988.

In response to a request from the applicant, Mrs. Day moved that the Board approve a waiver of the twelve-month limitation to reapply.

Mrs. Thonen seconded the motion which passed by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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MOTION TO GRANT FAILED

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-062 by RONALD DEANGELIS, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 7.48 feet from side lot line, on property located at 3547 Half Moon Circle, Tax Map Reference 61-3((14))455, 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, 1988; 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-2.
3. The area of the lot is 16,700 square feet of land.
4. The structure will not impact the neighborhood.
5. It will be beneficial to the neighborhood to have the structure enclosed rather than open.

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 to finish this structure shall be compatible with the principle dwelling unit on the property and to the adjacent properties.

5. A Building permit shall be obtained for the existing deck within thirty (30) days of approval of this variance application.

Mrs. Day seconded the motion.

The motion FAILED by a vote of 3-2 with Mrs. Thonen, Mrs. Day and Mr. Kelley voting aye; Chairman Smith and Mr. Hammack voting nay; Mr. Ribble not present for the vote; and Mr. DiGiulian absent from the meeting. Four (4) affirmative votes are required to approve an application.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 15, 1988.

The Board approved a waiver of the twelve-month limitation.

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10:45 A.M. NAUTI BODIES, INC. AND ALFRED E. DELMONICO, SP 88-S-038, application under Sect. 5-403 of the Zoning Ordinance to allow health club, located at 8708 and 8710 Morrissette Drive, on approximately 266,369 square feet of land, zoned I-4, Springfield District, Tax Map 79-1((1))13

Heidi Belofsky, Staff Coordinator, presented the staff report. She stated that staff had been unable to calculate the occupancy load and suggested that it be determined by the Fire Marshal at the time of site plan review. Ms. Belofsky stated that at the time of site plan review a new parking tabulation should be provided to show that the parking spaces utilized by the health club do not conflict with the parking for the uses which are already in existence.

Alfred Delmonico, President of Nauti Bodies, Incorporated, 9044 Gavelwood Court, Springfield, Virginia, representative of the applicant, appeared before the Board. Mr. Delmonico stated that he planned to have professional trainers on staff and that everyone would be CPR certified. He thanked the BZA staff for their help with the application process.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Day moved to grant SP 88-S-038.

Mr. Hammack seconded the motion which passed by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-038 by NAUTI BODIES, INC. AND ALFRED E. DELMONICO, under Section 5-403 of the Zoning Ordinance to allow health club, on property located at 8708 and 8710 Morrissette Drive, Tax Map Reference 79-1((1))13, 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 7, 1988; and

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

1. That the applicant is the lessee.
2. The present zoning is I-4.
3. The area of the lot is 266,369 square feet of land.
4. That it is nice to have an application so clean cut with no problems.
5. That the use would have no adverse affect on the surrounding area because it is zoned industrial.

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. Any plan submitted to the Department of Environmental Management (DEM) pursuant to this Special Permit shall conform with the approved Special Permit plat and these conditions.

5. A parking tabulation shall be provided to the Director, (DEM) at the time of site plan review which indicates that adequate parking is available for all uses on this property before the site plan can be approved. The parking requirement for this use shall be based upon the occupancy load of the building floor area to be used as a health club. The occupancy load shall be determined by the County Fire Marshal. All parking for this use shall be on site. The maximum number of patrons and employees on site at any one time shall be limited to that number for which there is sufficient parking, this number shall be calculated at the time of site plan review and shall be subject to the approval of the Director, DEM.

6. The hours of operation shall be limited to 6:00 a.m. to 11:00 p.m.

7. Any signs erected shall be in conformance with Article 12 of the Zoning Ordinance, Signs.

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

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

Mr. Hammack seconded the motion which carried by a unanimous vote of 5-0 with Mr. Ribble not present for the vote and Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 15, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 98, July 7, 1988, (Tape 3), Scheduled case of:

11:00 A.M. SHERMAN NEAL, VC 88-P-041, application under Sect. 18-401 of the Zoning Ordinance to allow 6 feet high fence to remain in a front yard (4 ft. max. height for fence in a front yard per Sect. 10-104), located at 4104 Peony Way, on approximately 12,410 square feet of land, zoned R-3(C) and WS, Providence District, Tax Map 45-1((3))(63)15. (DEF. FROM 6/2/88)

Lori Greenlief, Staff Coordinator, presented the staff report. She informed the Board that a notice of violation had been issued to the applicant on November 18, 1987. According to the Zoning Inspector there were no other violations issued in this neighborhood. Ms. Greenlief stated that four letters had been received in support of the application.

Sherman Neal, 4104 Peony Way, Fairfax, 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 only negative comments he had received from the neighbors was that the fence looked too stark. Mr. Neal explained that the fence was a western red cedar, solid board fence installed by Lee Fence Company, and that he planned to put plantings along it to soften the look.

Mr. Neal indicated that his property was sloped from the back door to the point where the fence was now erected and that a four foot fence would not provide any privacy for the backyard. He stated that the fence improved the appearance of the yard and the surrounding area and added value to the neighborhood.

William Ritz, 13121 Penndale Lane, Fairfax, Virginia, spoke in support of the application.

There being no further speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to deny VC 88-P-041 due to the fact that the applicant did not demonstrate that he met the hardship requirements for a variance.

Mrs. Thonen seconded the motion which passed by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-041 by SHERMAN NEAL, under Section 18-401 of the Zoning Ordinance to allow 6 feet high fence to remain in a front yard, on property located at 4104 Peony Way, Tax Map Reference 45-1((3))(63)15, 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, 1988; 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) and WS.
3. The area of the lot is 12,410 square feet of land.
4. The applicant did not demonstrate that he met the hardship requirements.

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 unanimous vote of 5-0 with Mr. Ribble 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 July 15, 1988.

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Page 100, July 7, 1988, (Tape 3), Scheduled case of:

11:15 A.M. B. DAVID AND LYNN M. WINGERD, VC 88-A-032, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling 2.1 ft. from side lot line and 11.2 from the floodplain (15 ft. min. side yard required by Sect. 3-207 and 15 ft. min. yard from a floodplain required by Sect. 2-415) located at 4306 Braeburn Drive, on approximately 16,740 square feet of land, zoned R-2, Annandale District, Tax map 69-2 ((6))243 (DEFERRED FROM 6/30/88)

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that the Board had deferred the above-referenced case due to a potential discrepancy in the plat. The applicant had been instructed to provide a plat that would make it clear that the width of the garage would be 24.9 feet and that the edge of the garage would be 2.1 feet from the side lot line. Mrs. Kelsey stated that the applicant had submitted a new plat.

David Wingerd, 4306 Braeburn Drive, 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 application had been modified as suggested by the Board. Mr. Wingerd indicated that about 45 percent of his lot was designated as floodplain which did not leave much buildable area. In addition, his request was to enclose an existing carport.

In response to a question from Mr. Hammack, Mr. Wingerd indicated that the house on adjacent Lot 244 was approximately 18 feet away from the lot line.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to deny VC 88-A-032 due to the fact that the applicant did not meet the nine standards for a variance.

Mr. Hammack seconded the motion which passed by a vote of 5-0 (Mr. Ribble not present for the vote and Mr. DiGiulian absent from the meeting).

Mr. Hammack stated that the proposed garage was too close to the property line and that the length of the garage concerned him.

At the request of Mr. Wingerd, Mr. Kelley made a motion to grant a waiver of the twelve-month waiting period for the filing of another variance.

Mrs. Day seconded the motion which passed by a vote of 4-1 with Chairman Smith voting nay; Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

Jane Kelsey, Chief, Special Permit and Variance Branch, cautioned the applicant to consider the statements made during the hearing by all the BZA members when preparing his next variance application.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-032 by B. DAVID & LYNN M. WINGERD, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 2.1 feet from side lot line and 11.2 feet from the floodplain, on property located at 4306 Braeburn Drive, Tax Map Reference 69-2((6))243, 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, 1988; and

WHEREAS, the Board has made the following ~~findings~~s 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 16,740 square feet of land.
4. That the structure was too close to the lot line in the previous application and that it is still located too close to the lot line.
5. That the application does not meet the hardship requirements.
6. That the Board has tried to work with the applicant and cannot come to an agreement.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

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

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

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

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

Mr. Hammack seconded the motion.

The motion carried by a unanimous vote of 5-0 with Mr. Ribble not present for the vote and Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 15, 1988.

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Page 101, July 7, 1988, (Tape 3), Information Item #1:

Jane Kelsey, Chief, Special Permit and Variance Branch, informed the BZA that although the resolutions from today's meeting would be presented to them on July 12, 1988 for approval, they would technically not become final until Thursday, July 14, 1988 due to the eight day requirement.

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Page 102, July 7, 1988, (Tape 3), After Agenda Item #2:

Approval of Resolutions
June 28 and June 30, 1988

Mrs. Thonen moved to approve the BZA resolutions of June 28 and June 30, 1988.

Mrs. Day seconded the motion which passed by a vote of 5-0 with Mr. Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 12:27 p.m.

Judy L. Moss, Acting Associate Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: November 10, 1988

APPROVED: November 29, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 12, 1988. The following Board Members were present: Chairman Daniel Smith; Ann Day; John DiGiulian; Paul Hammack; John Ribble; and Robert Kelley. Mary Thonen was absent from the meeting.

Chairman Smith called the meeting to order at 8:10 P.M. Mrs. Day led the prayer.

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Page 103, July 12, 1988, (Tape 1), Scheduled case of:

8:00 P.M. FIRST VIRGINIA BANK APPEALS, A 87-P-004, application 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 51-3((1))1E. (DEFERRED FROM 9/3/87 AT APPLICANT'S REQUEST, 11/5/87, 11/17/87 and 4/5/88).

Jane Gwinn, Zoning Administrator, stated that it was her determination that under the provisions of Par. 1 of Sect. 12-203 of the Zoning Ordinance, signs on a mechanical penthouse were not permitted. She stated that although penthouse was not a defined term in the Zoning Ordinance, based upon the legislative intent, it was her position that it did apply to a mechanical equipment penthouse.

Kathe Anderson with the firm of Stohlman, Beuchert, Egan & Smith, 2000 N. 14th Street, Suite 210, Arlington, Virginia, representative of the applicant, appeared before the Board to present the position of First Virginia Bank. She indicated that since the term penthouse was not fully defined in the Zoning Ordinance, it ought to be given its dictionary definition which was a fully enclosed structure on the top of a building that is roofed-in and intended for occupancy. Ms. Anderson stated that an existing thirteen-story office building adjoining the property of the one currently under construction already had signs identical to the ones being requested.

Ms. Anderson showed a slide presentation containing comparable signs to First Virginia Bank's request; she handed out a chart indicating the dates the signs were approved, the building they were attached to, and a description of the structure they were on. Ms. Anderson stated that in her opinion all of these signs were allowed under the intent that a portion of a building that is designed as an integral part of the architectural whole should be allowed, whereas signs on an afterthought or something that was not really a full part of the building would be prohibited.

Chairman Smith called for speakers and Charles Chara, 1008 Hillwood Avenue, Falls Church, Virginia, appeared before the Board in opposition to the sign request. He stated that his property was adjacent to the bank and that although the sign itself would be inset and not visible from his property, he was concerned about the lighting that would be used.

In closing, Ms. Gwinn stated that several of the signs shown in the slide presentation were granted in error and that it was her intent to investigate and issue notices to those in violation. She stated that the issue was not whether the sign was attractive or tasteful but whether it met the terms of the Zoning Ordinance.

Chairman Smith called for speakers and James Tollinger, 901 Hillwood Avenue, Falls Church, Virginia, appeared before the Board in opposition to the sign request.

There being no further speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to uphold the decision of the Zoning Administrator in appeal application A 87-P-004. This motion was seconded by Mr. DiGiulian and carried by a vote of 6-0 with Mrs. Thonen being absent from the meeting.

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Page 103, July 12, 1988, (Tape 1), Scheduled case of:

8:30 P.M. ARTHUR A. AND ROBIN L. GOODELL, VC 88-S-063, application under Sect. 18-401 of the Zoning Ordinance to allow construction of swimming pool in a front yard (accessory structure not permitted in any front yard by Sect. 10-104), located at 12104 Goodwood Drive, on approximately 27,403 square feet of land, zoned R-C, Springfield District, Tax Map 56-3((9))112.

Denise James, Staff Coordinator, presented the staff report.

Arthur Goodell, 12104 Goodwood Drive, Fairfax, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application. He handed out a landscaping plan to the Board Members for their review and explained that the only other place on his property where the pool could be located contained utility lines. Mr. Goodell stated that although the staff

report indicated that the house adjacent to the proposed pool was fifteen feet away from the lot line, that section was a 24 foot wide garage, therefore the living area was 39 feet from the lot line and approximately 45 feet from the pool. Mr. Goodell indicated that Mr. Pat Finn, the pool designer, was present to answer any questions regarding the placement of the pool.

Mr. Patrick Finn, 9980 Meadowood Lane, Marshall, Virginia, employed with Sylvan Swimming Pools, came forward and stated that due to the slope of the yard and the location of the septic field the proposed location was the only feasible place to build the pool. He indicated that approval had been obtained from the Health Department to move the pool closer to the septic tank than what was normally allowed.

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

Robert Carver, 12102 Goodwood Drive, Fairfax, Virginia, came forward. He stated that the pool would be constructed on sloped land which would elevate it, therefore, the fence would not confine the noise or provide any privacy. Mr. Carver stated that the closeness of the pool and the height of the fence would detract from the appearance of his property and he asked that the application be denied.

During rebuttal, Mr. Goodell stated that the landscaping plan showed screening from eight to ten feet tall between the fence and the pool. In addition, he stated that on March 7, 1988 Mr. Carver had signed an approval to allow the use of a portion of the common driveway for access during the construction of a swimming pool.

There being no further speakers, Chairman Smith closed the public hearing.

Mrs. Day made a motion to grant VC 88-S-063.

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MOTION TO GRANT FAILED

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-063 by ARTHUR A. AND ROBIN L. GOODELL, under Section 18-401 of the Zoning Ordinance to allow construction of swimming pool in a front yard (accessory structure not permitted in any front yard), on property located at 12104, Tax Map Reference 56-3((9))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 July 12, 1988; 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.
3. The area of the lot is 27,403 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 FAILED by a vote of 3-3 with Mrs. Day, Messrs. DiGiulian and Hammack voting aye; Chairman Smith voting aye and Messrs. Kelley and Ribble 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 July 20, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 105, July 12, 1988, (Tapes 1-2), Scheduled case of:

8:45 P.M. GLEN A. AND SUSAN C. BROWN, VC 88-V-049, application under Sect. 18-401 of the Zoning Ordinance to allow addition to dwelling to 4.6 feet from one side lot line and 8.2 feet from the other (12 ft. min. side yard required by Sect. 3-307), located at 6421 Potomac Avenue, on approximately 7,000 square feet of land, zoned R-3, Mount Vernon District, Tax Map 93-2((8))(37)8 and 9.

Denise James, Staff Coordinator, presented the staff report and advised the Board that additional language had been added to condition number 4 which should read as follows:

"If the property is deemed to be located within a floodplain, then prior to any construction, the applicants shall seek approval of a Special Exception from the Board of Supervisors in accordance with Sect. 9-601 of the Zoning Ordinance, as qualified by Par. 8 of Sect. 2-903 of the Zoning Ordinance."

Keith Martin with the firm of Walsh, Colucci, Stackhouse, Emrich & Lubeley, P.C., 950 North Glebe Road, Arlington, Virginia, representative of the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Ribble made a motion to grant VC 88-V-049 in accordance with the development conditions contained in the staff report with additional language added to condition number 4.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-049 by GLENN A. AND SUSAN C. BROWN, under Section 18-401 of the Zoning Ordinance to allow addition to dwelling to 4.6 feet from one side lot line and 8.2 feet from the other, on property located at 6421 Potomac Avenue, Tax Map Reference 93-2((8))(37)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 July 12, 1988; 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 7,000 square feet of land.
4. That the applicant's lot has exceptional narrowness as this subdivision was created in the early 1930's which was prior to the current Zoning Ordinance.

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. If the property is deemed to be located within a floodplain, then prior to any construction, the applicants shall seek approval of a Special Exception from the Board of Supervisors in accordance with Sect. 9-601 of the Zoning Ordinance, as qualified by Par. A of Sect. 2-903 of the Zoning Ordinance.

Mr. DiGiulian seconded the motion which carried by a unanimous 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 July 20, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 107, July 12, 1988, (Tape 2), Scheduled case of:

9:00 P.M. THE COURTS HOMEOWNERS ASSOCIATION, INC., SPA 85-D-060-1, application under Sect. 3-E03 of the Zoning Ordinance to amend SP 85-D-060 for community tennis courts to permit reduction to applicable land area and relocation of tennis courts, gazebo and parking lot, located at 1209 Nye Road, on approximately 6.82 acres of land, zoned R-E(C), Dranesville District, Tax Map 19-4((21))A. (DEFERRED FROM 5/3/88 FOR ADDITIONAL INFORMATION FROM DEM)

Kathy Reilly, Staff Coordinator, presented the staff report and advised the Board that the Department of Environmental Management (DEM) had responded to the letter sent by the Board of Zoning Appeals regarding citizen concerns. Ms. Reilly presented a viewgraph to the Board showing the relocation of the tennis courts, the entrance to the parking area, and the parking which created a new transitional screening yard.

This application had been deferred for information purposes only, therefore, Chairman Smith closed the public hearing.

Mr. Hammack made a motion to grant SPA 85-D-060-1 in accordance with the development conditions contained in the staff report with the exception of condition number six which was changed to read, "Four (4) paved parking spaces shall be provided." This motion was seconded by Mr. DiGiulian and carried by a vote of 6-0 with Mrs. Thonen being 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-060-1 by THE COURTS HOMEOWNERS ASSOCIATION, INC., under Section 3-E03 of the Zoning Ordinance to amend SP 85-D-060 for community tennis courts to permit reduction to applicable land area and relocation of tennis courts, gazebo and parking lot, on property located at 1209 Nye Road, Tax Map Reference 19-4((21))A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 12, 1988; 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(C).
3. The area of the lot is 6.82 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 hours of operation shall be limited to 7:00 A.M. to 9:00 P.M., daily.

6. Four (4) paved parking spaces shall be provided.

7. There shall be no employees associated with the tennis courts.

8. The tennis courts shall have no outdoor lighting.

9. The proposed tennis court shall be enclosed by a ten (10) foot high chain link fence.

10. A plan specifying erosion and sediment controls which prevent sedimentation downstream shall be submitted at the time of site plan review to the Director, Department of Environmental Management (DEM) and shall be implemented accordingly as determined by DEM.

11. If determined necessary by the Director of DEM, a geotechnical engineering study for the site shall be conducted prior to any construction and implemented as required by DEM.

12. A tree preservation plan shall be submitted to the County Arborist for review and approval. The plan shall show detailed limits of clearing and grading which preserve as much natural groundcover as possible. These limits shall be generally as shown on the revised special permit plat.

13. Transitional Screening 1 with a Barrier shall be provided around the boundaries of the tennis courts, and parking lot and in the special permit property with the following modifications:

    - A modification to the location and length of Transitional Screening 1 shall be provided along the eastern boundary of the proposed use beyond the chain link fence. This screening shall consist of a double row of evergreen trees. This modification to the screening shall begin approximately 50 feet from the edge of the southern lot line of the open space and continue for a length of approximately 290 feet. An acoustically solid wooden fence approximately six (6) feet high shall be placed along the eastern boundary line of the proposed tennis courts beyond the proposed chain link fence. This fence shall begin approximately 15 feet from the edge of the southern lot line along Nye Road and extend for approximately 375 feet. This fence shall satisfy the barrier requirement for the proposed use.

    - Transitional Screening 1 shall be provided along the northern and western boundaries of the tennis court. The barrier requirement shall be waived along the northern and western boundaries of the open space within this special permit property.

- o A modification to the depth of Transitional Screening 1 shall be provided along the southern boundary of the proposed use. This modification shall allow a planting strip approximately 10 feet in depth with flowering or ornamental trees to satisfy the Transitional Screening 1 requirement. The type, amount, and location of these trees shall be determined by County Arborist to meet the intent of Transitional Screening 1. The barrier requirement shall be waived along the southern boundary of the proposed use.

- o A modification to the length and width of Transitional Screening 1 shall be provided along the eastern lot line in the area situated between the proposed easements. This modification shall allow plantings to be provided approximately twenty (20) feet back from the southeastern corner of the designated open space and shall continue for a length of approximately 560 feet and shall be provided in the area between the easements. The size, type, and location shall be determined by the County Arborist to meet the intent of Transitional Screening 1, in no instance shall the plantings be less than six (6) feet in height.

14. The entire location of the trail as provided by SE 84-D-126 shall be shown on the site plan and installed and maintained. The trail shall be allowed to meander through the required transitional screening yard along the eastern lot line.

15. A building permit shall be obtained for the gazebo.

16. In no event shall the tennis courts be located any closer than sixty-five (65) feet from any side lot line (adjacent to Woodside Estates).

17. A revised plat showing the new location of the tennis courts, parking lot and entrance and gazebo shall be submitted to the Board of Zoning Appeals for approval prior to submitting to the Director of Department of Environmental Management (DEM) for site plan review. The revised plat shall show the tennis courts relocated approximately 25 feet north and 17.5 feet west of the location shown on the submitted plat dated April 11, 1988 (revised). The revised plat shall show the parking lot and entrance relocated approximately 150 feet northwest of the location shown on the submitted plat dated April 11, 1988 (revised.)

The above development conditions incorporate all applicable conditions of previously approved special exception and special permit uses for this 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. DiGiulian seconded the motion which carried by a unanimous 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 July 20, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 109, July 12, 1988, (Tape 2), After Agenda #1:

Request for Additional Time
Congregation Adat Reyim
SP 85-S-057

Mrs. Day moved to grant Congregation Adat Reyim, SP 85-S-057, an additional twelve (12) months to expire on June 10, 1989, in accordance with the recommendation of staff. This motion was seconded by Mr. Ribble and passed by a vote of 6-0 with Mrs. Thonen being absent.

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Page 110, July 12, 1988, (Tape 2), After Agenda #2:

Request for Reconsideration
Joan M. Charters
SP 88-S-040

Jane C. Kelsey, Chief, Special Permit and Variance Branch, advised the Board that she had received this reconsideration request that afternoon, and that Ms. Charters was present to answer any questions.

Mr. Kelley moved to deny the reconsideration request. This motion was seconded by Mr. Ribble and passed by a vote of 5-1 with Mr. Hammack voting nay and Mrs. Thonen being absent.

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Page 110, July 12, 1988, (Tape 2), After Agenda #3:

Approval of Resolutions
July 7, 1988

Mr. Hammack moved to approve the Resolutions for July 7, 1988. This motion was seconded by Mrs. Day and passed by a vote of 6-0 with Mrs. Thonen being absent.

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Page 110, July 12, 1988, (Tape 2), After Agenda #4:

Approval of Minutes
January 12, March 15, April 5 and April 26, 1988

Mrs. Day moved to approve the Minutes for January 12, March 15, April 5 and April 26, 1988. This motion was seconded by Mr. DiGiulian and passed by a vote of 6-0 with Mrs. Thonen being absent.

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Page 110, July 12, 1988, (Tape 2), After Agenda #5:

Request for Intent to Defer
Great Falls Boarding Kennels, Inc.
SPR 81-D-056-1

Jane C. Kelsey, Chief, Special Permit and Variance Branch, advised the Board that staff supported the request for deferral.

Mr. DiGiulian moved to issue an intent to defer SPR 81-D-056-1, Great Falls Boarding Kennels, Inc., to October 11, 1988 at 9:00 a.m. This motion was seconded by Mr. Ribble and passed by a vote of 6-0 with Mrs. Thonen being absent.

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As there was no other business to come before the Board, the meeting was adjourned at 9:50 P.M.

Judy L. Moss, Acting for the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: September 13, 1988 APPROVED: September 20, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 19, 1988. The following Board Members were present: Chairman Daniel Smith; Ann Day; Paul Hammack; John Ribble; Mary Thonen; and Robert Kelley. John DiGiulian was absent from the meeting.

Chairman Smith called the meeting to order at 9:25 A.M. Mrs. Day led the prayer.

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Page ///, July 19, 1988, (Tape 1), Scheduled case of:

9:00 A.M. GREAT FALLS BOARDING KENNELS, INC., SPR 81-D-056-1, application under Sect. 3-E03 of the Zoning Ordinance to allow renewal of S-81-D-056 for kennel, located at 8920 Old Dominion Drive, on approximately 3.99 acres of land, zoned R-E, Dranesville District, Tax Map 13-4((1))31 and 32B. (DEFERRED FROM 1/12/88 AND 4/26/88 - NOTICES NOT IN ORDER)

Chairman Smith announced that the Board was in receipt of a letter from the applicant requesting a deferral of the above-referenced application.

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that several weeks ago the Board had passed a motion indicating their intent to defer this application to October 11, 1988 at 9:00 A.M.

Kathy Reilly, Staff Coordinator, explained that the applicant was requesting a deferral to modify the application to include a deletion of land area and a waiver of the dustless surface requirement. She stated that this would have to be readvertised and new notices would be sent out.

Miguel Gonzalez, 8914 Old Dominion Drive, McLean, Virginia, spoke regarding the deferral request. He stated that many of the neighbors had not been properly advised in advance of the deferrals that had occurred.

In response to questions from the Board, Ms. Kelsey stated that when the application for renewal had been made, staff had questioned whether there was adequate parking on the site. The applicant had then submitted a new plat showing additional land area and parking spaces to the rear of the site. Staff later determined that this was a renewal application and that the additional land could not be added without applying for an amendment to the existing permit.

Ms. Kelsey stated that the applicant either had to remove the roofs from the runs in order to bring the application back into compliance with its original approval or the runs had to be completely enclosed in order to make the application comply with the additional standards.

In response to a question from Mr. Hammack, Ms. Kelsey stated that the renewal application had been filed on October 12, 1987 and that the original application had expired on December 12, 1987.

Mr. Hammack moved to defer SPR 81-D-056-1 to September 20, 1988 at 9:45 A.M.

Mr. Ribble seconded the motion which passed by a vote of 5-1 with Mr. Kelley voting nay; Mr. DiGiulian absent from the meeting.

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Page ///, July 19, 1988, (Tape 1), Scheduled case of:

9:15 A.M. MANFRED MATHES, VC 88-V-065, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of carport and enlargement to attached garage to dwelling to 4.0 feet from side lot line such that side yards total 24.1 feet (8 ft. min., 24 ft. total min. side yards required by Sect. 3-207), located at 4409 Aragon Place, on approximately 15,030 square feet of land, zoned R-2(C), Mount Vernon District, Tax Map 110-1((20))23

Kathy Reilly, Staff Coordinator, presented the staff report.

Mary Mathes, 4409 Aragon Place, Alexandria, Virginia, representative of the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. She stated that this application was consistent with the covenants of the Mount Vernon Manor Civic Association and that the abutting property owner most affected by the proposed garage was in support of the application.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant VC 88-V-065.

Mrs. Day seconded the motion which passed by a vote of 4-2 with Chairman Smith and Mr. Hammack voting nay; Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-065 by MANFRED MATHES, under Section 18-401 of the Zoning Ordinance to allow enclosure of carport and enlargement to attached garage to dwelling to 4.0 feet from side lot line such that side yards total 24.1 feet, on property located at 4409 Aragon Place, Tax Map Reference 110-1((20)23, 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 19, 1988; 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 15,030 square feet of land.
4. That it is a minimum size garage and if it were much smaller the applicant could not get his vehicle into it.
5. That the applicant went to the effort to have the structure look similar to other garages in the surrounding area.
6. That land is so expensive that to improve what is already owned is in the best interest of the applicant.
7. There is no where else on the property to add the garage.

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 to finish the addition shall be compatible with the principal dwelling unit.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-2 with Chairman Smith and Mr. Hammack voting nay and Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 27, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 113, July 19, 1988, (Tape 1), Scheduled case of:

9:30 A.M. ROBERT AND PATRICIA MAIOCCO, SP 88-S-023, application under Sect. 6-303 of the Zoning Ordinance to allow accessory dwelling unit, located at 6203 Ormandy Drive, on approximately 11,015 square feet of land, zoned PRC, Springfield District, Tax Map 77-4((3))137

Kathy Reilly, Staff Coordinator, presented the staff report.

Robert Maiocco, 6203 Ormandy Drive, Burke, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He stated that his in-laws spent approximately four months a year at his home and that he had finished the basement for them which included a bathroom, family room bedroom and a kitchen area. Mr. Maiocco stated that he was requesting approval to place a stove in the finished basement.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Day moved to grant SP 88-S-023.

Mr. Hammack seconded the motion which passed by a vote of 6-0, Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-023 by ROBERT AND PATRICIA MAIOCCO, under Section 6-303 of the Zoning Ordinance to allow accessory dwelling unit, on property located at 6203 Ormandy Drive, Tax Map Reference 77-4((3))137, 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 19, 1988; 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 PRC.
3. The area of the lot is 11,015 square feet of land.
4. That the accessory dwelling unit is for elderly parents to live in.
5. The residence is not being changed in any other way.
6. That staff has indicated the applicant meets the requirements from the Zoning Ordinance.
7. That the applicant does not object to the Development Conditions contained in the staff report dated July 12, 1988.

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 8-918 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. However, this condition shall not preclude the applicant from erecting structures or establishing uses that are not related to the accessory dwelling unit and would otherwise be permitted under the Zoning Ordinance and other applicable codes.

3. This Special Permit use is subject to the provisions of Article 17, Site Plans. Prior to obtaining building permit approval, any plans that are deemed necessary by the Director, DEM, shall be submitted and approved by DEM pursuant to Par. 3 of Sect. 8-903. Any plans submitted shall conform with the approved Special Permit plat and these conditions.

4. The accessory dwelling unit shall occupy no more than 550 square feet of the principal dwelling.

5. The accessory dwelling unit shall contain no more than one bedroom.

6. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance.

7. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.

8. This special permit shall be approved for a period of five (5) years from the approval date or with succeeding five (5) year extensions permitted with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.

9. Upon the termination of the new addition as an accessory dwelling unit, the structure shall be internally altered so as to become an integral part of the main dwelling unit.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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 Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 27, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 115, July 19, 1988, (Tape 1), Scheduled case of:

9:45 A.M. DONALD CLINGERMAN, VC 88-S-066, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 12.5 ft. from a street line of a corner lot (30 ft. min. front yard required Sect. 3-307) located at 7900 Orange Plank Road, on approximately 11,219 square feet of land, zoned R-3, Springfield District, Tax Map 89-4((6))4

Chairman Smith announced that the Board was in receipt of a letter from the applicant requesting withdrawal of the above-referenced variance application.

Mrs. Thonen made a motion to allow the applicant to withdraw VC 88-S-066.

Mrs. Day seconded the motion which passed by a vote of 4-0. Mr. Ribble and Mr. Hammack not present for the vote, Mr. DiGiulian absent from the meeting.

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Page 115, July 19, 1988, (Tape 1), Scheduled case of:

10:00 A.M. MICHAEL W. BEAVERS AND LYNDA C. POLAR, VC 88-D-064, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to existing dwelling to 8.5 feet and deck addition to 10.5 feet from one street line of a corner lot, and a deck addition to 23.0 feet and a roofed deck addition to 30 feet from the other street line (40 ft. min. front yard required by Sect. 3-107), located at 8205 Old Dominion Drive, on approximately 0.92 acres of land, zoned R-1, Dranesville District, Tax Map 20-3((1))10 and 11

Lori Greenlief, Staff Coordinator, presented the staff report. She informed the Board that there was one letter of opposition in the file.

Daniel Fiore, 1515 North Courthouse Road, Arlington, Virginia, representative of the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He stated that the applicants wanted to enlarge the sixty-year old house for additional living space for the family. Mr. Fiore stated that the extraordinary condition of the subject property was the close location of the present dwelling to two streets which gave it two front yards.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Ribble made a motion to grant VC 88-D-064.

Mrs. Day seconded the motion which passed by a vote of 4-2 with Chairman Smith and Mrs. Thonen voting nay; Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-064 by MICHAEL W. BEAVERS AND LYNDA C. POLAR, under Section 18-401 of the Zoning Ordinance to allow construction of addition to existing dwelling to 8.5 feet and deck addition to 10.5 feet from one street line of a corner lot, and a deck addition to 23.0 feet and a roofed deck addition to 30 feet from the other street line, on property located at 8205 Old Dominion Drive, Tax Map Reference 20-3((1))10 & 11, 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 19, 1988; 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 0.92 acres of land.
4. That the application has extraordinary conditions because of the age and location of the structure.
5. That it will improve the character of the neighborhood.
6. That the additions are not any closer to the lot line than the existing dwelling.

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 4-2 with Chairman Smith and Mrs. Thonen 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 July 27, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 116, July 19, 1988, (Tape 1), Scheduled case of:

10:15 A.M. HERNDON CHURCH OF GOD, SP 88-C-043, application under Sect. 3-103 and 8-901 of the Zoning Ordinance for a restroom addition to existing church and related facilities, and a waiver of dustless surface requirement, located at 2472 Centreville Road, on approximately 0.935 acres of land, zoned R-1, Centreville District, Tax Map 16-3((1))7

Lori Greenlief, Staff Coordinator, presented the staff report. She informed the Board that staff had no direct concerns with the restroom addition; however, given the intense development going on around this area there were a couple of issues that needed to be pointed out. Ms. Greenlief stated that Centreville Road was going to be improved to a

six-lane divided highway and shifted to the east, which was one of the reasons staff had recommended that two of the entrances from Centreville Road into the church property be closed. In addition, there was inadequate sight distance from both of the entrances.

Richard Rodgers, 119 Ft. Evans Road, Leesburg, Virginia, representative of the applicant, appeared before the Board. He stated that he had no objection to the development conditions contained in the staff report.

Reverend Jack Woods, Associate Pastor of the Herndon Church, 8023 Leeland Road, Manassas, Virginia, spoke in support of the request. He stated that the church was in need of bathrooms because the church had been built in 1906 and currently only had outhouses.

There being no further speakers, Chairman Smith closed the public hearing.

Mr. Kelley made a motion to grant SP 88-C-043.

Mr. Ribble seconded the motion which passed by a vote of 6-0, Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-C-043 by HERNDON CHURCH OF GOD, under Sections 3-103 and 8-901 of the Zoning Ordinance for a restroom addition to existing church and related facilities, and a waiver of dustless surface requirement, on property located at 2472 Centreville Road, Tax Map Reference 16-3((1))7, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 19, 1988; 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 0.935 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 seating capacity shall be limited to a total of 100.

6. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11 and shall be a minimum and maximum of 25 spaces. All parking shall be on site.

7. Existing vegetation along the northern lot line shall be deemed to satisfy the Transitional Screening 1 requirement.

8. The barrier requirement shall be waived.

9. The two existing entrances onto Centreville Road shall be closed.

10. The existing entrance onto Coppermine Road shall be widened to meet Virginia Department of Transportation (VDOT) standards.

11. The gravel driveway and parking areas shall be maintained in accordance with Public Facilities Manual standards and the following guidelines. The waiver of the dustless surface shall expire on July 26, 1993.

    - Speed limits shall be kept low, generally 10 mph or less.
    - The areas shall be constructed with clean stone with as little fines material as possible.
    - The stone shall be spread evenly and to a depth adequate enough to prevent wear-through or bare subsoil exposure. Routine maintenance should prevent this from occurring with use.
    - Resurfacing shall be conducted when stone becomes thin and underlying soil is exposed.
    - During dry seasons, water or calcium chloride shall be applied to control dust.
    - Runoff shall be channeled away from and around the parking lot.
    - The applicant shall perform periodic inspections to monitor dust conditions, drainage functions and compaction-migration of the stone surface.

12. Any septic effluent remaining in the existing outhouse shall be properly disposed of by a licensed operator according to Chapter 68 of the Fairfax County Code.

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

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

Mr. Ribble 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 July 27, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 118, July 19, 1988, (Tapes 1 and 2), Scheduled case of:

10:30 A.M. TYSONS BRIAR T/A CARDINAL HILL SWIM CLUB, SP 82-C-025, approved under Sect. 3-103 of the Zoning Ordinance for a community swim and tennis club by the BZA on January 11, 1983, located at 9117 Westerholme Way, on approximately 4.167 acres of land, Tax Map 28-4((1))47 and 45A. Five-year review to determine adequacy of parking per condition number 8.

Lori Greenlief, Staff Coordinator, presented the staff report. She informed the Board Members that the issue that had prompted this review was a condition imposed by the Board in 1983 involving parking. Ms. Greenlief stated that in 1978 Tysons Briar had

constructed two additional tennis courts which were located on an existing parking lot. She stated that as a condition of that approval, the Board had required the construction of a replacement parking lot. Tysons Briar never constructed that lot and returned to the Board in 1982 to request the removal of that requirement. The Board agreed to delete that condition temporarily and imposed a five-year review of the parking situation to ensure that it was adequate.

Ms. Greenlief stated that it is staff's judgment, based on several site visits, that the existing parking at the facility was adequate, although several times a year during swim meets there was overflow parking. She stated that twelve letters in support had been received.

Ms. Greenlief indicated that in the existing parking lot there was vegetation that was overgrown, and that a bike rack and a dumpster were occupying parking spaces.

William Donnelly, attorney with the firm of Hazel, Thomas, Fiske, Beckhorn & Hanes, 3110 Fairview Park Drive, Falls Church, Virginia, representative of the applicant, appeared before the Board to present the position of Tysons Briar. He stated that the additional development conditions added to the permit by the BZA staff were reasonable, although he requested that the Board revise the suggested timeframe on proposed condition number five from August 1, 1988 to June 1, 1989. It was the consensus of the Board to change the August 1, 1988 date to May 25, 1989.

Mr. Hammack requested staff to combine the original development conditions with the proposed development conditions into one document. There was discussion among the Board Members regarding the deletion of the five-year review imposed on the facility in the original development conditions.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Hammack again requested that staff combine the original and proposed development conditions into one document to correspond to the total conditions that should be imposed on the site of Tysons Briar.

Mrs. Thonen made a motion to defer decision on SP 82-C-025 until July 26, 1988 at 11:30 A.M. to give staff time to combine the development conditions for Board review.

Mr. Ribble seconded the motion which passed by a vote of 6-0, Mr. DiGiulian absent from the meeting.

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Page 119, July 19, 1988, (Tape 2), Scheduled case of:

10:45 A.M. STEVEN L. HALTER, SP 88-S-032, application under Sect. 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow addition to dwelling 9.5 feet from side lot line (20 ft. min. side yard required by Sect. 3-C07), located at 6228 Secret Hollow Lane, on approximately 12,874 square feet of land, zoned R-C and WS, Springfield District, Tax Map 53-3((3))19.

Heidi Belofsky, Staff Coordinator, presented the staff report.

Steven Halter, 6228 Secret Hollow Lane, Centreville, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He stated that he agreed with the development conditions contained in the staff report.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen made a motion to grant SP 88-S-032.

Mr. Ribble seconded the motion which passed by a vote of 5-0, Mr. Kelley not present for the vote, Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-032 by STEVEN HALTER, under Section 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow addition to dwelling 9.5 feet from side lot line, on property located at 6228 Secret Hollow Lane, Tax Map Reference 53-3((3))19, 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 19, 1988; 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.
3. The area of the lot is 12,874 square feet of land.
4. The staff, the applicant, and the neighbors have all worked together to make this application a workable one.

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 approval is granted for the location and the specific structure shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless a request for 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 the approved addition.

4. The exterior of the building addition, including the roof, shall be architecturally compatible with the existing dwelling and shall be similar in style, color, and materials.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0 with Mr. Kelley not present for the vote and Mr. DiGiulian absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 27, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 120, July 19, 1988, (Tape 2), Scheduled case of:

11:00 A.M. JAMES S. CLARK III, SP 88-C-015, application under Sect. 8-901 of the Zoning Ordinance to allow a modification to allow five (5) dogs on 19,401 square foot lot (20,000 min. lot size for 5 dogs required by Sect. 2-512) located at 2529 Freetown Drive, on approximately 19,401 square feet of land, zoned PRC, Centreville District, Tax Map 26-1((11))(2)32

Heidi Belofsky, Staff Coordinator, informed the Board that the applicants were moving out of the County and wanted to have the application deferred indefinitely to allow them time to relocate.

Calvin Larson, 1606 Washington Plaza, Reston, Virginia, representative of the applicant, appeared before the Board. He asked if the hearing could be held in view of the favorable staff report.

Ms. Belofsky informed the Board that the applicant had retained an attorney to represent him and needed to submit a revised affidavit reflecting this change and, in addition, the name of the surveyor of the property needed to be added. In reply, Mr. Larson stated that he had already amended the affidavit and sent it to the County Attorney's Office.

Chairman Smith passed over the case until the end of the agenda to allow Mr. Larson the opportunity to obtain an approved copy of the revised affidavit from the County Attorney's Office.

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Page 121, July 19, 1988, (Tape 2), Scheduled case of:

11:15 A.M. IMMANUEL BIBLE CHURCH, (formerly Immanuel Baptist Church), SPA 80-A-058-1, application under Sect. 3-203 and 8-901 of the Zoning Ordinance to amend S-80-A-058 for church and related facilities and school of general education to permit additional land area, use of existing dwelling for church purposes, building and parking additions, temporary use of three (3) trailers and a modification of the dustless surface requirement and change of permittee, located at 5211 Backlick Road, on approximately 12.9 acres of land, zoned R-2, Annandale District, Tax Map 71-4((1))35, 36A and 71-4((2))1, 2, 3

Heidi Belofsky, Staff Coordinator, stated the staff report for this application was published on July 12, 1988, and in it was a recommendation for denial due to a number of outstanding issues. She stated that by letter dated and received by staff on July 18, 1988, the applicant had requested a deferral until late September to allow time to revise the plans and allow time for staff to prepare an analysis of the revised plans.

David S. Houston, attorney with the law firm of McGuire, Woods, Battle and Boothe, 8280 Greensboro Drive, McLean, Virginia, representative of the applicant, appeared before the Board to answer any questions they might have.

Mr. Hammack moved to defer SPA 80-A-058-1 to October 11, 1988 at 9:00 A.M.

Mrs. Thonen seconded the motion which passed by a vote of 5-0, Mr. Kelley not present for the vote, Mr. DiGiulian absent from the meeting.

In response to a question from Mr. Hammack, Mr. Houston stated that Immanuel Bible Church had changed their name from Immanuel Baptist Church in the 1983/1984 timeframe.

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Page 121, July 19, 1988, (Tape 2), Scheduled case of:

11:30 A.M. SECOND HOLLY KNOLL HOMEOWNERS ASSOCIATION, SPA 85-D-046-1, application under Sect. 3-103 of the Zoning Ordinance to amend SP 85-D-046 for community tennis courts to permit addition of a tot lot, located at 939 Rolling Holly Drive, on approximately 387,778 square feet of land, zoned R-1, Dranesville District, Tax Map 6-3((4))I. (DEFERRED FROM 7/7/88 TO ALLOW TIME FOR THE BOARD OF SUPERVISORS TO TAKE ACTION ON THE CONSERVATION EASEMENT)

Chairman Smith informed the BZA Members that he was in receipt of a memorandum from Audrey Moore, Chairman, Fairfax County Board of Supervisors, which informed the Board that permission had been granted to Second Holly Knoll Homeowner's Association to retain their tennis courts and a tot-lot within a conservation easement.

Kathy Reilly, Staff Coordinator, presented the staff report. She stated that in view of the fact that the Board of Supervisors had taken favorable action regarding the conservation easement, staff was recommending approval.

Henry Nash, 909 Holly Creek Drive, President of the Second Holly Knoll Homeowner's Association, represented the applicant. He stated that after hearing the staff report he had no additional comments.

Ms. Reilly stated that she had neglected to mention in her presentation that staff wanted to add a development condition that the applicant must submit a revised plat to show the tot-lot in conformance with the as-built.

Mr. Nash indicated that it would take at least one week to have a new plat drawn. Chairman Smith stated that the plat would be approved when it was submitted to the Board.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Hammack made a motion to approve SPA 85-D-046-1, with a modification to condition number nine and an additional condition number 12.

Mrs. Thonen seconded the motion which passed by a vote of 6-0, Mr. DiGiulian 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-046-1 by SECOND HOLLY KNOLL HOMEOWNERS ASSOCIATION, under Section 3-103 of the Zoning Ordinance to amend SP 85-D-046 for community tennis courts to permit addition of a tot lot, on property located at 939 Rolling Holly Drive, Tax Map Reference 6-3((4))I, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 19, 1988; 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 387,778 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 8-403 of the Zoning Ordinance.

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

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

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

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

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

5. There shall be no employees associated with this use.

6. The hours of operation shall be limited to 7:00 AM to 9:00 PM, daily.

7. Transitional Screening 1 (25') shall be provided as required by Article 13 of the Zoning Ordinance. The existing on-site vegetation shall be used to satisfy this requirement and shall be supplemented with additional plantings as determined by the County Arborist at the time of site plan review.

8. The barrier requirement shall be waived

9. There exists a recorded conservation easement for the the benefit of the Fairfax County Board of Supervisors. There shall be no future construction on Parcel I that shall denude, deface or otherwise disturb this easement without prior approval of the Fairfax County Board of Supervisors.

10. If determined necessary by the Director of Department of Environmental Management (DEM), a grading permit shall be obtained for the tot lot.

11. The proposed tot lot shall have no outdoor lighting.

12. The revised plats showing the as-built tot-lot should be filed with the Board of Zoning Appeals prior to approval of the resolution.

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

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

Page 123, July 19, 1988, (Tape 2), (Second Holly Knoll Homeowners Association, SPA 85-D-046-1, continued from Page 122)

Mrs. Thonen 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 July 27, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 123, July 19, 1988, (Tape 2), After Agenda Item #1:

Request for Additional Time
Daniel German
VC 87-S-048

Mrs. Thonen made a motion to grant an additional four months to VC 87-S-048. The motion died for lack of a second.

Following discussion, Mrs. Day made a motion to deny the request for additional time of Daniel German, VC 87-S-048.

Mr. Ribble seconded the motion which passed by a vote of 5-1 with Mrs. Thonen voting nay; Mr. DiGiulian absent from the meeting.

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Page 123, July 19, 1988, (Tape 2), After Agenda Item #2:

Request for Reconsideration
Arthur & Robin Goodell
VC 88-S-063

Mr. Ribble stated that following the hearing, he had suggested that Mr. Goodell request a waiver of the twelve-month waiting period required for filing of a new application. The applicant did not wish to do so.

Mrs. Thonen made a motion to deny the request for reconsideration of Arthur and Robin Goodell, VC 88-S-063.

Mrs. Day seconded the motion which passed by a vote of 5-1 with Mr. Kelley voting nay; Mr. DiGiulian absent from the meeting.

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Page 123, July 19, 1988, (Tape 2), After Agenda Item #3.

Out-of-Turn Hearing Request
Long Signature Homes, Inc.
SP 88-S-066

Mrs. Thonen made a motion to approve the request for an out-of-turn hearing for Long Signature Homes, Inc., SP 88-S-066. The hearing would be scheduled for October 11, 1988 at 9:15 P.M.

Mr. Hammack seconded the motion which passed by a vote of 5-1 Chairman Smith voting nay; Mr. DiGiulian absent from the meeting.

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Page 123, July 19, 1988, (Tape 2), After Agenda Item #4:

Out-of-Turn Hearing Request
Harold Logan & Associates
SP 88-D-070

Mr. Hammack made a motion to approve the request for an out-of-turn hearing for Harold Logan & Associates, SP 88-D-070. The hearing would be scheduled for October 11, 1988 at 9:30 P.M.

Mr. Ribble seconded the motion which passed by a vote of 4-1 Chairman Smith voting nay; Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 124, July 19, 1988, (Tape 2), After Agenda Item #5:

Approval of Resolutions
July 12, 1988

Mrs. Day made a motion to approve the Resolutions for July 12, 1988 as submitted by staff.

Mr. Ribble seconded the motion which passed by a vote of 5-0; Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 124, July 19, 1988, (Tape 2), Continuation of SP 88-C-015:

11:00 A.M. JAMES S. CLARK III, SP 88-C-015, application under Sect. 8-901 of the Zoning Ordinance to allow a modification to allow five (5) dogs on 19,401 square foot lot (20,000 min. lot size for 5 dogs required by Sect. 2-512) located at 2529 Freetown Drive, on approximately 19,401 square feet of land, zoned PRC, Centreville District, Tax Map 26-1((11))(2)32,

Heidi Belofsky, Staff Coordinator, informed the Board that she had received the revised affidavit and that it was in order. Ms. Belofsky presented the staff report. She informed the Board that a notice of violation had been issued for exceeding the limitations for the keeping of animals. She informed the Board that staff was not opposed to granting the application for a period of one year in order to allow the applicants sufficient time to build their new home.

Calvin Larson, 1606 Washington Plaza, Reston, Virginia, representative of the applicant, appeared before the Board. He stated that the applicants had signed a contract for a new home and that construction materials were being delivered to the site on August 22, 1988. Mr. Larson stated that a one year permit would give Mr. and Mrs. Clark plenty of time to complete their move.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Hammack made a motion to approve SP 88-C-015, with a modification to condition number five.

Mr. Ribble seconded the motion which passed by a vote of 5-0; Mrs. Thonen not present for the vote; Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-C-015 by JAMES S. CLARK, III, under Section 8-901 of the Zoning Ordinance to allow a modification to allow five (5) dogs on 19,401 square foot lot, on property located at 2529 Freetown Drive, Tax Map Reference 26-1((11))(2)32, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 19, 1988; 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 PRC.
3. The area of the lot is 19,401 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 8-917 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. A copy of this SPECIAL PERMIT shall be made available to all departments of the County of Fairfax during working hours.

3. The applicant shall comply with Sect. 41-2-5 of the Fairfax County Code for Animals and Fowl, Unrestricted Dogs Prohibited: Leash Law, whenever the animals are off the property.

4. The yard shall be kept free of animal debris.

5. This Special Permit shall expire automatically on July 19, 1989 or when the applicant sells the dwelling located at 2529 Freetown Drive, whichever comes first.

6. Only two (2) dogs shall be allowed outside the dwelling at any one time.

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0 with Mrs. Thonen 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 July 27, 1988. 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 12:30 P.M.

Judy L. Moss, Acting Associate Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: November 29, 1988 APPROVED: December 6, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, July 26, 1988. The following Board Members were present: Chairman Daniel Smith; Ann Day; John DiGiulian; Paul Hammack; Robert Kelley; John Ribble; and Mary Thonen.

Chairman Smith called the meeting to order at 9:15 A.M. Mrs. Day led the prayer.

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Page 125A, July 26, 1988, (Tape 1), Scheduled case of:

9:00 A.M. JOEL A. AND LOIS S. COHEN, VC 88-P-019, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 21.8 feet from a street line of a corner lot (40 ft. min. front yard required by Sect. 3-107) located at 8601 Janet Lane, on approximately .3994 acres of land, zoned R-1, Providence District, Tax Map 39-3((14))63. (DEFERRED FROM 4/26/88)

Lori Greenlief, Staff Coordinator, advised the Board that the notices were not done in this case because the applicant was requesting a withdrawal, that the case had been deferred earlier when the applicant had requested a year's deferral, that the Board rejected the year request, but did defer it for three months and pointed out to the applicant that if he were not present at this hearing, then the Board would administratively withdraw it. Ms. Greenlief further advised the Board that sometime within the last month the applicant said he was sending a letter requesting withdrawal, that such a letter had not been received, and that the applicant could not now be contacted.

Mr. Hammack made a motion that the Board administratively withdraw the application for the applicant's lack of interest at this point. Mr. Ribble seconded the motion which passed by a vote of 7-0.

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Page 125A, July 26, 1988, (Tape 1), Scheduled case of:

9:15 A.M. ROBERT D. LAPIDUS, VC 88-D-016, application under Sect. 18-401 of the Zoning Ordinance to allow addition to existing garage to 4.0 feet from side lot line (12 foot min. side yard required by Sect. 3-107), located at 12152 Holly Knoll Circle, on approximately 25,202 square feet of land, zoned R-1(C), Dranesville District, Tax Map 6-1((7))19. (DEFERRED FROM 4/26/88)

Chairman Smith noted that the Board had received a request for withdrawal of this application and asked whether the staff had any objection to the withdrawal.

Jane C. Kelsey, Chief, Special Permit and Variance Branch, advised the Board that staff had no objection.

Mr. Hammack moved that the Board grant the request for withdrawal. Mrs. Day seconded the motion which passed by a vote of 7-0.

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Page 125A, July 26, 1988, (Tape 1), Scheduled case of:

9:15 A.M. AUSTIN ZAPPALA, VC 87-M-165, application under Sect. 18-401 of the Zoning Ordinance to allow vehicle major service establishment in existing building 12.6 feet from rear lot line (20 feet min. rear yard required by Sect. 4-807, compliance with bulk regulations required by Sect. 9-503) located at 6116 Columbia Pike, on approximately 22,830 square feet of land, zoned C-8 and H-C, Mason District, Tax Map Reference 61-4((1))160A. (DEF. FROM 7/7/88 - TO BE HEARD CONCURRENT WITH SE 87-M-126)

Chairman Smith inquired whether the Special Exception had been heard.

Kathy Reilly, Staff Coordinator, informed the Board that the Special Exception was to allow a vehicle major service establishment in the existing building on the site and that the Board of Supervisors heard the request on July 18, 1988 and approved it, although nothing in writing had been received from the Board of Supervisors regarding the details of the approval. Ms. Reilly then presented the staff report for the variance.

The Board discussed with staff the location, the surrounding property, the difference between the present category of operations, a service station, and a vehicle major service establishment, and the length of time that the establishment had been located at that site. Ms. Reilly advised the Board that according to the Zoning Ordinance there are vehicle light service establishments and vehicle major service establishment, activities associated with vehicle major service establishment being body work, straightening of body parts, painting, welding, or similar work involving noise, glare, fumes and smoke. Ms. Reilly added, however, that the Board of Supervisors added an additional development condition to the Special Exception application and those activities would not be occurring on the site.

Mr. Hammack inquired what would be occurring on the site that was not now occurring. Ms. Reilly responded that only repair of automobiles would take place on the site. Chairman Smith pointed out that the repair of automobiles was occurring there and had been for a long period of time.

Mr. Hammack asked that the Board be given a copy of what the Board of Supervisors actually approved so that the Board could consider that as part of the development conditions.

Helen Zappala, 3910 Oak Hill Drive, Annandale, Virginia, the applicant, appeared before the Board and explained her request as outlined in the statement of justification as submitted with the application, and further stated that she needed to have a variance because she wanted to remove the gasoline pumps because they are environmentally hazardous and because of the "no left-hand turn" sign that was erected shortly after they moved into the location, which put a hardship on them, but that they would continue to do mechanical work. Mrs. Zappala stated they were compelled to move into the body work category because they could not continue to be zoned a gas station and not pump gas, but that body work was not something they wanted to do.

Chairman Smith asked if it was going to be possible for the Board to get a copy of the action of the Board of Supervisors. Ms. Reilly advised that they were checking with the Clerk to the Board of Supervisors.

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

Mr. Hammack and Mrs. Thonen suggested that the Board pass over this application until staff could get a copy of the development conditions attached to the Special Exception approval and the Board unanimously agreed.

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Page 126, July 26, 1988, (Tape 1), Scheduled case of:

9:30 A.M. RIDGEMONT MONTESSORI SCHOOL, INC., SPA 85-D-024-2, application under Sect. 3-103 of the Zoning Ordinance to amend SP 85-D-024 for a nursery school and school of general education to permit continuation of the use without term, located at 6519 Georgetown Pike, on approximately 1.4854 acres of land, zoned R-1, Dranesville District, Tax Map 22-3((1))4B.

Patrick Via, attorney with the law firm of Hazel, Thomas, Fiske, Beckhorn and Hanes, P.O. Box 547, Fairfax, Virginia, requested a half-hour deferral to enable the applicant's attorney of record, John Cahill, to be present during the hearing. The Board agreed to take up the next two cases and then return to this case.

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Page 126, July 26, 1988, (Tape 1), Scheduled case of:

9:45 A.M. GERARD P. AND ELIZABETH E. YOEST, VC 88-V-069, application under Sect. 18-401 of the Zoning Ordinance to allow construction of new entrance to dwelling with covered porch 23.7 ft. and uncovered stairs 17.3 ft. from front lot line (30 ft. min. front yard required by Sects. 3-407 and 2-412) located at 1911 Belle Haven Road, on approximately 13,835 square feet of land, zoned R-4, Mount Vernon District, Tax Map 83-3((14))(13)3

Kathy Reilly, Staff Coordinator, presented the staff report.

Gerard Yoest, 1911 Belle Haven Road, Alexandria, 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.

Mr. Ribble moved to grant VC 88-V-013 based on the applicant's testimony, the exceptional shallowness at the time of the effective date of the Ordinance, the exceptional topographic conditions, and the fact that the structure would improve the neighborhood.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-069 by GERARD P. AND ELIZABETH E. YOEST, under Section 18-401 of the Zoning Ordinance to allow construction of new entrance to dwelling with covered porch 23.7 feet and uncovered stairs 17.3 feet from front lot line, on property

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located at 1911 Belle Haven Road, Tax Map Reference 83-3((14))(13)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 July 26, 1988; 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-4.
3. The area of the lot is 13,835 square feet of land.
4. That there are topographical problems.
5. That the application is a minimum variance.

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 passed by a unanimous vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 3, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 128, July 26, 1988, (Tape 1), Scheduled case of:

10:00 A.M. THOMAS L. AND ELIZABETH F. VAN DER VOORT, VC 88-V-067, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport and screened porch 9.0 ft. from side lot line (15 ft. min. side yard required by Sect. 3-207) located at 1134 Westmoreland Road, on approximately 9,375 square feet of land, zoned R-2, Mount Vernon District, Tax Map 102-2((12))72

Heidi Belofsky, Staff Coordinator, presented the staff report.

Elizabeth Van der Voort, 1134 Westmoreland Road, Alexandria, Virginia, the applicant, appeared before the Board and explained her request as outlined in the statement of justification as submitted with the application. Mrs. Van der Voort also read a letter from Mr. and Mrs. George Hopkins, Jr., back door neighbors of the applicants, who supported the request, and indicated that three other neighbors had indicated to her that they see no problem with enclosing the carport since they are not extending the foundation of the house.

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

Mr. DiGiulian moved to grant VC 88-V-067 based on the applicant's testimony, the narrowness of the lot and the topography, in that a stream runs down the east side of the lot.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-067 by THOMAS AND ELIZABETH VAN DE VORT, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport and screened porch 9.0 feet from side lot line, on property located at 1134 Westmoreland Road, Tax Map Reference 102-2((12))72, 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 26, 1988; and

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

1. That the applicants are the owners of the land.
2. That the present zoning is R-2.
3. That the area of the lot is 9,375 square feet of land.
4. That the property is narrow.
5. That there are topographic conditions of the property; the stream runs down east side of the lot.

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 addition shall be similar to the existing dwelling in regard to style, color, and materials.

Mrs. Thonen 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 August 3, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 129, July 26, 1988, (Tape 1), Scheduled case of:

10:15 a.m. MARK L. SCHEFFEL, VC 88-S-072, application under Sect. 18-401 of the Zoning Ordinance to allow addition to dwelling to 19.5 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located 6436 Battle Rock Drive, on approximately 11,766 square feet of land, zoned R-3, Springfield District, Tax Map 65-4((2))71.

Chairman Smith stated that the Board had received a letter from the applicant requesting that the application be withdrawn.

Mrs. Thonen moved that the Board grant the request for withdrawal. Mr. Kelley seconded the motion which passed by a vote of 5-0, with Mr. DiGiulian and Mr. Hammack not present for the vote.

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9:30 a.m. RIDGEMONT MONTESSORI SCHOOL, INC., SPA 85-D-024-2, application under Sect. 3-103 of the Zoning Ordinance to amend SP 85-D-024 for a nursery school and school of general education to permit continuation of the use without term, located at 6519 Georgetown Pike, on approximately 1.4854 acres of land, zoned R-1, Dranesville District, Tax Map 22-3((1))4B.

Kathy Reilly, Staff Coordinator, presented the staff report.

Patrick Via, attorney with the law firm of Hazel, Thomas, Fiske, Beckhorn and Hanes, P.O. Box 547, Fairfax, Virginia, appeared before the Board and explained the requested as outlined in the statement of justification as submitted with the application.

Chairman Smith called for speakers in support of this application and the following persons came forward: Turkan Gardenier, 115 St. Andrews Drive, Vienna, Virginia; James Thompson, 6953 Kyleakin Court, McLean, Virginia; David Reynolds, 836 Nethercliffe Hall Road, Great Falls, Virginia; and Janice Dabroski, 810 Carrie Court, McLean, Virginia.

The primary reason for the support dealt with the need for the school and its excellence, and the fact that traffic hazards were not created by the school.

Chairman Smith called for speakers in opposition to the request and hearing no reply, closed the public hearing.

Mrs. Thonen moved to approve the application subject to the development conditions contained in the staff report with the following modifications:

Conditions Numbers 1 through 5 remain the same.
Condition Number 6 modified to read: "The maximum hours of operation shall be Monday through Friday, 9:00 a.m. to 3:00 p.m.
Condition Number 7 modified to read: "There shall be nine (9) regular parking spaces and three (3) handicapped parking spaces associated with this use. All parking shall be on site.
Condition Number 8 modified to read: "... All existing dead trees and shrubs now located along the northern and western boundary lines of the play area shall be replaced with healthy evergreens as required by Par. 3A of Sect. 13-111 of the Zoning Ordinance."
Condition Number 9 shall be deleted.
Conditions Numbers 10 through 12 shall remain the same.
Condition Number 13 shall be deleted.
Conditions Numbers 14 through 16 shall remain the same.
Condition Number 17 shall be deleted.
Renumber the Conditions accordingly and add a new Condition Number 14 to read: This special permit use is issued for a five (5) year term."

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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-024-2 by RIDGEMONT MONTESSORI SCHOOL, INC., under Section 3-103 of the Zoning Ordinance to amend SP 85-D-024 for a nursery school and school of general education to permit continuation of the use without term, on property located at 6519 Georgetown Pike, Tax Map Reference 22-3((1))4B, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 26, 1988; and

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

1. That the applicant is the lessee.
2. The present zoning is R-1.
3. The area of the lot is 1.4854 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. The maximum daily enrollment shall be 63 children.

6. The maximum hours of operation shall be Monday through Friday, 9:00 a.m. to 3:00 p.m.

7. There shall be nine regular parking spaces and three handicapped parking spaces associated with this use. All parking shall be on site.

8. All existing dead trees and shrubs now located along the northern and western boundary lines of the play area shall be be replaced with healthy evergreens as required by Par. 3A of Sect. 13-111 of the Zoning Ordinance.

9. The existing wooden fence approximately six feet in height along the southern lot line and approximately 120 feet of the eastern lot line shall satisfy the barrier requirement. The Barrier requirement along all other lot lines shall be waived provided the fence around the play area remains and the hedge along the front lot line is installed.

10. Signs shall be in accordance with the provisions of Article 12, Signs.

11. The applicant shall continue to require carpool and/or vanpool arrangements sufficient to ensure that trips to and from the site will not exceed 150 trips per day.

12. An outdoor recreational area of 6,325 square feet shall be provided. This area shall be enclosed with a four (4) high chain link fence.

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

14. This special permit use is issued for a five (5) year term.

The above development conditions incorporate all applicable conditions of the previously approved special permit uses for this 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. DiGiulian seconded the motion.

The motion carried by a unanimous vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 3, 1988. This date shall be deemed to be the final approval date of this special permit.

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10:30 A.M. FITNESS ENTERPRISES, INC., SP 88-L-046, application under Sect. 5-503 of the Zoning Ordinance for health club within an industrial park, located at 8380 Alban Road, on approximately 7,231 square feet of land, zoned I-5, Lee District, Tax Map 99-3((1))6C

Heidi Belofsky, Staff Coordinator, presented the staff report and called the Board's attention to the fact that the parking for this use was based on occupancy load and that occupancy load had not been calculated by staff and should be calculated by the Fire Marshall's office and, at time of site plan review, a new parking tabulation should be provided which shows the number of parking spaces utilized by the health club as well as the other uses in the building in order to insure that all the parking requirements for all the uses in the building are met.

Miguel P. Otero, 6034 Broad Street, Bethesda, Maryland, appeared before the Board and explained the applicant's request as outlined in the statement of justification as submitted with the application. Mr. Otero requested that the Board waive the eight day requirement so they could go ahead and submit their site plan and parking tabulations.

Ms. Belofsky stated that staff had no objection to waiving the eight day requirement.

Merril Johnson, 1142 Randolph Road, McLean, Virginia, spoke in support of the application.

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

Mrs. Day moved to grant SP 88-L-046 based on the applicant's testimony and that the peak hours for this use are between 6:00 p.m. and 9:00 p.m., which will not cause a traffic problem, and that a health club was appropriate in this planned industrial area and would be utilized mostly by the area employees and I-95 commuters and would not have an adverse impact on any of the surrounding public street system.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-L-046 by FITNESS ENTERPRISES, INC., under Section 5-503 of the Zoning Ordinance for health club within an industrial park, on property located at 8380 Alban Road, Tax Map Reference 99-3((1))6C, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 26, 1988; and

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

1. That the applicant is the lessee.
2. The present zoning is I-5.
3. The area of the lot is 7,231 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 8-503 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.

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans. Any plan submitted to the Department of Environmental Management (DEM) pursuant to this Special Permit shall conform with the approved Special Permit plat and these conditions.

5. A parking tabulation shall be provided to the Director, (DEM) at the time of site plan review which indicates that adequate parking is available for all uses on this property before the site plan can be approved. The parking requirement for this use shall be based upon the occupancy load of the building floor area to be used as a health club but in no instance shall it exceed 75. The occupancy load shall be determined by the County Fire Marshall. All parking for this use shall be on site. The maximum number of patrons and employees on site at any one time shall be limited to that number for which there is sufficient parking, this number shall be calculated at the time of site plan review and shall be subject to the approval of the Director, DEM, and shall be included on the Non-Residential Use Permit.

6. Any signs erected shall be in conformance with Article 12 of the Zoning Ordinance, Signs.

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

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

Mr. Kelley seconded the motion which carried by a unanimous vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on July 26, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 133, July 26, 1988, (Tape 2), Scheduled case of:

10:45 A.M. LAWRENCE KOK-MING LI, VC 88-D-073, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed corner Lot 1 having a lot width of 180 feet along one street line (225 ft. min. lot width for corner lot required by Sect. 3-E06) located at 420 Springvale Road, on approximately 8.4967 acres of land, zoned R-E, Dranesville District, Tax Map 7-2((1))14

Denise James, Staff Coordinator, advised the Board, one, that she had received a revised affidavit including William Hansbarger, who would be representing the applicant in the hearing, and two, that she had received a request that this application be deferred, made by the Great Falls Citizens Association, and that Supervisor Richards' office supported this deferral. Ms. James further stated that staff was prepared to go forward should the Board not defer the hearing.

William Hansbarger, attorney with the law firm of Hansbarger and Testerman, 10523 Main Street, Fairfax, Virginia, appeared before the Board on the applicant's behalf and stated with respect to the request for a deferral that since the property had been properly posted, advertised, and noticed, and since there was an outstanding variance which was to expire on October 13, 1988, the applicant wished to go forward with the hearing as a deferral at this time would carry with it the risk of losing the variance.

Martha Harris, 10605 Springvale Road, Great Falls, Virginia, appeared before the Board on behalf of the Great Falls Citizens Association and explained their request for the deferral, citing the heavily traveled road with poor sight distances along the property and that the land in question was environmentally sensitive in that it was a part of Nickels' Run Watershed, and, further, that the Association had not had time to talk with the applicant about their concerns.

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Mr. DiGiulian moved that the Board deny the request for a deferral and go forward with the hearing. Mr. Ribble seconded the motion which carried by a vote of 7-0.

Denise James, Staff Coordinator, presented the staff report and advised the Board that staff was concerned about the Comprehensive Plan recommendations for two acres or larger home sites in keeping with the character of the area and the precedent setting possibilities of allowing lot sizes smaller than two acres should this application be approved. She stated that staff does not support the application.

Mr. Hansbarger then explained the applicant's request as outlined in the statement of justification as submitted with the application and further addressed the concerns raised by staff and the Great Falls Citizens Association.

Linda and Stewart Olson, along with son Bryan, 412 Springvale Road, Great Falls, Virginia, owners of eight acres adjacent to the subject property, appeared before the Board and expressed their support for the application, citing the needed improvements in the road and the fact that the applicant will build quality homes that will enhance the neighborhood and increase the value of their own property.

Micheline Grabulis, 10501 Birnham Road, Great Falls, Virginia, appeared before the Board and expressed her opposition to the application as an adjoining property owner, citing the desirable privacy provided by the County zoning for larger lots and the fact that she felt she had not had adequate time to review the staff report. Ms. Grabulis then read into the record portions of a letter in opposition to the application from the Starks, 10523 Birnham Road, also adjoining property owners.

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

Mr. Ribble moved to grant VC 88-D-073 based upon the applicant's testimony, the exceptional shape of the property at the time of the effective date of the Ordinance, and the extraordinary situation of the subject property.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-073 by LAWRENCE KOK-MING LI, under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed corner Lot 1 having a lot width of 180 feet along one street line, on property located at 420 Springvale Road, Tax Map Reference 7-2((1))14, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 26, 1988; 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 8.4967 acres of land.
4. The shape of the property is irregular.
5. The extraordinary situation of the property in that a variance had been granted in 1986 and now a sight distance requirement causes a greater variance.

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 (4) lots as shown on the plat submitted with this application.

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

3. Limits of clearing and grading shall be established so as to comply with all laws, rules and regulations and there should be no exception to these laws, rules, and regulations.

4. All stormwater management shall be coordinated with the Storm Drainage Branch of the Department of Public Works (DPW). The applicant shall maximize the use of vegetative infiltration areas for stormwater management wherever possible as determined by the Department of Public Works.

5. A tree preservation plan shall be implemented as approved by the County Arborist with the intent of preserving existing trees except where removal is necessary to accommodate construction. The boundaries for tree clearance shall be determined to the satisfaction of the County Arborist before approval of a building permit or commencement of site clearance and/or construction.

6. The applicant shall provide erosion and sediment control measures during all grading and construction activities. Design of the erosion and sediment control measures shall be substantially in accordance with the methods recommended by the Virginia Soil and Water Conservation Commission in the Virginia Erosion and Sediment Control Handbook and shall be coordinated with the Department of Environmental Management. These methods may include, but should not be limited to, the provision of either sediment detention facilities or redundant and/or oversized siltation fencing to achieve sediment trapping efficiencies of 80%. The use of one or more sediment detention basins or traps is recommended. In order to provide a trapping efficiency of 80%, basin or trap capacity should equal or exceed 134 cubic yards per acre of drainage area.

7. Right-of-way for road improvements to 45 feet from centerline of Springvale Road shall be dedicated for public street purposes to the Board of Supervisors of Fairfax County in fee simple. The applicant shall provide all ancillary easements for future improvements along Springvale Road.

Mrs. Thonen seconded the motion.

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

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 3, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 136, July 26, 1988, (Tape 2), Scheduled case of:

11:00 A.M. GERARD J. AND PHYLLIS M. LEYGRAAF, VC 88-S-071, application under Sect. 18-401 of the Zoning Ordinance to allow construction of swimming pool in a front yard and to allow fence 6 feet in height to remain in a front yard (accessory structure, use and fence exceeding 4 ft. in height not allowed in any front yard per Sect. 10-104) located at 9920 Coffer Woods Road, on approximately 12,334 square feet of land, zoned PRC, Springfield District, Tax Map 78-1((14))279

Denise James, Staff Coordinator, presented the staff report.

Gerard J. Leygraaf, 9920 Coffer Wood Road, Burke, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application.

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

Mr. DiGiulian moved to grant VC 88-S-071 based on the applicant's testimony and the exceptional shape of the lot which limited the practical use of the land.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-071 by GERARD AND PHYLLIS LEYGRAAF, under Section 18-401 of the Zoning Ordinance to allow construction of swimming pool in a front yard and to allow fence 6 feet in height to remain in a front yard, on property located at 9920 Coffer Woods Road, Tax Map Reference 78-1((14))279, 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 26, 1988; 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 PRC.
3. The area of the lot is 12,334 square feet of land.
4. That the property has front yard all around except one side yard.

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 which carried by a vote of 5-1 with Chairman Smith voting nay and Mr. Kelley not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 3, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 137, July 26, 1988, (Tape 2), Scheduled case of:

11:15 A.M. McLEAN BIBLE CHURCH, SPA 73-D-151-2, application under Sect. 3-103 of the Zoning Ordinance to amend S-151-73 for a church and related facilities to permit building addition and add land area, located at 850 Balls Hill Road, on approximately 5.75 acres of land, zoned R-1, Dranesville District, Tax Map 21-3((1))56A. (TO BE HEARD CONCURRENT WITH VC 88-D-095)

11:15 A.M. McLEAN BIBLE CHURCH, VC 88-D-095, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to church to 44 feet from I-495 ROW (75 ft. min. distance from I-highway ROW req. by Sect. 2-414), located at 850 Balls Hill Road, on approximately 5.75 acres of land, zoned R-1, Dranesville District, Tax Map 21-3((1))56A. (TO BE HEARD CONCURRENT WITH SPA 73-D-151-2)

William Hansbarger, applicant with the law firm of Hansbarger and Testerman, 10523 Main Street, Fairfax, Virginia, appeared before the Board on the applicant's behalf and requested a deferral on both applications in accordance with his letter submitted earlier to the Board, which stated that the pastor and the architect for the church would not be able to attend the hearing because of unforeseen circumstances.

Charles Fiske, 7112 Benjamin Street, McLean, Virginia, appeared before the Board in opposition to the deferral, stating that he had a petition with 49 signatures in opposition to the application to present to the Board.

Albert Ward, 7017 Benjamin Street, McLean, Virginia, appeared before the Board in opposition to the deferral.

Theodore B. Simpson, 7120 Georgetown Pike, McLean, Virginia, appeared before the Board in opposition to the deferral, citing the presence of the church's administrative manager and its attorney.

Page 138, July 26, 1988, (Tape 2), (McLean Bible Church, SPA 73-D-151-2 and VC 88-D-095, continued from Page 137)

Mr. Hammack moved to grant the request for a deferral to October 18, 1988, at 9:30 a.m. Mr. DiGiulian seconded the motion which passed by a vote of 4-2 with Chairman Smith and Mr. Ribble voting nay, and Mr. Kelley not present for the vote.

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Page 138, July 26, 1988, (Tape 2), Scheduled case of:

11:30 A.M. TYSONS BRIAR T/A CARDINAL HILL SWIM CLUB, SP 82-C-025, approved under Sect. 3-103 of the Zoning Ordinance for a community swim and tennis club by the BZA on January 11, 1983, located at 9117 Westerholme Way, on approximately 4.167 acres of land, Tax Map 28-4((1))47 and 45A. Five-year review to determine adequacy of parking per condition number 8. (DEFERRED FROM 7/19/88 FOR REVIEW OF DEVELOPMENT CONDITIONS)

Patrick Via, attorney with the law firm of Hazel, Thomas, Fiske, Beckhorn and Hanes, P.O. Box 547, Fairfax, Virginia, appeared before the Board on behalf of the applicant and stated that the applicant agreed to the development conditions dated July 16, 1988.

Mr. Hammack moved to grant SP 82-C-025 based on the applicant's acceptance of the revised development conditions as reflected in the memorandum to the Board dated July 26, 1988.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application S 82-C-025 by TYSONS-BRIAR, INC., under Section 3-103 of the Zoning Ordinance for a review of the parking situation at a community swim and tennis club approved by the BZA on January 11, 1983, on property located at 9117 Westerholme Way, Tax Map Reference 28-4((1))15A, 47, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 26, 1988; 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 4.167 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 8-403 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that NO ADDITIONAL PARKING IS REQUIRED AT THIS TIME. The following limitations shall apply to the use:

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

2. This special permit is granted for the buildings and uses indicated on the plat submitted with the application for S-82-C-025. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board (other than minor engineering details) whether or not these additional uses or changes require a special permit, shall require approval of this Board. Any changes (other than minor engineering details) without this Board's approval shall constitute a violation of the conditions of the special permit.

3. This granting does not constitute an exemption from the legal and procedural requirements of the County and State. This special permit is not valid until a Non-Residential Use Permit is obtained. It is noted that a new non-residential use permit is not required subsequent to the five year review of the parking situation.

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

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5. The hours of operation shall be limited to:

   - Pool, 9:00 a.m. to 9:00 p.m. with six (6) special swim and diving functions per year being allowed to begin at 8:00 a.m. (Management and lifeguards can be in the pool area for maintenance and cleanup outside of the specified hours of operation, but the pool cannot be open for business.)

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

     - imited to six (6) per season.
     - Limited to Friday, Saturday and pre-holiday evenings.
     - Shall not extend beyond 12:00 midnight.
     - Shall request at least (10) written days in advance and receive prior written permission from the Zoning Adminstrator 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.

   - Tennis, 7:00 a.m. to 10:00 p.m. The lights are to be controlled by an automatic timing device to shut off at 10:00 p.m.

6. No loudspeakers shall be allowed except for the special swim and diving meets.

7. The number of memberships shall be limited to 600.

8. The overgrown vegetation near the entrance and at the curve in the lot shall be cut back to restore the original parking spaces in that area. The existing striping near the security fence shall be changed so that the existence of the fence does not interfere with any parking spaces. The dumpster and the bike rack shall be relocated so that they do not interfere with any parking spaces. The area at the end of the parking lot near the tennis courts shall be restripped to conform to what appears on the approved special permit plat associated with S-82-C-025. These changes shall be accomplished on or before May 25, 1989. The entire parking lot shall be restripped no later than the end of the 1989 summer season.

9. A parking monitor shall be stationed in Westerholme Court at the times of swim meets to ensure that no overflow parking occurs on the subdivision streets.

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

Mrs. Thonen seconded the motion.

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

This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 3, 1988.

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Page 139, July 26, 1988, (Tape 2), After Agenda Item:

Lexington Estates First Homeowners Association Appeal

Mr. Hammack moved that the Board not accept the application for scheduling because the application had been filed prematurely, but noted that this was without prejudice for refiling within the statutory period. Mr. Ribble seconded the motion which passed by a vote of 6-0 with Mr. Kelley not present for the vote.

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Page 139, July 26, 1988, (Tape 2), After Agenda Item:

McLean Marketplace Limited Partnership Appeal

Mr. Hammack moved that the Board accept the application as being timely filed and complete and scheduled the public hearing for September 20, 1988 at 11:00 a.m.
Mr. Ribble seconded the motion which passed by a vote of 6-0 with Mr. Kelley not present for the vote.

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Page 140, July 26, 1988, (Tape 2), After Agenda Item:

Resolutions for July 19, 1988

The Board approved the resolutions as submitted.

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As there was no other business to come before the Board, the meeting was adjourned at 1:12 p.m.

Judy Finney, Court Reporter, Acting
for Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: September 20, 1988

APPROVED: September 27, 1988

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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, July 28, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; John Ribble and Mary Thonen. Robert Kelley 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 141, July 28, 1988, (Tape 1), Scheduled case of:

9:00 A.M. PATRICIA B. NATIRBOV, VC 88-D-074, application under Sect. 18-401 to allow subdivision into two (2) lots, one having a lot width of 10.10 ft. and the other having a lot width of 77.74 ft. (150 ft. min. lot width required by Sect. 3-106) located at 849 Dolley Madison Boulevard on approximately 2.5599 acres of land, zoned R-1, Dranesville District, Tax Map 31-2((1))106 and 106A

Lori Greenlief, Staff Coordinator, presented the staff report which stated that the application does not meet all the required standards for a variance.

Minerva Andrews, attorney with the law firm of McGuire, Woods, Battle & Boothe, 8280 Greensboro Drive, McLean, Virginia, represented the applicant. She explained that she had been retained only yesterday and the affidavit had been amended to include both she and her law firm. She stated that the subject lot has a great deal of floodplain on it and the sanitary sewer that runs through the lot leaves very little land on which to construct a house, therefore the applicant proposes to construct a garage. By consolidating the two lots and moving the lot line towards Chain Bridge Road, she stated that it would create a better lot for the existing dwelling and would create a buildable lot adjacent to Chain Bridge Road, which would utilize the existing driveway. She added that the number of lots would not be increased, two one acre lots would not change the character of the neighborhood, and the sight distance was good. Ms. Andrews stated that she believed the application meets all the standards for a variance and asked that the Board grant the request.

In response to questions from the Board, Ms. Andrews replied that the configuration proposed by the applicant will preserve the existing trees, and the dwelling on the Lot 2 will set towards the rear of the lot, and will use the existing driveway with access to Chain Bridge Road, Lot 1 will access Ranleigh Road.

Chairman Smith called for the speakers in support of the request, hearing no reply called for speakers for in opposition to the request. The following came forward: Stephen Murray, 855 Dolley Madison Boulevard, McLean, Virginia; and, Victor Fransen, 837 Dolley Boulevard, McLean, Virginia.

The citizens opposition was based on their belief that to reduce the size of the lot would be precedent setting, would lower the value of the homes in the area, and would be located too close to both their properties.

Following a discussion among the Board and staff, Ms. Andrews came forward and stated that the applicant agrees with the development conditions set forth in the staff report and would comply with whatever was necessary.

Mrs. Greenlief stated that development condition number 3 addresses the question of access and added that if the Department of Environmental Management (DEM) prohibits access onto Ranleigh Road, then a combined driveway would have to be constructed.

Mr. DiGiulian stated that he believed this is a close one but that the impact on the adjacent properties had to be considered; therefore, he made a motion to defer this application until additional information could be obtained regarding access to Ranleigh Road and a new plat submitted to the Board showing the proposed dwelling on Lot 2, the location of the proposed garage, and the existing driveway. Therefore, he made a motion to defer the application to October 11, 1988 at 9:15 a.m.

Mr. Ribble seconded the motion which carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Kelley absent from the meeting.

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Page 141, July 28, 1988, (Tape 1), Scheduled case of:

9:15 A.M. HELEN AND PAUL HYMAN, VC 88-M-076, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 13 ft. from side lot line and 30 ft. from front lot line (15 ft. min. side yard, 35 ft. min. front yard required by Sect. 3-207) located at 6209 Lakeview Drive, on approximately 14,063 square feet of land, zoned R-2, Mason District, Tax Map 61-3((14))57

Lori Greenlief, Staff Coordinator, presented the staff report.

The co-appplicant, Paul Hyman, 6209 Lakeview Drive, Falls Church, Virginia, referenced the justification submitted with the application.

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

Mr. DiGiulian made a motion to grant VC 88-M-076 as he believed the applicant had presented testimony showing compliance with the standards for a variance, the dwelling is located at an angle on the lot, and the configuration of the lot prohibits the applicant from building any place else on the lot. The 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 88-M-076 by HELEN AND PAUL HYMAN, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 13 feet from side line and 30 feet from front lot line, on property located at 6209 Lakeview Drive, Tax Map Reference 61-3((14))57, 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, 1988; 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 14,063 square feet of land.
4. The dwelling is located at an angle on the lot.
5. The configuration of the lot prohibits the applicant from building any place else on the lot.

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 4-1 with Chairman Smith voting nay; Mr. Hammack not present for the vote; Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 5, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 143, July 28, 1988, (Tape 1), Scheduled case of:

9:30 A.M. RONALD M. AND NORA M. NAGATANI, VC 88-S-078, application under Sect. 18-401 of the Zoning Ordinance to allow construction of sunroom addition to dwelling to 13.5 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-307) located at 7000 Ballast Court, on approximately 8,664 square feet of land, zoned R-3(C), Springfield District, Tax Map 88-3((3))232

Lori Greenlief, Staff Coordinator, informed the Board the notices were not in order in this case and suggested a deferral date and time of October 11, 1988 at 9:30 A.M.

Mrs. Thonen made a motion to defer this case to the date and time suggested by staff. Mr. DiGiulian seconded the motion which carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Kelley absent from the meeting.

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Page 143, July 28, 1988, (Tape 1), Scheduled case of:

9:45 A.M. MARVIN L. OLSON, VC 88-S-070, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8.4 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307) located at 6709 Harwood Place, on approximately 11,998 square feet of land, zoned R-3, Springfield District, Tax Map 89-2((4))(3)10

Kathy Reilly, Staff Coordinator, presented the staff report.

The applicant, Marvin L. Olson, 6709 Harwood Place, Springfield, Virginia, came forward to address the Board. He stated he would like to enclose an existing carport which would not meet the setback requirements on one portion of it because of the way the house is angled on the site. He added there is a steep slope between his house and his neighbor's house which prohibits him from constructing in that location.

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

Mrs. Day stated she was familiar with the area and many of the houses have carports which have been enclosed. She added the house is constructed on the site at an angle, this is a minimal variance, and this request will provide the applicant with protection for his property. Therefore, she made a motion to grant VC 88-S-070 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 88-S-070 by MARVIN L. OLSON, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8.4 feet from side lot line, on property located at 6709 Harwood Place, Tax Map Reference 89-2((4))(3)10, 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 28, 1988; 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 11,998 square feet of land.
4. There are other carports in the area which have been enclosed.
5. This is a well established and well kept neighborhood.
6. This is a minimal variance.
7. The house is located on the property at an angle.
8. The enclosed carport will provide security for the applicant's property.

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 to finish this structure shall be compatible with the principal dwelling unit.

Mr. DiGiulian seconded the motion which carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 5, 1988. This date shall be deemed to be the final approval date of this variance.

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The Board recessed at 10:15 A.M. and reconvened at 10:30 A.M.

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Page 145, July 28, 1988, (Tapes 1 and 2), Scheduled case of:

10:00 A.M. NATIONAL MEMORIAL PARK, INC., SP 88-P-050, application under Sect. 3-103 of the Zoning Ordinance to amend Special Permits 2048 and 17983 for cemetery to permit deletion of 29.8918 acres of land area, located contiguous to and located northeast of the Jefferson District Park and the Pinewood Greens Subdivision, on 88.373 acres of land, zoned R-1, Providence District, Tax Map 50-1((1))pt. 36 and 49-2((1))149A (formerly 50-1((1))pt. 36 old map)

Prior to staff's presentation, Mr. Ribble noted for the record that he had had a business relationship with a member of the law firm representing the applicant, but that this relationship would not prohibit him from participating in the public hearing.

Kathy Reilly, Staff Coordinator, presented the staff report. She stated that based on staff's analysis and in the absence of a full fifty (50) feet buffer to adequately screen the remaining property within the cemetery, staff recommends denial of SP 88-P-050 as submitted.

In response to questions from the Board regarding the 50 foot buffer requested by staff, Kevin Guinaw, Staff Coordinator who had worked with Ms. Reilly on this case, replied that this buffer was what staff considered to be appropriate between the non-residential use, which exists, and the future residentially zoned land which would be removed from the cemetery use.

Barbara Beech, attorney with the law firm of Ross, Marsh, Foster, Myers & Quiggle, 324 North Fairfax Street, Alexandria, Virginia, attorney for the applicant, stated that she would make a short presentation and then Caleb Freeman, her partner, would to address Standards 3 and 5 and the modification request. Ms. Beech began by stating that the applicant was requesting permission for approximately 30 acres of land that has never been developed for cemetery use to be removed from two special permits which were granted in 1949 and 1950. She stated that the land in question is not currently needed for cemetery use and the funds generated from the sale of this acreage will be used for the maintenance of the cemetery. She stated that approximately one-third of the 30 acres cannot currently be used as cemetery use now due to a VEPCO easement and a proposed water retention pond. The applicant has met with the neighbors to assure them that this request is only for the deletion of the land and the R-1 zoning will not be changed by this request.

Caleb Freeman came forward and stated that the applicant was prepared to provide the transitional screening as recommended by staff but hoped that the Board would consider the modification request. He stated that if the modification request should not meet the Board's satisfaction the applicant would fall back on and rely upon the transitional screening as proposed by staff. He added that he hoped this would moot any disagreement that might be perceived between the applicant and staff.

Mr. Freeman used the viewgraph to point out where the applicant was requesting the modification. He stated that there is an existing driveway in the King David section of the cemetery which falls within staff's proposed 50 foot screen and there are burials on the inside perimeter of that driveway. The first 25 feet of the buffer area is heavily wooded which probably exceeds the Transitional Screening 1 level, the second 25 feet is open space and staff is recommending that the existing vegetation be left intact.

He stated that staff has suggested that the proposed property line be altered so that the 50 foot buffer runs from the outside edge of the road going to the left into the property. In order to do this, the applicant would have to renegotiate with the contract purchaser, sell less land, and walk away with less money. The applicant proposes to provide the 50 foot screening running all the way up to the point where the 50 feet intersects with the driveway but asked that the buffer be narrowed at this point. The applicant is willing to construct a 6 foot high solid, wooden fence to fill in that area and plant to a level of Transitional Screening 3, not just Transitional Screening 1, on both sides.

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Mr. Freeman stated that he believed the applicant has met Standards 3 and 5 because the applicant is willing to provide what staff has proposed. He requested that the Board consider the modification but that he would defer to the Board's judgment and that the applicant would fall back on staff's proposal if the Board deemed it necessary.

Chairman Smith called for speakers in support of the application and hearing no reply called for speakers in opposition to the request and the following came forward: John Cummisky, 7729 Martha's Lane, Falls Church, Virginia; William Jeffrey Fischer, 7719 Martha's Lane, Falls Church, Virginia; David Michael Hutchinson, 7719 Martha's Lane, Falls Church, Virginia, represented the Greenwood Civic Association; and Brian Griffin Kennedy, 2759 January Court, Falls Church, Virginia, representing the Pinewood Greens Homeowners Association.

The citizens opposed the application because the land is currently being used as a cemetery use and they did not believe the land should be reduced due to the rapid growth of the County. They also expressed concern over the type of development the contract purchaser was envisioning for the land.

During rebuttal, Ms. Beech stated that the applicant would like to continue to be a good neighbor and wanted to assure the neighbors that there were would no grave sites disturbed.

Mr. Guinaw pointed out that staff believed that the 50 foot buffer proposed by staff is needed between the cemetery use and the residential use.

As there were no further comments, Chairman Smith closed the public hearing.

Mr. Hammack made a motion to grant SP 88-P-050 as he believed that the applicant had presented testimony indicating compliance with the standards. The approval was subject to the development conditions contained in the staff report with the following modifications:

"5. A 50 foot natural buffer shall be provided along the entire length of the western lot line of the remaining cemetery property, except in the area of the 425 foot section adjacent to the existing Loop Road. The buffer strip shall contain no structures, roads, except existing Loop Road, or grave sites, except existing grave sites. No clearing or grading shall occur within this buffer. The buffer shall contain the following:

- o A brick wall 6 feet high and 425 feet in length shall be constructed along the western property line adjacent to the existing Loop Road.
- o Transitional Screening 1 (25') shall be provided along the entire length of the western property line, except in the area of the 425 foot section adjacent to the Loop Road, where it may be modified to fit the configuration. The existing vegetation may be used to satisfy this requirement if the vegetation is supplemented to be equivalent of Transitional Screening 1 to the satisfacton of the County Arborist.
- o A continuous row of evergreen hedges shall be provided in open areas which may occur within the proposed buffer.
- o The barrier requirement shall be waived.

9. The applicant shall submit to staff a revised special permit plat depicting the buffering which is required and the 425 foot brick wall. This plat shall be signed by the Chairman of the Board of Zoning Appeals."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-P-050 by NATIONAL MEMORIAL PARK, INC., under Section 3-103 of the Zoning Ordinance to amend Special Permits 2048 and 17983 for cemetery to permit deletion of 29.8918 acres of land area, on property located contiguous to and located northeast of the Jefferson District Park and the Pinewood Greens Subdivision, Tax Map Reference 50-1((1))pt. 36 and 49-2((1))149A (formerly 50-1((1))pt. 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 July 28, 1988; 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 88.373 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 8-201 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 property indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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

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

5. A 50 foot natural buffer shall be provided along the entire length of the western lot line of the remaining cemetery property, except in the area of the 425 foot section adjacent to the existing Loop Road. The buffer strip shall contain no structures, roads, except existing Loop Road, or grave sites, except existing grave sites. No clearing or grading shall occur within this buffer. The buffer shall contain the following:

   - A brick wall 6 feet high and 425 feet in length and it shall be constructed along the western property line adjacent to the existing Loop Road.

   - Transitional Screening 1 (25') shall be provided along the entire length of the western property line, except in the area of the 425 foot section adjacent to the Loop Road, where it may be modified to fit the configuration. The existing vegetation may be used to satisfy this requirement if the vegetation is supplemented to be equivalent to Transitional Screening 1 to the satisfacton of the County Arborist.

   - A continuous row of evergreen hedges shall be provided in open areas which may occur within the proposed buffer.

   - The barrier requirement shall be waived.

9. The applicant shall submit to staff a revised special permit plat depicting the buffering which is required and the 425 foot brick wall. This plat shall be signed by the Chairman of the Board of Zoning Appeals

10. The special permit shall comply with Chapter 3 of Title 57 of the Virginia Code.

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

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

Mrs. Day and Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 5, 1988. This date shall be deemed to be the final approval date of this special permit.

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10:15 A.M. W. THOMAS BALLEW, SP 88-A-049, application under Sect. 8-901 of the Zoning Ordinance for reduction to minimum yard requirements based on error in building location to allow attached garage to remain 6.6 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307) located at 11110 La Messa Drive, on approximately 10,572 square feet of land, zoned R-3, Annandale District, Tax Map 57-3((7))421

Kathy Reilly, Staff Coordinator, presented the staff report and stated it is staff's opinion this applicant has met the standards for a special permit.

The co-applicant, Thomas Ballew, 11110 La Messa Drive, explained he would like to finish enclosing an existing structure which was constructed prior to his purchasing the property. He added there are no objections from his neighbors.

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

Mrs. Thonen made a motion to grant SP 88-A-049 as she believed the applicant is requesting approval to enclose a structure which was already in place and partially enclosed when he purchased the property. The approval was subject to the development conditions contained in the staff report being implemented.

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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 SP 88-A-049 by W. THOMAS BALLEW 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 attached garage to remain 6.6 feet from side lot line, on property located at 11110 Messa Drive, Tax Map 57-3((7))421, 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 28, 1988; 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 Special Permit is approved for the location and the specific structure shown on the submitted plat with this application and is not transferable to other land.

2. An approved Building Permit shall be obtained for this structure.

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. Ribble seconded the motion which carried by a vote of 6-0 of Mr. Kelley absent from the meeting.

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Page 149, July 28, 1988, (Tape 2), Scheduled case of:

10:30 A.M. ERVIN GENE FITZGERALD, VC 88-S-077, application under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed porch addition to dwelling to 20 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-307) located at 13905 Stonefield Drive, on approximately 8,500 square feet of land, zoned R-3 and WS, Springfield District, Tax Map 65-4((2))279

Denise James, Staff Coordinator, presented the staff report.

The applicant, Ervin Gene Fitzgerald, 13905 Stonefield Drive, Clifton, Virginia, came forward and presented his justification as submitted with his application. He stated that constructing the screened porch in this location will allow the sunlight to filter through and into the house. He added this will not adversely affect the surrounding properties and the lot to the rear of his property is a wooded undeveloped lot.

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

Mrs. Day stated that due to the shape of the lot the applicant cannot construct to the sides of his house, this addition will not adversely impact the surrounding neighbors, and there is a wooded lot to the rear of the applicant's property. Therefore, she made a motion to grant VC 88-S-077 subject to the developmen 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 88-S-077 by ERVIN GENE FITZGERALD, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed porch adition to dwelling to 20 feet from rear lot line, on property located at 13905 Stonefield Drive, Tax Map Reference 65-4((20)279, 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 28, 1988; 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 and WS.
3. The area of the lot is 8,500 square feet of land.
4. This is a suitable location for this addition because there are windows on the back of the house in that area.
5. There is no room to construct this type of addition on the sides of the houses.
6. The addition will not adversely impact the neighbors.
7. The area abutting the rear of the applicant's property is a wooded lot.

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 Chairman Smith voting nay; Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 5, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 150, July 28, 1988, (Tape 2), Scheduled case of:

10:45 A.M. R AND R ASSOCIATES, SP 88-C-048, application under Sect. 8-901 of the Zoning Ordinance for reduction to minimum yard requirements based on error in building location to allow dwelling to remain 6.6 ft. from side lot line (8 ft. min. side yard req. by Sect. 3-507) located at 13601 Angelica Court, on approximately 7,644 square feet of land, zoned R-5, Centreville District, Tax Map 34-2((5))9

Denise James, Staff Coordinator, presented the staff report. She stated staff makes no recommendation in this application as nothing could be found to support or refute the applicant's statement that this was done in good faith.

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Robert Boykin with the engineering firm of Greenhorne and O'Mara, Inc., 11211 Waples Mill Road, Fairfax, Virginia, represented the applicant. He stated that the architectural plans which the builder used to stake the house showed only a small covered porch. When the architect made alterations this information inadvertently was not forwarded to the builder, therefore the error occurred. He informed the Board that the architect was present to respond to questions.

Mrs. Thonen stated that she was concerned over the letters that the Board had received which criticized the builder.

In response to a question from Mr. Ribble, Mr. Boykin replied that the other houses being constructed in the subdivision had been checked and this was the only instance this error had occurred.

The architect, Turgut Karrabekir, AIA, 11410 Strand Drive, Suite 112, Rockville, Maryland, came forward and stated that he was before the Board today "with a red face." He stated that he had been a practicing architect for 30 years and this was the first time anything like this had occurred.

Jane Kelsey, Chief, Special Permit and Variance Branch, pointed out that the architect was not listed on the affidavit. Mr. Karrabekir stated he had not been aware of the requirements and agreed to amend the affidavit. The Board decided to continue with the public hearing.

As Mr. Boykin had finished reading the opposition letters which had been submitted to the Board, he came forward and stated that he could not respond to these because they were not part of this application. It appeared that it was complaints that should be taken up with the developer.

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

Mr. Ribble made a motion to grant SP 88-C-048 as he believed this been a miscommunication between the architect and the engineer as the applicant's representative had testified.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-C-048 by R AND R ASSOCIATES, under Section 8-901 of the Zoning Ordinance for reduction to minimum yard requirements based on error in building location to allow dwelling to remain 6.6 feet from side lot line, on property located at 13601 Angelica Court, Tax Map Reference 34-2((5))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 July 28, 1988; 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 7,644 square feet of land.
4. The error was caused by a miscommunication between the architect and engineer for the applicant.
5. The location of the property lines are difficult to distinguish.

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 and the specific addition shown on the plat included with this application and is not transferable to other land.

Page 152, July 28, 1988, (Tape 2), (R and R Associates, SP 88-C-048, continued from Page 151)

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date* of the Special Permit unless the activity authorized has been 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. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 5, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 152, July 28, 1988, (Tape 2), Scheduled case of:

11:00 A.M. STM LANDSCAPE SERVICES, INC., SP 87-S-084, application under Sect. 8-901 of the Zoning Ordinance to allow a modification or waiver of dustless surface requirement for a plant nursery, located at 11701 Braddock Road, on approximately 42.485 acres of land, zoned R-C and WS, Springfield District, Tax Map 67-2((1))3, 4, 5. (CONCURRENT WITH SE 87-S-101)

Chairman Smith stated that staff was in receipt of a letter from the applicant's attorney requesting a deferral.

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that this deferral was requested in order for the Board of Supervisors to take action on the Special Exception, and to allow the applicant time to renotify the abutting property owners. Ms. Kelsey suggested a deferral date and time of October 11, 1988 at 9:45 A.M. She noted that apparently there was also a notice problem.

John "Bud" Testerman, attorney with the law firm of Hansbarger and Testerman, 10523 Main Street, Fairfax, Virginia, represented the applicant and objected to the deferral because he did not believe it should be delayed until after the Board of Supervisors had acted on the Special Exception. He added that the applicant was working under serious time constraints and asked for an earlier public hearing date.

Chairman Smith stated that the applicant must be granted permission for the use by the Board of Supervisors before the Board of Zoning Appeals could act on the waiver of the dustless surface requirement.

Mrs. Thonen asked staff if this application could be heard sometime in September rather than October.

Mr. Testerman stated that he was not aware of any notice problem. Ms. Kelsey explained that she had just been informed of the problem herself. Chairman Smith advised Mr. Testerman to contact the staff coordinator with regard to the notice deficiency.

Ms. Kelsey suggested September 20, 1988 at 10:00 a.m.

Mr. Hammack made a motion to defer SP 87-S-084 to September 20, 1988 at 10:00 a.m. Mrs. Day seconded the motion which passed by a vote of 6-0 with Mr. Kelley absent from the meeting.

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Page 152, July 28, 1988, (Tape 2), After Agenda Item:

Resolutions

Jane Kelsey, Chief, Special Permit and Variance Branch, asked the Board for a clarification as to the approval day of its actions today as this was a Thursday meeting and the last meeting of the Board prior to the summer recess was August 2.

Chairman Smith stated that the Board could approve the Resolutions on August 2, making the final approval day Thursday, August 5, 1988.

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Page 153, July 28, 1988, (Tape 2), After Agenda Item:

The Courts Homeowners Association, Inc., SPA 85-D-060-1, Revised Plats

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that staff had reviewed the plats and determined that they were in conformance with the development conditions.

Mr. Hammack made a motion to accept the plats as submitted. Mrs. Thonen seconded the motion which passed by a vote of 6-0 with Mr. Kelley absent from the meeting.

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Page 153, July 28, 1988, (Tape 2), After Agenda Item:

South Run Baptist Church, SP 87-S-078

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that the applicant had submitted revised plats showing the new location of the transitional screening, the correct number of parking spaces, and presented the plats to the Board for its review prior to taking action on August 2, 1988.

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Page 153, July 28, 1988, (Tape 2), After Agenda Item:

Little River Pines Association Appeal

Chairman Smith informed the Board that it had not been determined that this was an aggrieved party because they did not own the property adjacent to the site and would not have no standing, therefore the Board took no action on the request.

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Page 153, July 28, 1988, (Tape 2), After Agenda Item:

BZA Certified Conference

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that several members of the Board had discussed with her whether or not the members could attend the VACo Conference. She stated she would need to know the number of members in order to submit the request for funds to the County Executive. Ms. Kelsey polled the Board to determine the number of members who would like to go to the Conference. It was determined that five members would like to attend and asked Ms. Kelsey to request the needed funds.

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Page 153, July 28, 1988, (Tape 2), After Agenda Item:

Mrs. Paul Eisberg, VC 88-V-122
Out of Turn Hearing

Mrs. Thonen made a motion to deny the request. Mr. DiGiulian seconded the motion which passed by a vote of 6-0 with Mr. Kelley absent from the meeting.

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

Betsy S. Hurtt, Acting Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: November 1, 1988

APPROVED: November 10, 1988

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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, August 2, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen.

Chairman Smith opened the meeting at 9:17 A.M. and Mrs. Day led the prayer.

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Page 155, August 2, 1988, (Tape 1), Scheduled case of:

9:00 A.M. RICHARD P. DAVIS, VC 88-P-083, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.2 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-407), located at 7305 Arthur Drive, on approximately 11,620 square feet of land, zoned R-4, Providence District, Tax Map 50-1((9))18

Lori Greenlief, Staff Coordinator, presented the staff report.

The co-applicant, Richard P. Davis, 7305 Arthur Drive, Falls Church, Virginia, came forward and presented his justification. He stated he plans to substitute the existing porch with an addition which will provide more kitchen space, a new bedroom, and a new bathroom for his family. There are no objections from the surrounding neighbors.

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

Mrs. Thonen made a motion to grant VC 88-P-083 as she believed that the applicant had presented testimony showing compliance with the standards for a variance, that he plans to remove the existing porch and substitute it with an addition which will not be a hindrance or impact on the community, the lot is odd shaped, and there is no other location to build. The approval was subject to the development conditions being implemented.

Mrs. Day stated she would support the motion because she believed there is no adverse impact on the neighbors and there is open space to the rear of the applicant's lot.

Mr. DiGiulian seconded the motion which carried by a vote of 4-1 with Chairman Smith voting nay; Messrs. Hammack and Ribble not present for the vote.

Mrs. Thonen then made a motion to waive the eight-day time limitation which made the Board's action final eight days after the date of the Board's action. 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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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-083 by RICHARD P. DAVIS, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.2 feet from rear lot line, on property located at 7305 Arthur Drive, Tax Map Reference 50-1((9))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 2, 1988; 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 11,620 square feet of land.
4. The existing porch will be removed and substituted with the addition.
5. The addition will not be a hindrance or impact on the community.
6. There is no other location to build the addition.
7. The lot has an odd shape.

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 Chairman Smith voting nay; 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 August 2, 1988. This date shall be deemed to be the final approval date of this variance.

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The Board discussed waiving the eight-day time limitation for each of the cases heard today as this was the last public hearing prior to the August recess. It was agreed that the Board members would make a separate motion following each case.

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Page 156, August 2, 1988, (Tape 1), Scheduled case of:

9:15 A.M. USHA CHAND, SP 88-D-053, application under Sect. 3-E03 of the Zoning Ordinance to allow child care center, located at 9007 Georgetown Pike, on approximately 5.0 acres of land, zoned R-E, Dranesville District, Tax Map 13-4((7))4.

Chairman Smith informed the Board that a letter requesting a withdrawal of this application had been received from the applicant.

Page 157, August 2, 1988, (Tape 1), (Usha Chand, SP 88-D-053, continued from Page 156)

Mrs. Thonen made a motion to allow the applicant in SP 88-D-053 to withdraw. Mrs. Day 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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As there was time before the next scheduled item, the Board took action on the After Agenda Items.

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Page 157, August 2, 1988, (Tape 1), After Agenda Item:

Resolutions for July 26 and July 28, 1988

Mrs. Thonen made a motion to accept the Resolutions as submitted by staff. Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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Page 157, August 2, 1988, (Tape 1), After Agenda Item:

Revised Plats for South Run Baptist Church, SP 87-S-078

Jane Kelsey, Chief, Special Permit and Variance Branch, brought the Board's attention to the revised plats for SP 87-S-078, submitted on July 28, 1988. She stated these plats were suppose to show the transitional screening, the design of the intersection, and the barrier, which it does, but pointed out that the number of parking spaces is now 209. She stated staff was concerned because the Board had requested the removal of the land which was to be vacated which affected the number of parking spaces. The calculation on the number which would be removed was made during the hearing, thus an error was made in the calculations. This was not the fault of the applicant, since during the hearing the Board, the staff, and the applicant, were all discussing the issue.

It was the concensus of the Board to pass over this case until the maker of the motion, Mr. Hammack, arrived.

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Page 157, August 2, 1988, (Tape 1), After Agenda Item:

Request for Additional Time
St. Andrew Preschool, SPA 79-C-351-2

Chairman Smith stated he had received a copy of an additional time request for St. Andrew Preschool.

Jane Kelsey, Chief, Special Permit and Variance Branch, stated staff had received this at 8:55 a.m. this morning and staff had not had time to prepare the action packet that the Board normally receives. The applicant had spoken with Mr. Ribble regarding his concern that the special permit would expire during the August recess. Ms. Kelsey had advised the applicant that the special permit would remain valid because he had submitted a request in writing to the Zoning Administrator prior to the expiration date.

Chairman Smith questioned staff as to the punch list referenced in the applicant's letter.

Ms. Kelsey explained this is a list used by the County Arborist telling applicants what is required for transitional screening.

Mr. Ribble then made a motion to grant the applicant in SPA 79-C-351-2 an additional time of three (3) months in order to satisfy the County Arborist's requirements. The expiration date will be November 7, 1988.

Mr. Kelley seconded the motion which carried by a vote of 7-0.

Mr. Kelsey clarified for the applicant, who was present, that a Non-Residential Use Permit must be obtained prior to the establishment of the use.

William L. Carey, 1205 Toreador Lane, Oakton, Virginia, a member of the church council came forward. He stated the church had not been aware these requirements needed to be satisfied prior to the Non-Residential Use Permit being issued but added the requirements would be met.

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Page 158, August 2, 1988, (Tape 1), Scheduled case of:

9:30 A.M. WILLIS B. KERN, SP 88-P-051, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 11.5 foot high shed to remain 8.5 feet from rear lot line (11.5 ft. min. rear yard req. by Sect. 10-104), located in the Forest Hills Apartment Complex, on approximately 8.9907 acres of land, zoned R-20, Providence District, Tax Map 40-1((1))44.

Lori Greenlief, Staff Coordinator, explained that the notices were not in order in this case because the applicant had not notified one abutting property owner. She suggested a deferral date and time of October 18, 1988 at 9:45 a.m.

Mrs. Thonen moved to defer SP 88-P-051 to October 18, 1988 at 9:45 a.m. as suggested by staff. Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

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Page 158, August 2, 1988, (Tape 1), Information Item:

Revised Plats for South Run Baptist Church, SP 87-S-078

The Board had briefly discussed this case earlier in the day but had deferred a decision until Mr. Hammack, maker of the motion, could review the revised plats. (A summary of the background of the case and a detailed analysis of the revisions had been included in the Board's package for this hearing.) Mr. Hammack stated that he had reviewed the new plat and he had no problem with the number of parking spaces as it was above the minimum requirement.

In response to questions from Chairman Smith, Jane Kelsey, Chief, Special Permit and Variance Branch, replied that staff had no problem with the plat as long as it was approved by the Board. She stated the error in the number of parking spaces was a staff error when doing a quick count in trying to delete the land area and the number of parking spaces. The applicant had shifted the ampitheater further away from the residential properties and staff had no problem with this change.

Mr. Hammack made a motion to approve the revised plat as submitted by the applicant. Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

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Page 158, August 2, 1988, (Tape 1), Information Item:

Home Professional Office Amendment

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that it was her understanding that this amendment would be submitted to the Board today for its review.

Mrs. Thonen suggested that perhaps each of the members could write down their comments, meet to discuss them, and prepare a response to the Zoning Administrator.

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Page 158, August 2, 1988, (Tape 1), Scheduled case of:

9:45 A.M. JONATHAN AND DEBORAH EDWARDS, VC 88-V-081, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.2 feet from rear lot line (25 ft. min. rear yard req. by Sects. 6-106 and 3-307), located at 8214 Rushing Creek Drive, on approximately 9,430 square feet of land, zoned PDH-3, Mount Vernon District, Tax Map 98-3((2))581.

Heidi Belofsky, Staff Coordinator, presented the staff report.

Following Ms. Belofsky's presentation, Mr. Hammack called staff's attention to the side yard shown on the viewgraph and questioned whether or not there was a problem with the side yard setbacks.

Jane Kelsey, Chief, Special Permit and Variance Branch, explained that in a planned development district the side and front yards are as shown on the development plan and it is only if there are additions to the structures after the development is completed that those additions approved have to comply with the R-3 District or the closest zoning district.

Following a discussion took place among staff and Board members regarding the side yard setbacks, Ms. Kelsey stated that perhaps after the applicant's agent had made his presentation regarding the height of the deck, then staff could determine if the deck could extend into the side yard.

Fred Taylor, attorney with the law firm of Taylor and Somerville, 8134 Old Keene Mill Road, Springfield, Virginia, represented the applicants. He stated that the applicants

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and the neighbor on Lot 582 were concerned over the configuration of the lot lines and the applicants are presently in the process of submitting a resubdivision plat between the two lots.

Chairman Smith asked Mr. Taylor if the plat before the Board was an accurate one. Mr. Taylor replied that the plat submitted with the application was accurate and distributed a handout to the Board which showed how the applicants propose to reconfigure the lot lines. He explained that the applicant's property backs up to County parkland and this is the only location where an addition can be constructed because of topographical problems on the other side of the lot. Mr. Taylor added that Mr. Edwards is a professional guitarist and will use the room for a music room.

In response to questions from staff, Mr. Taylor replied that the addition is a one story structure and that he had submitted an architectural rendering to staff. He apologized for not having another copy with him.

Ms. Belofsky stated that it appeared that the deck would not encroach on the rear or side yards but that a variance would be needed to the side yard for the proposed addition. As this variance had not been a part of the legal advertisement, the Board could not act on this today.

Ms. Kelsey suggested that perhaps the Board could act on the addition request before it today and let the applicant discuss the side yard requirements with the Zoning Administrator's office prior to filing another application.

Mr. Taylor pointed out that the reconfiguration of the lot lines would make the side yard requirements moot. Chairman Smith explained that the Board could only act on the plat and request before it today. He further explained that the applicant would have to file another application for the side yard and could not obtain a building permit prior to that side yard variance being granted. Mr. Taylor agreed.

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

Following a discussion among the Board members, it was the concensus of the Board not to proceed with this request until the issue of the side yard had been resolved. Therefore, Mr. Hammack made a motion to defer this case until it could be readvertised. Mr. DiGiulian seconded the motion.

Chairman Smith asked staff for a deferral date and time.

Ms. Kelsey suggested that perhaps she could discuss the PDH setbacks with the Zoning Administrator's office if the Board would like to pass over this case to the end of the agenda.

Mr. Hammack amended his motion to defer this case until the end of the agenda. Mr. DiGiulian seconded the motion. The motion carried by a vote of 7-0.

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Page 159, August 2, 1988, (Tape 1), Scheduled case of:

10:00 A.M. BAHRAM KHOZAI AND DAVID ANDERSON, VC 88-M-084, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed Lots 2, 3, and 4 each having a lot width of 10.0 feet (80 ft. min. lot width req. by Sect. 3-306), located at 5502 Seminary Road, on approximately 1.439 acres of land, zoned R-3, Mason District, Tax Map 62-3((1))7.

Heidi Belofsky, Staff Coordinator, presented the staff report. She stated that staff does not recommend approval of this application as it does not meet all of the nine standards required for the approval a variance, specifically standards 2, 4, and 6.

Patrick M. Via, attorney with the law firm of Hazel, Thomas, Fiske, Beckhorn and Hanes, P.O. Box 547, Fairfax, Virginia, represented the applicants. He stated that the applicant proposes to subdivide the land into four single lots all fronting on Seminary Road, three via a pipestem driveway. The four lots would be larger in size than that required by the Zoning Ordinance and also within the allowed density. The applicant proposes to make four attractive lots out of a lot that is presently very overgrown and is a health hazard to the surrounding residents because of rat infestation.

Chairman Smith pointed out to Mr. Via that the condition of the property was not a requirement for the granting of a variance. He added that he was surprised that the property owner had let the property deteriorate to such a state and that it was the property owner's responsibility to clean up the lot.

Mr. Via continued by stating that the applicant had attempted to consolidate lots but had not been successful. He added that the applicant agrees with the development conditions.

In response to questions from the Board, Mr. Via replied that all the abutting properties are single family dwellings. He submitted petitions signed by surrounding property owners in support of the request.

Chairman Smith called for speakers in support of this request and the following citizens came forward: George Freeline, 5500 Bradley Boulevard, Alexandria, Virginia; Tom Dandy, 5519 Bouffant Boulevard, Alexandria; Bill Waikart, 5418 Seminary Road, Alexandria, Virginia; and, Cecily Lupo, 900 Clifton Drive, Alexandria, Virginia.

The citizens believed that this request would improve the neighborhood as many of the surrounding properties are rentals and are not maintained in a proper manner.

Chairman Smith called for speakers in opposition to the request, and hearing no reply closed the public hearing.

Mr. DiGiulian stated that he believed that there had been testimony showing that there is a hardship as the property cannot be developed in compliance with the existing zoning nor the surrounding development and because the applicant has been unable to consolidate with other properties in order to construct a public street. Therefore, he made a motion to grant VC 88-M-084 because the applicant had satisfied the nine requirements for a variance, specifically that the property has exceptional narrowness. The approval was subject to the development conditions contained in the staff report.

Mr. Hammack suggested that condition number 3 regarding sewer connections be deleted. Mr. DiGiulian accepted the amendment.

Mrs. Thonen seconded the motion. The motion carried by a vote of 6-1 with Chairman Smith voting nay.

Chairman Smith stated that he could not support the motion as he believed it could be developed with better egress/ingress.

Mrs. Thonen made a motion to waive the eight-day time limitation. Mr. Hammack seconded the motion which carried by a vote of 7-0.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-084 by BAHRAM KHOZAI AND DAVID ANDERSON, under Section 18-401 of the Zoning Ordinance to allow subdivision into four (4) lots, proposed Lots 2, 3, and 4 each having a lot width of 10.0 feet, on property located at 5502 Seminary Road, Tax Map Reference 62-3((1))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 August 2, 1988; and

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

1. That Mr. Anderson is the owner of the land, and Mr. Khozai is the contract purchaser of the land.
2. The present zoning is R-3.
3. The area of the lot is 1.439 acres of land.
4. The property cannot be developed in accordance with the existing zoning.
5. The applicant has tried to purchase land for a consolidation but has been unsuccessful.

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 four (4) lots as shown on the plat submitted with this application and is not transferable to other land.

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

3. Access to all lots shall be provided from a single entrance on Seminary Road.

4. Noise attenuation measures shall be provided on lot # 1 as may be necessary to ensure that the interior noise levels do not exceed a maximum of 45 dBA Ldn. Exterior noise levels shall be reduced to a maximum of 65 dBA Ldn.

5. At the time of site plan review a soils study may be required at the discretion of the Director, Department of Environmental Management to ensure that soil constraints have been adequately addressed.

Mrs. Thonen 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 August 2, 1988. This date shall be deemed to be the final approval date of this variance.

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10:15 A.M. CAROL A. MORRIS, SP 88-M-054, application under Sect. 3-203 of the Zoning Ordinance to allow accessory dwelling unit, located at 3436 Holly Road, on approximately 25,292 square feet of land, zoned R-2, Mason District, Tax Map 59-2((24))1A

Heidi Belofsky, Staff Coordinator, presented the staff report. She stated that it is staff's judgment that this application meets all the required standards and staff recommends approval of this application.

Carol A. Morris, 3436 Holly Road, Annandale, Virginia, the applicant, came forward. She stated that her mother is 77 years old and presently lives alone in Philadelphia, Pennsylvania. Mrs. Morris added that she has looked into nursing homes but these did not meet with her mother's approval. This request will allow her mother to maintain her independence but also have her close to the family if she needs assistance.

There were no speakers and Chairman Smith closed the public hearing.

Mrs. Day made a motion to grant SP 88-M-054 as she believed the applicant had presented testimony showing compliance with the required standards, there is ample parking, and staff has recommended approval of the request. The approval was subject to the development conditions contained in the staff report.

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

Mrs. Thonen made a motion to waive the eight-day time limitation. Mr. Ribble seconded the motion which carried by a vote of 7-0.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-M-054 by CAROL A. MORRIS, under Section 3-203 of the Zoning Ordinance to allow accessory dwelling unit, on property located at 3436 Holly Road, Tax Map Reference 59-2((24))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 August 2, 1988; 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-2.
3. The area of the lot is 25,292 square feet of land.
4. The existing parking meets the requirements.

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 8-918 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. However, this condition shall not preclude the applicant from erecting structures or establishing uses that are not related to the accessory dwelling unit and would otherwise be permitted under the Zoning Ordinance and other applicable codes.

Page 163, August 2, 1988, (Tape 1), (Carol A. Morris, SP 88-M-054, continued from Page 162)

3. This Special Permit use is subject to the provisions of Article 17, Site Plans. Prior to obtaining building permit approval, any plans that are deemed necessary by the Director, DEM, shall be submitted and approved by DEM pursuant to Par. 3 of Sect. 8-903. Any plans submitted shall conform with the approved Special Permit plat and these conditions.

4. The accessory dwelling unit shall occupy no more than 840 square feet of the principal dwelling.

5. The accessory dwelling unit shall contain no more than two (2) bedrooms.

6. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance.

7. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.

8. This special permit shall be approved for a period of five (5) years from the approval date or with succeeding five (5) year extensions permitted with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.

9. Upon the termination of the new addition as an accessory dwelling unit under the provisions of this Ordinance, the structure shall be internally altered so as to become an integral part of the main dwelling unit.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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. 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 August 2, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 163, August 2, 1988, (Tape 1), Scheduled case of:

10:30 A.M. MR. AND MRS. JORGE BERUFF, VC 88-M-082, 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 3423 Stoneybrae Drive, on approximately 14,444 square feet of land, zoned R-2, Mason District, Tax Map 61-1((11))504.

Kathy Reilly, Staff Coordinator, presented the staff report.

Diana Beruff, 3423 Stoneybrae Drive, Falls Church, Virginia, the co-applicant came forward. She stated that they have owned the house since 1969 and that they would like to enclose an existing screened porch to provide additional living space.

Chairman Smith asked if she intended to expand the screened porch. Mrs. Beruff explained that the screened porch would be expanded by 1 foot on the side and 3 feet in the rear.

Mr. Ribble questioned the applicant about topographical problems that might exist on the property. Mrs. Beruff stated that the property has a severe slope in the rear of the lot.

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

Mr. Ribble made a motion to grant the request and stated that he believed that the applicant had met the required standards, particularly exceptionally topographic conditions which exist on the property which prohibits the applicant from constructing an addition elsewhere on the property. The approval was subject to the development conditions contained in the staff report.

Mr. DiGiulian seconded the motion. The motion carried by a vote of 5-0 with Mrs. Thonen and Mr. Hammack not present for the vote.

Mr. Kelley made a motion to waive the eight-day time limitation. Mr. DiGiulian seconded the motion which carried by a vote of 5-0 with Mrs. Thonen and Mr. Hammack not present for the vote.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-082 by MR. AND MRS. JORGE BERUFF, 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 3423 Stoneybrae Drive, Tax Map Reference 61-1((11))504, 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 2, 1988; 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 14,444 square feet of land.
4. There are topographical conditions in the rear of the lot which prohibits construction.

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 Mrs. Thonen 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 August 2, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 165, August 2, 1988, (Tape 2), Scheduled case of:

10:45 A.M. DONALD J. LYNCH AND VIOLET J. LYNCH, VC 88-A-079, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 21.4 feet from a street line of a corner lot (30 ft. min. front yard req. by Sect. 3-307), located at 11100 Byrd Drive, on approximately 15,616 square feet of land, zoned R-3, Annandale District, Tax Map 57-3((7))273.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

In response to questions from Mrs. Day, Ms. Kelsey explained that at present Andes Drive is not a through street.

Fred Taylor, attorney with the law firm of Taylor and Somerville, 8134 Old Keene Mill Road, Springfield, Virginia, represented the applicants. He stated that this is a corner lot where Andes Drive dead ends at a swim club located behind the applicants property. He added that this addition will allow the applicants to remove their vehicles from on street parking, thereby improving the sight distance for people exiting the swim club. Mr. Taylor stated that he believed that the applicants meet the hardship requirement because their lot is smaller then the other lots in the neighborhood.

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

Mr. Kelley made a motion to grant VC 88-A-079 as he believed that the applicants had satisfied the required standards, in particular where the house is located on a corner lot and has two front yards. The approval was subject to the development conditions contained in the staff report.

Mr. Ribble seconded the motion which carried by a vote of 6-1 with Chairman Smith voting nay.

Mrs. Thonen made a motion to waive the eight-day time limitation. Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-079 by DONALD J. LYNCH AND VIOLET J. LYNCH, under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 21.4 feet from a street line of a corner lot, on property located at 11100 Byrd Drive, Tax Map Reference 57-3997))273, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 2, 1988; 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 15,616 square feet of land.
4. The house is a corner lot and has two front yards.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 the approved addition.

Mr. Ribble 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 August 2, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 166, August 2, 1988, (Tape 2), Scheduled case of:

11:00 A.M. CHRISTOPHER AND JOAN HARRIS, SP 88-A-055, application under Sect. 8-901 of the Zoning Ordinance for modification to the limit on the keeping of animals to allow four (4) dogs to remain on subject property, located at 7415 Farnum Street, on approximately 10,691 square feet of land, zoned R-3, Annandale District, Tax Map 71-3((4))(28)19

Page 167, August 2, 1988, (Tape 2), (Christopher and Joan Harris, SP 88-A-055, continued from Page 166)

Chairman Smith stated that the notices were not in order in this case.

The applicant, Christopher Harris, 7415 Farnum Street, Falls Church, Virginia, came forward and explained that the notices were not mailed within the alloted time period because he had been out of town.

Chairman Smith explained to Mr. Harris that because the notices were not in order the Board could not proceed with the public hearing and asked staff for a deferral date and time.

Kathy Reilly, Staff Coordinator, suggested October 18, 1988 at 10:00 a.m.

Mrs. Thonen made a motion to defer SP 88-A-055 to October 18, 1988 at 10:00 a.m. as suggested by staff. The motion carried by a vote of 7-0.

Jane Kelsey, Chief, Special Permit and Variance Branch, pointed out that this applicant had been issued a Notice of Violation, therefore it is very important that the notice requirement be complied with prior to the next public hearing.

Chairman Smith explained to the applicant the importance of meeting the notice requirements as stipulated by the Zoning Ordinance. He added that if the notices were not correct prior to the next public hearing, the Board would dismiss the case for lack of interest.

Ms. Kelsey stated that the Clerk indicated that no one had seconded the motion. Mr. Hammack stated that he would second the motion. Chairman Smith thanked staff for calling this to the Board's attention.

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Page 167, August 2, 1988, (Tape 2), Scheduled case of:

11:15 A.M. M. HAMID FARUQUI/WASAF DAY-CARE CENTER, SP 88-M-045, application under Sect. 3-303 of the Zoning Ordinance for a child care center, located at 4003 Kloman Street, on approximately 16,210 square feet of land, zoned R-3, Mason District, Tax Map 59-3((19))22

Chairman Smith stated that the Board was in receipt of a letter from the applicant requesting a withdrawal of his application.

Mrs. Thonen made a motion to allow the withdrawal of SP 88-M-045. Mr. Hammack seconded the motion which carried by a vote of 7-0.

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Page 167, August 2, 1988, (Tape 1), Scheduled case of:

Jonathan and Deborah Edwards, VC 88-V-081

As there was time before the next scheduled case, Chairman Smith asked if the Board could now proceed with VC 88-V-081.

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that she had discussed the question regarding the issue of the setbacks in a PDH District with the Zoning Administrator's office. She added that according to the Zoning Administrator the applicant would need to apply for a variance to the side yard in order to construct this addition.

Following a discussion among the Board members, Mr. Hammack made a motion to defer this application to October 18, 1988 at 10:15 a.m. in order to allow the applicant to file a new application. Mr. DiGiulian seconded the motion which passed unanimously.

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At this time the Board took a ten minute recess.

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Page 167, August 2, 1988, (Tape 2), Scheduled case of:

11:30 A.M. ROBERT F. FLINN AND KATHRYN T. FLINN, VC 88-C-068, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling addition to 9.7 ft. from side lot line (20 ft. min. side yard required by Sect. 3-E07) located at 10943 Stuart Mill Road, on approximately 35,253 square feet of land, zoned R-E, Centreville District, Tax Map 37-1((1))9

Denise James, Staff Coordinator, presented the staff report.

The applicant, Robert Flinn, 10943 Stuart Mill Road, Oakton, Virginia, came forward and stated that he and his wife had purchased the property in 1977. Since that time his

family has grown and they are in need of additional living space. He added that his lot is smaller then most of the lots in his neighborhood and is unusually narrow. In response to a question from Mrs. Day, Mr. Flinn replied that the structure located on the rear of the lot is used only for storage.

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

Mr. Hammack made a motion to grant the request as he believed that the applicant had presented testimony showing compliance with the requirements for a variance, that the lot is unusually narrow and small in size as compared to the other lots in the area. The approval was subject to the development conditions contained in the staff report.

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

Mrs. Day made a motion to waive the eight-day waiting time limitation. Mr. DiGiulian seconded the motion which passed unanimously.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-C-068 by ROBERT F. FLINN AND KATHRYN T. FLINN, under Section 18-401 of the Zoning Ordinance to allow construction of dwelling addition to 9.7 feet from side lot line, on property located at 10943 Stuart Mill Road, Tax Map Reference 37-1((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 August 2, 1988; 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-E.
3. The area of the lot is 35,253 square feet of land.
4. The lot is very long and narrow and undersized compared to the other lots in the neighborhood.

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 to finish this structure shall be compatible with the principle dwelling unit on the property and to the adjacent properties.

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 August 2, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 169, August 2, 1988, (Tape 2), Scheduled case of:

11:45 A.M. ATHAR JAVAID, VC 88-A-080, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage and living space addition to dwelling to 12.5 feet from side lot line (15 ft. min. side yard req. by Sect. 3-207), located at 7202 Homestead Place, on approximately 22,721 square feet of land, zoned R-2, Annandale District, Tax Map 71-3((15))2.

Denise James, Staff Coordinator, presented the staff report. She pointed out that citizens have expressed concern with the architectural appearance of the addition and the potential drainage problems. Mrs. James called the Board's attention to the revised development conditions just distributed to them which address these concerns.

K. Shahid Rab, 8306 Aqueduct Road, Potomac, Maryland, architect for the applicant came forward. Mr. Rab stated that the applicant would like to construct a two car garage in the location of an existing carport and add additional living space. He added that the applicant has met with the citizens to discuss their concerns and agreed with the revised development conditions.

In response to questions from the Board, Mr. Rab explained that the other houses in the neighborhood could build without variances because the houses were more centrally situated on the lots.

Chairman Smith called for speakers in support of the request and hearing no reply called for speakers in opposition to the request.

Louis Wagner, 7205 Homestead Place, Springfield, Virginia, came forward and stated that he was not opposed to the applicant's request but that he would like to see the revised development conditions implemented. Mr. Wagner requested that the revised architectural design discussed with the applicant be included as part of the development conditions.

In response to questions from the Board, Mr. Wagner explained that he would like to see the roof line of the addition lowered and setback at least 3 to 4 feet in order to bring the addition more in line with the existing dwelling.

Nancy Roisum, 7204 Homestead Place, Springfield, Virginia, the applicant's next door neighbor, came forward and expressed concern that the proposed construction might make an existing runoff problem worse then what it is at present.

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

Mr. DiGiulian made a motion to approve VC 88-A-080 as he believed that the applicant had met the nine required standards for a variance, specifically 2(F) as the location of the house on the lot prohibits construction elsewhere on the lot. The approval was subject to the revised development conditions with two additions:

"6. The roof line of the addition is to be a minimum of one (1) foot below the existing dwelling.

7. The addition shall setback a minimum of three (3) feet from the corner of the existing dwelling."

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

Mrs. Day made a motion to waive the eight-day time limitation. Mr. Hammack seconded the motion which passed unanimously.

Chairman Smith pointed out that the applicant would need to submit new plats.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-080 by ATHAR JAVAID, under Section 18-401 of the Zoning Ordinance to allow construction of garage and living space addition to dwelling to 12.5 feet from side lot line, on property located at 7202 Homestead Place, Tax Map Reference 71-3((15))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 August 2, 1988; 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 22,721 square feet of land.
4. The way the house is sited on the lot the garage cannot be constructed without a variance.

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

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

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

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NOW, THEREFORE, BE IT RESOLVED that the subject application is 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 addition shall be constructed with brick veneer in order to be compatible with existing dwelling and surrounding properties.

5. Drainage for the proposed addition shall be directed towards the public storm drainage ditch located at the front of the property.

6. The roof line of the addition is to be a minimum of one (1) foot below the existing dwelling.

7. The addition shall setback a minimum of three (3) feet from the corner of the existing dwelling.

Mr. Hammack seconded the motion which carried by a vote of 5-1 with Chairman 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 August 2, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 171, August 2, 1988, (Tapes 2 and 3), Scheduled case of:

12:00 Noon PEACE EVANGELICAL LUTHERAN CHURCH, SP 88-M-044, application under Sects. 3-303 and 8-901 of the Zoning Ordinance for building additions to existing church and related facilities with modification of the dustless surface requirement, located at 6362 Lincolnia Road, on approximately 4.3972 acres of land, zoned R-3, Mason District, Tax Map 72-1((1))52 and 72-1((7))109, 110

Denise James, Staff Coordinator, presented the staff report. She stated that the applicant is requesting approval of a special permit to allow building additions to an existing church, with no increase in the seating capacity, and no day care facilities. Mrs. James added that staff recommends approval of SP 88-M-044 subject to the development conditions contained in the staff report, as well as a modification to the Dustless Surface Requirement.

In response to questions from the Board, Mrs. James replied that this will bring the church under special permit for the first time. She added that perhaps the applicant could better address the question of the Floor Area Ratio (FAR).

Leonard Brown, 8312 Tollhouse Road, Annandale, Virginia, came forward to speak on behalf of the church and referred to his statement of justification submitted with the application and contained in the staff report. He then introduced the architect for the church.

Lawrence Cook, with Lawrence Cook Associates, 3424 Mansfield Road, Falls Church, Virginia, came forward and addressed the FAR. He stated that the FAR, which is well below what is allowed, and square footage shown on the plat was correct as the existing building was to be demolished and rebuilt.

In response to questions from the Board regarding development conditions, Mr. Cook stated that the church has agreed to all the development conditions but would like the first bullet on number 7 deleted. He added that the church would like to forego any additional screening along the front of the lot so that the church can be seen from the roadway for security.

Following a question from Chairman Smith, Mrs. James noted that the Zoning Ordinance does require Transitional Screening 1 between a church and residential properties but not between churches.

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Mr. DiGiulian asked Mr. Cook how long the church had been located at this site, and Mr. Cook replied twenty-five years.

In response to Mr. Hammack's question regarding development condition number 10, Mr. Cook replied that the church would prefer not to dedicate now but to convey the property at a later date when it is actually needed for road improvements.

A discussion took place among the Board members regarding development condition 10 and Mr. DiGiulian suggested adding the following: "... Said dedication shall take place at such time as the County requires the same, and within 120 days from the time of notification. ..."

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

Mrs. Day made a motion to grant SP 88-M-044 based on the applicant's testimony that there will be no day care or preschool facilities, the staff agrees with the waiver of the dustless surface requirements, the existing dwelling will be demolished and another constructed in its location. The approval was subject to the development conditions contained in the staff report with the following modifications:

Delete first bullet on condition number 7.

Revise condition number 10 to read: "As shown on the plat dated July 15, 1988, right-of-way to 45 feet from existing centerline of Lincolnia Road and to 26 feet from the existing centerline of Summit Place Road necessary for future road improvements shall be dedicated for public street purposes and shall convey to the Board of Supervisors in fee simple. Said dedication shall take place at such time as the County requires the same, and within 120 days from the time of notification. Ancillary temporary access easements shall be provided to facilitate these improvements.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-M-044 by PEACE EVANGELICAL LUTHERAN CHURCH, under Sections 3-303 and 8-901 of the Zoning Ordinance for building additions to existing church and related facilities with modification of the dustless surface requirement, on property located at 6362 Lincolnia Road, Tax Map Reference 72-1((1))52 and 72-1((7))109 and 110, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 2, 1988; 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 4.3972 acres of land.
4. There will be addition to the seating capacity of the church.
5. There will be no day care or preschool facilities.
6. The staff agrees with the waiver of the dustless surface requirements.
7. The existing dwelling will be demolished and another constructed in its location.

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, 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 seating capacity for Peace Evangelical Lutheran Church shall be limited to a total of 280 seats.

6. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11 and shall be a minimum of 70 spaces. All parking shall be on site.

7. Transitional screening and landscaping shall be provided as shown on the special permit plat dated July 15, 1988 and as follows:

   - The existing vegetation along the southeastern lot line adjacent to parcel 51 may be used to satisfy the screening requirement on this border if the vegetation is supplemented to be equivalent to Transitional Screening 1 to the satisfaction of the County Arborist.

   - Transitional Screening 1 along Oak Ridge may be modified in favor of the screening as shown on the special permit plat dated July 15, 1988 as approved by the County Arborist.

   - Transitional Screening 1 along Summit Place may be modified in favor of the screening as shown on the special permit plat dated July 15, 1988 as approved by the County Arborist.

8. The barrier requirement shall be waived.

9. Interior parking lot landscaping shall be provided in accordance with provisions of Sect. 13-106 of the Ordinance.

10. As shown on the plat dated July 15, 1988, right-of-way to 45 feet from existing centerline of Lincolnia Road and to 26 feet from the existing centerline of Summit Place Road necessary for future road improvements shall be dedicated for public street purposes and shall convey to the Board of Supervisors in fee simple. Said dedication shall take place at such time as the County requires the same, and within 120 days from the time of notification. Ancillary temporary access easements shall be provided to facilitate these improvements.

11. Any new lighting proposed for the parking areas 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 subject property.
    - Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.

12. The applicant shall conduct a soil survey and geotechnical engineering study if requested by the Director of the Department of Environmental Management.

13. A modification of the dustless surface requirement shall be granted for the existing gravel drive for a period of five (5) years. This area 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:

    - Travel speeds in the existing gravel driveway shall be limited to 10 mph or less.

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

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

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

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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 which carried by a vote of 5-0 with Mrs. Thonen and Mr. Kelley not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 2, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 174, August 2, 1988, (Tape 3), Scheduled case of:

12:15 P.M. YVONNE NDUOM AND EPWORTH UNITED METHODIST CHURCH, SP 88-M-039, application under Sect. 3-203 of the Zoning Ordinance for a child care center and nursery school, located at 3435 Sleepy Hollow Road, on approximately 3.7246 acres of land, zoned R-2, Mason District, Tax Map 60-2((33))1, 2, 3

The applicant's representative, Jerry Bender, 3443 Sleepy Hollow Road, Falls Church, Virginia, came forward and outlined the justification as submitted with the application. He asked the Board to delete development conditions numbers 11 and 12.

Mr. Ribble called the Board's attention to the fact that staff had not yet presented the staff report.

Chairman Smith apologized to staff and asked staff to proceed.

Denise James, Staff Coordinator, presented the staff report. She stated that the applicant is requesting approval to allow a pre-school and after school program to accommodate forty children with five employees and there will be no new construction associated with this use other than the fencing around the play area. She added that the church being a co-applicant in this application will bring the church under special permit for the first time. In closing, Mrs. James stated that staff recommends approval of SP 88-M-039 subject to the development conditions contained in the staff report being implemented.

A discussion took place among the Board members regarding the list that the church submitted with its application indicating the activities that are conducted in the church. It was the concensus of the Board that staff should contact Zoning Enforcement Branch to determine whether or not these activities should fall under special permit.

Following this discussion, Mr. Bender came forward to continue his presentation. He stated that the list of activities held at the church was supplied to staff to assist them in determining whether or not there was sufficient parking to accommodate these uses. He added that some of the uses were a part of the Fairfax County Park and Recreation Program, but that most of the activities are made up church members.

Mr. Ribble and Mr. Hammack commented that it was their belief that this type of agreement had to have Board approval prior to commencing and assured Mr. Bender that they were not finding fault with the church.

Page 175, August 2, 1988, (Tapes 3), (Yvonne Nduom and Epworth United Methodist Church, SP 88-M-039, continued from Page 174)

Mr. Hammack asked the applicant to address the development conditions. Mr. Bender asked the Board to delete condition number 11 as he did not believe there would be any noise impact from the play area because of the distance from residential properties and the heavily wooded area surrounding the play area. In response to a letter from one of the adjacent neighbors, Mr. Bender stated that the children will be supervised when they are on the play area.

Mrs. James clarified that the play area is not presently fenced.

Chairman Smith stated that the play area would have to be fenced as shown on the plat if the special permit is granted. A discussion took place among the Board as to whether or not it was appropriate to waive the fencing around the play area.

Mr. Bender noted that only seven children will be allowed on the play area at any one time under the development conditions. Jane Kelsey, Chief, Special Permit and Variance Branch, stated that the Zoning Ordinance and the Health Department requires that for this age group children there be 200 square feet of play area for each child. The Health Department also makes the determination as to whether or not the play area should be fenced.

Mr. Bender asked the Board to delete condition number 12 because the church was not financially able to meet this requirement.

Chairman Smith explained that the waiver of that condition number 12 would have to be granted by the Virginia Department of Transportation (VDOT). The Board has asked that staff include this information as part of the staff report in order that the applicants are aware of what is required to complete the process.

Yvonne Nduom, 6512 Dearborn Drive, Falls Church, Virginia, stated that she would be the director of the proposed day care center and that she agreed with the development conditions with the exception of numbers 11 and 12 for the reasons that Mr. Bender had already explained. She added that she believed there was a great need for day care centers and that Sleepy Hollow Elementary School has a waiting list for facilities to care for the children after school.

Chairman Smith called for speakers in opposition to the request and hearing no reply asked if staff if they had any closing comments.

Ms. Kelsey stated that she would like to clarify for the church's benefit that a revised plat would be needed showing the church as it exists at present should the Board grant the special permit.

In response to questions from Mr. Hammack regarding Barrier E or F, Mrs. James explained that it is a solid wood or brick fence used to mitigate noise impact.

There being no further discussion, Chairman Smith closed the public hearing.

Mr. Ribble made a motion to grant the request as he believed that the applicant has presented testimony showing compliance with the standards for a special permit. The approval was 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 88-M-039 by YVONNE NDUOM AND EPWORTH UNITED METHODIST CHURCH, under Section 3-203 of the Zoning Ordinance for a child care center, on property located at 3435 Sleepy Hollow Road, Tax Map Reference 60-2((33))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 August 2, 1988; and

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

1. That the applicant is the lessee.
2. The present zoning is R-2.
3. The area of the lot is 3.7246 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 existing buildings and uses indicated on the plat submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

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

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

5. The maximum daily enrollment shall be 40.

6. The maximum number of employees shall be five (5).

7. The hours of operation shall be limited to Monday - Friday from 9:00 am until 6:00 p.m.

8. The maximum number of children permitted in the play yard at any one time shall be 7.

9. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11 and shall be a minimum of 11 spaces. These spaces shall be reserved for the special permit use and identified as such through the appropriate signage on the site.

10. The existing vegetation shall be used to satisfy the requirement for Transitional Screening 1 subject to to the satisfaction and approval of the County Arborist.

11. The play area shall be fenced with Barrier E or F and shall be solidly constructed from the ground up to a height of at least five feet in order to mitigate noise impacts on adjacent properties.

12. The design specifications regarding the width of the site entrance and travel aisle to the parking area shall be subject to approval by the Virginia Department of Transportation and the Director of the Department of Environmental Management.

13. Handicapped parking spaces shall be provided at a location nearest the entrance as determined by DEM and shall be appropriately marked and in accordance with applicable regulations.

14. Any proposed new lighting of the parking areas 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 subject property.

    - Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.

15. A new plat shall be submitted to staff for review and to the Board of Zoning Appeals for final approval, and shall include the following: total square footage of the existing church and existing FAR, the number of seats in the existing sanctuary, the square footage of the pre-school and after school use and the removal of the proposed future buildings from the plat.

Page 177, August 2, 1988, (Tapes 3), (Yvonne Nduom and Epworth United Methodist Church, SP 88-M-039, continued from Page 178)

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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 Mrs. Thonen and Mr. Kelley not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on August 2, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 177, August 2, 1988, (Tape 3), Information Item:

Chairman Smith noted that that concluded the agenda for today and asked staff if there were any additional item.

Jane Kelsey, Chief, Special Permit and Variance Branch, pointed out that she had copies of the Home Professional Office Zoning Ordinance Amendment to be handed out to each Board member present today. She added that copies would be mailed to the members who were not present.

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Page 177, August 2, 1988, (Tape 3), Information Item:

Waiver of the Eight-Day Time Limitation

Mrs. Day made a motion to waive the eight-day time limitation on any case which the Board might have overlooked during the public hearing.

Mr. DiGiulian 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 1:30 p.m.

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

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: November 29, 1988

APPROVED: December 4, 1988

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 6, 1988. the following Board Members were present: Chairman Daniel Smith; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble; and Mary Thonen.

Chairman Smith called the meeting to order at 8:05 P.M. He stated that in 1959 when he had been appointed to the Board of Zoning Appeals there was a member by the name of Mary Kay Henderson serving as Chairman. Chairman Smith stated that Ms. Henderson had passed away the previous month. He indicated that she had been a dedicated Fairfax County citizen and had served on the BZA for ten years. In addition, she was instrumental in helping with the urban form of government and the Site Plan Ordinance. In memory of Ms. Henderson, Chairman Smith asked for a moment of silence.

Following the moment of silence, Mrs. Day led the prayer.

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Page 179, September 6, 1988, (Tape 1), Scheduled case of:

8:00 P.M. HAPPY FACES CHILD DEVELOPMENT CENTER, SP 88-V-035, application under Sect. 3-403 of the Zoning Ordinance to allow nursery school and child care center, located at 6215 Richmond Highway, on approximately 36,768 square feet of land, zoned R-4, C-8, and HC, Mount Vernon District, Tax Map 83-3((1))38 and Outlot A. (DEF. FROM 6/28/88 - NOTICES NEED TO BE DONE)

Jane C. Kelsey, Chief, Special Permit and Variance Branch, advised the Board that the applicant had neglected to notify an abutting property owner across Route 1, therefore, the notices were not in order.

Herbert Rosenblum, 526 King Street, Alexandria, Virginia, representative of the applicant, appeared before the Board. He asked the Board to accept an affidavit signed by the property owner that had not been notified.

Chairman Smith stated that the required notification procedure had to be followed as written in the Zoning Ordinance and that a waiver could not be accepted.

Mrs. Thonen moved to defer SP 88-V-035 to October 4, 1988 at 9:15 P.M. and requested that the Clerk to the Board of Zoning Appeals send out the notices to ensure that they were correctly done.

Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Hammack not present for the vote.

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Jane C. Kelsey, Chief, Special Permit and Variance Branch, introduced the Clerk for the evening, Judy Moss, a former Deputy Clerk who would be assisting the Board of Zoning Appeals temporarily with evening meetings.

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Page 179, September 6, 1988, (Tape 1), Scheduled case of:

8:15 P.M. THOMAS AND SUSAN SULLIVAN, VC 88-M-085, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.3 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307) located at 5402 S. 12th Street, on approximately 7,662 square feet of land, zoned R-3, Mason District, Tax May 62-1((5))66.

Jane C. Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Thomas Sullivan, 5402 S. 12th Street, the applicant, explained the request as outlined in the statement of justification submitted with his application. He emphasized that the lot was pie shaped and that the addition would only require a variance in the front of the property. He stated that all the neighbors in the area supported the application.

There being no speakers, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant VC 88-M-085, with the clarification that the intent of the motion was that the addition be no closer to the side lot line than 7.3 feet, although the plat showed the proposed addition at its closest point to be 7.3 feet plus or minus.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-085 by THOMAS AND SUSAN SULLIVAN, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.3 feet from

side lot line, on property located at 5402 South 12th Street, Tax Map Reference 62-1((5))66, 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 6, 1988; 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 7,662 square feet of land.
4. That the property has diverging lot lines.
5. That the rear of the property meets the setbacks.
6. That it is the intent of the motion the addition be no closer than 7.3 feet to the lot line.

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.

Page 181, September 6, 1988, (Tape 1), (Thomas and Susan Sullivan, VC 88-M-085, continued from Page 180)

Mr. Ribble seconded the motion which unanimously passed 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 September 14, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 181, September 6, 1988, (Tape 1), After Agenda Item #1:

Out-of-Turn Hearing Request
Catherine and Merrill Sickles
SP 88-A-080

Mr. DiGiulian moved to deny the request for an out-of-turn hearing for SP 88-A-080, Catherine and Merrill Sickles.

Mr. Kelley seconded the motion which passed by a vote of 6-0. Mr. Hammack not present for the vote.

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Page 181, September 6, 1988, (Tape 1), After Agenda Item #2:

Out-of-Turn Hearing Request
Dale and Helen Skovgaard
VC 88-D-134

Mr. DiGiulian moved to deny the request for an out-of-turn hearing for VC 88-D-134, Dale and Helen Skovgaard.

Mrs. Thonen seconded the motion which passed by a vote of 6-0. Mr. Hammack not present for the vote.

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Page 181, September 6, 1988, (Tape 1), After Agenda Item #3.

Out-of-Turn Hearing Request
Groveton Baptist Church
SP 88-V-079

Mrs. Thonen moved to grant the request for an out-of-turn hearing for SP 88-V-079, Groveton Baptist Church, and scheduled the case for October 18, 1988 at 9:15 A.M.

Mr. DiGiulian seconded the motion which passed by a vote of 6-0. Mr. Hammack not present for the vote.

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Page 181, September 6, 1988, (Tape 1), After Agenda Item #4.

Out-of-Turn Hearing Request
Gloria Pastorelli
SP 88-M-082

Mr. DiGiulian moved to deny the request for an out-of-turn hearing for SP 88-M-082, Gloria Pastorelli.

Mr. Kelley seconded the motion which passed by a vote of 7-0.

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Page 181, September 6, 1988, (Tape 1), Scheduled case of:

8:30 P.M. PAMELA J. BONE, VC 88-P-086, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport into a garage 10.6 ft. from side lot line (12 ft. min. side yard required by Sect. 3-307) located at 2616 Lemontree Lane, on approximately 10,971 square feet of land, zoned R-3, Providence District, Tax Map 48-1((9))4.

Jane C. Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Pamela Bone, 2616 Lemontree Lane, Vienna, the applicant, explained the request as outlined in the statement of justification submitted with her application. She stated that she wanted to enclose an existing structure and that it would be facing the garage of the adjacent property owner. Ms. Bone stated that the lot was pie-shaped.

Ms. Bone submitted letters in support of the application from several adjacent property owners for the record.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant VC 88-P-086.

Mrs. Day seconded the motion which passed by a vote of 7-0.

At the request of the applicant, Mrs. Thonen moved that the eight-day waiting period be waived.

Mrs. Day seconded the motion which passed by a vote of 7-0.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-086 by PAMELA J. BONE, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport into a garage 10.6 feet from side lot line, on property located at 2616 Lemontree Lane, Tax Map Reference 48-1((9))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 September 6, 1988; 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 10,971 square feet of land.
4. That there is only one front corner of the addition that needs the variance.
5. The property is odd shaped and the house is not located in the center of the site.

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:

Page 183, September 6, 1988, (Tape 1), (Pamela J. Bone, VC 88-P-086, continued from Page 182)

THAT the applicant has satisfied the Board that physical conditions as listed above 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 unanimously passed 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 6, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 183, September 6, 1988, (Tape 1), Secheduled case of:

8:45 P.M. FLORIS UNITED METHODIST CHURCH, SP 88-C-057, application under Sect. 3-103 of the Zoning Ordinance for church and related facilities, located on Centreville Road, on approximately 5.13 acres of land, zoned R-1, Centreville District, Tax Map 25-1((1))37.

Jane C. Kelsey, Chief, Special Permit and Variance Branch, announced that the Board was in receipt of a letter from the applicant requesting a deferral of the above-referenced application to allow them time to identify alternative solutions to identified transportation problems.

Mrs. Thonen moved to defer SP 88-C-057 to October 22, 1988 at 9:20 A.M.

Without objection, the Chair so ordered.

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Chairman Smith discussed a memo regarding the selection of Betsy Hurtt as the new Clerk to the Board of Zoning Appeals. He indicated that action would be taken the following week to appoint her to the position.

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As there was no other business to come before the Board, the meeting was adjourned at 8:50 P.M.

Judy L. Moss, Acting for the
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: November 10, 1988 APPROVED: November 29, 1988

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185

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 13, 1988. The following Board Members were present: Chairman Daniel Smith; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; John Ribble; and Mary Thonen. Robert Kelley was absent from the meeting

Chairman Smith called the meeting to order at 9:15 A.M. with Mrs. Day leading the prayer.

Chairman Smith recognized the members of the Board who had attended and successfully completed the Certification Program for Boards of Zoning Appeals in Richmond, as follows: Ann Day, Mary Thonen, John Ribble, and Daniel Smith. He then asked that the Clerk prepare a letter for his signature thanking James P. Zook, Director of Comprehensive Planning, and J. Hamilton Lambert, County Executive, and all those responsible for the Board being able to attend the session, and asked that the Public Relations Branch be notified.

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Chairman Smith then turned the meeting over to Vice-Chairman DiGiulian and left the meeting.

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Page 185, September 13, 1988, (Tape 1), Scheduled case of:

9:00 A.M. MOHAMED HADID, VC 88-D-027, application under Sect. 18-401 of the Zoning Ordinance to allow construction of dwelling to height of 95 ft. (35 ft. max. building height allowed by Sect. 3-107) located at 616 Rivercrest Drive, on approximately 102,558 square feet of land, zoned R-1, Dranesville District, Tax Map 21-2((3))18R, 19R. (DEFERRED FROM 5/10/88 AT APPLICANT'S AND CITIZENS REQUEST)

Lori Greenlief, Staff Coordinator, advised the Board that the applicant had been contacted and she was waiting for a return call to see whether or not they were going to appear.

Ralph Smith, owner of lot 17-R, appeared before the Board and stated that he had heard a rumor that the applicant was engaged in a project in Aspen and was no longer interested in the variance.

Mr. Hammack moved that the Board defer action until 10:00 a.m. to allow the applicant an opportunity to make his wishes known. Mrs. Thonen seconded the motion which passed by a vote of 5-0 with Chairman Smith not present for the vote; Mr. Kelley absent from the meeting.

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Page 185, September 13, 1988, (Tape 1), Scheduled case of:

9:15 A.M. VIGUEN R. & TERESA TER-MINASSIAN, VC 87-D-164, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 1A having a lot width of 20.15 feet (150 feet min. lot width required by Sect. 3-106) located at 1025 Spring Hill Road on approximately 2.1958 acres of land, zoned R-1, Dranesville District, Tax Map 20-4((14))1. (DEFERRED FROM 3/1/88 TO RESOLVE OUTSTANDING ISSUES. DEFERRED FROM 3/22/88 AND 6/21/88 TO AWAIT OUTCOME OF APPEAL)

Jane Kelsey, Chief, Special Permit and Variance Branch, advised the Board that staff had received a copy of a letter from the Zoning Administrator to the applicant's attorney, which indicated that this application should not have been accepted. The application had been returned to the applicant with a refund of the full amount of the filing fee, therefore the case was moot.

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Page 185, September 13, 1988, (Tape 1), After Agenda Item:

Additional Time Request for Peter and Norma Mae Nordlie, VC 85-C-082

Mrs. Day moved to grant the applicant's request for additional time in VC 85-C-082.

Mr. Hammack seconded the motion which passed by a vote of 4-0 with Chairman Smith not present for the vote; Mr. Kelley absent from the meeting.

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Page 186, September 13, 1988, (Tape 1), After Agenda Item:

Additional Time Request for Fellowship Baptist Church, SP 82-V-054

Mr. Hammack made a motion to grant the applicant's request for additional time.

Mrs. Thonen seconded the motion which passed by a vote of 4-0 with Chairman Smith not present for the vote; Mr. Kelley absent from the meeting.

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Page 186, September 13, 1988, (Tape 1), After Agenda Item:

Approval of Minutes from April 19, May 3, May 16, May 17 and June 30, 1988

Mrs. Day moved that the Board approve the Minutes for April 19, May 3, May 16, May 17, and June 30, 1988 as submitted.

Mr. Hammack seconded the motion which passed by a vote of 4-0 with Chairman Smith not present for the vote; Mr. Kelley absent from the meeting.

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Page 186, September 13, 1988, (Tape 1), Scheduled case of:

9:30 A.M. JOSEPH JEVCAK, VC 88-A-087, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5.0 ft. from side lot line such that side yards total 23.0 ft. (8 ft. min., 24 ft. total min. side yard required by Sect. 3-207) located at 5209 Holden Street, on approximately 15,024 square feet of land, zoned R-2(C), Annandale District, Tax Map 68-3((4))(5)28

Lori Greenlief, Staff Coordinator, presented the staff report.

Joseph Jevcak, 5209 Holden Street, Fairfax, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application. Mr. Jevcak presented photographs depicting his property.

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

Mr. Hammack moved that the Board deny VC 88-A-087 since the hardship section of the Ordinance was not satisfied and there were no topographical conditions that were unusual.

Mrs. Thonen seconded the motion which passed by a vote of 4-1 with Mrs. Day voting nay; Chairman Smith not present for the vote; Mr. Kelley absent from the meeting.

Upon the applicant's request for a waiver of the twelve-month time limitation before filing of a new application, Mr. Hammack moved to grant the waiver.

Mrs. Day seconded the motion which passed by a vote of 5-0 with Chairman Smith not present for the vote; Mr. Kelley absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-087 by JOSEPH JEVCAK, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5.0 feet from side lot line such that side yards total 23.0 feet, on property located at 5209 Holden Street, Tax Map Reference 68-3((4))(5)28, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 13, 1988; 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 15,024 square feet of land.
4. That the lot has no unusual topographic conditions.
5. That the lot has no unusual narrowness or shape.
6. That the applicant could build a carport by right.

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 3-1 with Mrs. Day voting nay; Mr. Ribble not present for the vote; Chairman Smith and Mr. Kelley absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 21, 1988.

The Board granted the applicant a waiver of the 12-month time limitation for refiling a new application.

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Page 187, September 13, 1988, (Tape 1), Scheduled case of:

9:45 A.M. BILLY B. WILLIAMS, VC 88-L-052, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for garage and kitchen 10 feet from side lot line (12 ft. min. side yard required by Sect. 3-307), located at 6806 Ruskin Street, on approximately 25,791 square feet of land, zoned R-3 and R-4, Lee District, Tax Map 90-4((6))164.

Lori Greenlief, Staff Coordinator, presented the staff report.

Billy B. Williams, 6806 Ruskin Street, Springfield, 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, Vice-Chairman DiGiulian closed the public hearing.

Mrs. Thonen moved that the Board grant VC 88-L-052, citing the long, irregular shape of the lot, narrow in width, with floodplain and industrial zoning to the rear. Mr. Hammack seconded the motion which passed by a vote of 5-0 with Chairman Smith not present for the vote; Mr. Kelley absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-L-052 by BILLY B. WILLIAMS, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for garage and kitchen 10 feet from side lot line, on property located at 6806 Ruskin Street, Tax Map Reference 90-4((6))164, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 13, 1988; 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 90-4((6))164 square feet of land.
4. That the lot is long, irregularly shaped and narrow.
5. That there is floodplain to the rear of the lot.
6. That there is an industrial zone to the rear of the lot.
7. That this is a minimum request.

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

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

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

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

Page 189, September 13, 1988, (Tape 1), (Billy B. Williams, VC 88-L-052, continued from Page 188)

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

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

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

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

Mr. Hammack seconded the motion. The motion carried by a vote of 4-0 with Mr. Ribble not present for the vote; Chairman Smith and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 21, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 189, September 13, 1988, (Tape 1),

Mohamed Hadid, VC 88-D-027

Vice-Chairman DiGiulian recalled the case of Mohamed Hadid, VC 88-D-027. Lori Greenlief, Staff Coordinator, informed the Board that the applicant had not returned her call and the applicant was not present. Mrs. Greenlief then presented the staff report.

Elizabeth Horvath, 7625 Benjamin Street, McLean, Virginia, appeared before the Board and spoke in opposition to the application, speaking for the Northern Virginia Conversation Council, citing their concerns for the preservation and protection of the Potomac River and its banks, including the Virginia Palisades.

David Hobson, representing the Northern Virginia Regional Park Authority, appeared before the Board on behalf of Ms. Jean Packard and Ms. Mimi Welch, Fairfax County members of the Park Authority Board. He spoke against the proposed variance to the allowable building height for a single family dwelling which they believed would be adverse to the Park Authority's longstanding interest in protecting the scenic value of this area and the area upstream from Cabin John Bridge.

Ralph Smith, owner of Lots 17-R, 18, and 19-R, appeared before the Board and spoke in opposition to the application as outlined in his two letters to the Board. In addition, he stated that the subject wall would be in sight of their picture window, that there would be septic problems because of the intensive use of the property, and further possible problems of leakage from a pool that would be contained on a cantilevered base well above ground level at the point.

Mr. Hammack moved that the Board deny VC 88-D-027 for the reasons cited by the opposition speakers and because the applicant was not present and there had been no showing of any sort on his behalf to satisfy the nine required standards in order for the Board to grant a variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-027 by MOHAMED HADID, under Section 18-401 of the Zoning Ordinance to allow construction of dwelling to height of 95 feet, on property located at 616 Rivercrest Drive, Tax Map Reference 21-2((3))18R and 19R, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 13, 1988; 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 102,558 square feet of land.
4. That the citizens have presented valid concerns.

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 4-0 with Mr. Ribble not present for the vote; Chairman Smith and Mr. Kelley absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 21, 1988.

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Page 190, September 13, 1988, (Tape 1), Scheduled case of:

10:00 A.M. RICHARD AND JOANNE SPECHT, VC 88-A-089, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lot 2 having width of 80 ft. and proposed lot 3 having width of 20 ft. (100 ft. min. lot width required by Sect. 3-206) located at 4407 Wakefield Chapel Road, on approximately 2.0 acres of land, zoned R-2, Annandale District, Tax Map 70-1((11))26

Lori Greenlief, Staff Coordinator, presented the staff report. Ms. Greenlief called the Board's attention to a petition signed by owners of Lots 11, 12, and 13 that was submitted and a letter from a neighbor.

Richard and Joanne Specht, 4814 Hercules Court, Annandale, Virginia, the applicants, appeared before the Board and explained their request as outlined in the statement of justification as submitted with the application. Mr. Specht read a letter from the President of the Homeowner's Association in support of his application.

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John Hollis, owner of Lot 15, appeared before the Board and spoke in opposition to the application, stating that he had signed a petition against the application along with the owner of Lot 17. He cited his concerns for preservation of the present character of the area and that the variance is not in the public interest because it would require the removal of a great number of trees, which would result in soil erosion and new storm drainage problems, with a consequent reduced sales value of the adjacent property.

William B. Smith, 4502 Fidelity Court, Annandale, Virginia, owner of Lot 64 in Wakefield Chapel Woods, appeared before the Board and spoke in opposition to the application, citing his concerns for the density, safety, and the trees.

Terry McGuiness, 8434 Pulley Court, Annandale, Virginia, prospective buyer of Lot 16 appeared before the Board and spoke in opposition to the application, citing her concerns about the sight distance factor, the traffic issue around the widening of the road, tree preservation and the erosion factor.

Since there were no further speakers to address this application, Vice-Chairman DiGiulian closed the public hearing.

Mrs. Day moved that the Board deny VC 88-A-089 in view of the fact that the owners already have reasonable use of the land and the granting of the variance would impact adversely on adjoining property owners.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-089 by RICHARD AND JOANNE SPECHT, under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed Lot 2 having width of 80 feet and proposed Lot 3 having width of 20 feet, on property located at 4407 Wakefield Chapel Road, Tax Map Reference 70-1((11))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 13, 1988; 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 2.0 acres of land.
4. That the pipestem would have an adverse impact on Lots 15 and 16A.
5. That Lot 1 is smaller than surrounding lots.
6. That the pipestem method of development is not compatible with surrounding area.
7. That the house on Lot 2 would face the rear of the house on Lot 1.
8. That reasonable use could be obtained by subdividing into 2 lots by right.
9. That to deny this application would not produce undue hardship and restrict reasonable use of the 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 5-0 with Chairman Smith and Mr. Kelley absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 21, 1988.

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Page 192, September 13, 1988, (Tape 1), Scheduled case of:

10:15 A.M. ALDERSGATE UNITED METHODIST CHURCH, SPA 86-V-063-1, application under Sect. 3-303 of the Zoning Ordinance to amend SP 86-V-063 for church and related facilities to permit change of entrance, modification of screening, and reduction of parking spaces, located at 1301 Collingwood Road, on approximately 6.23 acres of land, zoned R-3, Mount Vernon District, Tax Map 102-4((1))18.

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board of staff's continuing belief that an evergreen hedge should be added to the proposed plantings for screening purposes, and, further, that if the Board should find that the berm now on the property was sufficient screening, that the County Arborist had found deficiencies in the berm in its present state and these would need to be corrected.

Robert L. Charlton, 7915 Bainbridge Road, Alexandria, Virginia, appeared before the Board on behalf of the applicant and explained the request as outlined in the statement of justification as submitted with the application.

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

Mr. Ribble moved that the Board grant SPA 86-V-063-1 subject to the development conditions contained in the staff report with a modification to bullet number 3 of condition number 5 which will now read: "A Transitional Screening yard, 25 feet in width, shall be provided along the lot lines abutting Lots 12, 13, 21, 22 and 25 with the following modification. The type of plantings shall be those shown on the special permit plat dated May 1988 to include a berm constructed in accordance with standards regarding slope and stabilization supplied by the County Arborist. The County Arborist shall review and approve the landscape plan showing the berm and proposed plantings. There shall be no berm placed adjacent to Lot 21."

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Page 193, September 13, 1988, (Tape 1), (Aldersgate United Methodist Church, SPA 86-V-063-1, continued from Page 192)

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 86-V-063-1 by ALDERSGATE UNITED METHODIST CHURCH, under Section 3-303 of the Zoning Ordinance to amend SP 86-V-063 for church and related facilities to permit change of entrance, modification of screening, and reduction of parking spaces, Tax Map Reference 102-4((1))18, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 13, 1988; 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 ultimate height, shall 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. The purpose of these plantings shall be to add greenery and shade to the existing lot.

   - A Transitional Screening yard, 25 feet in width, shall be provided along the lot lines abutting Lots 19 and 21 with the following modifications. The type of plantings shall be those shown on the special permit plat dated May 1988. In the areas where a 25 foot wide yard is not possible because of existing structures, the width of the yard shall be modified according to allow those structures to remain.

   - A Transitional Screening yard, 25 feet in width, shall be provided along the lot lines abutting Lots 12, 13, 21, 22 and 25 with the following modification. The type of plantings shall be those shown on the special permit plat dated May 1988 to include a berm constructed in accordance with standards regarding slope and stabilization supplied by the County Arborist. The County Arborist shall review and approve the landscape plan showing the berm and proposed plantings. There shall be no berm placed adjacent to Lot 21.

6. The barrier requirement shall be waived provided the hedge is installed as required by Condition 5.

7. Dedication of right-of-way along Fort Hunt Road and Collingwood Road may 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 238. All parking shall be on site.

10. Parking lot landscaping shall be provided as shown on the approved special permit plat unless additional plantings are required at the time of site plan review.

11. The entrance on Collingwood Road shall be designed so as to meet the sight distance requirement of the Virginia Department of Transportation.

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

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

Mrs. Day seconded the motion.

The motion carried by a vote of 5-0 with Chairman Smith and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 21, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 194, September 13, 1988, (Tape 1), Scheduled case of:

10:30 A.M. ABBAS SEPASSI, VC 88-P-090, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.0 ft. from side lot line (10 ft. min. side yard required by Sect. 3-407) located at 2837 Cherry Street, on approximately 7,000 square feet of land, zoned R-4, Providence District, Tax Map 50-2((11))26

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Abbas Sepassi, 2837 Cherry Street, Falls Church, 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, Vice-Chairman DiGiulian closed the public hearing.

Mr. Hammack moved that the Board grant VC 88-P-090 as the applicant had satisfied the nine requirements for a variance, citing specifically the exceptionally narrowness of the lot on the effective date of the Ordinance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-090 by ABBAS SEPASSI, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 7.0 feet from side lot line, on property located at 2837 Cherry Street, Tax Map Reference 50-2((11))26, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 13, 1988; 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 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 for the approved addition.

4. The addition shall be similar to the existing dwelling in regard to style, color, and materials.

Mr. Ribble seconded the motion which passed by a vote of 5-0 with Chairman Smith and Mr. Kelley not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 21, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 196, September 13, 1988, (Tape 2), Scheduled case of:

10:45 A.M. DAVID AND CINDY BRENT, VC 88-M-091, application under Sect. 18-401 to allow construction of 6 ft. high fence in front yard (4 ft. maximum height for fence in front yard required by Sect. 10-104) located at 4000 Medford Drive, on approximately 13,755 square feet of land, zoned R-4, Mason District, Tax Map 60-3((43))5

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

David Brent, 4000 Medford Drive, Annandale, 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, Vice-Chairman DiGiulian closed the public hearing.

Mr. Hammack moved that the Board grant VC 88-M-091 as the applicant had satisfied the nine requirements for a variance and that the 6 foot fence requested would be 33 feet away from Medford Drive at its closest point.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-091 by DAVID AND CINDY BRENT, under Section 18-401 of the Zoning Ordinance to allow construction of 6 foot high fence in front yard, on property located at 4000 Medford Drive, Tax Map Reference 60-3((43))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 September 13, 1988; 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-4.
3. The area of the lot is 13,755 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.

Page 197, September 13, 1988, (Tape 2), (David and Cindy Brent, VC 88-M-091, continued from Page 196)

3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.

4. That the strict application of this Ordinance would produce undue hardship.

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

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

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

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

Mr. Ribble seconded the motion which carried by a vote of 4-1 with Mrs. Day voting nay and Chairman Smith and Mr. Kelley not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 21, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 197, September 13, 1988, (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. (TO BE HEARD CONCURRENT WITH REZONING. DEF. FROM 3/10/87, 6/9/87, 10/27/87, AND 3/8/88)

(A copy of a verbatim transcript is contained in the file.)

William Shoup, Deputy Zoning Administrator, appeared before the Board and presented the Zoning Administrator's position as set forth in the staff report.

William Hansbarger, with the law firm of Hansbarger and Testerman, 10523 Main Street, Fairfax, Virginia, appeared before the Board on behalf of the appellant and explained the appellant's position as set forth in the appeal submission, and requested that the case be deferred again.

Mr. Shoup objected to the deferral since the case had gone on for quite some time with pending violation and he believed the case should be heard by the Board at this public hearing.

Since there were no speakers to address this matter, Vice-Chairman DiGiulian closed the public hearing.

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With respect to A 86-V-012, Mr. Hammack moved that the Board uphold the Zoning Administrator's determination that the quick service food store and fast food restaurant which have been established by the applicant is a violation of the Zoning Ordinance for the reasons set forth in the staff report.

Mrs. Thonen seconded the motion which passed by a vote of 5-0 with Chairman Smith not present for the vote; Mr. Kelley absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 21, 1988.

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Page 198, September 13, 1988, (Tape 2), Scheduled case of:

11:30 A.M. JOHN AND CORINNE JEFFRIES, SP 88-D-058, application under Sect. 8-901 of the Zoning Ordinance for reduction to minimum yard requirements based on error in building location to allow renovated and enlarged accessory building to remain 2.72 ft. from side lot line (20 ft. min. side yard req. by Sects. 3-E07 and 10-104) located at 9105 Mill Pond Valley, zoned R-E, Dranesville District, Tax Map 13-4((2))6A

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Rory Clark, with the law firm of Mackall, Mackall, Walker and Gibb, 4031 Chain Bridge Road, Fairfax, Virginia, appeared before the Board on behalf of the applicant and explained the applicant's request as outlined in the statement of justification as submitted with the application.

Since there were no speakers to address this matter, Vice-Chairman DiGiulian closed the public hearing.

Mrs. Day moved that the Board approve SP 88-D-058, citing that the storage and pool house were not detrimental, that the error is more than ten percent, that the noncompliance was done in good faith, that the reduction is not going to impair the intent of the Zoning Ordinance, that it will have no effect on the immediate vicinity, that it does not create an unsafe condition, and that it does not cause a hardship upon adjacent property owners.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-D-058 by JOHN AND CORINNE JEFFERIES, under Section 8-901 of the Zoning Ordinance for reduction to minimum yard requirements based on error in building location to allow renovated and enlarged accessory building to remain 2.72 feet from side lot line, on property located at 9105 Mill Pond Valley, Tax Map Reference 13-4((2))6A, 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 13, 1988; 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-E.
3. The area of the lot is 2.53 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 submitted with this application and is not transferable to other land.

Page 199, September 13, 1988, (Tape 2), (John and Corinne Jeffries, SP 88-D-058, continued from Page 198)

This approval, 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 not be valid until this has been accomplished.

Mrs. Thonen seconded the motion which passed by a vote of 5-0 with Chairman Smith not present for the vote and Mr. Kelley absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 21, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 199, September 13, 1988, (Tape 20, Scheduled case of:

11:45 A.M. BERNARD AND ANN E. KRELL, SP 88-V-056, application under Sect. 3-203 of the Zoning Ordinance for accessory dwelling unit, located at 3717 Woodley Drive, on approximately 52,171 square feet of land, zoned R-2, Mount Vernon District, Tax Map 101-4((9))pt. 35, 36, and pt. 37

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Bernard Krell, 3717 Woodley Drive, Alexandria, Virginia, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application, stating that he wanted to convert his garage into a one bedroom apartment so that his wife's mother could live with them.

Madeline Thurber, 3718 Woodley Drive, Alexandria, Virginia, the neighbor across the street, stated that her main concern was that the subject house not continue as a duplex housing unit if the house were later sold.

Ms. Kelsey advised the Board that condition number 1 grants the use only to the applicant so they would not be able to sell it to someone else to use in the same way.

Since there were no further speakers to address this matter, Vice-Chairman DiGiulian closed the public hearing.

Mr. Ribble moved that the Board grant SP 88-V-056 subject to the development conditions contained in the staff report with the following addition: "Upon the approval of the special permit, the Clerk of the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the Board of Zoning Appeals' approval including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the grantor index in the name of the property owners."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-V-056 by BERNARD AND ANN E. KRELL, under Section 3-203 of the Zoning Ordinance to allow accessory dwelling unit, on property located at 3717 Woodley Drive, Tax Map Reference 101-4((9))pt. 35, 36 and pt. 37, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 13, 1988; 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 52,171 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 8-918 of the Zoning Ordinance.

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

1. This approval is granted to the applicant only and is not transferable 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. However, this condition shall not preclude the applicant from erecting structures or establishing uses that are not related to the accessory dwelling unit and would otherwise be permitted under the Zoning Ordinance and other applicable codes.

3. This Special Permit use is subject to the provisions of Article 17, Site Plans. Prior to obtaining building permit approval, any plans that are deemed necessary by the Director, DEM, shall be submitted and approved by DEM pursuant to Par. 3 of Sect. 8-903. Any plans submitted shall conform with the approved Special Permit plat and these conditions.

4. The accessory dwelling unit shall occupy no more than 560 square feet of the principal dwelling.

5. The accessory dwelling unit shall contain no more than one (1) bedroom.

6. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance.

7. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.

8. This special permit shall be approved for a period of five (5) years from the approval date or with succeeding five (5) year extensions permitted with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.

9. Upon the termination of the addition for use as an accessory dwelling unit under the provisions of this Ordinance, the structure shall be internally altered so as to become an integral part of the main dwelling unit.

10. Upon the approval of the special permit, the Clerk of the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the Board of Zoning Appeals' approval including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the grantor index in the name of the property owners.

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

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0 with Chairman Smith and Mr. Kelley not present for the vote.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 21, 1988. This date shall be deemed to be the final approval date of this special permit.

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12:00 Noon CIVIC ASSOCIATION OF HOLLIN HILLS, SPA 68-V-888-1, application under Sect. 3-203 of the Zoning Ordinance to amend S-888-68 for community swimming pool and tennis courts to permit addition to existing filter house and a modification of the dustless surface requirement, located at 1600 Paul Spring Road, on approximately 2.97 acres of land, zoned R-2, Mount Vernon District, Tax Map 93-4((50)A

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report and called the Board's attention to the fact that the special permit was approved in 1954 with amendments in 1960 and there were no hours of operation on the pool. She stated that the applicant would comply with the Board's policy on hours of operation provided they could continue their adult swim which begins at 6:00 a.m. and continues until 10:00 a.m. There are no known violations associated with this use for the many years it has been practiced. With respect to membership in the pool, Ms. Kelsey advised the Board that the applicant believed that 350 would be a more accurate number and staff had no problem with that since there were more than adequate parking spaces.

Peter Kinzler, 1600 Paul Spring Road, Alexandria, Virginia, appeared before the Board on behalf of the applicant and explained the applicant's request as outlined in the statement of justification as submitted with the application.

Mr. Hammack moved to grant SPA 68-V-888-1 subject to the development conditions contained in the staff report with the following modifications:

"5. Membership shall be a maximum of 350 families and limited to primarily residents of the Hollin Hill subdivision and the immediate area.

8. The regular hours of operation shall be limited to 9:00 A.M. to 9:00 P.M. Adult swim may be permitted between the hours of 6:00 A.M. and 9:30 A.M."

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 68-V-888-1 by CIVIC ASSOCIATION OF HOLLIN HILLS, under Section 3-203 of the Zoning Ordinance to amend S-888-68 for community swimming pool and tennis courts to permit addition to existing filter house and a modification of the dustless surface requirement, on property located at 1600 Paul Spring Road, Tax Map Reference 93-4((50))A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 13, 1988; 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 2.97 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. Any plan submitted to the Director, Department of Environmental Management, shall conform to the approved plat and these conditions.

5. Membership shall be a maximum of 350 families and limited to primarily residents of the Hollin Hill subdivision and the immediate area.

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 extend beyond 12:00 midnight.
   - Shall request at least ten (10) days in advance and receive prior written permission from the Zoning Administrator for each individual party or activity.
   - Requests shall be approved for only one (1) such party at a time and such requests shall be approved only after the successful conclusion of a previous after-hour party.

7. There shall be a minimum of 80 parking spaces.

8. The regular hours of operation shall be limited to 9:00 A.M. to 9:00 P.M. Adult swim may be permitted between the hours of 6:00 A.M. and 9:30 A.M.

9. The transitional screening requirement shall be modified so as to allow the existing vegetation to remain to satisfy the transitional screening requirement. Additional supplemental evergreen plantings, as may be required by the County Arborist, shall be provided to screen this use from the adjacent residences. The existing fencing shall remain and shall satisfy the barrier requirement.

10. 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 determine as to whether proper neutralization of the water has been completed.

11. A modification of the dustless surface requirement for the parking area is approved for a period of five (5) years and shall automatically expire, without notice. The area for which the modification of the dustless surface requirement has been approved shall be maintained in accordance with the standard practices approved by the Director, DEM, which include, but are not 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 applicant shall perform periodic inspections to monitor dust conditions, drainage functions, compaction and migration of stone surface.

12. At such time as the parking lot is paved, a minimum of five (5) percent interior parking lot landscaping shall be provided as required by 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.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-0 with Chairman Smith and Mr. Kelley not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 21, 1988. 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 12:50 p.m.

Judy Finney Koh
Judy Finney, Court Reporter, Acting
for Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: November 3, 1988

APPROVED: November 10, 1988

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 20 1988. The following Board Members were present: Chairman Daniel Smith; Ann Day; Paul Hammack; John Ribble; and Mary Thonen. John DiGiulian and Robert Kelley were absent from the meeting.

Chairman Smith called the meeting to order at 9:20 A.M. with Mrs. Day leading the prayer.

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Chairman Smith expressed the Board's thanks and appreciation to Tamara Gentry, Acting Deputy Clerk to the Board of Zoning Appeals, who had accepted a position with the Office of Transportation. He informed the Board that today was her last day. Chairman Smith stated that it was unfortunate that the Clerk and Deputy Clerk positions could not be reclassified to reward the ability of the people who continued to leave for higher paying positions.

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Mrs. Thonen moved that the Board nominate Betsy S. Hurtt to fill the vacant position of Clerk to the Board of Zoning Appeals.

Mr. Hammack seconded the motion which passed by a vote of 4-0, Mr. Ribble not present for the vote, Mr. DiGiulian and Mr. Kelley absent from the meeting.

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Mrs. Thonen stated that the high turnover rate of personnel was hampering the BZA in keeping up with their heavy caseload. She moved that the BZA pass a Resolution to be sent to the Director of the Office of Comprehensive Planning and to the Office of Personnel asking them to look at the possibility of reclassifying the Clerk and Deputy Clerk positions in accordance with the duties performed.

Mr. Hammack seconded the motion which passed by a vote of 4-0, Mr. Ribble not present for the vote, Mr. DiGiulian and Mr. Kelley absent from the meeting.

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Page 205, September 20, 1988, (Tape 1), Scheduled case of:

9:00 A.M. JOHN H. STOKES III, VC 87-M-149, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 1 having a lot width of 43 feet (100 ft. min. lot width required by Sect. 3-206), located at 4340 Old Columbia Pike, on approximately 2.4158 acres of land, zoned R-2, Mason District, Tax Map 71-2((1))59. (DEFERRED FROM 2/16/88, 3/8/88 AND 6/14/88 FOR ADDITIONAL INFORMATION)

Lori Greenlief, Staff Coordinator, informed the Board that the applicant had sent a letter requesting another deferral.

John Stokes, 4132 Whispering Lane, Annandale, Virginia, the applicant, appeared before the Board. He stated that he was not prepared to go forward with the hearing because he was still attempting to subdivide the land by right. Mr. Stokes indicated that a land swap had been formally approved by the Fairfax County Park Authority, but that the Department of Environmental Management still required additional information for their review of the subdivision.

Mrs. Thonen moved to defer VC 87-M-149 until December 13, 1988, at 9:00 a.m.

Mr. Hammack seconded the motion which passed by a vote of 4-0, Mr. Ribble not present for the vote, Mr. DiGiulian and Mr. Kelley absent from the meeting.

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Page 205, September 20, 1988, (Tape 1), Scheduled case of:

9:15 A.M. JOHN APINIS AND INARA APINIS, VC 88-D-053, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 4.7 feet from side lot line and 20.0 feet from rear lot line (12 ft. min. side yard and 25 ft. min rear yard required by Sect. 3-307) and to allow construction of deck 4.0 feet from the other side lot line (7 ft. min. side yard required by Sects. 3-307 and 2-412), located at 1524 Pathfinder Lane, on approximately 15,244 square feet of land, zoned R-3, Dranesville District, Tax Map 30-4((2))(8)15 and 16. (DEFERRED FROM 6/28/88 - NOTICES NOT IN ORDER)

Lori Greenlief, Staff Coordinator, presented the staff report.

John Apinis, 1524 Pathfinder Lane, McLean, Virginia, the applicant, explained the request as outlined in the statement of justification submitted with his application and

he emphasized that his lot was exceptionally narrow. Mr. Apinis stated that the addition was being built for his handicapped mother for living space and that he had letters in support from the adjacent property owners.

In response to a question from Chairman Smith, Mr. Apinis stated that he could not meet the side yard requirements for the deck because of the design and the way the steps and future wheelchair ramp had been situated.

Ms. Greenlief clarified that according to Sect. 2-412 of the Zoning Ordinance, an open deck less than four feet in height could extend twenty feet into the rear yard. She indicated that a mistake had been made in the staff report with regard to the height of the deck. Also, the addition to the house would extend into the rear yard and would require a five foot variance.

Mr. Hammack stated that the Board was not prepared to approve the applicant's request. He asked Mr. Apinis if he would consider presenting his request at another time when the full Board was present. Chairman Smith stated that he was willing to support the request if the deck was reduced by three feet.

Mrs. Thonen requested that the Board recess for five minutes.

The meeting reconvened and Chairman Smith asked if there were any speakers. There being none, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant in part VC 88-D-053 (the variance for the deck was denied) with an additional condition number four.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-053 by JOHN AND INARA APINIS, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 4.7 feet from side lot line and 20.0 feet from rear lot line and to allow construction of deck 4.0 feet from the other side lot line (deck denied), on property located at 1524 Pathfinder Lane, Tax Map Reference 30-4((2))(8)15 and 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 September 20, 1988; 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 15,244 square feet of land.
4. The exceptional narrowness of the lot.
5. The length of the lot is irregular.
6. That the deck addition is a matter of convenience.

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 (the variance for the deck is denied) 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 material used shall be similar to appearance and quality of the existing dwelling.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-0 with Mr. Ribble not present for the vote and Mr. DiGiulian and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 28, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 207, September 20, 1988, (Tape 1), Scheduled case of:

9:30 A.M. TEMPLE BAPTIST CHURCH, SPA 85-D-009-2, application under Sect. 3-303 of the Zoning Ordinance to renew child care center use, increase parking, relocate trailer and change approved building addition to phases, located at 1545 Dranesville Road, on approximately 6.2 acres of land, zoned R-3, Dranesville District, Tax Map 10-2((1))7 and 7A. (DEF. FROM 6/30/88 - NOTICES NOT IN ORDER)

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that staff recommended approval of SPA 85-D-009-2, in accordance with the Development Conditions in appendix 1, with the following changes:

"Condition eight should read:

The maximum combined daily enrollment for the child care center/school of general education shall not exceed ninety-five (95) children.

Condition eighteen should read:

Stormwater from the new parking lot shall, if deemed feasible by the Department of Environmental Management in coordination with the Storm Drainage Branch of the Department of Public Works, be conveyed over a vegetated filter strip and infiltration trench or into the proposed Stormwater Detention Pond on site. The trench and adjacent vegetated buffer shall be designed in accord with Chapter 5 of the Council of Governments' Document entitled Controlling Urban Runoff."

Ms. Greenlief stated that the Board might want to add an additional Condition Nineteen to read:

> "The construction of Phase II shall commence no later than September 27, 1993."

Mr. Hammack questioned how many times the Office of Transportation had visited the site and what the hours were. Ms. Greenlief replied that they had visited the site one time prior to 8:30 a.m.

Ms. Greenlief stated that the transportation report contained observations of the number of cars turning into the facility and the high volume of traffic on Dranesville Road which indicated a need for a left-turn lane.

Cliff Saylor, 46675 East Church Road, Sterling, Virginia, representative of the applicant, appeared before the Board. He indicated that the only development conditions he had a problem with were numbers fourteen and fifteen. With regard to condition number fourteen, Mr. Saylor stated that the church had already dedicated 45 feet from the centerline of Dranesville Road. He stated that any further dedication would cause the removal of the church sign and four mature oak trees.

Regarding condition number fifteen, Mr. Saylor stated that a left-turn lane was unnecessary according to the traffic study done by the Temple Baptist Church.

Peter Osbourn, 12038 Chevia Drive, Herndon, Virginia, another representative of the applicant, appeared before the Board. He stated that a total of seventy-five students were enrolled in the school, and that about thirty of those seventy-five use the before and after school care. Mr. Osbourn stated that Herndon High School opened at 7:45 a.m. which was when the heaviest traffic on Dranesville Road occurred. He felt that the traffic study done by the County was invalid because it counted all the cars turning into their parking lot which were overflow parking from the high school.

Mr. Osbourn stated that the church had been aggressive in trying to discourage students from parking in the church lot by calling the police to issue tickets and in having cars towed. He indicated that the church had not given their permission for their parking lot to be used by the high school. Mr. Osbourn stated that he had done his own traffic study one morning the previous week and he distributed a copy to the Board Members.

Chairman Smith called for speakers in support of the application.

Helen Critchfield, 1108 Walker Road, Great Falls, Virginia, appeared before the Board. She stated that her child had attended the Temple Baptist School for the past three years and that she had never had a problem turning left from Dranesville Road. Ms. Critchfield stated that there appeared to be no need for a left-turn lane.

The next speaker in support was George Gino, 12331 Cliveden Street, who stated that his son had attended the school for a year and he never had any problem turning left from Dranesville Road into the school property.

Chairman Smith called for speakers in opposition to the application.

Sally Miller, 1554 Dranesville Road, appeared before the Board. She stated that she owned property directly across from the Temple Baptist Church. Ms. Miller stated that at the time she purchased her property it had an egress/ingress directly onto Dranesville Road, but she had been granted approval by the County for the use of an easement that also served five other properties due to the high volume of traffic on Dranesville Road. Ms. Miller requested that the Board require the installation of a left-turn lane and, in addition, require the church to provide more screening to cut down on the noise generated by the parking lot traffic.

During rebuttal, Mr. Osbourn stated that he didn't see how a left-turn lane would assist Ms. Miller in the ingress and egress of her property since she wasn't located anywhere near the entrance to the church property. He indicated that the church was willing to plant white pine trees on the south end of the lot to help shield the noise as requested by Ms. Miller.

Ms. Greenlief stated that condition number twelve addressed the screening and that the Board could add to it to include the additional white pine trees. In addition, for information purposes, she stated that the rezoning which was approved across from the church property on Lot 2 and Lot 9 had proffered a left-turn lane into that subdivision.

There being no further speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant SPA 85-D-009-2 with the deletion of conditions 14 and 15 a revisions to the following conditions:

"12. The existing vegetation along the northern lot line shall be preserved in lieu of Transitional Screening 1. The area along the western lot line adjacent to the existing parking lot shall be supplemented with white pines to screen the lot in lieu of the provision of Transitional Screening 1. The type and location of these plantings shall be approved by the County Arborist at the time of site plan review.

17. The construction of Phase II shall commence no later than September 27, 1993."

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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-009-2 by TEMPLE BAPTIST CHURCH, under Section 3-303 of the Zoning Ordinance to renew child care center use, increase parking, relocate trailer and change approved building addition to phases, on property located at 1545 Dranesville Road, Tax Map Reference 10-2((1))7 and 7A, 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 20, 1988; 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 6.2 acres of land.
4. That the applicant has worked with the citizens in making this application work.
5. That there have been no complaints or problems with the current usage.

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 8-003, 8-305 and 8-307 of the Zoning Ordinance.

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

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

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

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

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

5. An eight-foot asphalt trail shall be provided along Dranesville Road in conformance with Article 17 of the Zoning Ordinance and the Countywide Trails Plan and as approved by the Department of Environmental Management.

6. Handicapped spaces shall be provided in accordance with Article 11 of the Zoning Ordinance and as determined by the Department of Environmental Management.

7. Before any ground-disturbing activities are undertaken, erosion and sediment controls, complying with Chapter 104 of the County Code, and Article 7 of the Public Facilities Manual, shall be in place, in order to protect the storm drainage easement located on the north side of the proposed improvements.

8. The maximum combined daily enrollment for the child care center/school of general education shall not exceed ninety-five (95) children. The total number of children enrolled in programs which operate prior to 8:30 A.M. or after 4:00 P. M. shall not exceed thirty-five (35).

9. The maximum hours of operation for the child care center/school of general education use shall be 6:30 A.M. to 6:00 P.M.

10. Interior parking lot landscaping shall be provided in accordance with Article 13 of the Zoning Ordinance. In addition, the island in the existing parking lot which is now without plantings shall also be planted in accordance with Article 13.

11. Peripheral parking lot landscaping shall be provided in the new parking lot in accordance with Article 13 of the Zoning Ordinance.

12. The existing vegetation along the northern lot line shall be preserved in lieu of Transitional Screening 1. The area along the western lot line adjacent to the existing parking lot shall be supplemented with white pines to screen the lot in lieu of the provision of Transitional Screening 1. The type and location of these plantings shall be approved by the County Arborist at the time of site plan review.

13. There shall be a maximum of one temporary classroom trailer on site and this trailer shall be removed upon completion of Phase 1 of the building addition.

14. Parking lot lighting, if provided, shall be on poles not to exceed twelve (12) feet in height and shall be shielded in such a manner so as to direct light only onto the parking lot.

15. Innovative erosion and sediment control measures should be implemented in accordance with Public Facilities Manual standards.

16. Stormwater from the new parking lot shall, if deemed feasible by the Department of Environmental Management in coordination with the Storm Drainage Branch of the Department of Public Works, be conveyed over a vegetated filter strip and infiltration trench or into the proposed Stormwater Detention Pond on site. The trench and adjacent vegetated buffer shall be designed in accord with Chapter 5 of the Council of Governments' Document entitled Controlling Urban Runoff.

17. The construction of Phase II shall commence no later than September 27, 1993.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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 which carried by a unanimous vote of 5-0 with Mr. DiGiulian and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 28, 1988. This date shall be deemed to be the final approval date of this special permit.

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9:45 A.M. GREAT FALLS BOARDING KENNELS, INC., SPR 81-D-056-1, application under Sect. 3-E03 of the Zoning Ordinance to allow renewal of S-81-D-056 for kennel and request for waiver of dustless surface requirement, located at 8920 Old Dominion Drive, on approxi- mately 92,347 square feet of land, zoned R-E, Dranesville District, Tax Map 13-4((1))31. (DEFERRED FROM 1/12/88 AND 4/26/88 - NOTICES NOT IN ORDER. DEFERRED FROM 7/19/88 FOR READVERTISING AND FOR NEW NOTICES)

Kathy Reilly, Staff Coordinator, presented the staff report. She stated that part of the subject property extended into the Difficult Run Environmental Quality Corridor (EQC), therefore, staff was recommending a conservation easement without public access be provided for the remainder of the EQC.

Mrs. Thonen stated that the file contained many letters in support of renewing the application and that she had only seen one in opposition.

Randy Minchew with the firm of Hazel, Thomas, Fiske, Beckhorn & Hanes, 3110 Fairview Park Drive, Falls Church, Virginia, representative of the applicant, appeared before the Board. He stated that the kennel was a low intensity use which serviced no more than 100 animals with a total of 8 employees. Mr. Minchew stated that the transportation impact was minimum and that there was ample parking. In addition, screening and vegetation was very dense on the property.

Mr. Minchew stated that he was in support of all the development conditions except for condition number eight which required the dedication and construction of a six-foot trail. He stated that this would require construction in the EQC which should be preserved, the clearing of vegetation and the construction of a retaining wall. In addition, with regard to condition number eleven, he asked that the Board make this a conservation easement which is temporary and would only be in effect during the term of the special permit use.

Mr. Minchew read several letters in support written by a realtor in Fairfax County, the Fairfax County Park Authority, the Fairfax County Humane Society, and the Animal Protection Association.

Chairman Smith called for speakers in support of the application and the following citizens came forward: John Sexton, 9011 Old Dominion Drive, McLean; Emily McQueen, 9024 Old Dominion Drive, McLean; Edward Michelitch, DVM, 10208 Colvin Run Road, Great Falls; Lee Michelitch, 10208 Colvin Run Road, Great Falls; Eric Wyant, owner of the kennel; Helen Critchfield, 1108 Walker Road, Great Falls; and Tony Vega, 201 River Bend Road, Great Falls.

The speakers indicated that they have never observed any problems an efficient manner without any odor or noise.

Chairman Smith called for speakers in opposition to the application. Gene Hill, 9006 Old Dominion Drive, McLean, appeared before the Board and stated that he was opposed to the kennel due to the noise. In addition, he stated that the employees were using his driveway to get to the kennel and were exercising the animals in front of his house. In response to questions, Mr. Hill stated that he had purchased his home in 1985 knowing there was a kennel adjacent to the property. With regard to the driveway use, it was determined that it was a private road that was not owned by Mr. Hill.

Mr. Gonzalez, 8914 Old Dominion Road, McLean, appeared before the Board to speak in opposition to the application. He stated that Difficult Run created an echoing effect with the noise created by the kennel and that the dense vegetation did not effectively screen the noise or the odors. Mr. Gonzalez stated that he had purchased his property in 1980 and that the builder had informed him at that time that the kennel would be moving shortly. Mr. Gonzalez asked that an appropriate sound barrier be erected at the kennel.

During rebuttal, Mr. Minchew stated that the road along Mr. Hill's house was not used by kennel employees and that the only dog that had been walked in front of his house was the one personally owned by Ms. Wyant. With regard to the noise, Mr. Minchew stated that the dogs were kept inside at night and were only outside for a few hours a day for exercise in their runs. Mr. Minchew indicated that the kennel was now hooked up to a Fairfax County sewer line and there was no longer an issue regarding odor.

There being no further speakers, Chairman Smith closed the public hearing.

Mrs. Day moved to grant SPR 81-D-056-1 with changes in the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Renewal Application SPR 81-D-056-1 by GREAT FALLS BOARDING KENNELS, INC., under Section 3-E03 of the Zoning Ordinance to allow renewal of S-81-D-056 for kennel and request for waiver of dustless surface requirement, on property located at 8920 Old Dominion Drive, Tax Map Reference 13-4((1))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 September 20, 1988; and

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

1. That the applicant is a corporation co-owned by Eric H. and Joyce H. Wyant.
2. The present zoning is R-E.
3. The area of the lot is 92,347 square feet of land.
4. That there are many letters of support.
5. That staff presented a supportive detailed report.
6. That the roof over the run was a problem that was dealt with by Mr. Minchew.

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 use is limited to the keeping of 100 animals total.

6. The hours of operation shall be limited to 8:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. through 5:30 p.m. on Saturday.

7, There shall be no more than eight (8) employees on site at any one time.

8. There shall be a total of twelve (12) parking spaces associated with this use. These parking spaces shall be as follows: eight (8) parking spaces shall be designated for employee parking and four (4) parking spaces shall be designated for customers. The customer parking spaces associated with this use shall be paved.

9. A waiver of the dustless surface requirement shall be granted for the employee parking spaces. These parking spaces shall be be constructed and maintained in accordance with the standard practices set in the Public

Facilities Manual and approved by the Director, Department of Environmental Management (DEM), which shall include but not be limited to the following:

- o Travel speeds in the parking area shall be limited to 10 mph or less.
- o During dry periods, application of water or calcium chloride shall be made in order to control dust.
- o Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.
- o Runoff shall be channeled away from and around the parking areas.
- o The property owner shall perform periodic inspection to monitor dust conditions, drainage functions, compaction and migration of stone surfaces.
- o The waiver of the dustless surface requirement is approved for a period of five (5) years.

10. The applicant shall at the time of site plan approval, record among the land records of Fairfax County, a Conservation Easement to the Board of Supervisors. The easement shall include that land which was defined by the Fairfax County Staff on the Special Use Permit Plat dated July 29, 1988 as Environmental Quality Corridor (EQC), Attachment A. The exact location of the boundary shall be determined at the time of site plan review by the Department of Environmental Management in coordination with the Office of Comprehensive Planning. There shall be no clearing of any vegetation in this area, except for dead or dying trees or shrubs and no grading or removal of any soils or rocks; and no construction, erection or installation of any structures within the EQC area. This conservation easement shall expire by its own terms upon termination of the kennel use.

11. The existing on-site vegetation may be used to satisfy the Transitional Screening 1 (25') requirement along the northern, southern and eastern lot lines.

12. A modification to the width Transitional Screening 1 (25') shall be provided along the western lot line to allow the existing vegetation to satisfy this requirement provided the screening area is approximately ten (10') feet in width. The existing vegetation may be supplemented if determined necessary by the County Arborist to adequately screen the use from the adjacent properties.

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

14. The existing wooden fence approximately four (4) feet in height along the western lot line shall remain and shall fulfill the barrier requirement along the western lot line.

15. The existing sign located in the front yard of the property shall conform to Article 12, Signs, of the Zoning Ordinance.

The above development conditions incorporate all applicable conditions of the previously approved special permit uses for this 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. Hammack seconded the motion.

The motion carried by a unanimous vote of 5-0 with Mr. DiGiulian and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 28, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 214, September 20, 1988, (Tape 2), Scheduled case of:

10:00 A.M. STM LANDSCAPE SERVICES, INC., SP 87-S-084, application under Sect. 8-901 of the Zoning Ordinance to allow a modification or waiver of dustless surface requirement for a plant nursery, located at 11701 Braddock Road, on approximately 42.485 acres of land, zoned R-C & WS, Springfield District, Tax Map 67-2 ((1)) 3, 4, 5. (CONCURRENT WITH SE 87-S-101. DEF. FROM 7/28/88 TO ALLOW SPECIAL EXCEPTION TO BE HEARD)

Jane Kelsey, Chief, Special Permit and Variance Branch, introduced Cathy Chianese, from the Zoning Evaluation Division, Rezoning and Special Exception Branch. Ms. Kelsey stated that Ms. Chianese had prepared the Special Exception staff report for the Board of Supervisors and the Special Permit staff report for the Board of Zoning Appeals.

Cathy Chianese stated that the Special Exception had again been deferred and was rescheduled for September 26, 1988. She stated that the issue of the parking lot and its location on the site was one that staff and the Board of Supervisors were still discussing.

Bud Testerman, 10523 Main Street, Fairfax, attorney for the applicant appeared before the Board. He stated that he had no objection to the deferral of the special permit application hearing although he would like it heard as soon as possible after the Board of Supervisors hearing due to a contract constraint.

John Cooleen, 6521 Arlington Boulevard, appeared before the Board and stated that he was representing Mary Price Carey, 11615 Braddock Road, Lot 7. He submitted a letter from Ms. Carey for the file.

It was the consensus of the Board to defer SP 87-S-084 until September 27, 1988 at 12:45 p.m. Without objection, it was so ordered.

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Page 214, September 20, 1988, (Tape 2), Scheduled case of:

10:15 A.M. MARIAN R. WILLIAMS, VC 88-P-093, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 59B having a lot width of 12 feet (70 ft. min. lot width req. by Sect. 3-406), located at 2849 Rosemary Lane, on approximately 0.64 acres of land, zoned R-4, Providence District, Tax Map 50-3((8))59.

Denise James, Staff Coordinator, informed the Board that she was in receipt of a letter from the applicant, Marian Williams, requesting a deferral due to the health of her husband.

Bud Testerman, attorney with the law firm of Hansbarger and Testerman, 10523 Main Street, Fairfax, appeared before the Board and stated that Mrs. Williams had called him the day before and asked him to represent her. He had been told that the application had already been deferred and was not sure if he would be representing the applicant until he had a chance to review the case.

Ms. James stated that a new affidavit would have to be submitted in the event that Mr. Testerman decided to represent the applicant.

Leon Moile, 2853 Rosemary Lane, adjacent to the subject property, stated that he had no problem with the deferral of the application.

It was the consensus of the Board to defer VC 88-P-093 until December 6, 1988 at 8:00 p.m. Without objection, it was so ordered.

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Page 214, September 20, 1988, (Tape 2), Scheduled case of:

10:30 A.M. LEE A. SNOWBERGER, VC 88-S-096, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8 feet from side lot line (20 ft. min. side yard req. by Sect. 3-C07), located at 6909 Brimstone Lane, on approximately 20,699 square feet of land, zoned R-C, Springfield District, Tax Map 87-1((3))32.

Denise James, Staff Coordinator, presented the staff report.

Lee Snowberger, 6909 Brimstone Lane, Fairfax Station, the applicant, explained the request as outlined in the statement of justification submitted with his application. He stated that his home had been placed on the front of the lot due to septic fields which prevented him from extending his garage toward the back of the property. Mr. Snowberger stated that he owned two antique vehicles that he wanted to store in the garage.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Ribble moved to deny VC 88-S-096.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-096 by LEE A. SNOWBERGER, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 8 feet from side lot line, on property located at 6909 Brimstone Lane, Tax Map Reference 87-1((3))32, 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 20, 1988; 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.
3. The area of the lot is 20,699 square feet of land.
4. That the applicant's justification did not convince the Board in that physical conditions exist to create a hardship and that the applicant has reasonable use of the property in that the lot presently contains a two (2) car garage..

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:

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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 unanimous vote of 5-0 with Mr. DiGiulian and Mr. Kelley absent from the meeting..

This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 28, 1988.

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Page 216, September 20, 1988, (Tape 2), Scheduled case of:

10:45 A.M. JOHN W. DESALME, JR., VC 88-M-097, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.9 feet from side lot line (15 ft. min. side yard req. by Sect. 3-207), located at 6363 Burton Circle, on approximately 14,447 square feet of land, zoned R-2, Mason District, Tax Map 61-3((14))155.

Denise James, Staff Coordinator, presented the staff report. She stated that she had received a letter from Mr. Desalme's neighbor on Lot 154 in opposition to the application.

John Desalme, 6363 Burton Circle, the applicant, explained the request as outlined in the statement of justification submitted with his application. He stated that he wanted to expand his kitchen and modernize his bathrooms. Mr. Desalme stated that the setback requirements had been changed from the original ones that existed when the house was built.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Ribble moved to grant VC 88-M-097.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-097 by JOHN W. DESALME, JR., under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10.9 feet from side lot line, on property located at 6363 Burton Circle, Tax Map Reference 61-3((14))155, 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 20, 1988; 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 14,447 square feet of land.
4. That the property has topographical problems.
5. That the applicant is asking for a minimum variance.
6. That the variance will not impact the surrounding neighbors.

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 4-0 with Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 28, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 217, September 20, 1988, (Tape 2), Scheduled case of:

11:00 A.M. MCLEAN MARKETPLACE LIMITED PARTNERSHIP (AKA MARKETPLACE OF MCLEAN), A 88-D-008, under Sect. 18-301 of the Zoning Ordinance to appeal the Director of the Department of Environmental Management's decision revising previously approved building setback modifications under Sect. 2-418 of the Zoning Ordinance, located at 6830 Old Dominion Drive, on approximately 36,231 square feet of land, zoned C-6, Dranesville District, Tax Map 30-2((10))(4)1 and 2.

Jane Kelsey, Chief, Special Permit and Variance Branch, introduced Joe Bakos, Code Enforcement Branch, Department of Environmental Management.

Mr. Bakos informed the Board that the applicant had requested a deferral and had been working with the Department of Environmental Management on a revised plan.

Mrs. Thonen moved to defer A 88-D-008 until December 13, 1988 at 9:00 a.m.

Mrs. Day seconded the motion which passed by a vote of 4-0, Mr. Hammack not present for the vote and Mr. DiGiulian and Mr. Kelley absent from the meeting.

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11:30 A.M. MARC E. AND JACQUELINE L. BOOKBINDER, VC 88-S-094, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.1 feet from rear lot line (25 ft. min. rear yard req. by Sect. 3-307), located at 8859 Applecross Lane, on approximately 9,298 square feet of land, zoned R-3(C), Springfield District, Tax Map 88-4((6))134.

Denise James, Staff Coordinator, presented the staff report.

Marc Bookbinder, 8859 Applecross Lane, Springfield, the applicant, explained the request as outlined in the statement of justification submitted with his application. He stated that the property was exceptionally shallow and that the house had been constructed in a rotated manner to fit on the lot. Mr. Bookbinder stated that he was the original owner and that he had purchased the property in 1975.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to approve VC 88-S-094.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-094 by MARC E. AND JACQUELINE L. BOOKBINDER, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.1 feet from rear lot line, on property located at 8859 Applecross Lane, Tax Map Reference 88-4((6))134, 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 20, 1988; 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 9,298 square feet of land.
4. That the angle and location of the house is such that it is impossible to do anything without a variance.
5. That the lot is small and contains 9,298 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 4-0 with Mr. Hammack abstaining and Mr. DiGiulian and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 28, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 219, September 20, 1988, (Tape 2), Scheduled case of:

11:45 A.M. CLAUDIA AND DON DEVLIN, VC 88-A-099, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 7.0 feet from side lot line (15 ft. min. side yard required by Sect. 3-207), located at 4821 Springbrook Drive, on approximately 15,007 square feet of land, zoned R-2, Annandale District, Tax Map 69-4((7))(6)210.

Kathy Reilly, Staff Coordinator, presented the staff report.

Don Devlin, 4821 Springbrook Drive, the applicant, explained the request as outlined in the statement of justification submitted with his application. He stated that his property had exceptional topographical problems with steep slopes on both sides of the house. Mr. Devlin stated that he was not adding to the house but was enclosing an existing carport.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Day moved to grant VC 88-A-099.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-099 by CLAUDIA AND DON DEVLIN, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 7.0 feet from side lot line, on property located at 4821 Springbrook Drive, Tax Map Reference 69-4((7))(6)21, 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 20, 1988; 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 15,007 square feet of land.
4. That the structure is existing and the application is to enclose it.

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 4-1 with Chairman Smith voting nay and Mr. DiGiulian and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 28, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 221, September 20, 1988, (Tape 2), Scheduled case of:

12:00 Noon BETTE E. HUTCHINSON, VC 88-C-098, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 2 having a lot width of 21.38 feet (200 ft. min. lot width req. by Sect. 3-E07), located at 11064 Stuart Mill Road, on approximately 217,718 square feet of land, zoned R-E, Centreville District, Tax Map 27-3((1))20.

Denise James, Staff Coordinator, informed the Board that she was in receipt of a letter from the applicant requesting a deferral.

Bette Hutchinson, 11064 Stuart Mill Road, Oakton, the applicant, appeared before the Board and explained that she was requesting a deferral in order to address some questions regarding her application.

Lennie Milam, 11101 DeVille Estates Drive, appeared before the Board to determine what date the application would be deferred to.

Marianne DeVille, 11100 DeVille Estates Drive, appeared before the Board and questioned the Board about the deferral procedure.

Mr. Hammack moved to defer VC 88-C-098 to December 6, 1988 at 8:15 p.m.

Mr. Ribble seconded the motion which passed by a vote of 5-0, Mr. DiGiulian and Mr. Kelley absent from the meeting.

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Page 221, September 20, 1988, (Tapes 2-3), Scheduled case of:

12:15 P.M. HAMLET SWIM CLUB, INC., SPA 74-D-037-1, application under Sect. 3-203 of the Zoning Ordinance to amend S-37-74 for swim and tennis club to allow increase in membership, building addition to bath house, wooden covered deck, reduction in parking, and waiver of dustless surface requirement, located at 8209 Dunsinane Court, on approximately 4.57 acres of land, zoned R-2, Dranesville District, Tax Map Reference 29-1((3))A1 and 29-2((3))B1.

Kathy Reilly, Staff Coordinator, presented the staff report and informed the Board that a separate copy of the revised development conditions dated September 15, 1988 and a revised affidavit had been provided to them. In addition, she stated that the applicant had submitted a revised plat to the BZA on September 19, 1988.

Ms. Reilly stated that there was a correction to condition number six on the revised development conditions which should read:

> A maximum of ten (10) employees shall be associated with this use. There shall be no more than six (6) employees on site at any one time.

Patrick Via, an attorney with the firm of Hazel, Thomas, Fiske, Beckhorn and Hanes, Box 547, Fairfax, Virginia, representative of the applicant, appeared before the Board. He suggested that revised development condition number eighteen be changed to read, "The membership shall consist of 330 family members, 50 adult members, and the inactive members shall not be included in this tabulation." Mr. Via also addressed revised development condition number fourteen which would require a geotechnical study. He stated that the site was not being redeveloped and that the applicant was only asking for a small addition to the bathhouse, therefore, revised development condition number fourteen should be deleted.

In response to a question from Mr. Hammack, Mr. Via stated that inactive members had no rights to come to the pool but paid reduced dues. In the event that they moved back into the area, that entitled them to be put back at the top of the waiting list for active membership.

Chairman Smith called for speakers in support of the application and Charles Brown, 7909 Birnam Wood Drive, McLean came forward. He asked that the Board approve the application as presented.

Richard Caldwell, 8210 Dunsinane Court, a member of the Hamlet Swim Club Board, appeared before the BZA. He commented on two issues: 1) the change in membership; and 2) the lack of any traffic accidents occurring in the area of the swim club.

James Cummings, 8207 Dunsinane Court, spoke regarding the application. He stated that he was not opposed to the renovation of the clubhouse facility but was opposed to the proposal to increase the membership from 325 to 415. Mr. Cummings stated that between 1974 and 1988, the Hamlet Swim Club had violated virtually every BZA condition set forth in the permits they had obtained. As an example, he discussed the membership which was higher than allowed, the parking requirements which had not been followed, the construction of a building and lights without BZA approval, and refusal of the club to follow the hours of operation imposed on them.

Mr. Cummings stated that there were several reasons why approval should not be granted to increase the membership of the club: 1) no valid reasons had been given by the club to justify the increase in membership; 2) the club was no longer a community recreation facility due to the fact that fifty percent of the members lived outside of the Hamlet community; and 3) the effect increased traffic had on residential streets. In conclusion, Mr. Cummings asked the BZA to place a time limitation on the Hamlet Swim Club so they would reduce their membership to the 325 members they were permitted to have.

Joseph Sebastian, 8208 Dunsinane Court, appeared before the Board. He pointed out to the Board that over the years the nature of the swim club had changed. Mr. Sebastian stated that the club previously had been restricted to the immediate residents of the Hamlet but membership was later extended which caused traffic and safety hazards.

During rebuttal, Mr. Via stated that the purpose of the application was to bring the club into conformance and compliance. He stated that the increase in traffic on the residential streets surrounding the swim club could not all be attributed to the club use, and that a solution could be to enforce speed and safety laws. Mr. Via stated that he did not think a reduction in membership or a denial of the request for an increase in membership would address that problem.

There being no further speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SPA 74-D-037-1 with changes in the revised 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 74-D-037-1 by HAMLET SWIM CLUB, INC., under Section 3-203 of the Zoning Ordinance to amend S-37-74 for swim and tennis club to allow increase in membership, building addition to bath house, wooden covered deck, reduction in parking, and waiver of dustless surface requirement, on property located at 8209 Dunsinane Court, Tax Map Reference 29-1((3))A1 and 29-2((3))B1, 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 20, 1988; 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 4.57 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 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 number of parking spaces provided shall be 66 spaces. Handicapped parking spaces shall be provided and shown on the submitted plat. All parking shall be provided on site.

6. A maximum of ten (10) employees shall be associated with this use. There shall be no more than six (6) employees on site at any one time.

7. Transitional Screening 1 (25') shall be provided along the eastern, southern and western lot lines. Existing vegetation may be used to satisfy this requirement where possible, provided it is supplemented where necessary to be equivalent to Transitional Screening 1, as determined by the County Arborist.

8. The Environmental Health Division of the Fairfax County Health Department shall be notified before any pool waters are discharged during drainage or cleaning operations to ensure that adequate treatment is provided.

9. The barrier requirement shall be waived.

10. The tennis courts shall not be lighted.

11. Hours of operation shall be limited to 8:00 a.m. through 9:00 p.m.

12. After-hours parties for the swimming pool shall be governed by the following:

    - Shall be limited to six (6) per season.
    - Shall be limited to Friday, Saturday and pre-holiday evenings.
    - Shall not extend beyond 12:00 midnight.

13. Swim team practices and swimming lessons shall be limited to 8:00 a.m. to 11:00 a.m.

14. A geotechnical engineering study in accordance with Chapter 107 of the Fairfax County Code shall be performed if determined to be necessary by the Director, Department of Environmental Management (DEM) and implemented as determined by DEM.

15. Any signs associated with this use shall conform to Article 12, Signs.

16. A waiver of the dustless surface requirement shall be granted for the western parking area. These parking spaces shall be be constructed and maintained in accordance with the standard practices set forth in the Public Facilities Manual and approved by the Director, Department of Environmental Management (DEM), which shall include but not be limited to the following:

    - Travel speeds in the parking area shall be limited to 10 mph or less.
    - During dry periods, application of water or calcium chloride shall be made in order to control dust.
    - Routine maintenance shall be performed to prevent surface unevenness, wear-through or subsoil exposure. Resurfacing shall be conducted when stone becomes thin.
    - Runoff shall be channeled away from and around the parking areas.
    - The property owner shall perform periodic inspection to monitor dust conditions, drainage functions, compaction and migration of stone surfaces.
    - The waiver of the dustless surface requirement is approved for a period of five (5) years.

17. Revised plats shall be submitted prior to final approval of this special permit.

18. There shall be a maximum number of 330 family memberships; 50 adult memberships; and 35 inactive memberships associated with this use.

The above development conditions incorporate all applicable conditions of the previously approved special permit uses for this 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.

Page 224, September 20, 1988, (Tapes 2-3), (Hamlet Swim Club, Inc., SPA 74-D-037-1, continued from Page 223)

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 unanimous vote of 5-0, Mr. DiGiulian and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 28, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 224, September 20, 1988, (Tape 3), After Agenda Item #1:

Request for Out-of-Turn Hearing
Calvary Memorial Park, Inc.
t/a Fairfax Memorial Park
SPA 81-A-022-4

Mrs. Thonen moved to deny the out-of-turn hearing request for Calvary Memorial Park, Inc., t/a Fairfax Memorial Park, SPA 81-A-022-4.

Mr. Ribble seconded the motion which carried by a vote of 5-0, Mr. DiGiulian and Mr. Kelley absent from the meeting.

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Page 224, September 20, 1988, (Tape 3), After Agenda Item #2:

Approval of Resolutions
September 13, 1988

Mrs. Thonen moved approval of the Resolutions for September 13, 1988.

Mr. Hammack seconded the motion which carried by a vote of 5-0, Mr. DiGiulian and Mr. Kelley absent from the meeting.

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Page 224, September 20, 1988, (Tape 3), After Agenda Item #3:

Approval of Minutes
March 8, March 22, and July 12, 1988

Mrs. Thonen moved approval of the Minutes for March 8, March 22, and July 12, 1988.

Mrs. Day seconded the motion which carried by a vote of 5-0, Mr. DiGiulian and Mr. Kelley absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned.

Judy L. Moss, Acting Associate Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 2/7/89

APPROVED: 2/14/89

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Thursday, September 22, 1988. The following Board members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Robert Kelley; John Ribble; and Mary Thonen. Paul Hammack was absent from the meeting.

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Chairman Smith opened the meeting with Mrs. Day leading the prayer.

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Page 225, September 22, 1988, (Tape 1), Scheduled case of:

9:00 A.M. DAVID T. AND NANCY S. BRYANT, VC 88-V-103, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 2.7 ft. from the rear lot line on a corner lot (12 ft. min. rear yard req. by Sect. 3-307), located at 2305 Wittington Boulevard, on approximately 11,532 square feet of land, zoned R-3, Mt. Vernon District, Tax Map 111-1((6))(30)6.

Lori Greenlief, Staff Coordinator, presented the staff report.

The applicant, David T. Bryant, 2305 Wittington Boulevard, Alexandria, Virginia, presented his application requesting approval of a variance to construct an attached two-car garage to the northeast side of his dwelling. He presented his justification, which was set forth in the staff report. He also submitted a letter from Peter Brinitzer, President of the Little Hunting Creek Citizens Association, Inc., in support of his application.

Russell J. Hammond, Jr., 2303 Wittington Boulevard, spoke in support of Mr. Bryant's application.

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

Mr. DiGiulian moved to grant VC 88-V-103, based upon the applicant's testimony, supporting letter, and the determination that there was no other place for the applicant to construct the garage on the lot. The applicant was granted a variance to allow the garage to be constructed 5.0 feet from the property line and the applicant was requested to submit a new plat to show the approved location of the garage.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-103 by DAVID T. AND NANCY S. BRYANT, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 2.7 feet (THE BOARD GRANTED 5.0 FEET) from the rear lot line on a corner lot, on property located at 2305 Wittington Boulevard, Tax Map Reference 111-1((6))(30)6, 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 22, 1988; 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 11,532 square feet of land.
4. The property has two street frontages.
5. The location of the house on the lot.
6. There is no other location for the garage.

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 a plat to be submitted showing the structure five feet (5') from the side lot line and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless construction has started and is diligently pursued, or unless a request for 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; Mrs. Thonen not present for the vote. Mr. Hammack was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 30, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 226, September 22, 1988, (Tape 1), Scheduled case of:

9:15 A.M. EDWARD & FLORENCE PRESTERA, SP 88-C-060, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow deck to remain 0.0 ft. from rear lot line (5 ft. min. rear yard req. by Sect. 2-412), located at 3855 Corkwood Place, on approximately 1,650 square feet of land, zoned PDH-5, Centreville District, Tax Map 45-2((7))445.

Lori Greenlief, Staff Coordinator, presented the staff report.

The applicant, Florence Prestera, 3855 Corkwood Place, Fairfax, Virginia, presented her justification as outlined in the staff report. Mrs. Prestera stated that the deck in question was built under a verbal contract with a contractor who has left the area, and all efforts to reach him have failed. She presented a letter in which the Fairwoods Homeowners Association informed her they will approve the deck as is, if the Board of Zoning Appeals grants the Special Permit.

The Board questioned whether the staff had made an effort to investigate the matter, and Lori Greenlief stated that the staff had been unsuccessful in finding any way to reach the contractor, or to find any recorded contract.

Edward Prestera, 3855 Corkwood Place, Fairfax, Virginia, spoke in support of his application, stating that the error was made in good faith.

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

Mr. Ribble moved that, since the contractor could not be reached, and no written contract could be found, the error was considered to be in good faith. He made a motion to grant the applicant's request that the deck be allowed to remain.

Chairman Smith requested that a new plat be submitted, consistent with the granting of the request. A discussion ensued between Chairman Smith and Mr. Ribble, during which Chairman Smith stated that he felt the plat should show the deck only on the property in question, and show no adjoining property. Mr. Ribble went on to ask whether the applicant clearly understood the need to furnish a new plat, stating that staff would be glad to explain it further, if necessary.

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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 Number SP 88-C-060 by EDWARD AND FLORENCE PRESTERA under Section 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow deck to remain 0.0 feet from rear lot line, on property located at 3855 Corkwood Place, Tax Map Reference 45-2((7))445, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on September 22, 1988; and,

WHEREAS, the Board made the following of facts:

1. No written contract can be found.
2. The error was no fault of applicant, thus applicant acted in good faith.

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 special permit is approved for the location and the specific deck shown on the plat submitted with this application and is not transferable to other land. It is noted that this approval is only to allow the deck to remain on the rear lot line not over the rear lot line.

2. A Building Permit, which shows the location of the deck in accordance with this special permit, shall 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. This Special Permit shall not be valid until this has been accomplished.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 30, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 228, September 22, 1988, (Tape 1), Scheduled case of:

9:30 A.M. NANCY L. ZABRISKIE & KEVIN E. MCGRATH, SP 88-P-062, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow building to remain 17.8 ft. from side lot line and 22.8 ft. from rear lot line and to allow deck to remain 10.6 feet from rear lot line (20 ft. min. side yard and 25 ft. min rear yard for dwelling required by Sect. 3-107 and 13 ft. min. rear yard for deck required by Sects. 3-107 and 2-412), located at 8328 Second Avenue, on approximately 6,000 square feet of land, zoned R-1, Providence District, Tax Map 39-3((11))(C)24.

Lori Greenlief, Staff Coordinator, presented the staff report.

The applicant, Nancy Zabriskie, 8328 Second Avenue, Vienna, Virginia, presented her request for a 2.2 foot modification to the minimum side yard requirement, and a 2.2 foot modification to the minimum rear yard requirement for the dwelling.

The Board asked what had transpired to cause the applicant to make this request.

Mrs. Greenlief stated that a verbal Notice of Violation had been issued to the applicant on March 18, 1988, subsequent to a complaint. She stated that, although a copy of the building permit application for the dwelling was not available, computer records showed that a building permit was approved on October 8, 1985. The grading plan for the portion of the subdivision in which the subject property is located shows the dwelling was proposed to be located 20 feet from the eastern side lot line, 17.4 feet from the western side lot line and 25 feet from the rear lot line. Thus, it appears that the reduced western side yard did appear on the grading plan as approved. The rear yard, however, was represented correctly as 25 feet on the grading plan.

According to the applicant, they were not aware of the error when they purchased the dwelling in 1987.

Mrs. Greenlief stated that, regarding the deck, a copy of the building permit was not available; however, computer records show that a building permit was applied for but never finalized. According to the applicant, friends of the applicants' built the deck while the applicants were on their honeymoon.

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

Mrs. Day moved to grant SP 88-P-062, based on the applicant's testimony and the sequence of events which suggest no impropriety on behalf of the applicant.

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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 Number SP 88-P-062 by NANCY L. ZABRISKIE AND KEVIN E. McGRATH 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 building to remain 17.8 feet from side lot line and 22.8 feet from rear lot line and to allow deck to remain 10.6 feet from rear lot line, on property located at 8328 Second Avenue, Tax Map Reference 39-3((11))(C)24, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on September 22, 1988; and,

Page 229, September 22, 1988, (Tape 1), (Nancy L. Zabriskie and Kevin E. McGrath, SP 88-P-062, continued from Page 228)

WHEREAS, the Board made the following findings of facts:

1. There was no impropriety on behalf of applicant, thus the applicant acted in good faith.

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 special permit is approved for the location and the specific dwelling and deck shown on the plat submitted with this application and is not transferable to other land.

Mr. Ribble seconded the motion. The motion passed by a vote of 5-0 with Mrs. Thonen not present for the vote; and Mr. Hammack absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 30, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 229, September 22, 1988, (Tape 1), Scheduled case of:

9:45 A.M. HECHT'S COMPANY, SP 88-P-065, application under Sect. 8-901 of the Zoning Ordinance to allow additional sign area for a regional shopping center, located at 8000 Tysons Corner Center, on approximately 78.64 acres, zoned C-7, HC, and SC, Providence District, Tax Map 29-4((1))35 and 39-2((1))2, 5

Lori Greenlief, Staff Coordinator, presented the staff report, which recommended approval. She stated that, in addition to the locational difficulties of the Hecht's store within the center itself, it is staff's opinion that the development occurring around the center warrants the erection of signage at the center which is clear enough to identify the center with respect to its surroundings and to direct the public in a safe manner while not adversely impacting the landscape.

Mrs. Greenlief stated further that a different arrangement of sign area in a regional shopping center is a Group 9 Special Permit use and must meet the Standards for All Group 9 Uses, Sect. 8-903. She stated it was staff's judgment that the application meets these standards which address lot size, bulk regulations and site plan requirements. In addition, she said that this use must meet the Provisions for Approving Additional Sign Height or Sign Area in Shopping Centers, Sect. 8-912., and that this section references Sect. 12-304 which was previously discussed.

Antonio J. Calabrese, with the law firm of McGuire, Woods, Battle & Boothe, 8280 Greensboro Drive, Suite 900, Tysons Corner, McLean, Virginia, represented the applicant and explained the request as set forth in his revised statement of justification, contained in the staff report.

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

Mr. Kelley moved to grant SP 88-P-065.

The applicant requested a waiver of the 8-day time limitation. Mr. Kelley moved to approve the request. Mr. Ribble seconded the motion which unanimously passed.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-P-065 by HECHT COMPANY AND LEHNDORFF TYSONS JOINT VENTURE, under Section 8-901 of the Zoning Ordinance to allow additional sign area for a regional shopping center, on property located at 8000 Tysons Corner Center, Tax Map Reference 29-4((1))35 and 39-2((1))2 and 5, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of 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 22, 1988; 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-7, HC, and SC.
3. The area of the lot is 78.64 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, 8-912, and 12-304 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 four signs indicated by location and size on the plat submitted with this application. The sign on the western face of the building shall be limited to 256 square feet in size. The sign on the northern face of the parking deck to the north of the Hecht store shall be limited to 39 square feet in size. The two signs on the southern face of the Hecht store shall be limited to 30 square feet and 256 square feet in size. Any additional signs of any kind associated with Hecht Company, Inc. at Tysons Corner Center, or changes in the plans with respect to these signs approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. This condition shall not preclude the approval of additional sign permits in accordance with Article 12 for signs which would be allowed by right. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. Sign Permit, as regulated by Article 12 of the Zoning Ordinance, shall be obtained for all signs.

4. Illumination of the signs shall be in conformance with the performance standards for glare as set forth in Part 9 of Article 14 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 Sign 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 signs authorized have been erected, or unless additional time is approved by the Board of Zoning Appeals because of occurrence of conditions unforeseen at the time of the approval of this Special Permit. A request for additional time shall be justified in writing, and must be filed with the Zoning Administrator prior to the expiration date.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0 with Mrs. Thonen 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 September 22, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 231, September 22, 1988, (Tape 1), Scheduled case of:

10:00 A.M. SCOTT F. LARGE, VC 88-D-100, application under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed porch to 18.7 ft. from rear lot line (25 ft. min rear yard req. by Sect. 3-307), located at 1610 Blacksmith Lane, on approximately 8,600 square feet of land, zoned R-3, Dranesville District, Tax Map 10-4((14))452.

Jane Kelsey, Chief, Special Permit and Variance Branch, introduced Patricia Weichmann, Planning Intern, who had contributed to the staff report; after which Ms. Kelsey presented the staff report.

Scott F. Large, 1610 Blacksmith Lane, Herndon, Virginia, presented his justification for the request for a variance, stating that the location of the existing structure, for which he was requesting permission to erect screening, afforded no privacy, did not have enough space to plant foliage, and was close to a power transformer. He further stated that the local homeowners association had reviewed the plans, including the screened-in structure, and considered them to be consistent with those of adjacent homeowners.

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

Mr. DiGuilian moved to grant VC 88-D-100, based on the applicant's testimony, stating that the second-story deck does not allow privacy.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-100 by SCOTT F. LARGE, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed porch to 18.7 feet from rear lot line, on property located at 1610 Blacksmith Lane, Tax Map Reference 10-4((14))452, 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 22, 1988; 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 8,600 square feet of land.
4. The lot is exceptionally shallow and a utility line runs along the side lot line, which prevents reasonable use of the 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; Mrs. Thonen not present for the vote; and Mr. Hammack absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 30, 1988. This date shall be deemed to be the final approval date of this variance.

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10:15 A.M. THOMAS PARDINI & CHERYL ELLSWORTH, VC 88-V-101, application under Sect. 18-401 of the Zoning Ordinance to allow extension and enclosure of existing carport/porch 10 ft. from side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 7201 Burtonwood Drive, on approximately 16,393 square feet of land, zoned R-3, Mount Vernon District, Tax Map 93-4((4))(1)112.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

The applicant, Thomas Pardini, 7201 Burtonwood Drive, Alexandria, Virginia, stated that the previous owner had put louvres on the existing structure and that he is requesting approval to enclose the existing structure, so that it could be converted into a kitchen. The existing 10 foot clearance was created by the previous owner and would not be diminished by enclosing the structure.

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

Mrs. Day made a motion to grant VC 88-V-101.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-101 by THOMAS PARDINI AND CHERYL ELLSWORTH, under Section 18-401 of the Zoning Ordinance to allow extension and enclosure of existing carport/porch 10 feet from side lot line, on property located at 7201 Burtonwood Drive, Tax Map Reference 93-4((4))(1)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 September 22, 1988; 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 16,393 square feet of land.
4. There is an exceptional situation with regard to the property in the way the house was designed.

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; Mrs. Thonen was not present for the vote; Mr. Hammack was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 22, 1988. This date shall be deemed to be the final approval date of this variance.

The applicant requested a waiver of the 8-day time limitation. Mrs. Day moved to approved the request, and Mr. Ribble seconded the motion. The motion was passed on a 4-1 vote; Chairman Smith voted nay. Mrs. Thonen was not present for the vote; Mr. Hammack was absent from the meeting.

It was stated that the resolution would be mailed to the applicant in five days, or that he could pick it up by calling the Clerk's Office.

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Page 234, September 22, 1988, (Tape 1), Scheduled case of:

10:30 A.M. JOHN AND TERRY BURNS, VC 88-D-104, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12.8 feet from a street line of a corner lot line (20 ft. min. front yard required by Sect. 3-307), located at 12717 Builders Road, on approximately 8,930 square feet of land, zoned R-3(C), Dranesville District, Tax Map 10-4((14))84.

Jane Kelsey, Chief, Special Permit and Variance Branch, introduced Ron Derrickson, Planning Technician, who had been working on this request, and informed the Board Members that proper notification to one of the adjacent property owners had not been made within the stipulated time period of fifteen days.

John B. Burns, 12717 Builders Road, Herndon, Virginia, spoke in support of his request, stating that he had made an effort to contact the property owner in question at the address provided to him by the Office of Assessments, which was 1609 Kermit Court, Herndon, Virginia.

Ms. Kelsey stated that the address of one property owner, Deffenbaugh, is shown by the computer to be 9242 Three Oaks Drive, Silver Spring, Maryland; but, the applicant had sent the notice to 1609 Kermit Court. During the ensuing exchange of information, it was decided that the property owner or his parents did live at the 1609 Kermit Court address, that someone named Deffenbaugh had signed the receipt, and that proper notice had been given. The Board, therefore, proceeded with the public hearing.

Mr. Burns stated that he is requesting approval of a variance to the minimum front yard requirement in order to construct a one-story addition to the west side of the existing dwelling. The proposed addition will be located 12.8 feet from the front lot line.

Chairman Smith said that a variance would be unnecessary if the applicant was willing to reduce the size of the structure. According to the Zoning Ordinance, the front yard requirement is 20 feet, rather than 30 feet, and the applicant could build a structure up to 16.9 feet out from the house, without requesting a variance. Ms. Kelsey checked the Zoning Ordinance and verified that the Ordinance did require a 20-foot front yard, but a variance would not be required if the addition was reduced in size.

Mr. Burns added that he also would like to put a fireplace in the addition and Ms. Kelsey verified that, under Par. 10 of Sect. 2-412, a chimney no more than ten (10) feet in width may extend three (3) feet into any minimum required yard; but not closer than five (5) feet to any lot line.

Chairman Smith suggested that the applicant withdraw his request. Ms. Kelsey pointed out that, in the event some problem might arise, the one-year waiting period from the time of this hearing would be enforced. The applicant withdrew his request for a variance and Mr. DiGuilian made a motion to waive the 12-month waiting period. Mr. Ribble seconded the motion, which was passed unanimously. Mrs. Thonen was not present for the vote. Mr. Hammack was absent from the meeting.

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Page 235, September 22, 1988, (Tape 1), Scheduled case of:

10:45 A.M. WILLIAM P. AND CHRISTINE W. CUNNANE, VC 88-D-092, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 29.3 ft. from a front lot line on a corner lot (35 ft. min. front yard req. by Sect. 3-207) located at 6919 Jenkins Lane, on approximately 16,048 square feet of land, zoned R-2, Dranesville District, Tax Map 40-2((32))19

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report and explained the situation that the applicant encountered when he was given an improper address for one of the adjacent property owners by the Office of Assessments; i.e., he sent the notice to the wrong address, was subsequently given the correct address, and the notice was delivered within 14 days, instead of the fifteen (15) days required by the Zoning Ordinance.

William P. Cunnane, 6919 Jenkins Lane, Falls Church, Virginia, spoke concerning the notice problem, stating the he had contacted the Office of Assessments by telephone, they had provided him with an incorrect name for one of the ten adjacent properties, causing a delay in contacting the owners; but the legitimate owners were eventually contacted, and they signed a certification that they had no problem with the variance. Chairman Smith stated that he accepted the notices to be in proper order.

Because only four Board Members were present at this time, which would require a unanimous vote to pass a motion to approve an application, the applicant requested a deferral to have his case heard at the end of the meeting, when it was expected that at least one other member would be present.

The Chairman so ordered.

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Page 235, September 22, 1988, (Tape 1), Scheduled case of:

11:00 A.M. HODZIC ARCHITECTS, P.C./LAURA A. GERARD, VC 88-M-111, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8.0 feet from side lot line (12 ft. min. side yard required by Sect. 3-307), located at 5624 Bradley Boulevard, on approximately 20,032 square feet of land, zoned R-3, Mason District, Tax Map 61-4((13))(8)37.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Arif Hodzic, 1010 King Street, Alexandria, Virginia, presented justification for requesting approval of a variance to the minimum side yard requirement to allow construction of a two car garage addition to the north side of the existing dwelling. The proposed one-story addition will be located 8.0 feet from the side lot line. Sect. 3-307 of the Zoning Ordinance requires a 12 foot minimum side yard. Thus, he is requesting a variance of 4.0 feet from the minimum side yard requirement.

Mr. Hodzic stated that this request was being made because the physical constraints presented by the existing dwelling are: The back of the house is totally wooded and the dwelling has a brick facade and a bay window which would preclude expansion in any of those areas.

After questions by the Board were answered to their satisfaction, they decided to grant the request in part; namely, a 3-foot variance. The applicant was instructed to submit a new plat.

Since there were no other speakers on VC 88-M-111, Chairman Smith closed the hearing.

Mrs. Thonen moved that the 3 foot variance be granted to the applicant and Mrs. Day seconded the motion, which passed by a 4-1 vote; Chairman Smith voted nay. Mr. DiGuilian was not present for the vote; Mr. Hammack was absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-111 by HODZIC ARCHITECTS, P.C./LAURA A. GERARD, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8.0 feet from side lot line (THE BOARD GRANTED A VARIANCE TO ALLOW DWELLING 9.0 FEET FROM THE LOT LINE), on property located at 5624 Bradley Boulevard, Tax Map Reference 61-4((13))(8)37, 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 22, 1988; and

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

1. That the Laura A. Gerard is the owner of the land and Hodzic Architects is the architect for the applicant.
2. The present zoning is R-3.
3. The area of the lot is 20,032 square feet of land.
4. The proposed location is the only place a garage can be constructed on the lot.
5. There are topography problems on the lot.

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 addition shall be similar to the existing dwelling in regard to style, color and materials.

Mrs. Day seconded the motion. The motion carried by a vote of 4-1 with Chairman Smith voting nay; Mr. DiGiulian 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 September 30, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 237, September 22, 1988, (Tape 2), Scheduled case of:

11:15 A.M. LAWRENCE L. ZIEMIANSKI, SPA 80-D-035-1, application under Sect. 3-103 of the Zoning Ordinance to amend SP 80-D-035 for a home professional (dentist) office to permit continuation of the use without term, located at 1300 Beulah Road, on approximately 35,247 square feet of land, zoned R-1, Dranesville District, Tax Map 19-3((1))12.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report which recommended denial of the request. She pointed out that the applicant currently has a dental office without restriction as to the number of clients he could have per day. Even though he states that the number of clients at present is very low, there is no restriction on his expansion of clients in the future. While he is now the only dentist operating here, with some technicians and a secretary, the future is uncertain. The primary concern staff has with the application is the push for commercialization along Leesburg Pike. A previous request by a medical care facility which was proposed to be across the street was denied; at the hearing, the Planning Commissioners stressed they felt the intrusion of another non-residential use facility in this area would not conform with the Comprehensive Plan and the strictly residential character of the area, which they wish to retain. This is zoned R-1, and the Planning Commission and the Comprehensive Plan are endeavoring to retain this area for residential uses, if at all possible. Ms. Kelsey stated that, even though staff is recommending denial, the Board of Zoning Appeals has requested, and the staff report contains, conditions to be met, should the Board of Zoning Appeals decide to approve the application. She stressed that, even with the implementation of those conditions, staff continues to recommend denial.

Mr. Kelley asked Ms. Kelsey if the staff would respond differently to a five-year extension. She stated that, since there had been two previous five-year terms granted, another five-year term might be considered too much. If the Board continued to approve a succession of five-year terms, it might as well be approved permanently. Mr. Kelley stated that he would construe the answer to be no. He asked if a request for three years might be considered. Ms. Kelsey said staff position remains the same and she would let the Board decide.

Keith Martin, with the law firm of Walsh, Colucci, Malinchak, Emrich, Lubeley, P.C., 950 North Glebe Road, Arlington, Virginia, represented Dr. Ziemianski, and proceeded to outline his justification for this application. He stated this was a request for renewal of an application which was originally approved in 1980; but, due to construction of the house and financing, the practice did not commence until July 1984; so Dr. Ziemianski has been in this location for approximately four years.

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Chairman Smith reminded Mr. Martin that, although this request was a renewal application, it was a renewal without term; whereas, the original granted request has until 1990 to run.

Mr. Martin gave rising expenses in the County as one of the reasons for applying for early renewal. Mrs. Thonen said that the home professional office was originally intended for a term in order to serve as a financial aid to beginning professionals, who would later seek a commercial environment, and not intended for the long term. Mr. Martin stated that he was under the impression that the five-year term was a probation period, during which time the staff could assess whether the applicant was blending into the community.

Mr. Martin cited several instances of ten-year and unlimited term requests which he said previously had been granted; but the Board agreed that, if unlimited terms were granted, it was inadvertent and did not constitute a precedent. Chairman Smith pointed out that none had been granted on Leesburg Pike.

Mr. Martin asked to file for the record sixteen letters in support of the application. He read one letter aloud from the parents of a handicapped patient.

Mr. Martin cited requests granted without term for medical and non-medical offices, records of which he stated were from the County's RAPS system. Mrs. Thonen asked to see them. Chairman Smith stated and Mrs. Thonen agreed that they would have no bearing on this request, as each request was decided upon its own merits. Chairman Smith said that location had a bearing on the decisions.

Mr. Martin went on to cite the landscaping and parking area as examples of applicant's complying with County ordinance as a part of the original application. Mrs. Thonen stated that, in order to have a home professional office, parking must be provided on-site and the parking area must be large enough to accommodate the professional staff and people coming in and out. She stated that this should not intrude upon the neighbors' right to park in the area.

Mr. Martin appealed to the Board to grant a ten-year term if it could not see fit to grant an unlimited term.

Chairman Smith asked the speakers to address the land use issues, since the competence of the applicant was not an issue.

The following people spoke in support of the applicant's request: Hiu Newcomb, 9627 Leesburg Pike, Vienna, Virginia; Blair Cupp, 9439 Leesburg Pike, Vienna, Virginia; Mader Mameghani, 1310 Beulah Road, Vienna, Virginia; Jeff Shafer, 1211 Forestville Drive, Great Falls, Virginia; Gilda A. Shafer, 1211 Forestville Drive, Great Falls, Virginia; and Kathryn Kleeb, 1339 Beulah Road, Vienna, Virginia.

The main points of the speakers' support were that Dr. Ziamianski's office was convenient to them, that he was an excellent dentist, and that he had been there several years without creating a problem.

At the Board's request to address several of the home professional offices which Mr. Martin said the BZA approved, Ms. Kelsey stated that she did not recall Dr. Cory, but she did recall the Blevins Special Permit for an architectural office on Little River Turnpike. It was on a very large parcel of land, set back quite a distance from Route 236, but she could not recall the details of how many employees or clients. She stated that Mr. Jennings was an architect whose home professional office was approved in the old historic Huntley Estate Property, also a large parcel of land. It was not established, however; thus, he is not in operation at the present time. She was not familiar with Dr. Floyd's dental office which Mr. Martin had mentioned.

There were no further speakers or comments from the Board; therefore, Chairman Smith closed the hearing.

Regarding SPA 80-D-035-1 by Lawrence Ziemianski, Mrs. Day stated that, even when the County was less dense, applications were denied in order to be in keeping with the Comprehensive Plan and the preservation of the residential area. These uses bring in people from other areas and add to the traffic. Dr. Ziemianski's reputation is very well-known and is not pertinent to this application. She addressed Dr. Ziemianski's length of time in the neighborhood and his request for a five-year request for a home/professional office since 1984. She stated that home use could not continue indefinitely in residential areas. She went on to cite professional offices which had been denied in the area, stating the need for the County to maintain the low density residential use. The letters of support of the convenience of having the applicant nearby are not pertinent to the use of this property. The number of patients could increase in the future. The parking situation changes the character of the neighborhood. The applicant has enjoyed the economic advantages of a home business and can serve his patients as well in the designated areas with other dentists, Mrs. Day stated.

Mrs. Day moved that the applicant's term will expire on June 13, 1990. Mrs. Thonen seconded the motion, stating that the biggest problem was that, if the Board made the use permanent, without term, it is almost constituting rezoning. It would make it commercial use, in her mind.

A discussion ensued among the Board members about whether or not any granting of a request had been made knowingly, without term. It was decided that it had not. The Board also discussed the possibility of extending the current five-year term.

Chairman Smith reiterated the motion. There was no further discussion.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 80-D-035-1 by LAWRENCE L. ZIEMIANSKI, under Section 3-103 of the Zoning Ordinance to amend SP 80-D-035 for a home professional (dentist) office to permit continuation of the use without term, on property located at 1300 Beulah Road, Tax Map Reference 19-3((1))12, 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 22, 1988; 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 35,247 square feet of land.
4. The approval of this use without term would not be in conformance with the Comprehensive Plan.
5. The dentist's reputation is not pertinent to this application.
6. The dentist has lived there since 1980 and has had the office in his home since 1984.
7. This is a residential area and uses should be compatible with low density residential uses.
8. The dentist has had a home use of a business since 1984, thus 4 years and these uses which are like commercial should not continue indefinitely in a residential area.
9. The Board must be faithful to protection of existing character of the residential area which is planned for .2 to .5 and 1 to 2 dwelling units per acre.
10. Two other similar non-residential uses have been denied in the area and the County must maintain the low density residential character.
11. The fact that the letters of support laud the convenience of having a dental office nearby, <u>not the land use impact</u>.
12. The number of patients could increase in the future.
13. To meet the standards of this use, development conditions are required; however, this development with parking and traffic change the character of the neighborhood. The applicant has had economic advantages of a home business, rather than sale or rent one of many commercial offices of which the County has an abundance of vacancies. The applicant can serve his patients just as well in the designated commercial area

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 2 to 3 with Chairman Smith, Messrs. Kelley and Ribble voting nay; Mr. DiGiulian 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 September 30, 1988.

The Board granted the applicant a waiver of the 12-month time limitation for the refiling of a new application.

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Page 240, September 22, 1988, (Tape 2), Scheduled case of:

11:30 A.M. HOLY SPIRIT CATHOLIC CHURCH, SPA 85-A-007-1, application under Sect. 3-103 of the Zoning Ordinance to amend SP 85-A-007 for church and related facilities to permit addition of school activity center building to church property, located at 5121 Woodland Way, on approximately 15.32008 acres of land, zoned R-1, Annandale District, Tax Map 69-4((1))1, 2, 3 and 70-3((1))5.

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that Bill Enderle, the agent for the applicant, had requested a deferral. Staff suggested a deferral date of January 17, 1989, at 9:00 a.m. Hearing no objection, the chair so ordered.

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Page 240, September 22, 1988 (Tape 2), Scheduled case of:

12:30 P.M. WILLIAM P. AND CHRISTINE W. CUNNANE, VC 88-D-092, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 29.3 ft. from a front lot line on a corner lot (35 ft. min. front yard req. by Sect. 3-207) located at 6919 Jenkins Lane, on approximately 16,048 square feet of land, zoned R-2, Dranesville District, Tax Map 40-2((32))19

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report for this request, which was passed over earlier.

William P. Cunnane, 6919 Jenkins Lane, Falls Church, Virginia, presented justification of his request for a variance, stating this is the only place on the property to make an addition to the dwelling, giving it access from the rest of the house; and because the back yard has a water runoff problem. They get the runoff from homes in a higher location, even if they could find a way to access the new bedroom.

Since there were no speakers, Chairman Smith closed the hearing.

Mr. Ribble 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 88-D-092 by WILLIAM AND CHRISTINE CUNNANE, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 29.3 feet from a front lot line on a corner lot, on property located at 6919 Jenkins Lane, Tax Map Reference 40-1((32))19, 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 22, 1988; 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 16,048 square feet of land.
4. There are drainage problems on the lot which prevent an addition to the dwelling elsewhere on the lot.

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.

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4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 addition shall be similar to the existing dwelling in regard to style, color and materials.

Mrs. Day and Mrs. Thonen seconded the motion. The motion carried by a vote of 5-0 with Mr. DiGuilian not present for the vote. Mr. Hammack was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on September 30, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 241, September 22, 1988, (Tape 2), After Agenda Item:

St. John Neumann Church, SPA 80-C-092-2
Approval of Revised Plat

Ms. Kelsey reviewed SPA 80-C-092-2 which was approved by the Board of Zoning Appeals on June 2, 1987. A review of the minutes of the meeting seem to indicate that the neighbors were concerned about the amount of clearing and grading which might be required for construction of stormwater management facilities and the resultant disturbance to the existing vegetation located between the residential properties and the church. Therefore, the BZA included the following condition:

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.

The Department of Environmental Management is requiring a stormwater detention pond. Staff from the Office of Comprehensive Planning and the Department of Environmental Management has reviewed the plans submitted by the applicant. In staff's opinion a minimum of additional clearing and grading will be required and the majority of the vegetation will remain. Condition No. 19 of the special permit requires that:

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"A row of evergreen trees six feet (6') 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 foot (10') clearing area.

"It also appears from the review of the plan that this row of trees will be planted on top of the detention pond, which will be advantageous from a screening viewpoint.

"DEM has indicated that the pond location and size appear to meet Fairfax County stormwater management criteria, subject to final engineering computations and design. As part of the site plan review process, the Arborist will assure that a minimum of trees are removed for the purpose of installing this pond."

Therefore, staff recommended that BZA approve the plat showing the stormwater detention pond. The plan was enclosed as Attachment 4.

There were no other speakers, so Chairman Smith closed this hearing.

Mr. Ribble motioned to accept the request; Mrs. Thonen seconded the motion, which was passed unanimously. Mr. Hammack and Mr. DiGuilian were not present for this vote.

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As there was no other business to come before the Board, the meeting was adjourned at 12:50 p.m.

Geri B. Bepko

Geri B. Bepko, Deputy Clerk
for Board of Zoning Appeals

Daniel Smith

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: November 10, 1988

APPROVED: November 29, 1988

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, September 27, 1988. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen. John DiGiulian, Vice-Chairman, was absent from the meeting.

Chairman Smith called the meeting to order 9:15 a.m. Mrs. Day led the prayer.

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Page 243, September 27, 1988, (Tape 1), Scheduled case of:

9:00 a.m. KEITH MARKHAM AND TRACY SANDERS, VC 88-V-102, application under Sect. 18-401 of the Zoning Ordinance to allow detached garage to remain in a front yard on a corner lot and 4.2 feet from rear lot line (accessory structure not permitted in any front yard and required to have 10 ft. min. side yard by Sects. 3-407 and 10-104), located at 6801 Swarthmore Drive, on approximately 7,846 square feet of land, zoned R-4, Mount Vernon District, Tax Map 93-1((23))(2)14.

Lori Greenlief, Staff Coordinator, presented the staff report.

L. J. Crickenberger, 8520 Wagon Wheel Road, Alexandria, Virginia, represented the applicants, and stated that the garage was constructed by the previous owner approximately two to three years ago and the error was not detected until time of settlement. Because of the amount of money the applicants had already invested in the property, they decided to go forward with a variance application. At the present time, the applicants are in the process of having Amherst Drive vacated as the street dead ends at the side of their property and because it does not serve as an access to the park land the Park Authority has no objections. In the process of meeting with the Virginia Department of Transportation (VDOT), it has been determined that the applicants would need to construct curbs and gutters along the front of the vacated site, and they are now in the process of obtaining bids for the work.

In response to questions from the Board, Mr. Crickenberger replied that if the vacation of Amherst Drive was successful that only one variance will be needed.

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

Mr. Hammack made a motion to grant VC 88-V-102 because the lot has an unusual shape and topography problems to the rear, there is no other location for this garage, the applicant's property backs up to park land, and the applicants are attempting to have Amherst Drive vacated.

Chairman Smith commented that he would like the Board to defer the application until the vacation was completed. The other members did not agree.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-102 by KEITH MARKHAM AND TRACY SANDERS, under Section 18-401 of the Zoning Ordinance to allow detached garage to remain in a front yard on a corner lot and 4.2 feet from rear lot line, on property located at 6801 Swarthmore Drive, Tax Map Reference 93-1((23))(2)14, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 27, 1988; 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-4.
3. The area of the lot is 7,846 square feet of land.
4. The lot has an unusual shape and topography problems exist off-site to the rear.
5. There is no other location for this garage.
6. The applicant's property backs up to park land.
7. The applicant is attempting to have Amherst Drive vacated.

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

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

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

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

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

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

2. A Building Permit shall be obtained showing the location of the garage on the property in accordance with this approval.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-1-1 with Chairman Smith voting nay; Mr. Ribble abstaining; and, Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 5, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 244, September 27, 1988, (Tape 1), Scheduled case of:

9:15 A.M. JOHN H. MACKAY, VC 88-D-107, application under Section 18-401 of Zoning Ordinance to allow construction of addition to dwelling to 15 ft from rear lot line (25 ft. min. rear yard required by Section 3-307), located at 12301 Valley High Road, on approximately 8,530 square feet of land, zoned R-3, Dranesville District, Tax Map 11-1((8))(1)15A

Kathy Reilly, Staff Coordinator, presented the staff report.

Dorothy Mackay, 12301 Valley High Road, Herndon, Virginia, the applicant's wife, outlined the statement of justification submitted with the application. She added that the property was acquired in good faith in June 1986 and was located on a cul-de-sac.

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

Mrs. Thonen made a motion to grant VC 88-D-107 as the property backs up to park land, the addition would not impact any of the neighbors, and the addition cannot be constructed without a variance.

Mr. Ribble seconded the motion. The motion carried by a vote of 5-1 with Chairman Smith voting nay; Mr. DiGiulian absent from the meeting.

Mrs. Thonen then made a motion to waive the 8-day time limitation. Hearing no objection, the Chair so ordered.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-107 by JOHN H. MACKAY, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15 feet from rear lot line, on property located at 12301 Valley High Road, Tax Map Reference 11-1((8))(1)15A, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 27, 1988; 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 8,530 square feet of land.
4. The subject property backs up to the park land.
5. The addition will not impact any of the neighbors.
6. The addition cannot be constructed without a variance.

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

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

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

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

Page 246, September 27, 1988, (Tape 1), (John H. MacKay, VC 88-D-107, continued from Page 245)

NOW, THEREFORE, 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 5-1 with Chairman 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 September 27, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 246, September 27, 1988, (Tape 1), Scheduled case of:

9:30 A.M. MR. & MRS. HAROLD DEAN STACY, SR., VC 88-A-105, application under Section 18-401 of Zoning Ordinance to allow construction of detached garage 2.9 feet from a side lot line (12 ft. min. side yard required by Sects. 3-307 and 10-104), located at 5410 Littleford Street, on approximately 11,156 square feet of land, zoned R-3, Annandale District, Tax Map 80-1((2))(16)15

Kathy Reilly, Staff Coordinator, presented the staff report.

The applicant, Harold Dean Stacy, 5410 Littleford Street, North Springfield, Virginia, came forward. He stated that he planned to line up the proposed garage with an existing driveway and there was no other practical location for this addition.

A discussion took place among the Board members and the applicant as to the feasibility of the applicant constructing a one car garage and locating it in the rear of the property. Mr. Stacy stated that a one car garage would not be beneficial as there are usually two to three cars at the house and that to construct the garage in the rear of the lot he would have to remove the patio.

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

Mrs. Day stated that it was very difficult to enforce the Zoning Ordinance and make the citizens happy at the same time, but that she could not support a garage being constructed so close to the property line. She then make a motion to deny the request.

Mr. Ribble pointed out that the applicant could construct a 12-foot garage without a variance.

Mr. Hammack stated that he could not support a structure of this size.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-105 by MR. AND MRS. HAROLD DEAN STACY, SR., under Section 18-401 of the Zoning Ordinance to allow construction of detached garage 2.9 feet from a side lot line, on property located at 5410 Littleford Street, Tax Map Reference 80-1((2))(16)15, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 27, 1988; and

Page 247, September 27, 1988, (Tape 1), (Mr. and Mrs. Harold Dean Stacy, Sr., VC 88-A-105, continued from Page 246)

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 11,156 square feet of land.
4. The addition is too close to the lot line.
5. The applicant has reasonable use of the property and could have a one car garage without a variance.

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 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 October 5, 1988.

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Page 247, September 27, 1988, (Tape 1), Scheduled case of:

9:45 A.M. DANNY PENINI, SP 88-V-069, 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 13.2 feet from a side lot line (15 ft. min. side yard required by Sect. 3-207), located at 8646 Mount Vernon Highway, on approximately 15,000 square feet of land, zoned R-2, Mount Vernon District, Tax Map 110-2((19))(10)19, 20, 21.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report. She stated that staff had concluded that the proposal met the standards and recommended approval subject to the development conditions contained in the staff report.

In response to questions from the Board, Ms. Kelsey replied that during research staff found no record of a building permit for the existing dwelling. She added that a complaint was filed on May 11, 1988 with the Zoning Enforcement Division regarding an addition to the rear of the house. Upon visiting the site, the Zoning Inspector determined that the addition to the rear of the house was not in violation but did detect the error regarding the side yard setbacks.

Kenneth Warren Smith, 901 N. Washington Street, Alexandria, Virginia, attorney for the applicant came forward. He stated that any changes to the original plat was completed prior to the applicants purchasing the property and that the complaint was filed by disgruntled tenants. He stated that during telephone conversations with Joe Bakos, Department of Environmental Management (DEM), he had been told that there was no way for the County to ascertain whether or not there had been a building permit issued. In closing, Mr. Smith asked the Board to grant the applicant's request and to delete the condition that a building permit must be obtained.

A discussion took place among the Board members as to whether or not the applicant must comply with the requirement to obtain a building permit. Ms. Kelsey stated that if the Board chose not to delete condition number 2 the applicant would have to obtain a building permit.

Lorene Doempke, 8649 Vernon Avenue, Alexandria, Virginia, spoke in support of the applicant's request. She stated that she had discussed this with other neighbors and no one believed there was any visual impact on the neighborhood.

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

Mr. Kelley made a motion to grant SP 88-V-069. The approval was subject to the development conditions contained in the staff report with the deletion of condition number 2.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-V-069 by DANNY PENINI, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 13.2 feet from a side lot line, on property located at 8646 Mount Vernon Highway, Tax Map Reference 110-2((19))(10)19, 20, 21, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 27, 1988; 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.

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 of the dwelling as shown on the plat submitted with this application and is not transferable to other land.

This approval, 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 not be valid until this has been accomplished.

Mr. Ribble 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 October 5, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 249, September 27, 1988, (Tape 1), Scheduled case of:

10:00 A.M. THOMAS F. WOODS, JR., VC 88-V-116, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5.4 feet from side lot line (12 ft. min. side yard required by Sect. 3-307), located at 8407 Stockade Drive, on approximately 12,946 square feet of land, zoned R-3, Mount Vernon District, Tax Map 102-3((16))7.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

The applicant, Thomas Woods, 8407 Stockade Drive, Alexandria, Virginia, stated that he would like to construct a two car garage where a carport now exists in hopes of providing protection for his vehicles from vandalism which has occurred while the vehicles are parked on the street. Mr. Woods added that he had discussed this proposal with three different contractors and they all agreed that to construct the garage in the rear of the lot would make it difficult to maneuver the vehicles in and out of the garage. He stated that the materials used to construct the garage would match those on the existing dwelling as closely as possible, and the water would be drained away from the neighbors' properties.

Chairman Smith called for speakers in support of the request and hearing no reply called for speakers in opposition to the request.

Harold E. Parker, 8405 Stockade Drive, Alexandria, Virginia, came forward and stated that he opposed this addition because the applicant's property was elevated two to three higher than his property the structure would loom over his property blocking the light from his house. Mr. Parker submitted a letter from Mr. and Mrs. Charles Jones, owners of 8406 Stockade Drive, who also opposed the request.

In response to questions from Mr. Ribble, Mr. Parker replied that no one in the neighborhood had a two car garage.

During rebuttal, Mr. Woods stated that he appreciated Mr. Parker's concerns and will do whatever possible to address his concerns.

Chairman Smith closed the public hearing.

Mr. Ribble stated there was opposition to the request, and that the applicant has not met the nine standards for a variance. He then made a motion to deny VC 88-V-116.

Mr. Hammack stated that he would support the motion to deny because he believed that an addition of this size would impact the adjacent neighbors.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-116 by THOMAS F. WOODS, JR., under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 5.4 feet from side lot line, on property located at 8407 Stockade Drive, Tax Map Reference 102-3((16))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 September 27, 1988; 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 12,946 square feet of land.
4. The neighbor's opposition to the request is based on the addition being much too large and reducing the amount of light which passes through his house.
5. That the addition being located to close to the lot line may cause a drainage problem on the adjacent property to increase.

6. The applicant could enclose the carport by right.
7. The applicant's justification says that he has concern about his cars, but that is a general condition since most of us keep cars in the open.
8. It is possible to enlarge the driveway so as to have parking off the street for both cars, provided it causes no drainage problem.
9. The applicant has an inconvenience in that he has two cars, but this is a general condition.

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. 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 October 5, 1988.

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Page 250, September 27, 1988, (Tape 1), Scheduled case of:

10:15 A.M. WAYNE L. HEARD, VC 88-S-117, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of carport for an attached garage 8.8 feet from side lot line such that side yards total 20.3 feet (8 ft. min., 24 ft. total min. side yard required by Sect. 3-207), located at 6947 Cottontail Court, on approximately 12,625 square feet of land, zoned R-2(C), Springfield District, Tax Map 88-2((12))181.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

The applicant, Wayne Heard, 6947 Cottontail Court, Springfield, Virginia, stated that he would like to enclose an existing carport with no changes to the width, height, or length. He pointed out that there have been other variances granted in the area.

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

Mr. Hammack made a motion to grant VC 88-S-117 because the lot was very small and has had converging property lines towards the front. The 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 88-S-117 by WAYNE L. HEARD, under Section 18-401 of the Zoning Ordinance to allow enclosure of carport for an attached garage 8.8 feet from side lot line such that side yards total 20.3 feet, on property located at 6947 Cottontail Court, Tax Map Reference 88-2((12))181, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 27, 1988; 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 12,625 square feet of land.
4. The property has converging property lines toward the front of the lot and the lot is very small.

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

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

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

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

Page 252, September 27, 1988, (Tape 1), (Wayne L. Heard, VC 88-S-117, continued from Page 251)

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

1. This variance is approved for the 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 garage shall be architecturally compatible with the existing dwelling and shall be similar in color and materials.

Mrs. Day seconded the motion.

The motion carried by a vote of 5-1 with Chairman 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 October 5, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 252, September 27, 1988, (Tape 2), Scheduled case of:

10:30 A.M. JOHN G. AND ANGELINA F. GEORGELAS, VC 88-D-118, application under Sect. 18-401 of the Zoning Ordinance to allow expansion of existing garage to 18.94 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-107), located at 1285 Ballantrae Farm Drive, on approximately 25,135 square feet of land, zoned R-1(C), Tax Map 31-1((20))1A.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

In response to questions from the Board, Ms. Kelsey replied that the applicant planned to expand an existing two car garage.

The co-applicant, John Georgelas, 1285 Ballantrae Farm Drive, McLean, Virginia, stated that he had lived in the house since April 1986. He added that the garage was surrounded on the left side and to the rear by a heavily wooded lot with a detention pond on the right. Mr. Georgelas stated that there are no objections from the neighbors.

Following questions from the Board, Mr. Georgelas stated that the existing garage was a single door structure approximately 24 x 25 feet and with the addition would be approximately 31 feet wide. He added there would be no removal of the existing trees.

Ms. Kelsey answered Mr. Hammack's question regarding the front setback in a R-1 Cluster subdivision by stating that the setback was 30 feet.

Mr. Georgelas added that the garage addition would not be visible to any of the adjacent properties.

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

Mr. Ribble made a motion to grant the request as he believed that the applicant had met the nine standards for a variance, the property was located in a cluster subdivision, there was plenty of buffering on the rear of the site. The approval was subject to the development conditions contained in the staff report.

Mrs. Thonen stated that she had reviewed the statement of justification and the plat and could find nothing to show that the applicant has met the standards.

Mrs. Day stated that the addition would not be detrimental to the neighborhood as there would be no visual impact because the addition is surrounded by a heavily wooded area.

Chairman Smith pointed out that the applicant has reasonable use of the land without a variance.

Mr. Hammack stated that this was a difficult case but that he did not believe that the applicant had demonstrated a hardship.

Mr. Ribble called for the question.

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MOTION TO GRANT FAILED

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-118 by JOHN G. AND ANGELINA F. GEORGELAS, under Section 18-401 of the Zoning Ordinance to allow expansion of existing garage to 18.94 feet from rear lot line, on property located at 1285 Ballantrae Farm Drive, Tax Map Reference 31-1((20))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 September 27, 1988; 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 25,135 square feet of land.
4. The property is in a cluster subdivision.
5. There is plenty of buffering on the rear of the site.

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 addition shall be similar to the existing dwelling in regard to style, color and materials.

Mrs. Day seconded the motion. The motion FAILED by a vote of 3-3 with Mrs. Day, Mr. Ribble and Mr. Kelley voting aye; Chairman Smith, Mrs. Thonen and Mr. Hammack voting nay; Mr. DiGiulian absent from the meeting. Four (4) affirmative votes are required to approve an special permit or variance application.

Mrs. Thonen stated that she could not support the motion because after hearing the applicant's justification and looking at his plans, she could not see that the applicant met the standards. The applicant is a builder and should have known the zoning restrictions when he constructed his dwelling.

Chairman Smith stated that he could not support the approval since the applicant has reasonable use of his land without a variance.

Mr. Hammack stated that he could not support the application because this is a convenience not a hardship as outlined by the Code. The applicant is a builder and built his dwelling and should have hade knowledge of the Code.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 5, 1988.

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Page 254, September 27, 1988, (Tape 2), Scheduled case of:

10:45 A.M. KATHERINE LYNN MORROW, VC 88-D-119, application under Sect. 18-401 of the Zoning Ordinance to allow expansion of existing garage to 5.2 feet from side lot line such that side yards total 18.4 feet (8 ft. min., 24 ft. total min. side yard required by Sect. 3-307), located at 1301 Cold Harbor Court, on approximately 8,931 square feet of land, zoned R-3(C), Dranesville District, Tax Map 6-3((5))38.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

The applicant, Katherine Lynn Morrow, 1301 Cold Harbor Court, Herndon, Virginia, came forward. Ms. Morrow referenced her statement of justification submitted with the application. She added that there were other houses in the neighborhood with two car garages and this addition would bring their house up to the same value as those.

There were no speakers to this request and Chairman Smith closed the public hearing.

Mrs. Day stated that the lot is pie shaped, the house is situated at an angle in the center of the property, the variance is needed for only the front edge of the proposed structure, there is a severe slope in the rear of the property, this is the only location to construct this addition, the property was acquired in good faith, the addition would not create a hardship on any of the abutting property owners, and there are exceptional topographic problems. Mrs. Day then made a motion to grant VC 88-D-119 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 88-D-119 by KATHERINE LYNN MORROW, under Section 18-401 of the Zoning Ordinance to allow expansion of existing garage to 5.2 feet from side lot line such that side yards total 18.4 feet, on property located at 1301 Cold Harbor Court, Tax Map Reference 6-3((5))38, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 27, 1988; 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 8,931 square feet of land.
4. The lot is pie shaped and the house is situated at an angle in the center of the property.
5. The variance is needed for only the front edge of the proposed structure.
6. There is a severe slope in the rear of the property.
7. This is the only location to construct this addition.
8. The property was acquired in good faith.
9. The addition will not create a hardship on any of the abutting property owners.
10. There are exceptional topography problems.

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 addition shall be similar to the existing dwelling in regard to style, color and materials.

Mrs. Thonen seconded the motion. The motion carried by a vote of 5-1 with Chairman 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 October 5, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 256, September 27, 1988, (Tape 2, Scheduled case of:

11:00 A.M. D & K PARTNERSHIP, VC 88-C-121, 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 8 ft. (150 min. lot width required by Sect. 3-106), located at 12509 Lawyers Road, on approximately 3.0774 acres of land, zoned R-1, Centreville District, Tax Map 35-2((1))11.

Kathy Reilly, Staff Coordinator, presented the staff report. She stated that it was staff's judgment that the applicant has not met standards 2, 4, 7, 8, and 9 for reasons set forth in the staff report.

Brian Klare, 1124 Devon Street, Herndon, Virginia, a General Partner in D & K Partnership, came forward. He submitted letters from abutting property owners which indicated that the applicant had met with them and discussed the proposal. Mr. Klare displayed a picture graph showing where the properties were in proximity to the subject property.

Mr. Klare continued by stating that he and his partner were both long time residents of Fairfax County and had started D & K Partnership approximately two years ago. When the property was purchased, it was their intent to build estate homes and use the existing vegetation to afford privacy and seclusion to the purchasers with a minimal number of trees being removed. Because it appeared from the staff report that the major issue was access, they worked with their engineer to come up with the best possible access.

In response to questions from the Board, Ms. Reilly stated that the applicant does not meet the Office of Comprehensive Planning criteria for a pipestem development and the open space criteria is not applicable to this application.

Chairman Smith called for speakers in support of the request and hearing no reply called for speakers in opposition to the request.

Tom Horton, 11252 Chestnut Grove Square, Reston, Virginia, stated that he had a pending contract to purchase Lot 4. He stated that he was concerned with the additional traffic and added that he does not believe that a pipestem driveway was the best way to access this property.

Chairman Smith closed the public hearing.

William S. Mikutel with Century 21 came forward to represent owner of Lot 6, Mrs. Ghamarthaj Mirsoltani.

Chairman Smith explained to Mr. Mikutel that the public hearing was closed.

Prior to Mrs. Thonen making her motion the Board recessed at 11:45 a.m. and reconvened at 11:58 a.m.

Jane Kelsey, Chief, Special Permit and Variance Branch, pointed out that the Chairman had failed to give the applicant rebuttal time.

Chairman Smith reopened the public hearing.

Mr. Klare came forward and responded to the speaker's remarks by stating that he believed this was the best possible access and would not impact upon Mr. Horton.

Chairman Smith again closed the public hearing.

Mrs. Thonen stated that she had read the staff report very thoroughly and that she did not believe that the applicant had addressed the transportation concerns nor satisfied the guidelines for a pipestem. She then made a motion to deny VC 88-C-121.

Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

The applicant came forward and requested a waiver of the 12-month time limitation. Mr. Ribble made a motion to grant the applicant a waiver. Mrs. Thonen and Mr. Hammack seconded the motion which carried by a vote of 5-1 with Chairman Smith voting nay; Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-C-121 by D & K PARTNERSHIP, under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) years lots, proposed Lots 1 and 2 each having a lot width of 8 feet, on property located at 12509 Lawyers Road, Tax Map Reference 35-2((1))11, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 27, 1988; 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 3.0774 acres of land.
5. There are still unresolved issues with regard to transportation on Lawyers Road and it is still a very dangerous road.
6. The lot only meets one of the policy statements for a pipestem lot.
4. Several outstanding issues missing as outlined in the staff report and the applicant has tried to resolve some.
7. The variance is completely in violation of the Comprehensive Plan which is to preserve and promote the character of this residential area and does not meet the land use goals of the Comprehensive Plan.

This application does not justify all of the nine Required Standards needed for Variances 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 Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 5, 1988.

The Board granted the applicant a waiver of the 12-month time limitation for refiling a new application.

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Mrs. Thonen made a motion to adjourn for lunch. Hearing no objection the Chair so ordered. The Board recessed for lunch at 12:07 p.m. and reconvened at 1:00 p.m.

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Page 258, September 27, 1988, (Tapes 2 and 3), Scheduled case of:

11:15 A.M. LONG SIGNATURE HOMES, INC., C/O LAND DESIGN CONSULTANTS, INC., SP 88-S-066, 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 under construction to remain 19.3 feet from front lot line (subdivision approved as R-2 cluster, 25 ft. min. front yard required by Sect. 3-207), located at 15138 Weatherburn Drive, on approximately 13,431 square feet of land, zoned R-C and WS, Springfield District, Tax Map 53-4((8))283.

Denise James, Staff Coordinator, presented the staff report. She stated that staff supports this special permit since the applicant appears to have satisfied the standards for a special permit based on an error in building location.

John Marshall, 10759-B Ambassador Drive, Manassas, Virginia, a land surveyor for Long Signature came forward. He stated that immediately upon the error being brought to his office's attention this application was filed in order to rectify the situation.

Chairman Smith called for speakers in support of the request and hearing no reply called for speakers in opposition to the request and the following came forward: Bruce Fletcher, 15139 Weatherburn Drive, Fairfax, Virginia; Leslie Gross, 15137 Weatherburn Drive, Fairfax, Virginia; and Ben Houser, 15143 Weatherburn Drive, Fairfax, Virginia.

The citizens' opposition was based upon their belief that the applicant was aware of the error prior to the house being completed. In addition, they were concerned about the safety factor to the neighborhood children if someone backed out of the driveway with inadequate sight distance.

During rebuttal, Mr. Marshall stated that the error had been done in good faith. He added that this driveway was no more elevated than the one on the neighbor's property, perhaps less.

Following a discussion among the Board members, Mr. Kelley made a motion to defer decision on this application under October 4, 1988 in order for staff and Board members to make a site visit. Mrs. Thonen seconded the motion which carried by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 258, September 27, 1988, (Tape 3), Scheduled case of:

11:30 A.M. DOUGLAS GEORGE, VC 88-D-109, application under Sect.18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 9.8 ft from a side lot line (15 ft.min. side yard required by Section 3-207), located at 1939 Virginia Avenue, on approximately 12,158 square feet of land, zoned R-2 Dranesville District, Tax Map 41-1((13))(4)22A.

Denise James, Staff Coordinator, presented the staff report.

Charles Edward Curran, with the law firm of Bean, Kinney, Orman and Moore, P.C., 2000 N. 14th Street, Suite 100, Arlington, Virginia, represented the applicant. He stated that the applicant had owned the property for 17 years and that only a portion of the addition

needs a variance. Mr. Curran added that the adjacent lot to the north of the subject property is a heavily wooded, vacant lot and that the owner of that lot does not object to the applicant's request.

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

Mr. Ribble made a motion to grant the request because the property is located in Franklin Park subdivision which is made up of substandard lots, the variance is needed for only a small portion of the addition which will square off the living room of the dwelling, and the house is situated on the lot in such a way which prohibits construction without a variance. The 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 88-D-109 by DOUGLAS GEORGE, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 9.8 feet from a side lot line, on property located at 1939 Virginia Avenue, Tax Map Reference 41-1((13))(4)22A, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 27, 1988; 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 12,158 square feet of land.
4. The property is located in Franklin Park subdivision which is made up of substandard lots.
5. The variance is needed for only a small portion of the addition which will square off the living room of the dwelling.
6. The lot is small and the house is situated on the lot in such a way which prohibits construction without a variance.

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 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 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 October 5, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 260, September 27, 1988, (Tape 3), Scheduled case of:

11:45 A.M. JOSEPH E. & CATHERINE F. SCHOUREK, VC 88-P-108, application under Section 18-401 of Zoning Ordinance to allow construction of enclosed porch addition to dwelling to 10.1 ft. from a side lot line (15 ft. min. side yard required by section 3-207), located at 2343 Dale Drive, on approximately 16,718 square feet of land, zoned R-2, Providence District, Tax Map 40-3((23))1

Denise James, Staff Coordinator, presented the staff report.

The applicant, Joseph Schourek, 2343 Dole Drive, Falls Church, Virginia, came forward and stated that he would like to construct an addition on the existing patio, which is virtually useless. He added that he did not believe the proposed addition would impact upon the neighbors as his lot is heavily wooded.

In response to questions from the Board, Mr. Schourek replied that the neighbor's house who would be most affected sets back approximately 20 to 25 feet from the shared lot line.

Chairman Smith called for speakers in support of the request and hearing no reply called for speakers in opposition to the request.

W. J. Drigger, 2345 Dole Drive, Falls Church, Virginia, came forward. Mr. Drigger stated that the proposed addition would invade his privacy as it would located outside a large dining room window of his house. He suggested that perhaps the applicants would locate the addition elsewhere on the lot that would not require a variance.

During rebuttal, Mr. Schourek replied that the addition could be relocated to another portion of the property but that to do so would restrict the use of his property.

There were no additional comments and Chairman Smith closed the public hearing.

Mrs. Thonen stated that she believed that she could not support the proposed addition in the location requested, that there was opposition from a neighbor, and the addition can be located elsewhere on the lot without a variance. She then made a motion to deny.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-108 by JOSEPH E. AND CATHERINE F. SCHOUREK, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed porch addition to dwelling to 10.1 feet from a side lot line, on property located at 2343 Dale Drive,

Tax Map Reference 40-3((23))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 September 27, 1988; 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 16,718 square feet of land.
4. The maker of the motion stated that she could not support the proposed addition in the location requested.
5. There is opposition from a neighbor.
6. The addition can be located elsewhere on the lot without a variance.

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 5-0 with 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 October 5, 1988.

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12:00 NOON THOMAS R. PRATT, VC 88-S-106, application under Section 18-401 of Zoning Ordinance to allow construction of garage addition to dwelling 7.3 ft. from a side lot line (12 ft. min. side yard required by Section 3-307), located at 7825 Anson Court, on approximately 22,437 square feet of land, zoned R-3, Springfield District, Tax Map 89-2((4))(8)16

Denise James, Staff Coordinator, presented the staff report.

The application, Thomas R. Pratt, 7825 Anson Court, Springfield, Virginia, came forward and stated that his property is a pie shaped lot with a severe slope in the rear. He added that his neighbor was granted a variance to construct a two car garage.

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

Mrs. Day stated that she was familiar with the area and that the houses did have severe topographic problems on the rear of the lots, the abutting neighbor's house sets back 13.1 feet from the shared lot line, the adjacent neighbor was granted a variance for a two car garage, and the lot has exceptional narrowness and severe topographic problems. Mrs. Day then made a motion 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 88-S-106 by THOMAS R. PRATT, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling 7.3 feet from a side lot line, on property located at 7825 Anson Court, Tax Map Reference 89-2((4))(8)16, 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 26, 1988; 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 22,437 square feet of land.
4. There are severe slopes in the rear of the lots.
5. The abutting neighbor's house sets back 13.1 feet from the shared lot line.
6. The adjacent neighbor was granted a variance for a two car garage.
7. The lot has exceptional narrowness and severe topographic problems.

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 5-0 with Mr. Kelley 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 October 5, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 263, September 27, 1988, (Tape 3), Scheduled case of:

12:15 P.M. JOHN S. SHINN, VC 88-L-114, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 12.2 feet from side lot line (20 ft. min. side yard required by Sect. 3-107), located at 6717 Hackberry Street, on approximately 22,000 square feet of land, zoned R-1, Lee District, Tax Map 91-1((2))161.

Denise James, Staff Coordinator, presented the staff report.

The applicant, John S. Shinn, 6717 Hackberry Street, Springfield, Virginia, stated that he would like construct a garage in order to protect his vehicles from the weather and if he were to locate the garage in the rear of his lot he would have to remove several large trees.

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

Mrs. Thonen stated that the applicant's house is located in the older part of the area, the lots are odd shape in the rear, the property is impacted by Metro and railroad in the rear, and the addition will enhance the looks of the community. She made a motion to grant the request.

The motion failed by a vote of 2-3 with Mrs. Day and Mrs. Thonen voting aye; Chairman Smith, Mr. Hammack, and Mr. Ribble voting nay; Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

Mrs. Thonen then made a motion to grant the applicant a waiver of the 12-month time limitation for refiling a new application. Mr. Hammack and Mr. Ribble seconded the motion which carried by a vote of 4-1 with Chairman Smith voting nay; Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

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MOTION TO GRANT FAILED

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-L-114 by JOHN S. SHINN, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 12.2 feet from side lot line, on property located at 6717 Hackberry Street, Tax Map Reference 91-1992))161, 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 25, 1988; 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 22,000 square feet of land.
4. The applicant's house is located in the older part of the area.
5. The lots are restricted by the odd shape of the lots in the rear.
6. The property is impacted by Metro and railroad in the rear.
7. The addition will enhance the looks of the community.

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 FAILED by a vote of 2-3 with Mrs. Day and Mrs. Thonen voting aye; Chairman Smith, Mr. Hammack, and Mr. Ribble voting nay; Mr. Kelley 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 October 5, 1988.

The Board granted the applicant a waiver of the 12-month time limitation for refiling a new application.

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Page 265, September 27, 1988, (Tape 3), Scheduled case of:

12:30 P.M. LARRY L. AND KATHARINE D. ICHTER, VC 88-A-115, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a garage and screened porch addition to dwelling to 6.1 feet from side lot line (12 ft. min. side yard required by Sect. 3-307), located at 7609 Gresham Street, on approximately 12,300 square feet of land, zoned R-3, Annandale District, Tax Map 70-4((4))(49)20.

Denise James, Staff Coordinator, presented the staff report.

The applicant, Larry Ichter, 7609 Gresham Street, Springfield, Virginia, came forward. He stated that he and his wife have lived there for nine years and believe that the addition would enhance the neighborhood. Mr. Ichter added that the garage addition would line up the existing driveway and provide protection for his vehicles. In closing, he stated that ten of the sixteen houses in the neighborhood have garages and that there are no objections from his neighbors.

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

Mr. Hammack made a motion to deny VC 88-A-115 as he believed the addition was too large a request and would adversely impact the neighborhood.

The motion carried by a vote of 5-0 with Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

Mr. Ichter asked the Board to reconsider its motion. Mrs. Thonen explained that the maker of the motion would have to make the motion and Mr. Hammack indicated no desire to do so. Mrs. Thonen made a motion to deny the reconsideration. Mrs. Day seconded the motion which carried by a vote of 5-0 with Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

Mrs. Thonen then made a motion to grant the applicant a waiver of the 12-month time limitation for refiling a new application. Mr. Hammack seconded the motion which carried by a vote of 4-1 with Chairman Smith voting nay; Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-115 by LARRY L. AND KATHARINE D. ICHTER, under Section 18-401 of the Zoning Ordinance to allow construction of a garage and screened porch addition to dwelling to 6.1 feet from side lot line, on property located at 7609 Gresham Street, Tax Map Reference 70-4((4))(49)20, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on September 27, 1988; 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 12,300 square feet of land.
4. The large addition, which is in excess of 50 feet in length, is too close to a property line.

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 5-0 with Mr. Kelley 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 October 5, 1988.

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Page 266, September 27, 1988, (Tape 3), Scheduled case of:

12:45 P.M. STM LANDSCAPE SERVICES, INC., SP 87-S-084, application under Sect. 8-901 of the Zoning Ordinance to allow a modification or waiver of dustless surface requirement for a plant nursery, located at 11701 Braddock Road, on approximately 42.485 acres of land, zoned R-C and WS, Springfield District, Tax Map 67-2((1))3, 4, 5. (CONCURRENT WITH SE 87-S-101. DEF. FROM 7/28/88 AND 9/20/88 TO ALLOW SPECIAL EXCEPTION TO BE HEARD)

Cathy Chianese, Staff Coordinator with the Rezoning and Special Exception Branch, presented the staff report and stated that the Board of Supervisors had approved the Special Exception on September 26, 1988 and now the applicant was before this Board to request a modification or waiver of dustless surface requirement.

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William "Bud" Testerman, with the law firm of Hansbarger and Testerman, 10523 Main Street, Fairfax, Virginia, came forward and stated that the applicant agreed with all the development conditions and asked the Board to grant the request.

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

Mr. Hammack made a motion to grant SP 87-S-084 as he believed the applicant's agent 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-S-084 by STM LANDSCAPE SERVICES, INC., under Section 8-901 of the Zoning Ordinance to allow a modification or waiver of dustless surface requirement for a plant nursery, on property located at 11701 Braddock Road, Tax Map Reference 67-2((1))3, 4, 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 September 27, 1988; 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 and WS.
3. The area of the lot is 42.485 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 gravel driveway entrance into the parking areas and parking areas shall be maintained in accordance with Public Facilities Manual standards and the following guidelines. The waiver of the dustless surface shall expire on July 26, 1993

   - Speed limits shall be kept low, generally 10 mph or less.

   - The areas shall be constructed with clean stone with as little fines material as possible.

   - The stone shall be spread evenly and to a depth adequate enough to prevent wear-through or bare subsoil exposure. Routine maintenance should prevent this from occurring with use.

- Resurfacing shall be conducted when stone becomes thin and underlying soil is exposed.
- During dry seasons, water or calcium chloride shall be applied to control dust.
- Runoff shall be channeled away from and around the parking lot.
- The applicant shall perform periodic inspections to monitor dust conditions, drainage functions and compaction-migration of the stone surface.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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 Mr. Kelley 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 October 5, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 268, September 27, 1988, (Tape 3), After Agenda Item:

Approval of Resolutions for September 20 and 22, 1988

Mr. Hammack made a motion to approve the Resolutions for September 20 and 22, 1988 as submitted. Mr. Ribble seconded the motion which carried by a vote of 5-0 with Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 268, September 27, 1988, (Tape 3), After Agenda Item:

Approval of Minutes for April 12, May 10, May 24, and July 26, 1988

Mr. Hammack made a motion to approve the Minutes for April 12, May 10, May 24, and July 26, 1988 as submitted by staff. Mrs. Day and Mr. Ribble seconded the motion which carried by a vote of 5-0 with Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 268, September 27, 1988, (Tape 3), After Agenda Item:

Acceptance of Fleet Control, Inc. Appeal

Mr. Hammack made a motion to accept the appeal of Fleet Control, Inc. as being complete and timely filed and scheduled the public hearing for December 13, 1988 at 11:00 a.m. Mr. Ribble seconded the motion which carried by a vote of 5-0 with Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 268, September 27, 1988, (Tape 3), After Agenda Item:

A discussion took place among the Board and staff regarding the meeting date of November 1, 1988. It was the consensus of the Board that perhaps this date should be held open for at least a week to determine whether or not the cases already accepted by staff could be heard within the allotted timeframe without an additional meeting date.

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As there was no other business to come before the Board, the meeting was adjourned at 2:57 p.m.

Betsy S. Hurtt, Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 2/7/89

APPROVED: 2/14/89

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 4, 1988. The following Board Members were present: Chairman Daniel Smith; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble; and Mary Thonen.

Chairman Smith called the meeting to order at 8:10 P.M. with Mrs. Day leading the prayer.

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Page 271, October 4, 1988, (Tape 1), Scheduled case of:

8:00 P.M. HAROLD A. LOGAN, VC 88-A-112, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, proposed Lot 1 having a lot width of 88.89 feet (100 ft. min. lot width required by Sect. 3-206), located at 5034 Glen Park Road, on approximately 2.7278 acres of land, zoned R-2, Annandale District, Tax Map 70-3((1))12.

Denise James, Staff Coordinator, presented the staff report which stated that the application in staff's judgment did not meet all of the required standards for a variance. In response to a question from Chairman Smith, Ms. James stated that this property could be subdivided by right into four lots or possibly even five lots with some redesign.

Harold Logan, 5000 Montgomery Street, Annandale, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with his application. He stated that the lot has an unusual shape. In addition, Mr. Logan stated that the proposed lot configuration had taken into consideration an existing house on the property which had subsequently burned down.

There being no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to deny VC 88-A-112 due to the fact that the applicant had reasonable use of his land in that he could lay out the subdivision differently and get four lots without a variance. In addition, the applicant has not satisfied this member that a hardship exists on the property.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-112 by HAROLD A. LOGAN, under Section 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, proposed Lot 1 having a lot width of 88.89 feet, on property located at 5034 Glen Park Road, Tax Map Reference 70-3((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 October 4, 1988; 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 2.7278 acres of land.
4. The applicant has not met the required standards.
5. The applicant has reasonable use of the 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. DiGiulian seconded the motion.

The motion 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 October 12, 1988.

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Page 272, October 4, 1988, (Tape 1), Scheduled case of:

8:15 P.M. SALCO MECHANICAL CONTRACTORS, A 88-A-002, application under Sect. 18-103 of the Zoning Ordinance to appeal the Zoning Administrator's decision to decline a request to interpret Article 13 of the Zoning Ordinance and refer such request to the Director, Department of Environmental Management on property located at 8000 Forbes Place, on approximately 107,245 square feet of land, zoned I-5, Annandale District, Tax Map 79-2((4))703.

Chairman Smith announced that the Board was in receipt of a letter from the applicant requesting a six-month deferral of the above-referenced application due to outstanding legal issues.

Mrs. Thonen moved to defer A 88-A-002 to January 24, 1989 at 9:00 A.M.

Mr. DiGiulian seconded the motion which passed by a vote of 6-0, Mr. Hammack not present for the vote.

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that she had received a letter from Chairman Audrey Moore transmitting the position of the Annandale citizens concerning this appeal. It would be placed in the file on the case to be considered in January.

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Page 272, October 4, 1988, (Tape 1), Scheduled case of:

8:15 P.M. LONG SIGNATURE HOMES, INC., C/O LAND DESIGN CONSULTANTS, INC., SP 88-S-066, 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 under construction to remain 19.3 feet from front lot line (subdivision approved as R-2 cluster, 25 ft. min. front yard required by Sect. 3-207), located at 15138 Wetherburn Drive, on approximately 13,431 square feet of land, zoned R-C and WS, Springfield District, Tax Map 53-4((8))283. (DEF. from 9/27/88 FOR DECISION ONLY).

Mrs. Thonen stated that she had visited the site and had a clear view with no interference when backing in and out of the driveway on the referenced property. She stated that the properties on either side had a much steeper grade.

Page 273, October 4, 1988, (Tape 1), (Long Signature Homes, Inc., c/o Land Design Consultants, Inc., SP 88-S-066, continued from Page 272)

Denise James, Staff Coordinator, stated that she had visited the site and had taken additional photos for the record. Ms. James stated that she concurred with Mrs. Thonen's observations.

Mrs. Thonen moved to grant SP 88-S-066.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-066 by LONG SIGNATURE HOMES, INC., C/O LAND DESIGN CONSULTANTS, INC. under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling under construction to remain 19.3 feet from front lot line, on property located at 15138 Wetherburn Drive, Tax Map Reference 53-4((8))283, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 4, 1988; 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 and WS.
3. The area of the lot is 13,431 square feet of land.
4. This was an error in surveying.
5. The error was done in good faith and no fault of the developer.
6. This will not increase the density.

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 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. The plat approved under SP 88-S-066 shall be attached to the original building permit to indicate the accurate setbacks for the structure.

Mr. Ribble seconded the motion. The motion 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 October 12, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 273, October 4, 1988, (Tape 1), After Agenda Item #1.

Approval of Resolutions
September 27, 1988

Mrs. Thonen moved to approve the Resolutions for September 27, 1988 as submitted.

Mrs. Day seconded the motion which passed by a vote of 6-0, Mr. Hammack not present for the vote.

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Page 274, October 4, 1988, (Tape 1), After Agenda Item #2.

Proposed Board of Zoning Appeals Meeting Changed
from November 15, 1988 to November 16, 1988

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that the need for the date change had resulted from conversations she had with several of the Board of Zoning Appeals (BZA) members the previous week in trying to arrive at a determination as to how to hold a BZA meeting and also attend the scheduled VACO conference.

Mrs. Thonen requested that Ms. Kelsey inform the Board Members as soon as possible if they were not going to get to attend the meeting.

Ms. Kelsey stated that she had not yet received a determination although the total expense was much higher than what had been anticipated.

Mrs. Thonen moved that staff contact the applicants scheduled for a hearing on November 15, 1988 to see if they were agreeable to rescheduling their cases on November 29, 1988. She stated that a decision on the meeting date change would be discussed at the next BZA meeting.

This motion was seconded by Mrs. Day and passed by a vote of 6-0, Mr. Hammack not present for the vote.

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Page 274, October 4, 1988, (Tape 1), After Agenda Item #3.

Reconsideration Request
John S. Shinn
VC 88-L-114

Mr. Hammack moved to deny the reconsideration request for John S. Shinn, VC 88-L-114.

Mr. Ribble seconded the motion which passed by a vote of 5-2 with Mrs. Day and Mrs. Thonen voting nay.

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Page 274, October 4, 1988, (Tape 1), Scheduled case of:

8:45 P.M. JAMES C. AND PAIGE H. DANBY, VC 88-S-113, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 20.6 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-207), located at 5034 Oakcrest Drive, on approximately 15,001 square feet of land, zoned R-2, Springfield District, Tax Map 68-1((11))28.

Denise James, Staff Coordinator, presented the staff report.

James C. Danby, 5034 Oakcrest Drive, Fairfax, Virginia, the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with his application.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 88-S-113.

Mr. Ribble seconded the motion which passed by a vote of 5-1 with Chairman voting nay; Mr. Kelley not present for the vote.

At the request of the applicant, Mrs. Thonen moved that the eight-day waiting period be waived.

Mr. DiGiulian seconded the motion which passed by a vote of 5-1 with Chairman Smith voting nay; Mr. Kelley not present for the vote.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-113 by JAMES C. AND PAIGE H. DANBY, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 20.6 feet from rear lot line, on property located at 5034 Oakcrest Drive, Tax Map Reference 68-1((11))28, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 4, 1988; 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 15,001 square feet of land.
4. The applicant has satisfied the standards.
5. The lot is shallow and irregular shaped.
6. That only one corner of the addition requires a variance.

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 5-1 with Chairman Smith voting nay; Mr. Kelley not present for the vote.

Page 276, October 4, 1988, (Tape 1), (James C. and Paige H. Danby, VC 88-S-113, continued from Page 275)

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 4, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 276, October 4, 1988, (Tape 1), Information Item #1:

Reclassification Request for
Clerk and Deputy Clerk of the BZA

Jane Kelsey, Chief, Special Permit and Variance Branch, discussed a memorandum that had the Board of Zoning Appeals had directed to be written to the Board of Supervisors regarding a reclassification request for the Clerk and Deputy Clerk of the Board of Zoning Appeals. The Board asked that Ms. Kelsey read the letter into the record to be sure it said what the Board had directed the Clerk to write. After Ms. Kelsey had read the letter, the Board members said they wanted the letter sent as written. Chairman Smith requested the letter so that he could sign and deliver it to the Chairman of the Board of Supervisors.

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Page 276, October 4, 1988, (Tape 1), Scheduled case of:

9:00 P.M. BRIDGET L. FAIRCHILD-TROWBRIDGE, SP 88-D-067, 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 13.4 feet from one side lot line, 13.8 feet from the other, such that side yards total 27.2 feet (12 ft. min., 40 ft. total min. side yard required by Sect. 3-107), located at 1230 Gilman Court, on approximately 25,880 square feet of land, zoned R-1(C), Dranesville District, Tax Map 11-2((5))46.

Denise James, Staff Coordinator, presented the staff report. She informed the Board that the building error occurred when the legal status of Parcel S, a 15 foot wide strip of land which formed the southern boundary of the subject property, underwent a change in legal status from a trail easement to dedication in fee simple to the Fairfax County Park Authority. The change in legal status of this parcel resulted in the deletion of land area for Lot 46, by a 15 foot reduction in the side yard.

David T. Ralston, Jr., 5 Christopher Lane, Sterling, Virginia, representative of the applicant, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application. He stated that this had occurred before the applicant purchased the property and he supplied the Board with a copy of the building permit that had been issued to Monument Homes, the builder of the dwelling.

There being no speakers, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant SP 88-D-067.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. DiGiulian made the following motion:

WHEREAS, Application Number SP 88-D-067 by BRIDGET L. FAIRCHILD-TROWBRIDGE under Sect. 8-901 of the Fairfax County Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow dwelling to remain 13.4 feet from one side lot line, 13.8 feet from the other, such that side yards total 27.3 feet, on property located at 1230 Gilman Court, Tax Map Reference 11-2((5))46, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on October 4, 1988; 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

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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 specific location of the dwelling shown on the plat included with this application and is not transferable to other land.

2. A Building Permit shall be obtained reflecting the accurate side yard and lot boundaries within thirty (30) days of the approval of this special permit.

Mr. Ribble seconded the motion. The motion passed by a vote of 7-0.

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Page 277, October 4, 1988, (Tape 1), Scheduled case of:

8:00 P.M. HAPPY FACES CHILD DEVELOPMENT CENTER, SP 88-V-035, application under Sect. 3-403 of the Zoning Ordinance to allow nursery school and child care center, located at 6215 Richmond Highway, on approximately 36,768 square feet of land, zoned R-4, C-8, and HC, Mount Vernon District, Tax Map 83-3((1))38 and Outlot A. (DEF. FROM 6/28/88 & 8/2/88 - NOTICES NOT IN ORDER)

Jane Kelsey, Chief, Special Permit and Variance Branch, advised the Board that the notices were in order and she presented the staff report which recommended denial of the application. She stated that there were several transportation issues that needed to be addressed including a provision for ingress and egress to alleviate U-turn movements and the provision of adequate parking. Ms. Kelsey stated that the applicant had been requested to try to obtain an easement through the property of the former bowling alley for access, due to the fact that presently the only access to the property was from Richmond Highway.

Ms. Kelsey stated that she had received a letter from an adjacent property owner at 6213 Richmond Highway regarding the consolidation of the land. She stated that since the Comprehensive Plan recommended consolidation, staff advised that a time limit be placed on the application if it was approved, to ensure that the Plan recommendation could be fulfilled.

Mrs. Day requested staff to point out the location of the Childrens World child care center located to the southeast of the subject property.

Herbert Rosenblum, 526 King Street, Alexandria, Virginia, representative of the applicant, appeared before the Board to present the position of Happy Faces Child Development Center. He stated that the staff concern was about traffic coming south and having to get into the lot because there is no median break in the immediate vicinity of the property. Mr. Rosenblum stated that if you were southbound on Route 1, in order to get back to the school you would go to the traffic signal, get in the left-turn lane, and wait until the left-turn signal allowed you to make a left-turn or a U-turn. Mr. Rosenblum stated that the only problem he had was obtaining a written, formal easement from the tenant of the old bowling alley site.

Mr. Kelley stated that there was a severe grade difference between the adjacent properties and he felt that it was an unsafe area for traffic circulation and buses in particular. He requested that Mr. Rosenblum try to obtain an easement in the back of the property.

Jacqueline Smith, 4319 Rock Creek Road, Alexandria, Virginia, the applicant, stated that the majority of the children would be walking from across the street from Kings Garden Apartments, a subsidized apartment complex. She indicated that the only vehicle she would be using would be a small van.

Mr. Rosenblum explained that the major concern of the new tenant of the bowling alley site and his objection to allowing his client an easement was that of liability, although the applicant had expressed her willingness to insure him on an individual policy.

Page 278, October 4, 1988, (Tape 1), (Happy Faces Child Development Center, SP 88-V-035, continued from Page 277)

Following discussion, Mr. Rosenblum requested a 30 day deferral to give the applicant another chance at obtaining an easement agreement.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Kelley moved to grant a 30-day deferral to SP 88-V-035 and reschedule the case for November 10, 1988 at 11:30 A.M. in accordance with the applicant's request.

Mr. DiGiulian seconded the motion which carried by a vote of 7-0.

Mr. Hammack asked Mr. Rosenblum about his reaction to the development condition that placed a five-year time limit on the application.

Mr. Rosenblum replied that due to the expense involved, a time limit would make it impossible to go forward with the project. He stated that this building would need at least $250,000 worth of work and in order to justify that kind of expenditure a special permit would have to be granted without a time limitation.

In response to a question from Mrs. Day, Mr. Rosenblum stated that there were federal government subsidies that would help the welfare clients with the cost of child care.

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Page 278, October 4, 1988, (Tape 1), Information Item #2.

BZA Meeting Schedule for January 1989

Jane Kelsey, Chief, Special Permit and Variance Branch, discussed the January 1989 meeting schedule with the Board. It was the consensus of the Board to try not to schedule the first meeting on Tuesday, January 3, 1989 or Thursday, January 5, 1989 unless it was impossible to meet the ninety (90) day limit for hearing applications.

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Page 278, October 4, 1988, (Tape 1), Adjournment:

As there was no other business to come before the Board, the meeting was adjourned at 9:50 P.M.

Judy L. Moss, Acting Associate Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 11/15/88

APPROVED: 11/29/88

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 11, 1988. The following Board Members were present: Chairman Daniel Smith; Ann Day; Paul Hammack; Robert Kelley; John Ribble; and Mary Thonen. John DiGiulian, Vice-Chairman, absent from the meeting.

Chairman Smith called the meeting to order at 9:15 A.M. with Mrs. Day leading the prayer.

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Page 279, October 11, 1988, (Tape 1), Scheduled case of:

9:00 A.M. IMMANUEL BIBLE CHURCH, (formerly Immanuel Baptist Church), SPA 80-A-058-1, application under Sect. 3-203 and 8-901 of the Zoning Ordinance to amend S-80-A-058 for church and related facilities and school of general education to permit additional land area, use of existing dwelling for church purposes, building and parking additions, temporary use of three (3) trailers and a modification of the dustless surface requirement and change of permittee, located at 5211 Backlick Road, on approximately 12.9 acres of land, zoned R-2, Annandale District, Tax Map 71-4((1))35, 36A and 71-4((2))1, 2, 3 (DEFERRED FROM 7/19/88 AT APPLICANT'S REQUEST AND NOTICES ARE IN ORDER)

Lori Greenlief, Staff Coordinator, presented the staff report and advised the Board that the approval sought was for Phase 1 only with the remainder of the application to be deferred until after the Board of Supervisors has heard the special exception which has been filed. Phase 1 would consist only of the temporary trailers, the additional land area, and the change in permittee. Ms. Greenlief raised a concern about the isolation of Lots 34 and 34A farther to the east which would result from the addition of land area.

David S. Houston, attorney with the law firm of McGuire, Woods, Battle & Boothe, 8200 Greensboro Drive, McLean, Virginia, appeared before the Board on behalf of the applicant and explained the applicant's position, affirming that the case had been broken into two phases and only Phase 1 was before the Board at this time, involving a housekeeping matter, a name change for the church from Immanuel Baptist Church to Immanuel Bible Church, and incorporating additional land area into the application. With respect to Parcels 34 and 34A, Mr. Houston advised the Board that the applicant had spoken to the owners of those two properties the day before and they had no intentions of selling their property, but the church would seek to acquire that land when it became available.

In response to a question from the Board, Mr. Houston stated that these owners had no opposition the church expansion.

Mr. Houston went on to say that Phase 2 involved an addition to the church because of overcrowding; the applicants wished to come back before the Board on this and requested deferral of action on Phase 2 until late April. The third item brought up by Mr. Houston was the church's desire to abandon the road presently on the property and reconstruct it to meet the church's driveway standards. He advised the Board that the Park Authority had been contacted and had no objection to this proposal.

Mr. Greenlief drew the Board's attention to development condition number 6 which requires that a new plat be submitted. She advised the Board that the applicant had done that and that the plats were before the Board today and suggested that perhaps the Board might want to delete that condition. She further stated that according to the County Attorney's Office Phase 2 should be readvertised before it is considered because of the long time lapse between hearings.

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

Mrs. Thonen made a motion to grant Phase 1 of SPA 80-A-058-1 since there seemed to be no objection from the neighbors and no one present to oppose the request and that the request would not be a detriment to the use and enjoyment of other properties in the immediate vicinity. The approval was subject to the development conditions contained in the staff report with the following modifications: 1) #5 shall be changed to reflect two (2) years and the sentence, "The Zoning Administrator may renew the use of the trailers for two (2) terms of one (1) year each; and #7 shall read "There shall be no clearing of this site for the trailers without approval of the County Arborist."

Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. Hammack, and Ribble not present for the vote: Mr. DiGiulian absent from the meeting.

Mrs. Thonen then made a motion to defer action on Phase 2 until April 25, 1989 at 9:00 a.m., which would be after the Board of Supervisors heard the special exception application.

Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. Hammack, and Ribble not present for the vote. Mr. DiGiulian 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 80-A-058-1 by IMMANUEL BIBLE CHURCH, under Sections 3-203 and 8-901 of the Zoning Ordinance to amend S-80-A-058 for church and related facilities and school of general education to permit additional land area, use of existing dwelling for church purposes, building and parking additions, temporary use of three (3) trailers and a modification of the dustless surface requirement and change of permittee, (BOARD ONLY GRANTED PHASE 1 WHICH CONSISTED OF THE THREE (3) TEMPORARY TRAILERS, CHANGE IN NAME, ADDITIONAL LAND AREA, USE OF DWELLINGS FOR CHURCH PURPOSES, AND DEFERRED PUBLIC HEARING ON PHASE 2), on property located at 5211 Backlick Road, Tax Map Reference 71-4((1))35, 36A and 71-4((2))1, 2, 3, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1988; 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 12.9 acres of land.
4. There are no objections from the citizens.

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 as Phase 1 (three temporary classroom trailers for Sunday School use only, the use of the dwelling on Lot 35 and the dwelling on Lot 1 for church purposes, the addition of Lots 1, 2, 3, and 35 to the subject property and the change of permittee from the Immanuel Baptist Church to the Immanuel Bible Church) submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of 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 Special Permit is subject to the provisions of Article 17, Site Plans. Any plan submitted to the Department of Environmental Management pursuant to this Special Permit shall conform with the approved Special Permit plat and these conditions.

5. The temporary use of the three (3) trailers for Sunday School classrooms is approved for a period of two (2) years unless the building addition proposed in Phase II is approved. If so, the trailers shall be removed at such time as the Non-Residential Use Permit is issued for the new building. The Zoning Administrator may renew the use of the trailers for two terms of one (1) year each. A request for renewal shall be submitted by the applicant 30 days prior to the expiration of the trailer use.

6. The existing screening along the southern lot line of Lot 1 and the eastern lot line of Lot 35 in the area of the dwelling shall be deemed to satisfy the Transitional Screening 1 requirement.

Page 281, October 11, 1988, (Tape 1), (Immanuel Bible Church, (formerly Immanuel Baptist Church), SPA 80-A-058-1, continued from Page 280)

7. There shall be no clearing of this site for the trailers without approval of the County Arborist.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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 4-0 with Messrs. Hammack and Ribble 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 October 19, 1988. This date shall be deemed to be the final approval date of this special permit.

Mrs. Thonen made a motion to defer the public hearing on Phase 2 of the application until April 25, 1989 at 9:00 a.m. Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. Hammack and Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 281, October 11, 1988, (Tape 1), Scheduled case of:

9:15 A.M. PATRICIA B. NATIRBOV, VC 88-D-074, application under Sect. 18-401 to allow subdivision into two (2) lots, one having a lot width of 10.10 ft. and the other having a lot width of 77.74 ft. (150 ft. min. lot width required by Sect. 3-106) located at 849 Dolley Madison Boulevard on approximately 2.5599 acres of land, zoned R-1, Dranesville District, Tax Map 31-2((1))106 and 106A. (DEFERRED FROM 7/28/88 FOR ADDITIONAL INFORMATION FROM DEM AND APPLICANT)

Lori Greenlief, Staff Coordinator, presented the staff report and stated that staff did not believe that this application meets the standards for a variance. She advised the Board that the changes which they had requested showing the existing driveway and the possible location for a dwelling on the front lot were indicated on the revised plat. Ms. Greenlief added that the applicant had altered the proposed lot line making the lots more uniform and changed the circular driveway to a single driveway for the back lot. The Board was advised that the Design Review Supervisor, Department of Environmental Management (DEM), had indicated that there was no problem having the back lot access Ranleigh Road, that it was better than having two dwellings accessing Dolley Madison Boulevard.

Minerva W. Andrews, attorney with the law firm of McGuire, Woods, Battle, & Boothe, 8280 Greensboro Drive, Suite 900, McLean, Virginia, appeared before the Board on behalf of the applicant, affirming what staff had reported, that there were now two relatively equal lots, and that the use of Ranleigh Road for access was preferred by DEM. Ms. Andrews further advised the Board that the location of the house on the property was for illustration purposes only, as a possible location.

William K. Daines, 1226 Ranleigh Road, McLean, Virginia, adjacent landowner to the subject property, appeared before the Board and opposed the application. He disputed the adequacy of the public notice and raised several objections: 1) that the property was only a unique piece of land because of the applicant's acts, having formed two lots, when originally there was only one piece of land with one access to Ranleigh Road, which has a long history of limited access; 2) Ranleigh Road has been maintained in a park-like character through the reliance of neighbor on neighbor to divert water runoff and that to grant an access the length across the back of his property for a road changes the entire character of the land and the road conditions for the entire area.

Jane Kelsey, Chief, Special Permit and Variance Branch, advised the Board that staff had a copy of a postman's receipt indicating that a letter was mailed to Mr. and Mrs. William Daines, 1226 Ranleigh Road, McLean, Virginia 22101, Lot 111.

Mabel Wallach, 1300 Ranleigh Road, McLean, Virginia, appeared before the Board in opposition to the application based on her concerns for the drainage problems that would be created, stating that the road may become impassable because of a change in the floodplain.

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Steven Murray, 8555 Dolley Madison Boulevard, McLean, Virginia, owner of Lots 113 and 113C, appeared before the Board in opposition to the application, pointing out how close th proposed house is to his property, being 100 feet closer to his house than it is to the Natirbov's own house, and that the proposed house would face into the back of house. He stated that he would like the house set back about 100 feet, closer to the applicant's house.

Victor Franson, 837 Dolley Madison Boulevard, McLean, Virginia, owner of Lot 112, appeared before the Board in opposition to the application, specifically the pipestem immediately adjacent to his property. Mr. Franson further pointed out that the property was acquired by the applicant after the enactment of the present zoning laws; he, therefore, did not believe the applicant could claim that she did not know or could not have known the rules and that the hardship, if it is present, is self-inflicted.

During rebuttal, Ms. Andrews stated that the applicant is guaranteed the right of ingress/egress over Ranleigh Road through a deed of easement dated February 20, 1981, and further stated that the applicant would like to reassure Messrs. Franson and Daines that she does not intend to use the pipestem for a driveway, that it would be left in its natural state along the stone wall that Mr. Daines described and that access would be by way of Ranleigh Road, approval having been gained from DEM informally.

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

Mrs. Day moved that the Board deny VC 88-D-074, citing that the applicant had caused her own hardship, that the application does not meet all the standards for a variance, and that granting the request would cause a hardship on adjacent property owners.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-074 by PATRICIA B. NATIRBOV, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, one having a lot width of 10.10 feet and the other having a lot width of 77.74 feet, on property located at 849 Dolley Madison Boulevard, Tax Map Reference 31-2((1))106 and 106A, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1988; 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 2.5599 acres of land.
4. The applicant has full use of the property now.
5. The applicant has caused her own hardship.
6. The new house would have an adverse impact on adjacent neighbors.

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.

Page 283, October 11, 1988, (Tape 1), (Patricia B Natirbov, VC 88-D-074, continued from Page 282)

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

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not 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. Kelley seconded the motion.

The motion carried by a vote of 4-0 with Messrs. Hammack and Ribble 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 October 19, 1988.

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Page 283, October 11, 1988, (Tape 1), Scheduled case of:

9:30 A.M. RONALD M. AND NORA M. NAGATANI, VC 88-S-078, application under Sect. 18-401 of the Zoning Ordinance to allow construction of sunroom addition to dwelling to 13.5 ft. from rear lot line (25 ft. min. rear yard required by Sect. 3-307) located at 7000 Ballast Court, on approximately 8,664 square feet of land, zoned R-3(C), Springfield District, Tax Map 88-3((3))232. (DEFERRED FROM 7/28/88 FOR ADDITIONAL INFORMATION)

Chairman Smith stated that the applicants had requested the Board allow them to withdraw their application for a variance. He then polled the audience to determine whether there was anyone present interested in the application.

Hearing no reply, Chairman Smith closed the public hearing.

Mrs. Thonen made a motion to allow the withdrawal of VC 88-S-078.

Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. Hammack and Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 283, October 11, 1988, (Tape 1), Scheduled case of:

9:45 A.M. THREE FLAGS ASSOCIATES, VC 88-D-088, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots proposed Lot 1B having width of 62.37 ft. (200 ft. min. lot width required by Sect. 3-E06) located at 12029 Thomas Avenue, on approximately 5.0 acres of land, zoned R-E, Dranesville District, Tax Map 6-1((2))28

Bernard N. Fagelson, attorney with the law firm of Fagelson, Schonberger, Payne and Arthur, 401 Wythe Street, Alexandria, Virginia, appeared before the Board on behalf of the applicant and requested a two week deferral so that two questions raised by staff could be resolved.

Mrs. Thonen made a motion to grant the applicant a two week deferral and suggested November 1, 1988 at 8:00 p.m.

Mrs. Day seconded the motion which passed by a vote of 4-0 with Messrs. Hammack and Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 284, October 11, 1988, (Tape 1), Scheduled case of:

10:00 A.M. MR. AND MRS. JAMES A. KESSLER, VC 88-P-126, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 17.0 feet from side lot line (20 ft. min. side yard required by Sect. 3-107), located at 8529 Crestview Drive, on approximately 43,560 square feet of land, zoned R-1, Providence District, Tax Map 59-1((2))54.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Linda and James Kessler, 8592 Crestview Drive, Fairfax, Virginia, the applicants, appeared before the Board and explained their 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.

Mr. Kelley made a motion to defer VC 88-P-126 until November 1, 1988 at 8:15 p.m.

Mrs. Thonen seconded the motion which passed by a vote of 4-0 with Messrs. Hammack and Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 284, October 11, 1988, (Tape 1), Scheduled case of:

10:15 A.M. EDWARD A. BROWN III, VC 88-L-127, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17.8 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located at 5902 Wivenhoe Court, on approximately 9,661 square feet of land, zoned R-3, Lee District, Tax Map 91-4((4))607.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Edward A. Brown, 5902 Wivenhoe Court, 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.

Mrs. Thonen made a motion to grant VC 88-L-127 as she believed that the applicants had 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 88-L-127 by EDWARD A. BROWN III, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 17.8 feet from rear lot line, on property located at 5902 Wivenhoe Court, Tax Map Reference 91-4((4))607, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1988; 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 9,661 square feet of land.
4. The lot is odd shaped.
5. There are no objections from the neighbors.

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 4-0 with Messrs. Hammack and Ribble 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 October 19, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 285, October 11, 1988, (Tapes 1 and 2), Scheduled case of:

10:30 A.M. MRS. PAUL ELSBERG, VC 88-V-122, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 16.2 feet from front lot line (50 ft. min. front yard required by Sect. 3-E07), located at 11345 River Road, on approximately 13,750 square feet of land, zoned R-E, Mount Vernon District, Tax Map 119-4((2))(1)15, 16, 17, 18, 19, 20, pt. of 21.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

David Elsberg, 11345 River Road, Lorton, Virginia, appeared before the Board on behalf of the applicant and explained her 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. Day made a motion to grant VC 88-V-122 based on hardship, the request is minimal, and the applicant does meet the necessary requirements because of the antiquity of the subdivision.

Mr. Kelley seconded the motion which passed by a vote of 4-0 with Messrs. Hammack and Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-122 by MRS. PAUL ELSBERG, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 16.2 feet from front lot line, on property located at 11345 River Road, Tax Map Reference 119-4((2))(1)15, 16, 17, 18, 19, 20, pt. of 21, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1988; 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 13,750 square feet of land.
4. This is an old subdivision and the original setbacks for the dwelling were established prior to the present Zoning Ordinance; now the new addition must comply with the current Zoning Ordinance.

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

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

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

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

Page 287, October 11, 1988, (Tapes 1 and 2), (Mrs. Paul Elsberg, VC 88-V-122, continued from Page 286)

NOW, THEREFORE, 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. Kelley seconded the motion.

The motion carried by a vote of 4-0 with Messrs. Hammack and Ribble 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 October 19, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 287, October 11, 1988, (Tape 2), Scheduled case of:

10:45 A.M. HAROLD A. LOGAN ASSOCIATES, P.C., SP 88-D-070, 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 6.1 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-E07), located at 1124 Belleview Road, on approximately 0.7403 acres of land, zoned R-E, Dranesville District, Tax Map 19-2((1))49.

After determining that there were no speakers present to address the application, Chairman Smith stated that there had been a request by the applicant to withdraw the application.

Mrs. Thonen made a motion to allow the withdrawal of SP 88-D-070.

Mrs. Day seconded the motion which passed by a vote of 5-0 with Mr. Hammack not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 287, October 11, 1988, (Tape 2), Scheduled case of:

11:00 A.M. SAINT MARK CATHOLIC CHURCH, SPA 81-C-081-2, application under Sect. 3-103 of the Zoning Ordinance to amend S-81-C-081 for church and related facilities to permit increase in parking and additional access road, located at 9970 Vale Road, on approximately 19.62 acres of land, zoned R-1, Centreville District, Tax Map 37-4((1))42.

Lori Greenlief, Staff Coordinator, presented the staff report.

Monsignor Thomas J. Cassidy, pastor of the church, appeared before the Board and explained the request as outlined in the statement of justification submitted with the application.

Eleanor Clark, a member of the Carriage Hill Civic Association, spoke in support of the request, addressing the traffic problems that would be alleviated by the granting of the application.

Jean Lynch, 2233 Gerken Avenue, Vienna, Virginia, a member of the Glencannon Civic Association, appeared before the Board in opposition, and presented signed petitions which opposed the applicant's opening and use of Gerken Avenue. He presented arguments that Gerken Avenue is too narrow, that it is slightly hilly which creates a safety hazard for children who are unable to see cars coming over the hills, and that the people who live on Gerken Avenue had never envisioned that the street would be utilized in this way.

Donna Kennedy, 10000 Woodrow Street, Vienna, Virginia, represented Little Vienna Estates and presented a petition and four letters in opposition to the application. She stated that the streets in question were not built to carry the type of traffic contemplated

which would present a hazard to walkers and children and the additional traffic would create a large among of exhaust fumes, especially at her intersection near the proposed entrance to the church.

Dennis Gordon, 2319 Gerken Avenue, Vienna, Virginia, spoke in opposition to the request, citing the reasons given in his letter to the Board and those contained in the staff report. He stated that every resident on Gerken Avenue had signed a petition opposing the application. He added that if the Board should grant the request, that the road be minimally constructed and that there be no cul-de-sac.

Judy Farley, 2235 Gerken Avenue, Vienna, Virginia, appeared before the Board in opposition, stating her concerns that the road may be open at all times for all functions occurring at the church, resulting in a constant flow of traffic.

In rebuttal to the issues by the speakers, Monsignor Cassidy advised the Board that the access road would be strictly a private road and not a public street in any way, that it would be gated, providing a controlled access when church services were being conducted, and that the church had no intentions of having the road open during the week.

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

Mrs. Day moved that the Board deny SPA 81-C-081-2 as it would generate traffic through a quiet neighborhood and would require heavy woods to be cut down.

Mrs. Thonen seconded the motion which passed by a vote of 5-0 with Mr. Hammack abstaining and Mr. DiGiulian absent from the meeting.

Upon a request by the applicant, Mr. Kelley made a motion to grant a waiver of the twelve month waiting requirement for the filing of a new application.

Mrs. Thonen seconded the motion which passed by a vote of 4-1 with Mr. Ribble voting nay; Mr. Hammack abstaining; Mr. DiGiulian 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 81-C-081-2 by SAINT MARK CATHOLIC CHURCH, under Section 3-103 of the Zoning Ordinance to amend S-81-C-081 for church and related facilities to permit increase in parking and additional access road, on property located at 9970 Vale Road, Tax Map Reference 37-4((1))42, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1988; 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 19.62 acres of land.
4. The church sets back far from Vale Road.
5. Gerken Road is narrow and windy.
6. This proposal would route heavy traffic through the neighborhood.
7. Backups now occur on Vale Road.

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 Section 8-303 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 5-0-1 with Mr. Hammack abstaining; Mr. DiGiulian absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 19, 1988.

Page 289, October 11, 1988, (Tape 2), (Saint Mark Catholic Church, SPA 81-C-081-2, continued from Page 288)

The Board granted the applicant a waiver of the 12-month time limitation for refiling a new application if the applicant so desired. The Board also stipulated that if it is the applicant's intent to file a new application that each speaker who addressed the Board at this public hearing be notified of that intent.

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Page 289, October 11, 1988, (Tape 2), Scheduled case of:

11:15 A.M. MONIQUE PIERREDON, VC 88-D-123, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 17.35 feet from side lot line (20 ft. min. side yard required by Sect. 3-107), located at 1300 Altamira Court, on approximately 49,463 square feet of land, zoned R-1, Dranesville District, Tax Map 29-1((7))5.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Monique Pierredon, 1300 Altamira Court, McLean, Virginia, the applicant, appeared before the Board along with her son, Jacques Pannell, of the same address, who explained his mother's 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.

Mr. Ribble moved that the Board grant VC 88-D-123, citing that the lot had an exceptional shape and that, due to the location of the house on the lot, in order to have full use and enjoyment of the property a small variance was needed.

Mrs. Day seconded the motion, which failed to pass by a vote of 3-2, with Chairman Smith and Mrs. Thonen voting nay; Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

Mrs. Day moved that the Board grant a waiver of the twelve-month waiting period for the filing of a new application. Mrs. Thonen seconded the motion, which passed by a vote of 4-1, with Chairman Smith voting nay; Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

Upon Mr. Kelley's return to the meeting, Mrs. Thonen moved that the Board reconsider the motion on granting approval of the application in recognition that Mr. Kelley was listening and had read the staff reports and deserved the courtesy of a vote.

Mr. Hammack seconded the motion, which passed by a vote of 5-1, Chairman Smith voting nay; Mr. DiGiulian absent from the meeting.

Upon reconsideration, the motion that the Board grant VC 88-D-123 passed by a vote of 4-2, with Chairman Smith and Mrs. Thonen voting nay; Mr. DiGiulian absent from the meeting.

At the applicant's request, Mr. Ribble moved that the Board grant a waiver of the eight-day waiting period before the beginning of construction.

Mrs. Day seconded the motion, which passed by a vote of 4-2, with Chairman Smith and Mrs. Thonen voting nay; Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-123 by MONIQUE PIERREDON, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 17.35 feet from side lot line, on property located at 1300 Altamira Court, Tax Map Reference 29-1((7))5, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1988; 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 49,463 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 4-2 with Chairman Smith and Mrs. Thonen 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 October 11, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 290, October 11, 1988, (Tape 2), Scheduled case of:

11:30 A.M. CHRISTOPHER W. HUBER, VC 88-C-124, application under Sect. 18-401 of the Zoning Ordinance to allow construction of detached garage to 4.0 feet from side lot line (20 ft. min. side yard required by Sects. 3-107 and 10-104), located at 2325 Stryker Avenue, on approximately 21,811 square feet of land, zoned R-1, Centreville District, Tax Map 37-2((9))31.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Page 291, October 11, 1988, (Tape 2), (Christopher W. Huber, VC 88-C-124, continued from Page 290)

Christopher W. Huber, 2325 Stryker Avenue, Vienna, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

The Board members discussed with the applicant the fact that the height of a shed on the property does not conform with the Ordinance requirements. The applicant stated that the shed had been placed on the property approximately seven years ago. Mrs. Thonen requested a status report from staff on Mr. Ribble's request for a change in the height of sheds.

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

Mr. Kelley moved that the Board grant VC 88-C-124. Mr. Ribble seconded the motion, which failed to pass with a vote of 3-3, with Chairman Smith, Mrs. Thonen, and Mr. Hammack voting nay; Mr. DiGiulian absent from the meeting.

Upon a request by the applicant, Mr. Ribble moved that the Board grant a waiver of the twelve-month waiting time period for the filing of a new application.

Mrs. Day seconded the motion, which passed by a vote of 6-0, with Mr. DiGiulian absent from the meeting.

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MOTION TO GRANT FAILED

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-C-124 by CHRISTOPHER W. HUBER, under Section 18-401 of the Zoning Ordinance to allow construction of detached garage to 4.0 feet from side lot line, on property located at 2325 Stryker Avenue, Tax Map Reference 37-2((9))31, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1988; 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 21,811 square feet of land.
4. The request will be in harmony with the neighborhood.

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 FAILED by a vote of 3-3 with Chairman Smith, Mrs. Thonen, and Mr. Hammack 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 October 19, 1988.

The Board granted the applicant a waiver of the 12-month time limitation for refiling a new application if the applicant so desired.

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Page 292, October 11, 1988, (Tapes 2 and 3), Scheduled case of:

11:45 A.M. PETER D. LEE, VCA 79-L-070-1, application under Sect. 18-401 of the Zoning Ordinance to amend V-70-79 for variance to allow subdivision into four (4) lots to delete condition requiring plan for on site water detention, located at 4406-4412 Upland Drive, on approximately 2.8432 acres of land, zoned R-3, Lee District, Tax Map 82-1((4))31B.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Edward Cohen, 4701 Kenmore Avenue, Alexandria, Virginia, represented the applicant, and explained the request as outlined in the statement of justification submitted with the application.

Arlene Fagan, 4509 Elmwood Drive, Alexandria, Virginia, owner of Lot 35A, appeared before the Board in opposition to the application, citing the reasons stated in a letter signed by thirty residents which had been submitted to the Board.

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

Mrs. Thonen moved that the Board deny VCA 79-L-070-1 as the applicant had not satisfied the nine conditions for the variance, citing the drainage problems in the area and concerns about how the deletion of the two detention ponds would impact those problems.

Mrs. Day seconded the motion, which passed by a vote of 6-0, with Mr. DiGiulian absent from the meeting.

Upon the applicant's request, Mrs. Day moved that the Board grant a waiver of the twelve-month waiting time period for filing of a new application, but notes that the applicant must come in with a different design.

Mr. Kelley seconded the motion, which passed by a vote 6-0, with Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VCA 79-L-070-1 by PETER D. LEE, under Section 18-401 of the Zoning Ordinance to amend V-70-79 for variance to allow subdivision into four (4) lots to delete condition requiring plan for on site water detention, on property located at 4406-4412 Upland Drive, Tax Map Reference 82-1((4))31B, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1988; 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 2.8432 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 Mr. DiGiulian.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 19, 1988.

The Board granted the applicant a waiver of the 12-month time limitation for refiling a new application if the applicant so desired.

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The Board adjourned for lunch at 1:00 p.m.

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Page 294, October 11, 1988, (Tape 3), Scheduled case of:

12:00 Noon JANICE B. KENNEDY, VC 88-D-125, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a second story addition to dwelling 24 feet from front lot line (30 ft. min. front yard required by Sect. 3-407), located at 6906 Sycamore Street, on approximately 11,961 square feet of land, zoned R-4, Dranesville District, Tax Map 40-4((19))(E)18, 19.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

The applicant, Janice Kennedy, 6906 Sycamore Street, Falls Church, Virginia, came forward and referenced her statement of justification submitted with her application. She stated that she had tried to come up with an architectural design which would not require a variance. Ms. Kennedy added that she believes that the addition will have no adverse impact on the neighborhood.

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

Mrs. Hammack made a motion to grant the request as he believed that the applicant had had satisfied the nine standards for a variance. The 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 88-D-125 by JANICE KENNEDY, under Section 18-401 of the Zoning Ordinance to allow construction of a second story addition to dwelling 24 feet from front lot line, on property located at 6906 Sycamore Street, Tax Map Reference 40-4((19))(E)18, 19, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 11, 1988; 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 11,961 square feet of land.
4. The applicant has satisfied the nine standards.
5. The request will not adversely impact the neighborhood.

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.

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4. That the strict application of this Ordinance would produce undue hardship.

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

6. That:

A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.

8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 4-0 with Messrs. Kelley and Ribble 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 October 11, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 295, October 11, 1988, (Tapes 3 and 4), Scheduled case of:

12:15 P.M. RINKER-DETWILER & ASSOCIATES AND STEVEN AND JANET PEACOCK, SP 88-L-047, application under Sect. 8-901 of the Zoning Ordinance for reduction to minimum yard requirements based on error in building location to allow building to remain 3.7 ft. from front lot line (5 ft. min. front yard required by Sects. 6-106 and 3-807) located at 6146 Old Brentford Court, on approximately 2,016 square feet of land, zoned PDH-8, Lee District, Tax Map 91-1((12))(2)75 (TO BE HEARD CONCURRENT WITH SP 88-L-061, SP 88-L-072, AND SP 88-L-090)

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report. She explained that staff believed that the error was made in good faith and recommended approval.

Leslie Fenton, with the law firm of Odin, Feldman & Pittleman, 10505 Judicial Drive, Fairfax, Virginia, came forward to represent the applicant. She stated that this is the remainder of fifteen applications which were first heard by the Board in June 1988. She explained that the error was caused during the staking process and she does not believe this will adversely impact the neighborhood and asked the Board to grant the request.

In response to questions from the Board, Ms. Fenton explained that Rinker-Detwiler had filed the applications jointly with the homeowners but that there was a representative from the company present.

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

Mrs. Thonen stated that she is concerned over the number of errors that developers are making and hoped that this would be alleviated in the future. She then moved to grant SP 88-L-047 as she believed that the error had been done in good faith. The approval was subject to the development conditions.

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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 88-L-047 by RINKER-DETWILER & ASSOCIATES AND STEVEN AND JANET PEACOCK 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 building to remain 3.7 feet from front lot line, on property located at 6146 Old Brentford Court, Tax Map Reference 91-1((12))(2)75, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on October 11, 1988; 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 special permit is approved for the location and the specific dwelling shown on the plat submitted with this application and is not transferable to other land.

2. An approved building permit for the dwelling shall be obtained within sixty (60) days of the date of approval of the Special Permit.

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

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

Mr. Hammack seconded the motion.

The motion passed by a vote of 4-0 with Messrs. Kelley and Ribble 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 October 19, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 297, October 11, 1988, (Tapes 3 and 4), Scheduled case of:

12:15 P.M. RINKER-DETWILER AND ASSOCIATES AND RICHARD P. DUMAS & JEANNE L. KRAJEWSKI, SP 88-L-061, 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 3 ft. from front lot line (5 ft. min. front yard req. by Sect. 6-106), located at 6134 Old Brentford Court, on approximately 1,320 square feet of land, zoned PDH-8, Lee District, Tax Map 91-1((12))(2)74. (TO BE HEARD CONCURRENT WITH SP 88-L-047, SP 88-L-072, AND SP 88-L-090)

Jane Kelsey, Chief, Special Permit and Variance, presented the staff report.

Elridge Hockman, with Rinker-Detwiler and Associates, 10505 Judicial Drive, Fairfax, Virginia, came forward and stated this began with the first townhouse being off which then made the entire line of townhouses to be incorrectly setback.

Mrs. Thonen commented that she could understand this error more so than some others that have come before the Board.

Mr. Hockman noted that since this error was detected that his company had implemented new procedures.

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

Mrs. Thonen stated that she felt better about granting this application as the applicant's agent had testified that his company had implemented new operating procedures which hopefully would alleviate this type of problem from recurring.

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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 88-L-061 by RINKER-DETWILER & ASSOCIATES AND RICHARD P. DUMAS AND JEANNE L. KRAJEWSKI 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 building to remain 3 feet from front lot line, on property located at 6134 Old Brentford Court, Tax Map Reference 91-1((12))(2)74, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on October 11, 1988; 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.

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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 dwelling shown on the plat submitted with this application and is not transferable to other land.

2. An approved building permit for the dwelling shall be obtained within sixty (60) days of the date of approval of the Special Permit.

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

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

Mr. Hammack seconded the motion.

The motion passed by a vote of 4-0 with Messrs. Kelley and Ribble 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 October 19, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 298, October 11, 1988, (Tapes 3 and 4), Scheduled case of:

12:15 P.M. RINKER-DETWILER AND ASSOCIATES AND ERNEST AND MICHELE KRAFTSCHIK, SP 88-L-072, 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 8.0 feet from side lot line (10 ft. min. side yard required by Sects. 6-106 and 3-807), located at 6111 Old Brentford Court, on approximately 1,813 square feet of land, zoned PDH-8, Lee District, Tax Map 91-1((12))(2)55. (TO BE HEARD CONCURRENT WITH SP 88-L-047, SP 88-L-061, AND SP 88-L-090)

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that staff would like to incorporate their comments from the previous applications.

Leslie Fenton, with the law firm of Odin, Feldman & Pittleman, 10505 Judicial Drive, Fairfax, Virginia, came forward to represent the applicant and asked that her testimony presented in the previous application be incorporated.

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

Mrs. Thonen moved approval of SP 88-L-072 as she believed that the reasons previously stated were still applicable in this case.

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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 88-L-072 by RINKER-DETWILER & ASSOCIATES AND ERNEST AND MICHELE KRATSCHIK 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 building to remain 8.0 feet from side lot line, on property located at 6111 Old Brentford Court, Tax Map Reference 91-1((12))(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 October 11, 1988; 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 special permit is approved for the location and the specific dwelling shown on the plat submitted with this application and is not transferable to other land.

2. An approved building permit for the dwelling shall be obtained within sixty (60) days of the date of approval of the Special Permit.

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

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

Mr. Hammack seconded the motion.

The motion passed by a vote of 4-0 with Messrs. Kelley and Ribble 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 October 19, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 299, October 11, 1988, (Tapes 3 and 4), Scheduled case of:

12:15 P.M. RINKER-DETWILER & ASSOCIATES AND BEVERLY L. HYDE AND JOHN R. SHANE, SP 88-L-090, 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 4.3 feet from front lot line (5 ft. min. front yard required by Sects. 6-106 and 3-807), located at 6103 Brentford Court, on approximately 1,360 square feet of land, zoned PDH-8, Lee District, Tax Map 91-1((12))(2)59. (TO BE HEARD CONCURRENT WITH SP 88-L-047, SP 88-L-061, AND SP 88-L-072)

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that staff would like to incorporate their comments from the previous applications.

Leslie Fenton, with the law firm of Odin, Feldman & Pittleman, 10505 Judicial Drive, Fairfax, Virginia, came forward to represent the applicant and asked that her testimony presented in the previous applications be incorporated.

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

Mrs. Thonen moved approval of SP 88-L-090 as she believed that the reasons previously stated were still applicable in this case.

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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 88-L-090 by RINKER-DETWILER & ASSOCIATES AND BEVERLY L. HYDE AND JOHN R. SHANE 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 building to remain 4.3 feet from front lot line, on property located at 6103 Old Brentford Court, Tax Map Reference 91-1((12))(2)59, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on October 11, 1988; 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 special permit is approved for the location and the specific dwelling shown on the plat submitted with this application and is not transferable to other land.

2. An approved building permit for the dwelling shall be obtained within sixty (60) days of the date of approval of the Special Permit.

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

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

Mr. Hammack seconded the motion.

The motion passed by a vote of 4-0 with Messrs. Kelley and Ribble 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 October 19, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 301, October 11, 1988, (Tape 4), After Agenda Item:

Approval of Resolutions for October 4, 1988

Mrs. Thonen made a motion to approve the Resolutions for October 4, 1988 as submitted by staff. Mrs. Day and Mr. Hammack seconded the motion which carried by a vote of 4-0 with Messrs. Kelley and Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 301, October 11, 1988, (Tape 4), After Agenda Item:

Approval of Minutes for March 29, June 2, June 21, and June 28, 1988

Mrs. Thonen made a motion to approve the Minutes as submitted by staff. Mrs. Day seconded the motion which carried by a vote of 4-0 with Messrs. Kelley and Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 301, October 11, 1988, (Tape 4), After Agenda Item:

Change In Meeting Dates

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that the Board had requested that staff move cases from November 16, 1988 to November 29, 1988. She stated that staff had been able to do this and asked the Board for its concurrence.

Hearing no objection, the Chair so ordered.

Ms. Kelsey then informed the Board that all the scheduled cases for December 1988 could be heard during three public hearings and suggested December 6, 13, and 20, 1988.

Hearing no objection, the Chair so ordered.

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Page 301, October 11, 1988, (Tape 4), After Agenda Item:

1989 Schedule for BZA

Jane Kelsey, Chief, Special Permit and Variance Branch, called the Board's attention to the tentative 1989 schedule before them. It was the consensus of the Board to accept the tentative 1989 schedule. Hearing no objection, the Chair so ordered.

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Page 301, October 11, 1988, (Tape 4), After Agenda Item:

VACO Conference

Mrs. Thonen requested that James P. Zook, Director, Office of Comprehensive Planning, determine what issues were going to be discussed at the Conference. She stated that she believed that the BZA should meet with the Board of Supervisors and Planning Commission to determine if they are all working toward the same goal.

Jane Kelsey, Chief, Special Permit and Variance Branch, informed the Board that she had requested a flyer on the Conference and would forward it to the Board as soon as she had received it.

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Page 301, October 11, 1988, (Tape 4), After Agenda Item:

Ahmand Moieneamin and Ali Moieneamin Appeal

Mrs. Thonen moved to accept the application as being complete and timely filed and scheduled the public hearing for December 20, 1988 at 11:00 a.m. as suggested by staff.

Hearing no objection, the Chair so ordered.

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Page 302, October 11, 1988, (Tape 4), Information Item:

BZA Pay Increase

Mrs. Thonen asked staff to prepare a memorandum comparing the Fairfax County Board of Zoning Appeals' pay with those in the counties of Montgomery, Orange, Los Angeles, Marino, and Washington DC. She stated that perhaps this would justify increasing the pay for the BZA members.

Mrs. Hammack seconded the motion which carried by a vote of 4-0 with Messrs. Kelley and Ribble not present for the vote; Mr. DiGiulian absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 2:43 P.M.

Judy Finney, Acting Associate Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 2/7/89

APPROVED: 2/14/89

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 18, 1988. The following Board Members were present: Chairman Daniel Smith; John DiGiulian, Vice-Chairman; Ann Day; John Ribble; Robert Kelley; and Mary Thonen. Paul Hammack was absent from the meeting

Chairman Smith called the meeting to order at 9:25 A.M., with Mrs. Day leading the prayer.

Chairman Smith asked if any Board Member had any matters to bring before the Board at this time. Mr. DiGuilian questioned staff as to the availability of plats when applicants applied for permits. Jane Kelsey, Chief, Special Permit and Variance Branch, stated that copies of resolutions are accompanied by plats when they are sent to Zoning Administration.

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Page 303, October 18, 1988, (Tape 1), Scheduled case of:

9:00 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. DEFERRED FROM 7/21/87 UNTIL AFTER THE BOARD OF SUPERVISORS' PUBLIC HEARING ON THE SPECIAL EXCEPTION. DEFERRED FROM 10/27/87 AT APPLICANT'S REQUEST. DEFERRED FROM 6/21/88 UNTIL AFTER THE BOARD OF SUPERVISORS' PUBLIC HEARING ON THE SPECIAL EXCEPTION)

Lori Greenlief, Staff Coordinator, stated that the applicant had requested a deferral. Staff recommended deferral of this request until December 6, 1988 at 8:45 p.m. The Chairman so ordered.

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Page 303, October 18, 1988, (Tape 1), Scheduled case of:

9:15 A.M. GROVETON BAPTIST CHURCH, SP 88-V-079, application under Sect. 3-403 of the Zoning Ordinance to allow child care center, located at 6511 Richmond Highway, on approximately 2.58 acres, zoned R-4, Mt. Vernon District, Tax Map 93-1((7))1 and 2; 93-1((1))27. (OUT-OF-TURN HEARING)

Lori Greenlief, Staff Coordinator, presented the staff report.

John A. R. Goodwin, 4400 Longwood Square, Alexandria, Virginia, Pastor of Groveton Baptist Church, represented the applicant and spoke in support of the application as outlined in the statement of justification.

Reverend Goodwin addressed the issues of a service road and/or a stub; resolution of parking spaces along Dawn Drive; removal of the entrance on Richmond Highway, lengthening the left turn lane, removal of two entrances on Dawn Drive and the relationship to providing a stub; providing a planting screen between the play area and the single-family residences; use of the parsonage as staff residence; providing a planting screen between the playground and the neighboring lot on Hillside Lane; and the compatibility aspect of providing child care.

Chairman Smith mentioned that the church did dedicate property for the widening of the road, which restricted them insofar as the land area is concerned. Mrs. Thonen made the observations that the church has been there for several years; it has been a good neighbor; it is a good influence on the community; the applicant has met the standards for a Special Permit use; and the Virginia Department of Transportation has taken their land, which might restrict them insofar as any expansion to the church.

Since there were no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved that SP 88-V-079 be granted-in-part, based upon the additional findings-of-fact, in accordance with the amended development conditions outlined in the resolution.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-V-079 by GROVETON BAPTIST CHURCH, under Section 3-403 of the Zoning Ordinance to allow child care center, on property located at 6511 Richmond Highway, Tax Map Reference 93-1((7))1 and 2, and 93-1((1))27, 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

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WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 18, 1988; 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 2.58 acres of land.
4. The church has been there for several years.
5. The church has been a good neighbor and a good influence on the community.
6. The applicant has met the standards for a Special Permit use and the Virginia Department of Transportation has taken their land, which has crippled them insofar as any expansion to the church.

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. (The plats show that there are an adequate number of parking spaces to meet the minimum requirement for the church use.) Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of 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 shall be limited 620.

6. Provide a planted screen between the playground and the neighboring lot on Hillside Lane to the satisfaction of the County Arborist as to size, type and location of the plants. Transitional Screening requirements shall be waived along the northern and the portion of the southern lot line where it is required. The barrier requirement shall be waived.

7. The existing dwelling on the special permit property shall not be used as a residence by anyone other than the pastor.

8. The maximum daily enrollment for the child care center shall be limited to 99 children.

9. The hours of operation for the child care center shall be limited to 9:00 a.m. to 1:00 p.m.

10. There shall be no more than 33 children in the play area at any one time.

11. The applicant shall seek from the Board of Supervisors the authority to have shared parking spaces on this lot.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, eighteen (18) months after the approval date* of the Special Permit unless the activity authorized has been established, or unless construction has 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. DiGuilian seconded the motion.

The motion carried by a vote of 5-0, with Mr. Ribble not present for the vote. Mr. Hammack was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 26, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 305, October 18, 1988, (Tapes 1 and 2), Scheduled case of:

9:30 A.M. McLEAN BIBLE CHURCH, SPA 73-D-151-2, application under Sect. 3-103 of the Zoning Ordinance to amend S-151-73 for a church and related facilities to permit building addition and add land area, located at 850 Balls Hill Road, on approximately 5.75 acres of land, zoned R-1, Dranesville District, Tax Map 21-3((1))56A. (TO BE HEARD CONCURRENT WITH VC 88-D-095. DEF. FROM 7/26/88 AT APPLICANT'S REQUEST)

Denise James, Staff Coordinator presented the staff report.

William H. Hansbarger, Hansbarger & Testerman, 10523 Main Street, Fairfax, Virginia, represented the applicant and spoke in support of the application as outlined in the statement of justification.

Chairman Smith took this opportunity to request observance of the time limit imposed on speakers, because of the large number of anticipated speakers in connection with this request.

Mr. Hansbarger pointed out that the church had been at its location 27 years. He submitted letters from supporters of the request and described the area surrounding the church at its inception. He described the intent of the church to dedicate a portion of church property as right-of-way. He discussed the level-of-noise chart prepared by the Office of Comprehensive Planning. He offered a model of the church property as is and coded to show contemplated additions and changes, which he went on to describe. Mr. Hansbarger referred to a list of thirteen supplemental conditions which had been submitted to the Board, in addition to those in the staff report. He discussed traffic, seating capacity, and landscaping.

Dr. Daniel J. James, 723 Lawton St., McLean, Virginia, spoke in favor of granting this application.

The following people spoke in opposition to the applicant's request, citing anticipated noise, traffic problems and safety hazards among their reasons: Albert W. Ward, 7017 Benjamin Street, McLean, Virginia, former president of the Langley Forest Civic Association; Fred Haynes, 805 Lawton Street, McLean, Virginia; Tom Brain, 7113 Holyrood Drive, McLean, Virginia; Nancy L. Haynes, 805 Lawton Street, McLean, Virginia; Adele Wilkinson, 6904 Arbor Lane, McLean, Virginia; Maria Kosel, 6908 Arbor Lane, McLean, Virginia; Elizabeth Akers, 816 Lawton Street, McLean, Virginia; Susan Aleantis, 6705 Wemberly Way, McLean, Virginia; Charles Fisk, 7112 Benjamin Street, McLean, Virginia; Theodore B. Simpson, 7120 Georgetown Pike, McLean, Virginia; and Dean R. Silverman, 816 Lawton Street, McLean, Virginia.

Mr. Hansbarger spoke in rebuttal to the opposition.

Since the staff had no further comments and there were no other speakers, Chairman Smith closed the public hearing.

Mr. DiGuilian agreed that both sides had a point and proposed a compromise. He moved to grant-in-part SPA 73-D-151-2, based on the findings of fact, in accordance with the revised development conditions outlined in the resolution.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 73-D-151-2 by MCLEAN BIBLE CHURCH, under Section 3-103 of the Zoning Ordinance to allow construction of addition and add land area, on property located at 850 Balls Hill Road, Tax Map Reference 21-3-((1))56A, Mr. DiGuilian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 18, 1988; 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 5.75 acres of land.
4. Both the applicant and the opposition have made good points and the Board needs to come to a compromise
5. If the parking is reduced, it will allow for better screening along Georgetown Pike, which will help the intensity issue as well as a reduction in the size of the building.
6. The closeness of the building to the Capital Beltway has no adverse impact on the neighborhood.

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-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 dated September 29, 1988 submitted with this application, except as qualified below. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of 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 provide acoustical treatment for the proposed building addition in order to reduce the interior noise level to a maximum of 50 dba Ldn using the following guidelines:

   - Exterior walls shall have a laboratory sound transmission class (STC) of at least 45, and

   - Doors and windows shall have a laboratory sound transmission class of at least 37. If "windows function as walls, then they shall have the STC specified for exterior walls.

   - Adequate measures to seal and caulk between surfaces shall be provided.

6. Screening shall be provided along the the site's frontage on Balls Hill Road as shown in the Landscape Plan dated September 29, 1988 and shall be deemed to satisfy the screening requirement with the following addition:

- o The southern edge of the proposed parking area shall be set back one-hundred (100) feet from the Georgetown Pike right-of-way and planted with a mixture of trees and shrubs in order to a achieve a natural landscaped appearance and arrangement as determined by the County Arborist. The proposed new parking lot along Balls Hill Road shall be set back a minimum of 60 feet from the future right-of-way of Balls Hill Road and shall be planted in a mixture of trees as determined by the County Arborist.

7. As determined by the Virginia Department of Transportation and the Department of Environmental Management, the applicant shall dedicate right-of-way to the Board of Supervisors in fee simple and construct one half of a standard two lane shoulder section and a right turn acceleration lane according to current VDOT and Fairfax County PFM standards along the site frontage on Balls Hill Road as shown on the revised development plat dated September 29, 1988.

8. A geotechnical engineering study in accordance with Chapter 107 of the Fairfax County Code shall be performed at the request of the Director, Department of Environmental Management and implemented as determined by DEM.

9. If currently active, the septic field shall be disconnected and treated with lime to enhance the natural bacterial decomposition of the septic effluent. Effluent or sludge remaining in the tank shall be removed in accordance with Chapter 68 of the Fairfax County Code.

10. Best Management Practices aimed at meeting water quality standards as set forth in the Public Facilities Manual for the Occoquan Basin shall be provided for the site as determined by the Department of Environmental Management.

11. Parking lot lighting shall conform to the following specifications:

    - o The combined height of the light standard and fixture shall not exceed 12 feet
    - o The lights shall be of a low intensity design and shall focus the light directly on the subject property
    - o If necessary, shields shall be installed to prevent the light from projecting beyond the lot lines.

12. The barrier requirement shall be waived.

13. The maximum seating capacity shall be 980.

14. The maximum number of parking spaces shall be 245.

15. The maximum floor area of the new addition shall be 12,000 square feet, which is a proportional reduction based on seating.

16. One-half of the new parking area shall be surfaced with permeable material, rather than asphalt.

17. The main parking lot access points shall be controlled by gates at each access, and the gates shall be closed during the hours of darkness when there is no church activity taking place.

18. A new plat shall be submitted by the applicant to reflect the changes.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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 approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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 vote of 6-0. Mr. Hammack was absent from this meeting.
*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 26, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 308, October 18, 1988, (Tape 2), Scheduled case of:

9:30 A.M. MCLEAN BIBLE CHURCH, VC 88-D-095, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to church to 44 feet from I-495 ROW (75 ft. min. distance from I-highway ROW req. by Sect. 2-414), located at 850 Balls Hill Road, on approximately 5.75 acres of land, zoned R-1, Dranesville District, Tax Map 21-3((1))56A. (TO BE HEARD CONCURRENT WITH SPA 73-D-151-2 DEF. FROM 7/26/88 AT APPLICANT'S REQUEST))

Denise James, Staff Coordinator, presented the staff report.

William H. Hansbarger, with the law firm of Hansbarger & Testerman, 10523 Main Street, Fairfax, Virginia, represented the applicant and spoke in support of the application as outlined in the statement of justification.

Mr. DiGuilian moved to grant VC 88-D-095 in view of the additional findings of fact reflected in the resolution.

Mrs. Thonen stated she would have to oppose the motion because it granted more than the minimum and represents a large variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-095 by MCLEAN BIBLE CHURCH, under Section 18-401 of the Zoning Ordinance to allow construction of addition to church to 44 feet from I-495 ROW, on property located at 850 Balls Hill Road, Tax Map Reference 21-3((1))56A, Mr. DiGuilian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 18, 1988; 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 5.75 acres of land.
4. Applicant has met the nine standards for a variance; specifically, exceptional shape at the time of the adoption of this Ordinance.
5. The property has frontage on three streets.
6. The request has no impact on the neighbors.

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 5-1, with Mrs. Thonen voting nay. Mr. Hammack was absent from this meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 26, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 309, October 18, 1988, (Tape 2), Scheduled case of:

9:45 A.M. WILLIS B. KERN, SP 88-P-051, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 11.5 foot high shed to remain 8.5 feet from rear lot line (11.5 ft. min. rear yard req. by Sect. 10-104), located in the Forest Hills Apartment Complex, on approximately 8.9907 acres of land, zoned R-20, Providence District, Tax Map 40-1((1))44. (DEFERRED FROM 8/2/88 - NOTICES NOT IN ORDER)

Lori Greenlief, Staff Coordinator, presented the staff report.

J. Charles Curran, 9595 C. Main Street, Fairfax, Virginia, represented the applicant and spoke in support of the application as outlined in the statement of justification.

The discussion which ensued prompted the Board to defer SP 88-P-051 to November 10, 1988 at 11:45 a.m., so that the contractor who built the structure could be present to answer questions from the Board. The Chairman so ordered.

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Page 310, October 18, 1988, (Tape 2), Scheduled case of:

10:00 A.M. CHRISTOPHER AND JOAN HARRIS, SP 88-A-055, application under Sect. 8-901 of the Zoning Ordinance for modification to the limit on the keeping of animals to allow four (4) dogs to remain on subject property, located at 7415 Farnum Street, on approximately 10,691 square feet of land, zoned R-3, Annandale District, Tax Map 71-3((4))(28)19

Kathy Reilly, Staff Coordinator, presented the staff report.

The applicant, Christopher Harris, 7415 Farnum Street, Springfield, Virginia, spoke in support of his application as outlined in the statement of justification.

In response to questions from Mrs. Day, Mr. Harris stated that he had five dogs at the present time. The Board pointed out that, according to the Zoning Ordinance, only two dogs are allowed to be kept on a lot the size of the applicant's.

Mr. Harris stated that he was trying to find homes for two of his dogs, with no success. He further stated that, in checking local agencies, his dogs were considered too old for adoption.

Mrs. Day stated that, in an effort to reach a compromise, the Board would allow the applicant to keep all of his dogs, contingent upon development conditions set forth in the resolution.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-A-055 by CHRISTOPHER AND JOAN HARRIS, under Section 8-901 of the Zoning Ordinance to allow modification to the limit on the keeping of animals to allow four (4) dogs to remain on the subject property, located at 7415 Farnum Street, Tax Map Reference 71-3((4))(28)19, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 18, 1988; 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 10,691 square feet of land.
4. That only two dogs are allowed to be kept on this size lot, under the 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 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 to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.

2. A copy of this SPECIAL PERMIT shall be made available to all departments of the County of Fairfax during working hours.

3. The applicant shall comply with Sect. 41-2-5 of the Fairfax County Code for Animals and Fowl, Unrestricted Dogs Prohibited: Leash Law, whenever the animals are off the property.

4. The yard shall be kept free of animal debris. The applicant shall undertake waste management practices to include removal and disposal of animal debris from the rear yard not less than three (3) times a week.

5. The applicants shall install a six (6) foot high wooden fence in the rear and side yards of the subject property. The applicants shall have sixty (60) days from approval by the Board of Zoning Appeals to comply with this condition.

6. Only two (2) dogs shall be allowed outside the dwelling at any one time and shall never be left outside when the occupants of the dwelling are not at home. That the dogs shall be brought in if they persist in barking.

7. This approval shall be for the four (4) dogs identified in this report, Samantha, Buffy, Sandy, and Peanut and should any of these specific animals, die, be sold or given away, no other animals shall replace them. No other new dog shall be named Samantha, Buffy, Sandy or Peanut.

8. This special permit shall be granted for a one-year term and may be renewed by the Zoning Administrator for three one-year extensions if there are no violations.

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

Mr. Kelley seconded the motion.

The motion carried by a vote of 4-1; Mr. Smith voted nay. Mr. DiGuilian was not present for the vote and Mr. Hammack was absent from this meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 26, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 311, October 18, 1988, (Tape 2), Scheduled case of:

10:15 A.M. JONATHAN AND DEBORAH EDWARDS, VC 88-M-081, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.2 feet from rear lot line and 5.5 feet from side lot line (25 ft. min. rear yard, 8 ft. min. side yard with 20 ft. total min. side yard required by Sects. 6-106 and 3-307), located at 8214 Rushing Creek Drive, on approximately 9,430 square feet of land, zoned PDH-3, Mount Vernon District, Tax Map 98-3((2))581.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

Frederick R. Taylor, 8134 Old Keene Mill Road, Springfield, Virginia, represented the applicant and spoke in support of the application as outlined in the statement of justification.

The staff stated they had not received the plats for this application, which Mr. Taylor said he thought had been sent. Mr. Taylor said he would provide the plats.

Since there were no speakers, Chairman Smith closed the public hearing.

Based upon the additional findings-of-fact, Mr. Ribble moved to grant VC 88-M-081, contingent upon receipt by the staff of plats in accordance with the variance granted.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-081 by JONATHAN AND DEBORAH EDWARDS, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 15.2 feet from rear lot line and 5.5 feet from side lot line, on property located at 8214 Rushing Creek Drive, Tax Map Reference 98-3((2))581, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 18, 1988; 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 9,435 square feet of land.
4. The lot is angular-shaped.
5. Topographic problems on lot restrict development.
6. There will be no significant impact on adjoining properties.

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

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

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

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

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

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

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

3. A Building Permit shall be obtained prior to any construction for the approved addition.

4. The addition shall be similar to in the existing dwelling in regard to style, color, and materials.

5. A plat shall be provided which is in compliance with this approval before the Resolution of approval is released.

Mrs. Day seconded the motion.

The motion carried by a vote of 5-1, with Mr. Smith voting nay. Mr. Hammack was absent from this meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 26, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 313, October 18, 1988, (Tape 2), Scheduled case of:

10:30 A.M. DAVID A MORELAND, SP 88-S-071, application under Sect. 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow construction of an addition to a deck to 12.0 feet from a side lot line (15 ft. min. side yard required by Sects. 3-C07), located at 15469 Meherrin Drive, on approximately 13,066 square feet of land, zoned R-C and WS, Springfield District, Tax Map 53-3((4))(1)49.

Denise James, Staff Coordinator, presented the staff report.

The applicant, David Moreland, 15469 Meherrin Drive, Centreville, Virginia, spoke in support of his application for a special permit to reduce the minimum side yard requirements for the reasons set forth in the statement of justification.

Since there were no speakers, Chairman Smith closed the public hearing.

Mr. Kelley moved to grant SP 88-S-071.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-071 by DAVID A. MORELAND, under Section 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow construction of an addition to a deck to 12.0 feet from a side lot, on property located at 15469 Meherrin Drive, Tax Map Reference 53-3((4))(1)49, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 18, 1988; 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 and WSPOD.
3. The area of the lot is 13,066 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 8-903 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 variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time must be justified in writing and shall be filed with the Zoning Administrator prior to the expiration date.

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

Mr. Ribble seconded the motion.

The motion carried by a vote of 6-0. Mr. Hammack was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 26, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 314, October 18, 1988, (Tape 2), Scheduled case of:

10:45 A.M. BICH H. LY, SP 88-M-073, application under Sect. 3-303 of the Zoning Ordinance to allow child care center, located at 3531 Lacey Boulevard, on approximately 20,127 square feet of land, zoned R-3 and HC, Mason District, Tax Map 61-4((1))77.

Chairman Smith stated that a request for withdrawal of SP 88-M-073 had been received and querried those present in the room for any objection to the request; no objection was voiced.

Mrs. Thonen moved to accept withdrawal of SP 88-M-073. Mr. Ribble seconded the motion, which carried unanimously. Mr. Hammack was absent from the meeting.

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Page 314, October 18, 1988, (Tape 2), Scheduled case of:

11:00 A.M. WINSTON WENDELL JENKINS, SP 88-P-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 9.4 foot high shed to remain 3.0 feet from side lot line and 18.6 foot high playhouse to remain 5.8 feet from side lot line (15 ft. min. side yard required by Sects. 3-207 and 10-104), located at 9204 Brian Drive, on approximately 15,456 square feet of land, zoned R-2, Providence District, Tax Map 48-2((10))66A.

Denise James, Staff Coordinator, presented the staff report.

The applicant, Winston Wendell Jenkins, 9204 Brian Drive, Vienna, Virginia, spoke in support of his application, as set forth in the statement of justification.

Janice Lloyd, 9202 Brian Drive, Vienna, Virginia, a next-door neighbor of the applicant, showed the Board pictures of the shed, as viewed from her picture window. She said she did not object to the treehouse being allowed to remain, but she did object to the view of the shed from her property. The Board discussed with Mrs. Lloyd the possibility of fencing or planting trees by the applicant, but she was not favorably disposed to any of the options discussed.

There were no other speakers, so Chairman Smith closed the public hearing.

Because the shed was found to impact upon the neighbors, Mrs. Thonen moved to grant-in-part SP 88-P-074, stating that the tree house would be allowed to remain, but the shed must be removed.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-P-074 by WINSTON WENDELL JENKINS, under Section 8-901 of the Zoning Ordinance **GRANTED-IN-PART** to allow reduction to minimum yard requirements based on error in building location to allow 9.4 foot high shed to remain 3.0 feet from side lot line (**DENIED**) and 18.6 foot high playhouse to remain 5.8 feet from side lot line (**GRANTED**), on property located at 9204 Brian Drive, Tax Map Reference 48-2((10))66A, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 18, 1988; 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 15,456 square feet of land.
4. The shed does impact upon the next-door neighbor.
5. The playhouse does not impact upon the next-door neighbor.

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

2. The application is **GRANTED-IN-PART**, in that the treehouse meets all the conditions of the special permit and will be allowed to remain in this location.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-2; Mr. Kelley and Mr. DiGuilian voted nay. Mr. Hammack was absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 26, 1988. This date shall be deemed to be the final approval date of this special permit.

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At 12:35 p.m. the Board recessed for lunch, and convened again at 1:35 p.m..

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Page 315, October 18, 1988, (Tape 2 and 3), Scheduled case of:

11:15 A.M. DONALD E. WALKER, VC 88-L-128, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 12.0 feet from side lot line (20 ft. min. side yard required by Sect. 3-107), located at 6447 Windham Avenue, on approximately 21,780 square feet of land, zoned R-1, Lee District, Tax Map 91-1((3))73.

Kathy Reilly, Staff Coordinator, presented the staff report.

The applicant, Donald E. Walker, 6447 Windham Avenue, Alexandria, Virginia, spoke in support of his request as outlined in the statement of justification. He stated that his neighbor, adjacent to the side where he proposes to construct a garage, does not object to his request.

Since there were no speakers, Chairman Smith closed the public hearing.

Mr. DiGuilian moved to grant VC 88-L-128 as outlined in the staff report.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-L-128 by DONALD E. WALKER, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 12.0 feet from side lot line, on property located at 6447 Windham Avenue, Tax Map Reference 91-1((3))73, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 18, 1988; 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 21,780 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. Thonen seconded the motion.

The motion carried by a vote of 4-1; Mr. Smith voted nay. Mr. Kelley was absent for this vote. Mr. Hammack was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 18, 1988. This date shall be deemed to be the final approval date of this variance.

Mr. DiGuilian moved to waive the eight-day-wait limitation. Mrs. Thonen seconded the motion, which carried by a vote of 4-1. Mr. Smith voted nay. Mr. Kelley was not present for this vote. Mr. Hammack was absent from the meeting.

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11:30 A.M. THOMAS A. LANGHORNE, JR., VC 88-V-129, application to allow construction of carport addition to dwelling to 2.9 feet from side lot line (7 ft. min. side yard required by Sects. 3-307 and 2-412), located at 7816 Oaklawn Drive, on approximately 10,500 square feet of land, zoned R-3, Mount Vernon District, Tax Map 102-1((16))9.

Kathy Reilly, Staff Coordinator, presented the staff report.

The applicant, Thomas O. Langhorne, 6816 Oaklawn Drive, Alexandria, Virginia, spoke in support of his application, as presented in the statement of justification.

Mrs. Day moved to grant-in-part VC 88-V-129 because of the additional findings-of-fact set forth in the resolution: To allow the structure 4 feet from the lot line would be reasonable. The proposed structure is too close to the lot line. The applicant must submit new plats, showing the proposed carport to have a minimum sideyard setback of four (4) feet, before the resolution will be released

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-129 by THOMAS A. LANGHORNE, JR., under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 2.9 feet from side lot line (4.0' FROM LOT LINE GRANTED), on property located at 7816 Oaklawn Drive, Tax Map Reference 102-1((16))9, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 18, 1988; 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.
4. To allow the structure 4 feet from the lot line would be reasonable.
5. The proposal is too close to the lot line.

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

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

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

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

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

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

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

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

4. The carport shall have a minimum side yard setback of four (4) feet.

5. The applicant shall supply new plats showing the four (4) foot setback for the Chairman to sign before this Resolution is released.

Mr. DiGuilian seconded the motion.

The motion carried by a vote of 4-1, Chairman Smith voted nay. Mr. Kelley was not present for the vote and Mr. Hammack was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 26, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 318, October 18, 1988, (Tape 3), Scheduled case of:

11:45 A.M. JAMES AND PATRICIA SCAMBOS, SP 88-S-075, application under Sect. 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow garage addition to dwelling to 9.4 feet from side lot line (20 ft. min. side yard required by Sect. 3-C07), located at 4328 Cub Run Road, on approximately 11,820 square feet of land, zoned RC, AN, and WS, Springfield District, Tax Map 33-4((2))60.

Kathy Reilly, Staff Coordinator, presented the staff report.

The applicant, Patricia Scambos, 4328 Cub Run Road, Chantilly, Virginia, spoke in support of her application as set forth in the statement of justification.

Since there were no speakers, Chairman Smith closed the public hearing.

Mr. Ribble moved to grant SP 88-S-075.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-075 by JAMES AND PATRICIA SCAMBOS, under Section 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow garage addition to dwelling to 9.4 feet from side lot line, on property located at 4328 Cub Run Road, Tax Map Reference 33-4((2))60, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 18, 1988; 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 and WSPOD.
3. The area of the lot is 11,820 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 9-913 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 and the specific structure shown on the plat included with this application and is not transferable to other land.

2. A Building Permit shall be obtained prior construction of the proposed structure.

Mrs. Day seconded the motion.

The motion carried by a vote of 5-0. Mr. Kelley was not present for the vote. Mr. Hammack was absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 18, 1988*. This date shall be deemed to be the final approval date of this special permit.

*Mrs. Day moved to waive the eight-day-wait limitation. Mr. Ribble seconded the motion, which carried by a vote of 5-0. Mr. Kelley was not present for this vote. Mr. Hammack was absent from the meeting.

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Page 319, October 18, 1988, (Tape 3), Scheduled case of:

12:00 Noon ST. ANDREW LUTHERAN CHURCH, SPA 79-S-351-3, application under Sect. 3-303 of the Zoning Ordinance to amend S-351-79 for a church and nursery school to permit addition to existing church and increase nursery school enrollment to 95 children and waiver of dustless surface requirement, located at 14640 Soucy Place, on approximately 2.608 acres of land, zoned R-3 and WS, Springfield District, Tax Map 54-1((6))1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A, and 9A.

Kathy Reilly, Staff Coordinator, presented the staff report, recommending approval of all but the dustless surface waiver request, in accordance with the development conditions outlined.

Lynn Alterbeck, 15113 Old Dale Road, Centreville, Virginia, Pastor of St. Andrew Lutheran Church, represented the applicant and spoke in support of the application as set forth in the statement of justification.

Mrs. Thonen moved to grant-in-part SPA 79-S-351-3, as reflected in the revised development conditions set forth in the resolution.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 79-S-351-3 by ST. ANDREWS LUTHERAN CHURCH, under Section 3-303 of the Zoning Ordinance to allow addition to existing church and increase nursery school enrollment to 95 children and waiver of dustless surface requirement (BOARD DID NOT GRANT WAIVER OF THE DUSTLESS SURFACE REQUIREMENT), on property located at 14640 Soucy Place, Tax Map Reference 54-1((6))1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A, and 9A, Mr. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 18, 1988; 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 lots is 2.608 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-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 daily enrollment in the nursery school shall be limited to no more than ninety-five (95) children.

6. There shall be a maximum of six (6) employees associated with the nursery school use.

7. The number of parking spaces provided for the church and school uses shall be seventy-two (72) parking spaces including three (3) handicapped spaces. All parking shall be on site.

8. The maximum number of children permitted in the outdoor recreational area at any one time shall be forty (40). The outdoor recreational area of 4,000 square feet shall be provided. This area shall be enclosed with a six (6) foot high solid board on board type of fence on the side of the playground facing Braddock Road, and the other sides of the playground shall be enclosed with a chain link fence.

9. The hours of operation for the nursery school shall be limited to Monday through Friday 9:00 A.M. to 3:30 P.M.

10. Transitional Screening 1 (25') shall be provided along the lot line abutting Braddock Road. This transitional screening yard shall begin at the eastern edge of the existing church building and continue for approximately 190 feet. The existing vegetation may be used to satisfy this requirement if the vegetation is supplemented to be equivalent to Transitional Screening 1 to the satisfaction of the County Arborist.

    - A modification to the width of Transitional Screening 1 shall be provided along Cranoke Place, along Soucy Place and from the northwestern lot line to the eastern edge of the church building to allow the existing vegetation to remain.

    - The ten (10) foot landscape strip along Soucy Place shall be supplemented with additional plantings to screen the lights of vehicles of entering and exiting the parking lot from the adjacent residential community as defined by the County Arborist.

    - Barrier Type H shall be provided along the eastern lot line. Existing vegetation may be used to satisfy this requirement, provided it is supplemented where necessary to meet the barrier requirement as determined by the County Arborist.

- o The barrier requirement shall be waived along the northern, southern, and western lot lines.

11. A on-site stormwater management facility shall be provided using Best Management Practices (BMP's) as required in WSPOD. This facility which shall accommodate increased runoff volumes and pollutant loads being delivered to the receiving streams. This facility shall include but shall not be limited to a shallow gravel-filled trench place along the downslope edge of the parking lot. If constructed it shall be located as determined by the Departments of Public Works and Environmental Management and the applicant shall allow access, maintenance and inspection by the appropriate County agencies.

12. The maximum number of seats in the church shall be 270.

13. The entire parking lot shall be paved prior to issuance of the Non-Residential Use Permit for the addition and the child care center

14. Any signs associated with this use shall conform to Article 12, Signs.

15. The applicant shall request a reduction to the number of on-site parking spaces from the Board of Supervisors based on different hours of operation for the uses as set forth in Sect. 11-102. The applicant shall demonstrate to the Board that the parking requirements for the church and nursery school proposed uses shall be met through the requested reduction and subject to the approval of the Director of 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.

Mrs. Day seconded the motion.

The motion carried by a vote of 5-0. Mr. DiGuilian was not present for this vote. Mr. Hammack was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on October 26, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 321, October 18, 1988, (Tape 3), After Agenda Item:

Snappy Lube and Eakin Property, VC 86-P-106
Request for Additional Time

Mr. Ribble moved to grant this request for additional time. Mr. DiGuilian seconded the motion which carried by a vote of 5-0. Mr. Kelley was not present for this vote. Mr. Hammack was absent from the meeting.

The new expiration date is March 10, 1989.

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Page 321, October 18, 1988, (Tape 3), After Agenda Item:

Approval of October 18, 1988 Resolutions

Mrs. Thonen moved to approve the resolutions for October 18, 1988. Mr. Ribble seconded the motion which carried by a vote of 5-0. Mr. Kelley was not present for this vote. Mr. Hammack was absent from the meeting.

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Page 322, October 18, 1988, (Tape 3), Information Item:

Change in Hearing Dates

Because Mr. DiGuilian was not at the last meeting, Jane Kelsey, Chief, Special Permit and Variance Branch, reiterated that the November 15 meeting was cancelled and all the cases scheduled for that date were moved to November 29.

In line with the Board's request, Ms. Kelsey said there would be no meeting on January 3, 1989 and January 10, 1989 would be a night meeting. She asked if this created a problem for any of the Board members and they all said that it did not.

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Page 322 December 13, 1988, (Tape 3), Adjournment:

As there was no other business to come before the Board, the meeting was adjourned at 2:30 P.M.

Geri B. Bepko
Geri B. Bepko, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeal

SUBMITTED: 2/14/89

APPROVED: 2/21/89

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, October 25, 1988. The following Board Members were present: Chairman Daniel Smith; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; and John Ribble. Mary Thonen was absent from the meeting

Chairman Smith called the meeting to order at 9:25 A.M. with Mrs. Day leading the prayer.

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Page 323, October 25, 1988, (Tape 1), Scheduled case of:

9:00 A.M. JUDITH R. BERNSTEIN, VC 88-V-136, application under Sect. 18-401 of the Zoning Ordinance to allow a Group 9 Special Permit use on property with accessory structures which are nonconforming to bulk regulations for the zoning district (compliance with bulk regulations required by Sect. 8-903), located at 2300 Sherwood Hall Lane, on approximately 64,171 square feet of land, zoned R-2, Mount Vernon District, Tax Map 102-1((1))6 and 102-1((30))A. (TO BE HEARD CONCURRENT WITH SP 88-V-059)

9:00 A.M. JUDITH R. BERNSTEIN, SP 88-V-059, application under Sect. 3-203 of the Zoning Ordinance to allow home professional (social worker) office, located at 2300 Sherwood Hall Lane, on approximately 64,171 square feet of land, zoned R-2, Mount Vernon District, Tax Map 102-1((1))6 and 102-1((30))A. (TO BE HEARD CONCURRENT WITH VC 88-V-136)

Kathy Reilly, Staff Coordinator, presented the staff report. She stated that staff believes there are no outstanding issues associated with these applications, that the applicant has met all standards, and staff therefore recommends approval.

In response to questions from the Board, Ms. Reilly clarified that staff was recommending approval of the special permit but took no position on the variance.

The applicant, Judith R. Bernstein, 2300 Sherwood Hall Lane, Alexandria, Virginia, came forward. Ms. Bernstein explained that she is a clinical social worker licensed in the States of Virginia and Maryland and is employed full time at the Prince Georges County Health Department as a child and adolescent therapist. She stated that she would like to see a small number of clients weekly in her house with timed intervals between appointments. She added that being able to see clients in her home would add a personal feeling as the typical profile of a client is an adult who has experienced problems in a relationship, undergone a personal crisis in their lives such as a change in residence or job, lost a spouse by death or divorce, or lost a close family member or friend.

Ms. Bernstein addressed the variance request by explaining that during the process of applying for the special permit it was brought to her attention that she needed to bring two existing structures, a garage and guest house, on the property up to current zoning regulations. She noted that these structures existed when she purchased the property in April 1973 and that the structures have never been altered.

She added that apparently there is some confusion on the part of her neighbors and that a flyer had been circulated quoting incorrect information. She pointed out that the property is heavily buffered, there is adequate parking, and the residential character of the neighborhood would not be changed.

In response to questions from the Board, Ms. Bernstein replied that she would continue her full time job and that the clients she would see in her home would be Virginia residents.

Mr. Hammack noted that several letters in opposition to her request referenced other similar uses in the neighborhood. Ms. Bernstein replied that she was aware of these.

Chairman Smith called for speakers in support of the application and Harriet J. Ball, 7223 Stafford Road, Alexandria, Virginia, came forward. Ms. Ball stated that she had known the applicant for twenty-eight years and did not believe that the request would detract in anyway from the neighborhood.

As there were no additional speakers in support of the request, Chairman Smith called for speakers in opposition to the request. The following citizens came forward: Camille Lanza, 2301 Sherwood Hall Lane, Alexandria, Virginia; Peter F. Brescia, 2302 Wilkinson Place, Alexandria, Virginia; Karen Gibson, 2305 Sherwood Hall Lane, Alexandria, Virginia; Jack Pardue, 2307 Sherwood Hall Lane, Alexandria, Virginia; Trudi Pearce, 7803 Davenport Street, Alexandria, Virginia; Herbert Glazer, 7801 Davenport Street, Alexandria, Virginia; and Marion Schon, 7807 Elba Road, Alexandria, Virginia.

The citizens stated that they would not like to see a home professional office in the neighborhood because it would change the residential character and open a "pandora's box" as there would be no way to monitor the use.

During rebuttal, Ms. Bernstein stated that there was sufficient parking and that the use would not change the character of the neighborhood.

Ms. Reilly clarified for the record that home professional offices are uses by right in Prince Georges and Montgomery Counties in Maryland.

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

Mr. Hammack moved to deny the request because there were similar uses already in the neighborhood and to add another would be disruptive to the residential character of the neighborhood.

Mr. Kelley noted that he believed that the neighbors' tactics had been uncalled for but that he would support the motion for the reasons stated by Mr. Hammack.

Mr. Ribble stated that he would support the motion to deny and added that if the doctor or dentist came before the Board today that he would not support their requests.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-V-059 by JUDITH R. BERNSTEIN, under Section 3-203 of the Zoning Ordinance to allow home professional (social worker) office, on property located at 2300 Sherwood Lane, Tax Map Reference 102-1((1))6 and 102-1((30))A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 25, 1988; 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 64,171 square feet of land.
4. Specifically under the additional standards for Home Professional Offices, Par. 4 states that the Board of Zoning Appeals must review all non-residential uses in the area and determine if the applicant's use together with the other non-residential uses does not constitute sufficient non-residential activities as might modify or disrupt the predominantly residential character of the area. Testimony shows that there is a dental office, a doctor's office, and an AMWAY distributor in the same block and this additional use might be disruptive to the residential character of the neighborhood.

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 and Mr. Ribble 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 November 2, 1988.

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Mr. Hammack moved approval of VC 88-V-136 as the structures were built prior to the present Zoning Ordinance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-136 by JUDITH R. BERNSTEIN, under Section 18-401 of the Zoning Ordinance to allow a Group 9 Special Permit use on property with accessory structures which are nonconforming to bulk regulations for the zoning district, on property located at 2300 Sherwood Hall Lane, Tax Map Reference 102-1((1))6 and 102-1((30))A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 25, 1988; 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 64,171 square feet of land.
4. The structures were built prior to the present Zoning Ordinance.

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. Ribble 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 November 2, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 325, October 25, 1988, (Tape 1), Scheduled case of:

9:15 A.M. FLORIS UNITED METHODIST CHURCH, SP 88-C-057, application under Sect. 3-103 of the Zoning Ordinance for church and related facilities, located on Centreville Road, on approximately 5.13 acres of land, zoned R-1, Centreville District, Tax Map 25-1((1))37. (DEF. FROM 9/6/88 AT APPLICANT'S REQUEST)

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that the applicant has revised the original plat which now shows an entrance on to Centreville Road, the seating capacity at 200, and there are 79 parking spaces provided, but the dedication issue has still not been resolved. The applicant has indicated that there is a verbal agreement with the Office of Transportation and Virginia Department of Highways for a median break on Centreville Road, but staff has not yet received written confirmation. The issue of stacking in the travel lane has been improved to staff's satisfaction by increasing the distance.

With regard to land use issues, Ms. Greenlief stated that staff was still concerned that the use was not in harmony with the Comprehensive Plan for the area and recommended denial of the request.

Patrick Via, attorney with the law firm Hazel, Thomas, Fiske, Beckhorn and Hanes, P.O. Box 547, Fairfax, Virginia, came forward to represent the applicant. He stated that this case had been scheduled for public hearing in September but a deferral had been requested to allow the applicant time to address staff's concerns. Since that time the applicant has reached a verbal agreement with the Office of Transportation and Virginia Department of Highways for a median break, redesigned the circle entrance to eliminate any possible problem with stacking, and lowered the light standards to 12 feet.

He asked that the development conditions be modified as follows:

> Condition #7: That transitional screening 1 be allowed rather than "2" and that the sentence, "In the areas, along the western lot line where there is room for thirty-five feet of screening is possible, Transitional Screening II shall be provided" be deleted.
>
> Condition #12: Change 60 feet to "45 feet" and delete the sentence, "In the areas where the deceleration is provided, additional dedication to 72 feet from centerline shall be provided."
>
> Delete Condition #15.

In closing, Mr. Via asked for a clarification as to why the original staff report had requested Transitional Screening I and the addendum requested Transitional Screening II.

John Callow, with Callow Associates, Inc., 120007 Sunrise Valley Drive, Reston, Virginia, traffic consultant for the church, came forward. He stated that Mr. Harrison with the Office of Transportation had indicated that he would be writing a letter to staff noting agreement with the proposed median break.

The following came forward to speak in support of the request: Rev. Lawrence W. Buxton, 2629 Centreville Road, Herndon, Virginia, pastor of the church; Robert Sans, 13501 Oak Ivy Lane, Fairfax, Virginia; Russell Swartz, 957 Barshire Court, Herndon, Virginia; and Kathleen Hyde, 3223 Allness Lane, Herndon, Virginia.

The citizens stated that the church has been for in existence for 93 years and because of its growth a larger sanctuary is needed. They added that they believe that a church anchors a community and is in harmony with the Comprehensive Plan.

During staff closing comments, Ms. Greenlief stated that staff believed that interparcel access on the site was desirable if this property was to develop residentially. She added that it is staff's understanding that the 60 feet of right of way is needed, whether the road is developed as 4 lane or 6 lane, but this could be determined at time of site review. Ms. Greenlief explained that staff has increased transitional screening from 1 to 2 because they believe this is an intrusion into a residential community.

Chairman Smith pointed out that John Herrington with the Office of Transportation was now present and he briefly outlined the earlier discussion for Mr. Herrington.

Mr. Herrington stated that what the applicant had indicated was true but that the Virginia Department of Highways had not yet replied.

Mr. Via stated that the church would like to proceed with construction.

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

Mr. DiGiulian moved to approve SP 88-C-057 with the following modifications:

> Condition #7: "Transitional Screening 1" rather than 2 and delete the sentence which begins, "In the areas . . .".

Condition #12: "Right-of-way to 45" rather than 60 and delete the sentence which begins, "In the areas . . .".

Revise Condition #15 to read: "There shall be no church parking on Maverick Lane or in the driveway for the dumpster."
Renumber all conditions accordingly.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-C-057 by FLORIS UNITED METHODIST CHURCH, under Section 3-103 of the Zoning Ordinance to allow church and related facilities, on property located on Centreville Road, Tax Map Reference 25-1((1))37, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 25, 1988; 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 5.13 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 shall be limited to 200.

6. The number of parking spaces shall be a minimum of 50 spaces and a maximum of 79 spaces. All parking shall be on site.

7. Transitional Screening 1 shall be provided along the northern, and southern lot line. The existing vegetation may be used to satisfy this requirement if the vegetation is supplemented to be equivalent to Transitional Screening 1 to the satisfaction of the County Arborist. Landscape plantings shall be provided along the frontage of the site the purpose of which shall be to soften the visual effect of the church building and to screen the parking lot. In addition, along the western lot line, in the area of the building, additional plantings shall be included in the transitional screening yard to create a heavier screen than normally produced by the plantings utilized in Transitional Screening 1. The type, size and placement of these plantings shall be subject to the review and approval of the County Arborist to ensure survivability and effectiveness.

8. A stormwater management facility shall be provided in the area shown on the approved special permit plat and it shall be constructed to Public Facilities Manual standards.

9. The barrier requirement shall be waived.

10. Interior parking lot landscaping shall be provided in accordance with provisions of Sect. 13-106 of the Ordinance.

11. Right-of-way to 45 feet from existing centerline of Centreville Road necessary for future road improvements shall be dedicated to public street purposes and shall convey to the Board of Supervisors in fee simple. A deceleration lane shall be provided into of the site. A left turn lane shall be provided if a median break is approved by the Virginia Department of Transportation. Ancillary temporary access easements shall be provided to facilitate these improvements.

12. Any proposed lighting of the parking areas 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 subject property.

    - Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.

13. There shall be no church parking on Maverick Lane or in the driveway to the dumpster.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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 November 2, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 328, October 25, 1988, (Tapes 1 and 2), Scheduled case of:

9:30 A.M. RICHARD FEICKERT AND JOHN MATTEI, SPA 87-S-088-1, application under Sect. 5-503 of the Zoning Ordinance to amend SP 87-S-088 for health club to permit expansion of the use within the existing building, located at 14290 Sullyfield Circle, on approximately 5.25 acres of land, zoned I-5, WS, and AN, Springfield District, Tax Map 34-3((5))D2.

Kathy Reilly, Staff Coordinator, presented the staff report. She stated that on April 2, 1982 the Board of Supervisors approved RZ 80-S-019 which rezoned the subject property from R-1 to I-5. Ms. Reilly added that it is staff's judgment that a health club is an appropriate ancillary use for this area and recommended approval of SPA 87-S-088-1 subject to the development conditions contained in the staff report.

The co-applicant, Richard Feickert, 15025 Rolling Ridge Road, Haymarket, Virginia, came forward and referenced his statement of justification submitted with the application.

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

Mrs. Day made a motion to grant the request as she believed the use was maintained in an attractive manner, the surrounding zoning was I-5 and developed with other office and warehouse buildings, there was no increase in membership, and there would be no new construction. The approval was 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 Amendment Application SPA 87-S-088-1 by RICHARD FEICKERT AND JOHN MATTEI, under Section 5-503 of the Zoning Ordinance to amend SP 87-S-088 for health club to permit expansion of the use within the existing building, on property located at 14290 Sullyfield Circle, Tax Map Reference 34-3((5))D2, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 25, 1988; and

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

1. That the applicants are the lessee of the land.
2. The present zoning is I-5, WS, and AN.
3. The area of the lot is 5.25 acres of land.
4. The use is located in the Dulles Industrial Park that is not zoned for residential use.
5. It is maintained in an attractive manner.
6. The surrounding zoning is I-5 and developed with other office and warehouse buildings.
7. There is no increase in membership. The applicant will increase the area by 1,600 square feet in order to move the existing recreation equipment into a larger area to give him better use of the property.
8. There will be no new construction.
9. The use meets the standards for land use, environmental, transportation, and zoning.
10. The applicant agrees with staff's conclusions.

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 a maximum of three employees associated with this use on site at any one time.

6. There shall be a maximum of 75 patrons on site at any one time.

7. There shall be a minimum of twenty-eight (28) parking spaces associated with this use provided on site. A parking tabulation shall be provided to the Director of DEM at the time of site plan review which indicates that adequate parking is available for all uses on this property. All parking for this use shall be on site.

8. All signs shall conform to Article 12, Signs of the Zoning Ordinance.

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

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

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-0 with Mr. Kelley 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 November 2, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 330, October 25, 1988, (Tape 2), Scheduled case of:

9:45 A.M. DALE AND HELEN SKOVGAARD, VC 88-D-134, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 18.9 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-307), located at 13407 Keisler Court, on approximately 9,773 square feet of land, zoned R-3, Dranesville District, Tax Map 16-1((8))405.

Lori Greenlief, Staff Coordinator, presented the staff report.

The co-applicant, Dale Skovgaard, 13407 Keisler Court, Herndon, Virginia, came forward and referenced the statement of justification submitted with his application.

Paul T. Hannan, 2659 Quincy Adams Drive, Herndon, Virginia, spoke in support of the request and stated that he believed that this will improve the neighborhood.

In response to questions from the Board, Mr. Skovgaard explained that only one corner of the addition requires a variance due to the way the house is situated on the lot.

There were no speakers in opposition to the request and Chairman Smith closed the public hearing.

Mr. Ribble made a motion to grant because the house is situated on the lot at an angle, only a portion of the addition needs the variance and the lot is exceptionally shallow.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-134 by DALE AND HELEN SKOVGAARD, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 18.9 feet from rear lot line, on property located at 13407 Keisler Court, Tax Map Reference 16-1((8))405, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 25, 1988; 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-3.
3. The area of the lot is 9,773 square feet of land.
4. The house is situated on the lot at an angle.
5. That only a portion of the addition needs the variance.
6. That the lot is exceptionally shallow.

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 4-1 with Chairman Smith voting nay; Mr. Kelley 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 October 25, 1988. This date shall be deemed to be the final approval date of this variance.

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10:00 A.M. ROWNIE C. AND CAROLYN W. BRICKEY, SP 88-P-078, application under Sect. 8-901 of Zoning Ordinance to reduce minimum yard requirements based on error in building location to allow 10 ft. high shed to remain 3.4 ft. from side lot line and 5.6 ft. from rear lot line (12 ft. min. side yard & 10 ft. min. rear yard req. by Sects. 3-307 & 10-104), located at 8523 Tysons Court, on approximately 14,909 sq. ft. of land, zoned R-3, Providence District, Tax Map 39-1((14)13.

Lori Greenlief, Staff Coordinator, presented the staff report.

The applicant, Ron Brickey, 8523 Tysons Court, Vienna, Virginia, came forward and explained that this was an error in building location and had he known about the setback restrictions he would have constructed the shed in another location on the property. He added that to remove the shed would be almost impossible because it is constructed on pilings which are sunk into the ground. Mr. Brickey pointed out that other sheds in the neighborhood were constructed on the fence line.

In response to questions from the Board, Mr. Brickey replied that he had inquired about a building permit and had been told that if the shed was less then 150 square feet a building permit was not necessary.

Mr. Hammack questioned staff as to what would happen with the other sheds in the neighborhood that Mr. Brickey had referenced. Jane Kelsey, Chief, Special Permit and Variance Branch, explained that Zoning Enforcement could only take action on formal complaints filed by citizens.

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

Mr. Hammack moved to grant the request as he believed that the applicant had presented testimony showing compliance with the standards and subject to the development conditions.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Hammack made the following motion:

WHEREAS, Application Number SP 88-P-078 by ROWNIE C. AND CAROLYN W. BRICKEY 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 10 foot high shed to remain 3.4 feet from side lot line and 5.6 feet from rear lot line, on property located at 8523 Tysons Court, Tax Map 39-1((14))13, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on October 25, 1988; 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.

Page 333, October 25, 1988, (Tape 2), (Ronnie C. and Carolyn W. Brickey, SP 88-C-078, continued from Page 332)

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 shed shown on the plat included with this application and is not transferable to other land.

Mr. DiGiulian seconded the motion.

The motion passed by a vote of 4-1 with Chairman Smith voting nay; Mr. Kelley not present for the vote; Mrs. Thonen absent from the meeting.

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Page 333, October 25, 1988, (Tape 2), Scheduled case of:

10:15 A.M. JOHN E. McRORIE, SP 88-S-076, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow attached garage to remain 7 feet from a side lot line such that side yards total 17.6 feet (8 ft. min., 20 ft. total min. side yard required by Sect. 3-307), located at 4127 Lees Corner Road, on approximately 9,450 square feet of land, zoned R-3(C) and WS, Springfield District, Tax Map 44-2((3))79.

Denise James, Staff Coordinator, presented the staff report.

The applicant, John E. McRorie, 12308 Ox Hill Road, Fairfax, Virginia, stated that he entered into a contract in 1979 to have the garage constructed but because of the setback requirements they were advised to construct a carport. In 1983 he contacted County staff and was told that the structure had been approved as a garage and he proceeded to enclose the structure. Mr. McRorie explained that Harvey Mitchell with the Zoning Administration Division told him that apparently the garage was drawn on an original plat of the house and no new plats had been submitted.

Joan McRorie, wife of the applicant, came forward and stated that her husband had acted in good faith and that they have now sold the house. She added that they had been advised by their real estate agent to file special permit to avoid any problems at time of settlement.

Chairman Smith stated that he admired the applicants for trying to correct the situation and noted that a letter in support of the request had been received from the Brookfield Civic Association.

There were no speakers to address the request and Chairman Smith closed the public hearing.

Mr. DiGiulian made a motion to grant.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-076 by JOHN E. McRORIE, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow attached garage to remain 7 feet from a side lot line such that side yards total 17.6 feet, on property located at 4127 Lees Corner Road, Tax Map Reference 44-2((3))79, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 25, 1988; and

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

1. That the applicant was the owner of the land at the time of application.
2. The present zoning is R-3(C) and WS.
3. The area of the lot is 9,450 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 8-915 of the Zoning Ordinance.

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

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

2. A new Building Permit shall be obtained within (30) days for the addition reflecting the accurate side yards and dimensions of the addition.

Mr. Ribble seconded the motion.

The motion carried by a vote of 5-0 with Mr. Kelley 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 November 2, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 334, October 25, 1988, (Tape 2), Scheduled case of:

10:30 A.M. ST. PATRICK'S EPISCOPAL CHURCH AND EARLY YEARS EDUCATION AND DEVELOPMENT, INC., SP 88-M-077, application under Sect. 3-403 of the Zoning Ordinance to allow nursery school and child care center in an existing church, located at 3241 Brush Drive, on approximately 5.5973 acres of land, zoned R-4, Mason District, Tax Map 60-1(91))79.

Denise James, Staff Coordinator, presented the staff report and stated that the applicant had submitted a revised plat containing all of the information requested by staff. She added that there are no outstanding issues associated with this use and staff therefore recommends approval of the request subject to the development conditions contained in the staff report. Ms. James pointed out that the development conditions had been discussed with the applicant and they are in agreement with the possible exception of number 10.

Joseph W. Trigg, 3243 Brush Drive, Falls Church, Virginia, Rector of the Church came forward and stated that he would address conditions 9 and 10 but would like a clarification of conditions 11 and 12 regarding the speed bumps. He added that any additional significant expense on the part of the church or the day care center would probably prevent the use from being implemented therefore the church could not comply with condition number 10.

Following comments from Chairman Smith, Pastor Trigg stated that the church would agree to construct a sign and paint the speed bumps.

Ms. James explained that both driveways need to be widened to comply with the present Virginia Department of Highways and Transportation requirements.

Mr. DiGiulian asked the applicant as to how long the driveways have existed. Pastor Trigg replied that one has been there since 1956 and the other was added at a later date.

In response to questions from Mr. Hammack, Ms. James explained that the cul-de-sac would simply provide a better turn around area so that cars would not confuse this for a through street.

Pastor Trigg continued by stating that the main egrees/ ingress would be from Brush Drive and that there are signs which direct people to use that entrance. He added that he understood why staff had made such a request but that the church simply could not afford to do so. He asked that the Board waive condition number 9 as he does not believe there is a need for additional screening.

Chairman Smith called for speakers in support of the request and Mahinda Bogollamam 7651 Tremayne Place, McLean, Virginia, came forward. He stated that he was the President of the Coop that would be operating the day care center, that he agreed with the pastor's remarks, and urged the Board to grant the request.

Mr. Hammack made a motion to grant SP 88-M-077 because he believed that the applicant had met the standards. The approval was subject to the development conditions contained in the staff report with the following modifications.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-M-077 by ST. PATRICK'S EPISCOPAL CHURCH AND EARLY YEARS EDUCATION AND DEVELOPMENT, INC., under Section 3-403 of the Zoning Ordinance to allow nursery school and child care center in an existing church, on property located at 3241 Brush Drive, Tax Map Reference 60-1((1))79, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 25, 1988; and

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

1. That the applicants are the owner/lessee of the land.
2. The present zoning is R-4.
3. The area of the lot is 5.5973 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 applicants only and is not transferable 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. These uses shall be subject to the provisions set forth in Article 17, Site Plans.

5. The maximum number of seats for the church use shall be 210 with a corresponding minimum of 53 parking spaces.

   The maximum daily enrollment for the nursery school use shall be 75 with a corresponding minimum of 15 parking spaces.

   If, at the time of site plan review, the applicant requests that the number of spaces total less than 67, a request for shared parking under Sect. 11-102 must be requested of and approved by the Board of Supervisors. If this request is not approved, 67 spaces must be provided or the nursery school and child care center shall not be established and this Special Permit shall be void. Bus transportation shall be provided for half (1/2) of the children enrolled at the school.

7. The hours of operation for the proposed nursery school and shall be limited to 9:30 am to 2:30 p.m. Monday through Friday. The hours of operation for the before and after school child care center shall be limited to 7:30 am to 6:00 p.m. Monday through Friday.

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8. A maximum of 15 children may be permitted in the play area unless additional play area unless additional play area is provided to meet the Zoning Ordinance requirements. The play area shall be fenced with a three foot high fence and shall be located immediately adjacent to the existing church in the center of the site as shown on the special permit plat.

9. To screen noise and visual impacts of the parking area, supplemental screening shall be planted between the inside of the eastern edge of the existing parking area and the property line of the adjacent residential lots.

10. The existing speed bumps on the travel aisle shall be removed or, in the alternative, marked through the use of appropriate signage and painted with reflective yellow paint.

11. Existing landscaping and vegetation shall be maintained for the purpose of screening the special permit uses from the adjacent residential lots.

12. Any proposed additional lighting of the parking areas 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 subject property.
    - Shields shall be installed, if necessary, to prevent the light from projecting beyond 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 by a vote of 5-0 with Mr. Kelley 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 November 2, 1988. This date shall be deemed to be the final approval date of this special permit.

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The Board recessed at 12:08 p.m. and reconvened at 12:25 p.m.

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Page 336, October 25, 1988, (Tape 2), Scheduled case of:

10:45 A.M. B. DAVID L. AND LYNN M. WINGERD, VC 88-A-135, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 5.1 feet from side lot line and 11.6 feet from floodplain (15 ft. min. side yard and min. distance to edge of floodplain required by Sects. 3-207 and 2-415), located at 4306 Braeburn Drive, on approximately 16,740 square feet of land, zoned R-2, Annandale District, Tax Map 69-2((6))243.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report. She stated that a previous application was denied by the Board of Zoning Appeals and the applicant is now back with a smaller variance request. Ms. Kelsey noted that Board had granted the applicant a waiver of 12-month time limitation for refiling a new application.

The co-applicant, B. David Wingerd, 4306 Braeburn Drive, Fairfax, Virginia, came forward and stated that on December 8, 1987 the Board heard a similar application and several

members indicated that they could not support such a large request. He stated that he had reduced the size of the addition and that his neighbors support the request.

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

Mr. Ribble made a motion to grant the request because the applicant has scaled down the request and because the back yard is practically all floodplain.

Mrs. Day seconded the motion which carried by a vote of 5-0 with Mr. Kelley not present for the vote; Mrs. Thonen absent from the meeting.

Chairman Smith stated that he would support this application because of the unusual topography which prohibits construction elsewhere on the lot.

Mr. Hammack stated that he would support the motion because there is no other location to construct a garage that would not require a variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-135 by B. DAVID L. AND LYNN M. WINGERD, under Section 18-401 of the Zoning Ordinance to allow construction of a garage addition to dwelling to 5.1 feet from side lot line and 11.6 feet from floodplain, on property located at 4306 Braeburn Drive, Tax Map Reference 69-2((6))243, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 25, 1988; 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 16,740 square feet of land.
4. The applicant has come back with a scaled down request.
5. The property has topographical problems.
6. The entire back yard is practically all floodplain.

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 Mr. Kelley 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 November 2, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 338, October 25, 1988, (Tape 2), Scheduled case of:

11:00 A.M. JACK C. AND MARY B. WILSON, VC 88-D-137, application under Sect. 18-401 of Zoning Ordinance to allow construction of addition to attached garage to 7.5 ft. from one side lot line and enclosure of existing screened porch 11.0 ft. from the opposite side lot line (15 ft. min. side yard required by Sec. 3-207), located at 8017 Lewinsville Road on approximately 15,750 sq. ft. of land, zoned R-2, Dranesville District, Tax Map 29-2((3))268.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

The applicant, Jack Wilson, 8017 Lewinsville Road, McLean, Virginia, came forward and stated that the traffic had increased tremendously because of the development in the area and it had become hazardous to park vehicles on the street and there is so much noise generated by the traffic that the porch is virtually useless. Mr. Wilson submitted letters in support from the neighbors into the record.

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

Mrs. Day made a motion to grant the request based on the applicant's testimony that his vehicles have been damaged while parked on the street, that the noise from the traffic prevents him from using the existing porch, and there are no objections from the neighbors.

Mr. Hammack stated that he did not object to the porch enclosure but did believe that the garage was rather large. He added that he did not believe that the applicant had shown there was a hardship and that he believed that granting would set an undesirable precedent.

Mr. Ribble supported Mrs. Day's motion and agreed with the applicant about the traffic.

Chairman Smith stated that he would support the porch enclosure but not the garage addition.

Following further discussion among the Board members, Mrs. Day amended her motion to grant only the porch enclosure and deny the garage addition.

Mr. DiGiulian seconded the motion which carried by a vote of 5-0 with Mr. Kelley not present for the vote; Mrs. Thonen absent from the meeting.

Page 339, October 25, 1988, (Tape 2), (Jack C. and Mary B. Wilson, VC 88-D-137, continued from Page 338)

Mrs. Day then made a motion to grant the applicant a wavier of the 12-month time limitation for refiling a new application.

Mr. DiGiulian seconded the motion which carried by a vote of 5-0 with Mr. Kelley not present for the vote; Mrs. Thonen absent from the meeting.

Chairman Smith informed the applicant that new plats would have to be submitted to staff showing only the porch enclosure before he could receive his resolution to obtain his building permit.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-137 by JACK C. AND MARY B. WILSON, under Section 18-401 of the Zoning Ordinance to allow construction of addition to attached garage to 7.5 feet from one side lot line and enclosure of existing screened porch 11.0 feet from the opposite side lot line (**THIS APPROVAL IS FOR THE ENCLOSURE OF THE SCREENED PORCH ONLY**), on property located at 8017 Lewinsville Road, Tax Map Reference 29-2((3))268, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 25, 1988; 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 15,750 square feet of land.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance as it pertains to the enclosure of the screened porch only:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
   A. Exceptional narrowness at the time of the effective date of the Ordinance;
   B. Exceptional shallowness at the time of the effective date of the Ordinance;
   C. Exceptional size at the time of the effective date of the Ordinance;
   D. Exceptional shape at 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 of the screened porch shown on the plat included with this application and is not transferable to other land. The garage is denied.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless construction has started and is diligently pursued, or unless a request for 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 5-0 with Mr. Kelley 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 November 2, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 340, October 25, 1988, (Tapes 2 and 3), Scheduled case of:

11:15 A.M. KEVORK L. HRATCH & HOKAR S. KALOUSTIAN, VC 88-A-131, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 4.3 feet from a side lot line (8 ft. min. side yard required by Sects. 6-106 and 3-407), located at 4305 Lamarre Drive, on approximately 8,002 square feet of land, zoned PDH-4, Annandale District, Tax Map 57-3((9))63.

Jane Kelsey, Staff Coordinator, presented the staff report.

The co-applicant, Kevork L. Hratch, 4305 Lamarre Drive, Fairfax, Virginia, came forward and referenced the statement of justification submitted wit his application. He added that all the houses in the neighborhood have garages except his house and his adjacent neighbor.

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

Mr. Hammack made a motion to deny the request as he did not believe that the applicant had satisfied the nine standards specifically the hardship standard, the addition would be located too close to the shared lot line, the proposed garage is too large, the request is not a minimal variance, the applicant could construct a carport, the applicant has reasonable use of his land without a variance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-131 by KEVORK L. HRATCH AND HOKAR S. KALOUSTIAN, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 4.3 feet from a side lot line, on property located at 4305 Lamarre Drive, Tax Map Reference 57-3((9))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 October 25, 1988; 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 PDH-4.

3. The area of the lot is 8,002 square feet of land.
4. The applicants have failed to satisfy the nine standards, particularly the hardship provision.
5. The addition would be too close to the side lot line.
6. The proposed garage is longer than that required for the garage to provide storage space.
7. This is not a minimum variance.
8. The applicants could construct a carport without a variance with a storage area and meet the setbacks.
9. The applicants have reasonable use of the property without a variance.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

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

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

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

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

Mr. DiGiulian seconded the motion.

The motion carried by a vote of 5-0 with Mr. Kelley 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 November 2, 1988.

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Page 341, October 25, 1988 (Tape 3), Scheduled case of:

11:30 A.M. DAVID L. AND JANE L. HACKEMEYER, VC 88-V-132, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage and living space addition to dwelling to 9.85 feet from side lot line (15 ft. min. side yard required by Sect. 3-207), located at 3805 Great Neck Court, on approximately 25,209 square feet of land, zoned R-2, Mount Vernon District, Tax Map 110-2((9))7.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

In response to a question from Chairman Smith, Ms. Kelsey stated that only one corner needs a variance.

The co-applicant, David Hackemeyer, 3805 Great Neck Court, Alexandria, Virginia, came forward and stated that he believed that the addition would improve the looks of the house and that the addition would be similar to others in the neighborhood.

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

Mr. DiGiulian made a motion to grant the request because of 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 88-V-132 by DAVID L. AND JANE L. HACKEMEYER, under Section 18-401 of the Zoning Ordinance to allow construction of garage and living space addition to dwelling to 9.85 feet from side lot line, on property located at 3805 Great Neck Court, Tax Map Reference 110-2((9))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 October 25, 1988; 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 25,209 square feet of land.
4. That the lot has unusual topographic conditions because of its shape and narrowness.

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 had exceptional narrowness, exceptional shape, and an extraordinary situation or condition of the subject property of the effective date of the Zoning 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.

Page 343, October 25, 1988 (Tape 3), (David L. and Jane L. Hackemeyer, VC 88-V-132, continued from Page 342)

NOW, THEREFORE, 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 5-0 with Mr. Kelley 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 November 2, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 343, October 25, 1988, (Tape 3), Scheduled case of:

11:45 A.M. GARY S. STEWART, VC 88-L-133, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 5.0 feet from a side lot line (12 ft. min. side yard required by Sect. 3-307), located at 5629 Glenwood Drive, on approximately 12,284 square feet of land, zoned R-3, Lee District, Tax Map 82-1((4))55A.

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report.

The applicant, Gary Stewart, 5629 Glenwood Drive, Alexandria, Virginia, came forward and referenced his statement of justification submitted with his application. He stated that the property was acquired in good faith, the lot is pie shaped and has unusual topography.

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

Mrs. Day made a motion to grant the request because of the unusual triangular shape of the lot which has a severe slope to the rear of the lot, the property was acquired in good faith, and there is no other location to construct the addition.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-L-133 by GARY S. STEWART, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 5.0 feet from a side lot line, on property located at 5629 Glenwood Drive, Tax Map Reference 82-1((4))55A, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on October 25, 1988; 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 12,284 square feet of land.
4. The lot is triangle shaped.
5. The applicants acquired the property in good faith.
6. The lot has an exceptional shape and size.

7. There are topographic conditions because slopes to the rear and sides of the property.
8. There is no other location for the addition.
9. The application does meet the standards for a variance.

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** by a vote of 3-2 with Mrs. Day, Mr. DiGiulian, and Mr. Ribble voting aye; Chairman Smith and Mr. Hammack voting nay; Mr. Kelley 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 November 2, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 345, October 25, 1988, (Tape 3), After Agenda Item:

Approval of October 18, 1988 Resolutions

Jane Kelsey, Chief, Special Permit and Variance Branch, called the Board's attention to the following corrections:

David Moreland, SP 88-S-071, incorrect development conditions had been inserted in the staff report.

Groveton Baptist Church, SP 88-V-079, change the wording to indicate that the minimum parking requirement has been met because the plat does not reflect the correct number.

McLean Bible Church, SPA 73-D-151-2, clarification to condition number 4.

Hearing no objection, the Chair so ordered.

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Page 345, October 25, 1988, (Tape 3), Information Item:

Home Professional Office Amendment

Jane Kelsey, Chief, Special Permit and Variance Branch, distributed copies of a memorandum from James Zook, Director of Comprehensive Planning, regarding the Home Professional Office Amendment for their review and comment.

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Page 345, October 25, 1988, (Tape 3), Information Item:

VACO Conference

Jane Kelsey, Chief, Special Permit and Variance Branch, distributed copies of a memorandum from James Zook, Director of Comprehensive Planning, regarding members attendance at the VACO Conference.

Chairman Smith stated that he was disappointed that funds for at least one Board had not been approved.

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Page 345, October 25, 1988, (Tape 3), Information Item:

As there was no other business to come before the Board, the meeting was adjourned at 1:40 p.m.

Betsy S. Hurtt, Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 2/14/89

APPROVED: 2/21/89

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 1, 1988. The following Board Members were present: Daniel Smith, Chairman; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack and Robert Kelley. John Ribble and Mary Thonen were absent.

Chairman Smith called the meeting to order at 8:10 P.M. with Mrs. Day leading the prayer.

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Chairman Smith welcomed the members of the senior government class from Robinson High School who were present in the Board Room.

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Page 347, November 1, 1988, (Tape 1), Scheduled case of:

8:00 P.M. THREE FLAGS ASSOCIATES, VC 88-D-088, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots proposed Lot 1B having width of 62.37 ft. (200 ft. min. lot width required by Sect. 3-E06) located at 12029 Thomas Avenue, on approximately 5.0 acres of land, zoned R-E, Dranesville District, Tax Map 6-1((2))28. (DEF. FROM 10/11/88 AT THE APPLICANT'S REQUEST)

Lori Greenlief, Staff Coordinator, presented the staff report. She informed the Board that staff was concerned that the proposal would undermine the large lot and residential character of the area and set a precedent for future development via pipestem lots in the area. Ms. Greenlief stated that there was Environmental Quality Corridor (EQC) the rear of the site.

Bernard Fagelson, Esquire, 401 Wythe Street, Alexandria, representative of the applicant, appeared before the Board to explain the request as outlined in the statement of justification contained in the staff report. He stated that the lot has an unusual rectangular shape which was separated from the other lots in the Kentland Subdivision by the new four-lane Algonkian Parkway. In addition, Mr. Fagelson stated that the property contained a 400 foot wide AT&T right-of-way and a Fairfax County Water Authority Easement of 20 feet.

Mr. Fagelson stated that this request met all of the required standards for variances. He indicated that when this lot was subdivided it would fit the pattern of all of the lots located on that side of Algonkian Parkway. Mr. Fagelson discussed the Fairfax County Master Plan and stated that when it was adopted it did not consider the Algonkian Parkway or the cluster development that had subsequently been built.

Chairman Smith called for speakers and the following citizens came forward.

Richard Peters, Co-Chairman of the Planning and Zoning Committee of the Great Falls Citizens Association, spoke in opposition to the request. He stated that the Association had an interest in trying to preserve as much open space as possible and the semi-rural character of Great Falls. Mr. Peters stated that there was some concern with the small area available for building on the rear lot in view of the extensive area taken up by the floodplain and the EQC.

Mr. Peters discussed the area east of the Algonkian Parkway which bordered the property in question. He stated that this area was already largely developed with single family dwellings on five acre lots and that the area should remain that way with compatible infill.

The next speaker was Charles Crawford, 11641 Blue Ridge Lane, Great Falls, who spoke in opposition. He stated that he did not think the building of a new road justified a variance. In addition, he indicated that the applicants had purchased the lot in November 1987 and knew what the zoning and building regulations were at the time of purchase. Mr. Crawford stated that he owned Lot 18 which was 20 percent larger than the lot in question, perked all over and had 300 feet of road frontage. He stated that if this variance was approved, economics would dictate that he also come before the BZA to apply for a variance, although he was more interested in preserving the rural character of the area.

During rebuttal, Mr. Fagelson stated that the building of roads in the County do determine zoning and that this application would not set a precedent due to the fact that the BZA operated on a case-by-case basis. He stated that the rural atmosphere of Great Falls would not be affected by this application and that the Master Plan indicates that this area is planned for two acre lots.

There being no further speakers, Chairman Smith closed the public hearing.

Ms. Greenlief discussed the last sentence in development condition number 4 which was written before the staff knew that the site did not perk. She asked that this be modified to say, "It is noted that piping necessary to connect the single family dwellings with the sewer easement may be allowed to cross the EQC."

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Mr. DiGiulian moved to grant VC 88-D-088 with a modification to development condition number 4.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-088 by THREE FLAGS ASSOCIATES, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots proposed Lot 1B having width of 62.37 feet (200 ft. min. lot width required by Sect. 3-E06), on property located at 12029 Thomas Avenue, Tax Map Reference 6-1((2))28, Mr. DiGiulian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 1, 1988; 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 5.0 acres of land.

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

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

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

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

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

1. This variance is approved for the subdivision of one lot into two lots as shown on the plat submitted with this application.

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

3. Only one (1) entrance for both lots shall be allowed from Thomas Road. The driveway easements shall be recorded with deeds to each property to ensure future access to the lots via a common driveway. The driveway to the proposed lots shall be constructed in accordance with the Public Facilities Manual.

4. Pursuant to the Virginia Code Section 10-152, the applicant shall at the time of subdivision plan approval, record among the land records of Fairfax County, an Open Space Easement to the Board of Supervisors in order to preserve the environmentally sensitive portions of the subject property in perpetuity. The easement shall include that land delineated as Environmental Quality Corridor (EQC) on the plat attached these conditions as page 3 of the addendum. There shall be no structures except fencing, no clearing of any vegetation, except for dead or dying trees or shrubs, no grading, and no septic field in the EQC. It is noted that piping necessary to connect the single family dwellings with the sewer easement may be allowed to cross the EQC.

5. The proposed dwellings shall be attenuated for noise from the Algonkian Parkway is accordance with the following guidelines.

   a. For structures within the 70 to 75 dBA Ldn noise zone, in order to achieve a maximum interior noise level of 45 dBA Ldn in all units the units should have the following acoustical attributes:

      1. Exterior walls should have a laboratory sound transmission class (STC) of at least 45, and

      2. Doors and windows should have a laboratory sound transmission class (STC) of at least 37. If "windows" function as the walls, then they should have the STC specified for exterior walls.

      3. Adequate measures to seal and caulk between surfaces should be provided.

   b. For structures within the 65 to 70 dBA Ldn noise zone, in order to achieve a maximum interior noise level of 45 dBA Ldn in all units, the units should have the following acoustical attributes:

      1. Exterior walls should have a laboratory sound transmission class (STC) of at least 39, and

      2. Doors and windows should have a laboratory sound transmission class (STC) of at least 28. If "windows" function as the walls, then they should have the STC specified for exterior walls.

      3. Adequate measures to seal and caulk between surfaces should be provided.

   In order to achieve a maximum exterior noise level of 65 dBA Ldn, noise attenuation structures such as acoustical fencing, walls, earthen berms or combinations thereof, should be provided for those outdoor recreation areas including rear yards, unshielded by topography or built structures. If acoustical fencing or walls are used, they should be architecturally solid from ground up with no gaps or openings. The structure employed must be of sufficient height to adequately shield the impacted area from the source of the noise.

Mr. Hammack seconded the motion.

The motion carried by a vote of 4-1; Chairman Smith voted nay. Mr Ribble and Mrs. Thonen were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 9, 1988. This date shall be deemed to be the final approval date of this variance.

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8:15 P.M. MR. AND MRS. JAMES A. KESSLER, VC 88-P-126, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 17.0 feet from side lot line (20 ft. min. side yard required by Sect. 3-107), located at 8529 Crestview Drive, on approximately 43,560 square feet of land, zoned R-1, Providence District, Tax Map 59-1((2))54. (DEF. FROM 10/11/88 FOR ADDITIONAL INFORMATION)

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that the public hearing had been held and closed, although the Board had directed the applicant to provide additional information concerning whether or not he could reduce the size of the carport to eighteen feet.

James Kessler, 8529 Crestview Drive, the applicant, appeared before the Board. He stated that he had done some research regarding what an adequate garage size was using today's standards. In addition, he stated that he had owned this one acre property for eleven years and his is the only house on the block without a garage.

Mr. Kelley moved that the Board re-open the public hearing for additional information and testimony presented by the applicant. Mrs. Day seconded the motion which passed by a vote of 5-0, Mr. Ribble and Mrs. Thonen absent from the meeting.

Mr. Kessler stated that his house was fifty years old and had been constructed with a one car garage which was converted to a utility room prior to his purchase. He stated that there was no opposition to the request and that the addition had been designed for the smallest possible variance. Mr. Kessler stated that an appraiser had come to the property and indicated that the standard garage width in today's market was 22 feet, with 20 feet being substandard and 24 feet being oversized, and he submitted the appraiser's letter for the record.

Chairman Smith closed the public hearing.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-126 by MR. & MRS. JAMES A. KESSLER, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 17.0 feet from side lot line (20 ft. min. side yard required by Sect. 3-107), on property located at 8529 Crestview Drive, Tax Map Reference 59-1((2)54, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 1, 1988; 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.
4. The lot has an unusual shape.
5. The lot is long and narrow.
6. The rear lot does not allow reasonable use because it has a septic field and an underground tank.

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 4-1; Chairman Smith voted nay. Mr. Ribble and Mrs. Thonen were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 9, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 351, November 1, 1988, (Tape 1), After Agenda Item #1:

Reconsideration Request
VC 88-D-137
Jack C. and Mary B. Wilson

Mr. Hammack moved to deny the reconsideration request for VC 88-D-137.

Mr. DiGiulian seconded the motion which passed by a vote of 5-0, Mr. Ribble and Mrs. Thonen absent from the meeting.

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Page 351, November 1, 1988, (Tape 1), After Agenda Item #2:

Jane Kelsey, Chief, Special Permit and Variance Branch, discussed Special Permit Application SP 88-P-051, WILLIS B. KERN, to allow 11.5 foot high shed to remain 8.5 feet from rear lot line in an apartment complex, which had been deferred to November 10, 1988. Ms. Kelsey stated that Mr. Kern was unsure of whether or not the contractor would appear at the public hearing and had asked that the Board of Zoning Appeals issue a subpoena.

Mr. DiGiulian moved that the County Attorney be requested to issue a subpoena to the contractor involved in Special Permit Application SP 88-P-051.

Mr. Hammack seconded the motion which passed by a vote of 5-0, Mr. Ribble and Mrs. Thonen absent from the meeting.

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Page 352, November 1, 1988, (Tape 1), Information Item #1:

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that Mrs. Thonen is ill and could not be present and had requested that the Board defer any discussion of Home Professional Offices until the following week when she could be present.

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Page 352, November 1, 1988, (Tape 1), Information Item #2:

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that she wanted to ensure that the Board of Zoning Appeals Members received the staff reports for proposed County Zoning Ordinance Amendments and County Code Amendments. She then requested that the members advise her if they were or were not receiving their amendments.

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Page 352, November 1, 1988, (Tape 1), After Agenda Item #3:

Approval of Resolutions
October 25, 1988

Mr. Hammack moved to approve the Resolutions from October 25, 1988 as submitted.

Mr. DiGiulian seconded the motion which passed by a vote of 5-0, Mr. Ribble and Mrs. Thonen absent from the meeting.

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Page 352, November 1, 1988, (Tape 1), After Agenda Item #4:

Approval of Minutes
September 6, 1988 and October 4, 1988

Mr. Hammack moved to approve the Minutes for September 6, 1988 and October 4, 1988 as submitted.

Mr. DiGiulian seconded the motion which passed by a vote of 5-0, Mr. Ribble and Mrs. Thonen absent from the meeting.

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Page 352, November 1, 1988, (Tape 1), Information Item #1 (continued):

Mr. DiGiulian moved to defer consideration and discussion of Home Professional Offices in residential districts until the following week when Mrs. Thonen could be present at the meeting.

Mr. Hammack seconded the motion which passed by a vote of 5-0, Mr. Ribble and Mrs. Thonen absent from the meeting.

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Mr. Kelley stated that he would like to know how many County officials and staff attend conferences that are intended for legislatures only. He stated that he did not like the tone of the memo that had been received by Board Members from Mr. Zook, Director, Office of Comprehensive Planning, regarding their attendance at the VACO conference held at The Homestead.

Mrs. Day moved that a memo be sent to Mr. Zook and the County Executive from the entire Board regarding their displeasure at being denied the opportunity to attend the VACO conference.

Mr. Kelley seconded the motion which passed by a vote of 4-1 with Mr. Hammack abstaining, Mr. Ribble and Mrs. Thonen absent from the meeting.

Mr. Kelley stated that the Board should be provided with the minimal funds necessary for attending various conferences in order for them to make a better contribution to the County.

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Mr. Hammack asked for the status of the BZA's proposed pay increase.

Jane Kelsey, Chief, Special Permit and Variance Branch replied that staff had been instructed and was in the process of doing a survey on other jurisdictions regarding their compensation, the number of meetings held, the types of cases being considered, etcetera.

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As there was no other business to come before the Board, the meeting was adjourned at 9:45 P.M.

Judy L. Moss, Acting Associate Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 2/7/89

APPROVED: 2/14/89

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 10, 1988. The following Board Members were present: Chairman Daniel Smith; Ann Day; John Ribble; Robert Kelley; and Mary Thonen. Mr. Hammack and Vice Chairman DiGuilian were absent from the meeting

Chairman Smith called the meeting to order at 9:15 a.m., with Mrs. Day leading the prayer.

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Page 355, November 10, 1988, (Tape 1), Scheduled case of:

9:00 a.m. CAPTAIN AND MRS. JACK A. ENDACOTT, VC 88-M-075, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 10 feet from side lot line (15 ft. min. side yard required by Sect. 3-207), located at 6362 Lakeview Drive, on approximately 10,540 square feet of land, zoned R-2, Mason District, Tax Map 61-3((14))125.

Mr. Richard Pleasants, 3129 Valley Lane, Falls Church, Virginia, spoke on behalf of the applicant, stating the applicant could not be present and requesting that VC 88-M-075 be deferred.

Mrs Thonen moved to defer VC 88-M-075 to January 24, 1989, at 9:00 a.m.

Mrs. Day seconded the motion which carried by a vote of 4-0. Mr. Ribble was not present for the vote. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

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Page 355, November 10, 1988, (Tape 1), Scheduled case of:

9:15 a.m. RICHARD F. BODDIE, VC 88-L-141, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 24 feet from a street line of a corner lot (30 ft. min. front yard required by Sect. 3-307), located at 6520 Bowie Drive, on approximately 12,991 square feet of land, zoned R-3, Lee District, Tax Map 80-4((7))(K)405.

Kathy Reilly, Staff Coordinator, presented the staff report.

The applicant, Richard F. Boddie, 6520 Bowie Drive, Springfield, Virginia, spoke in support of his request as set forth in the statement of justification.

A discussion ensued exploring the possibility of reducing the width of the proposed structure to 20.5 feet.

Since there were no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant-in-part VC 88-L-141, adding the condition that new plats shall be submitted to reflect the change in size of the structure to 20.5 feet in width.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-L-141 by RICHARD F. BODDIE, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 24 feet (**THIS APPROVAL IS FOR THE CONSTRUCTION OF GARAGE ADDITION TO 20.5 FEET IN WIDTH, 26 FEET FROM SIDE LOT LINE**) from a street line of a corner lot, on property located at 6520 Bowie Drive, Tax Map Reference 80-4((7))(K)405, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1988; 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 12,991 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-IN-PART with the following limitations:

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

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

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

4. New plats shall be submitted to reflect the change in size of the structure to 20.5 feet in width.

Mrs. Day seconded the motion.

The motion carried by a vote of 4-0. Mr. Ribble was not present for the vote. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

Page 357, November 10, 1988, (Tape 1), (Richard F. Boddie, VC 88-L-141, continued from Page 356)

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 18, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 357, November 10, 1988, (Tape 1), Scheduled case of:

9:30 a.m. RALPH AND SUSAN GALDO, VC 88-D-143, application under Sect. 18-401 of the Zoning Ordinance to allow construction of tennis court with 10 foot high fence 15 feet from a street line of a corner lot (50 ft. min. front yard required by Sects. 3-E07 and 10-104), located at 11390 Seneca Knoll Drive, on approximately 75,001 square feet of land, zoned R-E, Dranesville District, Tax Map 20-4((5))21.

Kathy Reilly, Staff Coordinator, presented the staff report.

Applicant Ralph Galdo, 11390 Seneca Knoll Drive, Great Falls, Virginia, spoke in support of his application as set forth in the statement of justification.

Applicant Susan Galdo, 11390 Seneca Knoll Drive, Great Falls, Virginia, showed the Board pictures of the subject property, stating there is no other place on the property to place the proposed tennis court.

Since there were no speakers, Chairman Smith closed the public hearing.

Mrs. Day stated that this was a difficult decision, but moved to deny VC 88-D-143 because of the proposed location of the tennis court in the applicants' front yard.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-143 by RALPH AND SUSAN GALDO, under Section 18-401 of the Zoning Ordinance to allow construction of tennis court with 10 foot high fence 15 feet from a street line of a corner lot, on property located at 11390 Seneca Knoll Drive, Tax Map Reference 2-4((5))21, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1988; 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 75,001 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.

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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 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 5-0. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 18, 1988.

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Page 368, November 10, 1988, (Tape 1), Scheduled case of:

9:45 a.m. MARY E. GALLO, SP 88-L-068, application under Sect. 8-901 of the Zoning Ordinance to allow accessory dwelling unit, located at 7911 Old Marsh Lane, on approximately 7,567 square feet of land, zoned PDH-4, Lee District, Tax Map 99-2((7))266.

Kathy Reilly, Staff Coordinator, presented the staff report.

David Sirignano 7902 Old Marsh Lane, Alexandria, Virginia, son-in-law of the applicant, represented the applicant and spoke in support of this application as set forth in the statement of justification.

Since there were no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen said staff had done an excellent job in preparing the staff report. She further stated that this request was a typical example of why the Zoning Ordinance had been amended: To allow offspring to take care of the elderly.

Mr. Ribble moved to grant SP 88-L-068.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-L-068 by MARY E. GALLO, under Section 8-901 of the Zoning Ordinance to allow accessory dwelling unit, on property located at 7911 Old Marsh Lane, Tax Map Reference 99-2((7))266, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1988; 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-4.
3. The area of the lot is 7,567 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 8-918 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. However, this condition shall not preclude the applicant from erecting structures or establishing uses that are not related to the accessory dwelling unit and would otherwise be permitted under the Zoning Ordinance and other applicable codes.

3. This Special Permit use is subject to the provisions of Article 17, Site Plans. Prior to obtaining building permit approval, any plans that are deemed necessary by the Director, DEM, shall be submitted and approved by DEM pursuant to Par. 3 of Sect. 8-903. Any plans submitted shall conform with the approved Special Permit plat and these conditions.

4. The accessory dwelling unit shall occupy no more than thirty-five (35) percent of the total square footage of the principal dwelling.

5. The accessory dwelling unit shall contain no more than one bedroom.

6. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance.

7. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.

8. This special permit shall be approved for a period of five (5) years from the approval date or with succeeding five (5) year extensions permitted with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.

9. Upon the termination of the new addition as an accessory dwelling unit, the structure shall be internally altered so as to become an integral part of the main dwelling unit.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 10, 1988, the Board of Zoning Appeals having granted an eight-day waiver. This date shall be deemed to be the final approval date of this special permit.

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Mrs. Thonen moved to grant a waiver of the eight-day time limitation. Mr. Ribble seconded the motion which carried by a vote of 5-0. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

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Page 360, November 10, 1989, (Tape 1), Scheduled case of:

10:00 a.m. RICHARD H. PLEASANTS IV, VC 88-M-120, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 28 feet from front lot line and 3.5 feet from side lot line (30 ft. min. front, 12 ft. min. side yard required by Sect. 3-207), located at 3129 Valley Lane, on approximately 12,749 square feet of land, zoned R-3, Mason District, Tax Map 51-3((11))219.

Denise James, Staff Coordinator, presented the staff report.

The applicant, Richard H. Pleasants IV, 3129 Valley Lane, Falls Church, Virginia, spoke in support of his request as outlined in the statement of justification.

The Board discussed the narrowness and exceptional topography of the lot, the possibility of reducing the size of the proposed structure, and the feasibility of a carport instead of a garage.

Mrs. Day stated she thought the proposed structure would be too close to the lot line.

Since there were no speakers, Chairman Smith closed the public hearing.

Mr. Kelley moved to grant VC 88-M-120 because of the narrowness and exceptional topography of the lot, with an additional development condition requiring material used to construct the proposed addition to be compatible with existing dwelling.

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MOTION TO GRANT FAILED

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-120 by RICHARD H. PLEASANTS IV, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 28 feet from front lot line and 3.5 feet from side lot line, on property located at 3129 Valley Lane, Tax Map Reference 51-3((11)219, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1988; 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 12,749 square feet of land.
4. The lot is exceptionally narrow.
5. The rear of the lot has exceptional topography.

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 addition shall be constructed and finished with building materials compatible with the principal dwelling on the lot.

Mr. Ribble seconded the motion.

The motion to grant **FAILED** by a vote of 3-2. Mrs. Day, Mrs. Thonen, and Mr. Smith voted nay. Mr. Kelley and Mr. Ribble voted aye. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 18, 1988.

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Page 361, November 10, 1988, (Tape 1), Schedule case of:

10:15 a.m. CHRISTIAN M. DELVOIE, VC 88-D-138, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing screened porch 10.0 feet from side lot line (15 ft. min. side yard required by Sect. 3-207), located at 1516 Hardwood Lane, on approximately 15,144 square feet of land, zoned R-2, Dranesville District, Tax Map 31-4((14))6.

Denise James, Staff Coordinator, presented the staff report.

Carlos Oroza, 3215 Cedar Grove Court, Reston, Virginia, Designer, represented the applicant and spoke in support of the request, as outlined in the statement of justification.

The staff acknowledged having received letters from neighbors supporting this request.

Since there were no speakers, Chairman Smith closed the public hearing.

Mrs. Thonen moved to grant VC 88-D-138 because the proposed enclosure would not extend into the side yard any further than the existing structure.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-138 by CHRISTIAN M. DELVOIE, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing screened porch 10.0 feet from side lot line, on property located at 1516 Hardwood Lane, Tax Map Reference 31-4((14))6, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1988; 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 15,144 square feet of land.
4. The current location of the house is not in conformance with the Zoning Ordinance.
5. The variance requested will not extend enclosure any further into the side yard than the existing dwelling.

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 5-0. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 18, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 363, November 10, 1988, (Tape 1), Scheduled case of:

10:30 a.m. WILLIAM & MARY DUNAHAY, VC 88-S-140, application under Sect. 18-401 of the Zoning Ordinance to allow construction of enclosed porch over existing deck 12.5 feet from rear lot line, (25 ft. min. yard required by Sects. 6-106 and 3-307), located at 14807 Harvest Court, on approximately 9,119 square feet of land, zoned PDH-3, Springfield District, Tax Map 43-4((5))73.

Denise James, Staff Coordinator, presented the staff report.

Mrs. Day asked Denise James if the proposed enclosure would extend beyond the present dimensions. Ms. James replied that, according to the plat, it would not.

The applicant, William Dunahay, 14807 Harvest Court, Centreville, Virginia, spoke in support of his request as outlined in the statement of justification. He said he wanted to enclose the deck because there was a storm drain behind his house which attracted insects.

Chairman Smith questioned the applicant about the number of other houses in the area which have requested a variance to have the decks screened in. The applicant stated that those owners who screened in their decks did so by right, since they had much more land than he has. Those who required a variance to screen in their decks chose not to do so.

Mr. Kelley told the applicant that he is concerned about setting a precedent if this request was granted. He asked the applicant to address this concern. Mr. Kelley pointed out that the photographs presented by the applicant to support his request inadvertently revealed that none of the other houses in the pictures had screened in porches and may represent a potential for additional requests for variances. The applicant stated that the reason for presenting the pictures was to point out the extreme distance between him and his closest neighbor.

Susan Chang, 14805 Harvest Court, Centreville, Virginia, a neighbor living to the left of the applicant, said her parents had a concern that having the deck screened in would obstruct their view.

Ms. Kelsey stated that the applicant could build and enclose a deck by right to the right of the dwelling.

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

Mrs. Day stated that the applicant has a right to enclose a portion of the deck, but not the portion before the Board at this time. She reiterated that other houses in the area have open decks which are not enclosed and they have the same storm drainage problem posed by the applicant.

Because the applicant has not satisfied the Board that denying this request would result in practical difficulty or unnecessary hardship or deprive the applicant of all reasonable use of the land, and granting it might set an unwelcome precedence, Mrs. Day moved to deny VC 88-S-140.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-140 by WILLIAM & MARY DUNAHAY, under Section 18-401 of the Zoning Ordinance to allow construction of enclosed porch over existing deck 12.5 feet from rear lot line, on property located at 14807 Harvest Court, Tax Map Reference 43-4((5))73, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1988; 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 9,119 square feet of land.
4. Other houses in the immediate area have open decks and have similar conditions.

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 5-0. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 18, 1988.

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Page 365, November 10, 1988, (Tape 1), (Information Item):

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that she had received word that Mr. Hammack would not be present at this meeting because of unforeseen circumstances. Since the Board had been waiting for Mr. Hammack to arrive before going into Executive Session, Ms. Kelsey asked the Board if they would now like to do so. Mrs. Thonen said she would prefer to hear the next case while staff got in touch with the County Attorney to meet with them in Executive Session.

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Page 365, November 10, 1989, (Tape 1), Scheduled case of:

10:45 a.m. BETTIE JANE OWEN, VC 88-M-139, application under Sect. 18-401 of the Zoning Ordinance to allow construction of sunroom addition to dwelling to 19.3 feet from rear lot line (25 ft. min. rear yard required by Sect. 3-407), located at 7106 Galesville Place, on approximately 8,718 square feet of land, zoned R-4, Mason District, Tax Map 71-1((17))(4)63.

Denise James, Staff Coordinator, presented the staff report.

The applicant, Bettie Jane Owen, spoke in support of her request as set forth in the statement of justification. She stated that the proposed addition would be in keeping with the existing dwelling.

Since there were no speakers, Chairman Smith closed the public hearing.

Because this lot is of exceptional shape and is the shallowest in the neighborhood, Mr. Ribble moved to grant VC 88-M-139.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-139 by BETTIE JANE OWEN, under Section 18-401 of the Zoning Ordinance to allow construction of sunroom addition to dwelling to 19.3 feet from rear lot line, on property located at 7106 Galesville Place, Tax Map Reference 71-1((17))(4)63, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1988; 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 8,718 square feet of land.
4. The lot is exceptionally shallow and is an exceptional shape.

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.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-0. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 18, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 366, November 10, 1988, (Tape 1 & 2), Scheduled case of:

11:00 a.m. CATHERINE AND MERRILL SICKLES, JR., SP 88-A-080, application under Sect. 3-303 of the Zoning Ordinance for an accessory dwelling unit, located at 5506 Landmark Place, on approximately 10,000 square feet of land, zoned R-3, Annandale District, Tax Map 77-1((6))316.

Denise James, Staff Coordinator, presented the staff report.

The applicant, Catherine Sickles, 5506 Landmark Place, Fairfax, Virginia, spoke in support of her application as set forth in the statement of justification.

The Board determined that the accessory dwelling unit was previously approved to accommodate the applicant's elderly parents. Another kitchen was installed in 1978 to make this accessory unit a total living area.

Mr. Ribble stated that the Board granted this special permit under the provision that when the occupants of the accessary dwelling died, or at the end of five years, the special permit would expire.

Jane Kelsey, Chief, Special Permit and Variance Branch, acknowledged this to be true, and stated that the Zoning Ordinance now provides for a five-year review of this special permit.

Ms. Kelsey further stated that, unless the Board made a condition that this special permit would be granted to accommodate this particular lady (Mrs. Cook) the applicant (Catherine and Merrill Sickles) could later rent the unit out to someone else, according to the Zoning Ordinance.

Ms. James pointed out that both the applicant and the person who will be using the accessory dwelling unit qualify under the over-55-years-of-age provision.

A discussion ensued regarding the parking space requirements for an accessory dwelling unit. The Board changed condition #10 to read: "One (1) additional parking space shall be provided on-site adjacent to the existing driveway only if necessary for the applicant to receive the residential use permit."

Since there were no speakers, Chairman Smith closed the public hearing.

Mr. Kelley moved to grant SP 88-A-080, under the conditions set forth in the resolution.

Because the person by whom this accessory unit would be utilized is handicapped and had nowhere else to live, Mr. Kelley moved to waive the eight-day time limitation. Mr. Ribble seconded the motion which passed unanimously. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-A-080 by CATHERINE & MERRILL SICKLES, JR., under Section 3-303 of the Zoning Ordinance to allow an accessory dwelling unit, on property located at 5506 Landmark Place, Tax Map Reference 77-1((6))316, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1988; 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 10,000 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 8-918 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. However, this condition shall not preclude the applicant from erecting structures or establishing uses that are not related to the accessory dwelling unit and would otherwise be permitted under the Zoning Ordinance and other applicable codes.

3. This Special Permit use is subject to the provisions of Article 17, Site Plans. Prior to obtaining building permit approval, any plans that are deemed necessary by the Director, DEM, shall be submitted and approved by DEM pursuant to Par. 3 of Sect. 8-903. Any plans submitted shall conform with the approved Special Permit plat and these conditions.

4. The accessory dwelling unit shall occupy no more than thirty-five (35) percent of the total square footage of the principal dwelling.

5. The accessory dwelling unit shall contain no more than one bedroom.

6. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance.

7. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.

8. This special permit shall be approved for a period of five (5) years from the approval date or with succeeding five (5) year extensions permitted with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.

9. Upon termination of the accessory dwelling unit as a permitted use on the site, the accessory dwelling unit shall be internally altered so as to become an integral part of the main dwelling unit.

10. One (1) additional parking space shall be provided on-site adjacent to the existing driveway only if necessary for the applicant to receive the residential use permit.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 10, 1988, the Board of Zoning Appeals having granted an eight-day waiver. This date shall be deemed to be the final approval date of this special permit.

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At 11:35 a.m., Mr. Ribble moved that the Board go into Executive Session at to discuss legal matters involving SP 88-P-050, National Memorial Park, At Law Number 85086.

After reconvening, the Board requested that Jane Kelsey, Chief, Special Permit and Variance Branch, call the County Attorney's Office about National Memorial Park

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Page 368, November 10, 1988, (Tape 2), Scheduled case of:

11:15 a.m. WARNER CABLE COMMUNICATIONS OF RESTON, INC., SP 88-C-063, application under Sect. 8-901 of the Zoning Ordinance to allow waiver of dustless surface requirement in expansion of television, microwave facilities and satellite earth station, located at 1720 Wiehle Avenue, on approximately 3.0815 acres of land, zoned R-E, Centreville District, Tax Map 17-4((6))1. (TO BE HEARD CONCURRENT WITH SEA 78-C-107-1)

Steve Mordfin, Staff Coordinator, presented the staff report.

Gary Allen of the law firm of McGuire, Woods, Battle & Boothe, 8280 Greensboro Drive, Suite 900, McLean, Virginia, spoke in support of this application as set forth in the statement of justification. He stated there was no change in the use since 1969 and that the road was used only for infrequent maintenance and service checks.

Mr. Ribble said there had been a letter of opposition from an elderly couple and Mr. Allen said he would try to take a trip out to visit them to allay their fears.

In response to questions from Chairman Smith, Mr. Allen stated there was no gate there at this time, but they had no problem with vandalism or trespassing.

Rick Ferguson, General Manager of Warner Cable's Reston System, 397 Herndon Parkway, Herndon, Virginia, spoke in support of this application. He stated there is a fence surrounding the satellite dishes to protect them. He said the concrete building is locked and they had no problem with vandalism of the property or building.

Mr. Smith reiterated that the Board was concerned about unauthorized persons using the driveway. Mr. Ferguson stated they had no problem in this regard, but they could string a chain across the driveway to prevent easy access to the property.

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

Mrs. Thonen moved to grant SP 88-C-063 with an added condition regarding a chain to be strung across the driveway, as set forth in the resolution.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-C-063 by WARNER CABLE COMMUNICATIONS OF RESTON, INC., under Section 8-901 of the Zoning Ordinance to allow waiver of dustless surface requirement in expansion of television, microwave facilities and satellite earth station, on property located at 1720 Wiehle Avenue, Tax Map Reference 17-4((6))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 November 10, 1988; 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 3.0815 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 gravel surfaces indicated on the plat submitted with this application, except as qualified below. Any additional gravel areas 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. The gravel driveway and parking areas shall be maintained in accordance with <u>Public Facilities Manual</u> standards and the following guidelines. The waiver of the dustless surface shall expire on July 26, 1993

   - Speed limits shall be kept low, generally 10 mph or less.

   - The areas shall be constructed with clean stone with as little fines material as possible.

   - The stone shall be spread evenly and to a depth adequate enough to prevent wear-through or bare subsoil exposure. Routine maintenance should prevent this from occurring with use.

- Resurfacing shall be conducted when stone becomes thin and underlying soil is exposed.
- During dry seasons, water or calcium chloride shall be applied to control dust.
- Runoff shall be channeled away from and around the parking lot.
- The applicant shall perform periodic inspections to monitor dust conditions, drainage functions and compaction-migration of the stone surface.

5. The driveway shall be paved at least twenty five (25) feet into the site from the right-of-way line of Wiehle Avenue to prevent gravel from spreading into Wiehle Avenue, and to allow for safe acceleration from the driveway to Wiehle Avenue.

6. The applicant shall install two posts, one on each side of the driveway, from which a heavy chain shall be strung across the driveway to prevent easy access to 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.

Mrs. Day seconded the motion.

The motion carried by a vote of 5-0. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 18, 1988. This date shall be deemed to be the final approval date of this special permit.

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Mrs. Thonen stated she had a Board Matter to bring up at this time. She stated she had a recommendation regarding home professional offices and Article 10 of the Zoning Ordinance. She suggested that they have a separate category under Article 10 for home care and instructional classes. She passed out this material to the Board Members and requested that it be returned on November 29, 1988, for discussion.

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Page 370, November 10, 1988, (Tape 2), Scheduled case of:

11:30 a.m. HAPPY FACES CHILD DEVELOPMENT CENTER, SP 88-V-035, application under Sect. 3-403 of the Zoning Ordinance to allow nursery school and child care center, located at 6215 Richmond Highway, on approximately 36,768 square feet of land, zoned R-4, C-8, and HC, Mount Vernon District, Tax Map 83-3((1))38 and Outlot A. (DEF. FROM 6/28/88 AND 8/2/88 - NOTICES NOT IN ORDER. DEF. FROM 10/4/88 TO ALLOW APPLICANT TIME TO RESOLVE ISSUES)

Lori Greenlief, Staff Coordinator, stated there was a public hearing conducted on this application on October 4, 1988. The request was deferred at that time to allow the applicant time to continue negotiating an easement with the adjoining property owner and to investigate an option that was brought up by Mrs. Thonen regarding purchase of the Beacon Day Care Center site.

The applicant, Jacqueline Smith, 4319 Rock Creek Road, Alexandria, Virginia, President of Happy Faces Child Development Center, was present but requested another deferral because her lawyer could not be present and she needed more time to further negotiate the easement issue. She said her lawyer, Herbert Rosenblum, advised her to request a deferral. The hearing was set for December 13, 1988 9:05 a.m.

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11:45 a.m. WILLIS B. KERN, SP 8-P-051, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 11.5 foot high shed to remain 8.5 feet from rear lot line (11.5 ft. min. rear yard req. by Sect. 10-104), located in the Forest Hills Apartment Complex, on approximately 8.9907 acres of land, zoned R-20, Providence District, Tax Map 40-1((1))44. (DEF. FROM 8/2/88 - NOTICES NOT IN ORDER. DEF. FROM 10/18/88 FOR ADDITIONAL INFORMATION)

Lori Greenlief, Staff Coordinator, advised the Board that this request involved an apartment complex and was deferred to allow the applicant time to contact the contractor. She said the contractor was present. She further stated that the applicant had researched an additional document, a site plan waiver, which was referenced on the building permit.

The contractor, James Broyhill, 3801 Pine Lane Street, Fairfax, Virginia, stated the man who handled the job was seriously ill and could not be present. Mr. Broyhill said that employee, Mr. Corkins, was responsible for obtaining the Building Permit and that he guessed Mr. Corkins must have misread the site plan, mistaking 52.5 feet for 57.5 feet.

Mr. Ribble pointed out that the contract stated that the applicant was responsible for obtaining the Building Permit.

Lori Greenlief stated that the Building Permit had been obtained by Mr. Broyhill and not by the applicant.

Mr. Broyhill said he received guidance from the applicant about placing the shed because the applicant had knowledge of the location of a utility line and also that he tried to avoid some standing trees to accommodate the applicant.

Mrs. Day moved to grant SP 88-P-151 according to the development conditions set forth in the resolution.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-P-051 by WILLIS B. KERN, under Section 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 11.5 foot high shed to remain 8.5 feet from rear lot line, on property located in the Forest Hills Apartment Complex, Tax Map Reference 40-1((1))44, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 10, 1988; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-20.
3. The area of the lot is 8.9907 acres of land.
4. The contractor made a five foot (5') error in measuring dimensions, which was greater than ten percent (10%).

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 shed shown on the plat included with this application and is not transferable to other land.

2. Conifer-style evergreens shall be planted along the length of the rear of the shed to provide a continuous screen of the structure. The size, type and location of these plantings shall be approved by the County Arborist.

Mr. Ribble seconded the motion.

Page 372, November 10, 1988, (Tape 2), (Willis B. Karn, SP 8-P-051, continued from Page 371)

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The motion carried by a vote of 5-0. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on November 18, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 372, November 10, 1988, (Tape 2), After Agenda Item:

Request for Additional Time
Full Gospel First Korean Church of Washington
SP 86-M-056

Jane Kelsey, Chief, Special Permit and Variance Branch, advised that staff recommended granting additional time of nine (9) months. The new expiration date date is June 4, 1989.

Mrs. Thonen moved to grant 9 months additional time on SP 86-M-056. Mr. Ribble seconded the motion which carried unanimously. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

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Page 372, November 10, 1989, (Tape 2), After Agenda Item:

Request for Additional Time
Saint John Neumann Parish
SPA 80-C-096-2

Jane Kelsey, Chief, Special Permit and Variance Branch, advised that applicant was requesting eighteen (18) months because the plats were just approved. The new expiration date is June 18, 1990.

Mr. Kelley moved to grant eighteen (18) months additional time on SPA 80-C-096-2. Mrs. Thonen seconded the motion which carried unanimously. Mr.Hammack and Mr. DiGuilian were absent from the meeting.

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Page 372, November 10, 1989, (Tape 2), After Agenda Item:

Request for Additional Time
Rebecca Ann Crump
SP 84-S-079

Jane Kelsey, Chief, Special Permit and Variance Branch, advised that applicant was requesting eighteen (18) months, but staff was recommending twelve (12) months. The new expiration date is October 16, 1989.

Mrs. Thonen moved to grant twelve (12) months additional time on SP 84-S-079. Mrs Day seconded the motion which carried unanimously. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

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Page 372, November 10, 1989, (Tape 2), After Agenda Item:

Approval of October 25, 1988 Resolutions

Mrs. Thonen moved to approve the Resolutions of October 25, 1988 as presented. Mr. Kelley seconded the motion which carried unanimously. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

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Page 372, November 10, 1989, (Tape 2), After Agenda Item:

Approval of Minutes for July 28, 1988 and September 13, 1988.

Mrs. Day moved to approve these minutes as presented. Mr. Kelley seconded the motion which carried unanimously. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

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Page 373, November 10, 1988, (Tape 3), Information Item:

Chairman Smith asked if there were any other items to bring before the Board.

Jane Kelsey, Chief, Special Permit and Variance Branch, said that Mr. Zook would arrived shortly. She asked if the Board would like to make a motion to go into Executive Session to discuss personnel matters.

The Board went into Executive Session to discuss personnel matters.

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Page 373, November 10, 1988, (Tape 3), Adjournment:

Mr. Kelley moved to adjourn. Mrs. Day seconded the motion which carried unanimously. Mr. Hammack and Mr. DiGuilian were absent from the meeting.

Chairman Smith adjourned the meeting at 12:50 p.m.

Geri B. Bepko, Deputy Clerk to the Board of Zoning Appeals

Daniel Smith, Chairman Board of Zoning Appeal

SUBMITTED: 4/11/89 APPROVED: 4/20/89

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, November 29, 1988. The following Board Members were present: John DiGiulian, Vice-Chairman; Ann Day; John Ribble; and Mary Thonen. Chairman Daniel Smith, Paul Hammack, and Robert Kelley were absent from the meeting.

Vice-Chairman DiGiulian called the meeting to order at 9:20 A.M. with Mrs. Day leading the prayer.

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Vice-Chairman DiGiulian asked if any Board member had any matters to bring before the Board. Mr. Ribble made a motion that the Board go into Executive Session to discuss Board matters.

Mrs. Day seconded the motion which carried by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

The Board returned at 9:45 a.m. to take up the first scheduled case.

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Page 375, November 29, 1988, (Tape 1), Scheduled case of:

9:00 A.M. RICHARD A. & ROBERTA D. KING, VC 88-M-148, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport 10 ft. from a side lot line (12 ft. min. side yard required by Sect. 3-307), located at 3524 Paul Street, on approximately 13,750 square feet of land, zoned R-3, Mason District, Tax Map 61-4((17))23.

Denise James, Staff Coordinator, presented the staff report.

Frank W. Stearns, 4020 University Drive, Suite 202, Fairfax, Virginia, attorney for the applicants came forward and noted that the statement of justification submitted with the application should be corrected to reflect "80 feet" as opposed to 75 feet.

He stated that the applicants were requesting approval to complete the enclosure of an addition which has existed since the house was constructed in 1955. He stated that the applicant's house was the model home and therefore does not have a basement like the other homes in the neighborhood. Mr. Stearns added that the applicants have met the standards required a variance and asked the Board to grant the request. He pointed out that Mr. King was present if the Board had any questions.

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

Mrs. Thonen stated that she believed that the applicants have met the standards for a variance, that the applicant had presented testimony indicating that the Zoning Ordinance was changed after they had purchased the property, and that the request is for a minor variance. She then made a motion to grant VC 88-M-148 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 88-M-148 by RICHARD A. AND ROBERTA D. KING, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport to 10 feet from a side lot line, on property located at 3524 Paul Street, Tax Map Reference 61-4((17))23, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 29, 1988; and

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

1. That the applicants are the owner of the land.
2. The present zoning is R-3.
3. The area of the lot is 13,750 square feet of land.
4. The house was constructed prior to the present Zoning Ordinance.
5. The variance is a minor request.

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.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 7, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 376, November 29, 19888, (Tape 1), Scheduled case of:

9:15 A.M. DAVID AND LORI BOSSMAN, VC 88-S-149, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 6.2 feet from a side lot line such that side yards total 16.2 feet (8 ft. min., 20 ft. total min. side yard required by Sect. 3-307), located at 7914 Edinburgh Drive, on approximately 9,498 square feet of land, zoned R-3 Cluster, Springfield District, Tax Map 98-2((6))405.

Denise James, Staff Coordinator, presented the staff report.

The applicant, David Bossman, 7914 Edinburgh Drive, Springfield, Virginia, came forward and referenced the statement of justification submitted with the application.

In response to questions from the Board, Mr. Bossman replied that he had discussed his request with his neighbors and no one had voiced any objections.

There were no speakers to address this application and Vice-Chairman DiGiulian closed the public hearing.

Mrs. Day stated that the addition will face a solid wall of the adjoining property owner's house, the lot is irregular shaped, the house is sited at an angle on the lot, and that this is a minimal variance. She then made a motion to grant VC 88-S-149 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 88-S-149 by DAVID AND LORI BOSSMAN, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 6.2 feet from a side lot line such that side yards total 16.2 feet, on property located at 7914 Edinburgh Drive, Tax Map Reference 98-2((6))405, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 29, 1988; 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(C).
3. The area of the lot is 9,498 square feet of land.
4. The addition will face a solid wall of the adjoining property owner's house.
5. The lot is irregular shaped.
6. The house is sited at an angle on the lot.
7. The front side of the addition requires a variance of 1.8 feet and 3.8 feet to the side yards.
8. It would be a hardship to the applicant to deny this request due to the exceptional shape of the property.
9. It is a minimal variance.

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 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 7, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 378, November 29, 1988, (Tape 1), Scheduled case of:

9:30 A.M. J. ROBERT MOORE III AND B. DONALD O'NEAL, VC 88-D-130, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12.7 feet from side lot line and to allow roofed deck addition to dwelling to 13.0 feet from other side lot line, (15 ft. min. side yard required by Sects. 3-207 and 2-412), located at 6907 Hutchison Street, on approximately 13,600 square feet of land, zoned R-2, Dranesville District, Tax Map 40-2((4))(3)2.

Kathy Reilly, Staff Coordinator, presented the staff report.

Bill Mixan, 4513 Mount Vernon Memorial Highway, Alexandria, Virginia, came forward to represent the applicants and referenced the statement of justification submitted with the application. He added that the addition would follow along the same roof line as the existing house.

Vice-Chairman DiGiulian called for speakers in support of the request and hearing no reply called for speakers in opposition to the request.

Maria Dixon, 2109 Reynolds Street, Alexandria, Virginia, came forward and stated that she believed that the proposed addition would invade her privacy and would be too close to the shared lot line.

Mrs. Thonen explained that the addition would not be any closer to her property than the existing house.

During rebuttal, Mr. Mixan again pointed out that the addition would be in line with the existing house and asked the Board to grant the request.

Vice-Chairman DiGiulian closed the public hearing as there were no additional speakers.

Mr. Ribble made a motion to grant VC 88-D-130 as he believed that the applicant had met the nine standards specifically 2(F), that the applicant had testified that the house was built and then the Zoning Ordinance was changed, and that the addition will not be any closer to the property line than the existing house.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-130 by J. ROBERT MOORE III AND B. DONALD O'NEAL, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 12.7 feet from side lot line and to allow roofed deck addition to dwelling to 13.0 feet from other side lot line, on property located at 6907 Hutchison Street, Tax Map Reference 40-2((4))(3)2, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 29, 1988; 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 18-401.
3. The area of the lot is 13,600 square feet of land.
4. The applicant has met the nine standards.
5. The applicant has testified that the house was built and then the Zoning Ordinance changed.
6. The addition will not be any closer to the lot line then the existing house is now.

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 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

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless construction has started and is diligently pursued, or unless a request for 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 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley not present for the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 7, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 380, November 29, 1988, (Tape 1), Scheduled case of:

9:45 A.M. JAMES H. WARRICK, SP 88-M-087, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow attached garage to remain 1.6 feet from side lot line (12 ft. min. side yard required by Sect. 3-307), located at 3154 Holloway Road, on approximately 10,010 square feet of land, zoned R-3, Mason District, Tax Map 50-4((20))122.

Kathy Reilly, Staff Coordinator, presented the staff report.

James H. Warrick, Jr., 6126 Wicklow Drive, Burke, Virginia, the applicants' son came forward to represent them. He stated this application was brought about by a minor dispute between his parents and the next door neighbor, who in turn filed a complaint with the Zoning Enforcement Division. He added that the garage was constructed prior to the present Zoning Ordinance and for his parents to have to remove the garage would be a financial hardship, as well as hazardous to their health as they would then have to walk from their vehicle to the house without any protection from the weather. Mr. Warrick asked the Board to grant permission for the garage to remain.

Vice-Chairman DiGiulian called for speakers in support of the request and hearing no reply called for speakers in opposition to the request.

Betty Cleveland, 3152 Holloway Road, Falls Church, Virginia, stated that a drainage pipe connected to the applicants' garage was turned toward her property and had caused flooding of her property and had flooded her property. When Fairfax County staff inspected the property, they informed the applicants that they would need to dig a drainage ditch and install pipe in order to alleviate the problem. She added that the applicants have expanded the garage several times since it had been constructed but that the drainage problem was her major concern although the garage had deteriorated and was in need of repair.

During rebuttal, Mr. Warrick stated that since construction, the garage had not been expanded and again asked the Board to grant the request.

As there were no further comments, Vice-Chairman DiGiulian closed the public hearing.

Mrs. Thonen stated that the Board had received letters stating that the garage had been there approximately 27 years and without objection. She then made a motion to grant SP 88-M-087 subject to the development conditions contained in the staff report.

Mrs. Day stated that she believed the garage did adversely impact the neighbors but would reluctantly support the motion.

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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 88-M-087 by JAMES H. WARRICK 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 attached garage to remain 1.6 feet from side lot line, on property located at 3154 Holloway Road, Tax Map 50-4((20))122, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on November 29, 1988; and,

WHEREAS, the Board made the following findings of fact:

1. The Board has determined that:

Page 381, November 29, 1988, (Tape 1), (James H. Warrick, SP 88-M-087, continued from Page 380)

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, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law: That the application meets all of the required standards as set forth above.

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

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

2. A Building Permit shall be obtained within (30) days for the existing garage.

Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

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Page 381, November 29, 1988, (Tape 1), Scheduled case of:

10:00 A.M. GLORIA PASTORELLI, SP 88-M-082, application under Sect. 3-303 of the Zoning Ordinance to allow child care center, located at 3714 Terrace Drive, on approximately 10,662 square feet of land, zoned R-3, Mason District, Tax Map 60-4((3))102.

Kathy Reilly, Staff Coordinator, informed the Board that the applicant in SP 88-M-082 had requested a withdrawal of her application.

Mrs. Day made a motion to allow the applicant to withdraw her application. Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

As there were citizens present who were interested in this application, Jane Kelsey, Chief, Special Permit and Variance Branch, explained that the applicant could not file a new application prior to the 12-month time limitation unless the Board made a motion to that effect.

It was the consensus of the Board that the applicant would have to be present to make such a request.

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Page 381, November 29, 1988, (Tape 1), Scheduled case of:

10:15 A.M. JAMES GEISLER, TRUSTEE, AND ADELE GEISLER, SP 88-A-086, application under Sect. 3-103 of the Zoning Ordinance to allow child care center, located at 4522 Burke Station Road, on approximately 67,232 square feet of land, zoned R-1, Annandale District, Tax Map 69-1((1))11.

Kathy Reilly, Staff Coordinator, informed the Board that the Planning Commission had pulled this case for review and had scheduled a public hearing for January 26, 1989. She stated that the applicant had requested a deferral in order to allow time for changes in the design and staff, therefore, was recommending a deferral date and time of February 7, 1989 at 8:00 p.m.

Hearing no objection, the Chair so ordered.

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The Board recessed at 10:15 a.m. and reconvened at 10:32 a.m.

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10:30 A.M. RONALD & LETA DEANGELIS, VC 88-M-145, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 7.5 feet from side lot line (15 foot min. side yard required by Sect. 3-207), located at 3547 Half Moon Circle, on approximately 16,700 square feet of land, zoned R-2, Mason District, Tax Map 61-3((14))455.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that on July 7, 1988, the Board of Zoning Appeals (BZA) denied VC 88-M-062 which was identical to this application with the exception that the proposed addition would be 7.5 feet from the side lot line rather than 7.48 feet. At that time, the Board also granted the applicant a waiver of the twelve month limitation period.

Keith Martin, attorney with the law firm of Walsh, Colucci, Stackhouse, Emrich and Lubeley, 950 North Glebe Road, Suite 300, Arlington, Virginia, represented the applicants. Mr. Martin stated that the applicants had reduced the size of the addition and the property was surrounded by open beach area owned by Lake Barcroft. He added that the only other place on the lot where the applicants could build this addition has a severe slope, therefore prohibiting construction. Mr. Martin stated that the applicant has met the standards and asked that the Board grant the request.

There were no speakers to address this application and Vice-Chairman DiGiulian closed the public hearing.

Mrs. Day stated that the lot is very irregular shaped, that there is a sanitary sewer easement in the rear of the lot, that Lake Barcroft owns beach property adjacent to the subject property therefore there will be no adverse impact on the surrounding neighbors, and that the applicants have submitted letters in support of the request. She then made a motion to grant VC 88-M-145 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 88-M-145 by RONALD AND LETA DEANGELIS, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 7.5 feet from side lot line, on property located at 3547 Half Moon Circle, Tax Map Reference 61-3((14))455, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 29, 1988; 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 16,700 square feet of land.
4. The lot is very irregular shaped.
5. There is a sanitary sewer easement in the rear of the lot.
6. Lake Barcroft owns beach property adjacent and to the abutting the subject property.
7. There will be no adverse impact on the surrounding neighbors.
8. The applicants have submitted letters in support of the request.

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 to finish this structure shall be compatible with the principle dwelling unit on the property and to the adjacent properties.

5. If not obtained prior to approval of this application, a Building permit shall be obtained for the existing deck within thirty (30) days of approval of this variance application.

Mr. Ribble seconded the motion.

The motion carried by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 7, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 383, November 29, 1988, (Tape 1), Scheduled case of:

10:45 A.M. PAMELA A. DOYLE, VC 88-V-146, application under Sect. 18-401 of the Zoning Ordinance to allow construction of a dwelling to 8 ft. from each side lot line (12 ft. min. side yard required of Sect. 3-307), located at 1515 Grassymeade Lane, on approximately 9,382 square feet of land, zoned R-3, Mount Vernon District, Tax Map 102-4((1))48.

Lori Greenlief, Staff Coordinator, presented the staff report.

The applicant, Pamela A. Doyle, 4600 South Four Mile Run Drive, #234, Arlington, Virginia, came forward and referenced her statement of justification submitted with her application. She noted that the lot was exceptionally narrow.

Vice-Chairman DiGiulian called for speakers in support of the request and hearing no reply called for speakers in opposition. The following came forward: Meredith Slattery, 1521 Grassymeade Lane, Alexandria, Virginia; Patricia Rowell, 1520 Grassymeade Lane, Alexandria, Virginia; and, Albert Schmutzer, 8420 Fort Hunt Road, Alexandria, Virginia.

The citizens stated that they were not really opposed to the applicant's request but were concerned that it might possibly set a precedent and create a drainage problems on their lots.

Vice-Chairman DiGiulian closed the public hearing as there were not additional speakers.

Mr. Ribble made a motion to grant VC 88-V-146 as he believed that the applicant had met the standards, that the lot was extremely narrow, and that there are no similar lots like it in the neighborhood.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-146 by PAMELA A. DOYLE, under Section 18-401 of the Zoning Ordinance to allow construction of a dwelling to 8 feet from each side lot line, on property located at 151 Grassymeade Lane, Tax Map Reference 102-4((1))48, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 29, 1988; 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 9,382 square feet of land.
4. The lot is extremely narrow.

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 Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 7, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 385, November 29, 1988, (Tape 1), Scheduled case of:

11:00 A.M. SIDNEY SAVAGE AND STUART SAVAGE, JR., VC 88-M-147, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling 16.1 feet from side lot line and 29.7 feet from front lot line (20 ft. min. side yard and 40 ft. min. front yard required by Sect. 3-107), located at 6445 Eppard Street, on approximately 18,375 square feet of land, zoned R-1, Mason District, Tax Map 51-3((9))10.

Lori Greenlief, Staff Coordinator, presented the staff report.

The applicants, Sidney and Stuart Savage, 6445 Eppard Street, Falls Church, Virginia, came forward. Mrs. Savage stated that the addition could not be constructed to the rear of the lot because of the design of their two story house. She added that the lot was heavily wooded and their house was not visible from the road, therefore would not adversely impact on the neighbors.

Mr. Ribble stated that he was familiar with the street and that the lots do have severe topographic problems to the rear.

There were no speakers to address this application and Vice-Chairman DiGiulian closed the public hearing.

Mrs. Thonen made a motion to grant VC 88-M-147 as there are severe topographic problems on the property and there was no other location to construct the addition.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-147 by SIDNEY SAVAGE AND STUART SAVAGE, JR., under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling 16.1 feet from side lot line and 29.7 feet from front lot line, on property located at 6445 Eppard Street, Tax Map Reference 51-3((9))10, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 29, 1988; 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 18,375 square feet of land.
4. There are severe topographic problems on the property.
5. There is no other location to construction the addition.

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 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 7, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 387, November 29, 1988, (Tape 1), After Agenda Item:

Reality Gospel Church, SPA 79-L-269-1
Additional Time

Mrs. Day made a motion to grant the applicant an additional twelve months to commence construction making the new expiration date July 21, 1989. Mrs. Thonen seconded the motion which passed by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

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Page 387, November 29, 1988, (Tape 1), After Agenda Item:

Randolph Williams, SP 87-D-004
Additional Time

Mrs. Day made a motion to grant the applicant an additional twelve months making the new expiration date October 29, 1989. Mr. Ribble seconded the motion which passed by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

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Page 387, November 29, 1988, (Tape 1), After Agenda Item:

Norma and Eddie Bellett, VC 86-M-011
Additional Time

Jane Kelsey, Chief, Special Permit and Variance Branch, explained that staff was recommending an additional six months for a total of thirty-six months in order for this applicant to record the subdivision. She added that the applicant's attorney had indicated that the applicant and his neighbor would access their properties through a joint driveway, now the neighbor does not agree to this agreement.

Mrs. Day made a motion to grant the applicants an additional six months making the new expiration date May 20, 1989. Mr. Ribble seconded the motion which passed by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

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Page 387, November 29, 1988, (Tape 2), After Agenda Item:

Pleasant Valley, SP 85-S-026
Additional Time

Mrs. Day made a motion to grant the applicant an additional twelve months making the new expiration date September 10, 1989. Mr. Ribble seconded the motion which passed by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

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Page 387, November 29, 1988, (Tape 2), Scheduled case of:

11:15 A.M. EDWARD AND GERALDINE GRUNDLER, VC 88-A-144, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 1.6 feet from side lot line (7 ft. min. side yard required by Sects. 3-307 and 2-412, located at 5521 Yorkshire Street, on approximately 10,728 square feet of land, zoned R-3, Annandale District, Tax Map 79-1((6))566.

Denise James, Staff Coordinator, presented the staff report.

The applicants, Edward and Geraldine Grundler, 5521 Yorkshire Street, Annandale, Virginia, outlined their statement of justification presented with their application. They added this addition would provide protection for their vehicles and enhance the property value.

In response to a question from Mrs. Thonen, Mr. Grundler replied that materials similar to the existing house would be used for the addition.

There were no speakers to address this application and Vice-Chairman DiGiulian closed the public hearing.

Mrs. Day stated that the house is sited at an angle on the property which makes it unusually close to the shared lot line, that this neighbor might have no objections but the next neighbor might, that the applicants have already added numerous additions to the house, and that the addition would have adverse impact on the surrounding neighborhood. She then made a motion to deny VC 88-A-144.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-144 by EDWARD AND GERALDINE GRUNDLER, under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 1.6 feet from side lot line, on property located at 5521 Yorkshire Street, Tax Map Reference 79-1((6))566, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 29, 1988; 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 10,728 square feet of land.
4. The house is sited at an angle on the property which makes it unusually close to the shared lot line.
5. This neighbor might have no objections but the next neighbor might.
6. The applicants have already added numerous additions to the house.
7. The addition would have adverse impact on the surrounding neighborhood.

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 FAILED by a vote of 2-2 with Mrs. Day and Mr. Ribble voting aye; Mrs. Thonen and Mr. DiGiulian voting nay. The application was denied.

Page 389, November 29, 1988, (Tape 2), (Edward and Geraldine Grundler, VC 88-A-144, continued from Page 388)

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 7, 1988.

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Page 389, November 29, 1988, (Tape 2), After Agenda Item:

John Saunders, SP 88-S-098
Out of Turn Hearing

Mrs. Thonen made a motion to grant the applicant's request. Mr. Ribble seconded the motion which passed by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

Jane Kelsey, Chief, Special Permit and Variance Branch, suggested January 17, 1989 at 9:30 a.m. as the public hearing.

Hearing no objection, the Chair so ordered.

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Page 389, November 29, 1988, (Tape 2), After Agenda Item:

Approval of Minutes for June 7, July 7, September 6, September 22 and October 4, 1987

Mrs. Thonen made a motion to approve the minutes as submitted. Mr. Ribble seconded the motion which passed by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

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Page 389, November 29, 1988, (Tape 2), Scheduled case of:

D.R.W. Limited Partnership Appeal

Jane Kelsey, Chief, Special Permit and Variance Branch, asked the Board to reserve action on this after agenda item until the Zoning Administrator could be present in the Board Room.

Hearing no objection, the Chair so ordered.

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Page 389, November 29, 1988, (Tape 2), Scheduled case of:

11:30 A.M. MARCO AND ISOLINA DE LAS CASAS, SP 88-D-084, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow attached garage to remain 2.6 feet from side lot line (10 ft. min. side yard required by Sect. 3-407), located at 1903 Pimmit Drive, on approximately 11,200 square feet of land, zoned R-4, Dranesville District, Tax Map 40-1((16))35.

Lori Greenlief, Staff Coordinator, presented the staff report.

The applicants, Marco and Isolina De Las Casas, 1903 Pimmit Drive, Falls Church, Virginia, came forward. Mr. De Las Casas stated that when he and his wife bought the house it was in poor condition and since that time they have made vast improvements and decided to enclose the existing carport because the property backs up to park land. He added that he has tried to comply with all the laws.

Vice-Chairman DiGiulian called for speakers in support of the request and hearing no reply called for speakers in opposition to the request.

Harry McClelland, 1901 Pimmit Drive, Falls Church, Virginia, the adjacent property owner, read a letter into the record. He stated that he had made the applicant aware of his opposition to the enclosure of the carport but added that he would not be opposed to the applicant constructing a two car garage in the rear of the lot.

In response to question from the Board, Mr. McClelland replied that he had lived there for fifteen years and had complained when the previous owner constructed the carport and brick wall but nothing was done at that time.

During rebuttal, Mr. De Las Casas asked the Board to grant his request.

As there were no additional comments, Vice-Chairman DiGiulian closed the public hearing.

Mr. Ribble stated that this was a tough one but that he believed that the applicants did act in good faith as the carport and brick wall already existed when they purchased the property. He then made a motion to grant SP 88-D-084 subject to the development contained in the staff report.

Mrs. Thonen seconded the motion which failed by a vote of 3-1 with Mrs. Day voting nay.

In response to a question from the applicant, Jane Kelsey, Chief, Special Permit and Variance Branch, explained that the Zoning Enforcement Branch would advise him as to what he should do now that his request has been denied.

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MOTION TO GRANT FAILED

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

Mr. Ribble made the following motion:

WHEREAS, Application Number SP 88-D-084 by MARCO AND ISOLINA DE LAS CASAS 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 attached garage to remain 2.6 feet from side lot line, on property located at 1903 Pimmit Drive, Tax Map Reference 40-1((16))35, Mr. Ribble has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on November 29, 1988; and,

WHEREAS, the Board made the following findings of fact:

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, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law: That the application meets all of the required standards as set forth above.

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

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

2. A building permit shall be obtained for the existing structure and all building inspections shall be obtained.

Mrs. Thonen seconded the motion. The motion **FAILED** by a vote of 3-1 with Vice-Chairman DiGiulian, Mrs. Thonen, and Mr. Ribble voting aye; Mrs. Day voting nay. Four (4) affirmative votes are needed to pass a special permit or variance. Chairman Smith, Mr. Hammack, and Mr. Kelley were absent from the meeting.

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Page 391, November 29, 1988, (Tape 2), Scheduled case of:

D.R.W. Limited Partnership Appeal

Since the Zoning Administrator had arrived, the Board proceeded with its discussion regarding the above-referenced appeal.

Ms. Gwinn explained to the Board that the appellant's attorney was challenging the Department of Environmental Management's (DEM) decision to refuse to approve geotechnical reports for nine lots and to refuse to issue Non-Residential Use Permits (NONRUP) for the same lots. She stated that it was her position that this refusal is not a Zoning Ordinance requirement, therefore was not within the jurisdiction of the Board of Zoning Appeals (BZA). In addition, she noted that five of the lots have been issued NONRUPs, therefore how can there be a challenge to the non issuance. Ms. Gwinn stated that the appellant's attorney had requested a deferral until March and she was in agreement.

In response to questions from the Board, Ms. Gwinn stated that she believed that any decisions made by staff was also appealable to the BZA not just decisions by the Division Director.

Mrs. Thonen made a motion to defer action on this appeal until December 6, 1988. Hearing no objection, the Chair so ordered.

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Page 391, November 29, 1988, (Tape 2), Scheduled case of:

11:45 A.M. DAN H. MERRILL, SP 88-V-085, application under Sect. 8-901 of the Zoning Ordinance to allow reduction to minimum yard requirements based on error in building location to allow 15.2 feet high detached garage to remain 1.9 feet from side lot line and 13.8 feet from rear lot line (10 ft. min. side yard and 15.2 ft. min. rear yard required by Sects. 3-407 and 10-104), located 6048 Woodmont Road, on approximately 8,500 square feet of land, zoned R-4, Mount Vernon District, Tax Map 83-3((14))(4)5.

Denise James, Staff Coordinator, presented the staff report. She stated that staff research had indicated that the applicant had obtain building permits for the additions which are shown on the plat to the rear of the house and the retaining wall. She stated that staff did not support this request because the applicant had obtained previous permits, therefore was aware of the requirement and because of the size and location of the structure.

In response to questions from the Board regarding the garages on the neighbors' property, Ms. James stated that there were no evidence of any variances being granted for this area.

Mrs. Thonen requested that the Board take a five minute recess.

Vice-Chairman DiGiulian called the applicant in SP 88-V-085 to the podium.

The applicant, Dan H. Merrill, 6048 Woodmont Road, Alexandria, Virginia, came forward. He stated that the access to his property was via an alley to the rear of his property and that he had merely expanded the existing one car garage. He noted the letters in support from the abutting property owners.

As there were no speakers in support or in opposition to the request, Vice-Chairman DiGiulian closed the public hearing.

Mr. Ribble made a motion to grant SP 88-V-085 because he believed that the error was done in good faith and would not be detrimental to the other property owners.

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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 Number SP 88-V-085 by DAN H. MERRILL 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 15.2 foot high detached garage to remain 1.9 feet from side lot line and 13.8 feet from rear lot line, on property located at 6048 Woodmont Road, Tax Map Reference 83-3((14))(4)5, has been properly filed in accordance with all applicable requirements, and

WHEREAS, following proper notice to the public, a public hearing was held by the Board of Zoning Appeals on November 29, 1988; and,

WHEREAS, the Board made the following findings of fact:

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, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law: That the application meets all of the required standards as set forth above.

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

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

2. A Building Permit shall be obtained within (30) days for the detached three car garage.

Mrs. Thonen seconded the motion which passed by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

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Page 392, November 29, 1988, (Tape 2), Scheduled case of:

12:00 Noon BUFFA'S DANCE STUDIO, LTD, SP 88-S-089, application under Sect. 3-103 and 8-901 of the Zoning Ordinance to allow private school of special education and waiver of dustless surface, located at 8101 Ox Road, on approximately 5 acres of land, zoned R-1, Springfield District, Tax Map 97-1((1))19.

Lori Greenlief, Staff Coordinator, stated that the applicant had requested a deferral of this application and was present should the Board have any questions.

Vice-Chairman DiGiulian called the applicant to the podium.

The applicant, Buffa Hargett, 11100 Sewickley Place, Fairfax, Virginia, came forward. She stated that following discussions with Springfield Planning Commissioner, Peter Murphy, and staff regarding the opposition to her request which came to her attention over the Thanksgiving holiday, she believed that a deferral would be in order. She noted that incorrect information was being distributed to the citizens in the surrounding area and she would appreciate an opportunity to work with the citizens to alleviate their concerns.

Mr. Ribble stated that he would support this motion and complimented the applicant for working so diligently with the citizens.

Vice-Chairman DiGiulian polled the audience to determine if there was anyone present in this case. The interested citizens who were present agreed with the deferral.

Mr. Ribble then made a motion to defer this case to February 7, 1988 at 8:20 p.m.

Hearing no objection, the Chair so ordered.

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Page 393, November 29, 1988, (Tape 2), Scheduled case of:

12:15 P.M. RAJDHANI MANDIR BY PURAN C. MITTAL, SP 88-S-081, application under Sect. 3-C03 of the Zoning Ordinance to allow place of worship and related facilities, located at 11425 Popes Head Road, on approximately 6.6681 acres of land, zoned R-C and WS, Springfield District, Tax Map 67-4((1))7.

The Board noted that a letter had been received from the applicant requesting a deferral to December 20, 1988.

Lori Greenlief, Staff Coordinator, stated that the deferral date of December 20, 1988 was contingent upon the applicant submitting a revised plan and as of now staff had not received this plan. She stated that staff was recommending that this case be deferred to February 7, 1989 since it appears it should be scheduled for an evening meeting due to the number of calls staff had received on this application.

Mr. Ribble made a motion to defer this case to February 7, 1989 at 8:40 p.m. as suggested by staff. Mrs. Thonen seconded the motion which carried by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley not present for the vote.

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As it was not yet time for the next scheduled case, the Board took a short recess.

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Page 393, November 29, 1988, (Tape 2), Scheduled case of:

12:30 P.M. NORTHERN VIRGINIA PRIMITIVE BAPTIST CHURCH, SP 88-P-088, application under Sect. 3-103 of the Zoning Ordinance to allow church and related facilities, located at 9640 Blake Lane, on approximately 1.04 acres of land, zoned R-1, Providence District, Tax Map 48-3((1))51.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated that the staff was recommending denial of SP 88-P-008 because staff believed that the use was too intense for the site and would not be in harmony with the Comprehensive Plan.

Frank Williams, Jr., 3008 Cyrandall Valley Road, Fairfax, Virginia, Chairman of the Board of Deacons for the church, appeared before the Board to represent the church. He stated that the church had been meeting in the existing dwelling on the subject property since January 1979 and have continued to use the building under the previous special permit. Mr. Williams stated that when he moved into the area 27 years and the entire area at that time was basically made up of 1 acre lots. Since that time, the area had become "wall to wall" townhouses and that he certainly believed that the church fits into the neighborhood. The church has always intended to build on this site and had been held up by the indecision of the County and the State to finalize the redesign of Blake Lane and now that this has been finalized the church can move forward with its building program.

Hank Strickland, 10230 Van Thompson Road, Fairfax Station, Virginia, Clerk for the church, came forward to address the site plan. He stated that the church meets the standards required for a special permit and that the church would only meet on Sundays and on Thursday evening after the evening rush hour, therefore would not impact the peak rush hours Monday through Friday. Mr. Stickland stated that the church had been designed to blend into the neighborhood, the seating capacity had been reduced, and the parking has been relocated away from the boundaries in order to add more transitional screening.

In response to questions from the Board, Mr. Strickland explained that the entrance into the site would be off Bel Glade Street and that the height of the building would be 36 feet.

The pastor for the church, Emerson Proctor, 6008 Powells Landing, stated that he had been a pastor in the church for 30 years and that the church's history dates back to the colonial days and believed that the church would be a positive influence on the neighborhood. He asked the Board to grant the request.

Vice-Chairman DiGiulian called for speakers in support of the request and the following came forward: Linda McGinnis, 2430 Cedar Lane, Vienna, Virginia; Fred Crabtree, 9739 Five Oaks Road, Fairfax, Virginia; Art Williams, 3323 Piney Ridge Court, Herndon, Virginia; Billy Williams, 3008 Cyrandall Valley Road, Fairfax, Virginia; Harriet Strickland, 10231 Van Thompson Road, Fairfax Station, Virginia; Lantham Lester 5135 Winding Woods Drive, Centreville, Virginia; George Glines, 2949 Ashdown Forest Drive, Herndon, Virginia; Frank Williams, Jr., 2439 Luckett Avenue, Vienna, Virginia; Janet Glines, 2449 Ashdown Forest Drive, Herndon, Virginia; Wanda Dillard, 6106 Meadow Pond Court, Burke, Virginia; Barbara Lane, 11105 Redbrick Court, Fairfax, Virginia; and Mike Dillard, 6106 Meadow Pond Court, Burke, Virginia.

The speakers asked the Board to grant the request because they believed there would be no adverse impact on the neighborhood nor would the traffic generated by the church hamper the already heavy traffic flow on Blake Lane.

Chairman Smith called for speakers in opposition to the request and hearing no reply asked if staff had additional comments.

Ms. Greenlief stated that the church had been granted a Special Permit in 1978 but that the permit had been revoked in 1985. She added that staff was not opposed to a church on this site but staff did believe that the proposal submitted by the applicant was too intense for the site.

Mrs. Thonen noted for the citizens who were present that the Board was not against but that there were standards that each applicant must meet. She then asked the speaker why it had taken since 1985 to bring this application before the Board.

Mr. Stickland explained that the application could not be submitted prior to the final decision by the County and State as to the relocation of Blake Lane. He added that there is no opposition to the church and that he did not understand who staff is trying to protect.

As there were no more speakers to address this application, Vice-Chairman DiGiulian closed the public hearing.

Mrs. Thonen made a motion to grant the request based on the applicant's testimony that the church will enter and exit the site from Bel Glade Street and because she does not believe that the use is a high intensity use since it would only be used Thursday evening and Sunday. The approval was subject to the development conditions contained in the staff report with one addition.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-P-088 by NORTHERN VIRGINIA PRIMITIVE BAPTIST CHURCH, under Section 3-103 of the Zoning Ordinance to allow church and related facilities, on property located at 9640 Blake Lane, Tax Map Reference 48-3((1))51, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 29, 1988; and

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

1. That the applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 1.04 acres of land.
4. That this is not a highly used site; the only way it would affect Blake Lane might be only two times a week. It is not a high intensity use.

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 main area of worship shall be 154 with a corresponding minimum of 39 parking spaces and a maximum of 41 parking spaces. All parking shall be on site.

6. One of the following shall be provided:

   Transitional Screening 1 shall be provided along all lot lines. Along the southern and eastern lot lines, upgraded evergreen plantings shall be utilized instead of white pines in order to provide a continuous screen of the parking lot and to screen as much of the building as possible. This shall include an evergreen hedge to screen the parking lot. Foundation plantings, the purpose of which shall be to soften the impact of the proposed church building shall be provided around the church building.

   or

   Transitional Screening 2 shall be provided along the southern and eastern lot lines to include an evergreen hedge to screen the parking lot. Transitional Screening 1 shall be provided along the western and northern lot lines.

7. The barrier requirement shall be waived along the western and northern lot lines.

8. Interior parking lot landscaping shall be provided in accordance with provisions of Sect. 13-106 of the Ordinance.

9. Improvements to Bel Glade Street shall be provided in accordance with the Virginia Department of Transportation project plans for the Blake Lane project if determined necessary by DEM. An equivalent contribution as determined by DEM in lieu of construction can be made to Fairfax County.

10. The entrance off of Bel Glade Street shall be widened to thirty (30) feet at the property line to meet Virginia Department of Transportation standards for commercial entrances.

11. Right-of-way as shown on the plat submitted with the application shall be provided for the necessary improvements to the surrounding street system.

12. Any lighting proposed for the parking areas 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 subject property.
    - Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.

13. Any signs proposed for the signs shall conform to Article 12 of the Zoning Ordinance and shall not be located on Bel Glade Street.

14. This property will be used as a church and no other additional use is permitted.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible 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, twenty-four (24) 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 Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 7, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 396, November 29, 1988, (Tape 3), Scheduled case of:

12:45 P.M. CHRISTIAN FELLOWSHIP CHURCH, SPA 82-D-066-2, application under Sect. 3-103 of the Zoning Ordinance to amend SP 82-D-066 and S-80-D-099 for church and related facilities and child care center to permit addition of three (3) trailers, increase parking, and decrease land area, located at 10237 Leesburg Pike, on approximately 13.1842 acres of land, zoned R-1, Dranesville District, Tax Map 18-2((7))A, B, C and 18-2((13))1A.

Lori Greenlief, Staff Coordinator, called the Board's attention to a letter requesting a deferral of the portion of the application relating to the church.

It was the consensus of the Board to defer the entire application.

William Ostrander, 2085 Cobblestone Lane, Reston, Virginia, Vice President of Randolph Williams, came forward to address the issue of a deferral. He explained that his company had purchased Lot 1A from the church in February and had not been told about the property being under Special Permit. He asked the Board to proceed with the portion of the application that deals with the deletion of land area because the plans for the subdivision are being held in the Department of Environmental Management (DEM) until such time as the Board of Zoning Appeals acts on the application.

Following a discussion among the Board, Mr. Ribble made a motion to proceed with the application. Mrs. Day seconded the motion which carried by a vote of 3-1 with Mrs. Thonen voting nay; Chairman Smith, Messrs. Hammack and Kelley absent from the meeting.

Jane Kelsey, Chief, Special Permit and Variance Branch, explained that there was a representative from the church present today.

David Houston, McGuire, Woods, Battle and Boothe, 8280 Greensboro Drive, McLean, Virginia, attorney for the applicant came forward and explained that Pastor Guinn with Christian Fellowship could not be present today due to a family emergency. Mr. Houston stated that he was not authorized to go forward with the public hearing on the church's behalf.

Mr. Ribble commented that had he been aware of this he would not have made the motion to proceed.

Mrs. Thonen made a substitute motion to proceed with the portion of the application that dealt with land area and defer the remainder of the application for two weeks. Mr. Ribble seconded the motion which carried by a vote of 4-0 with Chairman Smith, Messrs. Hammack and Kelley absent from the meeting.

Lori Greenlief, Staff Coordinator, presented the staff report and stated that the storm water detention pond was brought under Special Permit in 1985 because of illegal dumping on the site and staff believed that it should remain under Special Permit.

Ms. Kelsey stated that the Zoning Administrator had stated that she believed that a covenant should be recorded in the land records to make prospective buyers aware of the fact that there was an easement on the property.

Mr. Ostrander came back to the podium and reiterated his earlier remarks. He stated that there is an agreement between his company and the church that the pond will be maintained by the church and that it is recorded in the land records. He assured the Board that no dumping will occur on the site and asked that his request be granted. He requested the entire five acres be deleted from the special permit.

Vice-Chairman DiGiulian called for speakers in support of the request and hearing no reply called for speakers in opposition to the request.

Virginia McGavin, 10305 Leesburg Pike, McLean, Virginia, stated that her property is located behind Lot 1A and asked the Board to read a letter which she had distributed to them prior to the public hearing.

Mr. Ostrander waived rebuttal.

Mr. Ribble asked the applicant if he had any objections to the development conditions and Mr. Ostrander indicated that he had no objections.

Following comments from Mrs. Thonen, Mr. Ostrander stated there was no agreement with the church to provide plantings around the pond.

As there was no further discussion, Vice-Chairman DiGiulian closed the public hearing.

Mr. Ribble made a motion to grant-in-part SPA 82-D-066-2 subject to the development conditions contained in the staff report with one addition. Mrs. Thonen seconded the motion which carried by a vote of 4-0 with Chairman Smith and Messrs. Hammack and Kelley absent from the meeting.

Mr. Ribble then made a motion to defer the church portion of the application to December 13, 1988 at 12:00 noon. Mrs. Thonen seconded the motion which carried by a vote of 4-0 with Chairman Smith and Messrs. Hammack and Kelley 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 82-D-066-2 by CHRISTIAN FELLOWSHIP CHURCH, under Section 3-103 of the Zoning Ordinance to amend SP 82-D-066 and S-80-D-099 for church and related facilities and child care center to permit addition to three (3) trailers, increase parking, and decrease land area, **(THE BOARD ACTED ON THE DELETION OF THE LAND AREA ONLY, AND DEFERRED ACTION ON THE REMAINDER OF THE APPLICATION UNTIL DECEMBER 13, 1988)**, on property located at 10237 Leesburg Pike, Tax Map Reference 18-2((7))A, B, C and 18-2((13))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 November 29, 1988; and

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

1. That the applicant is the owner of 18-2((7))A, B, C.
2. The present zoning is R-1.
3. The area of the lot is 13.1842 acres of land.
4. The property identified as 18-2((13))1A is owned by another party.

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-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 as an amendment to SP 82-D-066 and S-82-D-009 for the decrease of 5.0 acres of Lot 1A only. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use. This copy may be posted on the church property located at 10237 Leesburg Pike.

Page 398, November 29, 1988, (Tape 3), (Christian Fellowship Church, SPA 82-D-066-2, continued from Page 397)

4. This Special Permit is subject to the provisions of Article 17, Site Plans. Any plan submitted to the Department of Environmental Management pursuant to this Special Permit shall conform with the approved Special Permit plat and these conditions.

5. A single row of evergreens, at least six feet in planted height, spaced ten (10) feet on center, shall be planted around the rim of the stormwater detention pond in order to screen the pond from the remainder of Lot 1A. The type and placement of these trees shall be reviewed and approved by the County Aborist.

6. The deed of bargain and sale to the initial purchase of each house and lot, which extend into the storm water detention pond, shall expressly state that the property is subject to the terms and conditions of the Storm Water Detention Pond Maintenance Agreement recorded in the land records of Fairfax County at Deed Book 6957, page 1716.

Mrs. Thonen seconded the motion.

The motion carried by a vote of 4-0 with Chairman Smith, Mr. Hammack, and Mr. Kelley absent from the meeting. The Board deferred action on the remainder of the application until December 13, 1988.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 7, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 398, November 29, 1988, (Tape 3), Information Item:

February 14, 1989 BZA Meeting

Mrs. Thonen made a motion to or reserve the tentative scheduled public hearing date of February 14, 1989 in case it might be needed at a later time. Hearing no objection, the Chair so ordered.

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As there was no other business to come before the Board, the meeting was adjourned at 2:17 p.m.

Betsy S. Hurtt
Betsy S. Hurtt, Clerk
Board of Zoning Appeals

Daniel Smith
Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 3/7/89

APPROVED: 3/14/89

The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 6, 1988. The following Board Members were present: Chairman Daniel Smith; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley and John Ribble. Mary Thonen was absent.

Chairman Smith called the meeting to order at 8:10 P.M. with Mrs. Day leading the prayer.

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Page 399, December 6, 1988, (Tape 1), Matters presented by Board Members:

Chairman Smith stated that Jane Gwinn, Zoning Administrator, had informed the Board by memorandum that there were three pending appeal applications that needed to be scheduled for public hearing.

Randolph Williams, Inc., A Virginia Corporation, Appeal

Mr. DiGiulian moved that the appeal of Randolph Williams, Inc., A Virginia Corporation, be scheduled for February 21, 1989 at 11:00 a.m. Without objection, it was so ordered.

Nelson James Builders, Inc./Batal-Dolan Properties Appeal

It was the consensus of the Board to consider this item later in the meeting.

DRW Limited Partnership Appeal

Mike Congleton, Assistant to the Zoning Administrator, stated that the appeal had been filed with respect to a decision by the Department of Environmental Management not to issue Residential Use Permits and refusal to approve geotechnical reports. He stated that the Zoning Ordinance did not contain any provisions that would require the submission and approval of geotechnical reports for single family dwellings, therefore, it was the judgment of the Zoning Administrator that only those portions of the appeal applications which concern the refusal by DEM to issue RUPs for Lots 71, 72, 79 and 81 in the Chantilly Farms Subdivision be accepted.

Mr. Hammack moved that the Board accept the appeal on all the issues presented. Mr. DiGiulian seconded the motion which passed by a vote of 5-1 (Mr. Smith), Mrs. Thonen absent from the meeting.

It was the consensus of the Board to schedule the appeal of DRW Limited Partnership for March 21, 1989 at 9:00 a.m.

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Page 399, December 6, 1988, (Tape 1), Scheduled case of:

8:00 P.M. MARIAN R. WILLIAMS, VC 88-P-093, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 59B having a lot width of 12 feet (70 ft. min. lot width req. by Sect. 3-406), located at 2849 Rosemary Lane, on approximately 0.64 acres of land, zoned R-4, Providence District, Tax Map 50-3((8))59. (DEFERRED FROM 9/20/88 AT THE APPLICANT'S REQUEST)

Denise James, Staff Coordinator, presented the staff report and stated that in staff's judgment the application did not meet all of the required standards for a variance.

Bud Testerman, 10523 Main Street, Fairfax City, representative of the applicant, appeared before the Board. He stated that by virtue of the exceptional depth of the lot compared with its width, the strict application of the Ordinance requiring each lot to have a minimum 70 foot width unreasonably restricted the utilization of the rear portion of the lot. Mr. Testerman stated that when the subdivision was created, it had been proposed that these would be double-frontage lots, although the proposed road was never built and was shown as an easement on the tax map. Mr. Testerman stated that the owners of the property were elderly and physically unable to care for the entire lot.

Mr. Testerman stated that the applicants had a problem with proposed development condition number five which would entail the construction of at least 340 feet of board on board fence. He stated that as an alternative, some type of screening or barrier would be provided along the area of the driveway where the house on Lot 60 was situated.

Mrs. Day stated that the house on adjacent Lot 60 was located 14 feet from the lot line. She indicated that if the proposed pipestem was built the house would not meet the 25 foot setback requirement as stipulated in the Zoning Ordinance.

In response to a question from Mr. Ribble, Ms. James stated that a subdivision variance had been granted to Lots 55A and 55B in 1984.

Chairman Smith called for speakers in support of the variance application.

John Vincent, 2845 Rosemary Lane, Lot 58, came forward and stated that out of the 25

lots on the east side of the subdivision, about eight had already been subdivided. Mr. Vincent stated that he was in support of the variance request and that it would create more revenue for the County.

Chairman Smith called for speakers in opposition to the variance application.

Susan Moliere, 2853 Rosemary Lane, Lot 60A, spoke in opposition to the application. She stated that a petition had been circulated in the neighborhood in opposition to the request and that eight owners and one renter. Mrs. Moliere stated that the close proximity of the pipestem driveway to her house would cause noise and headlight glare and would restrict any further improvements to her property due to setback requirements.

During rebuttal, Mr. Testerman stated that the Zoning Ordinance, by continuing to classify this property in the R-4 District, recognized that the lot sizes should be in the 8,000 square foot class rather than the 28,000 square foot class. He stated that most of the lots in the area that could be subdivided have been.

There being no further speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to deny VC 88-P-093.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-093 by MARIAN R. WILLIAMS, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 59B having a lot width of 12 feet, on property located at 2849 Rosemary Lane, Tax Map Reference 50-3((8))59, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 6, 1988; 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 0.64 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.

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8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

THAT the applicant has 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, Mrs. Thonen absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 14, 1988.

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Page 401, December 6, 1988, (Tape 1), Scheduled case of:

8:15 P.M. BETTE E. HUTCHINSON, VC 88-C-098, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 2 having a lot width of 21.38 feet (200 ft. min. lot width req. by Sect. 3-E07), located at 11064 Stuart Mill Road, on approximately 217,718 square feet of land, zoned R-E, Centreville District, Tax Map 27-3((1))20. (DEFERRED FROM 9/20/88 AT APPLICANT'S REQUEST)

Kathy Reilly, Staff Coordinator, presented the staff report. She indicated that the application had previously been deferred to allow the applicant time to retain an attorney and to address the issues contained in the published staff report dated September 13, 1988. Ms. Reilly stated that the applicant had submitted a revised plat showing the relocation of the proposed driveway which addressed the environmental issues, but the remaining issues had not been adequately addressed by the revised plat.

Richard Dixon with the firm of Dixon and Smith, 4122 Leonard Drive, Fairfax, Virginia, representative of the applicant, appeared before the Board to explain the request as outlined in the statement of justification contained in the staff report. He stated that Mrs. Dixon had owned the property for thirty-one years and that the purpose of the subdivision was to maximize the value of her assets. Mr. Dixon stated that the lot was long and narrow and that the subdivision would create two lots, each of which would be more than two acres in size.

Mr. Dixon discussed the proposed pipestem that would run along the southern boundary of the lot. He stated that because this pipestem would interfere with a stream channel, an easement would be created to protect it. With regard to the drain field shown on th plat, Mr. Dixon stated that he disagreed with staff's recommendation of the proposed location.

Mr. Dixon stated that the hardship in this case was the inability to utilize an asset in accordance with the existing zoning.

Chairman Smith called for speakers in support of the request and hearing no reply called for speakers in opposition to the request.

Mary Ann DeVille, 11100 DeVille Estates Drive, Lot 23B, Oakton, representing the DeVillew Estates Recreational Association, opposed the application. She stated that the lot which was the subject of the application had a very steep slope and was heavily wooded with large oak trees along the property line. Any disturbance of the soil along that area would kill the large trees and would create further floodplain area.

Larry Milom, 11101 DeVille Estates Drive, Lot 24, Oakton, spoke in opposition to the application. He showed the Board aerial photographs of the area to support his testimony. Mr. Milom stated that he owned over five acres of land in the area of the variance application but had no intention of subdividing it due to the natural surroundings, the lake and the Difficult Run Park.

During rebuttal, Mr. Dixon stated that he had not addressed the DeVille Subdivision in his comments with respect to the surrounding lot size because that was a subdivision that was not done under the Fairfax County Subdivision Control Ordinance and there were no requirements for subdivision improvements. In addition, no lot contained in that

subdivision could be further subdivided. Mr. Dixon stated that the stream channel would be protected by the proposed easement that had been mentioned and that he did not foresee any drainage problems caused by one residence being built.

There being no further speakers, Chairman Smith closed the public hearing.

Mrs. Day moved to deny VC 88-C-098.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-C-098 by BETTE E. HUTCHINSON, under Section 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 2 having a width of 21.38 feet, on property located at 11064 Stuart Mill Road, Tax Map Reference 27-3((1))20, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 6, 1988; 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 217,718 square feet of land.
4. The lot is long and narrow with narrow frontage, however, while the surrounding lots vary in size and have a larger frontage they are not proposing to use pipestem lots.
5. The owner of Lot 23B indicated the steepness of the proposed lot in the rear of the property which would have a detrimental effect on Lot 23B.
6. This would set a precedent and the applicant has reasonable use of the land.
7. When owners are unable to maintain large lots they should not expect to subdivide their land for profit but should make other provisions.

This application does not meet all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance.

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

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

THAT the applicant has not satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of all reasonable use of the land and/or buildings involved.

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 3-3 with Mr. Kelley, Mr. Ribble and Mr. DiGiulian 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 December 14, 1988.

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Page 403, December 6, 1988, (Tape 1), Scheduled case of:

8:30 P.M. MR. AND MRS. KIUMARS M. RAFII, VC 88-D-142, application under Sect. 18-401 of the Zoning Ordinance to allow construction of swimming pool in a front yard of a corner lot and to allow fence 6 feet in height in front yard (accessory structure or use not permitted in any front yard and 4 foot maximum height allowed for fences per Sect. 10-104), located at 6901 Ridgedale Court, on approximately 15,485 square feet of land, zoned R-3, Dranesville District, Tax Map 30-4((42))1.

Kathy Reilly, Staff Coordinator, presented the staff report.

Kuimars Rafii, 6901 Ridgedale Court, the applicant, appeared before the Board to explain the request as outlined in the statement of justification submitted with his application. He stated that the variance for a swimming pool was required based on the extraordinary situation of the subject property due to the existence of storm and sanitary sewer easements. In addition, the lot was a corner lot with two front yards which also limited the building space needed for the pool.

Chairman Smith stated that a letter of support had been received and had been placed in the file.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Kelley moved to grant VC 88-D-142.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-D-142 by MR. & MRS. KIUMARS M. RAFII, under Section 18-401 of the Zoning Ordinance to allow construction of swimming pool in a front yard of a corner lot and to allow fence 6 feet in height in front yard, on property located at 6901 Ridgedale Court, Tax Map Reference 30-4((42))1, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 6, 1988; 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 15,485 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;

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C. Exceptional size at the time of the effective date of the Ordinance;
D. Exceptional shape at 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 5-1 with Chairman Smith voting nay; Mrs. Thonen was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 14, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 404, December 6, 1988, (Tapes 1-2), Scheduled case of:

8:45 P.M. CALVARY MEMORIAL PARK, INC., T/A FAIRFAX MEMORIAL PARK, SPA 81-A-022-4, application under Sect. 3-103 of the Zoning Ordinance to amend SPA 81-A-022 for a cemetery and mausoleum to permit addition to existing office building, located at 4401 Burke Station Road, on approximately 128.13856 acres of land, zoned R-1, Annandale District, Tax Map 69-1((1))1 and 12.

(A copy of a verbatim transcript of a portion of this case is contained in the file.)

Kathy Reilly, Staff Coordinator, presented the staff report. She stated that the Countywide Trails Plan Map required two trails to be located adjacent to the subject property and that there was a memo from the School Board and the Department of Public Works concurring with staff's position on the proposed trails. Ms. Reilly introduced Carol Lamborn, with the Department of Public Works, who was present to answer any questions with regard to the proposed trail.

Grayson Hanes, with the law firm of Hazel, Thomas, Fiske, Beckhorn and Hanes, P.O. Box 547, Fairfax, representative of the applicant, appeared before the Board. He stated that the cemetery was only asking for a small addition to an existing building on the property and that the same request for a trail easement around the property which the BZA had unanimously denied the previous year was not justified and not generated by this application. Mr. Hanes requested the Board to revise the development conditions as follows: delete number eight requiring a trail, modify number four to state that there are no objections to the waiver of site plan by Department of Environmental Management, and modify number seven because he believed there was no need for any additional screening.

Mr. Hanes discussed development condition number six which required a 100 foot setback from Burke Station Road and Braddock Road for burials. He stated that the Virginia Department of Transportation had taken some of the cemetery land for the widening of Braddock Road and that they now only had a 68 foot setback on that road.

In response to comments from the Board, Ms. Reilly stated that development condition number seven had been carefully considered and that the arborist had made a site inspection to ensure that the transitional screening requirements would be compatible with the existing landscaping and vegetation. She suggested that if the Board did not want to require the trail along the Burke Station and Braddock Road sides of the property, they should at least consider requiring that part of the trail recommended by the School Board and by the Department of Public Works.

Mr. Kelley stated for the record that in the short time that he had been serving on the Board a condition requiring a trail had come up and every time it had been knocked out by the Board. He stated that he believed that sooner or later staff ought to get the idea and that he agreed with the applicant's agent that it was nothing more than a form of blackmail and that the Board should not tolerate it.

In response to questions from the Board, Ms. Lamborn stated that the ultimate goal of the Office of School Safety was to provide a safe route for students from neighboring communities to get to school. She indicated that the two schools that the proposed trail would provide access to was Woodson High School and Frost Intermediate School.

Chairman Smith called for speakers and there being none, closed the public hearing.

Mr. Ribble moved to grant SPA 81-A-022-4, with modifications to the development conditions. Mr. DiGiulian seconded the motion which passed by a vote of 6-0, Mrs. Thonen absent from the meeting.

Jane Kelsey, Chief, Special Permit and Variance Branch, requested time at the end of the agenda to discuss the issue of trails and respond to Mr. Kelley's comments regarding staff's recommendation concerning trails.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SPA 81-A-022-4 by CALVARY MEMORIAL PARK, INC., T/A FAIRFAX MEMORIAL PARK, under Section 3-103 of the Zoning Ordinance to amend SPA 81-A-022 for a cemetery and mausoleum to permit addition to existing office building, on property located at 4401 Burke Station Road, Tax Map Reference 69-1((1))1 and 12, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 6, 1988; 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 32.9 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 3-103 of the Zoning Ordinance.

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

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

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

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

4. This use shall be subject to the provisions set forth in Article 17, Site Plans. The Board of Zoning Appeals does not object to a waiver of the Site Plan by the Department of Environmental Management.

5. Eleven parking spaces shall be provided for the office use. All parking shall be on-site.

6. There shall be a 100 foot setback from Burke Station and Braddock Road which shall not be used for any burial purposes as of January 1, 1988.

7. The existing vegetation along the northern, southern, eastern and western lot lines shall be deemed to satisfy the Transitional Screening requirement. The barrier requirement shall be waived along all the lot lines of the special permit property.

8. Any signs associated with this use shall conform to Article 12, Signs.

9. There shall be no chapel within the 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. 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 mausoleum structures which are proposed under this special permit shall be completed within fifteen (15) years from June 11, 1985.

12. The southernmost entrance of 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 applicant shall be responsible 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, Mrs Thonen absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 14, 1988. This date shall be deemed to be the final approval date of this special permit.

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8:45 P.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. DEFERRED FROM 7/21/87 UNTIL AFTER THE BOARD OF SUPERVISORS' PUBLIC HEARING ON THE SPECIAL EXCEPTION. DEFERRED FROM 10/27/87 AT APPLICANT'S REQUEST. DEF. FROM 6/21/88 AND 10/18/88 UNTIL AFTER THE BOARD OF SUPERVISORS' PUBLIC HEARING ON THE SPECIAL EXCEPTION)

Kevin Guinaw, Staff Coordinator, presented the staff report. He stated that the Board of Zoning Appeals (BZA) had held a public hearing on this application on July 21, 1987 and at that time the hearing was deferred to allow the Board of Supervisors time to take action on the cluster subdivision applications in the vicinity of the site and the pending Special Exception for a private school of general education on the subject property. He stated that the cluster applications had been approved on October 19, 1987 and the Special Exception had been approved on November 28, 1988.

Mr. Guinaw stated that the applicant had submitted a revised application and plat which showed a reduction in the overall size of the development which reduced the intensity of the use. He stated that the only remaining problem with the application was that the number of parking spaces had not been reduced proportionate to the reduction in the number of seats.

Mr. Guinaw stated that the issue of transportation impacts had been addressed by a package of road improvements, part of which were approved with the cluster subdivisions.

Bob Calvert, Pastor, Fairfax Baptist Temple, appeared before the Board and stated that the church had worked very hard with elected officials, County staff, and neighbors to improve the original application. Mr. Calvert presented a chart which showed the difference between the application submitted to the BZA in 1987 and the application before them that evening. Pastor Calvert discussed the need for the extra parking spaces which would provide an overflow parking area.

Robert Lawrence, with the law firm of Hazel, Thomas, Fiske, Beckhorn and Hanes, P.O. Box 547, Fairfax, Virginia, represented the applicant. He commented to the Board that development condition number eleven had to be read in the context of development condition number twenty which provided for the ability to go into the EQC if it was absolutely necessary for utility lines, etcetera. With regard to development condition number six, Mr. Lawrence stated that the Planning Commission and the Board of Supervisors had unanimously agreed that it would be more appropriate to have 375 parking spaces rather than the 300 recommended by staff.

Chairman Smith called for speakers in support or opposition to the application.

Kathy Easton, 10456 Burke Lake Road, appeared before the Board to say that she was in agreement with the new proposal which was acceptable to both the church and the surrounding neighborhoods and which protected the environment.

Paul Young, 10207 Burke Lake Road, stated that his address was the one that had been used for the advertisement of the Fairfax Baptist Temple application. He asked that this problem of the duplicate address be resolved.

There being no further speakers, Chairman Smith closed the public hearing.

Mr. DiGiulian moved to grant SP 87-S-022 with modifications 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-022 by FAIRFAX BAPTIST TEMPLE, under Section 3-103 of the Zoning Ordinance to allow church and related facilities, on property located at 10207 Burke Lake Road, Tax Map Reference 77-4((1))pt. 16 and 87-2((1))pt. 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 December 6, 1988; 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 32.9 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 3-103 of the Zoning Ordinance.

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

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

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

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of 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 church auditorium shall be 900 people.

6. Maximum total parking on the site shall be limited to 375 spaces. All parking shall be in designated parking spaces and shall be on site.

7. Right-of-way dedication shall be provided along the site frontage for the future Springfield Bypass consistent with the required right-of-way as shown on VDOT plans revised through April 18, 1988. Dedication shall be conveyed to the Board of Supervisors in fee simple. All ancillary easements necessary for construction of the Springfield Bypass shall be provided.

8. Right-of-way dedication shall be provided along Burke Lake Road to 57 feet from centerline. Dedication shall be conveyed to the Board of Supervisors in fee simple. If full frontage improvements are not provided at the time of site development, all ancillary easements necessary for construction of road improvements along the Burke Lake Road frontage of the site shall be provided.

9. In the event that Development Condition 24 of the Development Conditions dated October 26, 1987 in SE numbers 87-S-011, 87-S-047, 87-S-048 and 87-S-049 does not cause the developer in those cases to provide left and right turn lanes into the cul-de-sac street off Burke Lake Road into the site and construction of improvements along the Burke Lake Road frontage of the church site prior to occupancy of the church, these right and left turn lanes and construction along Burke Lake Road shall be provided as determined by the Director of DEM and in accordance with Virginia Department of Transportation standards prior to the issuance of a non-residential use permit for the church.

10. Only two entrances to the site shall be permitted from the cul-de-sac street and they shall be constructed according to VDOT standards.

11. Pursuant to Virginia Code Section 10.1-1700, the applicant shall, at the time of Site Plan approval, record among the land records of Fairfax County an open space easement to the Board of Supervisors. The easement shall include the land area designated as the Opossum Branch Environmental Quality Corridor (EQC) located in the northeast portion of the property. The boundaries of this Sensitive Lands EQC shall be as designated on the approved Special Permit plat. This easement shall specify that there shall be no clearing of any vegetation within this area, except for dead or dying trees or shrubs as determined by the County Arborist or as permitted by Development Condition Number 20. No structures of any kind shall be located within this easement. This easement shall be approved by the County Attorney.

12. The Resource Protection EQC related to the stream influence zone of the unnamed tributary of the Opossum Branch in the western portion of the site, as shown on the Special Permit plat, shall be preserved in its natural undisturbed state, subject to the provisions of Condition 20 hereafter, and subject to the use limitations specified in the Comprehensive Plan (e.g. passive recreation uses furthest from the stream) as determined by the Director of DEM and OCP.

13. A plan delineating limits of clearing and grading for tree preservation shall be prepared and submitted to the County Arborist for review and approval prior to the conductance of any clearing or grading on the site. The plan shall maximize tree preservation on the site and shall include those areas designated as EQC and shall be in substantial conformance with the limits of clearing and grading shown on the approved Special Permit plat.

14. A landscape plan shall be prepared and submitted to the County Arborist and the Office of Comprehensive Planning for review and approval. The plan shall include tree preservation, transitional screening, and buffers, foundation plantings designed to mitigate the visual impacts of the physical structure, and interior parking lot landscaping. An undisturbed wooded buffer shall be provided and maintained as shown on the Special Permit plat along the western and southern lot lines. Existing trees within this buffer area shall be preserved and supplemented if necessary to provide screening equivalent to Transitional Screening 3. Along the remainder of the southern lot line, and along the eastern and northern lot lines, a minimum of Transitional Screening 3 shall be provided. Plantings in these areas shall be arranged to allow passing views of the facility.

15. Parking lot lighting shall be the low intensity type, on standards not to exceed twelve (12) feet in height, and shielded in a manner as to direct the lights directly onto the parking area and avoid the projection of direct glare beyond the subject property to surrounding properties. The parking lot lights, with the exception of security lights, shall be turned off at the conclusion of evening activities.

16. Signs shall be permitted in accordance with the provisions of Article 12, Signs.

17. For the purpose of protecting water quality within Burke Lake, all stormwater management facilities shall be designed as water quality improvement facilities and shall meet at a minimum the design criteria for Best Management Practices (BMP) facilities as described by Part 4 of Article 6 of the Public Facilities Manual. A stormwater management plan shall be designed in accordance with PFM standards to achieve a minimum of 50% average phosphorous concentration reduction as determined by DEM. All parking areas shall be designed to convey stormwater runoff to the BMP facility.

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

19. Classroom hours of operation shall be limited to 8:00 A.M. to 4:00 P.M., Monday through Friday.

20. For the purpose of tree preservation and minimizing impacts on streams and waterways, subject to the provisions of this paragraph, all sewer lines and other utilities shall be routed outside of designated EQC, open space, tree preservation areas or buffer areas, and the final location of said utilities shall be determined, reviewed and approved by the County Arborist and Site Review Branch of DEM, and Department of Public Works (DPW). If a utility line location outside of an EQC, open space area, tree preservation area or buffer area cannot be achieved as determined by the Director, DEM, such utility may be located within said areas only upon the review and approval of a tree protection and restoration/replanting plan by the County Arborist Such utility shall be routed to minimize the disturbance of EQC, tree preservation, open space and buffer areas and to take the shortest route through the affected areas.

21. The following erosion and sediment control techniques shall be implemented prior to any land disturbance activity and shall be maintained and kept effective throughout the duration of construction. These techniques shall be in addition to the minimum erosion and sedimentation controls required by the Public Facilities Manual:

    a. At least an 80% site-wide trapping efficiency shall be achieved for all erosion and sediment control measures on an average monthly basis.
    b. At least 50% larger silt traps than required by the PFM shall be used as determined by DEM.

c. A minimum undisturbed buffer area shall be maintained between all construction activity and any stream as defined by the open space areas as shown on the SE plat, or as defined by the formula:

50 feet + (4 X % slope)

whichever is greater.

22. Two years after the issuance of a Non-Residential Use Permit for the church, the applicant shall request that VDOT conduct a warrant study at the entrance to the cul-de-sac street. If a signal is determined to be warranted, then the applicant shall fund the design, equipment and installation costs of the signal.

23. There shall be no lighting of the athletic field. Further, the athletic field shall not be rented out to non-member groups. However, the field may be made available to local community groups on a gratis basis up to five (5) times per year.

24. At the commencement of construction, the applicant shall measure the sedimentation in Burke Lake at a spot where sedimentation is likely to occur from activities on the applicant's property as determined by DEM and shall submit a report to the Department of Environmental Management, and prior to release of its development bonds, shall again measure such sedimentation and remove any substantial increase in such sedimentation caused by this development as determined by DEM. For the purposes of this paragraph, "substantial increase" shall mean an increase which warrants removal when compared with the possible detrimental effects of such removal, as determined by DEM.

26. A public access easement to cross the adjacent property to the south (Tax Map 87-2 ((1))3) at the site entrance from the cul-de-sac street shall be obtained prior to the approval of a Site Plan.

27. In order to reduce interior noise levels to 45 dBA Ldn, all buildings to be located between 220' and 695' of the centerline of the proposed Springfield Bypass, in which a school use is proposed, shall have the following acoustical attributes:

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

In order to reduce interior noise levels to 45 dBA Ldn, all buildings to be located closer than 220' from the centerline of the proposed Springfield Bypass, in which a school use is proposed, shall have the following acoustical attributes:

- o Exterior walls shall have a laboratory STC rating of at least 45.
- o Doors and windows shall have a laboratory STC rating of at least 37. If windows function as walls, they shall have the STC specified for exterior walls.
- o Adequate measures to seal and caulk between surfaces shall be provided.

In order to reduce interior noise levels to 50 dBA Ldn in the remaining buildings to be located closer than 220' from the centerline of the proposed Springfield Bypass, the following acoustical attributes shall be provided:

- o Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.

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- Doors and windows shall have a laboratory STC rating of at least 28. If windows function as walls, they shall have the STC specified for exterior walls.

- Adequate measures to seal and caulk between surfaces shall be provided.

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

Under Sect. 8-015 of the Zoning Ordinance, this Special Permit shall automatically expire, without notice, thirty (30) 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, Mrs. Thonen absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 14, 1988. This date shall be deemed to be the final approval date of this special permit.

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Jane Kelsey, Chief, Special Permit and Variance Branch, discussed the trail recommendations made by staff in the development conditions of applications. She stated that the reason trails were required was to ensure that a Special Permit would satisfy the standard for Special Permits that requires the use to be in harmony with the Comprehensive Plan. Ms. Kelsey indicated that if the Comprehensive Plan designated a trail on the application property, then it is the position of the Office of Comprehensive Planning that the use would not be in conformance with the Comprehensive Plan unless a trail is provided.

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Page 411, December 6, 1988, (Tape 2), After Agenda Item:

Nelson James Builders, Inc./Batal-Dolan Properties Appeal

Mr. Hammack moved to defer discussion and action on the scheduling of the referenced appeal application until December 13, 1988. Mr. DiGiulian seconded the motion which passed by a vote of 6-0, Mrs. Thonen absent from the meeting.

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Page 411, December 6, 1988, (Tape 2), After Agenda Item:

Request for Additional Time
Lutheran Church of the Abiding Presence
SPA 84-S-003-2

Mr. Kelley moved to grant the request for additional time for SPA 84-S-003-2. The new expiration date is December 24, 1989. Mrs. Day seconded the motion which passed by a vote of 6-0, Mrs. Thonen absent from the meeting.

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Page 411, December 6, 1988, (Tape 2), After Agenda Item:

Approval of Minutes for June 14, July 19 and August 2, 1988

Mr. Hammack moved to approve the Minutes for June 14, July 19 and August 2, 1988. Mrs. Day seconded the motion which passed by a vote of 6-0, Mrs. Thonen absent from the meeting.

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Page 412, December 6, 1988, (Tape 2), Information Item:

Jane Kelsey, Chief, Special Permit and Variance Branch stated that the Zoning Ordinance amendment regarding sheds was in the Board Members package.

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Page 412, December 6, 1988, (Tape 2), Information Item:

Jane Kelsey, Chief, Special Permit and Variance Branch stated that the Board Members would receive a memorandum from Chairman Moore in their package for the following week which discussed the fact that the Clerk and the Deputy Clerk to the Board of Zoning Appeals had been turned down for a position reclassification.

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Page 412, December 6, 1988, (Tape 2), After Agenda Item:

Mr. Ribble discussed the memorandum he had received from Lori Greenlief, Staff Coordinator, regarding the conditions contained in the Resolution for Christian Fellowship Church, SPA 82-D--066-2, which had been approved in part on November 29, 1988.

Mr. Hammack moved to defer approval of the Resolution for SPA 82-D--066-2 until December 13, 1988. Mr. DiGiulian seconded the motion which passed by a vote of 6-0, Mrs. Thonen absent from the meeting.

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Page 412, December 6, 1988, (Tape 2), After Agenda Item:

Approval of Resolutions November 29, 1988

Mr. Ribble moved to approve the BZA Resolutions for November 29, 1988 with the exception of Christian Fellowship Church. Mr. Hammack seconded the motion which passed by a vote of 6-0, Mrs. Thonen absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 10:55 p.m.

Judy L. Moss, Acting Associate Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 2/7/89

APPROVED: 2/14/89

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 13, 1988. The following Board Members were present: Chairman Daniel Smith; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; and Mary Thonen. John Ribble was absent from the meeting

Chairman Smith called the meeting to order at 9:10 A.M., with Mrs. Day leading the prayer.

Board Matters:

Jane Kelsey, Chief, Special Permit and Variance Branch, advised the Board that the requested Zoning Ordinance draft amendment concerning sheds had been prepared and was in the Board package. Mrs. Thonen moved to recommend approval of the Zoning Ordinance amendment relating to sheds. Mr. DiGuilian seconded the motion, which carried unanimously. Mr. Ribble was absent from the meeting.

Ms. Kelsey introduced a new planner serving as a Staff Coordinator, Bernadette Bettard. She stated Ms. Bettard comes to Fairfax County from Little Rock, Arkansas. The Board welcomed Ms. Bettard to Fairfax County and to the Board of Zoning Appeals.

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Page 413, December 13, 1988, (Tape 1), Scheduled case of:

9:00 A.M. JOHN H. STOKES III, VC 87-M-149, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 1 having a lot width of 43 feet (100 ft. min. lot width required by Sect. 3-206), located at 4340 Old Columbia Pike, on approximately 2.4158 acres of land, zoned R-2, Mason District, Tax Map 71-2((1))59. (DEFERRED FROM 2/16/88, 3/8/88, 6/14/88 AND 9/20/88 FOR ADDITIONAL INFORMATION)

Lori Greenlief, Staff Coordinator, presented the staff report.

The applicant, John H. Stokes, 4340 Old Columbia Pike, Annandale, Virginia, requested a deferral in order for him to resolve an issue with the Department of Environmental Management in order to subdivide his lot by right with no variance.

Mr. Hammack moved to defer VC 87-M-149 to January 17, 1989, at 9:15 a.m. Mrs. Thonen seconded the motion, which carried unanimously. Mr. Kelley was not present for the vote. Mr. Ribble was absent from the meeting.

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Page 413, December 13, 1988, (Tape 1), Scheduled case of:

9:00 A.M. McLEAN MARKETPLACE LIMITED PARTNERSHIP (AKA MARKETPLACE OF MCLEAN), A 88-D-008, under Sect. 18-301 of the Zoning Ordinance to appeal the Director of the Department of Environmental Management's decision revising previously approved building setback modifications under Sect. 2-418 of the Zoning Ordinance, located at 6830 Old Dominion Drive, on approximately 36,231 square feet of land, zoned C-6, Dranesville District, Tax Map 30-2((10))(4)1 and 2. (DEFERRED FROM 9/20/88 AT APPLICANT'S REQUEST)

A letter from the applicant requesting withdrawal was presented to the Board.

Mr. Hammack moved to allow the applicant to withdraw the appeal. Mrs. Thonen seconded the motion, which carried unanimously. Mr. Kelley was not present for the vote. Mr. Ribble was absent from the meeting.

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Page 413, December 13, 1988, (Tape 1), Scheduled case of:

9:05 A.M. HAPPY FACES CHILD DEVELOPMENT CENTER, SP 88-V-035, application under Sect. 3-403 of the Zoning Ordinance to allow nursery school and child care center, located at 6215 Richmond Highway, on approximately 36,768 square feet of land, zoned R-4, C-8, and HC, Mount Vernon District, Tax Map 83-3((1))38 and Outlot A. (DEF. FROM 6/28/88 AND 8/2/88 - NOTICES NOT IN ORDER. DEF. FROM 10/4/88 AND 11/10/88 TO ALLOW APPLICANT TIME TO RESOLVE ISSUES)

Lori Greenlief, Staff Coordinator, informed the Board that the agent for the applicant, Jacqueline D. Smith, was in the hospital and there was no one present to represent the applicant.

Mr. Hammack requested an update on this application, as he thought it had been turned down. Ms. Greenlief said that, at the public hearing on October 4, the Board deferred the application to (1) give the applicant opportunity, at Mrs. Thonen's suggestion, to pursue purchasing the Beacon Day Care Center property, and (2) to pursue an easement

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through the adjacent property. Ms. Greenlief said she thought the easement fell through, but thought Ms. Smith was working with the Beacon Day Care Center people. The application was deferred until November 10, at which time the applicant's agent was not present; so it was deferred until December 13.

Mr. Hammack polled those present in the audience, but no one voiced any objection to the deferral.

Mr. Hammack moved to defer SP 88-V-035 until January 24, 1989, at 9:15 a.m. Mrs. Thonen seconded the motion, which carried unanimously. Mr. Ribble was absent from the meeting.

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Page 414, December 13, 1988, (Tape 1), Scheduled case of:

9:30 A.M. PAUL P. & BONNIE L. MATH, VC 88-P-153, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 1.8 feet from side lot line (15 ft. min. side yard req. by Sects. 3-107 and 2-412), located at 3524 Woodburn Road, on approximately 21,835 square feet of land, zoned R-1, Providence District, Tax Map 59-1((10))2.

Lori Greenlief, Staff Coordinator, presented the Staff Report and noted that a letter of opposition had been received from a next-door neighbor, Mrs. Doris Moody.

The applicant, Paul F. Math, 3524 Woodburn Road, Annandale, Virginia, presented his justification for the variance request and addressed the objections of Mrs. Moody He stated that the two lots now owned by Mr. Math and Mrs. Moody were both previously owned by a single owner.

Mrs. Doris Moody, 3522 Woodburn Road, Annandale, Virginia, presented her objections to this request. She stated that the addition would be too close to her garage, which was there when she purchased the property.

The applicant spoke in rebuttal to the opposition.

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

Mr. Hammack moved to grant-in-part VC 88-P-153, and to allow the applicant to build to 5.7 feet of the side lot line. He stated that the lot is of exceptional shape, in that it is triangular, based on sharply converging lot lines; with exceptional topography, in that the back yard slopes sharply down into the flood plain. The motion was made contingent upon the applicant presenting new plats showing the location of the carport to be no less than 5.7 feet from the side lot line.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-153 by PAUL F. & BONNIE L. MATH, under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 1.8 feet **(THE BOARD GRANTED TO 5.7 FEET)** from side lot line, on property located at 3524 Woodburn Road, Tax Map Reference 59-1((10))2, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 13, 1988; 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 21,835 square feet of land.
4. The lot is of exceptional shape, in that it is triangular, based on sharply converging lot lines.
5. The lot has exceptional topography, in that the back yard slopes sharply down into the flood plain.

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

1. That the subject property was acquired in good faith.

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

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

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

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

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

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

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

4. The applicant must present new plats showing the location of the carport to be no less than 5.7 feet from the side lot line.

Mr. DiGuilian seconded the motion.

The motion carried by a vote of 5-1; Chairman Smith voted nay. Mr. Ribble was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 21, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 415, December 13, 1988, (Tape 1), Scheduled case of:

9:45 A.M. CAROL S. TOTMAN, VC 88-P-157, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10.2 feet from side lot line (20 feet min. side yard req. by Sect. 3-107), located at 10205 Glencoe Drive, on approximately 41,024 square feet of land, zoned R-1, Providence District, Tax Map 47-2((15))21.

Lori Greenlief, Staff Coordinator, presented the staff report.

The applicant, Carol S. Totman, 10205 Glencoe Drive, Vienna, Virginia, spoke in support of her application. She would like to have a garage for an automobile which is now being parked in the driveway.

There were no speakers, so Chairman Smith closed the hearing.

Mrs. Thonen moved to deny VC 88-P-157 because she did not believe the applicant met the required standard for variances in Section 18-404 of the Zoning Ordinance.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-157 by CAROL S. TOTMAN, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 10.2 feet from side lot line, on property located at 10205 Glencoe Drive, Tax Map Reference 47-2((15))21, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 13, 1988; 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 41,024 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.

Page 417, December 13, 1988, (Tape 1), (Carol S. Totman, VC 88-P-157, continued from Page 416)

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

Mr. DiGuilian seconded the motion.

The motion carried by a vote of 5-0. Mr. Kelley was not present for the vote. Mr. Ribble was absent from the meeting.

This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 21, 1988.

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Page 417, December 13, 1988, (Tape 1), Scheduled case of:

10:00 A.M. JOHN D. & ANN E. GANDY, VC 88-A-156, application under Sect. 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 19.0 feet from a street line of a corner lot, and of a wood deck to 4.5 feet from a side lot line (30 ft. min. front yard req. by Sect. 3-307 and 7 ft. min. side yard for deck req. by Sects. 3-307 and 2-412), located at 4918 Andrea Avenue, on approximately 11,154 square feet of land, zoned R-3, Annandale District, Tax Map 70-3((5))320.

Lori Greenlief, Staff Coordinator, presented the staff report.

The applicant, John D. Gandy, 4918 Andrea Avenue, Annandale, Virginia, spoke in support of his application, stating he was requesting a variance to make additions to his property as set forth in his statement of justification.

Mr. DiGuilian moved to grant VC 88-A-156 because the lot is a corner lot with two front yards and two side yards; and the positioning of the house on the lot and the topography of the lot preclude adding living space in any other location on the lot. The applicant was instructed to provide new plats showing the correct dimensions on the Andrea Street side of the property.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-156 by JOHN D. & ANN E. GANDY, under Section 18-401 of the Zoning Ordinance to allow construction of addition to dwelling to 19.0 feet from a street line of a corner lot, and of a wood deck to 4.5 feet from a side lot line, on property located at 4918 Andrea Avenue, Tax Map Reference 70-3((5))320. Mr. DiGuilian moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 13, 1988; 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 11,154 square feet of land.
4. The lot is a corner lot with two front yards and two side yards.
5. The positioning of the house on the lot and the topography of the lot preclude adding living space in any other location on the lot.

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.

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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 satisfied the Board that physical conditions as listed above 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. No part of the floor of the proposed deck shall be more than four (4) feet in height.

5. New plats shall be submitted to show the correct dimensions on the Andrea Street side of the property

Mrs. Thonen seconded the motion.

The motion carried by a vote of 5-1; Chairman Smith voted nay. Mr. Ribble was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 21, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 418, December 13, 1988, (Tape 1), Scheduled case of:

10:15 A.M. JOHN & JOAN FLETCHER, VC 88-V-110, application under Section 18-401 of Zoning Ordinance to allow construction of an accessory structure in a front yard and 2.0 ft. from side lot line (30 ft. min. front yard and 10 ft. min. side yard required by Sections: 3-407 and 10-104), located at 6121 Edgewood Terrace, on approximately 18,036 square feet of land, zoned R-4, Mount Vernon District, Tax Map 83-3((14))(11)19, 20.

Kathy Reilly, Staff Coordinator, presented the staff report.

The applicant, John Fletcher, 6121 Edgewood Terrace, Alexandria, Virginia, spoke in support of his application as set forth in the staff report. He stated that the area where he resides, Belle Haven, has a problem with cars on the streets, and he would like to get his cars off the streets. He described the proposed structure and offered reasons why he could not place it in another area on the lot.

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

Mrs. Day moved to grant VC 88-V-110 because of the findings of fact set forth in the resolution.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-V-110 by JOHN & JOAN FLETCHER, under Section 18-401 of the Zoning Ordinance to allow construction of an accessory structure in a front yard and 2.0 feet from side lot line, on property located at 6121 Edgewood Terrace, Tax Map Reference 83-3((14))(11)19, 20, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 13, 1988; 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 18,036 square feet of land.
4. This is a corner lot.
5. There already is a curb cut in the front yard.
6. There already are other garages close to the line in this neighborhood.
7. The next-door neighbor objects to placing the structure on the other side of the lot which is being used as a playground.
8. The proposed location of the structure would not have a detrimental affect on the neighborhood and is an asset to the area.
9. Moving the proposed structure back would require a 100-year-old oak tree to be cut down.
10. The proposed structure would be hidden by evergreen trees surrounding it.

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.

Mr. Kelley seconded the motion.

The motion carried by a vote of 4-1; Chairman Smith voted nay. Mr. Hammack was not present for the vote. Mr. Ribble was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 21, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 420, December 13, 1988, (Tape 1), Scheduled case of:

10:30 A.M. HUNTER DEVELOPMENT COMPANY OF FAIRFAX, INC., VC 88-S-150, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots proposed corner lot 5 having a lot width of 158 feet (175 ft. min. lot width req. by Sect. 3-106), located on Village Spring Court, on approximately 5.5730 acres of land, zoned R-1 and WS, Springfield District, Tax Map 66-3((1))23B.

Kathy Reilly, Staff Coordinator, presented the staff report.

The applicant's agent, Francis A. McDermott, an attorney with Hunton & Williams, 3050 Chain Bridge Road, Oakton, Virginia, spoke in support of the application as set forth in the applicant's statement of justification. Mr. McDermott said the density of the proposed subdivision is compatible with surrounding development. He said land was acquired from the predecessor-in-title so that South Springs Drive could be cut through to serve Little Rocky Run and to provide a right-turn deceleration lane. That land area, he said, would have provided the additional frontage to satisfy the requirement mentioned in the staff report.

Since there were no speakers, Chairman Smith closed the public hearing.

Mr. Kelley moved to grant VC 88-S-150 and, at Mr. McDermott's request and staff's concurrence, moved to change development condition 4 to read "...is disrupted (by applicant)...."

The Board denied a request by Mr. McDermott to consider extending to twenty-four (24) months "...automatic expiration, without notice, eighteen (18) months after the approval date..." as stipulated in development condition 2.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-150 by HUNTER DEVELOPMENT COMPANY OF FAIRFAX, INC., under Section 18-401 of the Zoning Ordinance to allow subdivision into five (5) lots, proposed corner lot 5 having a lot width of 158 feet, on property located at Village Spring Court, Tax Map Reference 66-3((1))23B,
Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 13, 1988; 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 WS.
3. The area of the lot is 5.5730 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 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 these lots shall be from the proposed Village Spring Street. Village Spring Street shall be constructed in accordance with the Public Facilities Manual.

4. The existing asphalt trail along Union Mill Road shall be preserved. If this trail is disrupted by applicant it shall be replaced with an eight foot wide asphalt trail with exact location of the new trail determined by the Director, Department of Environmental Management (DEM).

5. Ancillary easements shall be provided along the frontage of the site adjacent to Union Mill Road to facilitate future road improvements.

6. A tree preservation plan shall be submitted to the Department of Environmental Management (DEM) for review and approval prior the commencement of any site clearance activity.

7. Pursuant to the Virginia Code Section of 10-152, the applicant shall at the time of site plan approval, record among the land records of Fairfax County, a Conservation Easement to the Board of Supervisors. The conservation easement line shall run parallel to Union Mill Road approximately 100 feet northward into the property as shown on the submitted plat. The exact location of the boundary shall be determined at the time of site plan review by the Director, Department of Environmental Management in coordination with the Office of Comprehensive Planning. There shall be no clearing of any vegetation in this area, except for dead or dying trees or shrubs and no grading. There shall be no future construction in this Conservation Easement that shall denude, deface or otherwise disturb this easement without prior approval of the Fairfax County Board of Supervisors.

8. A geotechnical study shall be conducted for this site if determined necessary by the Director, Department of Environmental Management at the site plan approval.

9. All stormwater management facilities shall be in conformance with the Public Facilities Manual and shall be coordinated with the Storm Drainage Branch of the Department of Public Works (DPW).

10. The applicant shall provide improvements along the site's South Spring Drive frontage as determined to be appropriate by DEM at the time of site plan review. These improvements shall be consistent with existing improvements on adjacent parcels with frontage on South Spring Drive.

Mr. DiGuilian seconded the motion.

The motion carried by a vote of 5-1; Chairman Smith voted nay. Mr. Ribble was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 21, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 422, December 13, 1988, (Tape 2), Scheduled case of:

10:45 A.M. LEWYN M. & EDNA R. OPPENHEIM, VC 88-P-151, application under Sect. 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 0.5 feet from side lot line (10 ft. min. side yard req. by Sects. 3-207 and 2-412), located at 9102 Hamilton Drive, on approximately 21,021 square feet of land, zoned R-2, Providence District, Tax Map 58-2((9))129A.

Denise James, Staff Coordinator, presented the staff report.

The applicant, Lewyn M. Oppenheim, 9102 Hamilton Drive, Fairfax, Virginia, spoke in support of his application, as outlined in his statement of justification. Mr. Oppenheim stated that his neighbors did not object to his request for a variance.

Since there were no speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant-in-part VC 88-P-151, allowing construction of the carport to within 4 feet of the property line, requiring a 6 foot variance. He said he is familiar with the area and the topography would preclude construction of a garage in any other place on the property. Mr. Hammack added a fourth development condition: "New plats shall be provided to show the new dimensions of the structure for the variance granted."

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-P-151 by LEWYN M. & EDNA R. OPPENHEIM, under Section 18-401 of the Zoning Ordinance to allow construction of carport addition to dwelling to 0.5 feet **(THE BOARD GRANTED TO 4.0 FEET)** from side lot line, on property located at 9102 Hamilton Drive, Tax Map Reference 58-2((9))129A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

Page 423, December 13, 1988, (Tape 2), (Lewyn M. and Edna R. Oppenheim, VC 88-P-151, continued from Page 422)

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 13, 1988; 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 21,021 square feet of land.
4. The lot has exceptional topography.

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 specific addition shown on the plat included with this application to be constructed to 4.0 feet from the side lot line and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless construction has started and is diligently pursued, or unless a request for 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. New plats shall be provided to show the new dimensions of the structure for the variance granted.

Mr. DiGuilian seconded the motion.

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The motion carried by a vote of 5-1; Chairman Smith voted nay. Mr. Ribble was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 21, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 424, December 13, 1988, (Tape 2), Scheduled case of:

11:00 A.M. FLEET CONTROL, INC. APPEAL, A 88-P-009, to appeal Zoning Administrator's determination that appellant is operating a vehicle major service establishment, a use not permitted on the subject property, located at 2701(B) Dorr Avenue, on approximately 38,989 square feet of land, zoned I-4, Providence District, Tax Map 49-1((13))18.

Chairman Smith asked if anyone in the room was interested in the appeal of Fleet Control, Inc., and explained that a letter requesting withdrawal had been submitted. No interest was indicated.

Mr. Hammack moved to allow the appeal to be withdrawn. Mr. DiGuilian seconded the motion, which carried by a vote of 6-0. Mr. Ribble was absent from the meeting.

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Page 424, December 13, 1988, (Tape 2), After Agenda Item:

Woodlawn County Club, SPA 74-V-107-1
Request for Additional Time

Mrs. Thonen moved to grant this request for additional time of twelve (12) months. The new expiration date is November 27, 1989. Mr. Hammack seconded the motion, which carried by a vote of 6-0. Mr. Ribble was absent from the meeting.

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Page 424, December 13, 1988, (Tape 2), After Agenda Item:

Mason Neck Animal Hospital, SP 88-V-103
Out-of-Turn Hearing

Mrs. Thonen moved to deny the request for an out-of-turn hearing. Mr. DiGuilian seconded the motion, which carried by a vote of 6-0. Mr. Ribble was absent from the meeting.

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Page 424, December 13, 1988, (Tape 2), After Agenda Item:

Christian Fellowship Church, SPA 82-D-066-2
Resolution from November 29, 1988 Hearing

Jane Kelsey, Chief, Special Permit and Variance Branch, recalled Lori Greenlief, Staff Coordinator, to the room. A discussion ensued concerning the last two conditions on this resolution. The Board agreed to entertain a motion to reconsider at a time when Mr. Ribble could be present, since he had made the original motion.

Ms. Kelsey informed the Board that Mr. Ribble might be at the hearing later in the morning, so the Board deferred the reconsideration until his arrival.

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Page 424, December 13, 1988, (Tape 2), After Agenda Item:

Approval of December 6, 1988 Resolutions

Mr. DiGuilian initiated a discussion on the resolution for Fairfax Baptist Temple, SP 87-S-022. The Board discussed Development Condition 6 and voted to delete the first sentence: "The maximum number of parking spaces associated with the church use shall be 300." Condition 6 now reads: "Maximum total parking on the site shall be limited to 375 spaces. All parking shall be in designated parking spaces and shall be on site."

The Chairman so ordered.

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Page 425, December 13, 1988, (Tape 2), After Agenda Item:

Nelson James Builders, Inc./Batal-Dolan Properties
A Virginia Corporation
A 8-S-010

Jane Kelsey, Chief, Special Permit and Variance Branch, informed the Board that Jane Gwinn, Zoning Administrator, would try to be present at the end of the meeting to discuss this appeal. Mr. Kelley moved to defer the appeal until Ms. Gwinn arrived. Mrs. Day seconded the motion.

Mr. DiGuilian said he thought the appeal was timely filed and that the public hearing should be scheduled, since there was no opportunity to hear from the appellant at that time.

Mr. Kelley withdrew his motion to defer.

Mr. DiGuilian moved to accept the appeal as timely filed and scheduled the public hearing for January 24, 1989, at 11:00 a.m. Mrs. Thonen seconded the motion, which carried by a vote of 6-0. Mr. Ribble was absent from the meeting.

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Page 425, December 13, 1988, (Tape 2), Information Item:

Home Professional Office

The Board had deferred discussing this item until this date so Mrs. Thonen could be present.

Mrs. Thonen moved to defer discussion of the home professional office issue to a date and time to be decided at the first January meeting. She said she would like everyone to get a copy of what she had written on the subject.

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Page 425, December 13, 1988, (Tape 2), Information Item:

Request for Amendment to Zoning Ordinance Re: Floodplain

Mrs. Thonen requested clarification of this item, which she said was last discussed in the Spring. She said that the Board had requested the Zoning Administrator to review Sect. 2-415, Part 9, Article 2, "...and the definition of floodplain in Article 20 of the Zoning Ordinance, to determine whether they are currently written and interpreted, are consistent with the intent of the Zoning Ordinance Floodplain Regulations as they relate to lots having floodplain which is part of a drainage area of less than 70 acres." She requested the staff to follow this up.

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The Board recessed at this time to allow short break, since they had decided to forego a lunch break. The meeting reconvened at 11:55 a.m.

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Page 425, December 13, 1988, (Tape 2), Information Item:

11:45 A.M. FAIRFAX COUNTY WATER AUTHORITY, SP 88-V-083, application under Sect. 8-901 of the Zoning Ordinance to allow waiver of dustless surface requirement for additions to existing water storage, control and pumping facilities, located at 2523 Oak Grove Street, on approximately 14,776 square feet of land, zoned R-E, Mount Vernon District, Tax Map 122-2((2))53A. (TO BE HEARD CONCURRENT WITH SE 88-V-028)

James Skove, Staff Coordinator, presented the staff report. He stated that the Board of Supervisors had approved Special Exception application SE 88-V-028.

The applicant's representative, Bill Ring, Chief, Engineering Design, spoke in support of the application.

Since there were no speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant SP 88-V-083.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-V-083 by FAIRFAX COUNTY WATER AUTHORITY, under Section 8-901 of the Zoning Ordinance to allow waiver of dustless surface requirement for additions to existing water storage, control and pumping facilities, on property located at 2523 Oak Grove Street, Tax Map Reference 122-2((2))53A, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 13, 1988; 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 14,776 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 8-915 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 gravel surfaces indicated on the plat submitted with this application, except as qualified below. Any additional gravel areas 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. The gravel driveway and parking areas shall be maintained in accordance with Public Facilities Manual standards and the following guidelines. The waiver of the dustless surface shall expire on December 20, 1993

5. Travel speeds in the parking areas should be limited to 10 MPH or less.

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

7. During dry periods, application of water should be made in order to control dust.

8. Runoff should be channeled away from and around the parking areas.

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

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

Page 427, December 13, 1988, (Tape 2), (Fairfax County Water Authority, SP 88-V-083, continued from Page 426)

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. DiGuilian seconded the motion.

The motion carried by a vote of 6-0. Mr. Ribble was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 21, 1988. This date shall be deemed to be the final approval date of this special permit.

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Page 427, December 13, 1988, (Tape 2), Information Item:

12:00 Noon CHRISTIAN FELLOWSHIP CHURCH, SPA 82-D-066-2, application under Sect. 3-103 of the Zoning Ordinance to amend SP 82-D-066 and S-80-D-099 for church and related facilities and child care center to permit addition of three (3) trailers, increase parking, and decrease land area, located at 10237 Leesburg Pike, on approximately 13.1842 acres of land, zoned R-1, Dranesville District, Tax Map 18-2((7))A, B, C and 18-2((13))1A. (DEF. FROM 11/29/88 TO HEAR REMAINDER OF APPLICATION)

Lori Greenlief, Staff Coordinator, presented the staff report, and explained that SPA 82-D-066-2 was heard in part on November 29, 1988. She said the Board only considered the deletion of land area (lot 1A), which was approved on November 29; the remaining portion was deferred until December 13, 1988.

The applicant's agent, H. Wayne Guinn, 12845 Fantasia Drive, Herndon, Virginia, spoke in support of the application as set forth in the statement of justification.

Mr. DiGuilian asked Mr. Guinn if the use of trailers would be only for Sunday School, only on Sundays. Mr. Guinn said that is their basic need, but did not think if they wanted to use them on a Wednesday night that they would be legally bound not to do so.

Mr. Hammack asked Mr Guinn what the trailers would be used for on Wednesday nights. Mr. Guinn said they might be used for small youth groups. Mr. Hammack asked if the trailers would be put to any other use, to which Mr. Guinn did not specifically reply.

Mr. DiGuilian again asked what the trailers would be used for and Mr. Guinn responded by referring to a previous attempt by the previous Zoning Administrator to define the use of churches.

Mr. Hammack asked Mr. Guinn, if the Board granted the request for the trailers, and put a provision in to limit the use to Sunday mornings, would he feel it was legally binding. A discussion ensued between the Board and Mr. Guinn concerning his intent to abide by the decision of the Board to limit the use of the trailers to Sunday mornings. Mr. Guinn did say that the Church would definitely abide by the Board's decision, and that the Church planned to move to Loudoun County in four years.

Charles Steinmetz, 1304 Tulip Poplar Lane, Vienna, Virginia, a contiguous property owner, spoke in opposition to the application.

Ms. Greenlief said there is no specific time limit established for the use of trailers except that which is set by the Board. She called attention to the development conditions set forth in the staff report. A discussion ensued about the time period in Development Condition 5.

Mr. DiGuilian moved to grant-in-part SPA 82-D-066-2 for the three trailers and increase in parking (the decrease in land area was decided under separate action); with the development conditions set forth in the staff report; except for Development Condition 5, which was amended to read: "The temporary use of the three (3) trailers for Sunday School use only and only on Sunday for two (2) years."

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Page 427, December 13, 1988, (Tape 2),

Christian Fellowship Church
Reconsideration of November 29, 1988 Resolution
Deferred from earlier in the hearing

Jane Kelsey, Chief, Special Permit and Variance Branch, said she had called Mr. Ribble and he asked, if he could not be there, could staff provide him with a copy of the verbatim of the applicant's testimony from the time the conditions were discussed with applicant's agent.

Page 428, December 13, 1988, (Tape 2), (Christian Fellowship Church Reconsideration, continued from Page 427)

Mr. Hammack moved to defer reconsideration of this resolution for one week to give Mr. Ribble the opportunity to read the verbatim, as well himself.

Mr. DiGuilian seconded the motion, which carried unanimously. Mr. Ribble was absent from the meeting.

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Jane Kelsey, Chief, Special Permit and Variance Branch, asked if the Board had received the disclosure forms, and a short discussion ensued. Mrs. Kelsey stated that she was not aware that the forms had been mailed until this date when Mr. Kelley had so advised her and had submitted his forms. Mr. Kelley's forms were taken immediately to the Clerk to the Board of Supervisors' office for filing. She requested that any Board Member who has not received the forms to please call her.

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Page 428, December 13, 1988, (Tape 2),

Christian Fellowship Church
Reconsideration of November 29, 1988 Resolution
Deferred from earlier in the hearing

Jane Kelsey, Chief, Special Permit and Variance Branch, said that the attorney for Randolph Williams, Nancy Gibb, was present. Ms. Gibb said that the conditions in question in the November 29, 1988 resolution raised no objection on their part. Lori Greenlief, Staff Coordinator, said the question was raised by the attorney for Christian Fellowship Church. The conditions were discussed again.
Ms. Gibb said she did not understand why the conditions were being reconsidered.

Mr. Hammack moved that the entire action of November 29, 1988 be deferred for reconsideration, since Mr. Ribble may not have moved to grant deletion of the land if the action was not conditioned as set forth in the resolution.

Chairman Smith recommended that the proposed action go back to the County Attorney's Office for review.

Bill Ostrander, the individual speaking for Randolph Williams on November 29, 1988, said Mr. Ribble had asked if they would put wording into the deed regarding maintenance of the pond, but did not recall him asking specifically about the trees.

In view of this, Chairman Smith reiterated the need for a verbatim of the action.

Time for reconsideration of the resolution was set for December 20, 1988 at 10:10 a.m.

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Page 428, December 13, 1988, (Tape 2), Adjournment:

As there was no other business to come before the Board, the meeting was adjourned at 12:55 p.m.

Geri B. Bepko

Geri B. Bepko, Deputy Clerk to the
Board of Zoning Appeals

Daniel Smith

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 1/24/89

APPROVED: 2/7/89

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, December 20, 1988. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; John Ribble; Robert Kelley; and Mary Thonen. Mr. DiGuilian was absent from the meeting.

Chairman Smith opened the meeting at 9:15 a.m. with Mrs. Day leading the prayer.

Mrs. Thonen advised the staff that the parking spaces available for the BZA Board Members were filled and one Board Member could not find a space.

Jane Kelsey introduced a new staff member, Marsha Collins, to the Board.

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Page 429, December 20, 1988 (Tape 1), Scheduled case of:

9:00 A.M. EARL J. & DOROTHY J. BENSON, VC 88-A-152, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 3.3 feet (8 ft. min. side yard req. by Sect. 3-207), located at 9802 Haviland Court, on approximately 10,518 square feet of land, zoned R-2, Annandale District, Tax Map 58-3((12))67.

Kathy Reilly, Staff Coordinator, presented the staff report.

Earl J. Benson, 9802 Haviland Court, Annandale, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification submitted with the application.

The Board reviewed pictures of the existing one-car garage. In addition, it was noted that a fence appeared on the plat when there actually was none on the property.

Mr. Hammack moved that the Board deny VC 88-A-152 since it did not meet the nine requirements of the Ordinance, noting both that the aplicant now had reasonable use of the land and that the requested garage addition was too close to the property line.

Mrs. Day seconded the motion, which passed by a vote of 5-0, with Mr. DiGiulian and Mr. Ribble absent.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-152 by EARL J. AND DOROTHY J. BENSON, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 3.3 feet, on property located at 9802 Haviland Court, Tax Map Reference 58-3((12))67, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 20, 1988; 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 10,518 square feet of land.
4. The applicant has reasonable use of the property.

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. Day seconded the motion.

The motion carried by a vote of 5-0 with Mr. Ribble 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 December 28, 1988.

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Page 430, December 20, 1988 (Tape 1), Scheduled case of:

9:15 A.M. JAMES T. & ELSIE P. KINCANNON, VC 88-L-154, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 7.0 feet from side lot line (12 ft. min. side yard req. by Sect. 3-307), located at 4009 Ivanhoe Lane, on approximately 27,147 square feet of land, zoned R-3, Lee District, Tax Map 82-4((17))(D)10.

Kathy Reilly, Staff Coordinator, presented the staff report.

James T. Kincannon, 4009 Ivanhoe Lane, Alexandria, Virginia, the applicant, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application.

The Board inquired about the steps or stoop protruding out from the house. The applicant advised the Board of the back door step, a three by four or four by four landing and then one step down, coming off the kitchen. Mrs. Thonen acknowledged a letter from a neighbor in support of the application. Mr. Smith indicated that there was a letter in support of this application from Irene L. Eddy, 4012 Ivanhoe Lane, Alexandria.

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

Mrs. Thonen moved that the Board approve VC 88-L-154, stating that it meets all the nine standards because the lot is so irregularly shaped and has the largest drop-off in the back of the lot that she had seen come before the Board, and citing, further, a safety factor of needing room to come out on a landing and step down.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-L-154 by JAMES T. AND ELSIE P. KINCANNON, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 7.0 feet from side lot line, on property located at 4009 Ivanhoe Lane, Tax Map Reference 82-4((170)(D)10, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 20, 1988; 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 27,147 square feet of land.
4. The property is an irregular shaped lot.

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

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

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

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

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

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

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

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 4-1 with Chairman Smith voting nay; Mr. Ribble 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 December 28, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 432, December 20, 1988 (Tape 1), Scheduled case of:

9:30 A.M. McLEAN TENNYSON LIMITED PARTNERSHIP, VC 88-D-155, application under Sect. 18-401 to allow subdivision into seven (7) lots, proposed lots 2 through 6 each having a width of 3.6 feet (70 ft. min. lot width req. by Sect. 4-406), located at the corner of Tennyson Drive and Laughlin Avenue, on approximately 2.1686 acres of land, zoned R-4, Dranesville District, Tax Map 30-4((3))1, 2, 3, 4; 30-4((17))A.

Keith C. Martin, Esquire, of the firm of Walsh, Colucci, Stackhouse, Emrich & Lubeley, 950 North Glebe Road, Arlington, Virginia, appeared before the Board on behalf of the applicant and requested that the hearing be deferred until January 10th, 1989, since, after reviewing the concerns of staff and neighboring citizens, the applicant had agreed to look at a reduced lot yield and to try to resolve more of the issues as raised in the staff report and raised by the citizens of Weaver Avenue.

Kay Karese, 6801 Dillon Avenue, McLean, Virginia, appeared before the Board in opposition, representing four other concerned neighbors also present at the hearing, and spoke of concerns about the impact on the land which was, in her opinion, basically floodplain. She stated that the issue was not so much the number of houses but that an evaluation was needed as to what could be built on the land and expressed concern about drainage. Ms. Karese requested an evening hearing date.

Jane Kelsey, Chief, Special Permit and Variance Branch, advised the Board of the available dates and further stated that it would be necessary that the staff have the revised plats as soon as possible so a reevaluation could be done, because one of the concerns staff had was whether or not some of the property is in fact in floodplain and that, if it is in floodplain, that would require a special exception from the Board of Supervisors and should be heard prior to the variance application.

Mr. Martin advised the Board that all the applicant's preliminary studies show that it is not in floodplain, but that they would conduct the necessary evaluation to prove to staff that it is not and would not require a special exception, only a variance request and that it would be done promptly so that it could be evaluated by staff.

Mrs. Thonen moved that the Board defer the hearing on VC 88-D-155 to February 7th, 1989 upon the applicant's request.

Mrs. Day seconded the motion, which carried by a vote of 5-0, with Mr. Ribble and Mr. DiGiulian absent.

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Page 432, December 20, 1988 (Tape 1), Scheduled case of:

9:45 A.M. MICHAEL D. MARKS, VC 87-A-133, application under Sect. 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 7.4 ft. from a side line such that side yards total 16.9 feet (8 ft. min., 20 ft. total min. side yard req. by Sect. 3-307), located at 5607 Herbert's Crossing Drive, on approximately 8,661 square feet of land, zoned R-3(C), Annandale District, Tax Map Reference 78-2((14))100.

Lori Greenlief, Staff Coordinator, presented the staff report.

Michael D. Marks, 5607 Herbert's Crossing Drive, Burke, Virginia, appeared before the Board and explained his request as outlined in the statement of justification as submitted with the application. He stated that he had letters in support of the application from the next door neighbor and from the homeowners association and, further, that he has the only carport in the neighborhood, all others having enclosed garages, and that in order to enclose the carport it wouldn't be necessary to extend or alter the roof line.

Mrs. Day inquired whether the enclosed garage would extend beyond the present pad of the carport and was advised by Mr. Marks that it would not.

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

Mrs. Thonen moved that the Board grant VC 87-A-133 since the applicant had a perfect reason for wanting to enclose the carport, the requirements of the Ordinance were satisfied, and the applicant was not asking for any variance other than what he needs because the carport is now existing and he doesn't intend to change it at all.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 87-A-133 by MICHAEL D. MARKS, under Section 18-401 of the Zoning Ordinance to allow enclosure of existing carport for a garage 7.4 feet from a side lot line such that side yards total 16.9 feet, on property located at 5607 Herbert's Crossing Drive, Tax Map Reference 78-2((14))100, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 20, 1988; 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 8,661 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.

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8. That the character of the zoning district will not be changed by the granting of the variance.

9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

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

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

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

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

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

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

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-0 with Mr. Ribble 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 December 28, 1988. This date shall be deemed to be the final approval date of this variance.

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Page 434, December 20, 1988 (Tape 1), After Agenda Item:

Five Fold Fellowship Church, SP 87-S-012
Additional Time

Mrs. Thonen moved that the Board grant the Five Fold Fellowship Church, SP 87-S-012, the twelve months additional time to begin construction recommended by the staff. Mr. Hammack seconded the motion, which carried by a vote of 5-0, with Mr. Ribble and Mr. DiGiulian absent. The new expiration date will be November 27, 1989.

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Page 434, December 20, 1988 (Tape 1), After Agenda Item:

Islamic Center of Northern Virginia, SP 85-S-005
Additional Time

Mrs. Thonen moved that the Board grant the Islamic Center of Northern Virginia, SP 85-S-005, the twelve months recommended by the staff. Mr. Hammack seconded the motion, which carried by a vote of 5-0, with Mr. Ribble and Mr. DiGiulian absent. The new expiration date will be November 21, 1989.

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Page 434, December 20, 1988 (Tape 1), After Agenda Item:

Approval of Resolutions

Mrs. Thonen moved that the Board approve the resolutions from December 13th as presented. Chairman Smith stated that on some of the resolutions they were waiting for new plats and inquired of staff whether they had been received.

Lori Greenlief, Staff Coordinator, advised the Board that they had not received the plats on Oppenheim or Math, but that if the Board approved the resolutions, the Clerk held them in her office until the new plats were received, before she releases them to the applicant.

Page 435, December 20, 1988 (Tape 1), (After Agenda Item, Approval of Resolutions continued from Page 434)

The resolutions from December 13th were approved by a vote of 5-0, with Mr. Ribble and Mr. DiGiulian absent.

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Page 435, December 20, 1988 (Tape 1), Scheduled case of:

10:00 A.M. MESSIAH LUTHERAN CHURCH AND UNITED COMMUNITY MINISTRIES, INC., SPA 81-V-028-1, application under Sect. 3-403 to amend SP 81-V-028 for a church and related facilites to permit addition of a public benefit association use, located at 1906 Belle View Boulevard, on approximately 69,050 square feet of land, zoned R-4, Mount Vernon District, Tax Map 93-1((25))(1)1, 2, 3, 4, 10 and 11 (CONCURRENT WITH SE 88-V-069).

Chairman Smith inquired of Staff whether the Board of Supervisors had approved the special exception.

Lori Greenlief, Staff Coordinator, advised the Board that the Planning Commission had conducted a hearing on the case, but that the Board of Supervisors' hearing date is January 9, 1989, and that staff was recommending that the application be deferred until sometime after that date to allow the Board of Supervisors to act on the use. Ms. Kelsey advised the Board that there were some interested citizens present in the hearing room.

Mr. Hammack moved that the Board defer SPA 81-V-028-1 to January 17, 1989 at 11:45 A.M. Mrs. Thonen seconded the motion. Chairman Smith inquired whether there were any persons present who desired to speak to the deferral of the application. Since there were no speakers to address the deferral, the Chairman called for a vote on the motion, which passed by a vote of 5-0, with Mr. Ribble and Mr. DiGiulian absent.

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Page 435, December 20, 1988 (Tape 1), Action Item:

Christian Fellowship Church Reconsideration

Lori Greenlief, Staff Coordinator, stated that last week Mr. Hammack made a motion to reconsider the deletion of land area on the application, that the Board did receive a letter from the applicant agreeing to those conditions, and further advised the Board, however, that the County Attorney still believed that those conditions are inappropriate. Ms. Greenlief stated that the motion on the floor was to reconsider the entire application.

Mr. Hammack advised that deferring it to today was to give Mr. Ribble a chance to review the record and to clarify what he had in mind, but that now the Board had a letter from counsel for the applicant that said the conditions are acceptable to her client and that that would seem to obviate having to take the issue further, that if the conditions are acceptable to the contract purchaser of the property, then there wouldn't appear to be a reason why Mr. Ribble would have to review it further.

Ms. Kelsey advised the Board that staff had been in contact with Mr. Ribble that morning and he too had had conversation with applicant's counsel and had read the letter that she sent forward and that it was Mr. Ribble's feeling that he had no problem with leaving the conditions on the way they are. Mr. Ribble, she stated, was unable to be present until later in the morning due to illness in his immediate family.

Mr. Ribble moved that the Board approve the resolution as it was originally approved when the Board heard the case on November 29, 1988, with the conditons that were incorporated on that date. Mr. Hammack also moved to approve the resolution aproved December 13, 1988 as submitted. He stated that the two years for the trailer would run from the date of this approval as stated in that resolution.

Mrs. Thonen seconded the motion, which carried by a vote of 5-0, with Mr. Ribble and Mr. DiGiulian absent.

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Mr. Ribble arrived at the Board meeting at approximately 10:30 a.m.

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10:15 A.M. GOOD SHEPHERD CATHOLIC CHURCH, SPA 82-V-035-1, application under Sect. 3-203 of the Zoning Ordinance to amend S-82-V-035 for a church and related facilites to permit additions to building, rearrangement of driveways and parking lot with reduction in parking spaces, and to amend the approvedtotal area and deletion of land area, located at 8710 Mount Vernon Highway, on approximately 11.026 acres of land, zoned R-2, Mt. Vernon District, Tax Map 110-2((1))22A

Jane Kelsey, Chief, Special permit and Variance Branch, presented the staff report. She advised the Board that Mount Vernon Highway is an arterial highway and for that reason the Office of Transportation encourages owners to place their access points on other than that highway, because it does cause conflict in traffic movement, and that is the reasoning why staff was requesting that those entrances to the Church be closed, and, as an alternative to that, that those entrances be allowed to be kept open but that the proposed entrance be relocated to Surrey Drive.

William F. Enderle, 200 North Glebe Road, Arlington, Virginia, appeared before the Board on behalf of the applicant and introduced the Pastor of Good Shepherd Parish, The Reverend Gerard Creedon, 3321 Wessington Way, Alexandria, Virginia, who explained the applicant's request as outlined in the statement of justification as submitted with the application.

Arthur Friedburg, 8845 Fort Hunt Road, Alexandria, Virginia, a member of the parish, appeared before the Board and spoke in support of the application. He advised the Board that the Church held a meeting of neighbors at the parish facility on December 10 and as a result of that meeting and all of the Church's contact with its neighbors, the Church found unanimous opposition to limiting access via Surrey as clearly hazardous, unsafe, and completely ill-advised. He presented letters from neighbors to the Board in support of the Church application and stated that the Church had received no support for what the staff was recommending.

William Enderle presented an aerial view of the church in defense of the Church's present screening.

Jeffrey Fox, 3602 Surrey Drive, Alexandria, Virginia, appeared beforethe Board and whowed photos of existing entrances and stated that he objected to the Surrey Drive access.

Arthur F. Blaser, Junior, 8800 Old Mount Vernon Road, Alexandria, Virginia, Director of the Mount Vernon Farms Civic Association, advised the Board that his association unanimously approved a motion in support of the Church's application, and he presented supportive petitions of people who live on Braddock Road.

Steve Meehan, 3103 Waterside Lane, Alexandria, Virginia, representing Riverside Estates Civic Association, advised the Board that his civic association, representing 500 homes dependent upon Mount Vernon Highway for access in and out of their community, supported the Church's application.

Michael Harwood, 8504 Wagonwheel Road, Alexandria, Virginia, a resident of Riverside Estates, advised the Board that in his opinion a Surrey Drive entrance to the Church would be extremely dangerous and that, as far as the Mount Vernon access was concerned, he had not seen the heavy traffic on Mount Vernon Highway that the staff was concerned about.

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

Ms. Kelsey addressed the Board concerning staff's position on the development conditions.

Mr. Kelley moved that the Board grant SPA 82-V-035-1 since the applicant had presented testimony indicating compliance with the general standards for special permit uses and the additional standards for this use contained in Sects. 8006 and 8303 of the Zoning Ordinance, subject to the revised development conditions dated December 19, 1988, with the following changes:

No. 6, line 6, after the word "type" insert "spacing";

No. 6, line 14, after the words "as shown on the landscape plan and shall" insert "be deemed to";

No. 6, line 17, after "shall be provided in a 25 foot planted area" add "except where existing pavement restricts the area available for planting to less than 25 feet; additional planting consistent with transitional screening I requirements will be provided;

Strike all of existing condition No. 11 and insert in lieu thereof: "The applicant shall reserve up to 20 feet from the opposite side of Surrey Drive necessary for future road improvements. If and when such property dedication is made the applicant shall provide ancillary temporary access easements to facilitate such improvements."

Mr. Hammack seconded the motion, which carried by a vote of 6-0, with Mr. DiGiulian absent.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 82-V-035-1 by GOOD SHEPHERD CATHOLIC CHURCH, under Section 3-203 of the Zoning Ordinance to amend S-82-v-035 for a church and related facilities to permit additions to building, rearrangement of driveways and parking lot with reduction in parking spaces, and to amend the approved total area and deletion of land area, on property located at 8710 Mount Vernon Highway, Tax Map Reference 110-2((1))22A, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on December 20, 1988; 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 11.026 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 in accordance with the plat submitted with this application and allows the removal of Lot 6, approximately 0.252 acres, with a total of approximately 11.026 acres remaining, an addition to the church facility and a rearrangement of parking. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of 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. Any plan submitted to the Department of Environmental Management pursuant to this Special Permit shall conform to these conditions, as well as the Zoning Ordinance requirements. The aisle widths and maneuvering room shall be in accordance with the Zoning Ordinance and Public Facilities Manual standards.

5. The maximum seating capacity shall be limited to a total of 875 with a corresponding minimum of 219 parking spaces. There shall be a maximum of 330 parking spaces as shown on the plat. Handicapped parking shall be provided in accordance with Code requirements. All the parking spaces shall be of a size and the aisles of a width which will meet the Zoning Ordinance requirements and the Public Facilities Manual standards as determined by DEM and all parking shall be on site.

6. Transitional Screening 1 shall be modified as follows:

   Along the front lot lines abutting Mount Vernon Memorial Highway and the eastern portion of the front yard abutting Surrey Drive, boulevard type trees shall be planted which have a minimum diameter of 2 1/4 to 2 1/2 inches and shall be planted a maximum of thirty (30) feet on center. The type, spacing, and exact location of these trees shall be approved by the County Arborist. The type shall be boulevard type trees such as red maple, pin oak, willow oak, Linden, velcova, green ask, Norway maple or other decidious tree which has an ultimate height of 40 feet at maturity and can be limbed up 5 to 6 feet for visibility. In all other areas the plantings shall be in the general location as shown on the landscape plan and shall be deemed to satisfy the transitional screening requirement except in the areas along the northern lot line where Transitional Screening 1 shall be provided in a 25 foot planted area. The planting requirement shall be modified to allow the 15 foot sewer line and the pedestrian walkway within the screening yard and no additional plantings shall be required in that area except where existing pavement restricts the area available for planting to less than 25 feet, additional plantings consistent with Transitional Screening 1 requirements will be provided. Existing vegetation may be used to satisfy the planting requirement of Transitional Screening 1 if the vegetation is supplemented to be equivalent to Transitional Screening 1 to the satisfaction of the County Arborist.

7. The barrier requirement shall be waived.

8. The exterior of the building addition, including the roof, shall be architecturally compatible with the existing buildings and shall be similar in style, color and materials, as determined by the Department of Environmental Management (DEM).

9. Additional parking lot landscaping shall be provided around the periphery of parking lot in order to improve the visual appearance. The location of these plantings may be generally as shown on the landscape plan with the type, size and exact location of the plantings to be approved by the County Arborist.

10. A geotechnical engineering study in accordance with Chapter 107 of the Fairfax County Code shall be required at the time of site plan review if determined necessary by the Director, DEM and it's recommendation implemented as determined by the Department of Environmental Management.

11. The applicant shall reserve up to twenty (20) feet for future dedication at such time as the Virginia Department of Highways and Transportation constructs road widening of Surrey Drive. When and if such improvements are provided, the applicant shall provide ancillary temporary access easements to facilitate these improvements.

12. Any proposed lighting of the parking areas 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 subject property.
    - Shields shall be installed, if necessary, to prevent the light from projecting beyond 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, twenty-four (24) 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 of 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.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on December 28, 1988. 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 1:00 P.M.

Judy Finney, Acting Associate Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 2/14/89

APPROVED: 2/21/89

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 10, 1989. The following Board Members were present: Chairman Daniel Smith; John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen.

Chairman Smith called the meeting to order at 8:00 P.M. with Mrs. Day leading the prayer.

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Mr. Ribble moved that the Board of Zoning Appeals go into Executive Session to discuss personnel matters. Mr. Hammack seconded the motion which passed by a unanimous vote of 7-0.

At 8:20 P.M. the meeting reconvened.

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Chairman Smith called for nominations for Chairman, Vice-Chairman and Clerk to the Board of Zoning Appeals.

Mr. Ribble nominated Daniel Smith as Chairman of the Board of Zoning Appeals. Mr. Hammack seconded the motion which passed by a vote of 6-0, Mr. DiGiulian not present for the vote.

Mr. Ribble nominated John DiGiulian as Vice-Chairman of the Board of Zoning Appeals. Mr. Hammack seconded the motion which passed by a vote of 6-0, Mr. DiGiulian not present for the vote.

In response to questions from the Board Members, Jane Kelsey, Chief, Special Permit and Variance Branch stated that the Clerk and Deputy Clerk positions were filled in accordance with Fairfax County personnel regulations. The Clerk is appointed by the BZA.

Mrs. Thonen stated that the State Code gave the Board of Zoning Appeals the authority to chose their own personnel. She stated that she was only addressing the issue of who had power over how these positions were to be filled, and that this in no way reflected on the current staff.

It was the consensus of the Board to nominate Betsy Hurtt as Clerk to the Board of Zoning Appeals. Without objection, it passed by a unanimous vote.

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Mrs. Thonen discussed the fact that many Board Members were having difficulty attending the Board of Zoning Appeals meeting on the third Tuesday of every month and she moved that this day be changed to the third Thursday of every month after the third Tuesday with the clarification that this change go into effect for future schedules and would not affect the current schedules. Mr. DiGiulian seconded the motion.

Ms. Kelsey indicated that this change would probably go into effect in April. She stated that the Board of Zoning Appeals applications were reviewed by all County departments on Thursday every week for comments and that she would be probably be unable to attend the Thursday BZA meetings and would have to get someone to fill in for her.

The question was called on the motion which passed by a unanimous vote of 7-0.

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Mr. Ribble moved that the Board Members request Jane Kelsey, Chief, Special Permit and Variance Branch to determine what funds have been appropriated by the Board of Supervisors for the Board of Zoning Appeals to contract for secretaries, clerks, legal counsel, etcetera. Mr. DiGiulian seconded the motion which passed by a unanimous vote of 7-0.

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Mrs. Thonen moved that the Board Members request Jane Kelsey, Chief, Special Permit and Variance Branch to set up a meeting for them with James Zook, Director, Office of Comprehensive Planning and Barbara Byron, Division Director, Zoning Evaluation Division, Office of Comprehensive Planning to discuss personnel matters. She asked that the meeting be scheduled for either Wednesday, January 18, 1989 or Wednesday, January 25, 1989 at 10:00 a.m. to be held in the Board Conference Room.

Without objection, it was so ordered.

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8:00 P.M. W. C. WILLS, VC 88-M-161, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed Lot 1 having a lot width of 62.31 feet and proposed Lot 2 having a lot width of 40.45 feet (150 ft. min. lot width required by Sect. 3-106), located at 4917 Brook Hills Drive, on approximately 3.5095 acres of land, zoned R-1, Mason District, Tax Map 71-3((1))3.

Tisha Weichmann, Staff Coordinator, informed the Board that the notices were not in order and she suggested that the application be deferred to March 28, 1989 at 9:00 a.m.

Richard Wright, representing approximately fourteen people in opposition to the variance request, appeared before the Board. He stated that February 14, 1989, would be a more convenient date for the citizens in opposition to attend.

Patrick Via, with the law firm of Hazel, Thomas, Fiske, Beckhorn and Hanes, P.O. Box 547, Fairfax, attorney for the applicant, appeared before the Board and stated that the applicant would be agreeable to the February 14, 1989 date.

Mrs. Thonen moved that VC 88-M-161 be deferred to February 14, 1989 at 10:00 a.m.

Mr. Hammack seconded the motion which passed by a unanimous vote of 7-0.

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8:15 P.M. RONALD E. SNYDER, VC 88-S-159, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8.3 feet from side lot line such that side yards total 19.8 feet (8 ft. min., 24 ft. total min. side yards required by Sect. 3-207), located at 8706 Powder Horn Road, on approximately 15,466 square feet of land, zoned R-2(C), Springfield District, Tax Map 89-1((5))237.

Tisha Weichmann, Staff Coordinator, presented the staff report.

Ronald Snyder, 8706 Powder Horn Road, the applicant, appeared before the Board to explain the request as outlined in the statement of justification contained in the staff report. He stated that he had purchased the property in 1972 and at that time he had converted an existing carport into a garage. Mr. Snyder stated that he now wanted to convert the garage into a sunroom and add a two-car garage at the front of the house. He stated that his property was about eight feet below the highly elevated property adjacent to his.

There being no speakers, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 88-S-159.

Mr. Ribble seconded the motion which passed by a unanimous vote of 7-0.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-159 by RONALD E. SNYDER, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 8.3 feet from side lot line such that side yards total 19.8 feet (8 ft. min., 24 ft. total min. side yards required by Sect. 3-207), on property located at 8706 Powder Horn Road, Tax Map Reference 89-1((5))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 January 10, 1989; 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 15,466 acres of land.
4. In particular, the lot has converging lot lines and the variance being asked for is only an extension of the existing side dwelling. The variance would not be required but for the converging lot lines. It doesn't impact the adjacent property in any significant way.

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 unanimous vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 18, 1989. This date shall be deemed to be the final approval date of this variance.

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Page 443, January 10, 1989, (Tape 1), Scheduled case of:

8:30 P.M. IRENE E. LEWKOWICZ, VC 88-P-160, application under sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 22.0 feet from street line of a corner lot and 5.2 feet from side lot line (30 ft. min. front yard, 12 ft. min. side yard required by Sect. 3-3070, located at 2425 Claremont Drive, on approximately 13,414 square feet of land, zoned R-3, Providence District, Tax Map 40-3((3))78. (NOTICES NOT IN ORDER)

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Chairman Smith stated that the Board was in receipt of a letter from the applicant requesting a deferral.

Sidney Briggs, 2427 Claremont Drive, Falls Church, Virginia, adjacent property owner property, appeared before the Board to state his opposition to the request and ask that the application be deferred to an evening meeting.

Mr. DiGiulian moved that VC 88-P-160 be deferred to April 4, 1989 at 8:00 p.m.

Mr. Ribble seconded the motion which passed by a unanimous vote of 7-0.

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Page 444, January 10, 1989, (Tape 1), Scheduled case of:

8:45 P.M. SAINT MARY OF SORROWS CATHOLIC CHURCH, VC 88-S-158, application under Sect. 18-401 of the Zoning Ordinance to allow building addition to 11 feet from side lot line and to allow existing building to remain 2.2 and 11.9 feet from the side lot line and construction of a retaining wall 2.2 feet from the side lot line, (20 ft. min. side yard required by Sect. 3-C07), located at 5612 Ox Road, on approximately 2.3509 acres of land, zoned R-C, HD, and WS, Springfield District, Tax Map 77-1((1))29. (CONCURRENT WITH SP 88-S-092)

8:45 P.M. SAINT MARY OF SORROWS CATHOLIC CHURCH, SP 88-S-092, application under Sect. 3-C03 of the Zoning Ordinance to allow building addition to existing church and related facilities, located at 5612 Ox Road, on approximately 2.3509 acres of land, zoned R-C, HD, and WS, Springfield District, Tax Map 77-1((1))29. (CONCURRENT WITH VC 88-S-158)

Denise James, Staff Coordinator, presented the staff report. She informed the Board that staff had recommended that a strip of landscape and building foundation plantings 20 feet in width be provided to create a screening yard to the rear of the proposed addition as well as along the southern property line adjacent to the residential properties. In addition, she stated that staff recommended that the entrance, which is width is approximately 80 foot wide, be narrowed to meet the Public Facilities Manual standards. Ms. James stated that since the site was located in the Water Supply Protection Overlay District (WSPOD), stormwater best management practices (BMPs) were required.

In response to a question from Mr. Hammack regarding the implementation of stormwater BMPs, Ms. James stated that at a minimum the church would be required to contain any additional runoff or overflow that would occur from the building addition.

In response to a question from Mr. Hammack regarding the entrance width, Ms. James stated that there was a potential for conflicting turning movements, although there was no evidence of any accidents or problems as a result of the 80 foot wide entrance.

William Enderle, 200 North Glebe Road, Arlington, representative of the applicant, appeared before the Board and introduced James Autrey who would be presenting the testimony for the applications.

The next speaker was James Autrey, 4214 Ardmore Place, Fairfax, the attorney representing the applicant. He distributed to the Board for the record a signed affidavit from Bennett R. and Pearl S. Davis, adjacent property owners, stating that they had no objection to the construction of the addition. Mr. Autrey also distributed an affidavit from Mr. John DeVaney, a professional engineer, describing the ARB meeting of April 10, 1986 which approved the building addition.

Mr. Autrey stated that any addition to the site had to be approved by the Architectural Review Board due to the fact that St. Mary's was located in a Historic Overlay District and he indicated that the Minutes from their hearing indicating approval were included in the file.

Mr. Autrey stated that he felt that several of the development conditions were inappropriate for the site. With regard to development condition number two, he stated that the plat only showed a cemetery and a church building and he wanted to make it clear that there were other activities held at the site including weddings, holy days, picnics, and social events at the parish hall.

With regard to development condition number four, Mr. Autrey requested that the BZA recommend a site plan waiver.

Mr. Autrey discussed development condition number seven regarding transitional screening. He stated that there was only two feet in the area between the parish hall and the south property line and that it was not possible to meet the screening requirements in that area. With regard to the screening behind the addition, he stated

that the plat only showed a cemetery and a church building and he wanted to make it clear that there were other activities held at the site including weddings, holy days, picnics, and social events at the parish hall.

With regard to the BMPs in development condition number eight, Mr. Autrey stated that there was an existing storm sewer outlet and that the property was graded so that water flowed down to this outlet. Also, there were two additional outlets, one located near Route 123 and another one located on the shopping center property adjacent to the church. He indicated that the church was already well served by storm sewers and that he felt that ponding was inappropriate due to the cemetery use.

Mr. Autrey discussed development condition number 10 regarding the erection of a traffic island. He stated that this would create more of a traffic hazard rather than be a benefit and he suggested that the church be required to just paint arrows to alleviate any concerns expressed by staff or the Virginia Department of Highways.

Mr. Autrey stated that St. Mary of Sorrows Catholic Church had been a hospital for the wounded after the Second Battle of Manassas and also after the Battle of Chantilly. He stated that the wounded had been cared for by Clara Barton who later went on to found the American Red Cross.

The next speaker in support was Michael Stevens, 10437 Woodberry Knoll Court, Fairfax, Virginia, who traced the history of St. Mary's and the area surrounding the church.

The next speaker in support was Reverend Joseph Peplansky, the pastor of St. Mary's, 11112 Fairfax Station Road, Fairfax, Virginia. Reverend Peplansky discussed his concerns about the parking island requirement imposed by staff and he asked that the entrance be allowed to remain the way it was.

There being no speakers in opposition, Chairman Smith closed the public hearing.

Mr. Hammack moved to grant VC 88-S-158. Mr. DiGiulian seconded the motion which passed by a unanimous vote of 7-0.

Mrs. Thonen moved to grant SP 88-S-092 with modifications to the development conditions. Mr. DiGiulian seconded the motion which passed by a unanimous vote of 7-0.

Mr. Enderle expressed his appreciation to staff and thanked Jane Kelsey for being so helpful in preparing the applications.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-S-158 by SAINT MARY OF SORROWS CATHOLIC CHURCH, under Section 18-401 of the Zoning Ordinance to allow building addition to 11 feet from side lot line and to allow existing building to remain 2.2 and 11.9 feet from the side lot line and construction of a retaining wall 2.2 feet from the side lot line, (20 ft. min. side yard required by Sect. 3-C07), on property located at 5612 Ox Road, Tax Map Reference 77-1((1))29, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 10, 1989; 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, HD and WS.
3. The area of the lot is 2.3509 acres of land.
4. There is an unusual situation on the subject property in that it is a very historic property and pre-dates the Zoning Ordinance by 100 years. Furthermore, a major shopping center is adjacent to the church property. The historic nature of the property justifies fully the variance sought to build within 11 feet of the side lot line.

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 unanimous vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 18, 1989. This date shall be deemed to be the final approval date of this variance.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-092 by SAINT MARY OF SORROWS CATHOLIC CHURCH, under Section 3-C03 of the Zoning Ordinance to allow building addition to existing church and related facilities, on property located at 5612 Ox Road, Tax Map Reference 77-1((1))29, Mrs. Thonen 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 January 10, 1989; 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, HD and WS.
3. The area of the lot is 2.3509 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 3-C03 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 a location which conforms to the bulk regulations for the R-C Zoning District 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 that the proposed addition shall meet the bulk regulations for the R-C District. Any additional structures of any kind, changes in use, additional uses, or changes in the plans approved by this Board, other than minor engineering details, whether or not these additional uses or changes require a Special Permit, shall require approval of this Board. It shall be the duty of the Permittee to apply to this Board for such approval. Any changes, other than minor engineering details, without this Board's approval, shall constitute a violation of the conditions of this Special Permit.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of 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, in accordance with Sect. 8-303 of the Zoning Ordinance. The Board of Zoning Appeals has no objection to the granting of a Site Plan waiver.

5. The maximum seating capacity for St. Mary of Sorrows Church shall be limited to a total of 104.

6. The number of parking spaces provided shall satisfy the minimum requirement set forth in Article 11 and shall be a minimum of 26 spaces. All parking shall be on site.

7. The barrier requirement shall be waived.

8. Any new lighting of the parking areas 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 subject property.

   - Shields shall be installed, if necessary, to prevent the light from projecting beyond 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, the 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 unanimous vote of 7-0.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on January 18, 1989. This date shall be deemed to be the final approval date of this special permit.

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Page 448, January 10, 1989, (Tape 1), After Agenda Item #1:

Request for Additional Time
First Baptist Church of Springfield
SPA 75-L-215-2

Mr. DiGiulian moved to grant the request for additional time for SPA 75-L-215-2. This would extend the expiration date to May 13, 1989.

Mrs. Day seconded the motion which passed by a unanimous vote of 7-0.

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Page 448, January 10, 1989, (Tape 1), After Agenda Item #2:

Request for Additional Time
Providence Baptist Church
SP 85-D-018

Mr. DiGiulian moved to grant the request for additional time for SP 85-D-018. This would extend the expiration date to October 21, 1989.

Mr. Hammack seconded the motion which passed by a unanimous vote of 7-0.

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Page 448, January 10, 1989, (Tape 1), After Agenda Item #3:

Out-of-Turn Hearing Request
Faith United Methodist Church
SP 87-L-081

Mr. DiGiulian moved to grant the request for an Out-of-Turn hearing for SP 87-L-081 to be scheduled for February 14, 1989, if possible, or the earliest available date.

Mrs. Day seconded the motion which passed by a unanimous vote of 7-0.

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Page 448, January 10, 1989, (Tape 1), After Agenda Item #4:

Out-of-Turn Hearing Request
Frank H. and Alison F. Bernhart
VC 88-V-183

Mr. DiGiulian moved to deny the Out-of-Turn hearing request for VC 88-V-183.

Mrs. Thonen seconded the motion which passed by a unanimous vote of 7-0.

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Page 448, January 10, 1989, (Tape 1), After Agenda Item #5:

Scheduling Discussion
Immanuel Bible Church
SPA 80-A-058-1

Mrs. Thonen stated that the hearing date for SPA 80-A-058-1 needed to be moved to March 21, 1989 at 9:00 a.m. due to the fact that this application had to be heard prior to the Special Exception before the Board of Supervisors.

There being no objection, the Chair so ordered.

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Page 449, January 10, 1989, (Tape 1), After Agenda Item #6:

Workshop on Home Professional Offices

Mrs. Thonen moved that the Board hold their discussion regarding home professional offices following the meeting to be held with Mr. Zook and Ms. Byron, on either January 18 or January 25, 1989.

Mr. DiGiulian seconded the motion which passed by a unanimous vote of 7-0.

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Page 449, January 10, 1989, (Tape 1), After Agenda Item #7:

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that the Board had already discussed the scheduling of the March hearing dates.

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Page 449, January 10, 1989, (Tape 1), After Agenda Item #8:

Application for Appeal
Anita's Bridal Creations, Anita L. Climo

Mr. DiGiulian moved that the appeal of Anita's Bridal Creations, Anita L. Climo, be scheduled for March 14, 1989 at 11:00 a.m.

Mr. Hammack seconded the motion which carried by a unanimous vote of 7-0.

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Mr. Hammack thanked staff for the survey charts they had prepared regarding the BZA salaries and duties in the metropolitan area.

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Page 449, January 10, 1989, (Tape 1), Information Item #1:

Jane Kelsey, Chief, Special Permit and Variance Branch, stated that she was prepared to respond to some questions Mr. Hammack had regarding the Montgomery County Board of Zoning Appeals meeting process. She provided the following information: 1) a meeting is held every Wednesday during the month; 2) there is only a one week recess during the year; 3) there is a five-member board but they operate as long as four members are present; 4) they try not to defer any cases but if there are deferrals, a special meeting is set up for deferrals only; 5) an opinion is written on each case by a staff member and they have thirty days in which to do so; 6) if the schedule gets too far behind there is a Hearing Examiner who will hear the least controversial cases; 7) the Board hears approximately 500 applications a year which includes variances, special exceptions and appeals; 8) appeals are considered miscellaneous cases which can be a decision of another administrator other than the Zoning Administrator; 9) the Montgomery County Special Exception applications are similar to the Fairfax County Special Permit and Special Exception applications; 10) the Board Members are appointed by the City Counsel and have job descriptions; 11) they do not go out on site visits; 12) the meetings start at 9:30 a.m. and sometimes go until 7:00 or 8:00 p.m.; and 13) the previous year the Board had heard 287 Variances, 93 Special Exceptions and 43 miscellaneous applications.

Mr. Hammack requested that Ms. Kelsey also contact Orange County, California for a survey on their meeting process. The other Board members agreed and the Chair so ordered.

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The Board of Zoning Appeals Members discussed a letter they were writing to lobby the Board of Supervisors Members for a pay increase.

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As there was no other business to come before the Board, the meeting was adjourned at 9:45 P.M.

Judy L. Moss, Acting Associate Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED 4/11/89

APPROVED 4/20/89

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The regular meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Tuesday, January 17, 1989. The following Board Members were present: Daniel Smith, Chairman; Ann Day; Paul Hammack; Robert Kelley; John Ribble and Mary Thonen. John DiGiulian, Vice-Chairman, was absent from the meeting.

Chairman Smith called the meeting to order 9:39 a.m. Mrs. Day led the prayer.

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Page 451, January 17, 1989, (Tape 1), Scheduled case of:

9:00 A.M. HOLY SPIRIT CATHOLIC CHURCH, SPA 85-A-007-1, application under Sect. 3-103 of the Zoning Ordinance to amend SP 85-A-007 for church and related facilities to permit addition of school activity center building to church property, located at 5121 Woodland Way, on approximately 15.32008 acres of land, zoned R-1, Annandale District, Tax Map 69-4((1))1, 2, 3 and 70-3((1))5. (DEF. FROM 9/22/88 AT THE APPLICANT'S REQUEST)

Jane Kelsey, Chief, Special Permit and Variance Branch, presented the staff report. She stated that all outstanding issues had been resolved and a revised plat was before the Board today. She added that both the Planning Commission and Board of Supervisors had approved the Special Exception on the subject property and called the Board's attention to the language suggested by the Planning Commission to development condition number 6. Ms. Kelsey stated that staff recommended approval of this application subject to the revised development conditions contained in the addendum dated January 3, 1989.

Father James W. McMurtrie came forward to represent the church and asked the Board to grant the request. He stated that there would be no additional traffic because the children are already at the church, there is ample parking, and there are no objections from the neighbors. He thanked Ms. Kelsey and Supervisor Bulova for all the assistance they had given the church throughout the application process.

In response to a question from Mrs. Thonen, Father McMurtrie replied that the church would prefer that condition number 6 be modified as suggested by the Planning Commission.

Supervisor Bulova, Annandale District, came forward to speak in support of the application and urged the Board to revise development condition number 6 as recommended by the Planning Commission. She added that the church had been very cooperative in working with her office and the community.

Chairman Smith called for speakers in opposition to the request and hearing no reply closed the public hearing.

Mrs. Thonen stated that it was very good to have an applicant that has negotiated and resolved all the problems with the community. She then made a motion to grant SPA 85-A-007-1 as she believed that the applicant had presented testimony showing compliance with the standards for a special permit. The approval was subject to the development conditions contained in the addendum with condition number 6 modified to incorporate the language suggested by the Planning Commission.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Amendment Application SPA 85-A-007-1 by HOLY SPIRIT CATHOLIC CHURCH, under Section 3-103 of the Zoning Ordinance to amend SP 85-A-007 for church and related facilities to permit addition of school activity center building to church property, on property located at 5121 Woodland Way, Tax Map Reference 69-4((1))1, 2, 3, and 70-3((1))5, Mrs. Thonen moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 17, 1989; 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 15.32008 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.

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

1. This approval is granted to the applicant only and is not transferable 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 Special Permit is subject to the provisions of Article 17, Site Plans. Any plan submitted to the Department of Environmental Management pursuant to this Special Permit shall conform to these conditions, as well as the Zoning Ordinance requirements. A new plat shall be submitted which shows parking spaces, aisle widths and maneuvering room in accordance with Zoning Ordinance and Public Facilities Manual standards.

5. There shall be a maximum of 1400 seats in the main place of worship and a corresponding minimum of 350 parking spaces. The parking provided on the property shall be redesigned to meet the minimum requirements of the Zoning Ordinance and the Public Facilities Manual for church and school use unless the applicant obtains approval from the Board of Supervisors for shared parking for the church and school uses under Sect. 11-102 of the Zoning Ordinance. The total number of parking spaces required for both uses shall not be less than 350 spaces. Handicapped parking shall be provided in accordance with Code requirements. All parking shall be on site.

6. The Braddock Road exit shall be closed with a movable gate at all times, except from 4:00 p.m. Saturday until 7:30 p.m. Sunday. Right turns from Braddock Road onto church and school property may be permitted at all times.

7. Transitional Screening 1 shall be modified along the western, northern and southern lot lines as follows:

   Existing vegetation along the northern, western, and southern lot lines shall remain undisturbed. Additional plantings shall be provided to screen the play areas from the residential properties. The type, size, and location of the plantings shall be approved by the County Arborist. No transitional screening or barrier shall be required along the eastern lot line adjacent to the church.

8. A geotechnical engineering study in accordance with Chapter 107 of the Fairfax County Code shall be submitted to the Department of Environmental Management at the time of site plan review, if determined necessary by the Director of the Department of Environmental Management and the recommendations implemented as determined by the Department of Environmental Management.

9. Notwithstanding Condition No. 7, adequate sight distance to the north at the southern entrance on Woodland Way shall be provided. This may be corrected by clearing the vegetation along the bank of the roadway. Regrading the adjacent bank may also be needed and may help keep the sight line blockage by vegetation from recurring. The determination for this corrective action and the methods to correct shall be made by the DEM and VDOT.

10. The hours of operation of the activity center for the school shall be 8:30 AM to 3:00 PM, Monday through Friday, and from 8:00 AM to 10:00 PM daily for parish functions.

11. The barrier requirement along all lot lines shall be modified as shown on the special permit plat provided the existing fence around the play area remains. This fence may be extended to completely enclose the play area if the applicant chooses to do so.

This approval, contingent on the above 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 Exception 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, twenty-four (24) months after the approval date* of the Special Exception 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 Supervisors because of the occurrence of conditions unforeseen at the time of the approval of this Special Exception. 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. Ribble seconded the motion.

The motion carried by a vote of 4-0 with Messrs. Hammack and Kelley 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 January 25, 1989. This date shall be deemed to be the final approval date of this special permit.

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Page 453, January 17, 1989, (Tape 1), Scheduled case of:

9:15 A.M. JOHN H. STOKES III, VC 87-M-149, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into two (2) lots, proposed Lot 1 having a lot width of 43 feet (100 ft. min. lot width required by Sect. 3-206), located at 4340 Old Columbia Pike, on approximately 2.4158 acres of land, zoned R-2, Mason District, Tax Map 71-2((1))59. (DEFERRED FROM 2/16/88, 3/8/88, 6/14/88, 9/20/88 AND 12/13/88 FOR ADDITIONAL INFORMATION)

Chairman Smith stated that the applicant in this case had requested a withdrawal.

Mrs. Thonen moved to allow the withdrawal. Mrs. Day and Mr. Hammack seconded the motion which carried by a vote of 5-0 with Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 453, January 17, 1989, (Tape 1), Scheduled case of:

9:15 A.M. SECURITY AMERICAN INTERNATIONAL, SP 88-C-052, application under Sect. 5-505 of the Zoning Ordinance to allow indoor firing range, located at 13890 Park Center Road, on approximately 45.82454 acres of land, zoned I-5 and WS, Centreville District, Tax Map 24-2((1))12A.

Toni Carney, with Travesky and Associates, came forward and explained that the applicant had been requested by the owners to move from one building to another and would like a deferral in order to complete the paper work.

Lori Greenlief, Staff Coordinator, suggested a deferral date and time of March 21, 1989 at 9:00 a.m.

Mrs. Thonen made a motion to defer SP 88-C-052 to the date and time suggested by staff. Mr. Hammack and Mr. Ribble seconded the motion which carried by a vote of 5-0 with Mr. Kelley not present for the vote; Mr. DiGiulian absent from the meeting.

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Page 453, January 17, 1989, (Tape 1), Scheduled case of:

9:30 A.M. ACHAMYELESH YITAYEW AND MICHAEL GEBREYES, VC 88-M-164, under Sect. 18-401 of the Zoning Ordinance to allow construction of a dwelling to 11 ft. from a side lot line (15 ft. min. side yard required by Sect. 3-207), located at 4815 Seminole Avenue, on approximately 7,500 square feet of land, zoned R-2, Mason District, Tax Map 72-3((8))(B)23 and 24.

Lori Greenlief, Staff Coordinator, presented the staff report.

The co-applicant, Michael Gebreyes, 1900 South Eads Street, Arlington, Virginia, came forward and referenced his statement of justification submitted with the application. He pointed out that there is an alley behind his property which would act as a buffer on

the side of the lot that will be most affected. He added that the proposed dwelling would be 24 feet wide and that he had been unaware of the setback requirements when he purchased the property.

Mrs. Day asked the applicant if he would be willing to shift the location of the house more towards the alley and Mr. Gebreyes replied that he would.

Chairman Smith called for speakers in support of the request and hearing no reply called for speakers in opposition. The following citizens came forward: John Waters, 4811 Seminole Avenue, Alexandria, Virginia; Margaret Smith, 4830 Seminole Avenue, Alexandria, Virginia; and, Donna Collins, 4831 Seminole Avenue, Alexandria, Virginia.

The citizens stated that they believe that this might set an undesirable precedent and that the construction might possibly cause drainage problems. They noted that perhaps the applicants would build and then sell the house to someone who did not care about the community.

During rebuttal, Mr. Gebreyes stated that he planned to live on the property and hoped to contribute to the neighborhood.

Chairman Smith polled the Board to determine whether or not they would like to defer action until such time as the applicants could submit new plats showing the new location of the proposed dwelling. It was the consensus of the Board to take action on the application making it contingent upon the submission of new plats.

Chairman Smith closed the public hearing.

Mrs. Day made a motion to grant subject to the development conditions with the following addition: "4. The dwelling shall be 11 feet from the right side, that being on the south side, and new plats shall be submitted showing the dwelling 11.0 feet from the south side lot line."

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-M-164 by ACHAMYELESH YITAYEW AND MICHAEL GEBREYES, under Section 18-401 of the Zoning Ordinance to allow construction of a dwelling to 11 feet from side lot line, on property located at 4815 Seminole Avenue, Tax Map Reference 72-3((8))(B)23 and 24, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 17, 1989; 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 7,500 square feet of land.
4. That there are other lots in the neighborhood that are 7,500 square feet.
5. That the applicant stated that he bought the property in good faith.
6. That the lot is shallow.
7. That reasonable use of the property would be prohibited without the variance.
8. That the lot is exceptionally narrow.

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.

Page 455, January 17, 1989, (Tape 1), (Achamyelesh Yitayew and Michael Gebreyes, VC 88-M-164, continued from Page 454)

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

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

THAT the applicant has satisfied the Board that physical conditions as listed above 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 dwelling shown on the plat included with this application and is not transferable to other land.

2. Under Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, eighteen (18) months after the approval date* of the variance unless construction has started and is diligently pursued, or unless a request for additional time is approved by the BZA because of the occurrence of conditions unforeseen at the time of approval. A request for additional time 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 dwelling shall be 11 feet from the right side, that being on the south side, and new plats shall be submitted showing the dwelling 11.0 feet from the south side lot line.

Mr. Ribble seconded the motion. The motion carried by a vote of 5-0 with Mr. Kelley 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 January 25, 1989. This date shall be deemed to be the final approval date of this variance.

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Page 455, January 17, 1989, (Tape 1), Scheduled case of:

9:45 A.M. VIRGINIA ELECTRIC & POWER COMPANY, SP 88-L-094, application under Sect. 8-901 of the Zoning Ordinance to allow waiver of dustless surface requirement for electric substation as approved in SE 86-L-070, located at 4500 Roundhill Road, on approximately 12.373 acres of land, zoned R-3, Lee District, Tax Map 82-3((1))37A.

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

Peter McKee, with Hunton and Williams, 3050 Chain Bridge Road, Oakton, Virginia, representative of the applicant came forward and agreed with the development conditions. He stated that the applicant had met the standards, that the request would have no adverse impact on the neighboring properties, that there are no adverse transportation problem, and that there is adequate drainage.

Chairman Smith called for speakers in support of the request and hearing no reply called for speakers in opposition to the request.

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Douglas Shelton, 4403 Roundhill Road, Alexandria, Virginia, came forward and expressed concern regarding the amount of dust particles which might be generated by the lack of a a dustless surface.

Chairman Smith explained that the applicant would have to take steps to ensure that this does not happen.

The applicant waived rebuttal.

Mr. Ribble made a motion to grant the request based on the testimony of the applicant's representative 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 Application SP 88-L-094 by VIRGINIA ELECTRIC AND POWER COMPANY, under Section 8-901 of the Zoning Ordinance to allow waiver of dustless surface requirement for electric substation as approved in SE 86-L-070, on property located at 4500 Roundhill Road, Tax Map Reference 82-3((1))37A, Mr. Ribble moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 17, 1989; 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 12.373 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 gravel surfaces indicated on the plat submitted with this application, except as qualified below.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of 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 gravel surfaces shall be maintained in accordance with Public Facilities Manual standards and the following guidelines. The waiver of the dustless surface shall expire on January 24, 1994.

   - Speed limits shall be kept low, generally 10 mph or less.

   - The areas shall be constructed with clean stone with as little fines material as possible.

   - The stone shall be spread evenly and to a depth adequate enough to prevent wear-through or bare subsoil exposure. Routine maintenance shall prevent this from occurring with use.

   - Resurfacing shall be conducted when stone becomes thin and the underlying soil is exposed.

- o During dry seasons, water or calcium chloride shall be applied to control dust.
- o Runoff shall be channeled away from and around driveway and parking areas.
- o The applicant shall perform periodic inspections to monitor dust conditions, drainage functions and compaction-migration of the stone surface.

6. The driveway shall be paved at least twenty-five (25) feet into the site from the right-of-way of Roundhill Road to prevent gravel from spreading onto Roundhill Road and to allow for safe acceleration from the driveway onto Roundhill 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.

Mr. Hammack seconded the motion.

The motion carried by a vote of 5-0 with Mr. Kelley 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 January 25, 1989. This date shall be deemed to be the final approval date of this special permit.

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Page 457, January 17, 1989, (Tape 1), Scheduled case of:

10:00 A.M. BEST KUALITY CONSTRUCTION, INC., VC 88-L-163, application under Sect. 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed lot 101-B having width of 15.35 ft. (100 ft. min. lot width required by Sect. 3-206), located at 6522 and 6526 Spring Road, on approximately 1.5115 acres of land, zoned R-2 and HC, Lee District, Tax Map 90-1((2))100 and 101.

Denise James, Staff Coordinator, presented the staff report and stated that in staff's judgment the applicant had not satisfied standards 2, 3, 4, 5, 6, and 9, therefore staff recommended denial.

In response to questions from the Board, Ms. James replied that if the subdivision was granted that the existing house would be in violation of the Zoning Ordinance.

Donald Strickhouser, with Monaco and Strickhouser, 4248-B Chain Bridge Road, Fairfax, Virginia, represented the applicant. He stated that he believed that the applicant had met the standards, specifically with regard to the unusual narrowness, shape and size of the lot, and that there are no other lots in the area with a similar situation. Mr. Strickhouser distributed sketches to the Board showing two different designs for the proposed driveways, the first showing two driveway entrances, the existing driveway which goes to the existing house and a proposed driveway entrance to the other two lots. The proposed driveway would only go back 50 feet and from that point on would be a single pipestem serving a single lot, therefore the setbacks would be adequate as shown. The second sketch was what staff had suggested which eliminates the existing driveway and the construction of a new single driveway but still having the dual driveway for only 50 feet and then the driveway branches off. The applicant would prefer the first sketch but would not object to staff's suggestion. Mr. Strickhouser stated that he did not believe that a 1 foot dedication across the front of the property would help in alleviating the traffic situation but that the applicant would comply if it was the Board's intent to grant the request.

In response to questions from the Board, Jane Kelsey, Chief, Special Permit and Variance Branch, explained that the Zoning Ordinance states that if a pipestem driveway serves more than one lot the setback is 25 feet.

There were no speakers and Chairman Smith closed the public hearing.

Mr. Hammack stated that he agreed with staff's comments about the pipestem serving more than one lot, that if this request was granted the proposed pipestem subdivision would be in violation of the Zoning Ordinance, and that there was no undue hardship since the applicant had one dwelling on each lot. He then made a motion to deny the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-L-163 by BEST KUALITY CONSTRUCTION, INC., under Section 18-401 of the Zoning Ordinance to allow subdivision into three (3) lots, proposed Lot 101-B having width of 15.35 feet, on property located at 6522 and 6526 Spring Road, Tax Map Reference 90-1((2))100 and 101, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 17, 1989; 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 1.5115 acres of land.
4. The proposed pipestem subdivision would be in violation of the Zoning Ordinance if approved.
5. Staff is correct that the pipestem would serve more than one lot.
6. There is no undue hardship since the applicant has one dwelling on each lot.

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 5-0 with Mr. Kelley 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 January 25, 1989.

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Page 459, January 17, 1989, (Tape 1), Scheduled case of:

10:15 A.M. KENNETH E. MURPHY, VC 88-A-162, application under Sect. 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 9.0 ft. from side lot line (15 ft. min. side yard requirement by Sect. 3-207), located at 4609 Valerie Court, on approximately 15,129 square feet of land, zoned R-2, Annandale District, Tax Map 69-2((7))(1)31.

Denise James, Staff Coordinator, presented the staff report. She noted that the staff report should be corrected to "garage" rather than carport.

The applicant, Kenneth E. Murphy, 4609 Valley Court, Annandale, Virginia, came forward and referenced the statement of justification submitted with his application.

There were no speakers to address this request and Chairman Smith closed the public hearing.

Mr. Kelley made a motion to grant the request.

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COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

In Variance Application VC 88-A-162 by KENNETH E. MURPHY, under Section 18-401 of the Zoning Ordinance to allow construction of garage addition to dwelling to 9.0 feet from side lot line, on property located at 4609 Valerie Court, Tax Map Reference 69-2((7))(1)31, Mr. Kelley moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 17, 1989; 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 15,129 square feet of land.
4. Applicant has satisfied the nine standards in particular exceptional shape of the lot and topography.
5. Specifically, the subject lot has an exceptional shape and topography.

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; Mrs. Thonen 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 January 25, 1989. This date shall be deemed to be the final approval date of this variance.

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Page 460, January 17, 1989, (Tape 2), Scheduled case of:

10:30 A.M. HAMEL HEALTH VENTURES, INC., SP 88-S-095, application under Sect. 5-503 of the Zoning Ordinance to allow health club and personal service establishment, located at 4429 Brookfield Corporate Drive, Suite 100, on approximately 5.02 acres of land, zoned I-5 and WS, Springfield District, Tax Map 44-1((3))2.

Chairman Smith informed the Board that the notices were not in order in this case.

Mrs. Thonen made a motion to defer SP 88-S-095 to February 21, 1989 at 10:00 a.m. as suggested by staff. 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 460, January 17, 1989, (Tape 2), Scheduled case of:

10:45 A.M. FIRST CHURCH OF CHRIST, SCIENTIST, SP 88-L-093, application under Sect. 3-203 of the Zoning Ordinance to allow parking lot additions, rearrangement and paving for existing church and related facilities, located at 5315 Backlick Road, on approximately 109,062 square feet of land, zoned R-2, Lee District, Tax Map 80-2((1))2, 3A.

Chairman Smith stated that the applicant in SP 88-L-093 had requested a deferral and staff had suggested February 21, 1989 at 9:00 a.m.

Richard Loomis, a member of the church, came forward to address the deferral date of February 21, 1989. He stated that the church would like a longer deferral in order for them to meet with the County Arborist and work out a tree preservation plan.

Chairman Smith asked staff for another date.

Kathy Reilly, Staff Coordinator for the case, suggested March 28, 1989 at 9:00 a.m. and the applicant agreed.

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Mr. Hammack made a motion to defer SP 88-L-093 to March 28, 1989 at 9:00 a.m. as suggested by staff. 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 461, January 17, 1989, (Tape 2), Scheduled case of:

11:00 A.M. SYDENSTRICKER UNITED METHODIST CHURCH, SPA 78-S-264-4, under Sect. 3-103 of the Zoning Ordinance to amend S-264-78 for church and related facilities to permit a covered walkway addition, located at 8508 Hooes Road, on approximately 4.9075 acres of land, zoned R-1, Springfield District, Tax Map 89-3(1)15.

Chairman Smith informed the Board that the notices were not in order in this case and that staff had suggested a deferral date of February 21, 1989 at 10:15 a.m.

Mr. Hammack made a motion to defer SPA 78-S-264-4 to February 21, 1989 at 10:15 a.m. as suggested by staff. Mrs. Thonen seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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Page 461, January 17, 1989, (Tape 2), Scheduled case of:

11:15 A.M. LEWIS AND CAMELIA TOWNSEND, VC 88-D-165, under Sect. 18-401 of the Zoning Ordinance to allow construction of family room addition to dwelling to 11.7 feet from side lot line (15 ft. min. side yard requirement by Sect. 3-207), located at 9900 Golden Falcon Street, on approximately 22,300 square feet of land, zoned R-2, Dranesville District, Tax Map 13-1((3))75.

Kathy Reilly, Staff Coordinator, presented the staff report.

The co-applicant, Lewis Townsend, 9900 Golden Falcon Street, Great Falls, Virginia, came forward and referenced the statement of justification submitted with the application. He added that the house is set at an angle on the lot.

In response to questions from the Board, Mr. Townsend replied that his neighbor's house, who would be most affected, sets back at least 22 to 23 feet and that there are no windows on that side of the neighbor's house.

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

Mr. Hammack made a motion to grant as he believed that the applicant had met the standards for a variance and the house was situated at an unusual angle on the lot. The 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 88-D-165 by LEWIS AND CAMELIA TOWNSEND, under Section 18-401 of the Zoning Ordinance to allow construction of family room addition to dwelling to 11.7 feet from side lot line, on property located at 9900 Golden Falcon Street, Tax Map Reference 13-1((3))75, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 17, 1989; 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 22,300 square feet of land.
4. The house is unusually situated on one side of the lot.

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. Thonen 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 January 25, 1989. This date shall be deemed to be the final approval date of this variance.

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Page 462, January 17, 1989, (Tape 2), After Agenda Item:

Church at Dunn Loring Additional Time

Mrs. Thonen made a motion to grant the applicant in SP 85-P-016 an additional twelve months to commence construction making the new expiration date January 9, 1990.

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 463, January 17, 1989, (Tape 2), After Agenda Item:

Sydenstricker United Methodist Church Additional Time

Mr. Hammack made a motion to grant the applicant of SPA 78-S-264-3 an additional time of twelve months to commence construction making the new expiration date April 7, 1990.

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 463, January 17, 1989, (Tape 2), Scheduled case of:

11:30 A.M. JOHN R. AND MARILYN T. SAUNDERS, SP 88-S-098, application under Sect. 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow deck addition to dwelling to 13 feet from side lot line (20 ft. min. side yard required by Sect. 3-C07), located at 6215 Hidden Canyon Road, on approximately 10,688 square feet of land, zoned R-C and WS, Springfield District, Tax Map 53-3((3))52. (OTH GRANTED)

Kathy Reilly, Staff Coordinator, presented the staff report. She stated that it was staff's judgment that the applicant had satisfied the standards, therefore staff recommended approval.

The co-applicant, John R. Saunders, 6215 Hidden Canyon Road, Centreville, Virginia, came forward and referenced the statement of justification submitted with the application. He added that there are no objections from his neighbors and if it was the Board's intent to grant the request that the eight-day waiting period be waived.

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

Mrs. Day made a motion to grant the request because she believed that the applicant had met the standards required for a variance and because the property had been the subject of a rezoning.

Mr. Hammack seconded the motion. The motion carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

Mr. Hammack made a motion to grant the applicant a waiver of the eight-day time limitation. Mrs. Day seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 88-S-098 by JOHN R. AND MARILYN T. SAUNDERS, under Section 8-901 of the Zoning Ordinance to allow modification to minimum yard requirements for an R-C lot to allow deck addition to dwelling to 13 feet from side lot line, on property located at 6215 Hidden Canyon Road, Tax Map Reference 53-3((3))52, Mrs. Day moved that the Board of Zoning Appeals adopt the following resolution:

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

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 17, 1989; 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 and WS.
3. The area of the lot is 10,688 square feet of land.
4. The property was the subject of a final plat approved 1982 and then rezoned to RC.
6. The use will be in harmony with the existing development.

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 variance 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. Hammack seconded the motion. The motion carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

Mr. Hammack made a motion to grant the applicant a waiver of the 8-day time limitation. 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 January 17, 1989. 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 after agenda items.

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Page 464, January 17, 1989, (Tape 2), After Agenda Item:

Funds for Outside Counsel

Mr. Hammack made a motion that the Clerk prepare a memorandum to the County Executive requesting funds so that the Board could retain Brian McCormack, with the law firm of Dunn, McCormack, MacPherson and Maxfield, to represent it before the Supreme Court in the case of Board of Supervisors and Jack Baker v. Board of Zoning Appeals, In Chancery Nos. 104890 and 104883.

Mrs. Thonen and 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 464, January 17, 1989, (Tape 2), After Agenda Item:

Change of BZA Meeting Dates

Following a review of the revised meeting date, Mr. Ribble made a motion to change the third Tuesday following the third Monday of each month to a Thursday meeting beginning with the month of April.

Mrs. Thonen seconded the motion which carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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Page 464, January 17, 1989, (Tape 2), After Agenda Item:

Approval of Resolutions

Mrs. Thonen made a motion to approve the Resolutions for January 10, 1989 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 465, January 17, 1989, (Tape 2), Information Item:

Parking Requirement for Accessory Dwelling Units

Mrs. Thonen requested that each Board member review the Parking Requirement for Accessory Dwelling Units.

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Page 465, January 17, 1989, (Tape 2), Scheduled case of:

11:45 A.M. MESSIAH LUTHERAN CHURCH AND UNITED COMMUNITY MINISTRIES, INC., SPA 81-V-028-1, application under Sect. 3-403 to amend SP 81-V-028 for a church and related facilities to permit addition of a public benefit association use, located at 1906 Belle View Boulevard, on approximately 69,050 square feet of land, zoned R-4, Mount Vernon District, Tax Map 93-1((25))(1)1, 2, 3, 4, 10 and 11 (CONCURRENT WITH SE 88-V-069. DEF. FROM 12/20/88 IN ORDER FOR THE BOARD OF SUPERVISORS TO HEAR SE 88-V-069).

Mr. Ribble made a disclosure that he knew this to be a project of Supervisor Hyland and believed that he had probably contributed monies to the project, therefore he believed he should abstain.

It was the consensus of the Board that he was eligible to participate as he was not directly associated with the applicant.

Lori Greenlief, Staff Coordinator, presented the staff report. She stated in staff's judgment, the proposed public benefit association was an appropriate use at this location and there are no land use issues with the addition of this use to the church property. Ms. Greenlief stated that if the required number of parking spaces can be accommodated, the proposed additional use on the property would meet the required standards for a special permit, thus staff recommended approval of SPA 81-V-028-1 subject to the proposed development conditions contained in the staff report, which incorporated all those applicable conditions from previous approvals.

Sharon Kelso, 8176 Fernlake Court, Alexandria, Virginia, Director of United Community Ministries, came forward and agreed with the development conditions. She stated that she was aware of the community opposition but wanted to assure the Board that every effort had been made to work with the citizens. A facility of this type in another community has been operating without any problems for a period of three years. She pointed out that people visiting the health screening facility would be entering and exiting the property from Fort Hunt Road and Bluebill Lane, there would be no conflict with the hours of operation of the church because the facility would be open between 6:30 p.m. and 8:30 p.m. on the days there are no church activities.

In response to questions from Mrs. Thonen, Ms. Kelso explained that the screening program would be disbanned in July because the County planned to begin a program based on the same premise that would would be available on a County-wide basis.

There were no speakers in support of the request and Chairman Smith called for speakers in opposition.

Robert Bidwell, 6503 Bluebill Lane, Alexandria, Virginia, came foward and stated that he lived three doors from the subject property. He added that the traffic in the evening on both Fort Hunt Road and Bellview Boulevard is already heavy. He expressed concern that during the Planning Commission meeting it was indicated that perhaps funds would be made available for the program to continue if the County program was not ready to go forward. Mr. Bidwell added that he believed this to be a commercial activity that should not be permitted in a residential neighborhood.

In response to questions from the Board, Mr. Bidwell explained that he would not object if the ladies wishing to live in the house rented directly from the church. He added that his opposition was based on these people being transient and that they would not really have a connection with the neighborhood.

Mr. Bidwell asked the Board to restrict the activities of the residents living in the house if it was the Board's intent to approve the request.

A discussion took place among the Board and speaker as to whether or not the covenants of his neighborhood restricted the proposed use.

Mrs. Thonen noted that the facility at Fordson Road was not a suitable site and that she would like to see the facility move.

Mr. Bidwell stated that he had assumed that since Supervisor Hyland was highly involved in this program that he would influence the Board's decision. He again asked the Board to restrict the activites of the house.

During rebuttal, Ms. Kelso stated that this is the same type of relationship that you

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would have if a realty company was managing a property that they own. She explained that the people who would live in the house would be put through a very rigorous screening process, they must have jobs, they must be drug free, they must be on a public housing list or be depositing money in a custodial account which will enable them to move into independent housing. Ms. Kelso stated that there is a similar facility in which four men have lived for a period of two years, without incident, and they are visited weekly by a counsellor. She added that she did not believe that this could be considered a commercial venture because the monies are being used to cover expenses.

Ms. Kelso told the Board that she had not been given a chance to review the restrictions that the speaker had referenced in his presentation.

Chairman Smith asked the speaker to provide a copy to Ms. Kelso.

Mr. Kelley asked Ms. Kelso if the people who might be placed in the house would be recovering alcoholics or drug addicts.

Ms. Kelso replied that there might possibly be someone placed there that had been on the "road to recovery" for quite some time and stressed that this is not to be used a half way house. She asked the Board to grant the request.

In response to a question from Mr. Hammack, Ms. Kelso replied that the health screening would be discontinued in August 1989 but that the house would remain. She stated that the church had purchased the house in order to provide housing for its custodial staff.

During closing staff comments, Ms. Greenlief stated in 1981 the church's special permit was amended to allow additional land area and that condition number 10 of the special exception limits only the health screening use to a year.

Mrs. Thonen moved to defer SPA 81-V-028-1 in order to have some of the questions answered that were brought out during the public hearing. Mr. Kelley seconded the motion.

Ms. Greenlief suggested a date and time of February 14, 1989 at 9:45 a.m.

Mr. Kelley suggested that the parties involved get together to try and resolve some of the concerns.

Mrs. Thonen stated that she would like to see some restrictions placed on the use.

Ms. Kelso stated that she was confused as to whether the concerns were regarding the health screening or the house.

Mr. Hammack noted that he was not against the proposed use but did want to consider very carefully whether or not a church, which is under special permit subject to conditions, could rent out property with monies exchanging hands which could make it a commercial use.

Following further discussion among the Board members, Mr. Hammack called for the question.

Chairman Smith called for the vote and the motion to defer carried by a vote of 6-0 with Mr. DiGiulian absent from the meeting.

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As there was no other business to come before the Board, the meeting was adjourned at 12:45 p.m.

Betsy S. Hurtt, Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 4/11/89

APPROVED: 4/20/89

The special meeting of the Board of Zoning Appeals was held in the Board Room of the Massey Building on Wednesday, January 18, 1989. The following Board Members were present: Chairman Daniel Smith, John DiGiulian, Vice-Chairman; Ann Day; Paul Hammack; Robert Kelley; Mary Thonen; and John Ribble.

Chairman Smith called the meeting to order at 10:18 a.m.

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Chairman Smith stated that this meeting was for the purpose of discussing the Home Professional Office and Home Occupational Offices amendments and other matters of concern to the Board.

He explained that David T. Stitt, County Attorney, would be joining the Board at 11:00 a.m. with James Zook, Director, Office of Comprehensive Planning, and Barbara Byron, Director, Zoning Evaluation Division, Office of Comprehensive Planning, would joining them at 11:30 a.m.

Several Board members stated that they did not believe that it was necessary for Mr. Stitt to come down to talk to them. Chairman Smith explained that Mr. Still was coming at his invitation to respond to a procedural question. He asked Mrs. Thonen to proceed with the discussion.

Mrs. Thonen pointed out changes that she would like to see made to the Home Professional Office Zoning Ordinance amendment. She indicated that she would like to see a separate section in the Zoning Ordinance for child care providers and tutors as she did not believe that this would adversely impact the neighborhood.

A discussion took place among the Board members regarding the changes, and it was the consensus of the Board that the changes were good. The following Revolution was forwarded to the Board of Supervisors:

"THAT the Fairfax County Board of Supervisors be commended on their motion to defer indefinitely Home Professional and Home Occupational Offices Amendment. This action gives the BZA a chance to make their recommendation to the Board of Supervisors. We believe from hearing citizens, and our experience from our vast case load of Home Professional Office applications, that this amendment would impact more on neighborhoods than lessen the impact.

WHEREAS, the County has changed considerably since home professional offices were first allowed in residential areas. At that time, there was a need for home professional offices, particularly in the remote areas of Fairfax County to serve the citizens of the County who had a difficult time getting to commercial areas, and

WHEREAS, because of the changing County, which is now primarily an urban rather than rural County, which is now primarily an urban rather than rural County, the BZA believes that home professional offices should no longer be allowed in residential areas, except to allow the possible continuation of uses which have previously been approved, providing there are no violations of their Special Permit Use. If violation occurs, they must bring their Special Permit up to meet the Special Permit standard or their Special Permit will be withdrawn, and

THEREFORE, BE IT RESOLVED, that the BZA recommends to the Board of Supervisors that Home Professional Offices be removed as a Special Permit Use or as any other use which would allow them to be operated within a residential area. Also, whether an existing Special Permit is allowed to continue to expand should be determined by the BZA after the applicant and the citizens have had an opportunity to comment at a public hearing, and

ADDITIONALLY, the BZA recommends that the Fairfax County Board of Supervisors should not open up the Home Occupation Uses to allow these uses to have clients or employees since it is the BZA's belief, based upon its experience and from hearing citizens testimony concerning home professional offices, that allowing home occupations to operate in residential district could and usually do create an adverse impact upon residential areas and could change the residential character of the area.

The BZA recommends that the two existing home occupation uses, Home Child Care and Tutoring/Instruction that are permitted clients, be allowed to continue. These uses are primarily walk to and do not impact on the neighborhood. There is such an urgent need for child care and it is the County's responsibility to facilitate this provision. Tutoring/Instruction should be accessible to residents. This fact justifies treating this use differently than other home occupation uses.

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There exists confusion on treating these uses differently than other uses in the same "grouping." Therefore, the BZA recommends that staff be directed to house these two uses, Home Child Care and Tutoring/Instruction, in a new separate listing in the Zoning Ordinance.

The BZA recommends that if the Fairfax County Board of Supervisors should decide to allow even one client per day in home occupation offices, this should be for a Special Permit and it should be the BZA, not the Zoning Administrator, that decides if the use meets the standards."

Mrs. Thonen moved that a memoradum with the above Resolution be forwarded directly to Chairman Audrey Moore under Chairman Smith's signature.

Mr. DiGiulian seconded the motion which carried by a vote of 6-0 with Mr. Kelley not present for the vote.

At this time, the Board moved to go into Executive Session to discuss legal and personnel matters.

Upon the arrival of Mr. Zook and Ms. Byron to discuss personnel matters, Jane Kelsey, Chief, Special Permit and Variance Branch, and Betsy Hurtt, Clerk to the Board of Zoning Appeals left the room.

The meeting was adjourned at 12:50 p.m.

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Betsy S. Hurtt, Clerk
Board of Zoning Appeals

Daniel Smith, Chairman
Board of Zoning Appeals

SUBMITTED: 5/9/89

APPROVED: 5/18/89